LEGISLATIVE COUNCIL

Wednesday 6 December 2000

The PRESIDENT (Hon. J.C. Irwin) took the chair at 2.15 p.m. and read prayers.

PROSTITUTION

Petitions signed by 61 residents of South Australia concerning prostitution, and praying that this Council will strengthen the present law and ban all prostitution related advertising to enable police to suppress the prostitution trade more effectively, were presented by the Hons Ian Gilfillan and Caroline Schaefer.

Petitions received.

RADIOACTIVE WASTE

A petition signed by 25 residents of South Australia concerning the transport and storage of radioactive waste in South Australia, and praying that this Council will do all in its power to ensure that South Australia does not become the dummping ground for Australia's or the world's nuclear waste, was presented by the Hon. Ian Gilfillan.

Petition received.

UNION STREET WALL

A petition signed by 31 residents of South Australia concerning the demolition of the East End Market wall forming the perimeter of Town Acre 96 along Union and Grenfell Streets, and praying that this Council will urge the Minister for Urban Planning to immediately halt the demolition and urge the Minister for Heritage to heritage list and protect the wall, was presented by the Hon. M.J. Elliott.

Petition received.

LEGISLATIVE REVIEW COMMITTEE

The Hon. A.J. REDFORD: I bring up the ninth report of the committee.

QUESTION TIME

CAMBRIDGE, Mr JOHN

The Hon. CAROLYN PICKLES (Leader of the Opposition): I seek leave to make a brief explanation before asking the Treasurer a question about Mr John Cambridge.

Leave granted.

The Hon. CAROLYN PICKLES: In a media report on 18 November, Mr John Cambridge, head of the Department of Industry and Trade, is quoted as having made statements that attacked the South Australian business community, the Department of Treasury and Finance and, by implication, his own minister, who holds the portfolios of Industry and Trade and Treasury. Mr Cambridge said that too many South Australian companies treated industry assistance like 'the industrial dole'. Mr Cambridge also attacked Treasury colleagues, describing them as 'troglodytes' and 'outstandingly stupid'. Further, he made an unprecedented attack on the parliamentary Economic and Finance Committee, describing its report into industry assistance as 'a disgrace to the state, totally flawed and a travesty of our parliamentary system'.

The Hon. M.J. Elliott: He hasn't been a great success himself.

The Hon. CAROLYN PICKLES: Well, I am not sure about that. On 21 November, the Treasurer and the Premier were reported in the media as having reprimanded Mr Cambridge for his attacks. On 30 November the Premier described Mr Cambridge's attacks as 'inappropriate, inexplicable and unacceptable'. When asked about the nature of the reprimand the Premier also said:

> . . . there would have been no misunderstanding at the end of the conservation.

On the same day the Treasurer told the Council that he had made it clear to Mr Cambridge as follows:

> . . . robust discussion is to be kept where it ought to be and that is in the appropriate fora within the public sector.

The Treasurer also said he had made it clear to Mr Cambridge that, 'any differences of opinion are played out on the front page of the local newspaper' and these attacks are not acceptable to him as the minister.

At today's Economic and Finance Committee meeting three television stations and journalists from two newspapers were present when Mr Cambridge stated he stood by all of his criticisms and his previous comments about the Economic and Finance Committee, the companies receiving industrial dole and the outstandingly stupid troglodytes that continue to dwell in Treasury.

Mr Cambridge also failed to point to any of the areas in the Economic and Finance Committee's report into industrial assistance that were fundamentally flawed and said that his department was compliant with most of them. My questions are:

1. Given that Mr Cambridge has repeated the offence for which he was supposedly reprimanded by both you as Treasurer and by the Premier, what action do you now intend to take to discipline Mr Cambridge, or do you believe Mr Cambridge's criticisms to be correct and that he is no longer subject to reprimand?

2. How many reprimands and by whom are required before he is sacked or stood down?

3. Will the Treasurer rule out a bonus payment this year to Mr Cambridge following this long line of supposedly strong reprimands?

4. Why did the Treasurer direct Mr Cambridge not to reveal the name of these companies that he describes as being on the industrial dole, and is he concerned that this appears to have been the only one of his directives he has bothered to follow?

5. Given that the Treasurer failed to answer this question on 30 November, will he now say whether he has received any instruction from the Premier that Mr Cambridge is to be shown particular lenience in spite of his many indiscretions and, if so, for what reason?

The Hon. R.I. LUCAS (Treasurer): I answered most of these questions last week or the week before. In relation to the final question, I made it quite clear last time that I had not received any instructions from the Premier, nor would I expect to, in relation to how I treat or do not treat a chief executive within my sphere of responsibility. The only difference here is that the chief executive does report to ministers, he does not just report to me. But as to my relations with the chief executive, I never have and would never expect to get any instruction from the Premier to do anything other

than treat the chief executive appropriately and as I would treat the chief executive in the normal course of events.

The Hon. Carolyn Pickles interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: I have not seen nor heard the evidence given this morning to the Economic and Finance Committee. I did see a copy of the statement that was to be read and I thought that it was a considered statement. It indicated that if his statements had caused offence to members of the Economic and Finance Committee he apologised for that offence that had been caused to them. I think he indicated the number of companies that he was referring to. I think he talked about a couple of companies, whereas, although I cannot remember the exact words, the inference in the honourable member's comments was that a significant number of companies were on the drip feed or the industrial dole.

I cannot remember the exact words the honourable member used, but that was certainly the inference. As I said, the note that I saw as to the nature of his evidence this morning was that he was going to indicate what he actually said—that it was a couple of companies, and he indicated that. Whilst I have not seen the evidence, if someone has asked the chief executive of the department whether his views have changed or not, I can understand why he would say that his views remain the same. What I have said to him is that if he has robust views that amount to a difference of opinion with Treasury or others, he should express those views within the appropriate circles. However, if he is asked, 'Do you retract the statements that you made two weeks ago?', and if he has said 'No' to that question then I can understand his position. If he has gone out there again on the front page of the *Advertiser* and opened up further criticism—

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: I do not have a problem. I am not sure what the position of the Leader of the Opposition is. She might not have been here when I first answered the question, but when I was in the education ministry I had all sorts of people call other senior officers all sorts of things—and in other departments.

The Hon. L.H. Davis: It probably happens in the Labor Party.

The Hon. R.I. LUCAS: It probably happens in the Labor Party as well. The public sector is not one homogenous view where everyone has the same opinion and puts the same view. I have no problem with Industry and Trade officers having strongly different views to Treasury officers. What I do have a problem with is the expression of those views in a public forum, as he did through the *Advertiser*. I have made that view clear to him. However, I do not expect him privately to say, 'I agree with Treasury on every issue. I will not disagree with it on a whole range of issues.' His job is to provide advice to the government as he sees it. If he disagrees with Treasury—indeed, if he disagrees with me—I expect him to put that view to me or to the Premier, who is his other minister, as ought to be the case. The process is exactly the same in education and within Treasury.

An honourable member interjecting:

The Hon. R.I. LUCAS: It is a bit hard. If a bloke believes something and he is asked under oath whether he will retract a statement that he believes in, what do you expect him to say?

An honourable member interjecting:

The Hon. R.I. LUCAS: I don't know; I wasn't there. What do you expect him to say?

The Hon. Carolyn Pickles interjecting:

The PRESIDENT: Order, the Leader of the Opposition! It is not debating time now; it is question time. You have asked your question.

The Hon. R.I. LUCAS: If a person believes something, even if others disagree with him or her, do you expect that person, under oath in terms of parliamentary questioning, to retract their strong views on a subject?

An honourable member interjecting:

The Hon. R.I. LUCAS: I don't know what he was asked, because I was not there. I am just saying that, if it was put in that way, one can understand that under oath he has to respond in terms of his genuine belief. However, what has been made clear to him is that in other areas where he has strongly held views that might be different either to those of Treasury, to my views as minister or to the Premier's views as Premier, he has the appropriate forums to put that point of view, and he is indeed encouraged to do so. We do not expect toady public servants to constantly come up and parrot only what the government and the ministers want to hear. That is not the way we run the public sector. It might be the way the Labor Party, should it ever be in government, would want to run the public sector: if any chief executive has a different view to the minister, he or she is not entitled to express that point of view. If any executive disagrees with Treasury, that chief executive will be disciplined and reprimanded for expressing a view with which they do not happen to agree with Treasury.

That is not the Liberal way, and that is not the way we intend to run the public sector under a Liberal government. If you want to crack down on senior public servants being free to put a point of view within the appropriate circles of government and departments, that can be the position of the Labor Party. We have said that you should not put those points of view in the public forums. You are entitled to hold and express your views, but you are not entitled to conduct a difference of opinion with another chief executive on the front page of the *Advertiser*.

The Hon. P. HOLLOWAY: As a supplementary question, does the Treasurer believe it is a tenable position for the chief executive officer of his department to believe that South Australian companies treat industry assistance like the industrial dole, given that Mr Cambridge has refused to withdraw those remarks?

The Hon. R.I. LUCAS: As I said, my understanding is that he has indicated that he has that view of a couple of companies. He is entitled to have that view. As I have indicated, I do not agree with the view. As I have said—and I will repeat it—I do not expect the chief executive of the department to have exactly the same view as I, as minister, have on every issue. That is not the way we run government administration in South Australia. It was not the way we ran—

An honourable member interjecting:

The Hon. R.I. LUCAS: Of course the chief executive is central. However, when I was Minister for Education the chief executive had different views about how education policy should be implemented. However, in the end the decisions of the government need to be implemented, irrespective of the strongly held personal views that chief executives or senior officers might have.

LAND AGENTS

The Hon. P. HOLLOWAY: I seek leave to make a brief explanation before asking the Attorney-General a question about the review of the Land Agents Act.

Leave granted.

The Hon. P. HOLLOWAY: In a letter to the Executive Officer of the Law Society of South Australia dated 14 June 2000, the Attorney-General states:

> . . . the review panel's recommendation—

the Attorney was referring to the recommendations of the review into the Land Agents Act—

> is that legal practitioners' qualifications be accepted for the purpose of registration subject to a demonstrated qualification in appraisal. It is intended that this pro-competitive reform be implemented as quickly as possible.

Later in his letter the Attorney continues:

> The crucial issue now to be addressed in terms of implementation however, is the determination of which appraisal qualifications will be acceptable for registration. While this is a matter ultimately for the commissioner, the commissioner does seek input and involvement from interested parties as part of the approval process. In this instance it is entirely appropriate that the Law Society and the Office of Consumer and Business Affairs engage in dialogue to determine the suitability of courses in appraisal. I note with appreciation that a small number of your members—

this is the Law Society's members—

> wish to be involved in the implementation. In order to commence this process, please feel free to contact Mr Adam Wilson, Senior Policy Officer (Competition Policy) of the Office of Consumer and Business Affairs.

I understand that this is the same Mr Wilson who formed part of the original review panel and who is now part of the revived panel.

On Tuesday 7 November, the Attorney made a ministerial statement on the review, in which he announced that he intended to revive the review panel to consider views expressed by the Real Estate Institute of South Australia. When I asked the Attorney about his authority to place on hold the discretionary power of the Commissioner for Consumer Affairs to permit lawyers to become real estate agents while the revived review panel considered these issues, the Attorney replied:

> I have no authority to do that. That is a matter for the Commissioner for Consumer Affairs. I do not have the power to instruct him over that issue.

Section 5 of the Land Agents Act 1994 provides:

> The commissioner is responsible, subject to the control and directions of the minister, for the administration of this act.

My questions are:

1. Given that the Attorney stated on 7 November that he has no authority over the Commissioner for Consumer Affairs, why did he, rather than the commissioner, write to the Law Society of South Australia on 14 June informing it how the recommendations of the review panel would be implemented and inviting it to 'engage in dialogue' with the Office of Consumer and Business Affairs?

2. As a consequence of that dialogue, was any understanding reached between the Law Society and the Office of Consumer and Business Affairs about the suitability of the Law Society's appraisal course to meet the commissioner's requirements and, if so, what was that understanding?

3. What restraints does the Attorney believe exist as to his powers to direct the Commissioner for Consumer Affairs, given section 5 of the Land Agents Act?

4. Do the statements in his letter of 14 June 2000 to the Law Society still apply, in particular the statement that 'the implementation of this recommendation simply means that legal practitioners' qualifications in combination with qualifications in appraisal will be acceptable for the purpose of registration as a land agent'?

5. Does the Attorney believe that the assistance that the Office of Consumer and Business Affairs has been providing to the Law Society regarding the implementation of the original review panel's recommendations constitutes a conflict of interest for those officers in relation to the matters now to be considered by the revived review panel?

6. What are the terms of reference of the revived review panel and when is it due to report?

The Hon. K.T. GRIFFIN (Attorney-General): I am rather surprised that the Hon. Mr Holloway should now raise this question on a letter that is nearly six months old, and a lot of water has passed under the bridge since that time. This letter, incidentally, has been the subject of comment by the Real Estate Institute and I am rather surprised that, while I am sure the honourable member had received a copy of it and been lobbied by the REI, he should only now begin to ask a question about that letter and subsequent events. It may be a reflection on the fact that questions are getting a bit low on the other side.

There are various questions: I did not make a note of all of them; I will try to do most of it by memory. I think generally it focused upon what is the power of the commissioner and what is the authority of the Minister for Consumer Affairs. It is true that, under the Land Agents Act, there is power, as there is in many pieces of legislation, for the minister to give general control and direction, particularly in relation to policy, but there is no specific power to give a direction in relation to particular issues. The advice which I have received in relation to that provision is that one can give directions about general policy but one should not use that power to give directions in relation to specific issues, and the issue relating to real estate agents is a specific issue.

What follows from that is the question: why did I write to the Law Society and not the commissioner? The fact that I wrote is not a compromising factor so far as the Commissioner for Consumer Affairs is concerned; that does not signal anything about what power the commissioner does or does not have, or what power I have or do not have. There are many occasions where I might write to individuals or organisations indicating what the position is if decisions have been taken by someone under my general responsibility. It happens in relation to police, for example: where there is a representation from a member of parliament about an expiation notice, that will be referred to the Commissioner of Police. A response may come back through the minister, and the minister will write to the constituent with the result, whether it is favourable or unfavourable. No-one is suggesting that that, in any way, compromises the authority or the responsibility of either the commissioner or the minister, whether it is the Minister for Police, Correctional Services and Emergency Services or me as Minister for Justice or even Attorney-General.

The Hon. Mr Holloway should not be reading anything into the fact that a letter did go under my signature to the Law Society informing it of the decision which had been taken. At the time that letter was written, the Real Estate Institute had more than adequate opportunity to comment on the competition policy review of the Land Agents Act. The discussion paper or issues paper had been released in April 1999 and the

REI had actually responded to that. The draft report was issued in about June 1999 and, again, the Real Estate Institute responded, indicating that the recommendation in the draft report that related to legal qualifications and the additional qualifications that might be necessary for someone with legal qualifications to become registered as a real estate agent was a proposition with which the REI agreed.

I know there has been a lot of back pedalling on the part of the REI, particularly its Chief Executive Officer. I think she said on one occasion, 'Well, it's a new regime now.' It may be, but you cannot switch ships just because you change officers—it is a continuing entity. At the time the letter was written to the Law Society there had been no opposition; in fact, there had been support from the Real Estate Institute of the proposition in relation to legal qualifications. Why should one not write to inform the Law Society of that and, because it affected issues about legal qualifications, why should one not invite the Law Society to have discussions with the Commissioner for Consumer Affairs? In the end, it is the commissioner who makes decisions about whether or not a person satisfies all the requirements of the act and the regulations so that that person can then be registered as a real estate agent.

To my knowledge, there is no understanding between the Law Society and the Office of Consumer and Business Affairs in relation to this issue. The REI is as much at liberty to talk with the office of the commissioner and the commissioner as is the Law Society. I have made the point that the door is open in respect of this issue either to the commissioner or to me. When my door is open, I expect people to deal with me in a courteous fashion and not in a fashion that is belligerent and antagonistic, and I would expect that people will address the policy issues and not issues of personality.

In terms of the issue of Mr Adam Wilson, I do not see any conflict of interest. He is a senior policy officer working in the Office of Consumer and Business Affairs and responsible for competition policy issues, he was a member of the review panel, he is a member of the reconstituted review panel and he has other functions within the office. He was one of a group that presented a report which the government accepted on the basis that we believed that everyone was comfortable with the recommendation. There was no hint, until more recently, that the REI Chief Executive Officer and, I think, President determined that they should change their views for one reason or another.

Quite properly, Mr Wilson was therefore involved in giving advice on competition policy issues. There is no conflict at all in that, nor is there any conflict with respect to that person sitting on the panel. The Hon. Mr Holloway, in his last question, asked, 'What are the terms of reference and when is the reporting time?' As to the reporting time, no time has been set but I would hope that, in the light of the issues raised publicly, the review panel will consider the matter and report expeditiously, remembering that Mr Cliff Hawkins, a life member of the Real Estate Institute of South Australia, is now a member of that panel and he certainly must come up to speed on that; but, knowing Mr Hawkins' capability, I doubt that that will take very long.

The terms of reference are quite simple: to review the legal qualifications recommendation with respect to the Land Agents Act and deal with that from the perspective of our requirements under the competition policy agreement, that is, to address appropriately the competition policy principles in that review. I think that is all that the honourable member raised. If he wants to raise any further matters with me he can do that in a supplementary question. But, all in all, the matter will be dealt with properly. The Real Estate Institute has now made a submission as a result of the invitation I made to it. It is now a matter for the panel to review what has gone before, what the submissions are (both from the REI and from anyone else who may have wished to make a submission and did so) and then to publish a report, which then will be considered by government.

The Hon. P. HOLLOWAY: Do the policy positions contained in the Attorney-General's letter of 14 June to the Law Society still apply?

The Hon. K.T. GRIFFIN: I am not sure to what the honourable member refers. There is a lot in the letter—I think that it was a two-page letter from memory. I have not refreshed my memory on it for a time. I will look at it and bring back a response to that question.

INDIGENOUS EDUCATION

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Treasurer, representing the Minister for Education and Children's Services, a question about indigenous education.

Leave granted.

The Hon. T.G. ROBERTS: After a recent conference in Sydney, addressed by Minister David Kemp, issues were raised and reported in the November edition of the *Koori Mail*. There was also a free insert from the Department of Education, Training and Youth Affairs which describes some of the activities at that conference. The issue of funding and policy development was raised in relation to commonwealth needs and requirements, and a broad brush approach to where indigenous education needs to go formed the basis of the discussions. I will quote some of the comments made by some of the contributors at the conference. The article in the *Koori Mail* states:

> Funding for indigenous education, links between health programs and education delivery, the need for more independent indigenous education providers and the problems of indigenous education delivery in remote areas were some of the 'critical' issues raised at the commonwealth government funded Indigenous Education Strategic Initiatives Program (IESIP) providers conference held this month in Sydney.

The article continues:

> Peter Buckskin, Assistant Secretary of the Indigenous Education Branch of the Department of Education, Training and Youth Affairs (DETYA) said: 'We need to increase our education efforts to reach the thousands of teachers who are still unequipped to deliver a high quality education to indigenous kids'.

To be fair, I will quote one of the better statements from Minister Kemp, as follows:

> Dr Kemp said that at this year's Ministerial Council for Education, Employment, Training and Youth Affairs, which he chairs, all state and territory ministers of education agreed on a framework for action for indigenous education and also its implementation.
>
> He called for the institutionalisation of 'a whole new set of behaviour so that everyone sees the achievement of educational equality for indigenous Australians as manageable and achievable'.

The article further states:

> Dr Boston [with whom some of us in this chamber are familiar] said that systems, schools and teachers must listen to, learn, and take direction from, Aboriginal people—from their particular histories and cultures—both generally and in regional and local contexts.

It sums up a lot of the problems of Aboriginal children in their quest to gain a foothold in society at a fair and equitable level—that is, to receive a good education. At the moment,

retention rates for Aboriginal children, particularly in metropolitan and regional areas, are abysmal: it is a terrible statistic. In fact, a lot of the children are not attending not after year 8, but after age eight, nine and 10. So, we have a responsibility. I have been working with the Minister for Aboriginal Affairs in another place. We have had some good, cooperative discussions, and I think that we are starting to get somewhere in some areas, but a lot still needs to be done. My questions are:

1. Will the minister provide details of government initiatives to implement national principles and standards for more culturally inclusive schooling in mainstream schools?

2. What state wide structure is in place to identify and harness interested and committed school principals and teachers?

3. What state wide structure is in place to identify and train principals and teachers who are ill-equipped to deliver high quality education to indigenous students?

4. What structures are in place to ensure that indigenous education policy and programs are suitable for delivery in rural and remote areas?

5. What programs are in place that assist schools to incorporate local language, history and culture in the curriculum to try to prevent the truancy figures and statistics that are now being revealed with respect to indigenous education in this state?

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

CATCHMENT MANAGEMENT SUBSIDY SCHEME

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Treasurer, representing the Minister for Water Resources, a question about cutbacks to the Catchment Management Subsidy Scheme.

Leave granted.

The Hon. M.J. ELLIOTT: The Drainage Subsidy Scheme was established in 1967-68 to provide assistance to local government for flood mitigation works. In 1997-98, the scheme changed its name to the Catchment Management Subsidy Scheme and broadened its scope of operations. Notably, these changes to encourage a whole of catchment approach include water resource management as well as flood mitigation opportunities, and broaden the range of bodies able to apply for funding.

In fact, funding for the scheme has not been adjusted for inflation and has remained at around $3.9 million per annum since 1995-96. However, I am informed that funding to the CMSS is due to be cut back this year by around 50 per cent to only $1.9 million, which will put quite a few works in the catchment areas at risk in several council areas. The Minister for Water Resources has explained that these cuts are due to an agency saving target of $900 000 and a total of $1 million being transferred to higher priority areas of water resource management. It appears with the on-set of catchment management levies that the government is trying to transfer costs from the state government to local government. My questions are:

1. Does the minister agree that broadening the scope of the CMSS and the inclusion of a wider range of organisations eligible to apply for funding should see an increase in funding to meet demand and, if not, why not?

2. Will the minister explain why flood prevention initiatives, among others, are the target of agency cost cutting?

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

SHOP TRADING HOURS

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for Disability Services a question on shop trading hours.

Leave granted.

The Hon. CAROLINE SCHAEFER: I should declare an interest. I live just outside Clare, but I am not sure whether or not I am within an eight kilometre radius. I also like to shop. I am usually there on weekends, so I like to buy my groceries on weekends. We have a somewhat ludicrous situation at the moment where the major supermarket is able to serve people who live further than eight kilometres away but is unable to serve those within an eight kilometre radius. My understanding is that it is the only supermarket in the district to which this somewhat strange law applies because it is the only shop in the district of more than 400 square metres. I am somewhat puzzled by this law because certainly my experience of towns as small as Kimba or as large as Whyalla is that country shopping generally, if it is what the traders want, is 24 hours a day, seven days a week. Will the minister explain why one shop and one shop alone is excluded from this and how an anomaly such as the eight kilometre radius arose?

The Hon. R.D. LAWSON (Minister for Disability Services): I thank the honourable member for her question. I assure her that all other shops in the District Council of Clare and Gilbert Valley are able to open, as I am advised, 24 hours a day, 365 days a year. However, the particular store to which the honourable member refers has a floor area over 400 square metres and is therefore caught by the fact that Clare and Gilbert Valley occupies a proclaimed shopping district. In November this year solicitors acting for the Clare Valley Foodland wrote to me suggesting that their client would be entitled to open 24 hours a day to facilitate any passing customer who might reside more than eight kilometres from the supermarket, relying upon section 15 of the Shop Trading Hours Act.

That section provides that it is lawful for a shopkeeper of a shop situated in a shopping district to sell or deliver goods, not being prescribed goods, to any person who resides at least eight kilometres from the shop and to keep the shop open for so long as is necessary to effect that sale or delivery. My reply to the solicitor was that section 15 was designed for a particular purpose and in fact provides that a shop may be open outside of ordinary hours only for so long as is necessary to effect a sale or delivery to a person resident more than eight kilometres away. In other words, it is not possible for a shop to remain open on the off chance that a customer, who resides the requisite distance away, comes in. Notwithstanding that, the shopkeeper maintained that he proposed to open the store.

I think that the important thing to note is that the decision in relation to shop trading hours in Clare is a matter for the community in Clare and a matter which the statute specifically confers upon the local council. If the council is not satisfied, after consulting with its residents and ratepayers, with the existing regime of shop trading hours, it lies within

the power of the council to undertake an appropriate survey and, if that survey favours deregulation of hours, for a submission to be made to the government. However, the sort of exemption sought by the solicitors for the store in question is, in my view, ill-advised, and I urge the local community to make its views on this issue known through its local council.

ABC STRIKE

The Hon. R.K. SNEATH: I seek leave to make a brief explanation before asking the Minister for Workplace Relations a question about strike breakers and strikes.

Leave granted.

The Hon. R.K. SNEATH: Recently, we heard government ministers and members praising trade unions. I quote from a report in the *Advertiser* dated 24 November which, under the heading 'Unions help to lift state, says Olsen', states:

> Premier John Olsen has praised unions for their role in helping to restore the state's economic fortunes.

An honourable member: Do you disagree with that?

The Hon. R.K. SNEATH: No. The report continues:

> Mr Olsen said the unions were playing a significant role in delivering a climate of industrial peace, which was the hallmark of long-term business investment.

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order, the Hon. Mr Redford!

The Hon. R.K. SNEATH: The report continues:

> Mr Olsen said industrial action in Victoria was having significant 'bottom line' effects on the business community. 'But I would say categorically there is far less chance of it happening in [South Australia] than in any other Australian state,' he said.
>
> 'We respect and applaud the work the unions are doing to encourage investment here. . . It is true teamwork with mutual respect.'

It is a pity that the government does not show the trade unions some further appreciation for their efforts in attracting business to South Australia and, in fact, some government ministers go out of their way to get up trade union noses. People who cross picket lines are often referred to by a certain name, namely, 'scabs'. People who knowingly participate in companies' operations while employees are on strike are often referred to as scabs as well. Some people, such as those in Labor caucus, certainly avoid participating in interviews and the operations of companies that are on strike. My questions are:

1. Was the minister aware that employees at the ABC were on strike until 11 o'clock this morning?

2. If the minister was aware, why did he participate in an interview this morning on the ABC instead of recognising the rights of ABC employees?

The Hon. R.D. LAWSON (Minister for Workplace Relations): I am delighted that the honourable member has asked this question. It is true that I appeared on the ABC talkback show shortly after 8.30 this morning. I did so because I was called by the ABC, which said that Michael Wright—the shadow spokesman for workplace relations—had called the ABC and proposed giving them an interview.

Members interjecting:

The Hon. R.D. LAWSON: He rang them and wanted to give an interview, and I was asked to be on the line to listen to what Mr Wright had to say and to provide a response on behalf of the government. I was somewhat surprised when the producer came on the line to say that Mr Wright was no longer available, so I was able to provide the interview. The most recent example of attempted strike breaking in this state was committed by the Labor Party spokesman.

I fully endorse the Premier's remarks about the contribution that many trade unions have made to industrial development of this state. I am proud of the fact that we have an industrial relations record that is the best of all those of the Australian mainland states, and I propose to do what I can to ensure that that remains the case.

LATHAM, Mr M.

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Treasurer and leader of the government (Hon. Robert Lucas) a question about—

Members interjecting:

The PRESIDENT: Order! We cannot hear the explanation.

The Hon. L.H. DAVIS: —Mr Mark Latham.

Leave granted.

Members interjecting:

The Hon. L.H. DAVIS: I will defer: I will give way.

The PRESIDENT: Does the honourable member want to continue?

The Hon. L.H. DAVIS: Yes, I will. He has pulled back. The Sydney *Daily Telegraph* of 4 December had an article by Mark Latham, a prominent member of the federal Labor caucus. He in fact has his own column in the *Daily Telegraph*, and I want to quote for the benefit of the Treasurer these quite remarkable comments. Having referred disparagingly to the Sydney CBD-Sydney Airport link which, of course, worked so well for the benefit of tens of thousands of commuters during the Sydney Olympic Games, Mr Latham said:

> . . . it is difficult to see how privately-run railways can work in other parts of Australia. At the bottom line, these [privately run railways] are shonky projects which always require large taxpayer-funded subsidies to bail them out. The worst example is the Darwin-Alice Springs railway—

he's describing this as a shonky project—

> which earlier this year received a government handout of $480 million. Despite numerous studies, the financial viability of the project has never been proven.

That is a matter of some debate. The article resumes:

> The government money has been allocated on the basis of electoral margins in the Northern Territory and South Australia, rather than economic margins. It is a white elephant waiting to happen.

He ends up with a general attack on this and other schemes that have government support, and he describes them as the 'madcap financial schemes and pork barrelling of politicians'. Will the Treasurer advise the Council what economic benefits might flow from the Alice Springs-Darwin rail link, particularly in terms of major infrastructure development, regional development generally and the strategic importance of the railway, and will he advise whether Mr Mark Latham's extraordinary attitude toward the Alice Springs-Darwin rail link is shared by any of his federal or state Labor colleagues?

The Hon. R.I. LUCAS (Treasurer): It is disappointing to see a senior federal Labor representative attacking the Alice Springs to Darwin railway because—

The Hon. T.G. Roberts: How senior?

The Hon. R.I. LUCAS: Very senior. I was told he is a future leader.

The Hon. A.J. Redford: Gough likes him; Gough reckons he's terrific.

The Hon. R.I. LUCAS: Paul Keating thinks he's all right, too. If Paul Keating has given him the nod of approval, what greater tribute could you have?

Members interjecting:

The Hon. R.I. LUCAS: Heaven forbid after that question today! He might be the leader of the Liberal Party, the way he's going. It was a good dorothy dixer.

The PRESIDENT: Order! The Treasurer will resume his answer.

The Hon. R.I. LUCAS: Until now, the government of South Australia has been of the view that the Labor Party federally and in this state is a strong supporter of the Alice Springs to Darwin railway. I hope that senior federal Labor spokespersons and the Leader of the Opposition in South Australia will publicly condemn such inflammatory language used by Mr Latham in relation to this issue because, clearly, from the government's viewpoint (from the Premier down) there is very strong disagreement that these are shonky projects.

I know that, before the Prime Minister and the federal government decided to commit to the project in terms of their grant offerings, senior representatives of the government met with the commercial banking advisers to the consortium to work through the numbers so as to be convinced from their viewpoint of the economic viability of the project. They said that they were not prepared to commit to the project unless they believed that it was financially viable. Senior representatives of the federal government met with the senior commercial people to satisfy themselves that the numbers stacked up for their contribution to the project.

I will not take up too much of question time today to list all the benefits to South Australia, but I am happy to bring back for the Hon. Mr Davis and all members the most recent statement from the Premier highlighting, for example, the considerable advantages during construction in terms of the thousands of direct and indirect jobs that will be involved from the start of this project. Some 700 or 800 South Australian firms, through Partners in Rail, have indicated expressions of interest in participating in the enormous boom that there will be during the construction phase of this nation-building project, as the Prime Minister has described it.

In the long term, in respect of land bridging and the ability of South Australian companies to get certain products to markets in Asia and South-East Asia, in particular, more quickly than they currently can, there will be transport time savings of somewhere between three days and up to 12 to 15 days—I am going on memory so I will get the exact details—for some destinations in South-East Asia for some goods on the Alice Springs to Darwin railway as opposed to, currently, transport by ship.

The benefits to all who have been involved in this are well known to South Australian businesses and we hope that, in the very near future, the benefits will be well known to many hundreds and thousands during the construction stage and to the many hundreds and possibly thousands in the long term whose future job prospects will be dependent, at least in part, on the success of this nation-building project.

GAMING MACHINES

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Treasurer a question about the economic impact of gaming machines in regional communities.

Leave granted.

The Hon. NICK XENOPHON: An article, entitled 'Gambling fever bleeds a town dry' by John Ellicott and Barclay Crawford in the *Weekend Australian* of 2 and 3 December 2000, reported on the world's first study on the effects of poker machines on regional economies by LaTrobe University. The article reports that the study found that poker machines were a blight on rural cities and country towns and that the study at LaTrobe University found that pokies cost the Bendigo community economy a net annual loss of $11 million and that gamblers among the 80 000 population lost $32.35 million a year or $404.38 per person. Referring to the LaTrobe University study, the article goes on to state:

> The report paints a bleak picture of a rural city where poker machines are cleaning out a large part of the community without giving anything back. It found 72 per cent of the pokie players in Bendigo earned less than $30 000 a year, paying for their losses in unpaid loans, wasted welfare or theft from employers, families or friends.

The study also asserted that, if the millions lost annually by the gamblers in Bendigo were spent in line with normal consumption, the local economy would benefit by an additional $5 million and an increase in employment by the equivalent of 237 full-time jobs. Its author, Ian Pinge, said that the model could be translated to most regional cities and towns where pokies have taken over local hotels and clubs. He further stated:

> All this suggests that a switch in the expenditure towards electronic gaming machines has had serious economic consequences for the regional economy.

I acknowledge that there are differences between the industry structure in Victoria and that in South Australia. Notwithstanding that, my questions are as follows:

1. Does the Treasurer agree with the findings of the LaTrobe University study, particularly its findings of a negative net impact on jobs on regional communities?

2. Will the government provide funding for a similar independent study in South Australia, taking into account the impact of poker machine losses on regional economies and in particular their impact on jobs?

The Hon. R.I. LUCAS (Treasurer): The answer to the first question is that I do not know. I have not had a chance to read a copy of the report to which the honourable member refers. I am happy to try to get a copy of it, form a view and provide a response to the honourable member. In relation to the second question, obviously that will depend on my actually reading the research report and making a judgment as to its usefulness or otherwise.

ROADS TO RECOVERY PROGRAM

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning a question about the Roads to Recovery program.

Leave granted.

The Hon. J.S.L. DAWKINS: Members would be well aware of the recent announcement of the federal government's $1.2 billion Roads to Recovery program, from which South Australia will receive $100 million over the next four years. A total of $59.4 million will be spent on local government roads in regional areas of this state with a further $40.6 million to be spent in the Adelaide metropolitan area. This additional $100 million will enable councils to undertake essential local road upgrades throughout the state. Can the

minister indicate when the first instalment of these funds is expected to be made available to local government bodies?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): The allocation of these funds is awaited with fairly keen interest, not only by the state government but also by local government. The bill to provide the funding to local government has now passed the House of Representatives and I understand is now before the Senate. Initially it was thought that the funding would be available from next financial year, but I have been advised this week that the first instalments will be from January 2001, which is excellent.

The grading of some roads will be difficult, because we all know that grading is better undertaken after the road has been wet, but at least it allows for a variety of work that is deemed by councils to be essential, including planning, design and concept work which will be necessary on some bigger projects. I know that in many rural council areas, and also in the outer metropolitan areas, there are roads to be sealed and the matter of unkerbed roads to be addressed.

Also, I have just been advised that the initial calculations provided by the federal government have been amended somewhat because in South Australia allocations to councils were on the basis of the Local Government Grants Commission and the special local road funds that councils received last year. Therefore, all councils that received special local road funds last year actually got an added bonus for the next four years incorporated into their payments from Roads for Recovery funding. An adjustment has now been made and so councils directly will receive $85 million of the $100 million to be provided from the federal government. A further $15 million now will be allocated to the South Australian Grants Commission and will be allocated through the special local roads fund and the Local Government Advisory Committee. That is an important outcome particularly with respect to the strategic development and allocation of roads in South Australia for economic development and road safety.

In the meantime, I advise that I am particularly pleased that the Office of Local Government in South Australia, and particularly the Local Government Association, have agreed to frame some terms of reference and will meet shortly with Transport SA to work through with councils how the $85 million will be spent over the next four years. Certainly, this group will not have any power to approve the allocation of that $85 million, but it could provide advice to councils to ensure that it is used wisely in the councils' and the state's long-term interest.

Further, I highlight that South Australia is well advanced in its work across both state and local governments in the development of regional transport plans, taking into account not only future road needs but also rail issues. This work—regional freight plans and transport plans—will be critical in the work we do through the special local road funds with local government and the Local Government Association and the Office of Local Government in assessing this wonderful windfall for local government and for roads in general arising from Roads for Recovery funding.

AGL

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Treasurer a question about the adequacy of customer service provided by AGL, the new owners of ETSA Power.

Leave granted.

The Hon. SANDRA KANCK: In November this year, the South Australian independent industry regulator, Mr Lew Owens, released the Performance of Regulated Electricity Businesses 1999-2000 report. The report includes an assessment of the level of customer service provided by South Australia's regulated electricity businesses. One service measured was that of timeliness for customer appointments. We are told that AGL has a 99.9 per cent success rate of arriving within 15 minutes of an appointed time with its customers, which sounds good until we find out that the appointed time is a four hour block.

Should AGL need to read an electricity meter that is located inside a house, it will offer to read the meter between 8 a.m. and noon, or noon and 4 p.m.; hence AGL has a 270 minute window of opportunity to fulfil its service standard. Perhaps we need to ask why the timeliness rate is not 100 per cent. Should the householder not be available between the hours of 8 a.m. and 4 p.m. there is a problem because AGL does not inspect meters after hours or on weekends. A constituent who works between the hours of 8 a.m. and 4 p.m. on Monday to Friday asked how they could arrange for their meter to be read. AGL suggested in turn (a) leaving the key in the letter box, (b) leaving the key with a neighbour, or (c) taking a day off work. My questions are:

1. Does the Treasurer believe AGL is providing an acceptable level of customer service in this instance?

2. What role does the Treasurer envisage for the government and the parliament in ensuring an acceptable level of customer service by the regulated electricity industries?

The Hon. R.I. LUCAS (Treasurer): I do not see a role for the parliament in that area. We have appointed an independent industry regulator with the powers and responsibilities in relation to the various codes of service, and that is a responsibility that this parliament has given to the independent regulator. It is not the responsibility, with due respect to the Deputy Leader of the Australian Democrats, of the parliament to set down the standards she would wish to apply to particular businesses or industries. The honourable member's views in relation to this issue sometimes colour her judgments about a number of areas—

The Hon. Sandra Kanck interjecting:

The Hon. R.I. LUCAS: No, the whole area of privatisation. I would just ask the honourable member to speak to some of her colleagues, friends or associates about some of the other private sector agencies and government sector agencies in terms of when they will come to visit to repair various items or provide service.

The Hon. T.G. Roberts interjecting:

The Hon. R.I. LUCAS: I do not want to criticise local members. There are two particular government or semi-government agencies, and the best they will do is say they will come Tuesday or Wednesday. The person in charge of the home, male or female, has to take a punt on the whole day. So, whilst in an ideal world someone will be able to tell you that they will arrive at 10 a.m. and be there at 10 a.m., the reality is that, if AGL has at least got itself to a stage where it is a four hour block, that is better than a number of other government or semi-government agencies which say they will be there some time on Tuesday; or, if they cannot make it Tuesday, they will be there on Wednesday. If you are trying to work you have the problem the honourable member is talking about, but that is doubled or quadrupled if it is a two day time block period.

It is clearly not an ideal situation, but at least AGL, if the situation is as it was described by the member, is a level above the degree of service offered to householders by some other government agencies run by the public sector, the model preferred by the honourable member. With the operations of the independent regulator, as he looks at the various industry codes, he has a consumer consultative committee or advisory committee in relation to providing him with advice on issues of concern to consumers.

It may well be that, with the passage of time, he decides that these standards need to be improved. Indeed, in general terms he has talked about the need to further improve standards of service. He has also said, in terms of standards of service, that consumers may well have to make a choice as to whether or not they are prepared to pay a little more for improved general levels of service. He was probably talking more about outage times and things like that, rather than this particular area. Nevertheless, he has raised the general question, 'If you want improved service, are you prepared to pay more for it? As a consuming community, you then have to make a judgment whether or not that is the way you want to go.'

I am happy to see whether I can obtain any further advice on the issue. All I can say is that these service standards will hopefully improve over time, but it is the responsibility not of the parliament but of the independent industry regulator, in consultation with his advisory committee, to try to improve these standards.

The PRESIDENT: The time set aside for questions has now concluded.

MATTERS OF INTEREST

INNER WESTERN WORKSKILL INC.

The Hon. IAN GILFILLAN: I have a serious concern that I want to bring to the attention of the Council. Inner Western Workskill Inc. is a community organisation formed over 20 years ago to meet the needs of unemployed people in the western suburbs. For much of its history, it was funded by commonwealth grants and managed by a committee of concerned volunteers. It employed skilled people to provide the day to day management and to deliver skill development programs to people disadvantaged by unemployment. Over time, IWW has changed to meet the new demands of commonwealth funders and community needs. It has grown in size by amalgamation with similar programs to gain from economies of scale and has also developed as it has expanded its programs to meet specific needs.

In the past 10 years, it has gradually become more entrepreneurial in its approach. Its purpose and focus has been to meet community needs not met by for-profit organisations. It has a history and current status of delivering effective services to the community. It has done good work. However, now its community base and its ability to change to meet community needs is threatened. The composition of its board has been changed such that it can no longer be called a community organisation. Of a required board of seven members, four current board members are employees of the organisation. Until 20 November, the Chief Executive Officer, Mr G. Hatwell, was also the chair of the board. For a short time, the auditor was a member of the board. One would have to question whether the community is being well served by the payment of a salary of $175 000, including fringe benefits, to the Chief Executive as he was also the board chairman at the time salary packages were negotiated. The question of conflict of interest must be raised. Other senior staff, also on packages well above community services industry standards, were also board members at that time.

Further conflict of interest becomes clear on consideration of a proposal to the board by the Chief Executive chairman that he 'buy' the business arm of Inner Western Workskills Inc. from the incorporated body. Of great concern is the proposal that as part of the agreement he receive a payment of over $80 000 for the favour of purchasing the business. The value of the business was determined by the organisation's auditor. The ethics of such a proposal need careful consideration, and one member of the board raised questions about the issue. Her motion that legal advice on the conflict of interest issue and commercial advice on the value of the business be sought was lost. When the member herself sought legal advice and provided this to the board, she was sacked without due process. The reason: 'she had broken the confidentiality of the board'. The sacked board member formally complained to the Office of Corporate Affairs and was told that the matter needed to be resolved by the members of the organisation. Under the revised constitution, the board members are the only members of the organisation.

The board was re-elected at the AGM of 29 November, and the meeting was not publicly advertised. An early item for board discussion is the sale of the business arm. If the sale were to take place without consideration for bearing conflicts of interest around this board and this matter, a mockery will be made of people who involve themselves in community organisations without the thought of personal financial gain. That a community organisation can be allowed to become captive to its employees who are in a position to actively pursue their own commercial interests is a matter of public concern. Such an act would show the Incorporations Act to be worthless, offering no protection to the community and no guidance for public minded citizens. That the office of corporate and business affairs—the only regulatory authority with the power to act—will not take action in the public interest in this matter is of serious public interest and concern requiring an initiative on the part of the Attorney-General. I am hoping very much that this will flow from this matter of interest contribution.

I quote two paragraphs from Margaret Hunter LLB, FCCA, in advice on this issue to the past member of the board, as follows:

> On the matter of good practice, in my view there is no question that it cannot be regarded as good practice for a non-profit board to have a majority membership of individuals who wish to purchase the association's business for their own personal gain. It is not good practice for any board to have a majority membership made up of its employees, or to have an employee as chairperson, even where there is no potential personal financial gain except normal salaries.
>
> My advice is that the appropriate course of action would be for none of the employee members to remain as board members after the forthcoming AGM, which I understand should happen quite shortly. Enough new and totally independent board members should be recruited to ensure that the sale decision cannot be seen to be influenced by the past effective control of the association by its staff.

As members can see, there is profound cause for concern about the procedures followed by what one would regard as a community based organisation to help with unemploy-

ment—Inner Western Workskill. In bringing this matter forward in this place, I am hopeful that the Attorney will take a personal interest in it, because time is critical. The actual details of the sale and the process of the sale were to be quite speedily introduced; so, I urge not only this chamber but also the Attorney to act in his capacity to correct this ill.

Time expired.

GOODS AND SERVICES TAX

The Hon. R.K. SNEATH: We have nearly had six months of the GST. It has been long enough to know who are the real beneficiaries of such a tax. Obviously, they are in the high income bracket. Low income earners receive the smallest amount of tax relief and continually find that small amount to be insufficient compensation when shopping, paying everyday accounts and filling up the car with petrol. The GST has put about $25 per annum on the price of union tickets, as has been identified by the trade union movement. However, on looking at some of the other receipts, including the ones from the Parliament House restaurant, I find that very few identify the GST component, which is a very sneaky way of allowing the federal government further to disguise the windfall of this tax and its ramifications on low income earners and other taxpayers.

Some examples of receipts received in the past couple of weeks at service stations identify the GST component and some do not. The same applies to restaurants: some identify the component of the GST and some do not.

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): Order! I wonder whether your colleagues would allow you the courtesy of not having a meeting in front of you.

The Hon. R.K. SNEATH: Thank you, Mr Acting President. It makes it very hard for the taxpayer and the consumer to recognise the amounts that they are paying in GST, and it makes it impossible for them to work out whether, at the end of the financial year, under a GST, they have had a tax cut or a tax hike, which I think is extremely unfair. In this way, the federal government hopes the GST will be forgotten. Because it is included at the bottom of the docket each time, people do not notice it is there, but they blame it, amongst other things, on their continual struggle to make ends meet each week.

The other group in the community that is very unfairly treated under a GST and about whom the government and the Democrats have forgotten is pensioners. I have spoken about low income earners and others who do get tax relief as some small compensation, but what do pensioners get? Pensioners get a small increase in their pension that would hardly cover the GST that is applied to half a tank of petrol. The same GST applies to pensioners on the same items as it does to others. There is also the added worry for pensioners of a GST of $400 on a basic funeral. Some pensioners in their last few years are more worried about being able to afford their own funeral than many other things.

This is a disgusting tax on our elderly. The federal government should immediately take steps to compensate pensioners in line with others in the community by remunerating them and also removing this unfair burden of GST from the cost of funerals.

ELECTRICITY, PRIVATISATION

The Hon. P. HOLLOWAY: I move:

That the Supplementary Report of the Auditor-General, 1999-2000 on Electricity Businesses Disposal Process in South Australia: Engagement of Advisers: Some Audit Observations, be noted.

It is important to put a few words on record in relation to this report by the Auditor-General, and I will speak briefly to the motion today and then seek leave to continue my remarks. Basically, this report is an absolute indictment of the Treasurer's management of this particular aspect of the electricity disposal process.

I will go through a brief synopsis of some of the key points made by the Auditor-General in the first chapter of the report. First, procedures adopted by the Treasurer's Electricity Reform Sale Unit (ERSU) in engaging lead advisers for the sale of the electricity assets—and these were the people who were paid something like $27 million—were not consistent with the Department of Treasury and Finance guidelines for such processes. The Auditor-General concluded that this is a matter which can objectively be said to be likely to give rise to public concern.

The Auditor-General also found that ERSU did not adequately deal with the situation that arose when the preferred proponents changed their position in relation to acceptance of the government's standard terms and conditions. This failure by the proponents to agree to the government's standard terms and conditions was one reason for ERSU not to consider their proposal further. The Auditor-General states that, to allow a proponent to change its position without re-evaluating the impact of the change is at the least unfair as regards other proponents, and probably improper.

The Auditor-General found that ERSU failed to enforce terms of the contract designed to reduce the fees payable to the lead advisers in certain circumstances, resulting in fees paid to the lead advisers being greater than they may otherwise have been. In other words, where there were terms of the contract designed to reduce the fees payable, this failure to act has meant that, basically, the taxpayers of this state will be out of pocket. The Auditor-General found that the non-availability of a key member of the lead advisers, because of a conflict of interest which was identified during the middle stages of the sale process, created a situation for there to be a significant impact on the project.

In the Auditor-General's opinion, where the state would be reliant upon the advice of the lead advisers regarding acceptance or the commerciality of risk, the arrangements established by ERSU did not reflect sound administrative practice and, in fact, placed the state in a potentially prejudicial position—hardly a ringing endorsement from the Auditor-General. The Auditor-General notes that, as a matter of principle, to structure a complex asset disposal process involving the payment of a success fee based on price with the same persons who are entitled to the success fee, having a concurrent responsibility to analyse the commercial acceptability of the impact of risks to be assumed by the state arising out of the disposal, is 'in my opinion not only an unsafe administrative arrangement but also inconsistent with good administration practice'—again, scarcely something of which the Treasurer of this state should be proud.

The Auditor-General noted that the pervasive nature of the advice required of the lead advisers within the disposal process cannot be said to have been counterbalanced by the

influence of other advisers. I know that the Treasurer in answer to questions has attempted to dispute that matter, but I think there is the evidence to support what the Auditor-General is saying. The inherent temptation to maximise price and not to have adequate regard to the issues arising from the assessment of risk is, in the Auditor-General's opinion, an unacceptable arrangement.

The Auditor-General notes that the role played by the accounting adviser could not be seen to have actively contributed to the achievement that potentially increased disposal proceeds and to warrant the payment of a form of incentive bonus, which was in fact the case. It was one thing to give an incentive payment to the lead adviser but another thing, as the Auditor-General points out, to give it to the accounting adviser because, after all, the purpose of the accounting adviser is to advise on accounting issues: not to give advice in relation to matters that might potentially increase the disposal proceeds.

In the Auditor-General's opinion the incorporation of a success fee reward structure into the contract with a successful accounting adviser is inappropriate. The Auditor-General states:

> The use of such a reward mechanism needs to be carefully considered by the state in all future engagements of advisers.

The Auditor-General notes that the payment of a success fee should not have been agreed to unless it could be demonstrated to be clearly in the best interests of the state. The Auditor-General notes that the failure to document a valuation and selection process does not represent a good public administration practice and may have a tendency to undermine public confidence in government procurement processes.

The Auditor-General notes that advisers performing services prior to the execution of consultancy agreements is a recurring issue. In audit's opinion it is an issue fundamental to accountability and proper contract management. It is a highly unsatisfactory situation that represents poor contract management. Again, what sort of a reflection is that on the Treasurer? The pace at which some of the consultancy agreements were negotiated after the consultants commenced services was, at best, leisurely. From the Auditor-General's Report we note that none of the consultancy agreements contain a mechanism for dealing with perceived conflicts of interest.

Advice from the chief commercial counsel, Crown Solicitor's Office, to ERSU (Electricity Reform and Sales Unit) confirms that, unless an adviser has an actual conflict of interest or breaches confidentiality, the state can do nothing. The Auditor-General notes that this is a highly unsatisfactory situation. That is a brief synopsis of the findings of the Auditor-General in relation to his report. They are an indictment of the conduct of this particular aspect of the process by the Treasurer and those who are answerable to him. I note that in his report the Auditor-General makes 35 recommendations.

What is perhaps a little disturbing is that, when the opposition has raised these concerns by way of questions, the Treasurer's response in relation to future asset sales is at best lukewarm. One would hope that, with all the effort that has been put into this and a subsequent report by the Auditor-General in relation to the asset sales process, surely we can learn something from it. Surely lessons are to be learnt. No process is perfect given the nature of the size of the asset sale. It was inevitable that some mistakes would be made but, given the scale of the errors identified by the Auditor-General, it is imperative that his recommendations be carefully considered by this government. One would expect that at least a great majority of those recommendations would be adopted. That is all I need say on this subject at this stage. I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

RETAIL AND COMMERCIAL LEASES (CASUAL LEASES) AMENDMENT BILL

The Hon. NICK XENOPHON obtained leave and introduced a bill to amend the Retail and Commercial Leases Act 1995. Read a first time.

The Hon. NICK XENOPHON: I move:

That this bill be now read a second time.

In a sense, we have dealt with these amendments with respect to the government's bill, which is primarily concerned with the GST. I do not propose to unnecessarily restate the arguments that have been set out in relation to the clauses, which are identical to the amendments that I previously moved to the government's bill. However, given the intimation of the Attorney that he would not be proceeding with the government bill at this stage because of these amendments and also the amendments moved by the Hon. Carmel Zollo, I thought it important to indicate to the government that a number of important principles are at stake in relation to this bill, that it ought to be debated in this chamber and, given the numbers last week, it appears that it will be successful.

I propose to speak further on this bill when parliament resumes in the new year. But, in the meantime, introducing the bill at this stage puts the government on notice that this issue will not go away, that it deals with a number of important principles that are of great concern to retailers in the state—to tenants who have committed their livelihoods and their life savings to long-term leases, only to find that their livelihoods have been undermined by virtue of practices by some landlords in respect of casual tenancies. I propose to speak to this bill further at a later time, and I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

The Hon. A.J. REDFORD: Mr President, I draw your attention to the state of the Council.

A quorum having been formed:

UNION STREET WALL

The Hon. M.J. ELLIOTT: I move:

> That this Council express its concern at the proposal for the demolition of a historic wall in Union Street and Grenfell Street and urge the Minister for Transport and Urban Planning to use her discretionary powers to retain the 1930s wall arches, as well as ensure that a development be designed that provides for shops at street level and preserves the heritage character of the East End Precinct.

To look at the East End precinct of Adelaide has been an interesting study over the past, I suppose, 15 years. I recall that there were some early proposals for virtually complete demolition of most of the old buildings on Rundle Street east—in particular, in the market precinct—and proposals for some quite hideous office buildings to be constructed on that site. At that time, it would be fair to say that the Rundle Street east precinct was looking fairly tired, although perhaps the more observant (I would not claim to be one of them) would note that already there were just the first seeds of the resurgence that we later saw in that area.

People who raised concerns about the demolition of the frontages associated with the market, in particular, as well as the shops fronting Rundle Street east, were accused (as so often happens in the city) of being anti-development. Indeed, I have to say that they were showing a great deal of vision as to what this city could become. I think there is no question that much of the resurgence that we are seeing in the City of Adelaide—in the so-called square mile of Adelaide—is based on the success of what happened in Rundle Street. The resurgence of Rundle Street east and the success of some far more sympathetic development on the market site, which maintained the facade of the market, has made city living look a lot more attractive to South Australians than it probably did in the past.

The Hon. L.H. Davis: You would raise your eyebrows at the scale of the building on the corner of East Terrace though, would you not?

The Hon. M.J. ELLIOTT: I agree. I am not saying that what has happened there is perfect, but what we have there is a lot better than was going to happen. In the whole precinct, the one thing, if anything, that has gone badly wrong has been this one rather high, nondescript building that has been put in the south-east corner of that market precinct. Other than that, for the most part it has been done fairly tastefully to show that you can have development and that it can be sympathetic with the maintenance and protection of heritage. What is more encouraging is that it has helped lead a resurgence in the city more generally. People have looked at it and said, 'This is buzzing, this is happening; I would like to be a part of it.'

The Hon. Carolyn Pickles interjecting:

The Hon. M.J. ELLIOTT: Let's not take this debate too wide right now. I note even now that Grenfell Street, the next street over from Rundle Street, is now starting to show similar signs of the resurgence that we saw in Rundle Street East 10 to 15 years ago. There are a couple of interesting new restaurants opening up there, and we could well see a spread of the sort of development we have seen in Rundle Street East where we have residences and new businesses coming in, and it is all being done in sympathy with the heritage of the area.

Hindsight may be a wonderful thing, but one would hope that one could learn from it. After having developers saying, 'It is not possible for us to develop this area. These old buildings are just a nuisance, and there is nothing we can do with them,' experience tells us that the very value of the development hinged upon the maintenance of the heritage values.

I would not be the only one in South Australia who was under the impression—and I now know that it was the mistaken impression—that the walls around the market on Union Street and going around into Grenfell Street were heritage listed. I had simply assumed, as had many members of the public, that there was a heritage listing. I know now that I was wrong and that there had been opportunities for heritage listing that, for reasons I will not even explore, were not taken up. All I can do as both a member of the public and a representative of the public in this place is say that I am bitterly disappointed that a heritage listing was not given to that section of the market development.

I will quickly refer to the background of the wall to which the motion refers. The history of the market frontages was first documented in the East End Markets Conservation Plan Building Inventory 1987, pages 26 to 36, prepared by McDougall and Vines, Conservation and Heritage Consultants. According to the Adelaide City Council assessment books, the buildings were dated at 1931 and were constructed after the Adelaide Fruit and Produce Exchange had purchased the land from Spencers, a car body and carriage works manufacturer originally located on this corner.

Initially, these frontages were identified in a streetscape character study undertaken for the council in 1988. This study aimed to identify significant streetscapes in the city. The results of this study were exhibited as the townscape of Adelaide in 1989-90. During 1990 and 1991, the City of Adelaide plan was reviewed and the process of townscape protection was discussed closely. Public consultation in various forms followed and the ACC requested interim control for townscape frontages from the Minister for Planning. This was not forthcoming, as a statewide planning review was in train and the minister apparently wished to implement a consistent planning process.

Due to concern over perceived inequalities in the proposed townscape listings, those places where owners had expressed concern were reviewed by McDougall and Vines from May 1992. During this review period, in December 1992, the terminology was changed from 'townscape' to 'local heritage' places. Under the City of Adelaide Development Control Act this was done at the instruction of the City-State Forum, a panel established in October 1992 by the Minister for Planning to resolve townscape issues.

Owners who had objected to either townscape or local heritage listing were invited to prepare submissions expressing their reasons for opposition to listing. These were heard by a panel of city councillors, council planning staff and consultants, and recommendations were made. (It sounds a bit like our regional assessment panels.) However, these were not acted on, and in March 1993 the City-State Forum established a Local Heritage Review Committee to re-review the objections to local heritage listing in the City of Adelaide. This committee made recommendations to the minister in April 1994 to retain a large number of places on the list where objections were overruled, as the places had genuine local heritage value.

The 1931 corner frontages of the AFPE buildings were not included as local heritage places within the City of Adelaide plan, although they had twice been assessed as having both streetscape and local heritage value. That is important. It is not just a matter of what we might think in this place: the fact is that, twice, they had been assessed as having both streetscape and local heritage value and, unfortunately, despite that, the final act was not done and listing was not given.

I do not think it is particularly constructive at this point to set about laying blame. I am not saying that is not a worthwhile thing to do in terms of who should have done what in the past: all I can note is that I am told that there was a ruling today which effectively clears the way for the wall to be felled, so it is not a time now for recriminations. I guess we do that after the wall comes down, if it does. I hope that all members in this place share the view that the wall is worth saving and that we should express that view. My personal request to the minister is that, if she has any remaining discretion, because this is an exceptional circumstance, I hope that she is prepared to exercise it. If we can get this motion passed in time, I also seek to have the motion referred to the developers as a final plea to them to reconsider their plans.

If one stands on Union Street, one notes that a facade has been maintained on the western side directly in front of a car park. I do not think it has been maintained in a particularly sympathetic form, and I am surprised that some developer has not seen an opportunity: there is enough space behind the

facade to put in some sort of small cafe operation, or whatever, which would make it far more attractive than the existing wall with steel beams running to the car park.

Nevertheless, it is still there and, for a person who looks down Union Street, we still have most of the original streetscape maintained on both the eastern and the western sides. If this 1931 wall goes down, then there is a major hole—an irreparable hole, I believe—in the streetscape and a major change in character. I do not understand why it is that, in terms of development, some people take a view that it is a good thing to replace old with new. European cities do not seem to have that same pressing need.

Amsterdam has probably the most successful economy in Europe at the moment in terms of growth. Schiphol Airport, as I understand it, is rapidly approaching the size of Heathrow, and it has a name for being the busiest airport, which is a reflection of the economic success of the Netherlands and Amsterdam. Yet, as you go through the inner city, you have a streetscape which is centuries old and which is being protected most vigorously. It shows that you can have a vibrant, successful economy despite—perhaps not despite but perhaps in part because of—the streetscape, because I do not think it is any accident that it is also a very attractive city for tourists to visit.

I do not intend to prolong the debate; I simply ask all members of this place to support the motion. As I have said, this is not a place for recriminations but for a strong statement of the desire of this Council to see the wall at Union Street and Grenfell Street maintained. I hope that there is an opportunity for this to be voted on either today or tomorrow. I would not gain a great deal of satisfaction in having such a motion voted on and passed after the wall has gone down, and I hope that other members feel the same.

The Hon. CAROLYN PICKLES (Leader of the Opposition): I support the motion. It has come to us at fairly short notice because of the urgency of the issue and, for that reason, the opposition is prepared to deal with it straight away. The minister has indicated to me that she wants to speak on this motion after me and seek leave to conclude her remarks, which will stop the debate, and that is a bit disappointing. Hopefully, we can move along tomorrow and, if the minister has any amendments, we will be happy to look at those in light of any difficulty she might have with some of the wording.

I concur in the remarks made by the Hon. Mr Elliott. We could all be accused of misunderstanding or perhaps not taking too much notice of what things are on the heritage listing and, I suppose, of a certain amount of apathy. One of the things that tends to happen is that we take for granted that things that have always been there will always be there, and it is only when they are threatened in a very public way that we rise to the occasion.

A decision was made back in 1993 by the then Labor government to support the development, as was pointed out by the minister. I guess that I understand. It was signed in the very last days of a Labor government. I was not aware of the detail of the development and I would certainly hope that, in some ways, we could have retained the heritage nature of the whole area.

I agree with the Hon. Mr Elliott that some of the development in that corner has rejuvenated it. I know several people, including John Bannon and Lynn Arnold, who have lived in the area and enjoyed it. I think it has brought some life back into the east end of Rundle Street. Like the Hon. Mr Davis, I do not like the latest facade on the corner of East Terrace and Grenfell Street. It is rather intrusive and mars the whole concept.

In this place yesterday we sought to highlight the issue, and my office was contacted by the developer wishing to speak to me today. I was unable to do so, given the constraints of appointments I had and parliament, but I have indicated that I am happy to do so at a later stage. Under the legislative process, the developer has the right to demolish the wall. I hope that something can be worked out to prevent that, and I would support a strong expression of this chamber to send a last-minute plea to the developer to see whether there is any way that we can retain what should have been a heritage-listed wall.

One of the things to which I take exception is the minister's attack on Dr Jane Lomax-Smith who, as members are well aware, is a former Lord Mayor of the City of Adelaide and who is now the Labor Party candidate for the seat of Adelaide, and I suppose that is why, in the hurly-burly of politics, the minister is having a go at her. The minister is personally related to the member for Adelaide, the Hon. Dr Armitage.

The Hon. L.H. Davis: That doesn't stop her having a point of view.

The Hon. CAROLYN PICKLES: No, of course not.

The Hon. L.H. Davis: It didn't stop Ron Roberts talking about racing last night and not declaring his interest.

The Hon. CAROLYN PICKLES: It is not a conflict of interest.

The Hon. L.H. Davis: The Labor Party downstairs were attacking Graham Gunn for having one share in a grain venture, which is an extraordinary performance of double standards.

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

The Hon. CAROLYN PICKLES: I will remind you, Mr President, in case you have forgotten, that interjections are out of order. My understanding of Jane Lomax-Smith is that, before she became a member of the Labor Party and before she was Lord Mayor of the City of Adelaide, she was a strong proponent of heritage issues, and I believe that she has consistently spoken for and always voted on heritage listing based on expert advice. I understand that advice to the city council recommending listing of this wall was released by Minister Oswald, a Liberal minister, in December 1994. The majority of council rejected that advice and decided to list only those buildings where there was no owner objection, which is a rather curious way to proceed. I understand that, at that point, the then Lord Mayor, Jane Lomax-Smith, dissented loudly from that view and certainly did not support it.

The Hon. Diana Laidlaw: She was not Lord Mayor then.

The Hon. CAROLYN PICKLES: Well, she was a councillor, and she stated words to the effect that it was lunacy for a council to administer voluntary listing of heritage buildings. I suppose we could compare it with the way we expect people to adhere to laws and rules, particularly road rules, and they do not; they continue to break them. We need to have some very firm guidelines about how we deal with these issues in the future.

My understanding is that Dr Lomax-Smith has not stated anything other than the right of the developers to do what they are doing and also to appeal for some change so that something can be worked through and there is a win-win solution to this issue. I would like to think so and I would be

happy to pursue that if it is at all possible. It may well be too late, in which case I can only plead a sense of apathy that many of us have in relation to things which we have long cherished in our community but which suddenly before our very eyes seem to be going.

I can recall many years ago in an area in which I lived there were a couple of very lovely old houses on the corner of the Britannia roundabout, in quite a nice streetscape, but over a Christmas break, at a very strange hour of the morning, they suddenly disappeared. Two monstrosities went up in their place, and the old wall is still half down. We only have to look at a few places around the city to see that these things happen overnight in haste. I am quite sure that developers in developing a project of the kind that they have done—it is a sort of classy project in the East End of Adelaide—would want to ensure that it is something that we would all be proud of in the future. The minister will clearly outline whether or not she can save something.

I admit that the minister inherited this issue, and that is one of the difficult things that occurs, but seven years has elapsed since the 1993 election. There are things that occurred during the course of a Labor government that we would not necessarily repeat these days, and I think we have become much more sensitive to development and heritage issues. There are certainly some things going on in the City of Adelaide where streetscapes will be ruined forever, and there should be much more sensitivity in dealing with that. Let us not forget that the City of Adelaide belongs to each and every one of us. It does not just belong to the people who live or work there. It belongs to all of the people of this state—in fact, to the whole of Australia.

One of the unique things about Adelaide, which people comment on when they visit, is how we have managed to preserve so many of our old buildings. We should look not just at preserving our old buildings but also at preserving some of our contemporary buildings that have been built in later years. I understand that this wall went up in the 1930s. We could look at the issue of the David Jones building which many people say should be on the heritage listing because it is a fine example of a building of that era. It may not be everybody's cup of tea but in later years history will judge us for our sensitivity in wanting to keep part of our heritage.

I believe that this is part of our heritage. It has been brought to our attention in a fairly public way by the National Trust. The Hon. Mr Xenophon criticised the National Trust in not leaping to its defence in the past. That may well be so, but it is pleasing to see that Mr Rainer Jozeps, who now heads up the National Trust, is taking a very keen and active interest in the future of our city. I commend him for that. I certainly know that when Jane Lomax-Smith was Lord Mayor there were many occasions when she did not get her own way on development issues.

The Hon. L.H. Davis: The Memorial Drive development, for example, which she claimed was the worst mistake she ever made. It is quite a gracious development. An extraordinary performance.

The Hon. CAROLYN PICKLES: I am not sure I would term it a 'gracious development'. That is a matter of opinion.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. CAROLYN PICKLES: I look at what is going on down in the Botanic Gardens and I just wonder why we allow some of these things to occur.

The Hon. L.H. Davis: Did you object to the Tropical Conservatory?

The Hon. CAROLYN PICKLES: No, I did not.

The Hon. L.H. Davis: Who was in power when that went up?

The Hon. CAROLYN PICKLES: I understand it was a Labor Government.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order! Interjections are out of order. The Leader of the Opposition will resume the debate.

The Hon. CAROLYN PICKLES: I didn't object to it because it is a beautiful thing.

The Hon. L.H. Davis: On the parklands?

The Hon. CAROLYN PICKLES: But it is a beautiful thing. One might compare it to other things that are not quite so beautiful.

The Hon. L.H. Davis: So the Rose Garden is no good, the Wine Centre is no good, but the Tropical Conservatory, under a Labor government, is that—

The PRESIDENT: Order!

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order! I warn the Hon. Mr Davis.

The Hon. CAROLYN PICKLES: Thank you for your protection, Mr President, but I think those facile remarks are best not acknowledged. I think it belittles the debate. I am not sure whether at this stage we can do anything about this issue. I will listen with interest as to whether or not the minister does have discretionary powers or whether she wishes to exercise any discretionary powers that she has, or whether it is possible for us at this late stage to do anything about it.

I would like to believe that an expression of the view of this Council would urge some last minute rethinking on this issue. In my question yesterday, I think I asked how much it would cost to preserve the wall. I am not sure how much it would cost to continue to preserve it, or whether the developers would need some assistance in doing that, and whose responsibility it might be. Clearly, there could be a cost implication that no-one is willing to bear. However, the minister has indicated that she wants to have the final say. In fact, I hope that she will—

The Hon. Diana Laidlaw interjecting:

The Hon. CAROLYN PICKLES: Well, if the minister will let him. Just now the minister told me that she would seek leave to conclude so that we could not finish the debate today. If that is some sort of tactic to do a bucket job on the Labor candidate for Adelaide, so be it. In many ways, I think the public will judge the issue of whether or not we should retain this unique piece of South Australian heritage.

The Hon. IAN GILFILLAN: I rise to support the motion and endorse the comments of my colleague, the Hon. Mike Elliott, who moved the motion. It is interesting that there has been enormous support for a petition with a poster saying 'Help save the history of the East End. Sign the petition here'. Accompanying the poster were a couple of telling photographs showing the beauty of this unique structure. I point out that 3 500 people signed the petition, which states:

> East End market walls. We the undersigned urge that the 1930s wall and arches in Union Street and Grenfell Street be retained and a development be designed that provides for shops at street level and preserves the heritage character of the East End precinct.

I indicate that I have the petitions with me as documents and I seek leave to table them.

Leave granted.

The Hon. IAN GILFILLAN: I think the petition is quite clearly a very substantial testimonial from 3 500 concerned people. I am advised that all those signatures were obtained

in the couple of days the petition was available. I believe it indicates that more and more Adelaidians realise that they have to raise their voices in any way they can to protect our heritage. The question of the parklands was introduced coincidentally, given the threat to the heritage, character and permanence of the parklands. I believe it is a healthy sign that the public is saying, 'We are not prepared to suddenly regret, after the event, the loss of precious items we have come to cherish'.

This is a particular case in point and it gives me a lot of satisfaction to table this petition to enable the chamber to take note that 3 500 signatures—and I am sure that many more would sign virtually as we speak if they were given the opportunity—were presented to this chamber, because it is very strong justification for supporting the motion.

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I welcome the opportunity to address this motion. I have a fair bit to say because I have had to focus on this issue over some period of time and today reach a decision on how to respond not only to the motion but also on the fate of the wall itself. I have been a member of the National Trust for years and years—

The Hon. Ian Gilfillan: Since it was formed.

The Hon. DIANA LAIDLAW: Not quite since it was formed, as the Hon. Mr Gilfillan has suggested, but certainly for years. I will comment on the National Trust's manner in dealing with this wall issue in a few moments. Also, in terms of heritage issues, I supported the National Trust when the previous Labor government wanted to knock down the tram barn. I did so because it was a heritage listed item that the—

The Hon. Carolyn Pickles: It was public policy not to knock it down.

The Hon. DIANA LAIDLAW: The point was that Susan Lenehan, as environment minister, I recall, sought the delisting of that tram barn, and I supported the tram barn in that respect. In addition, I remember moving motions here protesting at the proposed demolition of Yatala's A Block following the fire there—again, a heritage listed building.

I highlight to the members of this place who have already spoken and others who may vote that the wall on which we are focusing here is not state heritage listed and it is not local heritage listed. In a moment, I will highlight the many opportunities, through a whole variety of measures, that are available for people to list these buildings and also a whole range of times when this issue has been addressed in public forums and it has not advanced to heritage listing.

Finally, in addressing this motion, I want to deal with some issues that must be taken into account in the way in which we handle, in a credible manner (a manner with integrity), the development processes and procedures in this state. This is a subject about which I feel very responsible as Minister for Transport and Urban Planning.

First, this motion deals with a proposal before me for demolition. I highlight that that arises from the contract signed for the development of the site on 3 December 1993 by the former ALP government some eight days before the December 1993 election. Just eight days before that election, the Labor minister of the day signed with the Liberman company a contract for development of the site. That contract provides that the government then and now (because the contract is still valid) must provide a cleared site. There is only one exception to that cleared site, and that is if there are no listed heritage buildings on the site.

As I have said, this wall is not a heritage building, so the contract that the government has inherited is a contract that provides the Liberman group with a cleared site. I highlight too today we may all wish—the Hons Carolyn Pickles, Mike Elliott, Legh Davis and Ian Gilfillan, and I—that the ALP government had not signed this document on 3 December 1993, especially some six days before the election.

The Hon. L.H. Davis: You could argue that signing just before an election was inappropriate.

The Hon. DIANA LAIDLAW: It may be. It certainly seems highly questionable during a caretaker period of government. Nevertheless, it is a signed legal document. And for members in this place to be urging the government, and me in particular—because of various discretions under the Development Act—to ignore the government's contractual commitments is a worry in terms of our legal and honourable responsibilities as members of parliament. Simply, I do not intend—as much as I may have views about the merits of the wall—to override or ignore the legal obligations of this government, no matter from whom we inherited them.

Furthermore, I think if I did override such legal obligations this Council would well have reason to damn me. You cannot pick and choose which legal and contractual obligations—whether entered into by this government or inherited—you are going to override because some people protest at an aspect that they say they might not have been aware of—and that is that this wall is not heritage listed.

I highlight, too, that, because of this contractual obligation with the government, the Liberman group had a right to seek demolition from the Minister for Government Enterprises who is responsible for the Land Management Corporation. However, I do not believe it was the Liberman group's first preference to take that course of action. I highlight to the Council that, in the end, it had no choice but to do so.

In April 1999, the Liberman group submitted initial building plans to the Adelaide City Council. For the interest of honourable members, given the way the National Trust and others have advanced public debate on this issue, the Liberman group requested the council for local heritage listing of that wall and also incorporated the wall in its designs. It withdrew that application because of the comments and difficulties it encountered with that application at council level. The council indicated that it was not interested in advancing this application or the heritage listing, as it had rejected heritage listing on previous occasions. It indicated its preference for 'active frontage' which, at best, would not seriously compromise retention of the wall and which, at worst, would require its demolition.

The council was seeking active frontage in the form of shops and windows, not a stone wall on Union Street. That accords with the Adelaide City Council plan for the area. I understand why the council may have taken that response, because it is not in accord with the plan for this area that had been out for public consultation and been through all the processes. However, if it wished, it had an opportunity then to say that it was a non-complying development and go through all the processes. However, the Liberman group withdrew that application for the building design incorporating the wall. It withdrew it before the proposal was referred to the Development Assessment Commission for consideration.

I want to go back further to the heritage listing issue. Members here have pleaded that the minister should, today, exercise various discretions on the basis that they did not understand that it was not heritage listed. That is a particular-

ly weak and vulnerable way in which to compromise the minister, and I will not be party to that. In 1981, when the majority of the significant buildings and facades on this site were heritage listed, a deliberate decision was made not to provide either state or local heritage listing for the Union Street wall. I highlight, too, that in 1994, the year after the then Labor government signed the contract with Liberman, the City of Adelaide Heritage Advisory Committee put a recommendation to the Adelaide City Council for local heritage listing.

That was refused by the council. Certainly, as the Hon. Carolyn Pickles has noted, there was an objection from the State Bank, but I highlight to the honourable member that, when there is an objection to a heritage listing, there is a process where this can be taken by the council for resolution to the Development Planning Advisory Committee. For some reason, the council did not seek to exercise what it is entitled to exercise, and what most councils do exercise, when they wish to heritage list something and there is an objection. That is interesting, because most councils, if they really wanted to pursue the heritage listing on a local basis, would pursue the resolution of this issue, notwithstanding the number of objections, let alone one objection, through to the Development Planning Advisory Committee.

I highlight, too, that since 3 November 1994 six plan amendment reports have addressed issues that one could say are directly related to the East End and heritage listing. Five of those six PARs have been initiated by the council. The latest one, the local heritage amendment, was authorised on 27 July this year. There were earlier specific PARs in relation to the East End precinct and, again, there was no listing and no specifications to retain this wall. None of those six processes in PAR are undertaken in secret; they all have, as provided for in the act, a full public consultation process.

I find it difficult to know when members of parliament and the community will accept that we provide a consultation process deliberately in the act to encourage people to come forward and take an interest in what is happening in their local community. We do not provide it for them then not to use it and come in when all the processes have been completed and protest, thinking a minister can be pressured into making a decision in which they were not prepared to be involved earlier.

The Hon. T.G. Cameron: Isn't that reversing a decision?

The Hon. DIANA LAIDLAW: They are asking me to make a decision to protect this wall and not to approve the demolition of the wall.

The Hon. T.G. Cameron: I thought they agreed to demolish it six or seven years ago.

The Hon. DIANA LAIDLAW: In a sense, the Hon. Mr Cameron is right, because the previous Labor government (eight days before the 1993 election) signed a contract with Liberman group that it provide a cleared site unless there were heritage listed buildings, and none of the buildings are heritage listed on the state register or even on the local government Adelaide City Council register.

The Hon. T.G. Cameron interjecting:

The Hon. DIANA LAIDLAW: That is right, but also there were six plan amendment reports directly related and relevant to that East End area, the latest being the local heritage amendments authorised in July this year—and that took some year to complete because of the level of interest in the issues. I want to make a few other comments on this issue, because everyone has known that there is to be development on this site and they have known it for almost a decade, yet we now have last minute protests by a number of people from generally respected bodies asking for last minute action to protect this wall.

However, the developer equally wants certainty in the way in which the Development Act and the plans operate. Not only does the community want certainty but the developer also wants certainty and, therefore, considering all the processes, the PARs and the opportunities for listing on the state or local register, I would argue that the developer's role is almost above reproach in terms of the painstaking time and processes that it has gone through, involving the open consultation and acknowledgment, and seeking to accommodate councils, DAC and other views in relation to this issue.

In contrast to what I think is a very open and responsible way in which the Libermans have acted, I want to make reference to others. First, this development had to go to the Development Assessment Commission. The Development Assessment Commission, which is an independent body in this state, went through the processes and sought views from Heritage SA (which did not see reason not to demolish this wall) and sought further views from the Adelaide City Council. The council in recent months again recommended approval for the replacement building and supported demolition of the wall. The Development Assessment Commission, however, recommended to me that I not support demolition of the wall, at least until and following building application approval. I think that was the appropriate recommendation in the circumstances because there is provision in the Development Act for the Adelaide City Council, in fact, to not approve a demolition until building approval has been gained.

The developer protested DAC's decision and today the Environment, Resources and Development Commission approved a revised building application. The building application that has been ratified today is revised on the basis of the developer working with the Development Assessment Commission, which engaged both a heritage architect, Mr Bruce Harry, I understand, and also an eminent urban design consultant from Victoria. I have seen the revised plans and they are certainly far superior to those first lodged with the Development Assessment Commission.

There is no doubt in my mind that the decision by the Environment, Resources and Development Commission announced today implies demolition of the wall. You cannot proceed with the building plans that were before the ERD Commission without demolishing the wall. I think the ERD Commission took into account, as I do, that there have been so many opportunities for the Adelaide City Council, state heritage authorities and others who have the resources and the focus to list these buildings, yet they failed to do so, so it is inappropriate to use discretions at the last.

Finally, I want to speak about the State Heritage Authority and express considerable concern about a letter which I received on 5 December and which is from the Secretary, Ms Christine Towle. The letter states:

> Dear Minister,
>
> In light of the recent publicity in the media regarding the 1930s Union and Grenfell Street facades of the former Adelaide Fruit and Produce Exchange, the authority discussed the issues involved in retaining the facades at its 30 November meeting. The authority was aware that the history of development—

The Hon. Carolyn Pickles interjecting:

The Hon. DIANA LAIDLAW: On 30 November the State Heritage Authority discussed it. The letter continues:

> The authority was aware that the history of development approvals and contractual obligations regarding the former East End

Markets precinct is complex and as a result decided not to exercise its ability to issue a stop order to prevent the demolition of the walls.

The State Heritage Authority decided, when it met on 30 November, not to issue a stop order to prevent the demolition of the wall, yet it has the audacity to write to me, as follows:

It did however resolve to further investigate the wall's heritage value, as the existing state listing of the Exchange's Federation style facades dates from 1981 and attitudes as to what is worthy of retention have changed over the intervening 20 years. I therefore write to request—

I would like the Hon. Mr Cameron to listen to this because I think that he may be as outraged as I am about the attitude of the State Heritage Authority. On 30 November the State Heritage Authority said that it was not prepared to issue a stop order to prevent the demolition of the wall, but it wrote to me on 5 December in the following terms:

. . . if possible, you defer any further action on the matter until the authority has an opportunity to consider the matter again at its meeting of 1 February.

An honourable member: That's convenient.

The Hon. DIANA LAIDLAW: Very convenient. The authority thinks that it is so urgent to prevent this wall's demolition yet it is not prepared, on 30 November this year, to issue a stop order. It is within its authority to do so but it says to me, 'Well, hang around minister, there is development and all the rest. You do all the dirty work but we are not so anxious about this matter that we will even meet before 1 February next year.' Archbishop George was down there yesterday praying, screaming and yelling, or whatever he was doing, and then he tells me to save this building. However, on 30 November he did not even request the State Heritage Authority to issue a stop order. It is within the authority's powers to do so; it has a charter to do so if it wants to save this structure, yet it asks me to do its dirty work, and I have little respect for that sort of approach.

I also wish to highlight the National Trust, and I note the Hon. Carolyn Pickles' glowing words in terms of the National Trust. I say that, at least to this day, I am a member: whether I will be tomorrow is another matter. I highlight this extraordinary press release from Mr Jozeps which I think was issued on 4 or 5 December. It states:

It is appalling that the developer, the Liberman Group, is so insensitive to the very asset they have in their care.

Why buy the heritage building? It is not listed on the state register and it is not listed locally. The press release continues:

Why buy a heritage property and not develop that heritage? 'It's like buying a house near the airport and then complaining about the noise', said Rainer Jozeps, 'Its dumb.'

I say to Mr Jozeps that it is pretty dumb when the National Trust has a charter for heritage yet it has done nothing since the rest of the buildings were listed in 1981 to get this facade listed. Mr Jozeps has had all these opportunities and now he has accused us, I think quite incorrectly in terms of a misleading press release with respect to the Liberman Group's buying a heritage property and then not developing it. I highlight that, in April 1999 (when the then Lord Mayor, Jane Lomax-Smith, presided at council), the Liberman Group submitted a heritage listing and provided for the wall to be included in its development but withdrew it when it received such a negative response from council.

The National Trust is now telling me to issue a ministerial PAR (Plan Amendment Report). If Mr Rainer Jazeps had spent more time actively trying to protect heritage during all the processes that are legally available to me he would not be out there now, screaming and yelling at a belated time, at the eleventh hour, asking me to issue a PAR. If he knew his law and the Development Act, Mr Jazeps would have known that this would do nothing to protect this wall. Under the Development Act—

The Hon. T.G. Cameron: But it looks as though he is doing something.

The Hon. DIANA LAIDLAW: It looks as though he is doing something, and he has done nothing until now—although he has a charter and he misleads most people of goodwill in this state into believing that he is doing something about heritage. He comes in at the eleventh hour and not at the proper time, when the National Trust can become involved. He should know (and if he does not, he is deliberately deceiving those who have signed the petition, and others—people of goodwill) that the ministerial PAR would do nothing to save this wall. It would do nothing because, under the Development Act, the development application must be assessed as at the date at which the PAR was operative. Any belated PAR now would have no impact in terms of the wall.

I highlight also that a minister does not go around exercising powers contrary to a council's view and issue a ministerial PAR on a matter of environmental significance, when the state heritage authority, the local council and every other forum has never deemed to list that wall or any other site as a heritage site. That is not the role of the Minister for Urban Planning in this state.

I would like to take up the issue that the Hon. Mr Xenophon highlighted yesterday. I understand that, over the past seven years, the developers have worked through these issues with the National Trust, and they have been aware of the legal contracts with the government and the plans by Liberman for the site.

I believe that the honourable member was acting with goodwill in moving this motion, but I believe that it is ill-conceived, and even dangerous. This has been a seven year process, and it has involved legal undertakings. I think that a minister in this state has to be extraordinarily careful not to be tempted to come in at the last minute and override the local council. We always say in this place that we should give them responsibility for their local planning issues and that they best know the issues at a local level. The Adelaide City Council, whether we like it or not, has had, in fact, six PARs and numerous occasions to accept local listing: we should not then come in on the basis of protests and override the integrity of that exercise.

Another reason why I also find it difficult to come in at this stage and override all the processes, authorities, lack of listings, and the like, is that there would not be any pressure on the local community in the future to get what they value listed, because they could believe by this precedent that, whenever they wanted to come and protest, the minister of the day would simply override either the legal obligations of a government, or seven years' work that Liberman, in this instance, has done. That is not the right message that a planning minister in this state should be giving. We should be using this issue to tell the community to be on the alert (and I do not necessarily like the decision that I have made) and that this is a signal to them to go out and be aware of what is happening in their community—to look at their local heritage list. Those 3 500 people who signed the petition should have pressured the Adelaide City Council much earlier to put this item on the local heritage list. They should not be

coming in and asking the minister to use the discretions at this stage.

I will not, and cannot, override the Environment Resources and Development Court. I will not override the councils in this matter, no matter how I feel. I will not override the legal obligations that this government has inherited with respect to the Liberman Group. I respect the fact that the Liberman Group, in good faith, lodged a submission with the council that included the wall and sought local listing as recently as April 1999, and then withdrew it when it was deterred by the Adelaide City Council from pursuing that application. I will not today go into issues about the Lord Mayor, as tempting as it is, the hypocrisy of positions and the former Lord Mayor and all the rest. I would certainly never suggest that the principal's decision I have sought to make and the way in which I have sought to uphold the Development Act—

The Hon. T.G. Cameron interjecting:

The Hon. DIANA LAIDLAW: She is certainly chasing votes. She certainly did not deliver when she was on council. Heaven knows what she would be like if she were here and following the Labor Party line! I would never in this matter do as the Hon. Caroline Pickles has done, namely, to bring my family into this. This has nothing to do with my brother-in-law and everything to do with the integrity of the processes and the legal obligations, whether or not this government likes them, that we have inherited. As minister responsible for planning, I will seek to uphold those legal processes and the responsibilities this parliament has given me as minister. Therefore, today I have approved the demolition of the wall.

The Hon. T.G. CAMERON: I oppose the motion moved by the Hon. Michael Elliott, but in doing so it is appropriate that I declare that I have a pecuniary interest and perhaps a potential conflict of interest. I own an apartment at the Garden East development. It is a property that I have listed on my pecuniary interest lists; I have owned it for some two years. Whilst my personal position is that I would like the wall to remain, in all fairness and in all honesty one can only oppose this resolution. I will briefly break down the resolution into its three constituent parts: first, the words 'and urge the Minister for Transport and Urban Planning to use her discretionary powers to retain the 1930s wall arches'. I do not think anybody could add to the passionate contribution the minister made in relation to that. Certainly, I cannot top it: I can only endorse what she said.

Quite simply, as I understand it, agreement was reached between the Bannon Labor government and the developers, Max Liberman, some seven years ago. I understand that the former federal member of parliament and now deceased Mick Young worked for Max Liberman on that development project and handled negotiations between Max Liberman's businesses and the Bannon government. An agreement was entered into and we have known for some seven years that that wall could come down. When I purchased an apartment at Garden East I interrogated the salesperson (that would be the best way to describe it), a chap called Ian Bromell, if I can recall his name. I went back and looked at the complex on four or five occasions. I clearly recall the developers advising me, when I asked them about the walls, that 'that wall which runs down the far end down the side street'—

The Hon. Diana Laidlaw: Union Street.

The Hon. T.G. CAMERON: Union Street, that's the one—'will eventually be demolished.' So I think it is appropriate to place on the record that the company was quite up front with any purchasers who asked questions about the property. There was no attempt to hide it from me; it was just stated that they had an agreement with the government. His words were something to the effect that, 'When they build the last development down here, that wall will come down.' So I bought the property in the knowledge that that was going to be the case. The second constituent part of the motion is:

> . . . as well as ensure that a development be designed that provides for shops at a street level.

I do not know what professional expertise members of this Council have on whether or not shops should be provided at street level in Union Street. I sometimes drive past the Garden East development and, from my observation, they have not only had difficulty in letting existing shops but they have had a great deal of difficulty in letting the shops that form part of the complex behind Charlick's restaurant. My recollection is that one of those properties is still not let.

Therefore, it makes no sense to me that a body such as this should be carrying a resolution demanding that a developer do this, that or otherwise. I do not try to do this too often but, again, I can only agree with the minister that that is really the province of the Adelaide City Council and the various development commissions. Why is this body getting involved in all of that? I suspect that there are cheap politics under way here and, unfortunately, Max Liberman's companies have been caught in the firing line.

It is very easy to go out and get a petition pointing the finger at some developer—it is almost tantamount to being called a paedophile in the minds of some people—but the facts of life are that we have to have developers and builders who do this. Everyone knew that this wall had to come down and here we are, at the 11th hour, with one body refusing to use its powers to stop the wall from being pulled down. It strikes me as being cheap, petty party politics aimed at trying to garner a few more votes for the local candidate. I think we should be above that. The third constituent part of this motion states:

> . . . and preserves the heritage character of the East End precinct.

Again, what on earth is this chamber doing dealing with a matter like preserving the heritage and character of the East End precinct? I can only assume that all those people who support—

The Hon. Diana Laidlaw interjecting:

The Hon. T.G. CAMERON: Isn't that the appropriate authority—the local council? I may well be wrong, but I assume that all the people who support this resolution have been to the Garden East complex and looked at the proposed new development and seen how that will be situated when what I believe is a magnificent development for the Adelaide CBD area is finalised. In fact, a few other developers could take a leaf out of the book of what Max Liberman has done at Garden East. To my way of thinking, it started as a premier apartment development in Adelaide and it still holds that title. I backed up that opinion by spending quarter of a million dollars in buying an apartment there.

The Hon. Diana Laidlaw: A good investment.

The Hon. T.G. CAMERON: That has turned out to be a very good investment. My property is managed by Garden East. As people would know from my pecuniary interests list, I have other apartments, but I am very happy with what I consider to be an excellent and—

The Hon. Carolyn Pickles interjecting:

The Hon. T.G. CAMERON: I'm just telling you my experience: I have an apartment there and it is managed by

these people. It is in my financial interests for the wall to stay up, but I am hardly likely at the eleventh hour to play cheap politics with this issue. I bought the property knowing that that wall would come down. I do not mind if this motion is carried, but I will not be supporting it.

I wanted to make the point that I have had a number of dealings with Garden East; one never knows whether these matters will be raised at some other date. I do not have any involvement with Garden East these days, and have not for 18 months. A friend of mine (Suzanne Cameron) looks after all that for me. But I can say that, and to quote her, they offer an excellent and professional service and always communicate with the owners all the way through any matters that they have ever handled for me.

It is just a bit rich at the eleventh hour to come in here with a motion like this and expect it to be carried. One thing of which I can assure members is that if we had gone back to the bad old days, I guess, the Labor Party and the Democrats would have had a cuddle in the corner and said, 'You beaut: we've got an opportunity here to embarrass the government and the minister,' and it would have been supported.

One can only be thankful that there are people such as the Hon. Nick Xenophon and I here who can often act as arbiters when we witness cheap, petty party politics being played by some of the parties in this place. SA First will not be supporting this motion.

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

PETROLEUM ACT

Order of the Day, Private Business, No. 1: Hon. A. J. Redford to move:

That principal regulations under the Petroleum Act 2000, made on 21 September 2000 and laid on the table of this Council on 4 October 2000, be disallowed.

The Hon. CAROLINE SCHAEFER: On behalf of my colleague the Hon. Angus Redford, I move:

That this Order of the Day be discharged.

Order of the Day discharged

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE: NATIVE FAUNA AND AGRICULTURE

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

That the report of the committee be noted.

(Continued from 29 November. Page 669.)

Motion carried.

STATUTORY AUTHORITIES REVIEW COMMITTEE: SOUTH AUSTRALIAN COMMUNITY HOUSING AUTHORITY

Adjourned debate on motion of Hon. L.H. Davis:

That the report of the committee on an inquiry into the operation of the South Australian Community Housing Authority be noted.

(Continued from 29 November. Page 674.)

The Hon. R.K. SNEATH: I rise to support the report on the operations of the South Australian Community Housing Authority. Having been appointed to this committee only in October, I have not had the benefit of asking questions of or hearing directly the evidence from the large number of witnesses. However, there has been agreement amongst members of the committee on all recommendations except recommendation 1, on which, as mentioned by the Hon. Legh Davis, I have indicated support for a government review of SACHA, but I have reserved my position on the second part of that recommendation.

There are further concerns in the report that could be reviewed by the government. Because the report has taken nearly three years to produce, some of the recommendations are already out of date and some of the issues have largely been resolved within the sector. Community housing has grown to such an extent that it is bigger than cooperatives in providing social housing product. Labor says that a review of community housing is warranted and should be done in the context of a review, entitled Housing South Australians, that is about to be undertaken by Ruth Ambler from the Department of Human Services. That review is important because it is internal to government and not contracted out. Ruth Ambler is greatly respected by the housing sector. It will also be significant in providing the basis for the government's negotiations for the next round of funding in the Commonwealth-State Housing Agreement, which is due between March and June 2001.

One of the problems with the committee's report is that its recommendations almost determine the result, that is, that the Community Housing Authority be absorbed into the trust. If we are to have a review, let us have a decent one that includes proper economic and social analysis. For members' information, I advise that Ruth Ambler worked for Shelter until recently and was an activist in the community sector and for the South Australian Council of Social Service.

The anomalies across the sector with regard to the percentage of income considered to be appropriate for rent (21 to 25 per cent), access to supporting resources needed to house people in need, dependence on volunteers, huge workloads for paid workers, and the financial modelling for different associations could have been looked at more thoroughly. Issues related to the impact of the GST, urban regeneration, increase in property prices, transitional housing, and the need for furniture and shifting assistance for tenants who do not have possessions, the capabilities or the finances also could have been more thoroughly investigated, with some recommendations more thoroughly considered.

Questions concerning SACHA's board structure, legislative basis and representation of the sector, consumers and people who understand the industry, and the provision of services have also been raised with Labor by workers and consumers in the community housing sector. Those issues also need to be taken up in any review. I am sure that my colleague the Hon. Carmel Zollo, who had a large input into this committee prior to my becoming a member of it and who was present when evidence was taken, will make a contribution to this debate. However, I am satisfied that the recommendations further enhance the report in terms of the unemployed, the needy and the disabled, although in those instances I have mentioned perhaps there could have been more consideration.

As the report indicates in relation to interstate community housing, the government of the day could certainly have a look at the Labor government's community housing projects in New South Wales. I take this opportunity to congratulate the support staff for their assistance and very professional and supportive approach.

The Hon. CARMEL ZOLLO: As a former member of the committee, I would like to make a short contribution. I believe that the inquiry was important and very worthwhile. Housing accommodation is a basic need for all of us, and there will always be those in our community who are in need and not able to access conventional housing, or indeed who may choose alternative housing because it suits their individual needs or lifestyle.

It has taken a long time to bring this report to fruition. The presiding officer indicated that it was some 2½ years. I did not agree with the decision to engage the South Australian Centre for Economic Studies to conduct a cost benefit analysis. I thought it was best for the committee to conduct its own inquiry, and certainly the opportunity was there to do so. I place on the record that I did not agree with the committee's engaging the Centre for Economic Studies, because I thought it somewhat difficult to carry out a comparative economic study since there had been far too many changes both in client base and policy. SACHA now encompasses cooperatives and community associations.

When the select committee in 1991 carried out the first cost benefit analysis in cooperative housing alone, comparing it with a similar sized development by the South Australian Housing Trust, the terms of reference meant that we were no longer comparing apples with apples. At the time, the earlier study concluded:

> If cooperative tenant incomes grow faster than those of the South Australian Housing Trust tenants by virtue of the tenure type, then, on any analysis, cooperatives have an advantage over the South Australian Housing Trust. If the differential income growth does not occur, then the two tenure types are generally equal in cost benefit terms, and a decision between the two then rests on non-economic grounds.

In correspondence to the committee, Minister Brown indicated that he was of the same opinion as me. The minister also pointed out the significant changes in the provision of public housing that have occurred over the past 10 years and, in particular, as a result, the housing reforms linked to the Commonwealth-State Housing Agreement. He rightly stated that the former open access policy no longer applies and changes to eligibility criteria, tenure and allocation of public housing have been implemented to give greater priority to those people most in need to ensure that they are housed more quickly. The minister commented that the reforms applied to community housing as well as to the South Australian Housing Trust.

SACHA also engaged a consultant to carry out a review in the past few years. Nonetheless, the majority of the committee agreed to engage the services of the SA Centre for Economic Studies, and I accepted that decision. Since 1995, SACHA has encompassed both cooperative and community housing with dramatic growth in community housing. In the larger community associations, run mostly by church groups, there has been an encouragement and trend towards joint public-private sector ownership. Such associations attract appropriate federal funding to assist those most in need.

We saw examples of community housing working well at various levels, ranging from self-build groups to housing for people with specific disabilities. I have been invited for several years now to the AGM of the Frank Quigley Homes for the Head Injured Housing Association. The dedication and commitment of those involved, including the tenants, families, carers and the management committee, is to be commended. One could never put a monetary value on the independence that is enjoyed by the tenants and the dedication of the many volunteers who assist them to live in community homes.

Similarly, we saw some fine examples of cooperative housing. The reported excesses of the 1980s were not readily evident. They were not evident for the reason that eligibility has changed and the stock available for use has changed. The common complaint might well have been that SACHA was regularly offered depleted former Housing Trust stock in the wrong suburbs and requiring much maintenance.

The committee identified that in the earlier days the keeping of records in the cooperative housing sector was not implemented or strictly adhered to, and I understand movements of tenants were not monitored. Balanced with this inefficiency (if one wishes to call it that) are the clear social benefits to the tenants of cooperative housing. It is also obvious that the voluntary nature of cooperative housing assists in the reduction of the cost to government. The centre's study, and SACHA's own inquiry, indicated that there was not a great difference between the economic costs of Housing Trust stock and cooperative housing.

I have noted the Presiding Officer's comments that community association costs tend to be somewhat higher; the logic, of course, being that often associations are housing those with particular disadvantages who require more specialised services and facilities, whether it be ramps, size of doors, location of door handles, and so on, and require more frequent maintenance, for example, because of wheelchair accidents.

I have noted the committee's 10 recommendations and, like the Hon. Bob Sneath, I reserve judgment as to whether SACHA should be administered through an office of the South Australian Housing Trust. I would have certainly agreed with the rest of the recommendations. Clearly, many changes have occurred in housing in South Australia in the past decade, as there have been in other states. South Australia is somewhat unique in that it carried—and probably still does carry—one of the largest public housing stocks.

With the changes in availability of stock, an increased client base, changed eligibility and different options now being offered to clients, the market is rightly a changing one. As previously indicated, the inquiry was important in that it explored those factors which need to be considered when governments are responding to the needs of the community. Again, I thank the committee staff for their diligence and again wish my colleagues well in their future endeavours.

The Hon. J.S.L. DAWKINS: As stated this afternoon, the inquiry by the Statutory Authorities Review Committee has certainly been a long one. It is by far the longest inquiry with which I have been involved as a member of two standing committees of this parliament. I believe there has been quite a bit of the ground changing during the term of that inquiry.

As a little bit of history, I understand that the Statutory Authorities Review Committee initially showed interest in conducting in inquiry into the operations of SACHA in mid 1997 before the last election. I understand that at that time SACHA indicated it would conduct its own inquiry. Subsequently, in early 1998, the committee proceeded with the inquiry at a similar time, and just prior to that the Minister for Human Services, the Hon. Dean Brown, announced a shift in the focus of public housing.

The minister announced a policy to assist people on the basis of need, with a priority for those most in need for the period of the need. These reforms came into effect earlier this year and have impacted significantly on the community

housing sector. It has been a long inquiry and, as I said, there has been quite a bit of change in the way in which this sector has operated in relation to both the cooperative housing sector and the housing associations, SACHA and the Housing Trust.

The committee has come up with 10 recommendations and I would like to touch on them. The first recommendation was that the government should review the need for a separate authority—in other words, SACHA—to administer community housing. The committee recommended that the government should explore the option of administering community housing through an office of community housing within the South Australian Housing Trust. The Hon. Bob Sneath indicated support for the government review but reserved his position on the second part of this recommendation, and his colleague and a former member of the committee, the Hon. Carmel Zollo, has just indicated her support for that position. It is worth saying that South Australia is the only state that has a separate statutory authority that is in charge of community housing.

Notwithstanding recommendation No. 1, the committee recommends that the composition of the SACHA board should be reviewed to recognise the increasing importance of housing associations in the delivery of affordable public housing in South Australia. As such we believe the housing associations and cooperatives should each nominate two candidates for approval by the minister for membership of that board.

The committee recommends that SACHA should explore the demand for and feasibility of additional community housing programs in regional and rural South Australia. Another recommendation is that SACHA should explore the possibility of joint initiatives with the private sector to increase opportunities for access to community housing. Those two recommendations are very important to my mind in the rounding out of community housing around South Australia and through the metropolitan area in terms of our using the best opportunities we have in this state. Certainly, there are non government organisations that have demonstrated an excellent ability to deliver these programs in liaison with government departments.

The committee recommended further cooperation between the South Australian Housing Trust and SACHA in relation to the refurbishment, sale or redevelopment of stock that may no longer be desirable or appropriate in view of changing family sizes and current lifestyles. Over the period of the inquiry, we were pleased to note that there is increased liaison and cooperation between SAHT and SACHA.

The committee also recommended that SACHA should review its information technology initiatives to ensure that housing associations and co-operatives have access to software which is compatible with that used by SACHA. The committee recommends that the transfer process of Housing Trust stock be improved and made more transparent, and that SACHA should adopt a more flexible approach to asset management to allow housing associations increased responsibility for their housing stock. The committee also recommends that SACHA should review, and improve where necessary, its record-keeping processes.

I will bring my remarks to a close there. This has been a very interesting inquiry for me. Unlike some other members of the committee, I knew almost nothing about community housing when the inquiry started. I do not pretend to be an expert on the subject, but my knowledge of, and interest in, community housing has certainly been increased. I commend the motion to the Council.

The Hon. L.H. DAVIS: I thank honourable members for their contribution on the report of the Statutory Authorities Review Committee on an Inquiry into the Operation of the South Australian Community Housing Authority. It has been a worthwhile inquiry, and I hope that the government does pick up the recommendation to examine the suggestion of the Statutory Authorities Review Committee with respect to the proper administration of community housing in South Australia.

Motion carried.

FREEDOM OF INFORMATION BILL

Adjourned debate on second reading.

(Continued from 11 October. Page 133.)

The Hon. M.J. ELLIOTT: I support the second reading of this bill, which would not only provide proper and prudent public access to official information but would also protect individual privacy. It is a bill based on the unanimous recommendations emerging from the Legislative Review Committee's inquiry into the Freedom of Information Act 1991. As such, it is a bill that has tripartisan support from the Liberal, Labor and Democrat members of that committee who found that the present FOI Act was not serving the purposes for which it was enacted. It is a bill that addresses the concerns of the Ombudsman, who, in successive annual reports, proposed similar solutions to the problems with the existing FOI Act. Finally, it is a bill that is long overdue and it has been warmly received by the media and the community since my colleague the Hon. Ian Gilfillan introduced it to this chamber some four weeks ago.

Freedom of information is a central pillar to the integrity and accountability of government. It is imperative for good government in a mature democracy that parliament's elected officials and the public have proper access to information to an extent consistent with public interest and the protection of personal privacy. However, both the substance and interpretation of the current FOI Act have repeatedly undermined the integrity of the South Australian government. Firstly, the substance of the South Australian act is unique among FOI statutes in all Australian jurisdictions because of its total exemptions, which it grants to any information which touches or concerns business affairs. This compares poorly with New South Wales and Victorian acts which allow almost any information to be released if it is in the public interest.

This is a view confirmed by the Legislative Review Committee, which found that the current act is effectively a charter to withhold all but the most innocuous information. In short, South Australia's FOI Act is currently the most restrictive in Australia. Secondly, the interpretation of the existing act within a culture of antipathy and antagonism by the Public Service towards open government is crippling democracy in South Australia. I offer an example of my own experience with the Environment Protection Authority when seeking information of great public interest in relation to air quality testing at the Mount Barker Products Foundry.

On 13 August 1999, I sought both raw data and modelling results in relation to the Mount Barker foundry. In response, I received a letter telling me that only two documents had been identified. I must say it surprised me that they could only identify two documents. In any event, I was to be denied access to both of them. The two major reasons given for my denial of access were: first, they were to be withheld due to the possibility of court action—that was some action that the

EPA might carry out in the future—and, secondly, they were to be withheld because they may have made allegations or suggestions of criminal or improper acts which had not been established by the judicial process. It is quite interesting really that I was seeking data and, according to the EPA's interpretation, data could be construed as allegations or suggestions of criminal or improper acts.

But then what is the point of having FOI? If you suspect that something is going wrong, you ask for information which will either confirm or deny it but, if there is some possibility that it might confirm that something is going wrong, you will be immediately denied access to it on the basis that it might be then seen as an allegation or suggestion of criminal or improper acts. It is quite a nonsense interpretation. More recently, the misinterpretation and manipulation of existing FOI laws have taken a different tack. After numerous requests for information being rejected through technicalities, or very little interpretations of requests, my office has taken to making broader requests in the hope that, by asking for all information, we may receive some that is relevant.

To each of the last four FOI requests I have made, in particular in relation to junior sport funding, mining in Yumbarra, mining in Coongie Lakes and the sale of public property assets, I received a similar response; that is, my requests were too big and time consuming. It seems no matter how one makes a request, interpretation and implementation of FOI laws have come to emphasise obstructionism, not openness. In fact, I appeared as a witness before the committee and cited other examples.

The Hon. Ian Gilfillan interjecting:

The Hon. M.J. ELLIOTT: Thank you for that. I probably make about three or four FOI requests a year and I cannot recall the last one that was complied with without a significant fight, if you like, to get information. Every time I have made an FOI request, some form of obstructionism has been thrown up. Then, when one resorts to going to the Ombudsman, you find that the Ombudsman's office is so under-resourced that the Ombudsman is not really in a position to carry out the role that is anticipated within the act so the one protection in the FOI act—an appeal to the Ombudsman—is effectively neutered because of the lack of resources. I wholeheartedly support my colleague's attempts to stem the growth of South Australia's reputation as the state of secrecy by introducing this bill, and I commend the bill to other members of the chamber.

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

GAMING MACHINES (FREEZE ON GAMING MACHINES) AMENDMENT BILL

Second reading.

The Hon. CARMEL ZOLLO: I move:

That this bill be now read a second time.

In the other place, my colleague the member for Spence (who introduced this private member's bill) said that it was introduced to give legislative effect to the Premier's desire that enough is enough with respect to poker machines. Some other members of parliament in both places share that sentiment but, in this place in particular, it would be fair to say that the Hon. Nick Xenophon's desire to see such legislative effect dates back to the time of his election.

This is the third occasion on which we will have the opportunity to vote in this chamber for a freeze on the number of poker machines in South Australia. It is in no way a new issue. This is my third contribution in relation to legislation to see this outcome—my first, in response to the Hon. Nick Xenophon's first bill, being in 1998. We then waited two years to vote on another private member's bill. On both occasions the outcome was in the negative and the numbers roughly the same. In those contributions, particularly the first, I talked at some length about the harm that poker machines have caused problem gamblers, so I will not repeat it all again. The issue is one with which we in this chamber are all very familiar.

In looking back at the debate on the last private member's bill that we had before us earlier this year, I noticed that, whilst the majority obviously did not vote for a cap, many members appropriately expressed concern over the issue of problem gambling. The argument appeared to be more of the belief that a cap would not see the desired outcome in assisting problem gamblers.

I think that the time has come for us, as a parliament, to stop disagreeing on probabilities and to start agreeing that we should respond to community concerns in relation to this very serious social problem. It is serious not just for the people who are addicted (and many point out that they are still a minority, even if a significant one) but for the very many people whose lives are affected by their addiction—usually many close family and friends. I note that even the industry is prepared to accept a cap, if that is the will of the community. That in itself is a significant recognition of the community's concerns.

Correspondence to me from the AHA at the time of the last private member's bill—and I am certain that it corresponded with all members—states:

> The hotel industry has a clear stance on a cap on gaming machines. We do not believe a cap will help problem gamblers. However, we are willing to live with a cap, as long as it is workable and does not stifle growth in the industry.

The AHA has written to members today. I assume that it has written to all members, but particularly I received a letter dated 1 December which sought further provisions other than those already included in this bill should it proceed. Its correspondence strongly points to the Productivity Commission's Report not supporting a cap. As pointed out by the Hon. Nick Xenophon yesterday, the Productivity Commission also found that we have the highest rate of per capita gambling losses in the world, and that we have 290 000 significant problem gamblers, each affecting the lives of at least five others. That means that, in some way, about 1.8 million Australians are adversely affected by the gambling problem.

If one looks at the figures relating to each problem gambler losing an average of, apparently, $12 000 per annum, compared to $650 for a recreational gambler, one can understand why the Hon. Nick Xenophon points out that we should be very concerned about those figures.

Some of the issues raised in the letter that I received today from the AHA are dealt with in this bill, and some simply cannot be, unless one makes a mockery of legislation concerning a cap. I will deal with them in the order in which they were presented in the letter to me dated 1 December.

First, regarding the AHA's concerns about retrospectivity, it simply is not feasible to give in legislation a date for a cap and then say that it will not come into effect until proclamation. The bill is retrospective in order to prevent a prolifer-

ation of applications. Presumably, all new applications will be dealt with on the understanding that they could subsequently become null and void.

Secondly, the greenfield concerns are dealt with in the bill under new section 14A(2)(c)—that is, by regulation. In short, it would be put in the hands of parliament. The regulations could not come into operation until after the disallowance period. Thirdly, machine transfers in the manner suggested would simply defy a cap. The bill, as drafted, does not allow for the transfer of authorisations to possess and conduct gaming on gaming machines. If such a scheme were to be developed, it would require legislative backing.

I understand that the concerns raised under 'licence transfers' in the AHA letter would be addressed in new section 14A(2)(c). The amendment to section 33 enables the Commissioner to refuse to accept a surrender of the gaming machine licence if a landlord, mortgagee, etc., is likely to suffer loss. The licence is kept in force, although suspended. Under new section 14A(2)(a), an application may be made by a person referred to in section 15(1)(d). This, in turn, refers to a person entitled to carry on business under a liquor licence pursuant to section 73 or section 74 of the Liquor Licensing Act. Those sections cover the landlord and mortgagee situation as well as other situations.

In relation to the comments made by the AHA under 'sunset clause', I would respond that, in relation to a cap for a limited period, the issue can be revisited by parliament at any time. Should this legislation before us be successful, there is nothing to stop an amendment bill in the future. The AHA also suggests that the minister should have the ability to review an increase in gaming machine numbers on a statewide or individual basis. I strongly disagree, and I doubt whether any members of parliament would agree that a minister should have such a strong discretionary power in relation to gaming. The bill, as drafted, provides for an ongoing freeze. This is a question of policy. The regulations may be used to, in effect, increase gaming machine numbers by allowing applications to be made in prescribed circumstances.

The other important issue for parliament to consider is that, if the outcome again is in the negative, no doubt a continued flurry of applications will occur before we sit again next year. Should this bill be unsuccessful in one way or another, we as a parliament will have clearly signalled that there may well be both regulation and a cap of some description to come into effect some time next year. We should not have such uncertainty hanging over the heads of people who are wishing to legitimately invest in the industry.

The bill, if passed, will take effect from 24 November 2000. It covers transference of licences in special circumstances and addresses the surrender implications for a landlord or a mortgagee of premises when a cap is in place.

Regarding the question of why we should vote for a cap, as a parliament, we are faced with making a decision by a conscience vote (with respect to the Labor Party) to place a cap on the number of poker machines in this state. The revenue from poker machines is now of the order of hundreds of thousands of dollars—not an insignificant amount for state budgets. It is a legitimate revenue earner for the government, and I have no argument with that—I doubt whether many would. I do not disagree with gambling, as such. Along with many other members, I would like to see a greater share of that revenue directed to assisting problem gamblers and their families. I also believe, as do many other members, that we can do a bit better in regulating the industry than we are doing at the moment.

Would the smart revenue stream be drastically affected by a cap? In so far as future growth is concerned, it will, but as an ongoing source of revenue it is unlikely ever to decrease. The revenue base will not decrease with a cap if numbers are left as they are should this legislation pass. If we are looking at the issue of phasing out or only leaving machines in certain premises or the way they operate, as has been suggested by several people, then over time we will have a loss. In relation to phasing out, I guess that, when that time comes—and not all of us will be here for that debate as I suspect it will be some time down the track—social capital cost versus revenue will be the point of the debate.

To summarise, I will again vote for a cap, because it does not cause any drastic adverse harm to the community. As a state we are so saturated with machines that I do not think having to travel an extra kilometre or waiting one's turn in an existing establishment will do any harm. We will not lose existing employment, and recurrent revenue will not be affected. It is a first step towards responding to community concerns and acknowledging that this form of gambling, by its very nature, has caused many more problems than have other types of gambling. By 'its nature', I mean the number of machines and the manner in which they operate, their location and great availability and, last but not least, their promotion.

I think it was the promotional part that initially soured the relationship between the industry and many of those who are concerned for problem gamblers. For problem gamblers and their families it has been a social experiment gone wrong. I have raised this point before in debating another bill of the Hon. Nick Xenophon. As a woman, it saddens me to know that so many problem gamblers are women. No doubt, this is contributed to by the location and availability of machines. I do not believe that we saw so many addicted women when it came to wagering and the Casino before the introduction of poker machines.

I urge all members to vote for this bill. As a parliament we are being charged with the responsibility of finding the right balance. We have a legal industry and we need to find a balance between people having the right to entertain themselves with a night out—having some fun in pleasant company at their hotel with a drink and a flutter—and the need to respond to a different and new wave of problem gambling. Problem gamblers are unlikely ever to be eliminated. With the introduction of poker machines sanctioned by this parliament, we have added to them.

In a more recent contribution to the interim report of the Select Committee on Internet and Interactive Home Gambling, of which I am now a member, I quoted Mr Steven Richards of the Adelaide Central Mission in relation to new product safety: the need to test a new product to see if it is safe. He was specifically talking about interactive gambling, but I think the same can be said of the introduction of poker machines in clubs and hotels in South Australia. The product has now been well and truly tested in South Australia and it has been found wanting for those who are addicted and their families. Whilst a cap would certainly not be the last word in gambling addiction, it is only right that we as a parliament should take this first step. I acknowledge that the industry itself has already taken steps toward self-regulation; it is time the other half of the revenue beneficiary did a bit more.

I urge all honourable members to think carefully before casting their vote. The repercussions for the state and the

industry are not huge. There will always be a base revenue growth: it becomes a matter of degree. For addicts and their families in our community it could mean fewer addicts and a clear message from the parliament that the majority of members understand their pain. My colleague in another place talked about personally wanting to see a referendum and phasing out of the industry over time with appropriate compensation.

I believe that, if we in this place commence by approving this legislation and recommencing the Hon. Nick Xenophon's gambling regulation legislation, which could ensure fair regulation and sufficiently funded addiction assistance, we may not see such a plan being debated in the future. We would also not be the first state to go down this path. The three eastern states have introduced stronger regulations to curb the expansion of poker machines, especially in regional areas which have been strongly affected.

To quote a common headline over the last few years, 'Enough is enough.' I cannot think of a better way of expressing that desire than the bill before us. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Insertion of s. 14A

This clause inserts a new section at the beginning of Division 2 of Part 3 of the Gaming Machines Act. Division 2 deals with special provisions relating to gaming machine licences.

New section 14A (Freeze on gaming machines) prevents any more gaming machine licences or approvals for increases in the number of gaming machines operated under a gaming machine licence being granted on applications made on or after 24 November 2000.

Subsection (2) lists certain exemptions from the ban on new gaming machine licences. Paragraphs (a) and (b) deal with the common situations in which a fresh gaming machine licence is granted in respect of premises already the subject of such a licence. These grants are of a technical nature and so do not represent an increase in the overall number of gaming machine licences in force in the State. Paragraph (a) covers situations where a liquor licensee's rights devolve to an executor or administrator or a relative of a deceased licensee, to a landlord, mortgagee or other person or to an official receiver or administrator in a case of insolvency. Paragraph (b) relates to situations where a liquor licence is being removed to new premises and the gaming machines licence needs to follow.

Paragraph (c) is a 'failsafe' provision, in that it is difficult to envisage all the situations in which a grant might be required. For example, there are two gaming machine venues operated on Commonwealth land (one at Woomera and one at Parafield airport). Should these ever be handed over to the State, gaming machine licences would have to be granted under State law, whereas at the moment these venues are regulated under Commonwealth law. Regulations may be made to provide for such a situation. New subsection (3) provides that regulations made for that purpose cannot come into operation until both Houses of Parliament have had their chance to disallow them.

Clause 3: Amendment of s. 33—Surrender

This clause amends section 33 of the Act in two respects.

Firstly, it amends section 33 of the Act to make it clear that the Liquor and Gaming Commissioner can accept the surrender of a gaming machine licence despite the fact that the gaming machines have not been removed from the premises, where the surrender is to be followed by the grant of a fresh licence.

Secondly, it enables the Commissioner to deal appropriately with a situation where a landlord or mortgagee of premises stands to suffer loss in consequence of the surrender of a gaming machine licence in respect of the premises. In those circumstances, the Commissioner may refuse to accept the surrender, and suspend the licence for such period as the Commissioner thinks fit, for the purpose of determining an application for a fresh gaming machine licence in respect of the premises.

The Hon. T.G. ROBERTS secured the adjournment of the debate.

[Sitting suspended from 6.01 to 7.45 p.m.]

NETHERBY KINDERGARTEN (VARIATION OF WAITE TRUST) ACT REPEAL 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 repeal the *Netherby Kindergarten (Variation of Waite Trust) Act 1997*.

The bill was introduced in the other place by the member for Waite as a private member's bill. It is being dealt with in the Council as government business. I foreshadow that if it passes the second reading, it will need to be referred to a select committee.

The 1997 Act was passed in order to vary the Waite Trust to the extent that was necessary to allow for the rebuilding of the Netherby Kindergarten on land held by the University of Adelaide subject to the Waite Trust. That bill was introduced on 25 February 1997 by the then Minister for Education and Children's Services. The bill was referred to a select committee of the Legislative Council which heard evidence and reported favourably. The bill then passed through both Houses of this Parliament with the support of all parties.

The Netherby Kindergarten has now been built on other nearby land. The old kindergarten building and associated structures have been removed. It is no longer intended to build a kindergarten on the site that was identified in the 1997 Act. Therefore the 1997 Act is no longer needed. Because of some public unease about the continued existence of the 1997 Act, it is thought to be appropriate to repeal it.

The history behind the 1997 Act is as follows.

In 1914 Peter Waite gave a substantial parcel of land bounded by Waite Road, Claremont Avenue, Fullarton Road and Cross Road, now known as section 268 in the Hundred of Adelaide, to the University of Adelaide on trust for certain charitable purposes specified in the Trust Deed. In summary, those purposes were for the University to hold the eastern half of the section containing 67 acres or thereabouts together with the house and other buildings for the purpose of carrying on there the teaching and study of Agriculture, Botany, Zoology, Veterinary Science, Entomology, Horticulture and Forestry and such other branches of learning as relate to those subjects, and I quote, "to hold the remainder or western half of the said section containing sixty seven acres or thereabouts UPON TRUST to preserve the same in perpetuity as a park or garden for the recreation and enjoyment of the public in such manner at such times and subject to such regulations as the Council of the said University may from time to time think proper". The Trust Deed then conferred on the University a power to set aside a part of this western half not exceeding 15 acres for a University sports ground. The Trust Deed also empowered the University to alter the boundary line between the eastern and western portions of the land from time to time, provided the two portions remain approximately equal in size.

The University established the area to be used as a public park as an arboretum. This is often called the "Waite Arboretum".

During the Second World War the trust land was used under Commonwealth defence powers for army purposes. In about 1945 a disused army structure on a small portion of the trust land abutting Claremont Avenue was taken over for use by the Netherby Kindergarten. At the time this was intended to be a temporary measure. Netherby Kindergarten continued to occupy the land for about 45 years.

In about 1994, it was decided to replace the kindergarten building with a new building on the same site. However, there was a problem: the occupation of the land was in breach of the Trust and the University could not grant long term tenure to the Minister for Education and Children's Services. At that time I was the Minister for Education and Children's Services. In order to overcome this problem, I introduced the bill for the *Netherby Kindergarten (Variation of Waite Trust) Act 1997*.

The Act authorised the University to lease the site specified in the Act to the Minister for Children's Services on such terms as were agreed between them.

The kindergarten site is on that part of the trust land that has been set aside as a public park. After the legislation was passed, a number of people who have an interest in the Waite Campus and the Arboretum began to lobby the minister and the government with a view to having the decision to rebuild the kindergarten on that site reversed. I assume that they also lobbied the University. There was some controversy about the felling of several trees on the site to be leased to the Minister for Education and Children's Services. Interestingly, these people had not responded to the advertisements for the Select Committee on the 1997 bill.

Eventually it was agreed between the University, the Management Committee of the Kindergarten and the minister that the kindergarten would be built on other nearby land owned by the University. It is believed that this other land, although purchased by Peter Waite for the University, is not subject to a trust. I understand that there are no impediments to the building of the new kindergarten on the alternative site now chosen. I am informed that the Department has had advice from the Crown Solicitor to that effect. The new kindergarten building has been erected and associated works such as a car park are under construction.

Clause 2(1) of the bill will repeal the *Netherby Kindergarten(Variation of Waite Trust) Act 1997*.

Clause 2(2) of the bill will restore the terms of the Waite Trust so that they are the same as they were before the 1997 Act was passed.

Clause 2(3) of the bill will continue the immunity given by the 1997 Act from liability for breach of trust by virtue of the occupation of the kindergarten and anything done under the 1997 Act.

The scope of this immunity clause was the subject of question in the other place. In case this is an issue in the Council, I will explain the purpose and extent of the immunity. Clause 2(3) must be read in the context of the subclauses (1) and (2). The immunity is necessary to ensure that no legal claims are made against the University or anyone else for breach of trust by reason of the fact that the kindergarten was permitted to occupy and did occupy a small portion of the trust land in breach of trust between about 1945 and 1999. Clause 3 will give protection only against claims for breach of trust. It will not protect anyone from other types of claims. For example, if a child or a visitor to the kindergarten was injured as a result of the negligence of Kindergarten staff or the Minister for Education or his departmental staff or the University, then the injured person would still be able to claim damages against the responsible person. Also, for example, if someone has a claim for the price of goods or services supplied to the kindergarten, the claim can still be pursued. Clause 3 relates only to claims for breach of trust.

I commend this bill to the House and I will seek to have it referred to a Select Committee pursuant to Standing Order 268.

Explanation of Clauses

Preamble

The preamble to the bill contains some of the background facts leading to the proposed repeal of the *Netherby Kindergarten (Variation of Waite Trust) Act 1997* (the Netherby Kindergarten Act).

These facts are as follows:

- On 29 January 1914, certain land at Urrbrae (being the whole of the land comprised in Section 268 of the Hundred of Adelaide) was transferred in fee simple by Peter Waite to the University of Adelaide (the University).
- By virtue of an indenture (the Trust) made on 29 January 1914 between Peter Waite and the University, the transferred land is held by the University subject to various trusts.
- The Netherby Kindergarten Act varied the terms of the Trust so as to enable the University to lease a particular portion of the western half of Section 268 to the Kindergarten, the site occupied by the Kindergarten since 1945.
- The Kindergarten is now relocating to a site that is not subject to the Trust.

The terms of the Trust should therefore be restored to the terms that existed immediately before the commencement of the Netherby Kindergarten Act.

Clause 1: Short title

This clause is formal.

Clause 2: Repeal

Subclause (1) provides for the repeal of the *Netherby Kindergarten (Variation of Waite Trust) Act 1997* (the repealed Act).

Subclause (2) provides that the terms of the Trust are to be taken to be as they were immediately before the commencement of the repealed Act.

Subclause (3) provides that, despite the effect of subclauses (1) and (2), no person will be liable at law or in equity for breach of trust by virtue of anything done under the repealed Act or by virtue of the occupation by the Kindergarten at any time of the relevant portion of the western half of Section 268.

The Hon. CAROLYN PICKLES (Leader of the Opposition): This bill has had a curious history, and I recall we actually had a select committee of this chamber. The opposition does not support the sentiments expressed within the bill. However, I would point out that the House of Assembly has made a terrible faux pas with this. In fact, it is always criticising the Legislative Council and saying we are inefficient in the way we deal with our business. In fact I think we are very efficient here, and I cannot recall our ever making an error of this kind. This bill was introduced by a private member in another place and the government is now taking it over in this chamber. Under standing orders the bill should have been referred to a select committee in another place and—

The Hon. K.T. Griffin interjecting:

The Hon. CAROLYN PICKLES: That's right: they should have been doing this and we could have dealt with it in the proper way. I have the utmost faith in the Clerks in this place, and perhaps there was an oversight or they were having a bit of a vague when this was passed. However, we understand that this will need to go to a select committee in this place to tidy up the omission of the House of Assembly. Certainly, we support the sentiments expressed within the bill and will not oppose the select committee, but it would have been nice if it had been done properly in the first place in the House of Assembly.

The Hon. T.G. CAMERON: In January 1914 land was transferred from Peter Waite to the University of Adelaide subject to various trusts, and since 1945 the Netherby Kindergarten has been situated on some of the subject land. However, in 1997, the Netherby Kindergarten (Variation of Waite Trust) Act was passed, which enabled the university to lease this land to the kindergarten. The kindergarten is now moving to a site that is not subject to this trust.

This bill repeals the 1997 act, restoring the conditions of the trust to those that existed immediately before the commencement of the act, and it provides that no-one is liable at law or equity for a breach of trust for anything done under the repealed act or for the occupation of the land by the kindergarten at any time. I am getting a bit worried: I am beginning to sound like Trevor Griffin; actually speaking like a lawyer.

The Hon. K.T. Griffin: It was probably written by me.

The Hon. T.G. CAMERON: No. The land was originally established for the purposes of an arboretum. However, a wedge of land was taken to be used by the Netherby Kindergarten. The kindergarten is now to be built on another site close by, so the act is unnecessary. SA First supports the bill.

The Hon. J.S.L. DAWKINS secured the adjournment of the debate.

CLASSIFICATION (PUBLICATIONS, FILMS AND COMPUTER GAMES) (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 8 November. Page 345.)

The Hon. IAN GILFILLAN: The Democrats support the second reading of this bill, which seeks to amend the act in a number of different areas dealing with the prosecution of offences relating to the sale of X and RC (refused classification) material, the sale of unclassified computer games and the publishing of offensive material on the internet. The object of the act is to provide for the establishment and enforcement of schemes for the classification of publications, films and computer games. The amendments seek to do the following:

- reduce the expense of classifying all materials seized in relation to an offence;
- crack down on the seizure of items;
- allow the expiation of some offences that are less grave;
- allow community liaison officers to issue expiation notices;
- convert divisional penalties to fixed maximum sums;
- widen the powers of the South Australian Classification Council to require information by a set date;
- reduce the number of copies of illegal films a person can have for personal use before it is deemed that they intend to sell or exhibit the film;
- make it an offence to sell an item of unknown classification; and
- make it an offence to place offensive material on the internet.

However, this amendment can only target providers in South Australia and not the content of providers outside the state.

When confronting a bill of this nature, we need to be, and are, sensitive to what could be interpreted as unreasonable censorship of the right of adults to have access to, to distribute and to use certain types of material. We do not agree that legislation is a morals-enforcing agency, and I looked at the bill with that background intent. I cannot say that there is anything particularly that causes serious alarm; otherwise, I would have identified it in my contribution and possibly even indicated our concern about the second reading. However, I will be interested to ask more detailed questions when we reach the committee stage. At this point the Democrats support the second reading.

The Hon. T.G. CAMERON: This bill seeks to amend the Classification (Publications, Films and Computer Games) Act 1995 and is complementary to the commonwealth act of the same name. The primary concern, as has been set out by the government, is to improve the enforcement of the legislation and to make illegal content on the internet illegal offline. It adds an amendment so that unclassified films seized do not need to be classified for prosecution purposes if the defendant agrees with the proposed classification of the prosecution. This would circumvent the cost of classification, which ranges from $100 to $2 590. SA First supports that amendment.

The bill also includes a new forfeiture provision which allows all items to be seized at the time of an offence where multiple offences have occurred, and any material that is not illegal can be returned if the defendant can prove that it would not have been classified as illegal. The bill also provides for non-conviction expiation notices for less grave offences and technical breaches, which can be issued by a community liaison officer; it converts penalties from divisional to maximum penalties; and it clarifies the powers of the classification panel to enable it to stipulate a specific time by which a person must provide information to it.

Currently a parent or guardian can take minors to an MA15+ film, leave them and return to collect them. This bill specifies that a parent or guardian can leave a cinema only to use facilities provided on the premises. The bill also reduces the number of copies of an RC (reduced classification) or X-rated publication that are possessed to prove intent to sell them from 10 to 3 and to extend that to both maker and seller. There are similar amendments for video games, and there is provision for a defence that if the person concerned had reason to believe that it was not illegal to sell the item, then the burden of proof is placed on the defendant.

The other major amendment is to make material online illegal, as if it were illegal, if it was left in a public place. I am sure that most members are aware of some of the dreadful examples that have come to the surface of some of the material that is available on the internet and its distribution. It also proposes that any X-rated or RC material is illegal online, and R-rated material is legal if it is protected by an approved protection system such as a password or PIN. The aim is to catch the content provider, not the service provider. I understand that these provisions do not apply to emails but I would like confirmation of that.

Although SA First supports all the provisions in this bill, I do have questions about the viability of enforcing the internet portion, because it seems that it would be hard to police and hard to prosecute as it requires tip-offs, and it seeks to prevent the uploading of adult material within the state rather than restricting children's access to adult material worldwide. We support the provisions because I believe they will send a clear message to the community as to the attitude of the parliament on this issue, but I suspect they will be difficult if not impossible to police properly. However, just because a law is difficult to police or enforce does not necessarily mean that it is a bad law or one that we should not embrace. SA First supports the second reading and will be supporting this bill.

The Hon. CAROLYN PICKLES secured the adjournment of the debate.

NETHERBY KINDERGARTEN (VARIATION OF WAITE TRUST) ACT REPEAL BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 835.)

The Hon. M.J. ELLIOTT: On behalf of the Democrats, I support the second reading. It was not all that long ago—in fact, 1997—when we had other legislation before this place which was also referred to a select committee.

If one looks at the history of the Netherby Kindergarten, one can see why people have such concern about development in the parklands. Once there is an alienation, a real danger exists that the alienation will become permanent. During World War II the commonwealth used its powers to construct buildings on the land which was part of the Waite Trust. After the war, the buildings were used for other purposes, in particular, as a kindergarten, which then settled in there for a considerable number of years. On discovering that there were some difficulties with that, the government sought to regularise that through the Netherby Kindergarten (Variation of Waite Trust) Act 1997.

I want to make quite clear that the Democrats do not believe that the site is an appropriate place for a kindergarten despite what the local member chose to insinuate by selective

quoting of my comments in parliament on a previous occasion. However, we recognised that the kindergarten was already established and, from my recollection as a member of the select committee, no alternative was offered. It is fair to say that, whilst the Democrats believed that the kindergarten should not be on that site, in the absence of any alternative we had to accept it as an alienation that was likely to become permanent. I find it particularly annoying that the member for Waite seeks to misrepresent our view on that. Anybody who knows our view in terms of greenspace generally would know what our views are. However, for his own mischievous purposes, he seeks to suggest that we had a different view.

That aside, it has now become apparent that the government has suddenly discovered that there is an alternative site. The fact that the kindergarten needs to be rebuilt because they are still using the old Second World War buildings provides an opportunity to move to that alternative site. The Democrats welcome that and are happy to support the second reading of this bill.

The Hon. R.I. LUCAS (Treasurer): I thank members for their contribution to the bill. I join with the Leader of the Opposition in expressing some concern at some slip-ups in administrative procedures in another place. It is perhaps not appropriate for me in a public forum to make any more comment than that, but the procedures in the Legislative Council will now be required to correct that mistake. The procedures have been outlined by other speakers, so I do not intend to repeat that. I thank members for their support of the second reading.

Bill read a second time.

The PRESIDENT: The original bill was introduced into the House of Assembly by a private member and therefore should have been introduced in compliance with the joint standing order on private bills which requires every private bill to be first brought in upon petition purely endorsed by an examiner and signed by the promoters of the bill. The bill has now been received by the Legislative Council and the government has now assumed responsibility for the passage of the bill. I therefore rule that this bill is now a hybrid bill which must be referred to a select committee pursuant to standing order 268.

Bill referred to a select committee consisting of the Hons J.S.L. Dawkins, M.J. Elliott, R.D. Lawson, Carolyn Pickles, and Carmel Zollo.

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

That standing order 389 be so far suspended as to enable the chairperson of the select committee to have a deliberative vote only.

Motion carried.

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

That this Council permits the select committee to authorise the disclosure or publication as it thinks fit of any evidence presented to the committee prior to such evidence being reported to the Council.

Motion carried.

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

That standing order 396 be so far suspended as to enable strangers to be admitted when the select committee is examining witnesses unless the committee resolves otherwise but that they shall be excluded when the committee is deliberating.

Motion carried.

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

That the select committee have power to send for persons, papers and records; to adjourn from place to place; and to report on Wednesday 14 March 2001.

Motion carried.

EDUCATION (COUNCILS AND CHARGES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 5 December. Page 809.)

The Hon. T.G. CAMERON: I rise to support the second reading of this bill. However, this should not be taken as any indication that I will be supporting the third reading, in relation to either the issue of school fees or some of the issues regarding school councils under Partnerships 21. Since the introduction of Partnerships 21 on a trial basis, schools which voluntarily took up the offer have been operating, as I understand it, outside legislative guidelines. The issue of school fees has been one which has been guided by regulations and has been on and off now for at least three years, and I think I should record the fact that, to date, I have opposed the establishment of these regulations. This bill, as I see it, serves two main purposes: one is to increase the function and roles of the governing school councils under Partnerships 21, and the second is to introduce compulsory materials and services charges for all government schools.

School councils under Partnerships 21 will be renamed governing schools, be corporate bodies and be accountable and responsible for a number of important functions jointly with a head teacher. The increased powers include: increased governing powers; being responsible for strategic planning; being responsible for the development of school policy; and being responsible for financial application and accounting. The council will be changed from an advisory body to a decision making body. The head teacher exercises joint authority with the governing council, and they are accountable to the minister and to the community for strategic objectives and policies. The head teacher is accountable to the governing council and the chief executive of the district.

All government schools must adhere to the broad curriculum goals as defined by the curriculum standards and accountability framework, and governing councils will have the power to establish other constitutional committees such as Parents and Friends. They can also be the management committee of a children's services centre, for example a kindergarten. Currently the act, through regulation, spells out in detail the role and function of the school council under the proposed changes. However, the minister will have the power to write school council constitutions and, as I understand it, a draft model constitution is available for people to—

The Hon. M.J. Elliott: Have you seen it?

The Hon. T.G. CAMERON: I understand there is one available.

The Hon. M.J. Elliott interjecting:

The Hon. T.G. CAMERON: But you haven't got a good relationship with him. He knows what you're up to. He suspects you'll take it away and use it against him. You wouldn't do that, would you?

The Hon. M.J. Elliott: No.

The Hon. T.G. CAMERON: Or leak it to the press or what have you?

The Hon. M.J. Elliott interjecting:

The Hon. T.G. CAMERON: It says 'Confidential'.

The Hon. M.J. Elliott: You didn't even read the confidential bit. Did you read the rest of it?

The Hon. T.G. CAMERON: No, I had a look at it this afternoon with representatives—

Members interjecting:

The Hon. T.G. CAMERON: The minister sets the constitution and, as I understand it, can change the constitution whenever he or the government wants to, and it does—

Members interjecting:

The Hon. T.G. CAMERON: People play funny buggers with the regulations. The government does, and both the Democrats and the Australian Labor party do. It is only SA First that always adopts a principled position when it comes to dealing with matters before the parliament. The power shifts from the parliament to the minister, and I have an appointment with the minister tomorrow morning to discuss some of those issues with him. A number of concerns have been expressed to my office in relation to this legislation. Some I accept as valid, others fall into the category of the time honoured concerns of not sufficient time for consultation or they have not consulted widely enough. I can remember my old days at the Australian Workers Union where, if they did not give us what we wanted, we would tell the blokes that they were not consulting. They wouldn't enter into—

The Hon. M.J. Elliott: Is that true?

The Hon. T.G. CAMERON: Of course it was true. They would not enter into meaningful negotiations. 'Meaningful negotiations' was code for 'They haven't agreed to our log of claims.' It is a little like that with some of the claims that I get in my office: 'There has not been sufficient time for consultation.' Even the Hon. Mike Elliott would agree that that is hardly a valid claim to the introduction of a materials and services charge. I think we have dealt with it three times in this parliament.

Some of the concerns that were put to me were that it limits parent power, it limits public accountability, and that we have had limited scrutiny of the bill and the implications of the changes. There is the issue of proper accountability with shared responsibility between the council and the principal; and there is also the question of whether the government can delegate authority or responsibility to elected parents. As I indicated earlier, I have not come to a final decision in relation to these issues, but I do note that some 70 per cent of schools have now signed up to Partnerships 21, and I have a number of questions that I would like to ask during the committee stage.

In relation to fees and charges, section 106A gives governing councils and school councils the authority to collect compulsory fees for materials and services, and the amount will be set by the Director-General. The council must agree to the fee, and it also gives the school the authority to collect any debt for the compulsory charge, about which, as members of this chamber would know, and in particular the Hon. Michael Elliott, I do have a concern when complaints are put to me by people, who obviously are quite wealthy but who lark and joke about the fact that, if you pay your school fees, you are a mug because it is voluntary; and, if you do not pay it, they cannot do anything about it. However, they can also charge voluntary payments on top of the compulsory fee, which are not compulsory, and charge for extra curricula activities, which happens now.

Currently, 50 per cent of the revenue is raised through fees and the other 50 per cent is raised through school grants, although—and I would be interested in the contribution from the Hon. Mike Elliott on this—as I understand, this figure can go as high as 75 per cent in lower socioeconomic areas and rural schools. I understand that School Card holders will not be required by law to pay the gap payment between a School Card fee and the compulsory payment. I understand that this is something that could perhaps be checked, but our office was advised through the union that 80 per cent of parents pay the voluntary fee. My understanding is that the figure is much higher than that and that the government collects about $20 million, while about $1 million is not paid. That is something that I would like the government to clarify.

There is also the question of whether or not an interpretation that can be placed on this is that it could be seen as rewarding Partnerships 21 schools, thereby forcing other schools to enter the system. I do note that school grants have been frozen for three years, and I have a concern about whether the government is relying on parents to fill the gap left by the frozen school grants. There is no doubt that some of our schools are short of funds and would be keen to get their hands on some extra money but have sufficient concerns about Partnerships 21 not to have signed up to it.

SA First will be supporting the second reading of this bill, but I do have concerns about some aspects of Partnerships 21. I do note that this government has introduced regulations three or four times now. I think it displays a degree of arrogance and contempt on the part of the government for this parliament when, the day after we dismiss a regulation, it goes out there and promulgates another one.

I can only think of the disgraceful and disgusting attitude that this government and the cabinet displayed in relation to the marijuana regulations. There was no consultation and no discussion, despite the Hon. Dean Brown giving assuring me that, before those regulations were repromulgated, there would be some consultation and discussion. I have not heard zip out of Dean Brown on the issue. Questions and concerns that I raised as long ago as six months have been left unanswered.

I would like to send a bit of a signal to the government: if it wants to act in such an arrogant and contemptuous fashion, I may well have to make a decision about whether or not I will be the only bunny in this place who supports second readings. It would appear that I am the only one who does: the government does not. Its members choose whether or not they will support a second reading of a bill, and stand up in this place preening their feathers like some kind of peacock, as they do it.

The Labor Party is quite happy to knock out second readings. The Hon. Nick Xenophon is happy to vote against second readings. Also, the—sorry, I was going to call them 'honourable' but I cannot do so; I was going to say the Hon. Mike Elliott; that is not a shot at the Democrats—Democrats pick and choose when they will support second readings. I have always supported second readings because I believe that this is the appropriate place in which to have the debate and discussion on the legislation that goes through this place—not to have a discussion in the minister's office or a committee room, or be doing backroom deals on legislation that is going through this House. It is with reluctance—

The Hon. L.H. Davis: And in the lower house the Labor Party knocked out a bill before it even got to the second reading stage.

The Hon. T.G. CAMERON: Well, that is just playing politics with the issue.

The Hon. R.R. Roberts: Oh no, they're not playing politics.

The Hon. T.G. CAMERON: The Hon. Ron Roberts interjects: what would he call it?

The Hon. R.R. Roberts: They've never played politics.

The Hon. T.G. CAMERON: What would you call it?

The Hon. R.R. Roberts: They're all at it.

The Hon. T.G. CAMERON: Well, I suspect both the Liberals and Labor play politics when they are in opposition. However, I want to go back to—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.R. Roberts interjecting:

The Hon. T.G. CAMERON: The Hon. Ron Roberts interjects and says that the Independents have been doing it as well. I think that is an unreasonable slur against the Hon. Nick Xenophon. SA First does not do it: we are not Independents, remember. The honourable member might like to speak to you about that issue later.

The Hon. R.R. Roberts interjecting:

The Hon. T.G. CAMERON: I have a bit of time tonight, because we will run out of time. So, while I am on my feet, I want to come back to the question of the arrogance and contempt that this government shows for this place when—

The Hon. R.I. Lucas interjecting:

The Hon. T.G. CAMERON: The Treasurer finds this amusing, does he?

The Hon. R.I. Lucas interjecting:

The Hon. T.G. CAMERON: You cannot be bothered listening. Is that the situation? Mr President, they are not interested in what I have to say, so I will conclude my contribution and work out whether or not I will support the second reading. I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

TAB (DISPOSAL) BILL

Adjourned debate on second reading.

(Continued from 5 December. Page 801.)

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Elliott has the call; he will address the bill.

The Hon. M.J. ELLIOTT: I was approached by Graham Ingerson in approximately March last year about the issue of a potential sale of the TAB and Lotteries. I told him that my starting point was one of opposition to the sale, that I would need to be persuaded but, even before I entered into a debate about that, I was seriously concerned about the direction gambling was taking in South Australia and what I considered to be a lack of due attention to gambling related harm—another issue that the government treats as a joke.

Gambling related harm is not a joke. There is no question that the sale of the TAB would involve a significant expansion of gambling in South Australia. In fact, only in the past couple of weeks I have found that there would be further expansion that we were not even told about. If it were not for the fact that Karlene Maywald had been insistent that legislation be introduced in relation to proprietary racing, we would not have been told that the TAB had already signed agreements with proprietary racing people to market their product. In fact, the true current financial position of the TAB was effectively being denied to us at the same time as we were being asked to agree to a sale.

We would not have found out about that if it had not been for the fact that the proprietary racing bill was introduced, and that was introduced only because Karlene Maywald was insistent that there be legislation to treat that issue. I will not debate that issue other than to say that the TAB has signed an agreement. That is another product that it will sell both outside and inside the state. It is another bit of value to the TAB, and we are being asked to agree to sell it without even being told what it was that we were selling. And, as so often happens with this government, what else is it that we have not been told?

With this government it is anyone's guess because you find out things at a later date or just by circumstance; but there was no question even regardless of that. I note also that the government recently has agreed to allow gambling on many other matters that were not previously allowed, which has also further expanded the product. There is no question and no doubt that private owners would seek to expand the TAB sales further, as one would understand—that is what private owners do. It is not a criticism: it is an observation that is obvious. There was to be a significant expansion of gambling product in this state.

Graham Ingerson was told last year, 'I am not going to look at this issue, or even consider the question of sale, or not, until you tackle that matter.' I had had no contact from the government at all on that matter until, my guess is, about two months ago when not the minister but a couple of advisers came to see me to talk about the bill. They told me that they were aware of what I was saying and had put some amendments into the bill to address the issue. They did not speak to me about what sort of amendments I might like. They said, 'We have taken that into account and this is what we are doing.' That is the last occasion on which there has been any discussion.

So, in March last year, during talks with Graham Ingerson, I flagged what is a serious concern for the Democrats. The advisers (not the organ grinder, but the monkeys) came to see me two months ago. This is no criticism of them, they had their job to do, but they could not be involved in the sort of political discussion that needs to take place. So, the government has no-one to complain to other than itself for the fact that I am saying right now that my position has not changed. If the government is not serious about tackling issues of gambling related harm, it can go and jump. I will not consider the expansion of gambling products in this state until the government gets serious about it.

The Hon. CAROLYN PICKLES secured the adjournment of the debate.

STAMP DUTIES (LAND RICH ENTITIES AND REDEMPTION) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 5 December. Page 807.)

The Hon. M.J. ELLIOTT: I support the second reading of this bill. During discussions I have had with several groups, no concern has been expressed about this bill. It appears, for the most part, to be a reaction to court decisions, as happens from time to time: the parliament thinks that it is doing one thing, but it finds that the courts have a different interpretation of what is intended, and then we have to have another go at fixing it up. As I see it, there is no intention to change the original intention of parliament. So, on that basis, the Democrats support the bill.

The Hon. R.I. LUCAS: Mr President, I draw your attention to the state of the council.

A quorum having been formed:

The Hon. T.G. CAMERON: I rise to indicate that SA First will be supporting the second reading of this bill. Any further contribution I wish to make on this measure I will make in committee.

The Hon. R.I. LUCAS (Treasurer): I thank honourable members, including the Hons Mr Holloway, Mr Elliott and Mr Cameron, for their indications of support for the second reading of the bill, and look forward to further debate in committee.

Bill read a second time.

In committee.

Clause 1.

The Hon. P. HOLLOWAY: During the second reading speech I asked the Treasurer whether he could explain why this matter had taken so long to come to fruition after the High Court had made a decision in the case relevant to the bill that we are addressing. I think that was back in 1999. Why did it take so long after that court case to bring this matter before parliament to close off the loophole?

The Hon. R.I. LUCAS: The simple answer is that there were genuine endeavours to consult all the interested parties to come to some sort of agreement in relation to how the tax law ought to operate. As a result of the court case, there were obviously legal firms representing a variety of interested parties who had a series of discussions with Revenue SA officers, and others. The government went through the consultation with one particular position, took it through the process, went to consultation, found that there were some concerns about the government progressing in that particular manner, then took it back again. The government then considered it again and formed a new position, then went back for further consultation. So it really has been a complicated area of the law.

It has also been a difficult area to get agreement on between all the parties. I am pleased that the Hon. Mr Holloway and the Hon. Mr Elliott have indicated that, in their consultation with interested parties, there has been general acceptance that this is not a bad attempt at trying to reach a reasonable position on what is a difficult area of the law. So the answer is that it is complicated, there have been genuine endeavours in consultation to try to reach agreement, and the government has been willing to reconsider its position when we heard reasoned opposition to what was our first position.

The Hon. P. HOLLOWAY: I gather that the first position of the government was to make this measure retrospective in the sense that it would go beyond the court case in September 1999. It is my understanding that, because we now have a limited retrospectivity, something like $6 million will not be collected that otherwise would be collected. Why did the Treasurer say that he had gone out and consulted, that this was a reasonable position and that they had listened to reason? I would like to know exactly what the reasonable case was that was put to the government that persuaded the government to forgo $6 million in revenue by not making this matter fully retrospective beyond 1999?

The Hon. R.I. LUCAS: Claims were made—and, again, this is one lawyer's view versus another lawyer's view—that in some way the government's original intention went beyond just correcting the position but actually would have retrieved retrospectivity going back 20 or 30 years. Some of them claim back to 1923. Others, I think, were more modest in their claims that the government's original drafting might have only taken it back 20 or 30 years in terms of reviving past cases and giving the government the capacity to go back many decades.

As I said, in one case evidently there was a claim that we could go back to 1923 and claim past stamp duty. It was never the government's intention to go back to 1923, 1953 or even 1973. It was really to try to validate what I had been advised was the general understanding of how stamp duty law would operate. As it turned out, the drafting of the closing of the loophole meant that various legal firms believed that the government intended to go back many decades to try to grasp additional tax revenues when no-one would have believed back in 1923 or 1973 that they should have been paying stamp duties in those sorts of circumstances. In broad terms, that was the dilemma. It was not the government's intention for that to occur. Whilst we did not believe that what had been drafted by Parliamentary Counsel would have allowed us to go back to 1923, we accepted that there was enough ambiguity or greyness in the drafting for the government to have another go at ensuring that we did only what we indicated we wanted to do.

Clause passed.

Clauses 2 to 5 passed.

Clause 6.

The Hon. R.K. SNEATH: I refer to new section 3C, dealing with intangible property. What is meant by 'product goodwill' in new section 3C(1)(a)? Further, new section 3C(2) provides:

> If intangible property to which this section applies is a business asset, it is taken to be wholly situated in South Australia if the business is carried on wholly in South Australia and, if not, is taken to be situated in the various jurisdictions in which the business is carried on in proportion to the volume of business carried on in each.

How does this provision affect a business that is owned in South Australia and has interstate depots or franchises?

The Hon. R.I. LUCAS: I am advised that it was drafted in this way as a result of Parliamentary Counsel's expert advice, just in case someone, based on legal advice, tried to divide up what we would all know as the goodwill that belonged to a business as to somehow being business goodwill and product goodwill, and in some way try to avoid the payment of stamp duties by that legal device. So, it has been on the basis of Parliamentary Counsel's advice that we ought to draft the provision in that way. I am advised that we are not aware here, although others might be, of any particular loophole that we are closing up. Parliamentary Counsel, nevertheless, advised that it be drafted in this way. That is on the first issue.

I am advised that if a business has, for example, 50 per cent business interests in South Australia and 50 per cent in New South Wales, and it also has an asset that is intangible property (a trademark or something like that which one cannot physically say is 50 per cent in New South Wales and 50 per cent in South Australia), when it comes to stamping the sale of that, it is allocated in the same proportions as the physical or tangible assets, that is, fifty-fifty. So, 50 per cent would be assessed for stamp duty on the basis of South Australian stamp duty law, not 100 per cent.

Clause passed.

Clauses 7 to 13 passed.

New clause 13A.

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

> New clause, after clause 13—Insert:
>
> Amendment of s. 71CB—Exemption from duty in respect of certain transfers between spouses or former spouses.

13A. Section 71CB of the principal Act is amended by striking out 'five' from the definition of 'spouses' and substituting 'three'.

This is consequential on an amendment moved by Mr Lewis, an Independent, in the House of Assembly, which changed the definition—

The Hon. T.G. Roberts: Close!

The Hon. R.I. LUCAS: 'Close,' says the Hon. Terry Roberts. I will not comment on that interjection. That amendment was passed by the House of Assembly, but a consequential amendment should have been picked up in the House but was not. I therefore move the amendment here to be consistent with the greater will of the House of Assembly.

The Hon. P. HOLLOWAY: The amendment was indeed moved by the member for Hammond, but originally it had been suggested and first raised in the parliament by my colleague Jennifer Rankine. This amendment brings the definition of a de facto spouse into line with that used in other legislation, and we certainly support that.

New clause inserted.

Remaining clauses (14 to 20) and title passed.

Bill read a third time and passed.

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

Adjourned debate on second reading.

(Continued from 17 November. Page 568.)

The Hon. K.T. GRIFFIN (Attorney-General): This bill is almost identical to the bill which was introduced in the last session and on which I spoke at some length. I indicated on that occasion that the government and I had some serious concerns with the bill and what it was seeking to achieve. The government and I had no objection to the issue of disclosure but, for members of parliament, disclosure of interests has to be disclosure that members are relatively easily capable of making, without the prospect of significant inadvertent omission or error and in a way that is practicable. The government will not oppose the second reading of this bill, so we will defy the assertions made earlier this evening by the Hon. Terry Cameron about frequently not supporting the second reading of bills. On this occasion it is appropriate to allow the bill to go through the second reading and then to deal with the substantive issues.

In the context of considering this bill, it is important to remember that in 1999 the South Australian parliament dealt again with the issue of register of members' interests, this time in the context of local government. It enacted new register of interest provisions for members of local government in the Local Government Act 1999 and its regulations. In all material respects, schedule 3 of that act is identical with the interpretation and contents of returns provisions of the Members of Parliament (Register of Interests) Act 1983. The only substantive difference between the acts is that the local government provisions do not include a definition of 'spouse', which in the act governing members of parliament includes a putative spouse of the member.

It may be helpful if I deal with each of the proposals in the bill and flag some of the issues of concern, and it may facilitate committee consideration of the bill when we get to it. It may also help to identify the reasons why there is a concern about adopting these amendments. The first amendment is in clause 2(a), which seeks to include in the definition of 'a person related to a member' a family proprietary company in which the member or a member of his or her family has more than a 15 per cent controlling interest. The current act includes as a person related to a member only family proprietary companies in which the member or a member of his or her family has a controlling interest of 50 per cent or more. The effect of the clause in the bill, in combination with other amendments suggested in the bill, is to increase members' disclosure obligations significantly.

I remember when the 1983 bill was before the parliament that the then Labor government agreed that 50 per cent was an appropriate figure because, generally speaking, for private companies a 50 per cent interest was the appropriate threshold for determining control. Of course, in the public arena it is a different matter; it may be as little as 5 per cent, which gives a (at least) de facto control of a publicly listed company. However, in the area of proprietary limited companies 50 per cent or more is an appropriate threshold. Specifically, this part of the bill would require the member to make the following disclosures:

- previously limited to companies in which the member or a member of his or her family only had a 50 per cent controlling interest;
- in respect of any family proprietary company in which the member or family member has more than a 15 per cent controlling interest;
- in a primary return, any income source a family company has or expects to have in the next 12 months;
- in an ordinary return
  - the income source of any financial benefit that the family company received or expects to receive in the return period (s4(2)(a));
  - particulars (including the name of the donor) of any gift of or above the amount of $200 (see clause 3(b)(ca) of the bill) that the family company received in the return period (s4(2)(d));
  - the name of any person with whom the family company has been a party to a transaction under which the member or such family company has had the use of property of that person during the return period, the use not being for adequate consideration, etc. and the market price being $750 or more and the person not being related by blood or marriage to the member or a member of his or her family (s4(2)(e));
  - particulars of any contract made during the return period between the family company and the crown where any monetary consideration paid is or exceeds $7 500 (s4(2)(ea));
- in any return
  - the name of any company, partnership, association or other body in which the family company is an investor (s4(3)(a));
  - a description of any trust or superannuation scheme of which the family company is a beneficiary, trustee or administrator (including the name and address of each trustee or administrator) (s4(3)(c)) (and see also clauses 2(b) and 3(e) of the bill);
  - the address of any land in which the family company has any beneficial interest other than by way of security for any debt (s4(3)(d));
  - any fund in which the family company has an actual or prospective interest to which contributions are made by person other than the company (s4(3)(e));
  - the name and address of any creditor (who is not related to the member by blood or marriage) to whom the family company is indebted in an amount of or exceeding $2 500 (s4(3)(f));

- the name and address of any debtor (who is a natural person not related by blood or marriage to the member) who owes the family company a sum of $5 000 or more (s4(3)(fa));
- any other substantial pecuniary interest which the member is aware that the family company has that may raise a material conflict between the member's private interest and his or her public duty (s4(3)(g)).

The concern is that reducing the threshold to 15 per cent would newly include cases where the member's family has a substantial interest in (but not control of) the company. The member may have difficulty complying with the act in respect of such a company as a related person due to lack of access to necessary information.

I know, unrelated to politics, from professional experience that there are corporations which are family companies where families are at loggerheads, where a party with a minority interest, which may be greater than 15 per cent but nevertheless a minority interest, is for all practical purposes frozen out of the day to day administration of the company and, in those circumstances, a person in that position, if that person were a member of parliament, would be in an impossible position in terms of being able to disclose the interests required by the amended legislation.

Clause 2(b) seeks to amend the definition of 'family trust' so as to make it mandatory for members to disclose details of all family trusts, including those created by testamentary disposition (which are presently exempted by the act). This amendment:

· requires the member to provide (under s4(3)(c)) a concise description of any trust created by a will (as well as another form of trust) of which the member or a person related to a member is a beneficiary or trustee, including the name and address of each trustee.

  Given that clause 2(d) will extend the class of 'persons related to a member' to include an administrator of a superannuation scheme of the member and a person who is a party to a joint venture of the member, this amendment would require a member to disclose details of:
  - any family trust, including one created by will, of which an administrator of a superannuation scheme of the member is a beneficiary or a trustee
  - any family trust, including one created by will, of which a person who is a party to a joint venture of the member is a beneficiary or a trustee

as long as (pursuant to clause 3(i)) the information relates to the administrator or party to the joint venture in his or her capacity as administrator or as party to a joint venture by reason of which the person is related to the member. The amendment:

· broadens the definition of 'a person related to a member'. The existing definition includes a trustee of a family trust of the member. As newly defined by clause 2(b), a trustee of a family trust of the member which has been created by testamentary disposition would also be included in the definition of 'a person related to a member'.
· includes a trustee of a family trust of the member created by testamentary disposition in all the joint venture disclosure requirements flowing from clause 2(c) of the bill. The proposed definition of joint venture includes 'an agreement or arrangement to which. . . a trustee of a family trust of the member. . . is a party with others and under which the parties combine in or contribute to the carrying out of a commercial venture for the purpose of sharing profits or other benefits from the venture'.

This clause, in combination with clauses 2(c), 2(d) and 3(i), and the existing section 4(3)(c), would establish a disclosure requirement of such complexity that members will run a significant risk of involuntary non-compliance. The bill reverses the onus of proof for offences of non-disclosure so that a member alleged to have failed to comply with a provision of the act would have to prove that he or she did not intend to fail to comply.

Disclosure under the combination of these clauses and the existing law may also involve difficult privacy questions for trustees with respect to other beneficiaries. Disclosure of testamentary family trusts in which a beneficial interest is held by 'a person related to a member' as defined in this bill goes too far and is likely to result in the inclusion of much irrelevant material in the register. (Note: the clause is in line with the Queensland provision).

The next amendment, which is in clause 2(c), seeks to insert a definition of 'joint venture' into the act. The term 'joint venture' is used in several provisions in the bill. The proposed amendments would require members to disclose interests in joint ventures for the first time. The definition of a joint venture of a member, by virtue of other clauses in the bill, would include:

· the trustee of a family trust of the member created by will (clause 2(b)) who is a party with others in a joint venture;
· a family proprietary company of a member in which the member or a member of his or her family has more than a 15 per cent controlling interest (clause 2(a)) which is a party with others in a joint venture.

Clause 3(i) seeks to limit the effect of this definition by providing that a member need only disclose information under section 4 if it relates inter alia to a party to a joint venture where the information relates to the person in the person's capacity as a party to a joint venture by reason of which the person is related to the member. This is likely to be difficult to interpret and may oblige disclosure of all available information, whether relevant in terms of clause 3(i) or not, in order to avoid the risk of non-compliance.

The next amendments relate to clause 2(d), along with clause 2(a), which would include as a 'person related to a member', a family proprietary company, in which the member or a member of his or her family have more than a 15 per cent controlling interest; this clause adds another two categories of person to the class of 'person related to a member'.

The only other Australian provision that requires disclosure of the interests of 'persons related to a member' is the Queensland provision. In all other jurisdictions, disclosure is required only of the member's interests or those of his or her family, relations by blood or marriage, or spouse.

The Queensland definition of a 'person related to a member' does not explicitly include an administrator of a superannuation scheme of the member or a person who is a party to a joint venture of the member. These people would be considered 'related' only if their 'affairs [were] so closely connected with the affairs of the member that a benefit derived by the person, or a substantial part of it, could pass to the member'.

As it stands, the clause would mean that in any return the following deeming provisions will apply:

· in a member's return two or more separate gifts received by an administrator of a superannuation scheme of the member or a person who is a party to a joint venture of the member from the same person during the return period are

to be treated as one gift received by the member (section 2(4)(b)) for declaration under section 4(2)(d)';

· in a member's return, two or more separate transactions to which an administrator of a superannuation scheme of the member or a person who is a party to a joint venture of the member is a party with the same person during the return period under which the member or that administrator/joint venturer has had the use of property of the other person (whether or not being the same property) during the return period are to be treated as one transaction under which the member has had the use of property of the other person during the return period (s2(4)(c)).

Further, a member will need to make the following additional disclosures with respect to an administrator of a superannuation scheme of the member or a person who is a party to a joint venture of the member, to the extent (under clause 3(i)) that the information relates to the person in the person's capacity as administrator of a superannuation scheme, or party to a joint venture (as the case may be) by reason of which the person is related to the member:

· In the primary return, a statement of any income source the administrator or joint venture party has or expects to have in the period of 12 months after the date of the primary return (section 4(1)(a));

· In an ordinary return:
  - the income source of any financial benefit that the administrator or joint venture party received or was entitled to receive during any part of the return period (section 4(2)(a);
  - particulars (including the name of the donor) of any gift of or above the amount of $200 (see clause 3 (b)(ca) of the bill) that the administrator or joint venture party received in the return period (section 4(a)(d));
  - the name of any person with whom the administrator or joint venture party has been a party to a transaction under which the member or such administrator/joint venturer has had the use of property of that person during the return period, the use not being for adequate consideration etc. and the market price being $750 or more, and the person not being related by blood or marriage to the member or a member of his or her family (section 4(2)(e));
  - particulars of any contract made during the return period between the administrator or joint venture party and the Crown where any monetary consideration paid is or exceeds $7 500 (section 4(2)(ea));

· In any return:
  - the name of any company, partnership, association or other body in which the administrator or joint venture party is an investor (section 4(3)(a));
  - a description of any trust or superannuation scheme of which the administrator or joint venture party is a beneficiary, trustee or administrator (including the name and address of each trustee or administrator) (section 4(3)(c)) (and see also clauses 2(b) and 3(e) of the bill);
  - the address of any land in which the administrator or joint venture party has any beneficial interest other than by way of security for any debt (section 4(3)(d));
  - any fund in which the administrator or joint venture party has an actual or prospective interest to which contributions are made by a person other than the administrator/joint venturer (section 4(3)(e));
  - the name and address of any creditor (who is not related to the member by blood or marriage) to whom the administrator or joint venture party is indebted in an amount of or exceeding $2 500 (section 4(3)(f)) (see also clause 3(f) of the bill);
  - the name and address of any debtor (who is a natural person not related by blood or marriage to the member) who owes the administrator or joint venture party a sum of $5 000 or more (section 4(3)(fa) (and see clause 3(g) of the bill);
  - any other substantial pecuniary interest in which the member is aware that the administrator or joint venture party has that may raise a material conflict between the member's private interest and his or her public duty (section 4(3)(g)).

Not only are these requirements onerous, and the information they produce almost always irrelevant to the broader question of conflict of interest, but their complexity, when read with clause 3(i), could place a member at great risk of involuntary non-compliance.

I turn now to clause 2(e). This amendment would insert a definition of 'superannuation scheme' into the act. This definition is directly relevant to the amendment to section 4(3)(c) contained in clause 3(e) of the bill. While some may think it desirable to include superannuation schemes as interests members should disclose as a potential source of conflict of interest, this is a very wide definition. It means that the class of people whom clauses 2(c) and (d) might reach is very large and possibly unascertainable by the member. (Clause 2(c) seeks to require the disclosure of any joint venture interest of an administrator of a superannuation scheme of a member or of a person related to a member; clause 2(d) seeks to broaden the class of people designated 'persons related to a member' to include, inter alia, an administrator of a superannuation scheme of a member).

Compliance with the new section 4(3)(c) will therefore be difficult. The next amendment is in relation to clause 3(a). This would mean that in an ordinary return a member is exempted from disclosing contributions to the member's travel costs by a spouse. (The act already exempts contributions to travel in some cases, including those made by a person related by blood or marriage). I do not need to make any further observation about that.

Clause 3(b) creates stricter requirements in relation to gifts for members who are ministers than for ordinary members. It requires a member who was a minister during the period of the return to include in an ordinary return details of gifts worth $200 or more made by a non-family member to the member or to 'a person related to the member'. In contrast, members who are not ministers have a $750 threshold for a similar obligation (under s4(2)(d)). I am not aware that any other jurisdiction makes a distinction in this respect between members and members who are ministers.

It should be noted that the class of 'persons related to the member' to whom this clause would apply would under this bill include the following new groups: (a) a family proprietary company in which the member or a member of his or her family has more than a 15 per cent controlling interest; (b) a trustee of a family trust of the member which has been created by testamentary disposition; (c) an administrator of a superannuation scheme of the member; and (d) a person who is a party to a joint venture of the member. Clause 3(i) limits the scope of this provision by requiring disclosure only if the information relates to the person in the person's capacity as trustee or administrator of a trust or superannua-

tion scheme, or as party to a joint venture of the member, as the case may be, by reason of which the person is related to the member. I again suggest that this clause could be very difficult to interpret and apply.

The value of a gift for which disclosure is to be required is, I suggest, not just in the amendments but in the bill, arbitrary. I recall that when we were debating the principal act back in 1983 there were some discussions between members, and the figures presently in the act were those subsequently agreed when the current act was brought into operation. I suggest that the figure should not be set so low as to cause administrative difficulty in cases where conflict of interest is unlikely to arise.

The Hon. T.G. Cameron: What do you consider an appropriate figure?

The Hon. K.T. GRIFFIN: What is in the principal act has been there for a long time. I suggest that if anything it probably ought to be inflated by inflation rather than reduced, but that is an issue we can discuss in committee consideration of the bill. Because of the low monetary value of the gifts subject to disclosure and the wide class of people it affects, the onerousness of the requirements in clause 3(b) is likely to well exceed its value in identifying potential sources of conflict of interest.

Clause 3(c) would exempt a member from having to disclose details of gifts above the value of $750 to the member or to 'a person related to a member' by the member's spouse. The act now exempts such gifts from disclosure if from people related to the member or a member of the member's family by blood or marriage.

Clause 3(d) would exempt a member from having to disclose details of transactions under which a member or 'a person related to a member' had the use of the property of another if the person granting such use was the member's spouse. The act now exempts such transactions from disclosure if the property use is granted by 'persons related to the member' or a member of the member's family by blood or marriage.

Clause 3(e) is the next amendment. The act already requires a member to disclose similar details of any trust, not being a testamentary trust, of which the member or a person related to the member is a beneficiary or trustee. This clause broadens the requirement to include all trusts and any superannuation scheme of which the member or a person related to the member is a beneficiary or trustee. The scope of the requirement is wider than first appears because (as already discussed) the bill seeks to broaden the definition of 'a person related to the member' to include, under clause 2(a), a family proprietary company in which the member or a member of his or her family have more than a 15 per cent controlling interest and, under clause 2(d), an administrator of a superannuation scheme of the member and a person who is a party to a joint venture of the member.

Clause 3(i) limits the scope somewhat by requiring disclosure only if the information relates to the person in the person's capacity as trustee or administrator of a trust or superannuation scheme, or party to a joint venture (as the case may be) by reason of which the person is related to the member. However, the combined effect of these clauses may be difficult to interpret, placing members at risk of committing an offence against section 7.

For example, under clause 3(e) a member would have to disclose details, subject to clause 3(i), of

- any superannuation scheme of which an administrator of a superannuation scheme of the member is a beneficiary or a trustee. It may not be possible for the member to obtain, or the administrator to provide, these details.
- Any superannuation scheme of which a party to a joint venture of the member is a beneficiary or trustee. Given that a party to a joint venture of a member includes an administrator of a superannuation scheme of the member who has entered into a joint venture with another party, these details may be very hard for the member to obtain.

I understand that no other Australian provision requires specific disclosure of superannuation schemes. In fact, the most recent, the Queensland provision, specifically excludes details of superannuation entitlements of a member or a person related to the member of over $5 000 in value. The ACT provision requires disclosure of private life assurance policies as assets of a value exceeding $5 000, but not parliamentary superannuation entitlements. Both the ACT and Queensland treat superannuation entitlements as assets, not as sources of income.

The next amendment, clause 3(f), seeks to reduce the threshold for disclosure of debts owed by a member or 'a person related to a member' from $7 500 to $2 000, unless the creditor is related by blood or marriage or is a member of the member's family. In light of the other amendments in the bill, this could mean that not only the names and addresses of creditors for debts of $2 000 or more owed by the member would have to be disclosed, but also

- under clause 2(a), debts of these amounts owed by a family proprietary company in which the member or a member of his or her family have more than a 15 per cent controlling interest.

Of course, in the context of a trading company that might be a huge task.

- under clause 2(d), debts owed by an administrator of a superannuation scheme of the member or owed by a person who is a party to a joint venture of the member.

Clause 3(i) limits the scope somewhat by requiring disclosure only if the information relates to the person in the person's capacity as trustee or administrator of a trust or superannuation scheme, or party to a joint venture (as the case may be) by reason of which the person is related to the member. These distinctions may make compliance difficult.

The effect of this clause could be that members would have to keep a running tally of their debt level and the debt levels of 'persons related to them' and updated to reflect the current level, given that many members would have credit card or store account debts of over $2 000 at various times during the return period.

Clause 3(g) seeks to reduce the threshold for disclosure of debts owed to a member or a person related to the member by a natural person other than a person related by blood or marriage or a member of the member's family. It reduces the amount of the disclosure threshold by half, to $5 000.

Again, that clause would have the same effect with respect to persons related to the member as I have described in relation to the previous provision, that is, clause 3(f). Again, I am not aware that any other jurisdiction has an equivalent provision to section 4(3)(fa). Such debts are either covered indirectly, by discretionary disclosure clauses requiring disclosure of any other direct or indirect benefit, advantage or liability which the member considers might appear to raise a perception of conflict, or directly, by provisions requiring disclosure of any dispositions of property (where this includes money) that effectively forgive the debt, for example, 'the release, discharge, surrender, forfeiture or

abandonment, at law or in equity of any debt, contract or chose in actions, or of any interest in respect of property'.

The next amendment is to clause 3(h), and that brings in a new disclosure requirement, apparently in line with clause 2, paragraphs (c), (d) and (e), that a member discloses any assets held by other parties to any joint venture with the member, if the information relates to the person in their capacity as a person related to the member by virtue of being a joint venture partner of the member. (See clause 3(i)). Given the scope of the definition of 'joint venture', I would suggest that again this is a very onerous requirement.

It means that the member must disclose any asset acquired or held by

- the member
- a member of the member's family
- a family company of the member (that is, a proprietary company in which a member or family has a 15 per cent or more controlling interest—clause 2(a))
- a trustee of a family trust of the member (that is, including testamentary trusts—clause 2(b)), or
- an administrator of a superannuation scheme of the member

who has entered into a joint venture with others, if that information relates to the person in the person's capacity as trustee or administrator of a trust or superannuation scheme, or party to a joint venture (as the case may be) by reason of which the person is related to the member. Again, I understand that no other jurisdiction has this requirement or singles out joint ventures for specific disclosure. The clause is very widely cast and difficult to understand when read with clause 3(i).

We turn now to subclause 3(i), which seeks to limit the scope of clauses 3(e), (f), (g) and (h) by requiring disclosure only if the information relates to the person in the person's capacity as trustee or administrator of a trust or superannuation scheme, or party to a joint venture (as the case may be) by reason of which the person is related to the member.

Again, this clause may be very difficult to both understand and interpret when read in the context of the clauses it seeks to limit, in their various combinations. Presumably, it seeks to exempt from disclosure information about such people if the information does not relate to the member.

Clause 3(j) is the next amendment. The existing section does not require such attribution to be made in the information disclosed; that is, the amendment proposes that the return must specify whether information disclosed relates to particular individuals, including the member and persons related to the member.

Again, this clause imposes a further level of detail in members' returns that may make compliance difficult without necessarily furthering the objects of the act. In Queensland, the only other jurisdiction requiring detailed disclosure of the interests of related persons and requiring members' interests and those of related persons to be disclosed separately, the information is kept on two separate registers: a register of members' interests and a register of related persons' interests. Only the former is tabled and published as a parliamentary paper.

Inspection of the latter is limited to the Speaker, the Premier, the parliamentary leader of any other political party, the chair and members of the Members' Ethics and Parliamentary Privileges Committee and the Criminal Justice Commission. This was considered a balance of competing public interests of public access to ensure confidence in the integrity of government, effective monitoring and preventing undue invasion of third parties' privacy.

The combined effect of this clause with the existing reporting requirements and the broadening of the class of 'related persons' will be to make some information that is personal to people other than the member available to public inspection and tabled before parliament. In other jurisdictions where there is unlimited inspection and publication, there is also no requirement for disclosure of the interests of 'persons related to the member'.

I turn now to clause 4. The existing act makes it a summary offence to wilfully contravene or fail to comply with the act, with a maximum penalty of $5 000. This clause reverses the onus of proof so that the defendant member must prove that he or she did not intend to commit the offence. In presuming contravention or failure to comply to be intentional, no allowance is made for the increased complexity and amount of detail this bill requires the member to disclose. It would be difficult to disprove a presumption—

The Hon. R.R. Roberts: I think you've even shocked Terry.

The Hon. K.T. GRIFFIN: That's all right. He ought to be pleased that I am giving proper consideration to his bill.

The Hon. T.G. Cameron: I am.

The Hon. K.T. GRIFFIN: Good man! It would be difficult to disprove a presumption of intention other than by pleading ignorance of the legal requirements, which is not a competent defence. The effect is that a member could be convicted of a criminal offence for non-disclosure of a trivial detail, regardless of whether the member had sought to protect or further his or her own interests in exercising a parliamentary vote. The penalty, and the professional and electoral consequences for a member so convicted, have the potential to be out of all proportion to the seriousness of the offence.

The clause would also penalise an additional type of conduct—carrying out or being party to a scheme to defeat, evade, prevent or limit the operation of the act. A 'scheme' is defined very widely, to catch almost any kind of conduct by the member, solo or with another, so long as it can be shown to be partly or wholly to defeat or evade the operation of the act, whether or not this is incidental to the actual purpose of the scheme.

No other Australian jurisdiction refers to such a concept. Other Australian jurisdictions do not make contravention or non-compliance an offence but, rather, a contempt of parliament. It is parliament, not the courts, that adjudicates whether there has been a breach of the act and imposes sanctions.

The purpose of the act needs to be put in perspective. While full disclosure is important from the public policy perspective, the wrong at which the legislation is directed is participation by a member in a decision with a resultant private benefit, not errors in the register. The register only assists in the scrutiny of such matters. In view of the consequences for members of a breach of the act, it is important to ensure that the act applies fairly. And it is important, particularly, to emphasise that to bring the courts into determining what a member does or does not do is a significant departure from the norm and allows a court for the first time to become involved in determining motivation, probing into a member's affairs and also the activities that occur within the parliament. I would caution very much against allowing the courts to come into this part of the public and parliamentary arena.

As I said when I began, I wanted to deal in some detail with the provisions of the bill. I have significant concerns with them but they are issues which, as I indicated when I began my contribution, we can deal with in the committee consideration of the bill. Whilst we have very grave reservations about most of the provisions of this bill, we will not oppose it going through the second reading to committee.

The Hon. J.S.L. DAWKINS: Mr President, I draw your attention to the state of the Council.

A quorum having been formed:

The Hon. M.J. ELLIOTT: I support the second reading of the bill and, as it has been debated in this place before, I will not repeat what I said on that occasion. The Democrats support the legislation.

The Hon. T.G. CAMERON: I suspect that the Hon. Mike Elliott was sitting in his office listening to the last contribution and decided that his would not be as long. I thank all speakers for their support of this legislation. There is no need for me to go through any of the issues that have been raised. I urge all members to support the second reading and I look forward to an extended debate with the Attorney-General during the committee stage.

Bill read a second time.

CONSTITUTION (PARLIAMENTARY SITTINGS) AMENDMENT BILL

The Hon. NICK XENOPHON: I move:

That standing orders be so far suspended as to enable me to move that the order made this day for Order of the Day: Private Business No 19 to be an Order of the Day for the next Wednesday of sitting be rescinded and for the Order of the Day to be taken into consideration forthwith.

Motion carried.

The Hon. NICK XENOPHON: I move:

That the order made this day for Order of the Day: Private Business No 19 to be an Order of the Day for the next Wednesday of sitting be rescinded and for the Order of the Day to be taken into consideration forthwith.

Motion carried.

Adjourned debate on second reading.

(Continued from 29 November. Page 685.)

The Hon. NICK XENOPHON: I will be brief. I thank members for their contribution—some more than others—in relation to this matter. It seems that both the government and the opposition do not support this bill both in terms of prescribing a minimum number of sitting days and also in respect of having a maximum gap with respect to the days between which parliament sits. There was a break over last summer of about 127 days. The bill proposes that the gap be only 70 days. I can only repeat what I stated earlier when I referred to David Hamer's text on *Can Responsible Government Survive in Australia?* and the views described by Bagehot. Mr Hamer said:

The key to the system as described by Bagehot was responsibility. The cabinet was responsible to the Commons and the Commons responsible to the people. But the Commons was much more than an electoral chamber. It was of course a legislature, but in Bagehot's view it had four other functions: an expressive function—it should express the mind of the English people 'in characteristic words the characteristic heart of the nation'; a training function—it was to educate the people by ensuring that it [the nation] was forced to hear two sides'; an informing function—it should keep the executive in touch with informed opinion; and a scrutiny and a review function, 'watching and checking' government ministers.

To say that this is a stunt, that it does not address a number of issues in respect of accountability, I think is grossly unfair.

The Hon. K.T. Griffin interjecting:

The Hon. NICK XENOPHON: The Attorney says that it is correct. It is disappointing that the opposition, which has previously been concerned about the number of sitting days, has not taken this opportunity to support this bill. Over the Christmas break, the Leader of the Opposition was critical about the lack of accountability of the parliament in respect of the number of sitting days, and the gaps in between. I am not suggesting that this bill is the be all and end all with respect to parliamentary reform, far from it, but it does set a benchmark and a standard that there ought to be a minimum number of sitting days each year, whether it is 100 or fewer number of days. Obviously, it is something that ought to be debated further, and that there ought not to be an undue gap between sitting days and I think for many people in the community a gap of four months is quite unacceptable, considering the basic principles of accountability and responsible government.

On that basis, I am disappointed that the opposition and the government will not be supporting this bill. However, at the very least the issue has been raised, and will continue to be raised, and I hope that honourable members on both sides will look at a number of measures to ensure that the Westminster system works as it ought to.

The Council divided on the second reading:

AYES (5)

Cameron, T. G.	Elliott, M. J.
Gilfillan, I.	Kanck, S. M.
Xenophon, N. (teller)	

NOES (15)

Davis, L. H.	Dawkins, J. S. L.
Griffin, K. T. (teller)	Holloway, P.
Laidlaw, D. V.	Lawson, R. D.
Lucas, R. I.	Pickles, C. A.
Redford, A. J.	Roberts, R. R.
Roberts, T. G.	Schaefer, C. V.
Sneath, R. K.	Stefani, J. F.
Zollo, C.	

Majority of 10 for the noes.

Second reading this negatived.

CASINO (MISCELLANEOUS) AMENDMENT BILL

In committee.

(Continued from 17 November. Page 582.)

Clause 2.

The Hon. NICK XENOPHON: I move:

Page 3, lines 7 to 9—Leave out proposed paragraph (ca) and insert:

(ca) that responsible attitudes towards gambling in the Adelaide Casino are encouraged and that the harm associated with gambling is minimised; and

In many respects, this amendment is consistent with amendments moved in Victoria, New South Wales and Queensland. Legislation has been amended in those states to ensure that harm minimisation and responsible gambling practices are issues that ought to be of primary consideration. This

amendment seeks to go in that direction with respect to harm minimisation and responsible gambling practices.

The Hon. R.I. LUCAS: I do not intend to repeat the debate; we had this discussion last time. I want to summarise the contrary view. To refresh members' memory, this debate, clearly, was about the objects of the Casino. The concerns or questions that I raised when we first debated this bill—and the Hon. Mr Xenophon has come back with another amendment—remain my concerns, that is, that if these objectives are left drafted in this way it will leave the operators of the Casino open to legal action in a variety of areas in relation to the sorts of actions that the Hon. Mr Xenophon (and, indeed, others) may well in the future want to take against the operators of a business in South Australia, which is an established casino.

It is there. Everyone understands that it is there to operate a gambling institution. The compromise position, which I wanted to test in committee, is that we leave in the clause that an object of the Casino be 'that responsible attitudes towards gambling in the Adelaide Casino are encouraged' and then delete the words that follow 'and that the harm associated with gambling is minimised'. There is still legal argument, I accept, that even leaving the measure in that compromise form, that is, 'responsible attitudes towards gambling are encouraged', may well mean that it will be used by lawyers to argue cases against the operators of the Casino. I accept that. But the legal advice is that the words 'that the harm associated with gambling is minimised' may well mitigate that to some degree.

It is on the surface, I acknowledge, hard to argue against. We all support responsible attitudes towards gambling and responsible gambling and, therefore, whilst I understand the legal view, it is important to try to convey the intention of the parliament that we are about trying to encourage responsible attitudes towards gambling. Parliaments and governments around the nation are working towards various versions of responsible gambling policies. They are not always consistent but they are all working in some way or another towards responsible attitudes towards gambling. Therefore, I move:

That the words in the Hon. Mr Xenophon's amendment after the word 'encouraged' be deleted.

The amendment would then read, if my amendment were successful, that the object of the Casino would be 'that responsible attitudes towards gambling in the Adelaide Casino are encouraged'. The amendment would conclude at that point.

The Hon. P. HOLLOWAY: This is a conscience vote for members of the Labor Party. When this clause originally came before the Council on 29 June, I put the point of view that I would not support it in its original form, because I believed that the way in which the clause was originally drafted could have given rise to litigation. We had a somewhat lengthy debate at the time, and I noted particularly the contribution from the Attorney-General, who concluded in this manner:

So, while I am sympathetic to the provision which is before us in clause 2, I do not believe that it will achieve the objective as appropriately and fairly as it should. Alternative drafting which focuses upon responsible service, responsible gambling and codes of practice is the more appropriate way to go.

I think the Attorney was quite correct in that statement. I do not think that any of us would want to necessarily open a floodgate for lawyers which would achieve much for the pockets of lawyers but very little for the people who have gambling problems. So, I certainly concur with the views that the Attorney expressed on that occasion.

As I understand it, the amendment to the amendment of the Hon. Nick Xenophon that has been made by the Treasurer corresponds with those broad views that the Attorney put; that, provided we rely on our objectives in the act—responsible attitudes, codes of practice, and the like—that is much less likely to give rise to any litigation. For that reason, I indicate that I will support the amendment that the Treasurer has moved to Mr Xenophon's amendment.

The Hon. CAROLYN PICKLES: I indicate that, as this is a conscience vote, I will support the Treasurer's amendment. I believe that a positive statement is something that cannot be misconstrued, cannot be ambiguous and cannot be subject to legal action, but it gets the message across that we want the Adelaide Casino to have a responsible attitude towards gambling.

The Hon. CARMEL ZOLLO: I indicate that I support the Hon. Nick Xenophon.

The Hon. T.G. CAMERON: I indicate that I have not been seduced by the dulcet tones of the Treasurer, and I support the Hon. Nick Xenophon's amendment.

The Hon. M.J. ELLIOTT: I also indicate support for the amendment of the Hon. Nick Xenophon. I do not know how much longer some people in this place will be in denial about gambling-related harm but it is something that is overdue to be tackled.

The Hon. R.R. ROBERTS: I was supportive of the original proposition that the Adelaide Casino is managed and operated so as to minimise, as far as practicable, the adverse personal effects of gambling on persons who gamble at the Casino and on their family. The Hon. Nick Xenophon has sought, on advice obviously, to change that. When we were establishing the Casino, some of the things about which we were concerned were the adverse effects, and perhaps that ought to have been included in the objects much earlier. I would have supported the proposition in its original form. I think that the new amendment as proposed by the Hon. Nick Xenophon goes closer to that same aim, and I indicate that I will support the amendment moved by him.

The Hon. R.K. SNEATH: I rise to indicate that I will support the amended version of the Hon. Nick Xenophon's amendment.

The Council divided on the Hon. R.I. Lucas's amendment:

AYES (11)

Davis, L. H.	Dawkins, J. S. L.
Griffin, K. T.	Holloway, P.
Laidlaw, D. V.	Lawson, R. D.
Lucas, R. I. (teller)	Pickles, C. A.
Roberts, T. G.	Schaefer, C. V.
Stefani, J. F.	

NOES (9)

Cameron, T. G.	Elliott, M. J.
Gilfillan, I.	Kanck, S. M.
Redford, A. J.	Roberts, R. R.
Sneath, R. K.	Xenophon, N. (teller)
Zollo, C.	

Majority of 2 for the ayes.

Amendment thus carried; amendment as amended carried; clause as amended passed.

Title passed.

Bill recommitted.

Clause 1 passed.

Clause 2.

The Hon. NICK XENOPHON: Given the vote that has just occurred, I will not put this clause through the same process, but I think it is worth noting that, in terms of the amendments to the New South Wales Liquor Act, one of the primary objectives of the act is gambling harm minimisation: that is, the minimisation of harm associated with the misuse and abuse of gambling activities and the fostering of responsible gambling activities. I think it should be noted that other states have gone beyond what this parliament appears to be willing to do, but I understand that this is part of an on-going debate and I will have to live with the clause in its amended form.

Clause passed.

Clause 4.

The Hon. NICK XENOPHON: I move:

Page 3—
Line 25—After 'rules' insert:
, in a form approved by the Commissioner,
Line 27—After 'information' insert:
, in a form approved by the Commissioner.

This amendment arose out of discussions during the committee stage, as I recollect, so that it anchors the amendment to a form of rules that must be approved by the commissioner. So, the role of approving the management system, the information in respect of management systems, and the like, must be approved by the commissioner. There was some question as to whether it was the Gaming Supervisory Authority or the Commissioner in the context of the committee stage. That seemed to be a consensus approach, and I was happy to proceed on that basis.

The Hon. R.I. LUCAS: I think these are sensible amendments as a result of the first series of discussions we had. I support the amendments.

The Hon. P. HOLLOWAY: The opposition supports the amendments.

Amendments carried; clause as amended passed.

Clause 5.

The Hon. R.I. LUCAS: To refresh everybody's memory, the amendments in the name of the Hon. Mr Xenophon were included when first we discussed this. There was a debate and discussion whether or not there was a requirement for a further amendment. I have circulated a further amendment to Mr Xenophon's amendment, and I now move:

Proposed new section 41A—After 'pursuant to the licence' in subsection (1) insert:
unless authorised to do so pursuant to clause 14.6 of the approved licensing agreement (as in force as at the commencement of this section)

I do not intend to go into great detail in summarising the debate that we had previously. In essence, this provides that, when the Casino was sold (whenever that was earlier this year), a specific commitment was given in clause 4.6 of the approved licensing agreement that basically provided that, if the parliament or the government were to give an interactive gaming licence to a competitor, the Casino should get a licence on no less favourable conditions on which its competitor obtained a licence. So, the decision currently rests with the parliament but, ultimately, if a decision is taken to give a licence to a competitor to the Casino, then this amendment seeks to provide that the contractual arrangement that we have entered into with the new purchasers of the Casino would be honoured.

It is clearly possible for governments or parliaments to take a different view in the future, should they wish. If this amendment were included they could seek further to amend this amendment. I accept that, but if it is supported by the majority of members at least it is an indication that parliament should make a decision but, if it is to make a decision, it should do so in a way that is consistent with clause 4.6 of the approved licensing agreement. It is a contractual agreement into which we have entered with the new owners of the Casino. I think it is reasonable and urge members at least to consider it.

The Hon. P. HOLLOWAY: This is a conscience vote for members of the Labor Party. I indicate that I will support the Treasurer's amendment and the amendment as moved in amended form by the Hon. Nick Xenophon. The amendment of the Hon. Nick Xenophon would require that, before the Casino be given any licence to operate an interactive game, it would need to come back to parliament to gain approval. As I indicated when we last discussed this bill, that is something that I certainly support. I gave my views on interactive gaming as a member of the Select Committee on Internet and Interactive Home Gambling. I was one of the majority on that committee who said that we should support managed liberalisation.

However, I do not believe that we should proceed further, at least until we work out the regulatory conditions that should operate if there is to be any expansion into this area. Today, as I understand it, the Senate may have passed legislation to put a cap on—

The Hon. T.G. Cameron: It's already passed it.

The Hon. P. HOLLOWAY: I believe it was passed today. The Senate has placed a cap backdated to 19 May last year (I think it is a 12 month cap) that would prevent any extension of internet gambling anyway, at least until May next year. Of course, the commonwealth government has undertaken that it will consider its options and may well outlaw any form of this gambling. It would be silly if we as a state parliament were to permit the Casino to go into a new form of gambling contrary to commonwealth law, which could override this.

I support the condition that the Hon. Nick Xenophon is putting, that the Casino should not be able to proceed into this area of internet gambling without the permission of the parliament, but I also support the amendment that the Treasurer has moved in this instance. Clause 14.6 of the sales agreement with the Casino provides:

If, after the commencement of this agreement, the Crown in right of the state of South Australia licenses or otherwise permits interactive gambling that replicates or simulates to a material extent aspects of the corresponding Casino gaming when conducted as a table game at the Casino, or a game played on a gaming machine then, subject to the Casino Act 1997:

(a) if such a licence or other form of permission is granted to a person, a like licence or other permission will be offered to the licensee; and

(b) the licence or other permission will be made available on the basis and, if granted, be on terms no more onerous to the licensee than to any other holder of such a licence or other permission.

In other words, all the Treasurer's amendment does is ensure that that clause of the approved licensing agreement for the Casino is brought into the legislation. It simply means that the Casino could not be competitively disadvantaged should this parliament at some future stage wish to move into this area. That is something that I would support, given that it is part of this agreement that has been reached with the Casino.

I certainly would not see us in a position whereby we would potentially breach that agreement in the future and therefore lay ourselves open to compensation. For that reason, I think we have a good compromise here. If we pass the Treasurer's amendment to the amendment moved by the Hon. Nick Xenophon, we can ensure that there will be no extension of interactive gambling without the approval of the parliament.

At the same time, we will not potentially place the Casino in any position where it could be made worse off and open the state up to liabilities. For that reason, I will be supporting the amendment of the Treasurer to the amendment of the Hon. Nick Xenophon.

The Hon. NICK XENOPHON: For the benefit of members, the initial clause 5 in the tabled version of the amendment bill was superseded, in a sense, by an amendment that I moved to the clause following discussions in the committee stage so that the definition of 'interactive gambling game' was clearer. It was clear that it did not have an unintended consequence of applying to, for instance, a Keno game that might have been operated by the Lotteries Commission within the Casino, so that did not fall within the definition of an interactive gambling game.

The Treasurer's amendment seeks to provide that the Casino cannot offer internet gambling games unless authorised to do so pursuant to clause 14.6 of the approved licensing agreement, which essentially is almost a first right of refusal clause in the sense that, if another entity has been granted a right by the government to offer online gambling activities, the Casino must be offered those as well. My understanding of the commercial motivation behind that was so that the Casino would not be at a competitive disadvantage. That is not my primary concern by any means. My concern is to ensure that there is not a new form of gambling that will cause a substantial amount of social and economic dislocation. My preference is to leave it as is, not to agree to the Treasurer's amendment, so I will oppose the Treasurer's amendment, but I will not divide on that, given the intimations—

The Hon. T.G. Cameron interjecting:

The Hon. NICK XENOPHON: The Hon. Terry Cameron asks why I will not divide on it. My understanding is that there is no support for it but I am more than happy to divide on it, if other members wish to do so, in relation to this clause. My concern in relation to the amendment is that it seeks to water it down. I understand the Treasurer's motivation for moving it in terms of the approved licensing agreement, and I am not being critical of him, but I am concerned that it will not have the same weight of force. In a sense, events have overtaken us by virtue of the vote in the Senate earlier today, thanks to the coalition's reintroducing the online gambling moratorium bill, with the support of two of the nine Democrat senators and Senators Harradine and Brown, who reached a compromise position with the government. That moratorium will impact on this clause, at least until 18 May next year and perhaps beyond, depending on what the federal parliament decides.

The Hon. M.J. ELLIOTT: I was perfectly relaxed with the amendment moved by the Hon. Nick Xenophon and I invite the Treasurer to explain what it is precisely within clause 14.6 of the approved licensing agreement that he feels needs to be taken into account.

The Hon. R.I. LUCAS: I am happy to do it again, although I did so when I moved the amendment. The Hon. Paul Holloway read out clause 14.6 of the approved licensing agreement but, on the invitation of the Hon. Mr Elliott, I am happy to do so again. The commitment in the sale agreement that went through to the purchasers or the new operators of the Casino was that, should a competitor to the Casino be given an interactive gaming licence for casinos, in those circumstances the Casino ought to be given a similar licence so that it is not disadvantaged. That is the layperson's way of putting it.

I indicated that, even though I had the capacity to issue an interactive gaming licence, I did not do so. I understood there were differing views from my own in the parliament, in the community and within the Liberal Party as well. The provision was included just to protect the competitive position of the Casino, to say that, should some government, minister or parliament in the future give a competitor a licence, it was reasonable that the Casino ought to get a licence as well. The Casino's operators understand that we do not want to give them a licence, but they do not want us to give a licence to somebody else to compete against them if we will not give them a licence in no less favourable terms. That was the import of clause 14(6) of the draft licensing agreement, and it is for those reasons that I move my amendment.

The Hon. M.J. ELLIOTT: I understand what the Treasurer is seeking to do but, when we look at how rapidly interactive games have moved, it is hard enough to try to guess what things will be like in a year let alone in two, five or 10 years. I wonder what it is that we would be entrenching in legislation in terms of the rights of one particular licensee. It may be that these words will have a meaning beyond anything that we can even imagine at the moment. I think we must look at how rapidly things have moved in this area of interactivity.

As I said, I think it is almost beyond imagination what will happen next and how quickly. It seems to me that the Treasurer's amendment, although I understand its purpose, just about adds 'blue sky' to the Casino's licence. It is almost beyond our imagination at this stage. I wonder how much the Treasurer has thought about that aspect of it. I understand here and now what he is trying to achieve, but if tomorrow someone else is granted a licence why should the Casino not get one as well?

Gaming has gone through such a rapid transition already in terms of what is happening on the internet and interactivity; it is almost beyond imagination what things will be like within a relatively short number of years. Whilst this makes sense to us now and tomorrow and perhaps for the next 12 months, will we be actually writing a blank cheque or granting a 'blue sky' licence in terms of gambling to the Casino operators as a consequence of the Treasurer's amendment? This is not a criticism at this stage; I just feel very nervous and cautious about it.

The Hon. CARMEL ZOLLO: Will the Hon. Nick Xenophon indicate whether the Casino proprietors would still have to come back to the parliament if the Treasurer's amendment is carried?

The Hon. NICK XENOPHON: My understanding is that, if an interactive gambling licence is granted and it replicates to some material extent the Casino's gains, if the Treasurer's amendment is carried, they will not have to come back to the parliament because there is a mechanism by virtue of this amendment which triggers a requirement to offer the Casino games on not less favourable terms with respect to any interactive games that are offered that the government has approved.

My understanding after 17 or 18 months of the select committee on online gambling is that you would need legislative approval for any other games to be approved. So, something would have to come back beyond parliament. The only caveat to that, subject to the Treasurer's advice, would be that the TAB now offers online wagering—but that is all at this stage—and, quite recently, sports betting.

I have moved some amendments to that in the Authorised Betting Operations Bill, but I guess you could argue that, in the context of the TAB, with the stroke of a ministerial pen being able to offer further online gambling activities, that could trigger this proposed amendment into place so that the Casino is then offering games. I think the Treasurer's concern involves legal liability in terms of a contractual arrangement with the Casino: that, if it is not offered these games, there may well be issues of legal liability in place. However, I would have thought that the primary concern is that the parliament ought to have a say in whether we expand online gambling activities. Whether you agree or disagree with online gambling being expanded in South Australia, or being sanctioned by the state, I believe there will be some circumstances where the Treasurer's amendment could unwittingly trigger online gambling being expanded without parliamentary approval.

The Hon. R.R. ROBERTS: I have some concerns about the amendment proposed by the Treasurer. I understand the reason why as the Treasurer he could have issued the Casino with a licence. He has made a contractual arrangement with the new operators of the Casino on behalf of the state. With the prospect one day of being in government, the opposition does not like to overturn contractual arrangements between the state and someone who seeks to do business with the state, and I think it is a worrying situation when the opposition interferes with those contracts. However, I am concerned that the Treasurer's proposition is that, if someone else is given an interactive licence, basically the Casino automatically has the right to the same sort of licence.

I understand that legislation was passed today for a moratorium until May next year, and it seems fairly certain that no-one will get a licence until May. I think it says that the Casino cannot be proactive in promoting business in this area, because I think this ties its hands in that it cannot obtain a licence until a licence is issued to someone else.

When the Casino was established, it was the first to introduce legally run card games in South Australia. It was also where we tested—if you like—the poker machines. There were good reasons for that: it was all in the one venue, it could be controlled and we could see how it was going. Effectively, that is what the government did, and then it expanded out.

I am just a little worried that the proposition the Treasurer is putting will bridle the Casino because, if after this moratorium or capping period history shows that there is a reason to have some sort of interactive gambling, I believe that the proposition the Treasurer has put will prevent the Casino from being proactive in the area until the Treasurer issues someone else with a licence so that the Casino can be issued with a licence. Is that what will happen, or after the federal moratorium can the Casino make application for an interactive licence the same as anyone else, or does it have to wait until another licence is issued?

The Hon. R.I. LUCAS: I thank the Hon. Mr Roberts for treating seriously, as I think an opposition should, the fact that the government of the day has entered into a contractual arrangement with a significant party on behalf of the state. I believe his statements are a fair reflection of the way oppositions should at least contemplate—

The Hon. T.G. Roberts: He is almost agreeing with you.

The Hon. R.I. LUCAS: That is what I have said; I was thanking him for his introductory comments. The amendment I am moving is tagged onto the end of the Hon. Mr Xenophon's amendment, which does most of the work. That is, he has basically said that you cannot have an interactive gambling game available pursuant to the licence. The licensee must not make an interactive gambling game available pursuant to the licence.

So, you need to read my amendment as a tag on to the Hon. Mr Xenophon's amendment. Mr Xenophon's amendment basically provides that the law of the land states that you cannot have any interactive casino gambling licence. Someone will have to come back in and find away around the legislation—and I do not know a way around the legislation—with a clever lawyer, or come back into the parliament and have the legislation amended in some way.

In those circumstances, this is just a statement of intent, saying that we think it is a reasonable position that if future parliaments or governments decide that a competitor—someone in a barn down at Hindmarsh beaming out interactive casino games in competition with the Adelaide Casino—is allowed under whatever circumstances to do that at some stage in the future then, consistent with the licensing agreement, it is a reasonable proposition that the Casino should equally have the same capacity to beam out casino games to people from the Casino as many other casinos are already doing.

A number of casinos in Australia already have the capacity not only to provide casino gambling products face to face with people there at the premises but also to beam their game to other participants around the world or around Australia. The Casino here, I presume, would like to have the same capacity. They have not been given that capacity. This legislation from the Hon. Mr Xenophon will now say that they cannot get that capacity unless the parliament decides otherwise. My amendment just seeks to add to that to say that if, in the end, in whatever way it occurs, a competitor to the Casino gets a licence to beam casino gambling product to South Australians, Australians or people around the world, the Casino should be treated no less favourably in those circumstances. So, it is not a way of their getting a licence from me as the Treasurer without there being some involvement from the parliament.

The Hon. A.J. REDFORD: I am grateful that the Hon. Nick Xenophon has provided me with a copy of this approved licensing agreement dated 27 October 1999 which I understand was tabled by the Treasurer on 28 March 2000. For the benefit of the avid readers of *Hansard*, I must state that clause 14(6) of that agreement says:

> If, after the commencement of this set agreement, the crown in right of the state of South Australia licenses or otherwise permits interactive gambling that replicates or simulates to a material extent aspects of the corresponding casino gaming when conducted as a table game at the Casino, or a game played on a gaming machine, then, subject to the Casino Act 1997:
>
> (a) if such a licence or other form of permission is granted to a person, a like licence or other permission will be offered to the licensee; and
>
> (b) the licence or other permission will be made available on the basis and, if granted, be on terms no more onerous to the licensee than to any other holder of such licence or other permission.

Where does the Crown source its power to permit or license interactive gambling?

The Hon. R.I. LUCAS: I am not a lawyer; I do not have parliamentary counsel here, so I am not in a position to give my learned legal colleague the Hon. Mr Redford an answer as to where the Crown sources its power to do this. The approved licensing agreement was drafted with Crown assistance and private legal assistance. The amendment that is before us was drafted by parliamentary counsel based on the Licensing Agreement. If the honourable member is intent on an answer to that question, I will need to take legal advice for him and bring back a reply.

The Hon. A.J. REDFORD: My response to that is that I am. It seems to me that it is difficult for us to endorse clause 14 (6) of this contract if we do not know that the Crown has, in fact, any right legislatively or otherwise to grant such a licence.

The Hon. M.J. Elliott: It must be an assumed future right, I presume.

The Hon. A.J. REDFORD: No, because this takes effect as from the date of the agreement, namely 27 October 1999, which is nearly 14 months ago.

The Hon. M.J. Elliott interjecting:

The Hon. A.J. REDFORD: It does not say. My next question is: to date, has the Crown, in the right of South Australia, licensed or otherwise permitted interactive gambling in any case pursuant to this clause?

The Hon. R.I. LUCAS: No.

The Hon. A.J. REDFORD: Even if the Crown does not have the power, it certainly has not, at this stage, exercised that power? That is a question. The Casino has not exercised—

The Hon. R.I. Lucas interjecting:

The Hon. A.J. REDFORD: Right. Has any request been made to the Crown to exercise that power to date?

The Hon. R.I. LUCAS: Not to my knowledge. I can certainly check. I would presume that the request would come to me. Certainly, from my recollection, I have not had a request.

The Hon. A.J. REDFORD: If the amendment is accepted, would it be fair to say that this parliament, in accepting this amendment, will have given to the Crown, or at least delegated to the Crown, the right to grant interactive gambling licences in certain circumstances?

The Hon. R.I. LUCAS: I will need to take advice on that. The amendment to proposed new section 41A states quite clearly:

> unless authorised to do so pursuant to clause 14.6. . .

It will be an amendment to a parliamentary act, the parliament will have approved it and it will be then activating clause 14.6. The honourable member has just read clause 14.6 of the approved licensing agreement. He and other members can come to a judgment in relation to that. I am not a lawyer; I am not in a position to provide the honourable member with legal advice. He is in a better position, I guess, to make a legal judgment in relation to that issue. Again, if it is a matter of some importance and the Hon. Mr Xenophon wants to adjourn debate on this bill, I am happy to seek legal advice on the issue should the Hon. Mr Redford seek it and the Hon. Mr Xenophon agree.

The Hon. A.J. REDFORD: I suppose what I am alluding to—and I have only just looked at this clause in the past few minutes—is that this would appear to me to be a very significant test clause on the issue of internet gaming, which has been the subject of a recent report tabled in this parliament. If my interpretation of this clause is correct, the Treasurer's amendment is seeking to permit the Crown, as represented by the minister, to engage in, or at least permit, an agency or the Casino (as it is now owned) interactive gambling, and therefore a vote in favour of the Treasurer's amendment might be seen to be indicative of an approval by this parliament of the concept of licensed internet and interactive gaming. I would stand corrected if my interpretation of the effect of this vote is incorrect.

The Hon. R.I. LUCAS: Again, I am not sure how the honourable member has come to that conclusion. As a non-lawyer, as I see the Hon. Mr Xenophon's amendment, you cannot do it.

The Hon. Nick Xenophon: Without parliament's approving it.

The Hon. R.I. LUCAS: Without parliament's approving it. That is what the Hon. Mr Xenophon has put in the clause.

The Hon. A.J. Redford interjecting:

The Hon. R.I. LUCAS: Let me just finish. The Hon. Mr Xenophon has put in that clause that you cannot do it. At the same time, we have an approved contract signed between the government and the new owners and operators of the Casino—and the member has read out clause 14.6 of the approved licensing agreement; an agreement that has been approved and tabled in this Council for everyone to see, and they were prepared to go. The intention there was to say to them that, in the end, if a competitor is given an interactive casino gambling licence and they do not have one, they also ought to be entitled to get one. It is only activated if, in some way, a competitor is given an interactive casino licence.

I am not sure how the honourable member, from that basis, perceives this as a test clause for the future of internet gambling in South Australia. We have had many tests of that in other bills to which the Hon. Mr Xenophon has moved amendments, and will have in future pieces of legislation—and also in legislation currently before the Council, I would imagine. But I am not sure how the member can see this provision as a test case for the future of internet gambling. It is just saying that if, somehow, someone else gets an interactive casino licence—that is, that happens first—in those circumstances, the Casino would get a licence. So, it would only get one after someone else has obtained a licence.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: A change to an act or a change to the law, whatever it is, the intention of this would require some act of parliament to have given someone an interactive casino gambling licence. If that is to occur in some other act or some other piece of legislation, or whatever it is—a clever lawyer comes up with a regulation, or whatever it is, under some other act (I do not know)—in those circumstances, if someone already has a licence, the Casino is entitled to get a licence.

What I am saying is that I cannot see how the Hon. Mr Redford can argue that this add on to the Hon. Mr Xenophon's clause is the test case for internet or interactive gambling in South Australia. I would be grateful if the honourable member could explain to me and others how it is—it is not intended to be. Let me assure members that the debate about that will take place in other bills and at other times. This is meant to be simply, for the reasons I have indicated (and I will not go through them again), to try to provide a set of circumstances that the licensing agreement already provides for—or sought to provide for.

The Hon. A.J. REDFORD: I appreciate that the Treasurer is at a disadvantage in that his officers are not here this evening. To be fair, I was not aware that this bill was coming on. We have spent most of the night talking about interactive gaming with other ministers on other issues. We seem to have got to a critical point on this issue by default. In any event, that is another issue.

It seems to me that, if one looks at this, the Crown, in the right of South Australia, licences or otherwise permits interactive gambling that replicates or simulates, to a material extent, aspects of the corresponding casino gaming. I am not sure what is meant by the term 'corresponding casino gaming', except to say that, if one quickly looks at this (and I have not had the opportunity to analyse this agreement in any detail), there does not appear to be any specific definition of 'corresponding casino gaming'. In the absence of some sort of definition, it is hard to know what is meant by that. But an ordinary reading might suggest that, if it is permitted in another casino that this Casino owns, it is entitled to do so here, irrespective of whether or not this parliament specifically approved it. It may be the subject of approval by the Tasmanian parliament—which, in my view, has been very cavalier on this issue. I am just not sure what is meant by that term.

At the end of the day, as I read it, what it says is that after the start of the agreement (October last year), if the Crown licences or otherwise permits interactive gambling when conducted as a table game, if such licence is granted to a person, a like licence or commission will be offered to the licensee. That pre-supposes that there is some right in the Crown to do so. Am I correct in my understanding?

The Hon. R.I. LUCAS: I cannot add anything more to the responses that I have given to the honourable member in answer to his last four or five questions. He knows I am not a lawyer: I am not in a position to add anything more to his understanding of the licensing agreement or the amendments we have before us than I have offered already. If what I have said so far has not been able to answer his questions, I am in the hands of the Hon. Mr Redford and the Hon. Mr Xenophon. It is not my bill but the Hon. Mr Xenophon's bill. If he and the Hon. Mr Xenophon want to adjourn debate and report progress whilst we take learned legal advice, or endeavour to do so—

The Hon. A.J. REDFORD: With the greatest respect to the Treasurer, it is his amendment. I would not like to vote in favour of the amendment unless I knew precisely what it meant. In the absence of an explanation I will be voting against it.

The Hon. M.J. ELLIOTT: I understand what the Treasurer is seeking to achieve. I do not think it gives the government any additional power. It seems that it cannot grant an interactive licence to anybody else. This does not give the power to grant an interactive licence to anybody else but, if somebody else is given an interactive licence in relation to games offered at the Casino, automatically the Casino will get one too.

The Hon. A.J. Redford interjecting:

The Hon. M.J. ELLIOTT: But it is not in relation to games offered within the Casino. If the power exists to do that, it exists to do it. If I have a concern it is probably more along the lines that when the people bought the Casino they bought an in-house operation, with no interactive components, yet somehow or other the government has signed a deal, which has—

The Hon. R.I. Lucas: Did have.

The Hon. M.J. ELLIOTT: We are talking about going well beyond that. You have effectively granted them an additional licence in waiting, to some extent. You have virtually told them: we will give you everything you have now and, if we give anybody else something else, you will get it, too.

The Hon. P. Holloway interjecting:

The Hon. M.J. ELLIOTT: I am not disagreeing with that, but I make the comment that it is interesting that the Casino has been sold not only existing operations but also has been given something else prospectively. To some extent it is blue sky; we do not know quite what it is to be, but it has potentially been granted something beyond what it has—

The Hon. R.I. Lucas: When they bid, they bid on the basis that that is what they will get.

The Hon. M.J. ELLIOTT: That may be true, but it is an interesting concept that you sell something that is not yet within your power to give.

The Hon. T.G. Cameron: That is a bizarre way of explaining it.

The Hon. M.J. ELLIOTT: No, it is not.

The Hon. T.G. Cameron: They put protections in there for the current owners so they could not be cut off at the knees 12 months later by interactive gambling.

The Hon. M.J. ELLIOTT: I do not think so. I am certain you will find that when you look at the way the gambling market appears to work—

The Hon. T.G. Cameron interjecting:

The Hon. M.J. ELLIOTT: And you are the biggest seller in town. If one looks at the gambling market, each new product has to a significant extent not bought into the market of the previous one but has created an expansion of the total market. We have seen that, as gaming has come in, it has not bitten that much into the Lotteries Commission. It has continued to grow its product, as have the other forms of gambling. I have no doubt that interactive gambling will do the same. It will not be a competitor: it is a new product. It is still a gaming product but, as a different product, it will affect different parts of the market. In fact, the government has already sold, prospectively, action beyond that which they currently have.

The Hon. K.T. GRIFFIN: I have only come into this very late and I have read only one subclause of the agreement, so what I have to say now must be taken in that context. There may be other factors in the licence agreement which demonstrate that some modification has to be made to what I am now going to say.

The Hon. R.R. Roberts: Said like a man who has been caught before.

The Hon. K.T. GRIFFIN: No, I am naturally cautious because I know how easy it is for someone to turn it against you if you make a statement without any qualification. As I understand—

The Hon. T.G. Cameron interjecting:

The Hon. K.T. GRIFFIN: That is right. As I read the clause in the licence agreement, it really gives the Casino an opportunity to match its competition if the state subsequently grants someone else a licence to conduct interactive gambling that replicates or simulates, to a material extent, aspects of the corresponding Casino gaming when conducted as a table game—

The Hon. A.J. Redford: 'Casino gaming' are the two words I have trouble with.

The Hon. K.T. GRIFFIN: It is to a material extent, and aspects of the corresponding Casino gaming—and this is

what qualifies that—when conducted as a table game at the Casino or a game played on a gaming machine. So, as I understand it, it is endeavouring to ensure that those who have acquired the Casino are now granted a licence under this licence agreement so that they have at least some guarantee that, having paid a substantial amount of money for the rights which they currently have in the context of the then competition in the marketplace, they have a right to expect that, as the Crown grants other licences which to a material extent replicate or simulate the games played as table games or on a gaming machine, they are going to get a fair bite of the action so that their competitive position is not materially diminished.

The Treasurer's amendment—and I am sympathetic to it—tries to preserve the provisions of at least clause 14.6, which has all the protections built into it under the Casino Act and the licensing agreement. I think one would need to do that. I do not know, if we did not provide that exception, whether there would be some trigger in the contractual arrangements between the parties which might ultimately lead to an action for damages against the Crown; I just do not know that. But that might be a possibility. It would normally be the case, notwithstanding that the parliament is sovereign.

That is the only observation I can make at this stage. If we want some clearer advice, we would have to report progress, now that the issue has been raised, and give the Treasurer an opportunity to get the advice.

The Hon. T.G. CAMERON: I will be unusually brief. First, I cannot in any way accept any argument that this clause of Nick Xenophon's about interactive gambling is a test clause in relation to this parliament's attitude on interactive gambling. All this clause seeks to do is to state that, if a licence is to be granted for interactive gambling in relation to casino games, it must have the approval of both houses of parliament. That is fairly straightforward. What the Treasurer's amendment seeks to do is to protect the government's position in relation to the granting of an interactive gaming licence if one is to be issued. Who would have bought the Casino on the basis that six, 12 or 18 months later an interactive gaming licence could be issued to someone else without their having access to the same facility? If all the Hon. Nick Xenophon's arguments are right—that this is a dangerous and insidious thing from which we must protect the community—I have no doubts that both houses of parliament will not approve an interactive gambling licence.

Surely, in all fairness, if the government has entered into contractual arrangements with the purchaser which state that, if an interactive gaming licence is issued to someone else, they can have one too, and if anyone opposes that, they are just not fair minded. Who will ever deal with the government again, whether it be a Labor or a Liberal government, if it enters into a contractual arrangement which parliament will overturn at the drop of a hat? It really is absurd. I indicate that I will support the Hon. Nick Xenophon's amendment and the Treasurer's amendment but, if the Treasurer's amendment falls over, I will not support the Hon. Nick Xenophon's amendment.

The Hon. P. HOLLOWAY: The interim report of the Select Committee on Internet and Interactive Home Gambling and Gambling by other means of Telecommunication in South Australia went into some considerable detail as to what legislation applies in this state in relation to the operation of internet gambling. Page 35 of this report states that the committee sought separate legal advice on the legality of internet or interactive gambling played by South Australian residents, with various qualifications. It also states:

> In summary, the advice is that:
>
> All lotteries are illegal except those run by the Lotteries Commission. . .
>
> Only the Totalizator Agency Board is authorised to conduct off-course totalizator betting on races and other sports. . . This includes betting via the internet.
>
> Only someone licensed under the Racing Act may act as a bookmaker.

The report then goes on to look at the application of section 63(2) of the Lotteries and Gaming Act. It concludes:

> In relation to gaming, the advice was that the Adelaide Casino may be able to offer interactive gaming if the minister approves the activity under the Casino's licence.

Presumably, this bill will not pass both houses of parliament until March but, if he wished, the Treasurer could issue a licence to the Casino now to operate interactive gaming.

The Hon. T.G. Cameron interjecting:

The Hon. T.G. CAMERON: No, he is not; that is why the Hon. Nick Xenophon's amendment would take away the right of the Treasurer to do that without coming back to parliament. I think that is a considerable plus and that we should welcome it.

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: That is certainly what I will be doing, for the obvious reason. As the Hon. Terry Cameron just pointed out, we need to protect the position of the state in this, and that is why it is imperative that we support the Treasurer's amendment.

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: Exactly; that is why I will support the Treasurer's amendment. Some people seem to think that somehow or other there is a loophole here that will allow us to introduce a casino somewhere else by some other piece of legislation and that this would let the Casino in. If the Treasurer so decides, the Casino can get an interactive licence now, so what we are actually arguing about is a considerable restriction on that right. The report continues:

> . . . the advice was that the Adelaide Casino may be able to offer interactive gambling if the minister approves the activity under the Casino's licence. However, a licence issued under the Gaming Machines Act 1992 would not appear to authorise interactive gambling. The advice concludes that it is arguable that no betting other than the above is lawful.

In other words, the advice that that committee had was that, while some form of interactive gambling exists within the state at the moment, that is under the TAB act, because it is a very limited form of interactive gambling; that is, you can use your telephone betting account at the TAB to bet by internet. The only other way that you could extend interactive gambling within the state according to that view would be either through the Lotteries Commission or through the Casino.

What is being proposed here is that if the Hon. Nick Xenophon's amendment is carried, either with or without the Treasurer's amendment, that would take away the right of the Treasurer to issue an interactive gaming licence, which he can do now. If as I suggest we also support the Treasurer's amendment, that would ensure that the state is not exposed to any liability under the conditions of the Casino as they have been signed. I urge members to support both the Hon. Nick Xenophon's amendment and the addendum moved by the Treasurer.

The Hon. NICK XENOPHON: I will make an attempt that hopefully will be successful to short circuit the debate on

this clause. The Hon. Angus Redford has raised a number of concerns with respect to this. I am not suggesting that there is anything capricious on the part of the Treasurer in moving this amendment: I can understand his point of view. My preference is to leave the clause in its original form, in the form in which it now stands. I have only one more question to ask of the Treasurer, although I understand that he may not be able to answer.

The way I would like to proceed with this amendment is to deal with the Treasurer's amendment. I will not be dividing on this amendment (as I indicated earlier), and the Treasurer can undertake to bring back a reply in due course, because clearly this bill, if it does pass tonight in some form, will not be dealt with by the Assembly tomorrow. I think that is out of the question, and I accept that. So, at least the Assembly will be able to consider those issues.

The only remaining question I have to ask of the Treasurer is: under what circumstances can the Crown, in the absence of an act of parliament, offer interactive or online gambling games of the type contemplated in the Casino agreement? To put it another way, can the government trigger the operation of clause 14.6 of the approved licensing agreement without parliamentary approval?

Members interjecting:

The Hon. NICK XENOPHON: Yes, but if the Treasurer could undertake to respond to that, I would urge members to have a vote on this clause and just get on with it.

The Hon. R.I. LUCAS: I will be pleased to take the honourable member's question on notice and bring back a reply for him as soon as I can. Obviously, I will need to take some legal advice.

The CHAIRMAN: The committee understands that clause 41A is already part of the bill, from a previous committee meeting, so the question is that the Treasurer's amendment to clause 41A be agreed to.

Amendment carried.

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

Page 4, lines 32 to 35—Leave out all words in these lines.

This is a complicated provision. The Hon. Mr Xenophon wishes to move an amendment to this clause as a result of questions that the Hon. Mr Cameron raised when last we were here.

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: He says they were very good questions raised by the Hon. Mr Cameron. The Hon. Mr Xenophon will seek to amend this measure by putting in a provision that relates to coins of the value of an Australian dollar or less. The Hon. Mr Holloway, for reasons we discussed last time, will move a series of amendments to allow trials of smart cards as a result of issues that I raised on a previous occasion.

This measure relates to note acceptors, and I do not have a problem with note acceptors. The Casino has something like 15 to 20 note changers and hotels can have a note changer next to every gaming machine if they want to. Note changers enable people to change their $50 bill, $100 bill, $20 bill, or whatever it might be. In the absence of banning note changers, the reality is that note changers can be placed next to gaming machines.

The Hon. A.J. Redford: Do they use note acceptors?

The Hon. R.I. LUCAS: No. South Australia is the only state to my knowledge that does not allow note acceptors, so gaming machine manufacturers have to manufacture gaming machines for South Australia that are different from the other states. Some of the other states are looking at limiting the denomination of the note. Queensland will accept notes of only $20 or less, which means that $50 bills or $100 bills cannot be fed in. I have an open mind in relation to the denomination issue, and that could be changed, given the denominations over time.

I do not intend to go over the whole debate again. I personally am not offended by note acceptors; I do not have a problem with them. I understand that the intent of this amendment is to ensure that only coins can be used. However, I intend to support the Hon. Mr Holloway's proposed amendment which at least would allow trials of smart cards. I suspect that my view in relation to note acceptors might not be the majority view. I am not sure in what order this should be put but, should my view in relation to note acceptors not be the majority view, my preference is to support the Hon. Mr Holloway's proposed amendment which would at least allow a trial of smart card technology, and oppose the Hon. Mr Xenophon's proposed amendment, under which a $2 coin could not be fed into a machine. Given what you can buy for $2 these days, to say that we cannot feed into slot machines more than $1 when you can buy cans of Coke, cigarettes and—

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: I'm not going to argue.

The Hon. A.J. Redford: You'd need more than $2 for cigarettes.

The Hon. R.I. LUCAS: Exactly. I think cigarette machines accept notes, do they not?

An honourable member interjecting:

The Hon. R.I. LUCAS: Cigarette machines are allowed to have note acceptors?

The Hon. T.G. Cameron: The government would push the price up.

The Hon. R.I. LUCAS: That's true. For health reasons, of course.

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: You didn't believe them either?

The Hon. T.G. Cameron: No.

The Hon. R.I. LUCAS: So, when the amendments are moved, I indicate that I will not support the Hon. Mr Xenophon's amendment, but I intend to support the Hon. Mr Holloway's amendment subject to further debate. My overall view is to oppose the current clause of the Hon. Mr Xenophon.

The Hon. NICK XENOPHON: I move:

Page 4, line 35—After 'coin' insert 'of a value of $1 or less'.

This amendment, which seeks to restrict the use of machines to coins of no greater value than $1, has arisen out of some probing questioning by the Hon. Terry Cameron in committee. He made the point about coins of higher denomination and what effect that would have. That is why this amendment has been moved. I do not want to restate the debate unnecessarily. I have read into *Hansard* the advice of Dr Paul Delfabbro, a gambling researcher, and Barry Tolchard, a counsellor at the Flinders Medical Centre. They say that note acceptors can increase levels of gambling addiction. One of the presentations at a gambling conference that I attended three years ago indicated that note acceptors can cause a very significant increase (about 64 per cent) in the turnover of a machine.

We have enough problems with gaming machines now. Let us leave the status quo as it is before we go down the path of paving the way for note acceptors. At least this will restrict

the use of note acceptors. My preference is that this clause stand alone. However, I understand the Hon. Paul Holloway's motivation in terms of smart cards and the like. There are some controls; there is a mechanism so that it can be dealt with by way of a disallowance of regulation before anything comes into operation. So, I think there are some safeguards in respect of the Hon. Paul Holloway's amendments. Whilst my preference would be to deal with it slightly differently, I believe that the Hon. Paul Holloway's amendments are well-intentioned, and I think they will go a considerable way towards dealing with my concerns regarding the use of smart cards.

The Hon. T.G. CAMERON: I indicate my support for the amendment moved by the Hon. Nick Xenophon, and I do so for a couple of reasons. First, I believe the Hon. Nick Xenophon is correct when he argues that extending the gaming machines to accept notes could mean that gamblers could feed $100 notes into a machine, and I do not think there is any doubt that the level of problem gambling would increase if we were to walk down that path.

The Hon. Nick Xenophon probably will not like this but, secondly, I think the dollar coins for those who gamble and play poker machines (and you realise that I am not one of those people, but I have spent quite a bit of time observing people, and I tend to be a bit of a watcher—

The Hon. A.J. Redford: Whereabouts?

The Hon. T.G. CAMERON: At the Casino, the Belair Hotel, the Arkaba and the Lakes Hotel. If the honourable member can stay awake long enough, I will list a few more. Is there anything else that you would like to know?

The Hon. A.J. Redford: No.

The Hon. T.G. CAMERON: Okay. The honourable member can check with those places if he likes, too.

The Hon. A.J. Redford: No.

The Hon. T.G. CAMERON: The honourable member has asked the question, so I will tell him now. I have been challenged while in gaming establishments. I was asked to leave one on the basis that I was not gambling, and I was asked what I was doing wandering around watching people. They tried to throw me out, but I said, 'I am not going. You had better call the police. I have a legal right to be here. I do not have to gamble to be in this place.'

The Hon. A.J. Redford: What were you doing?

The Hon. T.G. CAMERON: Having a cup of tea and watching people gambling; that is what I was doing.

An honourable member: A field study.

The Hon. T.G. CAMERON: It was a field study—a bit of research.

An honourable member: There's a free cup of tea in there, isn't there?

The Hon. T.G. CAMERON: I often pop into the Casino for a free cup of coffee. Why not? You cannot get too many free cups of coffee around town.

The Hon. Nick Xenophon: I will buy you one, Terry.

The Hon. T.G. CAMERON: So as to keep me out of the Casino? In relation to the insertion of a coin to a value of more than $1, have honourable members watched people playing the gaming machines? They fondle the dollar coins, they jiggle their little plastic cup, and their eyes light up when all the coins drop in. There is something mystical about those dollar coins. It may well be that, in some way, they add to the addictive nature of the way people play these things.

The Hon. A.J. Redford interjecting:

The Hon. T.G. CAMERON: No. I will not be misled by interjections. There are a couple of reasons. I do not like the idea of moving to $100 notes because it could increase problem gambling. Limiting people to dollar coins provides an interruption, because they do have to go back to the cashier, or they do have to go to the machine. They faithfully put their little plastic cup in the machine to make sure that no-one else can touch it while they are away, and they faithfully return to that machine to keep playing. It is very rare for a person to play a machine, run out of money, change a $50 note and wander around to find another machine.

The Hon. M.J. Elliott: Well, it's due to pay soon.

The Hon. T.G. CAMERON: That is right, there is almost some magnetic-type quality with that machine: it is going to pay soon. The bloody thing already has $50. No-one else will win it, so they will go back to that machine. I think the $1 coins do serve a purpose. I am not anti-gambling, as the honourable member knows, but the whole mystique of these $1 coins is amazing. They walk around, they jiggle them and the cup is nearly full.

The Hon. A.J. Redford interjecting:

The Hon. T.G. CAMERON: Well, it does. They are the words I was looking for. For those gamblers, it adds to the atmosphere. It is part of the bells going off and the sirens sounding: somebody screams at the end of the room, so they all run down there and, hello, somebody has won. There is a pat on the back.

The Hon. A.J. Redford: You're turning this into a spectator sport.

The Hon. T.G. CAMERON: Well, I do find it quite interesting. Anyway, I said I would be unusually brief. I do support the amendment moved by the Hon. Nick Xenophon. I cannot see why the Hon. Paul Holloway is putting forward an amendment that will allow smart cards to be trialled. Was that the gist of it? Does the Hon. Paul Holloway support the introduction of smart cards?

The Hon. P. Holloway interjecting:

The Hon. T.G. CAMERON: Yes, but are you instigating the trial because you want to introduce them, stop them or what? It does not matter. I do not support the introduction of smart cards. We have enough problems with gaming as it is. I think we ought to leave it right where it is—$1 coins.

The Hon. P. HOLLOWAY: I take this opportunity to formally move my amendment. Briefly, since we have had this discussion before—

The CHAIRMAN: We are still on clause 5. I think we can deal with these two amendments first.

The Hon. P. HOLLOWAY: Right. I will put forward the opposition's point of view. Firstly, we do not support note acceptors and therefore we will be accepting the general thrust of the Hon. Nick Xenophon's clause. I will be moving an amendment later in relation to a trial of smart cards, to answer the point just made by the Hon. Terry Cameron. We had a somewhat lengthy discussion some weeks back. I think the Treasurer indicated there were trials going on in New South Wales. Those trials are aimed at trying to use the positive benefits of smart cards to reduce the harm associated with gambling.

Members interjecting:

The Hon. P. HOLLOWAY: Well, there are several ways you can do it. You may be able to use these things to limit the amount of money going through. It also provides information for research and so on. There were, as the Hon. Nick Xenophon pointed out, safeguards in my amendment that would require this introduction to be for the point of view of looking at these harm minimisation issues.

Finally, the opposition would oppose the Hon. Nick Xenophon's amendment. For some time we have had $2 coins: they have been introduced into our coinage system for some years. There are plenty of machines around that use this coin. We believe that, if we were to pass this amendment, it would create some problems in the sense that we would be outlawing machines already on issue. Where the opposition draws the line on this is the difference between notes and coins. I think—

The Hon. A.J. Redford: Is this one of your conscience issues or are you bound on this one?

The Hon. P. HOLLOWAY: No, this is a position we have on this. We do not accept—

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: It is nothing to do with—

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: Do you want us to stay here all night? I was really trying to be as brief as possible. We have had this debate before. If you want to add to it, get up and do it later. As far as the Opposition is concerned, we draw the dividing line between notes and coins; if we start moving into which coins we have and which we do not, we believe it will get awfully messy. For that reason we will be opposing the amendment of the Hon. Nick Xenophon to restrict the coins to those of $1 denomination or less.

The Hon. CAROLINE SCHAEFER: I indicate, as I did formerly, that I will oppose note accepters but I think it is going too far to oppose $2 coins, which would be the only ones banned under this latest amendment. As I indicated when we formerly addressed this clause, I was very impressed with what I heard about smart cards at that time and I will support the Hon. Paul Holloway's amendment.

The Hon. M.J. ELLIOTT: I think there are a host of things that one can do in terms of harm minimisation in relation to the way gaming machines function; this is just one of those, but I think it is a very sensible one, and I indicate my support for the initial clause and the amendment. The reason I am supporting the amendment is that, whilst it is true that the largest denomination coin at the moment is $2, I do not think we are that far away from the $5 coin. If you think about how long we have had the $2 coin and the timeframe over which we have received other coins, I do not think we are that far away from a $5 coin now.

So, if the bill remains silent and just talks about coins, within 12 months to two years we will probably be talking about $5 coins as well. I can live with $1 or $2 set as the denomination, but to actually leave it as just coins at this stage, I think, if you are serious about harm minimisation you would probably say, 'There is a level at which it is likely to be more or less effective.' I know it is a bit of a grey area but I think the $1 proposal which the Hon. Nick Xenophon has in his amendment is a reasonable one and I will be supporting it.

The Hon. R.I. Lucas's amendment negatived; the Hon. N. Xenophon's amendment negatived.

The Hon. P. HOLLOWAY: I move:

Page 4, after line 35—Insert:

(2) The Governor may, by regulation, grant an exemption from subsection (1) for a specified period for the purposes of the conduct of a trial of a system designed to monitor or limit levels of gambling through the operation of gaming machines by cards.

(3) Regulations made for the purposes of subsection (2) may make provision for the recording and reporting of data in connection with the trial.

(4) A regulation under subsection (2) cannot come into operation until the time has passed during which the regulation may be disallowed by resolution of either house of parliament.

(5) The minister must, within three months after expiry of an exemption under subsection (2), cause a report to be laid before both houses of parliament about the conduct and results of the trial.

I have already spoken to this amendment.

The Hon. M.J. ELLIOTT: Did the Hon. Paul Holloway consider imposing some sort of time period? His amendment talks about 'specified period' for the trials but, at the moment, it is totally open-ended. I would have thought that he might have entertained that there was a maximum trial period, whether it be six months, 12 months or two years. At this stage, I am wondering whether the honourable member had considered that and why he decided not to put a particular time limit on it.

The Hon. P. HOLLOWAY: We certainly did contemplate that but the problem is, of course, that we are not sure if and when this legislation will ever get up and running. That is a problem in itself. It is certainly not clear to me either. I must admit that I do not know enough about these smart cards to know how long it would take to conduct a proper trial, and that is why the instruction for Parliamentary Counsel was to leave it as a 'specified period'. I would need the advice of others who are expert in these matters as to how long we would need. I do not know whether a three month or a six month trial would be sufficient to get the sort of information you wanted.

The Hon. M.J. Elliott interjecting:

The Hon. P. HOLLOWAY: I certainly would not think that it would be that period of time.

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: I guess that one would need to take advice from those people who are setting this up. Obviously, these things are linked to computer systems. It is a matter of practicality. It probably would have been nice if someone had given me a reasonable figure to pick from. Suppose we had said three months and it turned out that they were just starting to get some good information after three months and the trial had to end; that is the reason why the amendment was left in its present form.

The Hon. R.I. LUCAS: I support the amendment. As the Hon. Angus Redford noted by way of interjection, the way the Hon. Mr Holloway has drafted this provision is that it is done by regulation, so whatever the proposition was—if they came in and said, 'We want to do it for 10 or 20 years'—the parliament could reject it. Often I think that one of the dilemmas is when it would start. If you said three or six months that assumes that, from day one, someone is in a position to be able to test some new piece of technology. This is really looking at the cutting edge of smart card technology at the moment. An experiment is being carried out in New South Wales. One assumes that that will be tested, but someone will develop a better product and say, 'We want to test our product,' and that might not be for another two years. That is when the regulation will be enforced to say, 'Okay, we will test it for a year or six months,' or whatever it might be. The problem is not necessarily how long you might want to do it—

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: Yes, it is actually when it would start—when you would have a research project and a new piece of technology.

The Hon. NICK XENOPHON: In relation to smart cards, I am aware of the trial in New South Wales and I look

forward to the results of that trial. The Liquor and Gaming Commissioner, Mr Bill Pryor, has engaged in discussions in that respect at conferences, where he is not necessarily endorsing it.

My understanding of the context of those discussions (and, again, I am not saying that it is the position of the Commissioner, but he has merely raised this issue as part of an ongoing discussion amongst regulators) is that, if one wanted a smart card system to be truly effective, it would not be operated by the industry; it would need to be operated by a regulator; and, secondly, for it to be truly effective it would really need to be a case of all gaming machines being operated by smart cards, so that we do not have the absurd situation where someone has just been excluded by virtue of the operation of a smart card but they can then go and get another card or get $100 worth of coins and put them into the machine. That would make a nonsense of it.

Notwithstanding that, I think it is important to have an open mind with respect to trials that genuinely aim to reduce levels of problem gambling. There is a safeguard here by virtue of the fact that this trial cannot come into operation until parliament has an opportunity to disallow—

The Hon. P. Holloway interjecting:

The Hon. NICK XENOPHON: Yes. Given that there is that safeguard, and notwithstanding my reservations about smart cards and who operates them and what effect it will have, I think that that safeguard makes the clause unobjectionable in that context. Amendment carried; clause as amended passed.

The Hon. NICK XENOPHON: I have just had a short discussion with the Treasurer. I understand that there are a number of issues that the Attorney-General would like to raise tomorrow in respect of the issue of intoxication. I am amenable to progress being reported on that basis, and also on the basis of an understanding by the Treasurer and an undertaking that this bill will be completed some time tomorrow. So, on the basis of that undertaking, and on the basis of my understanding that the Attorney wishes to discuss the issue of intoxication tomorrow, I suggest that progress be reported.

Progress reported; committee to sit again.

ADJOURNMENT

At 11.50 p.m. the Council adjourned until Thursday 7 December at 11 a.m.