LEGISLATIVE COUNCIL

Thursday 7 December 2000

The PRESIDENT (Hon. J.C. Irwin) took the chair at 11 a.m. and read prayers.

SITTINGS AND BUSINESS

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

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

Motion carried.

The Hon. R.I. LUCAS: I would like to advise the government's intentions for government business today. We would hope to be able to proceed with the Native Title (South Australia) (Validation and Confirmation) Amendment Bill, the Racing (Proprietary Business Licensing) Bill, the Education (Councils and Charges) Amendment Bill, the TAB (Disposal) Bill, the Authorised Betting Operations Bill, and the Country Fires (Incident Control) Amendment Bill. It is the government's intention that all other bills not required to be finalised this session be postponed. A number of private members' motions and bills are listed that have been postponed for today. We will need to process at least three or four of those at some stage today and tonight—let us hope not tomorrow—as we change the order of priority.

NATIVE TITLE (SOUTH AUSTRALIA) (VALIDATION AND CONFIRMATION) AMENDMENT BILL

In committee.

(Continued from 30 November. Page 704.)

Clauses 2 to 5 passed.

Clause 6.

The Hon. K.T. GRIFFIN: I have already explained the government amendments at length, in the hope that that would facilitate consideration of at least those issues. I do not intend to take the time of the committee reiterating what I have said previously. The only point I want to make is that there are significant concessions in the government amendments, and I have not heard any criticism of the concessions that we have been prepared to make.

Those concessions, whilst being made in the context of this bill, are not concessions that native title has not been extinguished in respect of those leases. That is an issue that, in relation to the leases that we have excluded from our legislation by virtue of my amendments, will be argued at a later date. There are some opposition and Democrat amendments and, again, I have been through reasons why those amendments are not acceptable, and a line is drawn in the sand.

I now see that there is yet another amendment in relation to leases that are on the schedule, which have a right of public access, and I guess we will have that explained shortly. Some last minute representations have been made to me about that, but the proposal in relation to leases for public access is not acceptable to the government. Hopefully, once we get into the consideration of that, I can explore the reasons why that is just not an acceptable position and that the government has made significant concessions with a view to getting some legislation through today.

I think it is important to deal with this issue today. At least another 4 000 notifications are going out in February from the National Native Title Tribunal to a range of people, many of whom will be persons whose leases are on the list in respect of which we seek to confirm extinguishment of native title, and I do not think anyone wants to have to go through the same experience they had on the last round.

It was particularly difficult for those who were landholders and particularly difficult for members of parliament and the community in general. I want to do as much as I can to have this legislation voted on, hopefully in the form that is amended in accordance with the government's proposals.

This is a very difficult issue. I am clear in my mind, but I think that members may wish to raise a number of issues. I suggest that, rather than formally moving the amendments now in respect of this clause, we have a general discussion about the issues that the amendments raise. In that way, I hope we can progress it so that we know where everyone stands. The leases with rights of public access seem to be the contentious issue. I suggest that we spend a bit of time on that issue, see whether we can flesh it out and then move to the amendments and vote on them.

The Hon. T.G. ROBERTS: As the Attorney indicates, it is difficult to deal with the bill when amendments appear in the chamber on the last day of sitting. We have given an undertaking to process this bill, but I have indicated to the Attorney that we have some outstanding matters in relation to what we would regard as a consensual position.

Our preferred position was to have both sides of politics agree to a position and in a unified way we could go to the community and explain that position. As we all know, it is a very complicated process and, if the legislative process is even further complicated by time frames, it makes it that much more difficult. We are willing to cooperate with the government to get as clear an outcome as possible that indicates both our positions, given that we now do not have agreement over one aspect of the bill.

We have put up two amendments where we have tried to get a little closer to the government's position, and I respect the government's position: it has its position and, we have ours. It is not close enough to eliminate the differences for us to have a consensual position to move forward in a way that makes it less complicated for those out in the community. The question asked by one non-lawyer to another non-lawyer is the question of access—

The Hon. T.G. Cameron interjecting:

The Hon. T.G. ROBERTS: The honourable member has complained about that before. The difference that we have in the main is the question of the public right of access and the complications that arise through blanket extinguishment, and the fact that some 5 per cent of claims fall into that category. The number of claims depends on who you talk to.

The Hon. T.G. Cameron interjecting:

The Hon. T.G. ROBERTS: No, I don't think it is. In terms of percentages, the number of claims—

The Hon. T.G. Cameron interjecting:

The Hon. T.G. ROBERTS: That is a question you need to ask the government. The figure I have heard varies between 15 000 and 20 000, but it could be as high as 20 000 or as low as 5 000; I am not sure. It is a question I think the honourable member should ask the government. It could be 4 000; I do not know. But the principle we are arguing is that indigenous land agreements can be used to process many of those claims.

The spirit of what the government is trying to achieve, which is an umbrella structure to sit stakeholders around tables and determine outcomes, is a principle on which we agree wholeheartedly with the government, where you can get round-table agreements on indigenous land use agreements, rather than blanket extinguishment over title. It is a tactical struggle between the powerful and the powerless, as I said. The people who have the resources and the access to the courts in funding and the skills and acumen to deal with it in that way are put at some advantage.

The Hon. T.G. Cameron interjecting:

The Hon. T.G. ROBERTS: The honourable member just claimed that it is publicly funded, but the bucket is not going to be full all the time and it is very expensive to have litigation on each individual claim. That is a position on which we agree with the government. We are trying to reach a position where the other alternative is the one that is encouraged.

The Hon. T.G. Cameron interjecting:

The Hon. T.G. ROBERTS: Something like that. One of the problems is that the targeted funding for the advancement of Aboriginal people generally misses the target if we have to use the courts to deliberate on each and every individual case.

We believe that justice is not served by blanket extinguishment in the case of public access. The amendments are framed in that way, to try to get a compromise position that takes into account the Ward case, which we understand will be heard in March. Again, that is a complicating factor for the states in trying to get uniform positions in line with commonwealth legislation, in that each state has a different history in terms of the definition of leases and how they have been used historically. There are different problems in different states about the historical definition of some leases, but we have reached a point where the major difference in our positions revolves around acceptance or rejection of the position that I am putting forward.

If this amendment is carried, hopefully the process that I have outlined will be the preferred process of settlement. If it is not, it could be complicated by the commonwealth Native Title Unit sending out letters of intent to people who may be affected potentially by the legislation. It happened once in this state and it caused a lot of unnecessary concern. In some cases, it put people at a disadvantage because they did not know how to deal with it. They did not know who to turn to, they did not know who to consult, because the commonwealth process in relation to engaging dialogue had not been explained very well to the community.

I hope we can have bipartisan recognition that the legislation is very complicated. The process of extinguishment is very complicated, and the impact on different indigenous groups in the state also differs. There needs to be a degree of flexibility in how we handle individual cases and I understand the difficulty that presents in setting up a negotiating structure in which everyone can have some confidence that their position is considered when we are dealing, particularly, with spiritual and cultural attachment as opposed to any development arguments that might arise.

The other confusion that exists in the minds of some legislators and some people in the community concerns the rights that this measure confers on indigenous people. It certainly does not give private holding or freehold ownership, as some people in the community are saying. It confers general rights of access of historical and cultural use, and I do not think that it challenges in any way the development criteria that mining companies and pastoral interests would argue. It is a matter of cooperation. I think that the goodwill is there, but some of it could be spent very easily if we do not explain how the parliament has come to its conclusions.

If our amendment is not accepted, and I apologise again for its not being tabled, we are obligated to ensure that whatever transitionary legislation applies to this state is complemented by the right of individuals to pursue outcomes within the courts. That is something that we will not be able to influence. They will determine whether they do that themselves. Legislation that is poorly framed and poorly supported is not the final argument. In many cases the final arbiter will be the courts. I hope that addresses some of the problems that members may have had. Of course, it may raise more questions, but it is up to people to make their own determination on that.

The Hon. T.G. CAMERON: I have some questions in relation to public access. It has been put to me that a case, Ward v. Western Australia, will hit the High Court some time next year. Will the Attorney outline to the committee whether, in his opinion, he believes that Ward v. Western Australia covers these public access issues? Is it certain that the High Court will deal with the public access issue if this parliament does not deal with it? If we do not act and if the High Court does not act, where are we?

The Hon. K.T. GRIFFIN: The government's very strong view—and this has been run through with the Solicitor-General as well—is that the Ward against Western Australia case has no relevance to South Australia. It will deal particularly with Western Australian leases and it will deal with those leases that are not on the list of extinguishing tenures in legislation similar to South Australia—what we are trying to do now. There is a very strong likelihood that this High Court appeal will potentially resolve none of the points of disagreement between the government and the indigenous legal representatives in relation to our bill.

One of the main objections of indigenous groups to our legislation has been the presence of public access reservations in some leases. The advice that I have is that there is nothing in the Ward appeal to indicate that the court will necessarily say anything on this issue. The Ward case is listed presently for March next year, if all the parties are ready. If it goes on then, the likelihood is that the High Court will take three to six months to deliver a judgment, and it may still not answer the questions that the indigenous legal representatives have raised. If it does not go on in March, for example, one or more of the parties may not be ready, because it is a complex case, and if it is put off, the decision may not be made until the end of next year or even into 2002. In the meantime, there continues to be uncertainty in relation to leases with rights of public access that remain in South Australia, which could be dealt with under this legislation.

The Hon. CAROLINE SCHAEFER: As another non-lawyer, I ask the Attorney or the Hon. Terry Roberts to give me some actual examples of public access, perpetual and miscellaneous leases. My understanding is that they are things like sporting grounds and perhaps church grounds. I do not have any actual examples of the public access leases that are in contention.

The Hon. K.T. GRIFFIN: There is one lease, a crown lease miscellaneous, for community development purposes. It is register book volume 1592, folio 20 and it is a grant in 1982 to the Rotary Club of Mount Gambier Incorporated. It is for public purposes and it contains a reservation for the public generally to have free and unrestricted access to, from,

over and along a strip of land of the width of 30 metres from high-water mark inland where the said land abuts the sea coast.

It should be noted that this is in the Hundred of Mingbool, about 30 kilometres inland from the coast. So, there is no real right of public access, but it has been included presumably because it is a pro forma lease. There are a number of miscellaneous leases which have similar terms. Some of them are grazing and cultivation leases which grant public access over the land. There is also a Crown lease perpetual (vol. 830, folio 19). This grant, which is located in the Hundred of Paringa, goes back to 1934. It is a perpetual lease for personal residence purposes. It reserves a right for the public to use all or any of the lakes, lagoons or channels connected with the Murray River for water traffic at all times. In my view, no-one can argue that native title has not been extinguished in that case, because it is a personal residence lease. It makes a nonsense to suggest that we should preserve native title in or exclude it from the lease, even though it is a lease for personal residence purposes. There are a number of those; I will not go through them all.

The Hon. CAROLINE SCHAEFER: Those leases appear not to be used in many cases, but would not public access include access by Aborigines for private purposes?

The Hon. K.T. GRIFFIN: Where there is a right of public access in the circumstances that we are talking about, it is a right to the public. There is no distinction between non-Aboriginal and Aboriginal people regarding that right of access. There are two points to be made. In relation to the first lease which I cited as an example, it is 30 kilometres from the coast. So, a right of public access over a 30 metre strip of land to the coast is a nonsense. It does not support any real and exercisable right.

The second point to be made is that, if we do not confirm the extinguishment of native title in respect of that, all that could possibly remain of any native title, by the greatest stretch of one's imagination, is the right to cross over that piece of land. I think it is a bit bizarre to suggest that native title has not been extinguished over what is a large piece of area except for the right to pass over a 30 metre strip of land. The difficulty is that, if we do not confirm the extinguishment, the whole of the land might be caught up in a claim.

The Hon. SANDRA KANCK: At this point, I want to make sure that what is happening is clear in *Hansard* . We have jumped into third gear without going through first and second gears, and no amendments are recorded. So, I think it is important that the readers of *Hansard* have some understanding of this. For the record, the Attorney-General has amendments on file (proposed new paragraphs (a), (b), (c) and (d)) which cite a number of examples of excepted acts. The Hon. Terry Roberts and I have on file amendments to insert proposed new paragraphs (e), (f), (g), (h), (i) and (j) and, in my case, proposed new paragraph (k).

At issue at this point in the discussion is the proposed new paragraph (e) which the Hon. Terry Roberts and I have on file. It provides:

> a previous exclusive possession act that was subject to a reservation or condition for the benefit of the public of a right of access over the whole or any part of the land or waters. . .

I understand that the Hon. Terry Roberts' amendment, which is still to be delivered to the chamber, is, I suppose, a compromise in terms of what we will be able to get through this chamber. It is suggested that the proposed new paragraph (e) which the Hon. Terry Roberts and I have on file be accepted by the parliament, together with the amendment that we are waiting to receive from the Hon. Terry Roberts. Effectively, that amendment provides that, if this parliament agrees to the inclusion of new paragraph (e) as part of the list of excepted acts, there would be a rider stating that by the end of next year the Governor can put in place a regulation for the removal of paragraph (e), depending on what happens in the High Court. I draw to members' attention the fact that in 1995 the Council passed legislation to say that native title was extinguished on pastoral leases.

The Hon. K.T. Griffin: It didn't say that.

The Hon. SANDRA KANCK: That was the effect of it.

The Hon. K.T. Griffin: No, it wasn't that. I will talk about it later.

The Hon. SANDRA KANCK: The Attorney can argue that later. The High Court subsequently found that that was not the case. I believe it is a nonsense to pass legislation when we know that there is a case before the High Court that could impact on the effect of our legislation. In terms of what we are discussing at the moment and what we are trying to achieve, the option of including new paragraph (e) in the list of excepted acts and accepting the amendment proposed by the Hon. Terry Roberts, which will ultimately allow the government, via regulation, to extinguish this particular part, is a useful compromise.

The Hon. K.T. GRIFFIN: With respect, I do not agree. I think that that approach will complicate it even further. As I understand it, the Hon. Terry Roberts' amendment proposes that we do not exclude leases; that right of public access as specified in his amendment will keep swinging. There are 20 000 of these leases that we will have to check to determine whether or not there is a right of public access. Some of those rights of public access might be useless. I have already given members an indication of at least one which we picked up on a quick look at one or two areas: that is, a lease in the Hundred of Mingbool 30 kilometres from the sea with a right of public access to go over the land to get to the sea. It is a nonsense.

The honourable member is saying that we should not confirm the extinguishment of native title over that piece of land, because it has this right of public access. That is a nonsense when you look at it. It is not an exercisable right. We would have to go through 20 000 leases and say—in this instance, to the National Native Title Tribunal—you can give notice to this one but you cannot give notice to that one because native title has been extinguished. I would suggest that that makes a mockery of the situation.

What the Hon. Terry Roberts' amendment seeks to do is, after the court case in Ward (whenever the decision might be handed down), to enable the government of the day to promulgate a regulation which says, 'This no longer has any impact.' I can tell you what will happen: you get the High Court judgment; you get the lawyers for the indigenous representatives poring over it and trying to dissect it word by word; and they will come back with a bit of obiter, that is, not particularly relevant observations of one of the High Court judges—and because there are seven of them they will all write different judgments—and you will end up with arguments like, 'Did the High Court actually say this or did it not?' That is what we are going through now.

The problem you have with that is that we bring in a regulation, as we hope we are in a position to be able to do if we are in government, then we have an argument for 12 months about disallowance—remembering that a regulation can be disallowed if notice has been given within 14 sitting days.

Suppose the judgment is not given until the end of next year, and that for some reason the High Court does not hear it in March. It gets to the end of next year, and we all know that it is election time. Suppose the 14 sitting days have not expired by the end of next year. If we put a regulation on and there is an intervening election in early 2002, then the next parliament will have a year, eventually, within which to disallow.

The Hon. T.G. Cameron interjecting:

The Hon. K.T. GRIFFIN: If there is a change of government I bet you will not get a regulation, although it is interesting that Premier Bracks at the last state election in Victoria promised that in Victoria his government, if elected, would repeal its legislation which is much broader than the—

The Hon. T.G. Cameron: He didn't think he was going to win.

The Hon. K.T. GRIFFIN: No, he didn't. But we have not heard a peep out of him in the past 15 months, because he knows that there is merit in the legislation that Victoria passed. I do not think, with respect, that the compromise being offered by the Hon. Terry Roberts is an appropriate or effective compromise, because I do not think this issue is capable of compromise. Either you support the opposition's amendment, in which case the whole thing goes on hold, or you reject it on the basis of all the decisions that have been given by the High Court so far and on the basis that we have to bring some certainty into this. The issue is minuscule in the whole scheme of things about native title, indigenous land use agreements and the 27 claims that are being made around South Australia. It is an infinitesimal part of the lot.

The Hon. T.G. Roberts interjecting:

The Hon. K.T. GRIFFIN: It is not minuscule but quite a significant change to what will affect the interests potentially of 20 000—and it will not be 20 000 but some number less than that—Crown leases, perpetual and miscellaneous. So the amendment, with respect, is not an amendment that the government would be able to seriously consider.

The Hon. T.G. ROBERTS: The amendment that we drafted was drafted deliberately after the Attorney made that point, and I would understand that within those miscellaneous leases there would be other anomalous situations equally ridiculous as the Mingbool case. But in dealing with matters through alternative structures such as indigenous land use agreements, I could not imagine that there would be any indigenous group in the South-East that would try to lay any claim over an area like that in a round table negotiating arena.

Having said that, we have an amendment that took into account the fact that these anomalous situations exist, and they defy all logic in the year 2000 to be determining any legislation based on such examples. Paragraph (e) of the opposition's amendments provides:

> a previous exclusive possession act that was subject to a reservation or condition for the benefit of the public of a right of access over the whole or any part of the land or waters unless the reservation or condition was to provide access to the sea coast and no part of the land or waters abuts the sea coast;

So it takes that one into account, but I guess the Attorney could say that that amendment might take care of that case, but equally anomalous situations would have to be covered by a myriad of amendments to make any sense.

There is a difference of opinion between the government's and opposition's positions in relation to the possible application of the court case that is being held. Of course, the Attorney is right, and it does not matter what case is being heard and handed down, there will be lawyers poring over the decisions to see whether some advantage or disadvantage is inherent in any of these decisions.

I apologise to the Hon. Mr Cameron, but the advice that I have been given is in the form of legal argument. It is an argument which I think I will have to get on the record and which probably prevents us from getting to a position of common agreement. Entitled 'Leases Reserving Public Access Rights', this opinion on the common law position states:

- There is no settled law as to the effect on native title of a lease which contains a reservation of public access rights.
- Such a lease has not been considered by the High Court to date. The High Court will be considering a number of extinguishment issues in March 2001 when it hears the appeal in WA v. Ward ('Miriuwung Gajerrong'). Amongst these, it will be considering the effect of leases which reserve public access rights.
- There has been no decision by the High Court in relation to leases and their effect on native title since Wik (a 1996 case relating to Queensland pastoral leases).
- If the High Court determines in WA v. Ward that a lease containing a reservation of public access rights had not extinguished all incidents of native title, it will not (by doing so) be overturning an earlier federal court decision. Both in WA v. Ward (2000) 170 ALR 159 and in Anderson v. Wilson (2000) 171 ALR 705 differently constituted full benches of the Federal Court have determined that certain leases (under consideration in those cases) which contained such reservations had not extinguished all incidents of native title.
- In particular, in WA v Ward, the Full Federal Court considered a lease containing the following condition:

  'The public shall have at all times free and uninterrupted use of the roads and tracks which may exist on the demised land consistent with the efficient operation of the lease.'
- The majority judgment at para [641] states:

  'We consider the breadth of this condition is contrary to an intention to grant rights to the lessee that are inconsistent with the enjoyment of any native title rights.'

In consequence of that condition, the majority held in relation to the lease that:

- We consider that this special lease is inconsistent with the exclusivity of native title rights, but leaves room for the co-existence on terms of reasonable use of the native title rights which survived the earlier pastoral leases.'
- We are not saying that the law is settled. We say that it is not settled, and that there is uncertainty.
- We are saying that the SA parliament should not prejudge the High Court's decision on this issue in WA v Ward.

Whether we take it into consideration or not, it is part of the question that we need to come to terms with today, and we had better do it very quickly. The amendments that we have moved take that position into account in relation to the anomalous historic definition of some of the leases, which could possibly bring about unfavourable decisions which are not based on logic, so we have moved that amendment in relation to the example given by the Attorney-General.

The second amendment we have moved today (which is being filed as we speak) tries to come to terms with the court case. However, as the Attorney has pointed out, the time frames in which the debate is taking place today, and the handing down of the court's decision, could possibly cause confusion, and I agree with that. If the commonwealth Native Title Unit sends letters to people, without any settlement at all at parliamentary level, but leaving a wide range of uncertainty within that framework and without fully being described and explained to people, there would certainly be a lot of confusion in the field in relation to dealing with the leases we are talking about.

The Attorney also said that it is a small argument in terms of the whole of the bill, and we agree with that. I think it gets back to the fact that, as there is no agreement between indigenous people, their representatives and government, we

have taken a position which protects the interests of indigenous people in the lead up to any possible changes in the law in any state which may or may not give advantage. That is where our positions differ, and we cannot find a halfway house because we cannot get the government to change its position. So, our position is now clearly stated in relation to the amendments and where we are.

The Hon. K.T. GRIFFIN: In relation to public access reserved over some of these leases, I have said that the right itself is minuscule but, if you do not confirm the extinguishment of native title, the impact is extensive. Twenty thousand leases affect about 7 per cent of the state, and that 7 per cent of the state is land over which, from all the advice I have got and all the High Court decisions, native title has been extinguished. It does not touch the 80 per cent that are pastoral leases, and the balance that is unalienated Crown lands and, for example, national parks.

If native title exists—which I would dispute vigorously—in relation to the rights of public access, then it is minuscule in the whole scheme of things. I believe it is time people started to put it into perspective—including those who are advising indigenous representatives—because it is minuscule. Substantial concessions have already been made in the context of this legislation. I know the arguments that have been put to me, and I have some sympathy with them, that Aboriginal people are now in the position of redeeming rights which they believe have been removed from them. However, we get on with life, and we endeavour to get the best possible outcome for Aboriginal people. That is what we are trying to do with the government's very intimate and strong support for indigenous land use agreement negotiations, and we will try to achieve a satisfactory outcome and not to leave it continuously in limbo.

In relation to the Greg McIntyre opinion to which the honourable member referred, I will read part of a response that I gave to Mr Agius, the Chairperson of the Native Title Steering Committee, as follows:

> I disagree with the interpretation of the relevant legal authorities taken by your representatives for the following reasons:

that included, also, Mr Bradshaw—

> · The reference by Mr McIntyre of counsel to paragraph 637-641 of Ward ignores, with respect, the totality of the facts. The leasing question was for the limited purpose of grazing and the term of one year. There were a number of other conditions, including general public access which, when viewed as a whole, led the court to the conclusion that the lease did not confer exclusive possession on the lessee. The public access rights, even though quite broad in that instance, were not the only determining factor.
>
> · There is abundant authority for the fact that grants of rights to land are to be classified as lease, licence or some other form, by reference to the character of those grants and the nature of the rights involved. The existence or otherwise of rights of public access is just one factor to be considered in this process. This is consistent with the passages referred to by Mr McIntyre in Ward. It is also now accepted authority that the grant of a right of exclusive possession will have extinguished native title (see Mabo, Wik, Fejo and note Ward at paragraph 569). I refer you generally to paragraphs 566 to 572 (inclusive) of Ward where the Argyle mining lease was examined and found to be an exclusive possession grant despite the reservations involved. I also refer you to Goldsworthy Mining Ltd v Federal Commissioner of Taxation (1973) 128 CLR 199 which is authority for the proposition that the mere existence of public access reservations does not lead to a conclusion that a grant is not one of exclusive possession. In fact, in that case the reservations in question were held to have supported the conclusion that the lease involved was an exclusive possession grant.
>
> I do not believe that your legal position on this issue is sustainable. To the extent that any 'public access' reservation is a relevant factor in determining whether a lease grants exclusive possession it has already been taken into account, along with other relevant factors at the time the schedule was compiled. To make the existence of such a reservation the sole factor in excluding leases from the bill would lead to results inconsistent with accepted legal authorities.

There are very powerful arguments against the rather brief advice given by Mr McIntyre and I would hope the Council would give appropriate weight to the arguments which are contrary to those of Mr McIntyre. With respect to him, the cases do not support his advice. As I said, the leases to which he referred, the grazing leases of one year, did not grant exclusive possession. They are significantly different from the leases about which we are now talking.

The Hon. NICK XENOPHON: I would like to raise a few issues to be directed to the Attorney and also to the Hons Terry Roberts and Sandra Kanck with respect to this very complex and vexed issue. At the outset, however, I would like to say that I think the Attorney and all the parties involved in negotiations have shown considerable patience over the last two years. It seems that the Attorney and the other parties ought to be congratulated for reaching a compromise position on so many issues. However, it appears that the significant sticking point is in respect to the proposed amendment in relation to the right of public access. I think it would be fair to assume that that is the area of contention and dispute.

Some honourable members know and remind me that I am a lawyer and I am a firm believer in common law rights as a general principle, notwithstanding that those rights in the past for injured workers have been trampled on by Labor governments. It is a bit curious: it is a pity that the ALP has not had the same passion for common law rights with respect to injured workers, many of whom are union members, as they have in relation to the issue of native title.

The Hon. T.G. Roberts interjecting:

The Hon. NICK XENOPHON: Yes, the debate continues. But I needed to remind you. My understanding is that the very basis of this legislation is to introduce some certainty into the concept of native title rights—who has the right to claim and what parcels of land are affected. I can understand that need. On the other hand, I acknowledge the very deep concerns of indigenous communities that they have an opportunity for the process to be dealt with by the courts. Reference has been made to the Ward case, which I hope, and I understand, will be argued before the High Court in March, although the Attorney has indicated that it could be several months later than that.

The issues I would like to raise with the honourable members regarding their respective parties are the following. In terms of the right of access to leases, as I understand it, some 20 000 leases would be affected. If any honourable members can assist me as to how many leases would be the subject of potential claims—if the amendments moved by the Hons Sandra Kanck and Terry Roberts are successful and the extent to which there would be claims in respect of that—I would be grateful.

In relation to the issue of what has occurred interstate, just because a particular law has been passed interstate does not mean we should necessarily follow that. However, I think it does provide a useful basis in terms of negotiations that have taken place interstate. A briefing note I received from the Attorney this morning indicates—I do not think he minds if I quote—

The Hon. K.T. Griffin interjecting:

The Hon. NICK XENOPHON: Yes. It states that at least three states, New South Wales, Queensland and Western Australia, have leases on their list of extinguishing leases that include the rights or conditions of owning public access. To what extent is the legislation proposed by the government similar to New South Wales, Queensland and Western Australia—particularly New South Wales, because I understand that Western Australia is in a slightly different position, given what has occurred? I would also like to put that to the Hons Sandra Kanck and Terry Roberts. How much out of kilter would South Australia be in relation to the extinguishment of these rights with reference to those other states that have dealt with these issues at least to some degree? I do not know the answer. It is something that concerns me.

The Attorney made the point this morning when I met with him, again referring to the briefing note, that no other state or territory legislation excludes leases specifically because there is a right of public access present in the lease. I would be grateful if honourable members could assist me with these issues. I think I have made it clear that my perspective is that I understand the government's need for some certainty with respect to this. I think it has been acknowledged that, in relation to the 4000 or so notices that were issued in the Riverland, many of those ought not to have been issued in the first place. The process did not work, and that caused a great deal of concern. This is a slightly different case, but I am concerned that a similar situation could arise. Again, I am concerned about common law rights being taken away in a way that would be perceived to be unfair and which could lead to unfairness for indigenous Australians. They are the issues that I have raised at this stage, and I would appreciate honourable members' assistance with them .

The Hon. K.T. GRIFFIN: I acknowledge the point made by the Hon. Mr Xenophon that he does not want to tread on common law rights—and he drew the analogy with workers compensation. In relation to workers compensation, there was a clear common law right to claim in negligence, and the legislation clearly extinguished that right. But that is totally different from this issue where the High Court said in the Mabo case, and subsequently, that there is a common law right with respect to native title. The court did not define it, so each particular circumstance has to be determined as to the extent of native title rights and what they are.

The Hight Court also said that certain acts will have extinguished native title, and in many instances well before the Mabo decision. We are talking about mini leases that were granted well before the Mabo decision. The Mabo decision says that there are certain things, when we look at the grant, which determine whether or not native title has been extinguished. In relation to these leases which remain on the list of extinguishing tenures, the strongest possible view is that native title has been extinguished and no such right remains.

It is a perverse process that the commonwealth parliament has actually required, or has allowed the states and territories to pursue. In other words, it has been through the list of extinguishing tenures, which are contained in the commonwealth Native Title Act, for every jurisdiction in Australia, saying, 'We authorise you, the states and the territories, to extinguish native title in relation to those tenures which are on the list.' That is why we are doing it. Everybody knows that native title has been extinguished, but we have to go through the process which is authorised by the commonwealth legislation.

The honourable member has quite properly drawn attention to the position in other states and territories. Every other mainland state and the Northern Territory have passed legislation similar to what we are proposing here, except in Western Australia where, as a result of some negotiations, they had to make the sorts of compromises we are talking about. Different forms of leases may be covered by the legislation in those states and the Northern Territory. What the Hon. Mr Xenophon has indicated—again, quite rightly—is that in no other state or territory legislation is there specific exclusion of leases where a right of public access is present in the lease.

We do know that in New South Wales all the leases on the list in the federal Native Title Act have been the subject of legislation which confirms the extinguishment of native title in New South Wales. We know that some leases there allow public access. We also know that that is the position in Queensland and Western Australia. We have not been able to find out, but in Victoria only 200 000 hectares of land is not freehold. They do not have the issue that we have to address here. We are still checking on the Northern Territory, and Tasmania did not have to pass the legislation, because it had no continuing native title.

New South Wales and Queensland with Labor governments, and Western Australia with a Liberal National Party government that does not have a majority in the upper house have all passed legislation which covers, among other things, leases that include rights or conditions allowing public access. I know that is not necessarily an argument for saying absolutely that we ought to do the same, but it raises serious questions about why we are not doing it if that is ultimately the mood of the council.

The Hon. Mr Xenophon asked how many of the 20 000 leases are subject to potential claim if the amendments moved by either the Democrats or the Labor Party pass. We just do not know. Checking every lease will require a significant amount of resources, and then there may still be some doubt, because as I have already indicated there may be some anomalies in relation to access to the sea. We may still have some disputes, and the determination as to whether or not those people will or will not get a notice that their land is subject to claim depends on a massive effort to identify where there are leases with rights of public access; in my view, that is not an appropriate way to deal with this issue.

The Hon. SANDRA KANCK: The Hon. Nick Xenophon raised what he considered to be an issue of South Australia being out of kilter with the other states. I am not denying that that will be the case, but I query whether this is terribly important. I have contended previously—and I know that the Attorney-General takes exception to it—that the federal legislation providing this right to extinguish is predicated on the overriding of the commonwealth Racial Discrimination Act. From my point of view, we are therefore dealing with racist legislation. At the very least, one has to argue that it is discriminatory legislation, even if it is not racist. If other states have chosen to follow the line of accepting legislation that allows them to be either racist or discriminatory in a way that reduces the rights of Aboriginal people, I see no reason why we have to follow them. It is not a good enough reason. Being out of kilter in this case might be a badge of honour.

I would also like to ask the Attorney-General not a legal question but a question of practicality. At the moment we have a situation where native title has not yet been extinguished in South Australia.

The Hon. K.T. Griffin: No, that is not right. Native title has been extinguished in South Australia.

The Hon. SANDRA KANCK: That is your claim, and we are enacting that. I ask the Attorney-General the following question. Under the current circumstances, where this law has not been passed, what is happening at the moment as regards Aboriginal people accessing the sort of public examples we are talking about such as racecourses and church grounds? Are they accessing them? If they are accessing them, is there is anything capricious, arbitrary or mischievous going on as a consequence? Surely that is what we are dealing with here. If there is concern that something terrible is happening or will happen as a result of Aboriginal people having access, we need to know about it.

The Hon. K.T. GRIFFIN: The practical position is as follows. Let us take a racecourse, for example. It may be that a country race club wants to do some redevelopment of its racecourse. If it did not have the protection of this legislation, it would need to take some advice as to whether or not it should go ahead. The government's argument is, 'Native title has been extinguished; you go ahead,' but those people will have to take their chances. If it is an area of native title claim and they have received notification, they might be advised that there is risk that they might end up in court facing an injunction because a claimant is asserting that they have not gone through the proper processes involving the right to negotiate and so on.

The Hon. Sandra Kanck: We're only talking about live access, aren't we?

The Hon. K.T. GRIFFIN: We are not talking about just live access: we are talking about the whole function of native title claims.

The Hon. Sandra Kanck: My amendment is just about access.

The Hon. K.T. GRIFFIN: Your amendment is not just about access: it is about not giving the owners of these sorts of properties the protection which comes from not being part of or subject to the native title regime. That is what it is all about.

The Hon. Sandra Kanck: That's not what my amendment says at all.

The Hon. K.T. GRIFFIN: It does say that. It is an accepted act. The whole native title regime applies even if someone can establish a minuscule right to go over the land. That is the issue. I have been trying to explain that all along; maybe I have not done that very well. If they are not covered by this legislation, all these properties will be subject to the whole of the native title regime. That includes people who live in their houses or, if the Democrats amendment is passed, people who live in shacks on miscellaneous leases where it is clear that native title has been extinguished. That is the disconcerting aspect of this for the people who have already received their notices from the National Native Title Tribunal and who will receive them next year if we do not pass this legislation in a fairly comprehensive form.

The Hon. T.G. Cameron interjecting:

The Hon. K.T. GRIFFIN: We think it is anything up to about 2 000 shack owners. The Labor Party, as I said, has seen the wisdom of not excluding them from the coverage of this, whereas the Democrats have.

The Hon. T.G. Cameron interjecting:

The Hon. K.T. GRIFFIN: It may be. But the question is: if it is good enough as a matter of principle to allow shack sites to be covered, why is it not good enough also to ensure that those who are on perpetual leases with rights of residence, and so on, are equally given the protection of this legislation?

The Hon. T.G. CAMERON: I thank the Attorney for that: even I could understand that explanation. I am not particularly attracted to the idea of deferring deliberation of this issue until the High Court has sorted out this matter, particularly following the Attorney's answer to my question that they may not even discuss the matter, let alone hand down a determination on it and that, if they do, it will probably be a split decision and perhaps the legal arguments will continue ad nauseam.

I know that might make a few barristers and solicitors who are handling this matter very happy but, sooner or later, we have to bring some of these issues to finality. Could the Attorney run through for me the processes that would be automatically triggered if the parliament does not deal with this issue or if it accepts the amendments to defer a decision until we hear what the High Court says? Just what happens to these 20 000 South Australians?

The Hon. K.T. GRIFFIN: A number of those 20 000 will not have any right of public access over their land, so they will be out of it. The difficulty is that, because there is uncertainty, we will have to put a huge amount of time and resources into checking every lease, and we will not have done that work over Christmas. In February the National Native Title Tribunal will send out about 4 000 notices, and they will all be covered by the notification process.

When a native title claimant makes a claim, that is lodged with the Federal Court. The National Native Title Tribunal is a mediating body. It checks the claim, looks to see whether it has met the minimum sort of registration hurdle and, if it does, the claim will proceed to registration. Registration means only that it is in the informal process at mediation but then goes into the court process so that it will ultimately be resolved by the Federal Court.

When the native title registration test has been met, the next step up is into the Federal Court. The National Native Title Tribunal gets involved in bringing the parties together after they have all been notified, and the parties can determine whether or not they want to participate in the mediation process. That might take six or 12 months or longer. If mediation is not successful, it goes into the court process. With the notifications earlier this year, there were 14 000 or thereabouts—

The Hon. T.G. Cameron: Half of them rang my office after your circular.

The Hon. K.T. GRIFFIN: I apologise to the honourable member for that, but I hope that they also rang the offices of the Australian Labor Party, the Australian Democrats and Mr Xenophon. But 14 000 notices went out: 2 000 people have lodged formal notice to the Federal Court that they wish to be part of the native title mediation and subsequently, presumably, the court process.

The Hon. T.G. Cameron: What does that court process involve?

The Hon. K.T. GRIFFIN: That involves meetings, either with individuals or, more likely, with groups of people in local communities, seeing whether they are prepared to make any—

The Hon. T.G. Cameron interjecting:

The Hon. K.T. GRIFFIN: If you are Joe Bloggs and you get a notice, you ring your local member of parliament and make a complaint, but they will basically be told by the government's lawyers—

The Hon. T.G. Cameron interjecting:

The Hon. K.T. GRIFFIN: They may seek advice from the government native title unit, which will say that the government is a party to all these claims. We will also say, 'We can't give you advice about your particular property: you'll have to get your own advice.'

The Hon. T.G. Cameron: Where do they get that from?

The Hon. K.T. GRIFFIN: They will have to go to a lawyer to get it. They might go to the Farmers Federation, but the Farmers Federation, if they happen to be a member of that organisation, will presumably bring them together as a group with similar interests. The mediation involves participating (probably on a regular basis) in negotiation, talking about what rights and benefits native title claimants want and whether you are prepared to concede that.

It is all about what rights ultimately might be recognised over the land in respect of which those people have miscellaneous or perpetual leases. The process involves negotiation, and I would suggest that, although other people can make their own judgments and although I know that there are native title claimant representatives who believe that they can reassure people that it is not their land over which native title claimant people wish to have rights, nevertheless it creates a significant amount of ill will. And this business of reconciliation is more about trying to avoid ill will than about creating it.

I would have thought that, in the context of all the things happening in South Australia in relation to reconciliation and native title claimants and negotiations, this is the last thing that claimants and others would want; that is, to alienate a substantial number of the population whose properties, on all the advice we have and looking at the High Court cases, should not have to worry about it, because native title has been extinguished.

That is the issue, and if we delay the decision by waiting for another High Court decision, where does it end? Do you wait for yet another one? We know that a number of other High Court cases are in the pipeline? Do you wait for the next one or the one after that? Let us get on with it and focus upon the real issue, which is ILUA negotiations.

The Hon. T.G. ROBERTS: It is hard to argue against the Attorney's argument in relation to outcomes, but how we get there is the major difference. Perhaps the amendment does not spell it out, but it is more a matter of process than the difference of opinion we have about reaching an outcome. The Attorney has done some good work in setting up the South Australian congress. That is an evolutionary process and a forum that could be used in the future.

I am sure that the time frames we are given, the uncertainty of the commonwealth process and the angst that this will create probably do not allow for what I would regard as a social experience that might include not just matters of access but matters of paying respect to our traditional owners and the indigenous people of this state by engaging them in some form of round table dialogue that actually gives them the dignity of feeling as if the land that they are standing on was originally theirs.

When those round table negotiations commence, the starting point should be with the community asking what areas of the particular region are sacred to the indigenous people in terms of their spiritual and cultural beliefs, rather than the percentage of mining royalties they are talking about. In that way, people might start to put together a different package of processes that achieve different outcomes.

The people I have been talking to have mentioned compensation once, and that was only on the basis that, if extinguishment occurs, it gives rise to more contestable arguments on compensation for extinguishment. Those people want respect shown to them for being able to establish their link with their region and area. I do not think it is too much of an emotional argument to say that a lot of South Australian Aboriginal people are not able to do that conclusively because of what has happened to them previously. In many cases, particularly in those areas of high population, they have been moved all around the state, so it is very difficult for them to establish their generational dreamtime stories and their generational attachment based on previous history.

That is one of the considerations that has been put to me. It is not purely an argument on access per se. The opposition can see it as a way to build up continuity of argument within communities and so educate communities, both white and black, about mutual obligations in relation to reconciliation. If the government does not want to do that and it still wants to use the courts and alienation as processes of dealing with indigenous people, that is the road that we are heading down. It is more of the same.

I understand that the Attorney will not have a change in his mind-set and will not move down a path that sets up an umbrella structure in which indigenous land use agreements are the basis for determining anomalous assessments, and so put a bit of faith in people who have already given an undertaking, I understand, that they will discuss these issues around anomalous areas with base respect for the people who, since settlement, have established their own land rights. I refer to shack owners or leaseholders for other purposes who have been able to establish their freehold or leasehold claim, and they will not be subject to the fear of losing their rights.

I know and understand that it would be easy to get onto the country grapevine and say that the Beltana races cannot be held next year because there is an indigenous land title claim over that land, and that the balls that are held in various leasehold facilities in the outback areas of the state will not occur in those facilities. I know the arguments that can be used for lowest common denominator outcomes, but we are arguing for an understanding that this argument, this clause, this bill, can be used as a constructive way to move the reconciliation process forward and put some faith in those people to keep the claims out of the courts and establish a process so outcomes can be determined. That might re-establish the faith of our indigenous peoples in the legislative process, which they find very confusing, so it might become a vehicle for advancing those levels of understanding.

I know that the Attorney has put forward his arguments in good faith and in recognition of how a developed society exists with an indigenous population who are not full participants in that developed society. It would be a good step for us as legislators to start acknowledging with respect the starting point of at least some form of attachment to and ownership of the land so that we can move forward, using existing structures and perhaps creating new ones as we go to get better outcomes than we have achieved thus far.

The Hon. T.G. CAMERON: I thank the Attorney for outlining what happens if we do not pass the amendments that he has outlined. Will he explain what the situation would be if the parliament went ahead today and supported his amendments and the High Court subsequently handed down towards the end of next year (albeit I accept it is a small probability) a decision that is in conflict with what we are doing here today? Where would that leave us and what would be the processes from then on?

The Hon. K.T. GRIFFIN: This legislation will put an end to any need to consider the High Court decision. I have argued very strenuously, and all the advice I have is, that the High Court decision is not likely, although we never know what it is going to say and it might not be particularly pertinent to the decision—

The Hon. T.G. Cameron: Yes, but what if?

The Hon. K.T. GRIFFIN: If this legislation is passed in the form that I believe it should be, that will put an end to any issue relating to the case next year. For the people who have leases, those 20 000 leases, of which some have over them rights of public access, that is the end of it. If the High Court for some reason, which might be unfathomable, does something that focuses upon what we have done today and suggests that some minuscule rights have been lost, there is provision under the Native Title Act for monetary compensation to be paid, as there is in relation to any extinguishment of native title. If the High Court makes a decision, and if someone can argue successfully later that a minuscule right or any right has been extinguished, compensation will be possible under the Native Title Act.

The Hon. SANDRA KANCK: I note that, a few contributions ago, the Attorney-General brought in the issue of the indigenous land use agreements. In what framework and with what degree of trust will Aboriginal people be able to continue discussions on indigenous land use agreements if we extinguish more native title? If I were an Aboriginal person, I would find it very difficult to continue negotiating those sorts of agreements. I regard it as very disappointing. Apparently this has been a year of reconciliation for Australians, but it is people of European descent who need to reconcile with Aboriginal people, not the other way. It is we who have wronged them. To my mind, what we are going to do with this legislation today is continue that wrong.

The Hon. K.T. GRIFFIN: I do not agree with the honourable member. What happens in relation to the ILUA negotiations is a matter for all the parties: it is not just a matter for native title claimants but also the Farmers Federation and the Chamber of Mines. As far as the government is concerned, we believe that that initiative is totally unrelated, although Aboriginal people are putting it into a related category. All that I can say in that regard is that I have endeavoured to ensure that, as much as possible, we have kept the two separate and distinct and that the momentum of the ILUA process can be continued. If that breaks down, I cannot control that, but what I say—

The Hon. Sandra Kanck: You could control it with what you do today.

The Hon. K.T. GRIFFIN: I cannot control what I do today. In law and in practice, this bill has nothing to do with the ILUA process, but I recognise that native title claimants have brought the two together. This is not about extinguishment; it is about confirming that native title has already been extinguished, because, if we do not do it, it means that not just these properties will continue to be subject to claim but that, ultimately, they will all be resolved in the court process. We will have numerous claims and counterclaims which will ultimately end up in court. If you want that, that is fine. I suggest that we get on with the job of considering the amendments. We have had extensive discussion on them. I appreciate the depth of that discussion and the preparedness of members to discuss the issues, but I think it is now time to take some decisions for better or worse.

The Hon. T.G. ROBERTS: I sum up the opposition's position by saying that we have not hung our whole case on the Federal Court case; there are other extenuating factors that I think the government should consider. The Attorney has pointed out his assessment of what could possibly happen in this court case, but there are alternative outcomes in any court case—as the Hon. Mr Cameron would understand. The starting point for the delivery of justice is the gathering of evidence and the presentation of argument.

In assessments such as Mabo, Wik and cases in any other state, it is far from clear when it comes to taking bets on the outcome. One of the reasons for that is the vagaries of the law when it comes to assessments. I do not want to use the presidential race in America as an illustration of the vagaries of outcomes and the presentation of cases where no precedent exists, but I do not think it would be constructive to base an assessment on what is going to happen in an award case or any other case around Australia. I think we have to look at a determination that suits South Australia.

The Hon. K.T. Griffin interjecting:

The Hon. T.G. ROBERTS: That's right. As I pointed out earlier, the setting up of the congress, the argument and discussion that the government has had with indigenous leaders and the guarantees and the considerations that they have made regarding an alternative process need to be factored into the government's position. I understand that the government has already done that but, in my view, negotiations based from the start on superior strength around the table, in some cases, put the people who have to attend any future negotiations on indigenous land use agreements at a disadvantage when you are talking about a justifiable outcome based on what would be regarded as a 21st century outcome for indigenous people and communities generally.

The Hon. K.T. GRIFFIN: I move:

Page 5, lines 35 and 36—Leave out '(except such an act consisting of the construction or establishment of a public work)' and insert '(apart from an excepted act)'.

I do not think anyone disputes this amendment because it relates to every other member's amendment.

Amendment carried.

The Hon. K.T. GRIFFIN: I move:

Page 5, after line 39—Insert:

(3) However, no implication is to be drawn from this section that Parliament intends to alter the effect of an excepted act if its effect, apart from this section, was to extinguish native title.

(4) In this section—

"excepted act" means—

(a) a previous exclusive possession act consisting of the construction or establishment of a public work; or

(b) a previous exclusive possession act consisting of the grant or vesting of an interest under a lease that was acquired by the Indigenous Land Corporation before the date of assent to the *Native Title (South Australia) (Validation and Confirmation) Amendment Act 2000*; or

(c) a previous exclusive possession act that was subject to a reservation or condition expressly for the benefit of Aboriginal people; or

(d) a previous exclusive possession act consisting of the grant or vesting of a Scheduled interest if—

(i) the interest had ceased to exist by 23 December 1996; or

(ii) the interest arose under a miscellaneous lease granted solely or primarily for any of the following:

- grazing and cultivation;
- grazing, cultivation and nursery;
- land based aquaculture and grazing;
- vegetable and fodder growing and grazing;
- fellmongering establishment; or

(iii) the interest arose under a lease granted under section 35 of the *National Parks and Wildlife Act 1972* solely or primarily for any of the following—
- garden;
- grazing and cropping.

I have explored this amendment at length; I do not think that I need debate it further.

The Hon. SANDRA KANCK: I move to amend the Attorney-General's amendment as follows:

Page 5, after line 39—Leave out from paragraph *(d)* (iii) of the definition of "excepted act" the following:

"solely or primarily for any of the following—
- garden;
- grazing and cropping"

I acknowledge the Attorney-General's amendment as a start, but its wording causes limits to be placed upon it. The Attorney-General's amendment removes leases granted under the National Parks and Wildlife Act which are used solely or primarily for gardening, grazing or cropping. My amendment removes those particular restrictions that are implied in the Attorney-General's amendment. If my amendment is carried, all leases granted under the National Parks and Wildlife Act will be removed from the impact of this bill. I contend that in our national parks, particularly where there are no buildings on the leased area, there is likely to be an implied right of public access to that land.

The Hon. K.T. Griffin: The amendment is opposed for the reasons I have already explored.

The CHAIRMAN: The Hon. Terry Roberts has an indicated amendment which is exactly the same as the amendment of the Hon. Sandra Kanck. There is no need to move that amendment.

The committee divided on the Hon. Sandra Kanck's amendment to the Hon. K.T. Griffin's amendment:

AYES (10)

Cameron, T. G.	Elliott, M. J.
Gilfillan, I.	Holloway, P.
Kanck, S. M. (teller)	Pickles, C. A.
Roberts, R. R.	Roberts, T. G.
Sneath, R. K.	Zollo, C.

NOES (10)

Davis, L. H.	Dawkins, J. S. L.
Griffin, K. T. (teller)	Laidlaw, D. V.
Lawson, R. D.	Lucas, R. I.
Redford, A. J.	Schaefer, C. V.
Stefani, J. F.	Xenophon, N.

The CHAIRMAN: There being 10 ayes and 10 noes, I cast my vote for the ayes.

The Hon. Ms Kanck's amendment thus carried.

The Hon. SANDRA KANCK: I move to amend the Attorney-General's amendment as follows:

Proposed new subclause (4)—After paragraph *(d)* of the definition of "excepted act" insert:

(e) a previous exclusive possession act that was subject to a reservation or condition for the benefit of the public of a right of access over the whole or any part of the land or waters; or

(f) a previous exclusive possession act consisting of the grant or vesting of a lease if the lease had ceased to exist by 23 December 1996;

(g) a previous exclusive possession act consisting of the grant of vesting of a community purposes lease[1]; or

(h) a previous exclusive possession act consisting of the grant or vesting of a lease of an area of more than 40 square kilometres, unless the lease requires the lessee to use the land or waters covered by the lease solely or primarily for purposes other than—
(i) grazing or pastoral purposes; or
(ii) purposes which include grazing or any other pastoral purposes; or

(i) a previous exclusive possession act consisting of the grant or vesting of a lease which contains a condition that the lessee construct buildings or other permanent improvements (apart from fences) where the lease is forfeited or surrendered before there has been substantial commencement of such construction; or

(j) a previous exclusive possession act consisting of the grant or vesting of a lease for a term of 21 years or less, unless the area of land and waters covered by the lease does not exceed 12 hectares and the lease requires the lessee to use the land or waters covered by the lease solely or primarily for purposes other than—
(i) grazing or pastoral purposes; or
(ii) purposes which include grazing or any other pastoral purpose.; or

(k) a previous exclusive possession act consisting of the grant or vesting of a miscellaneous lease solely or primarily for holiday accommodation or shack site purposes.

1. A community purposes lease is defined in s. 249A NTA.

Progress reported; committee to sit again.

[Sitting suspended from 12.55 to 2.15 p.m.]

ASSENT TO BILLS

His Excellency the Governor, by message, intimated his assent to the following bills:

Barley Marketing (Miscellaneous) Amendment;
Nuclear Waste Storage Facility (Prohibition No. 2);
Racing (Transitional Provisions) Amendment.

TREASURY BUILDING

A petition signed by 61 residents of South Australia concerning the Museum for Exploration, Surveying and Land Heritage within the Treasury Building and praying that the Council will urge the minister responsible for the museum and the Treasury Building, and the Minister for Heritage responsible for volunteers, and the Minister for Tourism to keep the museum and its tours intact, in situ and open to the public, and urge the Minister for Urban Planning to suspend development of the Treasury Building until public consultation has occurred, was presented by the Hon. M.J. Elliott.

Petition received.

PAPERS TABLED

The following papers were laid on the table:

By the Treasurer (Hon. R.I. Lucas)—

Reports, 1999-2000—
Murray-Darling Basin Commission
River Murray Catchment Water Management Board
Regulations under the following Acts—
Senior Secondary Assessment Board of South Australia Act 1983—Principal
South Australian Motor Sport Act 1984—Variations

By the Attorney-General (Hon. K.T. Griffin)—

Reports, 1999-2000—
Courts Administration Authority
Mining and Quarrying Occupational Health and Safety Committee South Australia
Playford Centre
SA Water
South Australian Independent Pricing and Access Regulator
WorkCover Corporation
Road Block Establishment an Dangerous Area Declarations—Returns
WorkCover Corporation Annual Report Addendum

By the Minister for Justice (Hon. K.T. Griffin)—

Reports, 1999-2000—
South Australian Metropolitan Fire Service
State Emergency Service
Regulations under the following Act—
Police Act 1998—Custody of Property

By the Minister for Transport and Urban Planning (Hon. Diana Laidlaw)—

Reports, 1999-2000—
Administration of the Radiation Protection and Control Act 1982
Bookmark Biosphere Trust
Institute of Medical and Veterinary Science
Native Vegetation Council
Racing Industry Development Authority (RIDA)
South Australian Harness Racing Authority
South Australian Thoroughbred Racing Authority
Wilderness Protection Act—South Australia
Regulations under the following Acts—
Environment Protection Act 1993—Milk, Fruit Juice Containers
Harbors and Navigation Act 1993—Personal Watercraft
Housing and Urban Development (Administrative Arrangements) Act 1995—Board of Management
National Trust of South Australia Act 1955—Rules.

LEGISLATIVE REVIEW COMMITTEE

The Hon. A.J. REDFORD: I lay upon the table the report of the committee concerning the allocation of recreational rock lobster pots and move:

That the report be printed.

Motion carried.

TAB STAFF

The Hon. K.T. GRIFFIN (Attorney-General): I seek leave to table a ministerial statement on the subject of the TAB staff superannuation fund made this day by the Minister for Government Enterprises.

Leave granted.

VICTIMS OF CRIME

The Hon. K.T. GRIFFIN (Attorney-General): I seek leave to make a ministerial statement on the review on victims of crime and the government's response to it.

Leave granted.

The Hon. K.T. GRIFFIN: For more than three decades, successive governments in South Australia have been at the forefront in Australia in acknowledging the effects on and consequences of crime for victims and in developing a range of initiatives intended to bring about improvements that will benefit these victims.

In 1998 I announced a review of victims' services to ascertain whether or not what had been done was working and to identify any changes that may be required. The aim of the review was to develop recommendations to guide me in determining what could be done to enhance, in particular, support for victims of crime, including whether to enshrine victim's rights in legislation.

The report on the review on victims of crime consists of three volumes. Report One on the review, which I tabled in parliament in June 1999, had four themes: an overview of victim reforms and associated initiatives taken in South Australia since the late 1960s; an exploration of the impact of the Declaration of Rights for Victims of Crime, which was promulgated by government in 1985, and a consideration of whether or not to enshrine these rights in legislation; a needs assessment of the provision of victim services and other assistance; and an examination of the operation and effectiveness of victim impact statements. Report Two presents the findings of a survey of victims of crime. I seek leave to table that report.

Leave granted.

The Hon. K.T. GRIFFIN: The results of the survey were used to inform the government's response to the recommendations in Report One and to inform discussion in Report Three. Report Three is a consideration of the appropriateness and effectiveness of the Criminal Injuries Compensation Act and explores ways to improve outcomes for victims and the community. I seek leave to table that report.

Leave granted.

The Hon. K.T. GRIFFIN: As this report developed, it became evident that the key issues are: the definition of victim and, once defined, the eligibility criteria; the basis or scope of an award; the debate on monetary compensation for pain and suffering versus psychological assistance to help a victim recover; and the mechanisms for deciding whether or not to make an award, and then to determine the sum of the award.

I turn, first, to the 65 recommendations made in Report One. The report was the subject of extensive consultation. I sought comment on these recommendations from all agencies, organisations and individuals who had made submissions to the review, and others. For the benefit of the Council, I will outline the thrust of the recommendations rather than simply restate each recommendation. Suffice to say, the recommendations essentially seek the following: to give better effect to the Declaration of Rights for Victims of Crime; to enhance the information available to victims of crime; to ensure better training and education for people who work with victims; and to improve services for victims of crime. Report One also covers the law and practice as it applies to victim impact statements. I seek leave to table a chart that summarises each recommendation, indicates the support for or against each from the written submissions received on the report, states my position and presents additional comments which are consistent with some of the matters I wish to raise in the Council today.

Leave granted.

The Hon. K.T. GRIFFIN: In 1985 the then Attorney-General, the Hon. Chris Sumner, presented the Declaration of Rights for Victims of Crime to the parliament. It was promulgated as a cabinet direction which required government agencies to honour victims' rights. The states' declaration encapsulated the majority of the principles in the United Nations declaration of basic principles of justice for victims of crime and abuse of power, which was also adopted in 1985. The states' declaration has formed the basis of comparative declarations or charters of victims' rights elsewhere in Australia.

Report 1 on the review reported that the declaration of rights for victims of crime had brought about considerable improvements for victims of crime in our state. However, the impetus has waned and there is an obvious need to encourage greater commitment to victims' rights. The report highlighted that a number of victims' rights are already enshrined in legislation. Some examples include the victim's right to have his or her safety concerns taken into account during bail hearings and the right to make a victim impact statement. A comprehensive list is given in the report.

Although many significant victims' rights are already recognised in law, there is support for the declaration of rights for victims of crime to be enshrined in legislation. Report 1 recommended against doing this and instead promoted a managerial type approach to driving a renewed commitment to honouring victims' rights and meeting victims' needs. The report also, however, recommended that the government reiterate its commitment to victims' rights. Since then I have received advice on various ways for the government to advance victims' rights and improve victims' services. I have considered the arguments and firmly believe that the declaration should be enshrined in legislation. The government supports my view. I propose, therefore, to return to the Council in March next year with a bill to enshrine the Declaration of Rights for Victims of Crime in legislation.

Care will be taken to ensure that the state is not open to litigation by disgruntled victims who allege that their rights have not been honoured by public officials. Other jurisdictions have overcome this problem by making it clear that victims' rights in law are not mandatory rights but rather principles of justice or guidelines. I propose to do likewise. Enshrining victims' rights in legislation will reconfirm the government's already strong commitment to victims of crime. It should better ensure that government agencies do improve their responses to victims. It will also importantly raise the profile of victims' rights in this state in a way that has not been done for more than a decade. Furthermore, this will coincide with the 15 year anniversary of the United Nations declaration of basic principles of justice for victims of crime and abuse of power and, as a consequence, maintain the state's position as an international leader in victimology.

In addition to enshrining victims' rights in legislation, I propose to introduce two new rights: first, a right to be informed on the availability of and means to access victims' services; and, second, a right to be advised on the existing mechanisms for dealing with victims' grievances or complaints. The first would bring this state's declaration closer in line with the United Nations declaration, which states that victims should be informed of the availability of health and social services and other relevant assistance and readily afforded access to them. It would also be consistent with the Australian national charter on victims' rights agreed to by the Standing Committee of Attorneys-General, which states:

> Victims of crime and their families should have access to welfare, health, counselling, medical and legal assistance responsive to their needs.

Incorporating a right to be informed on the services available and how to access these was a key recommendation in Report 1 on the review on victims of crime. The second new right arises from concerns expressed by victims and service providers which tended to focus on individual and/or organisational failings to honour victims' rights.

Report 1 recommended better promotion of the complaint mechanisms available to aggrieved victims of crime. In particular, the report recommended incorporating in the Declaration of Rights for Victims of Crime a requirement to advise victims that they are entitled to complain and where to do so. I have determined this is an appropriate course to take.

The government has taken significant steps to enhance the information available to victims of crime. My ministerial advisory committee, chaired by the Hon. Dr Bruce Eastick and comprised of representatives from the Department of Human Services, the Division of State Aboriginal Affairs, the Law Society and the Victim Support Service as well as staff from the Justice portfolio has played a key role in this. It has prepared, in consultation with victims of crime, a new information booklet for victims of crime.

The booklet, which is available in hard copy from the police and also soft copy via the internet, has received acclaimed in this state, interstate and overseas. It has been distributed much more widely than the former booklet. Members of the ministerial advisory committee have distributed copies of the booklet throughout their agencies and organisations. Copies have also been sent to local governments, progress associations, Aboriginal communities and public libraries.

Report 1 raised several issues concerning the unmet needs of culturally and linguistically diverse victims. It also identified some unmet needs of other victims, such as people suffering a disability. The ministerial advisory committee, at my request, has examined a number of ways to better meet the information needs of these groups of victims. I have recently approved the production of hard copy translations of the Declaration of Rights for Victims of Crime in about a dozen languages, including several European and Asian languages as well as Aboriginal English and Pitjantjatjara. The translations will form part of the text of pamphlets on victims' support and services. In the near future, I propose to post these translations on the internet.

The ministerial advisory committee will report to me in the new year on the feasibility of producing information (such as audio tapes, braille text and the like) for victims who are sight impaired and, over time, consideration will be given to the information needs of other victims. Staff from the Office of the Director of Public Prosecutions and the Justice Strategy Unit are examining ways to better communicate with victims whose cases are under consideration for prosecution.

For example, some years ago the South Australia Police Prosecution Service trialled computer generated letters to advise victims on the progress of their cases. The Western Australia Office of the Director of Public Prosecutions has devised a letter and pamphlet system to advise victims on their rights to information and explanation regarding prosecutorial decisions.

Providing victims of crime with information is not enough. Victims quite appropriately expect to be treated empathetically and fairly. They expect to receive practical advice and psychological assistance. It is vital that those people who work or otherwise deal with victims of crime have the necessary knowledge and skills. It seems to me that training and education are essential ingredients of any strategy to improve the treatment of victims.

I note that the police in this state undertake study on victimology during recruit training and towards promotion. For example, prior to promotion as a sergeant, a police officer must complete victimology as an undergraduate subject at the Adelaide Institute of TAFE. There is also a range of in-service courses that cover different aspects of victimology. I am pleased that the Commissioner of Police has given a commitment to continually improve the range of training and educational opportunities available to police officers, who very often are the first responders to victims of crime.

Since the release of Report 1, staff from the Office of the Director of Public Prosecutions have received training on working with victim-witnesses with an intellectual disability. Some staff have attended a seminar on child witnesses. The training and educational needs of the judiciary and the magistracy are also addressed in Report 1. While I cannot report on any specific courses that the state's judicial officers

have attended, I hasten to acknowledge the enthusiasm with which members of the judiciary and the magistracy participated in the victims of crime conference held in Adelaide in May this year.

Courts Administration Authority staff are permitted to undertake the same TAFE victimology subject as the police. In addition, Sheriff's officers do some in-service training on dealing with victims of crime. Correctional Services officers are also permitted to undertake the TAFE subject and cover some aspects of victimology in the Diploma in Correctional Administration.

Despite the availability of these training and education programs, Report 1 on the Review on Victims of Crime and the findings of the victims' survey (which I will speak on later) suggest more needs to be done. I have therefore charged the ministerial advisory committee with the task of preparing a training needs assessment. A preliminary report indicates that considerable resources are already dedicated to victimological training and education. However, there are gaps. There is, for instance, limited training done on the particular needs of Aboriginal victims. The preliminary report has also highlighted opportunities for greater collaboration and interagency training. The police, for example, have agreed to allow some correctional officers to participate in a two-day seminar on victims' rights and victims' needs. The recently accredited child investigators' course, jointly developed by the police, Family and Youth Services and the Adelaide Institute of TAFE—the details of which I will be happy to inform this Council on in due course—is also a prime example of what can be achieved.

Report 1 also made several recommendations pertaining to victims' services. Progress has been made to bring about improvement. The Courts Administration Authority has provided accommodation for the court companion service in Port Pirie. The new Youth Court has facilities for victim-witnesses, and similar provisions will be considered in future court design. The authority has also trialled a Bushlink service, which should improve access to justice for victims of crime.

The Department for Correctional Services has reiterated its commitment to victims of crime. It is presently reviewing the department's restorative justice policy. It has actively promoted the victims' register. A victim awareness program is offered to offenders. The department has established a victims' services unit.

The ministerial advisory committee has prepared a memorandum of understanding for consideration by government ministers and chief executives who are represented on the committee. The memorandum, which is based on the principles of the Declaration of Rights for Victims of Crime, seeks to facilitate cooperation and better coordination between government agencies and non-government organisations providing services for victims of crime. The memorandum will require a firm commitment from the signatories to work together, and I intend to ensure that their commitment brings about better responses to victims of crime.

There is one issue in respect of the ministerial statement that is of particular importance and needs to be reiterated in this Council, and that is that I have appointed a victims of crime coordinator, Sergeant Michael O'Connell, and that officer will have specific responsibility to me in implementing a whole range of policies that relate to victims of crime. I am pleased that he is undertaking that responsibility and, with all the other initiatives identified in the ministerial statement, that is an initiative of significance which will provide a renewed emphasis for victims of crime in this state.

I seek leave to have the remaining portion of my ministerial statement inserted in *Hansard* without my reading it.

Leave granted.

A service map or matrix showing the range of victims' services and the nature or type of assistance they provide has been drawn up and will soon be promulgated among service providers. The service map will be a useful aide to facilitate referrals. I intend to have it posted on the Internet so that victims themselves can have access to it. Like the booklet, I believe that it is important that we recognise that not all victims choose to report their victimisation, and we should endeavour to reach these victims as well. Wider circulation of information on victims' services is critical to achieve this.

I am also exploring options to improve services for victims of crime in regional areas of our State. In principle, services for victims in rural areas of South Australia ought to be available and accessible. I expect that the means by which that can be done will be resolved in the near future and that the Victim Support Service, with whom there has been consultation, will play an important role in this.

The final section of Report One dealt with victim impact statements. South Australia is a national leader in this area, making greater use of Victim Impact Statements than perhaps any other jurisdiction.

Last year victims were for the first time able to present their statements orally to the Court. In the past it has been in written form, it was not read to the Court, it was given to the trial Judge for consideration. Report One recommended repealing section 7A of the Criminal Law (Sentencing) Act and amending section 7 of that Act to provide one section on victim impact statements. I must say that I had some reservations about giving victims the opportunity to make oral victim impact statements. I do not mind admitting, however, that I have been warmed by the responsibility shown by victims who make their statements orally.

Since the change approximately 50 per cent of victims of indictable offences choose to actually read their statements to the Court. The rest have it read out by the Judge's Associate, or in some cases a police officer who may be close to the case.

The Director of Public Prosecution has reported to me that this system is working well. The Director has reported that the statements have been extremely effective in expressing to the Judge the impact of the offence and the accused is made more aware of the consequences of his or her actions.

The judiciary has not recommended the law be repealed, rather they have shown a propensity to be quite flexible in the determination of the applicable rules of the court. They have suggested the operation of the law be monitored, which I intend should happen. I agree with the Chief Justice, John Doyle, who earlier this year told a victims of crime conference that "Courts are generally more attentive to the interests of victims in the sentencing process.

Report Two, which presents the findings of a survey of victims of crime, does not make any recommendations. It has, however, provided valuable information that has assisted the review and me in formulating the range of reforms about which I am addressing this House today.

Members will be able to read the survey results for themselves, so I will not lead the House through each question and result. Prior to the conduct of the survey, a random sample consisting of three pools of victims was generated. One pool was made up of victims who had lodged a claim for criminal injuries compensation and that claim, which had been finalised in 1997-98, resulted in the victim receiving a monetary award. Another pool was made up of victims who likewise had lodged a criminal injuries compensation claim, which had been finalised in 1997-98, but had not resulted in a monetary award. And, the other pool was made up of victims who had reported an offence in 1997-98 but not lodged a claim at the time for criminal injuries compensation but, because of the offence, may have been eligible to lodge a claim.

In all I wrote to over 500 hundred victims. Two hundred and sixty-two victims were contacted by telephone during September and October 1999, and two hundred and twenty-two of these agreed to answer the survey.

Many of the issues raised in Report One were confirmed by the findings of the victims survey, for example:

- Just over half of the victims (55.8 per cent, n=124) recalled the police giving them a copy of the Victims' Information Booklet when they first reported the offence. 44.1 per cent said it was useful and 11.7 per cent not useful.

- One quarter of the victims (26.6 per cent, n=59) said they were referred for support/counselling; two thirds (67.1 per cent, n=149) were not.
- Over two thirds (68 per cent) of victims reported that, at the time of reporting the offence, the police had not given them information to avoid becoming a victim again.
- About two fifths (42.3 per cent) of victims stated that there was information they would have found useful at the time of the offence.
- The vast majority (82.4 per cent, n=183) of victims stated that they wanted to be kept adequately informed about the progress of their case. Two thirds of these (65.6 per cent, n=120) indicated that they had told someone that they wanted to be kept informed. Nearly one quarter of victims stated that they were not kept informed.

It was pleasing to note that, at all stages of the criminal justice system, more than half of the victims surveyed stated that they received the type of assistance, service, support or counselling that they needed. About one half (48.6 per cent) of the victims surveyed stated that they found the assistance, service, support or counselling to be readily accessible.

Report Three examines the Criminal Injuries Compensation Act and scheme. It offers twenty-three options and makes twenty-nine recommendations to improve outcomes for victims and the community by (among other things) providing the basis for a more holistic response to victims and ensuring the financial sustainability of the criminal injuries compensation scheme.

Report Three recommends:

- Refining the definition of 'victim' and limiting the ambit of the Act to acts of violence;
- Excluding certain classes of victims, in particular persons who are victimised whilst serving a sentence for an indictable offence and victims of crime in the workplace;
- Raising the maximum allowable payment for funeral expenses;
- Maintaining monetary compensation for non-financial losses but raising the threshold for such awards; and
- Maintaining the existing standard of proof and the court based system for making awards.

It also proposes several strategies to improve the operation of the scheme, including creating an administrative scheme for claims under $1 000, which will allow victims with minor claims more timely access to funds to cover their financial losses.

I have not yet formulated a firm position on the recommendations. Criminal injuries compensation has always been a sensitive issue. I propose to release the Report for public comment. I hasten to point out that the recommendations need to be read in conjunction with the recommendations emanating from Report One on the Review and the findings of the victims survey referred to in Report Two.

The government is keen to bring about improvement for as many victims as possible, mindful of the fact that simply paying monetary compensation is not the entire answer, but rather monetary awards ought to be one of a range of accessible services conducive to the practical and psychological needs of victims of crime. The way people cope as victims of crime varies, and our responses to victims should be focused on helping victims to cope with their trauma and to assist them restore their sense of security and control.

It is clear from what I have said that there is much still to be done if we are to truly give effect to the Declaration of Rights for Victims of Crime and to ensure the effectiveness of our responses to victims. Coordination across government agencies and with non-government organisations is vital to advance victims' rights and improve services to them. There are various ways to achieve better coordination. I have considered these and have decided to appoint a Victims of Crime Co-ordinator.

This would be consistent with the commitment made by this Government. The appointment, which is in addition to enshrining victims' rights in legislation, demonstrates the Government's strong commitment to advancing victims' interests.

The Co-ordinator will report directly to the Attorney-General. The Co-ordinator will undertake the following duties, reflecting particularly a coordination and strategic role:

- Facilitate the attainment of the principles of the Declaration of Rights for Victims of Crime
- Encourage collaboration, efficiency and effectiveness in the provision of services to victims of crime;
- Provide support to the Ministerial Advisory Committee on Victims of Crime;
- Assist government agencies and non-government organisations involved in criminal justice, health, education, and welfare services to improve the delivery and coordination of responses to victims of crime;
- Advise the government on matters relating to victims of crime;
- Help to develop educational and other programs, and otherwise promote victims' rights the availability of services for victims;
- Carry out functions assigned from time to time by the Attorney-General; and
- Provide an annual report, or interim reports as required, on the implementation of victims' rights legislation, the state of victim services and related matters.

There is, I believe, an immediate need for a Co-ordinator. Michael O'Connell has been appointed to perform the role of Victims of Crime Co-ordinator at least for the next six months while proper procedures are put in place for a longer term appointment. Mr O'Connell may be known to some of you. He is a sergeant of police who is currently—with the support of the Commissioner of Police—on secondment to the Attorney-General's Department. While on secondment he has managed the Review on Victims of Crime.

As a police officer he has experience performing uniform and non-uniform duties in both operational and non-operational areas. He was the inaugural co-ordinator of Victim Impact Statements, appointed by the former Commissioner of Police, Mr David Hunt, with the approval of the then Attorney-General, Chris Sumner.

On Australia Day in 1995 he was awarded the Australian Police Medal for his work in the victims' field.

He has studied victimology in Australia and overseas; indeed, in 1998 he was one of the first two people from Australia to complete the United States' National Victim Assistance Academy Course. He co-ordinates and teaches the TAFE subject on victimology in this State, and has reviewed and written course material on victimology for an interstate university. He is the Secretary and Editor for the Australasian Society of Victimology and a member of the World Society of Victimology. He is also a member of the Board of the South Australian Institute of Justice Studies.

Mr O'Connell has developed a good rapport with criminal justice practitioners, victim service providers and victims themselves. I consider him an appropriately qualified person to act as the State's first Victims of Crime Co-ordinator.

The Co-ordinator of course must not operate in isolation. Advice from interstate suggests that a well run advisory committee is vital to facilitating coordination, information exchange and maintaining victims' issues in the mainstream. I have created the Ministerial Advisory Committee on Victims of Crime for such purposes. I hold the view that the position of the Ministerial Advisory Committee could be enhanced by recognising it in legislation. I propose therefore to bring before this House in its first sitting next year a Bill in terms similar to the recognition of advisory panels under the occupational licensing legislation which provides for advisory panels to be appointed by the Minister. This will, I am sure, raise the profile of the committee and reinforce the importance that I place on its role.

I also intend to charge the Victims of Crime Co-ordinator with the responsibility for developing a Victims of Crime Network, so as to keep victims' rights and victims' needs as mainstream issues for government agencies. The Network would comprise a representative from each of the justice agencies, Human Services, Aboriginal Affairs and others. The representative, who may be the same person as sits on the Ministerial Advisory Committee, would be charged with handling victims' issues and reporting on victims' issues within his/her area of responsibility.

There is no doubt in my mind that crime takes an enormous toll on its victim. Victims suffer physical, emotional and financial harm. Today, I have outlined a range of measures that the Government intends to take to more effectively help victims of crime. The Government appreciates that victims should be treated with compassion and respect for their dignity, and that those who choose to report their victimisation want access to the criminal justice system and other remedies such as practical assistance, restitution from the offender and criminal injuries compensation.

This year is—as I mentioned earlier—the fifteenth year anniversary of the United Nations' Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power. It is fitting that we acknowledge the work that has been done to advance the interests and concerns of victims of crime. It is likewise important that we continue to improve our responses to counter the deleterious effects of crime not only on individuals but the community as a whole.

Enshrining the Declaration of Rights for Victims of Crime, with the additional principles on victims' services and grievance

procedures, in legislation, as I have proposed, will reaffirm the Declaration as the basis for a range of measures taken, or to be taken, on behalf of victims of crime to improve access to justice and fair treatment, practical and psychological assistance, and other remedies. Victims want information to help them to identify support services and make informed decisions. They want explanations on the criminal justice process and the decisions that impact on their cases. The Government has taken and is continuing to take steps to enhance the provision of information and the opportunities for victims who desire explanations to get them.

How public officials, victim service providers and others respond to victims influences their perceptions and ultimately participation in the criminal justice system. Training and education can teach people who work with victims more about victims' rights and victims' needs. The Government sees training and education as fundamental to fostering people who believe that victims of crime deserve fair treatment and assistance to help them cope and help those who report their victimisation negotiate the criminal justice process.

The government is keen to ensure greater co-ordination of services for victims of crime. The appointment of a Victims of Crime Co-ordinator, legislative recognition of the Ministerial Advisory Committee on Victims of Crime and the creation of a Victims Network will provide for more victim-sensitive policies, procedures and practical outcomes.

On other matters that I have raised today, it is too soon to propose definitive solutions. Issues raised in Report Three on criminal injuries compensation are complex. Victims and their advocates, along with others, should have a right to communicate their views. There should be public discussion. We should, however, be mindful that there are times when the interests of some victims are at odds with those of others. There are times when the rights of victims may be at odds with the rights of the accused—though I am not convinced that the conflict is as pronounced or frequent as some commentators would have us believe. Improvements in services for victims will require resources, which may consequently not be available for other purposes.

I look forward to being able to report to the Council on the various initiatives the Government and the myriad of agencies and organisations that help victims have taken to improve services and support for victims of crime. The initiatives I announce today are an important part of that improvement.

PRUDENTIAL MANAGEMENT GROUP

The Hon. R.I. LUCAS (Treasurer): I seek leave to table a copy of a ministerial statement made in another place today by the Premier on the subject of the Prudential Management Group.

Leave granted.

GAMING MACHINES

The Hon. R.I. LUCAS (Treasurer): I seek leave to table a copy of a ministerial statement made in another place today by the Premier on the subject of gaming machines.

Leave granted.

TOURISM AWARDS

The Hon. R.I. LUCAS (Treasurer): I seek leave to table a copy of a ministerial statement made in another place today by the Minister for Tourism on the subject of the value of events and tourism awards.

Leave granted.

QUESTION TIME

LAW AND ORDER

The Hon. CAROLYN PICKLES (Leader of the Opposition): I seek leave to make a brief explanation before asking the Attorney-General a question about government services.

Leave granted.

The Hon. CAROLYN PICKLES: It was reported in the *City Messenger* of 29 November that the state's Chief Magistrate blames, amongst other things, inadequate government services for rising crime. Mr Alan Moss took a swipe at governments for failing to prevent crime via the social net, particularly for youth. He is purported to have stated:

> It is easier, I am told, to get heroin in the city than to get a drink.

My question is: does the Attorney agree with the Chief Magistrate's statement that inadequate government services are to blame for rising crime; and what is the Attorney's response to the claim that heroin is more easily accessed than alcohol on our city streets?

The Hon. K.T. GRIFFIN (Attorney-General): I agree that some statements purporting to be made by the Chief Magistrate have been reported in the Messenger newspaper. I have not had an opportunity to discuss the issues with the Chief Magistrate to determine whether or not he was reported accurately. I suspect that he was not, but, even if he was, I would not agree with him in every respect. There is no doubt that drugs and alcohol abuse play a significant part in the level of criminal activity. It may also be that there is a level of services which might be the ultimate level of services, but those services which are being provided are coping adequately with the problems with which they are confronted from time to time.

The honourable member must realise that, regarding alcohol abuse, the introduction of dry areas and significant programs by the Drug and Alcohol Services Council, the Aboriginal Drug and Alcohol Council and my Crime Prevention Unit in conjunction with the Australian Hotels Association place a particular focus on reducing the abuse of alcohol. A number of the programs which the government has introduced in relation to dealing with drugs are innovative and directed towards endeavouring to get people who might be dependent upon drugs away from their dependency. The fact that the Drug Court, which focuses on serious offenders who have drug related problems and are likely to go to gaol, has been established as a trial in the Magistrates Court is evidence of the concern that the government has in trying to address some of these issues.

Legislation which was passed in this Council recently in relation to controlled substances to enable the development of a more flexible approach to drug diversion is another example. Right across the spectrum of government services, whether it be in the courts or other parts of the justice portfolio or other areas of government, the focus is on endeavouring to put in place—and when in place to maintain—innovative programs to deal with drug and alcohol abuse.

In terms of government services, there has been significant progress in relation to better levels of coordination between various agencies of government in dealing with some of the problems that might ultimately be reflected in criminal offending. I refer particularly to the Mental Impairment Court, which is operating presently in Adelaide; and the Violence Intervention Program, which involves Human Services, Justice, the Courts and Correctional Services both out at Elizabeth as well as in Adelaide. They are just two innovative projects that are focused upon trying to ensure that the services we provide are provided on a coordinated basis.

There is also the Aboriginal court day at Port Adelaide, which is to be extended in the near future to other regions of the state. They all add to the picture of a government that is intent on trying to deal with not only the outcome of problems that may have been experienced at an earlier age but also the causes. That is a focus also of the Crime Prevention Program, that we are seeking to deal with problems, particularly at the local level, involving real people and trying to bring together a range of agencies at that local level to address the causes of criminal behaviour and to provide support to those who may unfortunately become victims.

I suspect that the Chief Magistrate's statements were taken out of context, if they were accurately reported in any event. I am not aware that they were accurately reported, but what I can say is that, so far as the government is concerned, we are providing a range of services directed towards preventing people from becoming victims in the first place and preventing people from becoming offenders. In that context I think that South Australia is doing a good job.

We can always complain that we want more resources and that things could be done better, but I suggest that this government has a record that we can be proud of in providing support services in an innovative fashion to those in our community who require the support that those services provide.

ELECTRICITY SUPPLY

The Hon. P. HOLLOWAY: I seek leave to make an explanation before asking the Treasurer a question about electricity supply.

Leave granted.

The Hon. P. HOLLOWAY: Earlier this week it was reported that the South Australian Independent Industry Regulator, Lew Owens, had called for an urgent review of the national energy market. According to the press report, this call by Lew Owens was a consequence of an impending crisis in electricity supply. The article states:

> 'Only 200 of South Australia's 3 300 biggest electricity consumers had supply contracts that continued beyond next June', he said yesterday. 'If new arrangements are not in place these users face a very real prospect of significant and unpredictable increases in their power bills through a constantly variable price', Mr Owens said. The electricity generating companies appear to be bidding future supplies of electricity to levels which no commercial customer can afford. The fundamental cause of the problem is the deficit of interconnection between the electricity transmission systems of Queensland, New South Wales, Victoria and South Australia.

The article continues:

> Mr Owens said the generating companies which are not directly regulated were using their market power to force up prices.

Later the article states:

> He confirmed industry speculation that if there were power generation failures in Victoria this summer the price for electricity not supplied under long-term contract could rise to about $5 000 a kilowatt hour. He warned that unless there was a national review of the market, state governments might not be able to intervene because of the prospect that they would be sued by newly privatised power companies.

That article followed another article in the *Sunday Mail* of 3 December which stated:

> The report by national electricity market controller NEMMCO warns SA and Victoria will face a shortage of power reserves during the last two weeks of January, one of summer's peak demand periods. The report says power supply to the two states may drop below the minimum acceptable level of reserve power.

The *Sunday Mail* article also states that home owners planning to install airconditioners this summer must first tell ETSA and request permission. In view of those articles, my questions are:

1. Does the Treasurer agree with the comments by Lew Owens that I have just read out?

2. Does the Treasurer agree that the state government may not be able to do anything about high power costs because of the prospect of being sued by the privatised power companies?

3. Does the Treasurer support an urgent review of the national electricity market and, if not, why not?

4. Has the Treasurer spoken to ETSA about its new policy on the installation of airconditioners? What impact does he believe that this new policy will have on development in South Australia, and does the government plan to take any action to address this situation?

The Hon. R.I. LUCAS (Treasurer): Some of the articles that the honourable member has referred to contained some significant errors, so I do not think he ought to rely on the accuracy of the printed word, in all its finery. For example, the honourable member talked about power prices rising to $5 000 a kilowatt hour. That is clearly a significant error by the journalist and the newspaper involved. The maximum price in the national market is $5 000 a megawatt hour. It is just one example of the number of errors in terms of the reporting in that series of articles. There are a number of others as well.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: If the journalist claims he said that, then I am sure he was. The Independent Regulator I am sure would know that the maximum price is $5 000 a megawatt hour. The Independent Regulator would not be saying $5 000 a kilowatt hour. Therefore, it would appear that, in answer to the honourable member's question, 'Was he accurately reported?', it does not appear that he was accurately reported by the journalist involved.

The honourable member also claimed that the Independent Regulator said that he had called for an urgent review of the national market. I am not aware that the Independent Regulator actually said that there needs to be an urgent review. I am not denying that he said that. Certainly in the reports that I saw he did indicate that he supported a review of the national market arrangements, but I am not aware that the Independent Regulator used the adjective 'urgent' in this context.

In relation to whether or not the market ought to be reviewed, what I have said publicly I will repeat today. If people are talking about a review which may well result in the national market being turned on its head after two years of operation, with a view to radical restructure, I do not support that sort of review or that sort of restructure of the national market. If the context of reviewing the operations of the market means constantly monitoring, reviewing and improving the operations of the market as problems became evident, that is the South Australian Government's position.

We certainly support a position where any teething problems in relation to the operation of the national market ought to be continually monitored and where possible agreed changes implemented to try to get over any of the problems in the operations of the national market. A number of reviews of the operations of the national electricity market are already being conducted. South Australia is an active participant in a number of reviews being conducted by NEMMCO, NECA and a variety of national bodies—

The Hon. L.H. Davis interjecting:

The Hon. R.I. LUCAS: The market set up by previous governments but supported by current governments and by the opposition in South Australia. So, a number of reviews are currently being conducted which have been in operation for some time and will continue in operation during the early years of the operation of the national electricity market. Each of those reviews has different timelines in terms of reporting. They each concentrate on different aspects of the national market, and South Australia has been an active participant and in some cases has been leading the policy debate and policy discussion. In others we have just been active participants. So, there is a continuing monitoring and review of the operation of the national electricity market. There is no need to establish a separate urgent review, as recommended by the Deputy Leader of the Opposition in the Upper House, but there is a need to continue the process—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: As I have said, if the reported comments include a claim that he referred to $5 000 a kilowatt hour, then, in answer to your question, 'Was he accurately reported?' I would have to say no, because I am sure that Mr Owens would not have said '$5 000 a kilowatt hour' given his position as the Independent Industry Regulator and his knowledge of operations of the market.

In relation to capacity issues for this summer and also price issues, as I have said on a number of occasions, we have moved some way down the path of developing a competitive market in South Australia but we are a long way short of the government's objective of having a truly competitive market. We have the first stage of Pelican Point, and we hope to have the second stage operating by, I think, the end of December or early January, and the first full tranche of 500 megawatts operating by about, I think, March or April next year for Pelican Point. Regarding Murraylink, the interconnector, the Chief Executive Officer of TransEnergie is still predicting that the interconnector will be up and running about the middle of next year to assist—

The Hon. P. Holloway: That is in Victoria: it has a shortage as well.

The Hon. R.I. LUCAS: Victoria is a problem, and the government acknowledges that, not only with the attitude of its unions where, at 20 minutes notice, they can pull the plug on power supplies to South Australia but also because of the way they have operated in recent years whereby they have not been encouraging the extra investment and generation that South Australia has achieved. In the space of just 18 months to two years, South Australia has a new power station, and, I might say, against the wishes of Mr Foley and Mr Rann, who tried to stop the operation at Pelican Point.

There are two new power plants, albeit small, in the South-East of South Australia and, as I have said, we have an interconnector, which the chief executive of the company believes will be ready by about the middle of next year. That is a fair indication of the significant extra generation and interconnection that the government, in the last two years or so, has been able to encourage into South Australia. However, the bottom line to try to meet some of the issues in relation to competition and price that Mr Owens, others and I have is that, if we want to see a truly competitive market, we will have to have those additional power supplies, and further power supplies as well, together with, we hope, initiatives in relation to demand management, particularly during peak periods in late January, February and early March.

The fact that our peak power supply is almost double the level of our average demand in South Australia is a fair indication that for relatively few days in the year we need huge amounts of electricity but for the rest of the year we do not require that extra capacity. Under the operations of the market, the government can encourage further private sector investment. Should there ever be a Labor government in the future, we will look forward to promises from it that it will take money out of schools and hospitals and build power plants itself because of its belief that the private sector cannot deliver—

The Hon. A.J. Redford interjecting:

The Hon. R.I. LUCAS: That is right. The Rann Labor government, if ever elected, will build power plants at public sector expense, at taxpayers' expense, and take the money out of schools, hospitals and roads.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: So you are not going to do that?

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: In the end, if you do not do that, somehow you will need to encourage additional supply. The government's position, in conclusion, is to further encourage power supply through the private sector in South Australia and through interconnection, again through the private sector, from other states.

VOLUNTEERS

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the minister representing the Minister responsible for volunteers a question about volunteer assessment and support.

Leave granted.

The Hon. T.G. ROBERTS: In the *Advertiser* of 5 December 2000 the South Australian government placed an advertisement to celebrate volunteering on International Volunteer Day. There is a message to all South Australian volunteers from the minister responsible for volunteers, the Hon. Iain Evans. It says:

> International Volunteer Day—December 5—provides a great opportunity to recognise and thank the many thousands of South Australians who volunteer their time to important causes across every sector of the South Australian community.
>
> This year, International Volunteer Day has even greater significance as the launch date for the 2001 International Year of Volunteers (IYV 2001).
>
> IYV 2001 was declared by the United Nations and is being backed by the South Australian government to celebrate and support volunteering throughout the State.
>
> International Volunteer Day is a time to focus on the positive achievements of everyday people who see themselves as part of their community, be it neighbourhood, local, national or global.
>
> As the Minister responsible for Volunteers, I would like to thank every volunteer for their invaluable contribution to South Australia. By working together, we can build a stronger, better and more cohesive society for ourselves as well as others.

It is signed by the Hon. Iain Evans as 'Minister responsible for Volunteers'.

It has been reported to me that, in the regional areas of South Australia (which, when compared to other regional areas, are seen as quite affluent in terms of jobs and economic growth), a lot of volunteers are having difficulty in meeting their responsibilities, particularly with the increased price of petrol and diesel.

In some areas of the South-East, the price of petrol is as high as $1.4 per litre—I understand that that may come down in the short term with the United States announcing that it

may be able to release some of its stock supply—and diesel is $1.15. Other pressing increases in costs are now making it difficult for volunteers to attend to the community responsibilities which they would like to meet. Is the Treasurer or the minister prepared to commence a review to assess the difficulties many volunteers face in dealing with the levels of expense they incur in rural and remote regions with a view to providing in-kind support to individuals and organisations who participate in this celebrated service, as outlined by the Hon. Iain Evans in the advertisement of the *Advertiser* of that day?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I will refer the honourable member's question to the minister and bring back a reply. In the meantime I would add that I am very conscious of the issues the honourable member has raised. Our community transport networks in country areas rely very heavily on volunteers to take people to and from their home to doctors' appointments and appointments in town to see friends and the like. I am aware that fuel prices are impacting on the ability of our volunteers to provide that service, and I am addressing that matter at the moment.

TAXI DRIVERS

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 taxi driver training courses.

Leave granted.

The Hon. J.S.L. DAWKINS: On a recent taxi journey home at night a conversation with the driver led to my discovery that he was in his training period as a taxi driver and on only his second shift. During our discussion I learnt that he had successfully undertaken a three day training course and had commenced a 120 hour logbook period. I also discovered that on his first shift, only the night before, a customer had, in his words, 'done a runner', in other words, leaving the cab without paying the fare. However, the new taxi driver reacted relatively calmly, called the police and eventually received payment from the customer, who had entered his residence. My questions are:

1. Will the minister inform the Council about the details of taxi driver training courses in this state?

2. Do the training courses utilise instructors who are experienced taxi drivers?

3. What level of evaluation takes place after new taxi drivers have completed their initial 120 hour period?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I know that the honourable member is very popular with taxi drivers, because he lives such a distance from Adelaide. They all prefer to get him—

The Hon. J.S.L. Dawkins interjecting:

The Hon. DIANA LAIDLAW: That is not the only reason? They do not like me as much because I live in North Adelaide and they do not have far to take me home, but they like taking you all the way to Gawler. I thank the honourable member for giving me some notice of this question earlier today. With respect to the taxi driver training course, I am advised that to become an accredited taxi driver a person must successfully complete a four hour introductory session, a practical basic skills driving assessment, a three day training course (which you said your driver had undertaken) and 120 hours on-road logbook or supervised training. There is then a final assessment. The course covers the following topics: the role of the Passenger Transport Board, the regulations under the Passenger Transport Act, passengers with special needs, driver safety and security, customer relations and tourism, daily work sheets, the credit card system, drivers' health and stress management, and driving assessment.

In respect of whether this instruction is undertaken by experienced taxi drivers, I advise that the courses are presented by the Transport Training Centre in the South Australian Taxi Industry Training Centre, which is a division of the South Australian Taxi Association. All trainers are nationally accredited, and the majority are experienced former taxi drivers. The honourable member also asked about the level of evaluation that takes place after new taxi drivers have completed their initial 120 hour period of log book or supervised training.

After successful completion of this competency-based training, the trainee is then required to sit for a final two hour driver certificate test conducted at the Transport Training Centre. This final assessment is then divided into various sections: regulations; the road traffic code; point to point, or knowledge of street locations; tourism; and customer service. Because I have been involved in the discussions I am aware that a refresher course is being considered for taxi drivers, in terms of not only their driving skills but also their particular knowledge of street issues and destinations, tourism and driver safety and security issues.

We are advancing those discussions with the taxi industry and drivers at the present time but have made no decision about progressing to a refresher course. There is certainly merit in discussing it, to ensure that our standards remain high, in terms of not only customer service but also driver safety and security.

ELECTRICITY SUPPLY

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Treasurer a question about the possibility of power blackouts in South Australia this summer.

Leave granted.

The Hon. SANDRA KANCK: When the Treasurer first announced that National Power was to construct Pelican Point, he claimed in his press release:

> Additional capacity is essential to meet demand growth and remove—

and I stress that word 'remove'—

> the threat of possible power shortages in South Australia in the summer of 2000-01.

What he failed to say was that the extra capacity to be brought on line would not be enough for this summer and that, furthermore, South Australia will continue to face very tight demand and supply conditions and high pool prices next summer. The lack of reserve plant margin in South Australia and Victoria lies at the heart of the problem.

Reserve plant margin is the margin of installed plant above the expected peak load of the season, expressed as a percentage of that peak load. Effectively, it is the amount of spare generating capacity available when something goes wrong. In the recent northern hemisphere summer, reserve plant margin in California dropped to 17 per cent. The result was repeated blackouts and brownouts and a quadrupling of the pool price compared to that of the previous summer. I note that the Californian electricity market is very similar to our national electricity market.

Ireland has more than 30 per cent reserve plant margin and even China has 20 per cent, but in Australia NEMMCO and NECA have postulated an acceptable reserve plant margin of just 6 to 9 per cent for the national electricity market. Further, they have no power to enforce even this woefully inadequate reserve of generating capacity. The provision of reserve plant margin in the national electricity market is left to the market. My questions are:

1. When the Treasurer made his statement about the additional capacity from Pelican Point, was he anticipating the continued provision of 500 megawatts of electricity from Victoria via the interconnector?

2. What is the reserve plant margin for South Australia for the summers of 2000-01 and 2001-02, both with and without access to 500 megawatts of electricity from Victoria?

3. What is the reserve plant margin for Victoria for the summers of 2000-01 and 2001-02, both with and without the provision of 500 megawatts of power to South Australia?

4. Does the Treasurer concur in the estimates by NEMMCO and NECA that 6 to 9 per cent reserve plant margin is sufficient to guarantee system reliability?

The Hon. R.I. LUCAS (Treasurer): When asked on a number of occasions whether I could guarantee that there would be no power blackouts in the future, I have been criticised by the opposition and others for saying honestly and frankly that I cannot make that guarantee. Indeed, no-one can guarantee that there will not be power blackouts in the future. If irresponsible Victorian trade unionists pull the plug on South Australia at 20 minutes' notice, no-one can guarantee that there will not be blackouts in Victoria and South Australia.

The Hon. T.G. Roberts interjecting:

The Hon. R.I. LUCAS: I do not think that was the problem in Victoria. Even the state secretary of the union dissociated himself from his local wildcat unionists who pulled the plug. Those members who have been state secretaries or have known state secretaries will know that. I have indicated openly and frankly that I cannot guarantee—no-one can—that there will not be any blackouts. For anyone to suggest that I have not done that is delusional.

From the government's viewpoint, which I will repeat without going through all the detail again, if we had not fought the good fight against the opponents to Pelican Point, we would be in a much worse position this summer and next summer. We have also supported, and again I will not repeat the detail, further generation and further interconnection options for South Australia. I agree with the honourable member that power supply and demand is still tight for this summer and the coming summer and, whilst I cannot recall the timing of the exact statement to which the honourable member referred, it is certainly correct to say that it has only been in recent months, certainly this year, that the notion that we could no longer rely on the 500 megawatt interconnector from Victoria has become a much more significant part of the power supply calculations that NEMMCO and others make.

In all the early calculations that were done by everybody looking at the market, the 500 megawatts from Victoria was always an important part of the calculation of the supply in South Australia. Those like the Hon. Sandra Kanck and others in this chamber who support the notions of interconnection have placed significant reliance on existing and future interconnection.

In relation to the detailed questions about the reserve supply margins, I will need to take advice and bring back a reply. The only point I will make is that I am advised that some of the overseas reserve margin calculations that some commentators have used to compare with Australian circumstances have not resulted in apples for apples comparisons. The calculation of reserve margins in some countries overseas is done on a different basis from the calculation done by NEMMCO in Australia. As a result, the percentage figures that some people use to compare Australia's reserve margin with that of other countries is not an apple for apple comparison.

I am happy to get advice from the people who know the detail of those calculations to highlight to the honourable member that one needs to be cautious about accepting some of the reserve margin calculations that are quoted for some overseas countries and compared directly with Australia's reserve margin. As to whether the current reserve margin calculations are appropriate, that is an issue about which there is some discussion with NEMMCO in terms of the operation of the national market. I know that a committee, together with NEMMCO, is looking at the appropriateness or otherwise of the reserve margin. We will certainly work with NEMMCO if there is to be any change in relation to the reserve margin. The final point that I would make is to consider what are the alternatives. We can either encourage the private sector to build further generation—

The Hon. Sandra Kanck: Energy conservation.

The Hon. R.I. LUCAS: Or conservation, and I raised the issue of demand management in response to the Hon. Mr Holloway. The third option is that taxpayers have to spend some money to build further power generation, and that is not a proposition that the South Australian government supports.

PARLIAMENTARY INFORMATION AND COMMUNICATIONS SERVICE

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Minister for Administrative and Information Services a question about the Parliamentary Information and Communications Service.

Leave granted.

The Hon. CARMEL ZOLLO: The media has recently alerted us to 'a new computer virus named Navidad (Spanish for Christmas) which could spoil the holiday season for many computer users.' This internet worm spreads in much the same way as the US President virus that recently infected and disabled the parliamentary network. It is an email attachment in Spanish. Any user who may ignore the warnings it presents (or who does not speak Spanish) will see a message (translated from Spanish): 'Merry Christmas. Unfortunately you've given in to temptation and lost your computer.'

The virus installs itself on the user's computer and proceeds to render the computer inoperable. On a scale of 1 to 5 of a leading software company's virus alert website (where 1 equals low risk and 5 equals extreme risk), Navidad is given a 'rating 4, high damage, difficult removal, moderate threat containment'. This compares to the mild level 2 rating given to the last virus that infected the parliamentary network. Navidad has two strains: A and B.

I also understand that many offsite regular users of the parliamentary system (that is, those who log in from outside this building) do not receive regular VET definition updates. Also, irregular users of the system may not be fully protected because of the current method of providing virus protection updates which require users to do a full intranet and file server log-in. For example, the offsite PC provided to me by MAPICS, which I use almost daily, has not had a VET file

update since May this year, despite my regular use of the system. The PCs in parliament have November dated updates, although the uptake used may not provide full protection against the B strain of Navidad.

In addressing concerns that I recently raised on the security and anti-virus protocols of the parliamentary network, the minister replied:

> We have taken every step to ensure that security cannot be compromised.

The minister said further in his response on the issue of security of confidential data on the parliamentary network:

> There are other means of maintaining confidential information.

Further to these issues, the parliamentary network file servers have, without warning, been offline for extended periods several times during this sitting week. This has prevented access by members, staff and *Hansard* to stored files as well as causing printing facilities to be severed and data lost. My questions are:

1. Will the minister assure the Council that the parliamentary network is able to stop this Navidad virus or any derivative viruses?

2. Will the minister detail what 'other means' he was suggesting, and does he intend to provide a data encryption software system to members which will allow users to encrypt individual files?

3. Will the minister investigate additional methods to circulate the most up-to-date virus definitions, such as those used by the federal parliamentary system, which includes emailing the virus protection definitions to users?

4. Will the minister advise the chamber what has caused the file servers to go offline and what action is being taken to prevent such occurrences in the future, especially during sitting weeks?

The Hon. R.D. LAWSON (Minister for Administrative and Information Services): The honourable member refers, first, to the proliferation of yet another computer virus across networks around the world. Since the last occasion when the parliamentary network was contaminated by a virus, additional measures have been taken to ensure that appropriate screening software is installed. I am advised that the software used by the South Australian government network, which is called SAGEMS, is absolutely up-to-date and is updated on an almost hourly basis. As to particular measures with respect to the Spanish Merry Christmas virus, I will take advice on that and provide the honourable member with additional information, if there is any.

The honourable member also mentioned the method by which virus screening software is distributed and said that in some other networks it is done by a means other than online. It is the case that, for most people on the parliamentary network, regular updates are provided online, and members are encouraged to log on to ensure that their systems receive the benefit of that constant updating.

With regard to the interruptions to the network earlier this week, it is true that, as a result of new software being installed for the House of Assembly, and after due testing I am advised, there was discovered an incompatibility in that software with the software that was already on the servers and that the servers had to be taken off-line. The Parliamentary Support Group sincerely regrets and apologises to parliamentary users for the inconvenience caused as a result of the installation of that software.

I am advised that remedial measures have been taken to overcome the difficulty. I have informed the manager of the network that, in future, installations of that kind should not take place during a sitting week in view of the obvious possibility of severe inconvenience. As to the remainder of the honourable member's questions, if I have not provided sufficient material I will endeavour to do so and give her a prompt response.

HENSLEY INDUSTRIES

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning, representing the Minister for the Environment and Heritage, questions about the EPA and Hensley Industries.

Leave granted.

The Hon. T.G. CAMERON: On 29 November there was a public meeting of around 200 outraged residents of Flinders Park and areas surrounding Hensley Industries at Torrensville. The SA First candidate for the seat, James England, attended the meeting. The residents participated in discussion about the health and environmental effects of industrial fallout and pollution. Many claimed that even walking near the factory by the River Torrens was becoming unbearable, to say nothing of living near it.

There have been many claims of adverse health effects including throat irritations, skin conditions and nausea. On top of this, claims of sleeplessness because of noise emanating from the factory which operates late at night, even past midnight, were common. A representative of the Environmental Protection Agency attended this meeting. A question was raised during the night which brought to light that, several weeks ago, representatives of the EPA went out into the affected areas investigating the pollution claims by the residents and said that the pollution was 'unacceptable'.

Since then the EPA has placed an order requiring Hensley's compliance with smell pollution regulations within the next 12 months. It has been told to close the doors of the its factory to help alleviate the smell and noise. To make matters more confusing, the EPA ordered this without consulting workplace safety authorities, who require the foundry to have open doors and windows. The company was forced to choose between the health of the residents and the health of their workers.

It is unacceptable that an industry has to choose between affecting the residents more and its workers less or the residents less and its workers more. The residents in the affected areas and the workers have a right to effective environmental protection from industries that are seriously affecting public health. My questions are:

1. If the EPA considers something is unacceptable, is it acceptable that such a lenient, ineffective order be issued to address the problem?

2. Who should Hensley be listening to, the EPA or workplace safety? Why does it have to choose between the welfare of local residents and the welfare of its workers?

3. Can the minister give assurances that the health of the residents and workers is not being adversely affected by the current operations of the foundry, and that the current order of the EPA will stop health problems from occurring in the future?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I will refer the honourable member's question to the Minister for Environment and Heritage but, as the Hon. Robert Lawson is responsible for occupational health and safety matters, he should look at this question also.

Therefore, I will refer it to him also and he can get people together to try to sort it out because it seems a dilemma for the work force, businesses and the local community.

PUBLIC SECTOR SALARIES

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the leader of the government, the Hon. Robert Lucas, a question about public sector salaries.

Leave granted.

The Hon. L.H. DAVIS: On Sunday 26 November the Labor leader, Mr Mike Rann, claimed on ABC radio that the Liberal government had got its priorities wrong because there had been an increase in the number of senior executives in the South Australian Public Service who were earning more than $100 000 per annum. Mr Rann said that, in this the year 2000, there were almost 550 executives costing $76 million, compared with only 250 executives costing $32 million in 1996. The first thing that has to be said, obviously, is that that was four years ago. Mr Rann described these people—

The Hon. Carolyn Pickles interjecting:

The Hon. L.H. DAVIS: Well, it was four years ago. Mr Rann described these senior public servants as 'fat cats'. My attention was drawn to an article in the *Advertiser* this morning in respect of Mr Ian Kowalick, who enjoyed great respect for his leadership role in the Public Service until he recently moved on. He was questioned at length before the Economic and Finance Committee only yesterday, and he was quoted in the *Advertiser* as making the pertinent observation that it was becoming increasingly difficult to attract people to South Australia, particularly into the public sector, but also the private sector, on salaries which were commensurate with the job required, given that you are competing against the public sector in the eastern states and the private sector everywhere. So, it was interesting to see the contrast in the views of Mr Rann and Mr Kowalick. My questions are:

1. Does the Treasurer have an explanation for the claim made by Mr Rann that there has been a sharp increase in public sector salaries in South Australia?

2. Does he believe that that increase has been warranted over that four year period?

3. Would he care to comment on Mr Kowalick's claim about the increasing difficulty in attracting good quality and high level senior executives into both the private sector and public sector in South Australia without paying them a competitive salary?

The Hon. R.I. LUCAS (Treasurer): I was amazed and disappointed that a person who would like to be the premier of this state would call any public servant with a total employment package of over $100 000 a 'fat cat'. It is an appalling judgment about senior public servants. I think he will be condemned by the PSA, those who represent the workers within the public sector, and I would hope even some of his own colleagues, for using such language to describe public servants—

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: I would imagine. These people invariably are hard working public officers, working in the interests of the state and not interested in the politics of the day and, because they happen to have a total employment package of over $100 000, the Leader of the Opposition, the man who would want to be the Premier, impugns them by referring to them as 'fat cat public servants'. That is an appalling example of leadership. If I were a member of the Labor Party, certainly I would be disowning my leader sooner rather than later.

The honourable member has suggested that one of the primary reasons for the difference is that this comparison used by Mr Rann to try to indicate that the government is spending some $44 million a year more on fat cats in the public sector is that it goes back four years. If you were a senior public servant within one of the departments and earning $85 000 or $90 000 four years ago, you are doing the same job today and through normal salary and package increases, you happen now to be earning $100 000 instead of $85 000 or $90 000—

An honourable member interjecting:

The Hon. R.I. LUCAS: We are not talking about CEOs. That is the problem with the Deputy Leader. We are talking about middle and senior level managers within the department. We are talking about a number of people who were doing the same job four years ago, who have had normal salary increases and who are now earning over $100 000, and the Leader of the Opposition is abusing them because they have had normal salary increases and they are now 'fat cats'. They are not the chief executives—

An honourable member interjecting:

The Hon. R.I. LUCAS: We are not talking about chief executives; they are hardworking middle and upper level managers within the public sector who were earning $85 000 to $90 000 a year four years ago and have had normal salary increases. For example, if you were in the education sector or benefited from the 17 per cent parity wage claim, which the PSA negotiated with the government, and if it takes you over $100 000, you are still doing the same job but all of sudden you are being described by the Leader of the Opposition as a 'fat cat public servant'. The implication is that, in some way, there are an extra 300 public servant fat cats employed by the government in the year 2000 compared with 1996.

Mike Rann, the Leader of the Opposition, knows that statement is not true and he knew it was not true when he made it. He deliberately misled the journalist and he is deliberately misleading the people of South Australia in the claims that he is making.

WORKCOVER CORPORATION

The Hon. IAN GILFILLAN: I seek leave to make a brief explanation before asking the Attorney-General a question about an application for freedom of information regarding the WorkCover Corporation.

Leave granted.

The Hon. IAN GILFILLAN: Under the FOI act, an application for access to a person's personal information held by a statutory authority may be made only with the consent of the person to whom that information relates. If the statutory authority denies the request, the applicant may then appeal the decision in the District Court.

In relation to this, I have been approached by an injured worker, Mr Moore McQuillan, who has recently received a bill for over $36 000 arising from a freedom of information request made to WorkCover by a third party for personal information on Mr Moore McQuillan. The third person made two FOI applications for information held by the WorkCover Corporation relating to Mr Moore McQuillan. Both requests were accompanied by the relevant FOI consent form but Mr Moore McQuillan denies signing the second form. Both the requests were denied.

The second request became the subject of an appeal by the third party in the District Court. Mr Moore McQuillan, believing that the appeal related to the first request, agreed to be a witness in the case. The appeal was subsequently lost and costs were awarded against the third person in the sum of $21 000. Over one year later, in September 1998, Mr Moore McQuillan was summoned to appear before Judge Allen in the District Court where he defended himself against bearing the costs in the initial case in the District Court. The costs were awarded against Mr Moore McQuillan and his subsequent appeal to the Supreme Court in February this year was also unsuccessful.

The basis for transferring the liability for the court costs from the original applicant to Mr Moore McQuillan was argued citing the case of the High Court in Knight v F. Special Assets Ltd 1992. This High Court decision concerned a company bankruptcy seeking to protect the interests of private individuals against companies and corporations which would seek to evade liability after becoming bankrupt. In this case, it was used to argue that, because Mr Moore McQuillan consented to the FOI request and would benefit from the request, he should bear the responsibility for costs.

Mr Moore McQuillan feels victimised because, prior to being found liable for the costs of the initial case, he gave evidence to the Legislative Review Committee hearing on the term of reference on freedom of information. He has informed me that he believes that he was threatened with retaliation from an officer from WorkCover. It was not until December this year that Mr Moore McQuillan was given the bill for over $36 000 for the court costs. My questions to the Attorney are:

1. What are the procedures for verifying consent when personal information is requested under FOI by a third party?

2. Is it common practice by statutory authorities to seek costs in freedom of information appeals to the District Court?

3. Why were the costs transferred from the applicant to Mr Moore McQuillan?

4. What justification was there for the considerable time delay in seeking to transfer the liability of costs to Mr Moore McQuillan?

5. Why was it not until just before Christmas this year that Mr Moore McQuillan was presented with a bill for the court costs?

The Hon. K.T. GRIFFIN (Attorney-General): I will have to take the honourable member's questions on notice. It may be that they are more appropriately directed to the Minister for Workplace Relations, who has the responsibility for the Freedom of Information Act, but I will assess it, get some replies and bring them back in due course.

RAIL FREIGHT

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for Transport a question about rail freight timetables.

Leave granted.

The Hon. CAROLINE SCHAEFER: In my position as convenor of the Food for the Future Council, one of the difficulties of shipping freight from South Australia arises from a lack of transport options which, I understand, will be very much alleviated when the Alice Springs to Darwin railway is completed. In the meantime, I understand that there are a number of competing rail operators within this state but there appears to be a lack of information for investors and businesses as to the range of freight services available. Can the minister provide some detail about how both investors and businesses can avail themselves of information on current rail freight services?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I thank the member for her question and appreciate her long-standing interest in these freight issues arising from Food for the Future and also because of her farming background. This has been quite a challenge because, until a couple of years ago, there was essentially one rail freight operator in South Australia, Australian National. With the sale of Australian National, and also with third party access and a great deal more energy from this state government, and federally, to promote rail as a viable alternative to road, we have many more operators and services across South Australia and interstate each week.

I highlight that, in addition to all the intrastate—essentially grain—services operated by Australian Southern Railway, there are now more than 90 services operating weekly between Adelaide and the rest of Australia: this includes 45 rail freight services between Adelaide and Melbourne; 10 services between Adelaide and Sydney; 27 between Adelaide and Perth; and eight between Adelaide and Alice Springs. With all these services it was determined, as part of the government's goal to promote the transfer of business from road to rail—but also to meet the increasing amount of freight being generated anyway—that we must look at developing a timetable for industry that would make it much easier, generally, for them to operate, but also to collate all the information in terms of freight services.

I am very pleased to say that, for the first time—for as long as I can recall over some decades—we now have a new timetable highlighting all these services, with the information available for times of operation, dates and other logistics. This information is being sent directly to 700 businesses in South Australia, to relevant industry organisations. It is proposed to place it on the TransportSA internet site and distribute it through the trade presses. It will help us in terms of the promotion of rail, in addition to the reduced transit times and reduced freight rates that are now on offer and, I think, it will generally help more and more companies, including those the honourable member is working with on Food for the Future, to consider rail as an alternative to road in terms of transporting goods to market.

REPLIES TO QUESTIONS

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

That standing orders be so far suspended as to enable me to insert into *Hansard* without my reading them replies to questions.

Motion carried.

GOODS AND SERVICES TAX

In reply to **Hon. T.G. ROBERTS** (6 April).

The Hon. R.I. LUCAS:

1. The answer to this question depends on whether it is referring to transactions involving the delivery of physical goods 'offline' (i.e. by traditional means of air, sea or post) or transactions involving the transfer of digitised products through the Internet or by electronic means.

Transactions involving the delivery of physical goods 'offline' which are ordered and paid for 'online' pose no new challenges—in practical terms, such transactions are no different to mail orders of physical goods from overseas vendors.

Whether such transactions are subject to GST depend on whether the supplies are "taxable importations" under Division 13 of the *A New Tax System (Goods and Services Tax) Act 1999* ('the Act').

Transactions involving 'online' delivery of digitised product through the Internet or by electronic means currently account for a very small percentage of e-commerce.

From an Australian perspective, the current GST legislation deals with the importation of intangible supplies via the "reverse charging" rule of Division 84 of the Act. Under the reverse charging rule, the recipient charges itself GST on the acquisition of intangible supplies from an overseas business. However, Division 84 of the Act only applies if the supply is not connected with Australia, the supply is not acquired solely for a creditable purpose and the recipient is registered.

Accordingly, no GST is applicable on unregistered private consumers who purchase and download digitised products via the Internet.

Division 13 of the Act on taxable importations has no application as the supply in question does not consist of tangible goods.

2. Adapting the GST legislation to ongoing developments in electronic commerce will primarily be a matter for the Commonwealth Treasury and the Australian Taxation Office. Nevertheless the States and Territories will take a keen interest in this matter given the implications for revenues (the entire proceeds of GST revenues are distributed to the States and Territories under the new system of Commonwealth-State Financial Relations).

While there has been a lot of discussion on the potential of the Internet based economy, there is a view that the magnitude of GST at risk from e-commerce is relatively small. One reason for this is because the bulk of e-commerce is made at the wholesale level (business to business) and not at the retail level (business to private consumer). Another reason is that trade in digitised products that can be delivered on-line is still in its infancy.

Nonetheless the potential for the expansion of e-commerce to undermine the GST base over time will need to be subject to ongoing attention by governments.

GAMING MACHINES

In reply to **Hon. NICK XENOPHON** (11 April).

The Hon. R.I. LUCAS: The Office of the Liquor and Gaming Commissioner does not audit the operation of the voluntary codes of practice on Gaming Machine Advertising and Promotion. As stated in the code, the Code of Practice is a voluntary code of self regulation and is to be read in conjunction with other requirements for the conduct of gaming machines which are set out in the Gaming Machines Act 1992 and its regulations, procedures and directions.

Under the section of the code dealing with the handling of complaints, it is recommended that any complaint under the code which cannot be resolved by conciliation with the Australian Hotels Association or the Licensed Clubs Association should be referred to the Liquor and Gaming Commissioner. As a signatory to the code the Commissioner will attempt to conciliate any such complaint, but unless there has been a breach of the Act, regulations or a condition on a licence, the Commissioner does not have the power to enforce a resolution.

Staff of the Office of the Liquor and Gaming Commissioner undertake regular inspections of gaming venues but the emphasis is on ensuring compliance with the Act, regulations and conditions of licences. Should issues covered by the voluntary code arise they will be reported to the Commissioner but again the Commissioner only has a conciliation brief.

At the Council of Australian Governments meeting in November 2000 leaders agreed in-principle to the introduction of advertising codes of practice. This code is to be further considered and developed through the Ministerial Council on Gambling.

I also note that legislation before Parliament with regard to the regulatory environment for a privatised TAB includes provision that as a condition of the licence there must be an advertising code of practice as approved by the Gaming Supervisory Authority.

AUDITOR-GENERAL'S REPORT

In reply to **Hon. P. HOLLOWAY** (11 October).

The Hon. R.I. LUCAS: The Premier has provided the following information:

While the Auditor-General's "overview" (page 26) comments that "No action has been taken by the Government during 1999-2000 to address this matter", in fact his fuller commentary in the body of the report notes progress on this matter:

> In May 2000 the Office of the Commissioner for Public Employment developed a comprehensive proposal for Chief Executive Performance Reviews. The proposal was discussed by the Senior Management Council in June 2000. The various members of the Council resolved to take up the issues raised in the proposal with their respective Minister.
>
> The Commissioner for Public Employment has advised Audit that he will be following up this matter during 2000-2001.

The Senior Management Council and Ministers are currently in the process of discussing the issues. The Commissioner for Public Employment will report progressively on this matter.

CONSULTANTS

In reply to **The Hon. P. HOLLOWAY** (25 October).

The Hon. R.I. LUCAS:

1. Under the Financial Management Framework, which is issued under the authority of the Public Finance and Audit Act the Chief Executive Officer of each public authority is responsible for the issuance and maintenance of policies and procedures which govern the financial operation of their authority. The guidelines referred to by the Auditor-General are part of the internal policies and procedures issued by the Under Treasurer to govern the operations of the Department of Treasury and Finance. These guidelines adopt principles set down in Government Management Board Circular No 5. This Circular which was issued in 1992 is still current and covers the engagement of contractors and consultants. The Circular applies to all government departments.

2. The Auditor-General has suggested that the current Treasury and Finance internal guideline be promulgated as a guideline for the whole of government. Given that the current guidelines were developed based upon work undertaken in 1992 it is considered appropriate that the guidelines be reviewed to ensure that they represent current legal and procurement best practice. To this end I have asked that officers of the Department of Treasury and Finance work with Crown Law and the State Supply Board in reviewing all procedures in this case.

GOVERNMENT MEDIA UNIT

In reply to **Hon. NICK XENOPHON** (9 November).

The Hon. R.I. LUCAS: The Premier has provided the following information:

1. At 9:15 a.m., 8 November 2000, the press release was sent to media outlets. This followed a member for the Media Unit contacting key political TV journalists and an Advertiser Journalist.

2. The policy on informing the media of any event may vary. In this case, the policy was to inform the media on the day, although the Advertiser was aware of the launch almost a week beforehand. The honourable member should note that times are printed on the top of releases are Eastern Summer Time, as releases are issued through AAPT. The Honourable Member would be aware that media attention on any particular issue is at the discretion of the media outlets—not the government.

3. $647 823.

PETROL PRICES

In reply to **Hon. P. HOLLOWAY** (14 November).

The Hon. R.I. LUCAS: The Premier has provided the following information:

I can advise that what was agreed to at the recent Council of Australian Governments meeting was that there would be a discussion on the development of a national energy strategy at the next COAG meeting, which will be held sometime in the first half of 2001.

In response to the honourable member's request for information on the terms of reference and whether it will include a review of the structure of petrol pricing, it is too early to say. The COAG meeting where this proposal was suggested has only recently been held. What COAG did recognise was that any strategy on energy must take advantage of the abundant energy reserves of this nation and address the associated environmental impacts of energy usage.

CASTALLOY

In reply to **Hon. P. HOLLOWAY** (16 November).

The Hon. R.I. LUCAS: I refer the honourable member to the answer given by the Premier in response to the same question asked by the Member for Peake in another place on 16 November 2000.

SHERIDAN AUSTRALIA

In reply to **Hon. CARMEL ZOLLO** (16 November).

The Hon. R.I. LUCAS: I refer the honourable member to the answer given by the Premier in response to the same question asked by the Member for Hanson in another place on 16 November 2000.

NATIVE TITLE (SOUTH AUSTRALIA) (VALIDATION AND CONFIRMATION) AMENDMENT BILL

In committee (resumed on motion).

(Continued from page 868.)

Clause 6.

The Hon. SANDRA KANCK: In discussing my amendment, the way I wish to treat the paragraphs is to address each one separately. For example, I will speak to paragraph (e) and vote on that, then paragraph (f), speak to that, and vote on it sequentially. At this point I will speak just on paragraph (e). I will not canvass all the arguments. I think that the hour and a half or so that we spent on native title this morning dealt almost exclusively with this clause. The arguments have been canvassed very thoroughly by us all, and I just express my regret that, once again, it is the Aboriginal people who are being asked to make concessions.

The Hon. K.T. GRIFFIN: I oppose the amendments, for all the reasons that I previously indicated. We have had a very vigorous debate about them and I do not think that there is anything I can usefully add at this stage.

The Hon. NICK XENOPHON: I support the Hon. Sandra Kanck's amendment. I do so with some reluctance, but I prefer her position to that of the Attorney at this stage. There is some uncertainty as to the potential common law rights of indigenous Australians in relation to this, but I also have some sympathy for the Attorney's view. On balance, I will be supporting the Hon. Sandra Kanck's amendment, albeit with some reluctance.

The Hon. K.T. GRIFFIN: I must express disappointment that the Hon. Mr Xenophon is going to support the Hon. Sandra Kanck's amendment. It really does not make any sense that we ultimately defer consideration of this, which is what the opposition is proposing. I have given as much evidence as I possibly can that there really is no logic in postponing the decision on this issue, to leave leases with a right of public access in the schedule so that when the bill passes it will confirm the extinguishment of native title, in some instances back in the last century or the one before, depending on which way you look at the end of the century.

The Hon. T.G. ROBERTS: The opposition will be supporting this amendment. We have an amendment on file in our own right, and I will withdraw that and support that of the Democrats, based on the arguments that I put earlier this morning. A little more research has been done in relation to the number of sites affected, and it has further convinced me that our position is correct.

If this amendment passes, it is incumbent on all of us to make sure that the uncertainty that exists in some particular areas is not exacerbated by misinformation that may be associated with the passing of this amendment and the loss of a position within government. It can be made easier or it can be made harder to administer, but we support this.

The CHAIRMAN: The question before the committee is that paragraph (e) as proposed to be inserted in the amendment of the Attorney-General be so inserted.

The committee divided on the new paragraph:

AYES (10)

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

NOES (10)

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

The CHAIRMAN: There being 10 ayes and 10 noes, there is an equality of votes. I cast my vote for the ayes.

New paragraph thus inserted.

The Hon. SANDRA KANCK: Paragraph (f) deals with the grant or vesting of a lease that expired before 23 December 1996—what we know as defunct leases. The Attorney's provision deals with defunct leases only in part by removing the term 'scheduled leases'. My amendment deals with all non-current leases and it encompasses the Attorney-General's amendment. I would like to put on the record a letter from the Native Title Steering Committee and a point it made about this issue in relation to the Western Australian legislation, as follows:

> The Western Australian legislation enacted in May 1999 limited the 'confirmation of extinguishment' provisions in relation to leases to the following classes of lease, but only where in force as at 23 December 1996:
> - certain conditional purchase leases referred to in the WA schedule to the Native Title Act;
> - certain perpetual leases referred to in the said schedule;
> - all 'commercial leases' (apart from 'agricultural leases' and 'pastoral leases'), 'residential leases' and leases (other than mining leases) that confer a right of exclusive possession;
> - agricultural leases and pastoral leases but specifically limited to those which confer a right of exclusive possession.
>
> In particular, that legislation did not confirm extinguishment in relation to leases which were:
> - not in force on 23 December 1996; or
> - leases referred to in the WA schedule (except certain conditional purchase leases and certain perpetual leases); or
> - 'community purposes leases'.

In the light of what has been enacted in Western Australia, we ought to take note of that in making a decision on this paragraph.

The Hon. K.T. GRIFFIN: I oppose the amendment. It would have the effect, as has been indicated, of removing all leases that are previous exclusive possession acts and not current as at 23 December 1996, and that includes commercial, exclusive agricultural, residential and community purpose leases as well as scheduled interests. Even though they are not on the schedule, this affects leases that may not have been current at 23 December 1996. I referred earlier today to the community purposes lease at Mingbool. It makes no sense to exclude racecourses and other leases for other sorts of properties presently covered by the schedule.

The Hon. T.G. ROBERTS: The opposition indicates that it will support the Democrat amendment.

The CHAIRMAN: The question is that new paragraph (f) as proposed to be inserted by the Hon. Sandra Kanck in the amendment of the Attorney-General be so inserted.

The committee divided on the new paragraph:

AYES (10)

Cameron, T. G.	Elliott, M. J.
Gilfillan, I.	Holloway, P.

AYES (cont.)

Kanck, S. M. (teller)	Pickles, C. A.
Roberts, R. R.	Roberts, T. G.
Sneath, R. K.	Zollo, C.

NOES (10)

Davis, L. H.	Dawkins, J. S. L.
Griffin, K. T. (teller)	Laidlaw, D. V.
Lawson, R. D.	Lucas, R. I.
Redford, A. J.	Schaefer, C. V.
Stefani, J. F.	Xenophon, N.

The CHAIRMAN: There being 10 ayes and 10 noes, there is an equality of votes. I cast my vote for the ayes.

New paragraph thus inserted.

The Hon. SANDRA KANCK: I refer now to proposed new paragraph (g), which refers to the granting or vesting of a community purpose lease. Community purpose leases are usually for community, religious, educational, charitable or sporting purposes. Many of these sorts of leases allow general public access to at least part of a leased area. It is therefore arguable that at least some native title rights—possibly access; it may be not much more than that—may still exist.

Proposed new paragraph (h) refers to leases in excess of 40 square kilometres which are not used for intensive purposes. I refer again to the report of the Native Title Steering Committee dated 21 September, which states:

> It is apparent from the majority decision in Wik and subsequent Federal Court decisions that the vastness of the area under lease and, to a degree, its remoteness are significant factors. They tend to suggest that the land was not leased for an intensive purpose and, in particular, was not intended to exclude, and did not have the effect of excluding, the holders of native title from the land. It is noteworthy that the second of the two Holroyd River leases considered in Wik (for a term of 30 years from 1 January 1974) did not include a specific provision limiting its use (for example, 'for pastoral purposes only'). It was nonetheless held not to have excluded all incidents of native title.
>
> It is submitted therefore that an inference may be drawn that, notwithstanding the absence of a limitation in the permitted use, the land is not to be treated as leased for an intensive purpose. In such circumstances, it may be suggested that where a power to use part of the land for an intensive purpose is actually used, extinguishment would arise in relation to that part by reason of 'operational inconsistency'.
>
> It is invidious for the committee to be putting forward a particular size of lease as a basis for exclusion, as leases of a lesser size may still be considered to be greater than what might be considered capable of being used for an intensive purpose. Nonetheless, having regard to the area of 45 square kilometres referred to in the Anderson case as being 'a large area of land', a line drawn at 40 square kilometres might be seen to be appropriate. We accordingly submit that leases of an area in excess of 40 square kilometres should be excluded from the bill, unless they are for a specified purpose which is an intensive purpose.

Proposed new paragraph (i) relates to the granting or vesting of a lease where construction was expected as part of the lease but was never undertaken and the lease was forfeited or surrendered. An example of which many members would be aware is the Ophix development in the Flinders Ranges—a controversial development proposed by the Labor government in the early 1990s. That development did not eventuate and, obviously, the construction did not happen. The lease was not complied with; therefore, some aspects of native title may exist.

Proposed new paragraph (j) relate to short-term leases not used for intensive purposes. Again, I refer to the submission of the Native Title Steering Committee, which states:

> . . . this submission refers above to the views in this regard of the majority in WA v. Ward. The High Court itself has not yet addressed the issue of the effect of the shortness of a term, where otherwise native title rights may have been abrogated by virtue of the grant of inconsistent rights to a lessee. In particular, the High Court has not considered whether, in such circumstances, native title rights may be suspended rather than extinguished. This was an issue left open by the majority in Wik for later determination.

The Hon. K.T. GRIFFIN: The government opposes the amendments. In the light of the fact that the Hon. Sandra Kanck has given some explanation for the amendment and even though I have previously explored why the government is not prepared to accept the amendments, it is probably appropriate for the sake of completeness if I take a couple of minutes to deal with each of the paragraphs in the Hon. Sandra Kanck's amendment.

Proposed new paragraph (g) seeks to exclude all community purpose leases from the operation of the bill. That means that they will not be considered as extinguishing tenures. As common law leases, community purpose leases in this category (by definition) grant exclusive possession to the lessee. These are leases which solely or primarily are for community, religious, educational, charitable or sporting purposes.

If exclusive possession is not granted, the interest is likely to be a licence and not a lease and therefore not covered by the legislation in any way. In opposing the inclusion of community purpose leases in the bill, indigenous representatives submitted that often this land is used for a community purpose on only a few days a year. This approach confuses the relevance of the rights granted to the lessee and the use made by the lessee of the land.

Community purpose leases have extinguished native title because they would allow the lessee to use the land on every day of the year if they wanted to. Such a right is necessarily inconsistent with the continued existence of native title. The frequency with which the lessee actually exercises the rights is not relevant. The High Court authorities make it clear that, if the grant of rights under a lease is inconsistent with native title, native title is extinguished and it is not necessary to look at activities occurring on the ground.

Proposed new paragraph (h) seeks to exclude any lease larger than 40 square kilometres (which allows the lessee to use the land for grazing or pastoral purposes even if it also allows all sorts of other purposes) from the confirmation provisions of the bill. This would include perpetual and common law leases that are not confined to a specific purpose. This places a disproportionate emphasis on the size of the lease. That is only one of the numerous factors that need to be considered. When determining whether a lease is granted exclusive possession, other factors are relevant, such as obligations on the grantee, capacity to upgrade, the term, the historical origins of the lease, the rights of third parties, and the location of the lease.

I suggest that these principles are consistent with the High Court decision in the Wik case. To the extent that the size of the lease on the schedule is relevant in determining whether the lease granted exclusive possession, that has already been taken into account. To limit the operation of the bill based on some but not all of the relevant criteria that indicate exclusive possession has no basis in law and would make the operation of the bill very arbitrary in practice.

If this amendment were to be carried, the only leases greater than 40 square kilometres that would be left to be covered by the bill are those granted specifically for purposes other than grazing or for other purposes that do not include grazing or pastoral purposes. This would not include most perpetual leases which were silent as to purpose but which, in practice, were granted over the agricultural areas of the

state. On a previous occasion, I offered to exclude—and in my amendment I have excluded—scheduled leases granted solely or primarily for grazing or cropping purposes. It is not correct to assume, as this amendment does, that leases that allow the leased land to be used for any lawful purpose grant fewer rights than leases granted for specific purposes.

The mere fact that grazing could take place on a lease does not of itself mean that native title rights will survive the grant of the lease. If a lease involves other rights over the land that are inconsistent with the continuing existence of native title, the fact that grazing is also allowed on the land is irrelevant. For example, it is quite possible for owners of freehold land to use their land for grazing. This is not an argument for saying that freehold titles do not extinguish native title.

The next measure is paragraph (i), where the amendment would exclude from the legislation all previous exclusive possession acts consisting of the grant or vesting of a lease which contains a condition that the lessee construct buildings or other permanent improvements, apart from fences, where the lease is forfeited or surrendered before there has been substantial commencement of such construction from the operation of the bill.

To the extent that any such condition is relevant in determining whether or not the lease granted exclusive possession, that factor has already been taken into account in the process of compiling the schedule. This amendment also misinterprets the relevant High Court authorities that state clearly that, where exclusive possession is conferred on a lessee, it is not necessary to consider what activities actually occur on the ground.

The next one is paragraph (j). This would exclude any lease that was granted for a period of 21 years or less which is either greater than 12 hectares or less than 12 hectares and which allows the lessee to use the land for grazing or pastoral purposes from the confirmation provisions of the legislation. It could include current smaller common law and other exclusive possession leases which are not confined to a specific purpose and would cover all larger leases where the term of the lease does not exceed 21 years.

It places disproportionate emphasis on the term for which the lease is granted. The term is relevant of course, but it is not the only factor that should be taken into consideration. To limit the operation of the bill based on some but not all of the relevant criteria which indicate exclusive possession really has no basis in law; it will result in quite arbitrary outcomes.

The fact that grazing is allowed by a lease will not of itself mean that native title rights will survive the grant of the lease if it does involve other rights over the land which are not consistent with the continuing existence of native title. The fact that grazing is also allowed on the land is irrelevant. As I did previously, I note that it is quite possible for owners of freehold estates to use their land for grazing. On those bases, all the paragraphs by way of amendment are opposed.

The Hon. T.G. ROBERTS: We support the Democrat amendment.

The committee divided on the question that paragraphs (g), (h), (i) and (j) be inserted:

AYES (10)

Cameron, T. G.	Elliott, M. J.
Gilfillan, I.	Holloway, P.
Kanck, S. M. (teller)	Pickles, C. A.
Roberts, R. R.	Roberts, T. G.
Sneath, R. K.	Zollo, C.

NOES (10)

Davis, L. H.	Dawkins, J. S. L.
Griffin, K. T. (teller)	Laidlaw, D. V.
Lawson, R. D.	Lucas, R. I.
Redford, A. J.	Schaefer, C. V.
Stefani, J. F.	Xenophon, N.

The CHAIRMAN: There are 10 ayes and 10 noes, so there is an equality of votes. I cast my vote for the ayes.

Question thus carried.

The Hon. SANDRA KANCK: Paragraph (k) deals with holiday accommodation or a shack site lease. Anyone who has been to the Coorong would understand that river bank or seafront locations are areas of great abundance and fertility: there is always ample food to eat and water to drink. Sources of fresh water in particular are almost always areas of significance for Aboriginal people, and access to such areas is extremely important. As with the previous point, I note that we are dealing with short-term leases.

The Hon. K.T. GRIFFIN: The government opposes the amendment. This would mean that miscellaneous leases solely or primarily for holiday accommodation and shack site purposes would not be confirmed as extinguishing tenures by the bill. These shack site leases are miscellaneous leases for residential purposes over small blocks of land on which families have had their homes, many of them for many years. These leases convey rights of exclusive possession to the shack owners that are clearly inconsistent with the continued existence of native title.

As I said earlier, the Australian Labor Party appears to have recognised this fact because it has not suggested in its amendments that shack site leases be removed from the bill. In many instances, people are living on these leases for 365 days of the year (and 366 days in a leap year) and nothing can be clearer than that they are tenures that have been granted for exclusive possession and they have extinguished native title.

I suggest very strongly to the committee that they should remain in the schedule and that we should confirm that they have extinguished native title wherever they might be. We have not done an assessment as to where they might be. There are approximately 1 600 to 2 000 of them, and quite obviously there will be a great deal of concern if they are excluded from the schedule of extinguishing tenures.

The Hon. CAROLINE SCHAEFER: I support strongly the Attorney-General in his bid because I have a number of constituents from the lower West Coast, particularly south of Port Lincoln, who are residents in their beach shacks. They have no other home. They are permanent residents in the types of dwellings that the Hon. Sandra Kanck describes and, without this security, it would be to them exactly the same as having a native title claim over a suburban home. I think we need to look a little wider than the Coorong.

The Hon. T.G. ROBERTS: At this stage the opposition supports the amendment, but we will discuss it in another place.

The Committee divided on the Hon. Sandra Kanck's new paragraph (k):

AYES (9)

Elliott, M. J.	Gilfillan, I.
Holloway, P.	Kanck, S. M.(teller)
Pickles, C. A.	Roberts, R. R.
Roberts, T. G.	Sneath, R. K.
Zollo, C.	

NOES (11)

Cameron, T.G.	Davis, L. H.
Dawkins, J. S. L.	Griffin, K. T.(teller)

NOES (cont.)

Laidlaw, D. V.	Lawson, R. D.
Lucas, R. I.	Redford, A. J.
Schaefer, C. V.	Stefani, J. F.
Xenophon, N.	

Majority of 2 for the noes.

New paragraph thus negatived.

The Hon. K.T. Griffin's amendment as amended carried; clause as amended passed.

Remaining clauses (7 and 8) and title passed.

The Hon. K.T. GRIFFIN (Attorney-General): I move:

That the bill be now read a third time.

In doing so, I want to say a couple of things. The bill in its present form is not acceptable to the government, but I recognise that this is not the end of the road so far as the bill is concerned. It will have to be considered in the House of Assembly and may ultimately end up in a deadlock conference. I can state quite categorically that it is not in a form that is acceptable to the government and, I would suggest, not acceptable to the South Australian community. That means that members will have to do more work.

I recognise that it is a complex issue and that, at least among Aboriginal people, emotions run fairly hot in relation to these sorts of things. But, as I have tried to indicate in all my discussions with their representatives and in relation to both this bill and the indigenous land use agreement negotiations, the government is intent upon getting a satisfactory resolution to all issues relating to native title sooner rather than later. There is no profit for anybody to take native title claims through to the Federal Court and ultimately to the High Court because that will only cost significant resources, not just in monetary terms but also in terms of nervous energy and personal time. Undoubtedly it will be a fairly difficult experience for everybody, particularly native title claimants and all of those who will end up having to give evidence.

As I have said on many occasions—and I want to reinforce it again now—the problem with going to court is not just the payment of legal fees but the fact that many people who are native title claimants may not be around to enjoy whatever benefits come from that, if in fact native title is upheld. We are looking at five, 10, 15 or 20 years down the track, because the courts just cannot handle 27 cases all at the one time, the government cannot handle it, and native title claimants cannot handle it. In fact, I do not think anybody can handle this sort of litigation over a relatively short period of time.

So, regardless of the outcome of this bill, I would hope that the native title claimants, their representative body (the Aboriginal Legal Rights Movement), the South Australian Farmers Federation, and the Chamber of Mines will continue to endeavour to reach a satisfactory outcome on indigenous land use agreements, and I would hope that all pressure would be put on all of us to see if we can get that resolved in 2001. It is probably a big ask but I think there are some important issues and principles at stake.

Notwithstanding my position and the government's position on this bill, and notwithstanding that there are some people who feel that this is inextricably entwined with native title claims and their resolution, I would urge those with any influence to endeavour to ensure that we keep the two issues as separate as we possibly can and that the native title claims are proceeded with through the indigenous land use agreement negotiation process.

The only other point I want to make is that I am disappointed that we were unable to get to this bill quite some time ago. Tomorrow will the second anniversary of the introduction of the first bill and it would be good to resolve this before we finish the second anniversary. I appreciate that there are differing points of view with which I have disagreed and will continue to strenuously disagree, but at least some persons who have been involved have genuinely held views which we have had to wrestle with and which have been the subject of consultation.

It is now onto the next stage and, as I have said, consideration of this bill has not yet been concluded, but I hope that it will be concluded in the not too distant future and that we are able to make significant progress in respect of indigenous land use agreements in the negotiation process.

The Hon. T.G. ROBERTS: The Labor Party endorses many of the remarks of the Attorney-General in relation to the way we deal with the negotiations to ensure that litigation and bogus claims are not instigated in order to slow down the process and that the credibility of the negotiating bodies is tested. I am not sure what the final shape of the act will be once we get into deadlock conference but I would like to thank those people who have supported the progress of the bill to the conference stage.

I believe it is incumbent on us to look as closely as we can, and for as long as we can, to try to eliminate areas where we have differences to enable a closer agreement on how to proceed, and perhaps we will be able to do that. I think part of the amendments have been processed to allow for procedure to take place and, hopefully, people will not take advantage of that by issuing press releases that make it difficult for us to maximise the returns that we might get out of a deadlock conference.

On behalf of the Labor Party, I give a commitment to work with the government in a bipartisan way to get the indigenous land use agreements into place as soon as possible and to talk with the representatives of indigenous people, their elders or leaders, or whoever it needs to be, to put in place a process which gives the government the confidence that the time frames in relation to certainty and the use of the courts are minimised rather than maximised by disaffected groups who might have been offended by a bill in which they had no confidence.

The government has sent a loud and clear message and, as I have said, I believe that we have a responsibility to cooperate with the government in a bipartisan way. Hopefully, whatever the final result of the deadlock conference, those who are communicating will do it in a way that maximises community participation so that the conciliation process can be a part of the way in which we try to move forward to bring about the best possible outcomes in this state so that other states can look at it as a model to proceed and to get the possible outcomes. I hope that we as legislators can do it without over-reliance on the courts: I will not say without relying too much on the courts because the courts have delivered decisions that we are incumbent to recognise and work our way through.

It is not an easy process. I am not sure that legislators in any other government that I have had anything to do with in the 14 years I have been in parliament have had such a test thrown at them. The snapshot that we take of the developed culture that we live in, and the indigenous culture that is trying to participate, should be at a level that delivers to them advancement in whatever way they determine, in conjunction

with us, and I think we have a responsibility to ensure that the opportunities are maximised. Let us hope that we can do that.

Bill read a third time and passed.

RACING (PROPRIETARY BUSINESS LICENSING) BILL

Adjourned debate on second reading.

(Continued from 5 December. Page 806.)

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I thank the many honourable members who addressed this bill. This highlights the extent of interest in this new form of racing. The current South Australian legislation does not prohibit proprietary racing. However, if it commenced under the present legislation it would do so unlicensed and without appropriate probity checks. This bill provides for these probity checks, and the approach adopted by the government in this area is not dissimilar to those who wished to pursue a licence to undertake casino gaming in this state.

There is potential for substantial economic benefits for South Australia, particularly in country centres where interest has been shown in establishing proprietary racing—those centres being the Riverland, the South-East and Port Augusta. Further benefits could stem from this form of racing for the breeding industry, trainers, and others involved with horses. Some sections of the traditional racing industry have shown their active support for proprietary racing and the benefits that it will bring to them. Both the harness and greyhound codes have signed contracts with Cyber Raceways Ltd to conduct straight-line racing on their behalf.

These two codes believe that there is potential to grow their industries to the benefit of participants. In addition to the traditional racing interests, the government has been approached by the Australian Racing Quarterhorse Association to conduct such racing. This body strongly supports the bill. The amendments to the bill ensure that, where there is a relationship between the traditional racing industry and the new for-profit businesses, there is adequate provision for licensing and probity of parties which are significantly involved—these being the directors and chief executives of the representative bodies. I note that there are a number of amendments on file and I look forward to advancing those matters during the committee stage of the bill.

Bill read a second time.

In committee.

The Hon. DIANA LAIDLAW: Mr Chairman, I draw your attention to the state of the committee.

A quorum having been formed:

Clause 1.

The Hon. A.J. REDFORD: I draw members' attention to the fact that I raised a number of issues during my second reading contribution on this bill that fell broadly into a number of categories. First, I raised the issue of the effect of TeleTrak on the existing industry. I understand from correspondence that has been given to me from the minister, the Hon. Iain Evans (and I am grateful for that response), that the intention of the legislation is to create a level playing field and that in this legislation—there may well be in other respects—there will be no competitive advantage or disadvantage in relation to proprietary racing. On that score I am happy to accept what the minister said.

Secondly, I asked the minister what effect the racing initiative proposed by TeleTrak might have on economic outcomes. That is the one that has had the most publicity; I know there are others in the pipeline. I understand that some modelling work was commissioned by TeleTrak way back in September 1998, some two years ago. That proposal of two years ago and the one before us now are quite different in a number of respects. It was suggested back then that, in the opinion of the South Australian Centre for Economic Studies, that modelling work was overstated. I understand that an updated copy of the business plan has been presented to the former umbrella organisation for the racing industry (RIDA) and I further understand that no independent economic evaluation of that document has been carried out.

In addition, I asked questions about the arrangement between the TAB and TeleTrak. I have lobbied the government to put an amendment on file in relation to the provision of gambling services to South Australians. The government has filed an amendment to deal with that and that amendment, in terms of my concerns about internet gaming, is acceptable to me. Much has been said about internet gaming in this place over the past few weeks. There might be better clauses and we might tighten it up further, but at the end of the day this addresses seriously the issues I have raised.

I am also conscious of the fact that today the Premier made a ministerial statement, albeit under the topic of poker machines, in relation to gambling. In that ministerial statement he indicated a number of issues in relation to poker machines. Referring to the period between now and the end of May next year, he said:

> During this time I will continue to work with interested parties to develop a comprehensive bill which addresses all of the issues.

He goes on to state that a detailed bill in relation to poker machines will be tabled in parliament next year. I hope that all members here would join with me to urge the government to present to this parliament some time next year a bill dealing with internet gaming so that we can confront the issue once and for all and deliver a parliamentary policy on that issue.

I have not counted the numbers as to which way it might go, but the time has come for this parliament to address once and for all that issue and the question of prohibition or regulation, because it is difficult for all of us in this and other place to deal with internet gaming in an ad hoc way and in a piecemeal fashion, either piggybacking on legislation such as this, TAB legislation or authorised betting legislation. The net effect is that I will be urging the government—and hope others will join with me—to present to this parliament a package including a bill to cover internet gaming once and for all.

Another issue concerns me. Although the Hon. Paul Holloway's recollection of what I said in terms of the internet gaming report was misconceived, I am sure that he will correct me if I am wrong. I think the South Australian TAB has been offering an internet product to South Australians for a little less than 12 months now—and I hope the Hon. Paul Holloway or Nick Xenophon will correct me if I am wrong.

I am extraordinarily disappointed—and I think I am understating my views in this respect—that issues such as that have not been brought to this parliament to be properly and fully debated. Those who are charged with any administrative responsibility in relation to gambling and who enter any such arrangement in the future ought to be dealt with savagely by this parliament. I must say—and I put this kindly—that I am not particularly happy about the way the

TAB has avoided some sort of parliamentary sanction in relation to this activity to date.

I do not know who you point the finger at: it could be a range of people; and it might have slipped under our guard through sheer ignorance, but the TAB, touch wood, will be a publicly owned institution in the not too distant future. Given that there is no conflict of interest in terms of trying to generate revenue for an organisation, as a parliament we will deal with the activities of the TAB far more vigorously than we have in the past.

The Hon. M.J. Elliott: What if the contract protects them?

The Hon. A.J. REDFORD: We will deal with that during the committee stage of the TAB legislation. I know that the honourable member will vote for the second reading, so he can take that opportunity to deal with and expose those issues. Obviously, if he does not vote for the second reading, those issues will not be teased out and we may well continue down the path of expansion of gambling without parliamentary approval over the next year. I digress for a moment: the most insidious form of advertising of gambling in this state is undertaken by a publicly owned institution, that is, the lotteries.

The Hon. T.G. Cameron interjecting:

The Hon. A.J. REDFORD: The Hon. Terry Cameron takes words from my mouth, and I agree with him. I have raised the issue of the extent to which probity mechanisms will be put in place to protect the reputation of South Australia and the existing racing codes, and I am pleased to see that the minister has responded to that and will be tabling a series of amendments in relation to probity issues, which will go a long way towards protecting the reputation of this state as a responsible deliverer of a gambling product and at the same time will protect the good name and reputation not only of this state but also of the existing racing industry.

The other issue I raise is that of the taxation benefits that might be available to South Australia. Will proprietary racing be treated similarly to existing codes? I am told by the minister that there will be a level playing field if there is any competitive activity between what I describe as traditional racing and proper proprietary racing and, as such, any impact on either industry in the sense of betting (which, given my amendment, is unlikely because they will not be competing) will be the same. In that respect, they will be working on a level playing field.

I appreciate that the minister does not have any direct responsibility here, but I did ask what the Wattle Range Council has paid TeleTrak over the years in relation to its entitlement. The minister informs me by letter dated 6 December that the Mayor of Wattle Range has denied my request. I am not sure, if I respect local government as a separate tier of government, that I can take it any further than that.

The Hon. T.G. Cameron: What was your request?

The Hon. A.J. REDFORD: I just wanted to know how much they paid TeleTrak over the years.

The Hon. T.G. Cameron: Forty grand.

The Hon. A.J. REDFORD: Obviously, the Mayor is telling you but he is not going to tell the minister.

The Hon. T.G. Cameron: It's not that he told me: it's in the council minutes as 40 grand.

The Hon. A.J. REDFORD: In the letter I have, dated 6 December, the Mayor has denied the minister's request to provide that information. As I said, that is a matter between the ratepayers of Wattle Range and their elected council. I hope that, if local government ever suggests that the state government might be acting in a secretive manner, they firstly look at their own conduct. That is all I wish to say at this time.

The Hon. CARMEL ZOLLO: Can the minister confirm that the TAB is actually providing interactive gambling in real time as opposed to facilitating internet gambling?

The Hon. DIANA LAIDLAW: The TAB has internet gambling on traditional racing in real time.

The Hon. CARMEL ZOLLO: So, you are actually seeing horse races via the net; is that what the minister is saying?

The Hon. DIANA LAIDLAW: It is just placing bets on real time, not actually seeing the racing.

The Hon. CARMEL ZOLLO: It is not interactive as such, so it is not in real time?

The Hon. DIANA LAIDLAW: No. The betting is, but not in terms of seeing the race.

The Hon. CARMEL ZOLLO: The betting is real time.

The Hon. DIANA LAIDLAW: Yes, I am told.

The Hon. CARMEL ZOLLO: What I mean by that is that, if the Casino were to offer online gambling, you would be interacting in real time with a machine as if you were physically in a casino, whereas you are not seeing the race as proposed by TeleTrak or Cyber Space, or whatever they are going to be called, at the moment.

The Hon. A.J. REDFORD: I might be able to assist the honourable member there. This morning I received a copy of the bill and the second reading explanation of Senator Richard Alston in the Interactive Gambling (Moratorium) Bill that was passed by the Senate yesterday—and I urge the honourable member to attend the next national conference—despite wholesome support by the Labor Party.

My understanding is that wagering is not included within that moratorium bill, with one exception. If the wagering is happening during the event, then it is covered by the legislation. I understand that that bill will pass into law some time today or over the weekend. To explain it in a practical sense, it does not have a moratorium on a bet on a race in its traditional form, where you put the bet up front before the race commences but, if you are betting on an event during the event, then the moratorium applies. If there is a bet on whether Shane Warne is going to bowl a flipper, a wrong'un or take a wicket during the course of the event, the federal parliament's moratorium will prevail.

The Hon. Carmel Zollo interjecting:

The Hon. A.J. REDFORD: Yes. Now I understand that is what the honourable member meant.

The Hon. T.G. CAMERON: SA First will be supporting the amendments. I, too, have some concerns about internet gambling on proprietary racing being made available to people in South Australia. Anybody who has had more than a cursory look at the racing industry at the moment would recognise that it is in some difficulty. That difficulty may be exacerbated if we were to move down the track of offering interactive betting operations on races in South Australia.

I indicate that I will be supporting the amendment to proposed new clause 25A but that I will not be supporting any of the amendments in the name of the Hon. T. Roberts. It is my understanding that, even if the amendments in the name of the Hon. T. Roberts are carried, the opposition will still oppose the bill, which seems to be a pointless exercise. I do not agree with the amendments and I will not be supporting them.

The Hon. NICK XENOPHON: I have indicated previously that one of my principal concerns with respect to this bill is that it could see an expansion of gambling activity in this state and, with it, an increase in levels of problem gambling. The concern that I have had, which has been shared by the Hon. Angus Redford, is internet wagering, because it seems to me that proprietary racing will need to be underpinned by internet wagering. I am aware of what occurred with the Senate vote yesterday, which exempts wagering. A compromise was struck following negotiations with Senator Bob Brown and Senator Alston. Obviously I prefer the compromise than no online gambling freeze at all. However, state legislatures have power to deal with these issues. The Hon. Angus Redford and I, in our dissenting statement with respect to the select committee into online and interactive home gambling, made very clear that we think that states cannot just abandon their responsibilities with respect to gambling. It is still a state issue, notwithstanding commonwealth powers with respect to banking and telecommunications.

With respect to the amendment of the Hon. Diana Laidlaw, I appreciate that it has been drafted to try to address some of the concerns of the Hon. Angus Redford. My concern is that the amendment will not be effective in doing what it is supposed to do, and I flag that I will ask some questions when that clause is before the committee. My concern with respect to proposed new clause 25A is that it will not be effective. Simply specifying and ensuring that all reasonable steps are taken could well be meaningless unless those steps are in some way set out. I would like to hear from the minister in due course when we consider that clause.

I foreshadow that I will move an amendment to proposed new clause 25A, which will be almost identical to the wording of amendments that I have tabled with respect to the Authorised Betting Operations Bill, which requires parliamentary approval for interactive betting. I indicate that there ought to be some consistency on this issue. If we are to have an expansion of online gambling or if there is a consideration of an expansion of online gambling, it ought to be done via the parliamentary process so there can be a full and robust debate. The amendment that I propose for proprietary racing is identical to the amendment that I propose for the TAB, so there is some consistency for racing and other forms of gambling in the state. That will mean that there can be no expansion of online gambling by stealth and parliament will be able to debate these issues and consider them so there is some protection.

In that way, consideration can be given to whether we want an expanded and new form of gambling in the community because, if proprietary racing is given the green light and internet wagering is an integral part of its operations, having that seal of approval by the state of South Australia will lead to a fairly significant increase in its uptake. It will be accessible. Who knows what will happen with digital TV. The technology exists now for bets to be placed on digital TV and that is why it is important that this parliament should have a direct say as to the type of online wagering that is accepted. I indicate that I will move an amendment to proposed new clause 25A in relation to internet wagering.

The Hon. M.J. ELLIOTT: During the second reading debate, I indicated that there were two matters of concern for the Democrats in relation to this bill. We had no significant problems with the concept of proprietary racing itself but we had concerns about probity and the potential for expansion of gambling and therefore the expansion of gambling-related harm. I indicated that, if those two issues were not addressed, we would not support the bill; but, if they were, we were prepared to support it.

Without looking at the substance of the amendments so far, it seems that the issues of probity appear to have been largely addressed. During this committee, I will need to be convinced that there is no expansion of gambling opportunity within South Australia. It may be that one of the amendments would handle it but, as I said, I do not intend to tackle the text of the amendments now. They are the two issues that are important. The Democrats have posed a need for a significant change and a need for legislation in areas of regulation and harm minimisation. I have introduced a private members' bill, which addresses issues of the monitoring and reporting of gambling-related harm but not in relation to regulation.

It is possible that some of the amendments will make my bill unnecessary, so far as it is possible that South Australians are not allowed to bet, which is what some of these amendments will do. However, now that South Australian horses and dogs will be running—I presume that they are horses and dogs that could be racing in other meetings as well—there will be an awful lot of South Australian interest and desire to bet here.

The danger is that the amendments might have sufficient loopholes so they can mirror their way back into the state. While in this state, an electronic device may be used so the bet can be run from elsewhere. That matter will have to be addressed to my satisfaction. If the bill leaves loopholes that mean there is a real expansion of gambling in South Australia and if in the interim the government has made no real attempt, as distinct from talking about it, to address issues of gambling-related harm, we may end up voting against it.

The Hon. NICK XENOPHON: I endorse the remarks of the Hon. Mike Elliott in relation to an overall framework to deal with problem gambling in this state. Clearly, this has not been addressed in relation to this bill. I think that the responsible thing, if there is going to be any consideration of expanding gambling in this state—to which, I hasten to add, I am opposed—at the very least we should put in place a comprehensive framework—whether it be a gambling impact authority with increased powers or a gaming supervisory authority with real teeth to deal with issues of problem gambling and to prevent people from becoming problem gamblers in the first place—which relates to the types of games and products that are offered, advertising, promotions and a whole range of associated issues. This, too, is an area of deep concern for me in respect of proprietary racing which effectively signals an expansion of gambling activities in this state.

The Hon. P. HOLLOWAY: Will the minister answer any questions relating to this bill, because I would like to ask a couple of fairly fundamental ones? If we are going to introduce a new system of proprietary racing into this state, one of the most important things that we need to have is a cost benefit analysis of this form of racing. This new form of racing must have an impact on the existing industry. One would want to ensure that the positive benefits that are generated to the industry (if there are any) by proprietary racing would outweigh the costs to the existing industry.

I wonder whether this government has done any sort of an analysis of the impact on the existing industry and the benefits it expects this new proprietary racing might bring in terms of not just the return to the state of taxpayers' money but also in terms of jobs and other economic benefits. As I

said, we need to be assured that that will outweigh the impact on the existing industry. I realise that this is an enabling bill, but before any licences are issued is there some process by which we can be assured that the benefits will outweigh the costs?

The Hon. DIANA LAIDLAW: My understanding is that the government has not been involved in the preparation of economic modelling or cost benefit studies related to the proprietary racing initiative proposed by TeleTrak. However, the Department of Industry and Trade and the Racing Industry Development Authority commissioned the South Australian Centre for Economic Studies to review the modelling that had been commissioned by TeleTrak. The report of the Centre for Economic Studies of September 1998 states broadly that the economic activity which could be expected and which was outlined by TeleTrak was overstated. I have no further advice on this matter regarding any further work that the government has undertaken.

The Hon. P. HOLLOWAY: If I heard the minister correctly, the only analysis that has been done states that the benefits are overstated, but we are proceeding with it in any case. Is that a correct synopsis of the situation?

The Hon. DIANA LAIDLAW: The studies have been organised and the arrangements have been made through RIDA based on information provided by TeleTrak.

The Hon. P. HOLLOWAY: If a licence is to be issued under this bill, will there be any analysis to ensure that any damage that may occur to the existing racing industry is at least outweighed by some other benefits to the industry from this new form of racing? That may not have been done now, but will that be done before any licence is issued?

The Hon. DIANA LAIDLAW: I am not sure why the government should be involved in such exercises when contractual arrangements have already been made with harness racing and the greyhounds. I understand that they have entered confidential contracts. They believe there are benefits for them. It is not the government's place to interfere with those contractual arrangements. The honourable member is trying to produce some doom and gloom in terms of the racing industry. However, I highlight again that two important sectors of that industry have already signed up, and I understand that the Australian Racing Quarterhorse Association is keen to be involved. I made some reference to that in my reply. I will not fall for the line that the honourable member is trying to draw when he says that it is all going to be doom and gloom and that the government should be doing studies to look at compensation for traditional racing industries when two traditional sectors of the racing industry have already signed up, made their own decision and believe that it is in their interests.

The Hon. P. HOLLOWAY: I did not use the word 'compensation'. I simply made the point that one would hope that, before we go down this track, there will be at least some positive benefits for the community. I will leave that line of argument, but there is a slightly related argument: the contract, which I understand has been made between the TAB and this new form of racing at Waikerie to provide services for that facility. In the TAB sale bill, which is currently before the parliament, a considerable amount of work has been done on how the income that the TAB receives from the racing industry or the punters is distributed back to the industry. What is the arrangement in relation to this new Cyber track industry? What sort of return will be given to this new form of racing from TAB income?

The Hon. DIANA LAIDLAW: I may have misunderstood the honourable member's statement, but I want to clarify and highlight that there is no agreement between the TAB and Cyber Racing. The agreement is between TAB and TeleTrak, and apparently it contains a confidentiality provision under which each party agrees 'to maintain absolute confidentiality concerning its terms' with no specific carve out provision relating to parliament. The fact that an agreement exists—this is the advice with which I have been provided—between TeleTrak and the South Australian TAB has become public knowledge through disclosure by other parties.

That disclosure has revealed that, in broad terms, TeleTrak has reached agreement with the South Australian TAB for it to provide betting services on a worldwide exclusive basis on electronically transmitted straight-line racing conducted in South Australia. The detailed terms of the agreement remain confidential between the parties, and they have not indicated any preparedness to release that information.

The Hon. P. HOLLOWAY: Is this on a fee for service basis? If the TAB is offering a betting service, obviously it will receive income. Presumably, it will pay TeleTrak some sort of a fee for providing this service. Is that a correct interpretation of what this involves?

The Hon. DIANA LAIDLAW: I am not privy to that sort of information. My advice is that the terms are confidential under the confidentiality provision. Perhaps it would be best for the honourable member to pursue this question with the minister or the TAB itself.

Members interjecting:

The Hon. DIANA LAIDLAW: Apparently, there are two different sets of agreements.

The Hon. T.G. Cameron interjecting:

The Hon. DIANA LAIDLAW: Yes, okay. The Hon. Mr Cameron said that, through pursuing this matter, he has received at least some of the terms and why don't—

The Hon. P. Holloway interjecting:

The Hon. DIANA LAIDLAW: But I do not have that information. That is why I am suggesting to the honourable member that he should seek to be as diligent as the Hon. Terry Cameron was to gain those details.

The Hon. P. HOLLOWAY: I am truly amazed. Here in a public forum, in the parliament of this state, I am asking a fairly basic question about some legislation going through, and we are told that it is highly confidential but that, if I went and asked the minister privately, I might get it. Is the public of South Australia not entitled to this information? Heavens above, need I say more? This is becoming a farce.

The Hon. DIANA LAIDLAW: Well, it is not a farce. Commercial confidentiality is not a farce: it is a standard provision in many contracts, as the honourable member would be aware. I am just saying that the Hon. Terry Cameron believes that he gained some information by inquiring, and I was suggesting to the Hon. Mr Holloway that, instead of getting up and weeping tears and carrying on, he might be as diligent as the Hon. Terry Cameron. Otherwise, I suggested that he go and speak with the minister or the TAB. I just do not have that information at hand. I have been told it is confidential anyway, and as a minister not responsible for this organisation, I will certainly not divulge information that I am told is bound by confidentiality provisions. I cannot do that.

The Hon. P. HOLLOWAY: All I can say is that, if any other member of parliament is happy with that and votes for this bill, then be it on their own head.

The Hon. T.G. CAMERON: I am just a touch confused, minister, not with your answers but with the line of questioning you have been getting. It was my understanding that what we are debating here is enabling legislation which will enable people who may be interested in establishing a racing proprietary business here in South Australia to go to the government and apply for a licence. One would have assumed that part and parcel of that process would be the provision of a lot of the information that the Hon. Paul Holloway is referring to here today. It seems inconceivable to me, before the legislation was even passed, that the government would itself incur a great deal of expense and perhaps put others to a great deal of expense by requiring them to provide a whole range of information which at the end of the day may not even be necessary if this bill does not get through.

The Hon. Diana Laidlaw interjecting:

The Hon. T.G. CAMERON: Exactly.

The Hon. T.G. ROBERTS: My understanding of the parliamentary process generally is that we make our second reading debate contributions and the questions inherent in those contributions are generally part of a report back, and that then prevents acrimony where one member gets more information than another, and commercial confidentiality does not—

The Hon. T.G. Cameron interjecting:

The Hon. T.G. ROBERTS: Hang on.

The Hon. T.G. Cameron: But I go to the government but I didn't arrive at a position. You declare an ideological position: our policy says we cannot support it, but we want all this information so we can damage your case.

The Hon. T.G. ROBERTS: I hope that *Hansard* has picked that up, because the amendment we have on file is to prevent exactly that. We have an amendment on file to try to get a return to the state that at least compensates the state for any infrastructure that it might—

The Hon. T.G. Cameron: Even if it's carried you are not going to support the bill, are you?

The Hon. T.G. ROBERTS: The question I pose to the honourable member is as follows: if there are roads to be built, if there is electricity to be provided (although we do not have to worry too much about the poles and wires now), if there is infrastructure involved like sewerage and stormwater pipes, and if there are any problems associated with the infrastructure that the government has to provide, surely at the very least a government is entitled to the basic information on what the physical structures will be. I agree with your assessment on enabling legislation. It is a private sector operation, so we do not have to apply too many questions to that.

The Labor Party is looking at the social impact of the changes that will occur if and when TeleTrak or a cyber raceway is up and running. There will be social impacts associated with a licensing system. We have opposed this proprietary racing proposal not on the basis that it is proprietary racing per se. We are opposing it on the basis of the paucity of information, particularly in light of the contribution by the Hon. Paul Holloway, in relation to making a decision based on best financial advice regarding outgoings and incomings that might be incurred by a government. We have moved an amendment which takes into account a turnover tax, but we do not know whether that will be—

The Hon. Diana Laidlaw interjecting:

The Hon. T.G. ROBERTS: I am addressing clause 1 but, in light of the contribution made, we need to state our case clearly. We will support the government in relation to the process if the answers to the questions are satisfactory and if we are satisfactorily supplied with the information we require by our amendment.

The honourable member made a judgment that, even though we have an amendment on file and we get the answer to that amendment, we will still oppose the bill. That is not the case. The case may be that there will be a reassessment done after the amendments are considered, because of the paucity of information, and because nobody has been able to make a report back to caucus and to convince caucus that the model we are looking at—

The Hon. Diana Laidlaw: You said you were opposed to the bill. When the Hon. Mr Holloway spoke he said he opposed the bill. Are you saying you're open minded?

The Hon. T.G. ROBERTS: If the information that was requested inherent in the questions in the second reading debate is provided, if the information that we require in determining the breakdown is also provided, and if the government is prepared to accept the argument we are putting up that the proprietary racing organisers—those who are conducting the racing—have to pay a fair return to Caesar, we may have a different view on life.

For a shadow minister, or for anyone carrying a bill such as the one that we have had, to convince questioning minds in caucus as to the future in relation to the final product is very difficult because of the changing nature of the product. Even at our last caucus meeting the product had changed, and the nature of the product had changed. The relationship between the producers of the product and the carriers of the product was changing. If the Hon. Mr Cameron believes he had a handle on it at the time he got his report, good luck to him because he is well ahead of us.

The Hon. Diana Laidlaw interjecting:

The Hon. T.G. ROBERTS: He may be more satisfied with the lack of answers that he got.

The Hon. Diana Laidlaw: During the second reading debate I indicated that the opposition would not be supporting the bill.

The Hon. T.G. ROBERTS: That is right; we will not be supporting the bill on the basis of the information that was given to us. If the government wants to hold up the bill and to discuss the relevant matters relating to questions that have been asked—not just by the Labor Party but by the Democrats and the Hon. Nick Xenophon—perhaps we might get somewhere. However, at the moment we are in the same position that we are with any other legislation. We are not satisfied, based on the information that we have at the moment, so we cannot support the bill. The opposition supports a high percentage of bills in this chamber, based on discussions with the government and its advisers on how it will proceed. In this case, we just do not have the information; we have requested it but the information has not been made available. If the honourable member has a better understanding or a better key to the information, I would like to know whether the minister will accept the amendment that we have moved on turnover tax.

Members interjecting:

The Hon. T.G. ROBERTS: That is right. It might have made it a little easier for the shadow minister if the minister had—

The Hon. T.G. Cameron interjecting:

The Hon. T.G. ROBERTS: I heard the honourable member. I cannot understand how someone with the honourable member's financial background would be opposed to the government getting a return from—

The Hon. T.G. Cameron interjecting:

The Hon. T.G. ROBERTS: Well, that is our amendment and it is the key to our opposition.

The Hon. Diana Laidlaw: Why don't you talk about this when you move the amendment to clause 10 so that we can finish with clause 1?

The Hon. T.G. ROBERTS: Well, we are getting away from clause 1, but I am just about to wind up. They are the objections that we have. They are all to do with probity and the lack of financial information in relation to the bill before us.

The Hon. CARMEL ZOLLO: Will the minister advise whether any other country in the world offers the form of racing facilitated by Cyber Raceways and Teletrak?

The Hon. DIANA LAIDLAW: It is not illegal now and they could operate now, as I understand it.

The Hon. Carmel Zollo interjecting:

The Hon. DIANA LAIDLAW: I am informed that proprietary racing is not illegal in the United States of America, but we are not sure whether internet gambling—

The Hon. Carmel Zollo interjecting:

The Hon. DIANA LAIDLAW: Yes, I am not sure whether that is provided, or not provided, in relation to an activity that is not illegal.

Clause passed.

Clause 2 passed.

Clause 3.

The Hon. DIANA LAIDLAW: I move:

Page 5—

Lines 22 and 23—Leave out the definition of 'club'.

After line 31—Insert:

'for-profit entity" means a person or body other than—

(a) a body corporate that is unable, because of its constitution or its nature, lawfully to return profits to its members; or

(b) a body corporate each of the members of which is a body corporate of a kind referred to in paragraph (a); or

(c) a body corporate each of the members of which is a body corporate of a kind referred to in paragraph (b);

Page 6—

Lines 10 to 15—Leave out the definition of 'recognised racing club'.

With these amendments I am seeking to leave out the definitions of 'club' and 'recognised racing club'. There is no need to refer to either of those definitions if the committee does agree to insert the new definitions of 'for profit entity' and 'proprietary racing business'. It is proposed that 'for-profit entity' would not include a licensed racing club or a controlling authority and 'proprietary racing business' would mean a person who carries on a business involving the conduct of races on which betting is to occur and where the person is a for-profit entity, and includes a racing club controlling authority if it conducts races under an agreement or arrangement with a for-profit entity.

Amendments carried; clause as amended passed.

New clause 3A.

The Hon. DIANA LAIDLAW: I move:

Proprietary racing business

3A. A person carries on a proprietary racing business if—

(a) a person carries on a business involving the conduct of races on which betting is to occur (whether in this state or elsewhere); and

(b) the person—

(i) is a for-profit entity; or

(ii) conducts the races under an agreement or arrangement with a for-profit entity.

This amendment is essentially consequential on the amendments just passed and the interpretation clauses, and it provides that a person must not carry on a proprietary racing business except as authorised by a proprietary racing business licence, and there is a penalty for such conduct.

The Hon. T.G. CAMERON: It is my understanding that at present a person could carry out proprietary racing because they do not need to be licensed. Is that correct? If my understanding is correct, they can do whatever they like at the moment.

The Hon. DIANA LAIDLAW: Your understanding is absolutely correct and that is why we are moving these further probity provisions.

The Hon. T.G. Roberts interjecting:

The Hon. T.G. CAMERON: Hang on: you say it is not and the minister says it is.

The Hon. T.G. Roberts interjecting:

The Hon. T.G. CAMERON: Well, I have had legal opinion as well to the effect that people could establish a proprietary racing business in this state at the moment. There is no legislation covering them. If somebody did that, the government would not get a licence fee and there would be no revenue generated to the government from it. If that assumption is correct, if clause 5 is carried, does that not mean that we will rope these people under legislative control? They will not be able to do it in future unless they have a licence, so we are stamping out unlicensed racing?

The Hon. DIANA LAIDLAW: You have summed up exceedingly well and come to grips with the issues that the government has been confronted with. Certainly, proprietary racing could start up today. There is nothing to stop it. If that is the case, why should it not be able to undertake the practice and the community not be afforded the confidence as with other gaming and racing enterprises where there is a licensed operation and probity, particularly of those operating the business? I think the Hon. Terry Cameron has understood this proposition well.

The Hon. T.G. CAMERON: I indicate that on the basis of the minister's explanation I will support the amendment.

The Hon. CARMEL ZOLLO: The issue is obviously one of controlling betting and, as such, what the Hon. Paul Holloway said is that the state will not get any return.

The Hon. DIANA LAIDLAW: My advice is that, contrary to what the honourable member said, if the TAB provides betting and there is this contract that was referred to earlier, the government will benefit from the turnover tax, and there is also the licence fee.

The Hon. T.G. ROBERTS: How much is the licence fee?

The Hon. DIANA LAIDLAW: There is no particular fee in mind; nobody has applied at this stage. It would vary from proponent to proponent and would depend on the type of the business and how often the event is conducted. This matter was addressed by the minister in the other place. There is certainly a mechanism in the bill for a licence fee and it is certainly the government's intention to charge a fee, but no fee has yet been established and it would vary from proponent to proponent, depending on the nature of the business.

New clause inserted.

Clause 4 passed.

Clause 5.

The Hon. DIANA LAIDLAW: This is a provision for the requirement of a licence, and I spoke to it earlier in error when I should have been speaking to the proprietary racing business amendment. I will not support the amendment of the Hon. Mr Roberts; it is actually irrelevant, with respect, considering earlier amendments that this parliament has passed about club and for-profit entities in the interpretation clauses. There is no need for the Hon. Terry Roberts to move

his amendment, because we have already dealt with those issues and they are no longer relevant, because of amendments to interpretations in clause 3.

The Hon. T.G. ROBERTS: I accept the minister's explanation, and I notice Parliamentary Counsel nodding in agreement. The Hon. Mr Cameron will be disappointed, because there will be no-one to explain the clause to him.

Clause negatived.

New clause 5.

The Hon. DIANA LAIDLAW: I move:

Requirement for licence

5. A person must not carry on a proprietary racing business except as authorised by a proprietary racing business licence. Maximum penalty: $100 000.

New clause inserted.

Progress reported; committee to sit again.

[Sitting suspended from 6.00 to 7.45 p.m.]

Clause 6.

The Hon. M.J. ELLIOTT: The current clause 8 talks about granting for a fixed term but has no indication as to just how long a fixed term may be contemplated. Will the minister give an indication as to what thought has gone into that at this stage?

The Hon. DIANA LAIDLAW: I am advised that no standard time has been established at this stage, but it would be subject to negotiation with each or any proponent and would be considered in terms of the proponent's business plan.

The Hon. R.K. SNEATH: Under those clauses from 6 to 10 I cannot find any provision for a sale of the licence. If someone is granted a licence similar to that of a fisherman or a taxi driver or whatever, is there any provision to sell a licence? If the licence holder wants to get out of the business of proprietary racing, then what happens to the investment that he has made?

The Hon. DIANA LAIDLAW: I refer the honourable member to clause 12, 'Transfer of licence,' which provides:

The Governor may, on the recommendation of the authority, approve the transfer of a proprietary racing business licence.

Various issues relating to that transfer are then noted in subclauses (2) and (3). Therefore, the transfer is in the context of a sale, and that would be at the issue for the licensee.

The Hon. R.K. SNEATH: Are there obligations for the person who might be purchasing the licence from the licence operator to be a person or persons of good character, or could anyone get that approval?

The Hon. DIANA LAIDLAW: That is addressed in the same clause 12, which provides that, on a transfer of a proprietary racing business licence:

(a) the transferee succeeds to all the rights and obligations of the transferor under the approved licensing agreement;

And that licensing agreement is with the authority. I have also been alerted to the fact that we should be looking at clause 18, 'Determination of applications.' So, the obligations that I have just referred to in clause 12 relate also to all the matters detailed under clause 18.

The Hon. M.J. ELLIOTT: I asked a question about what sort of term was contemplated. Periodic fees are covered within clause 10 of the licensing agreement. I could see a situation wherein a licence might be granted for a considerable time and both fees under (b) and conditions under (d) would be set for that same period. We are moving into uncharted waters to some extent, in that up until now gambling that has occurred in the state has been largely government operated. While we can criticise the advertising carried out by some of the instrumentalities etc., we could make a decision today to change that. We could also make a decision today to change the return that we want to get from it, etc. In this situation, theoretically a licence could be granted for 100 years, and the conditions and fees could be set for 100 years, all at the same time.

The Hon. Diana Laidlaw: Where would the precedent be for such a novel licence?

The Hon. M.J. ELLIOTT: We lease some things for 100 years. It is not unknown.

The Hon. A.J. Redford: When was the last time you approved a 100-year licence?

The Hon. M.J. ELLIOTT: We are not going to be asked for approval. We are at an important point in our history where we are trying to come to grips with how we are going to handle gambling in the longer term. There is clearly significant public concern about the harm related to gambling, which I do not see as an anti-gambling sentiment for the large part but a deep concern about the harm that is done. From the way I read clause 10, and I ask the minister to correct me, what would the legal position be if we signed a 10-year or even a 20-year licence agreement, which sets the fees and, importantly, the conditions at the beginning of that term, and at a later point a gambling impact authority or a gaming commission decided that the games as they were structured were causing harm and it wanted to change them? How would that impact on the conditions of the licence? What impact would that have on the community's ability to say, 'Look, having further evaluated this situation, we want to be able to change the way some of the games are being offered'?

The Hon. DIANA LAIDLAW: I draw the attention of the honourable member to clause 9, which provides for the conditions of the licence and which allows for the licence to be varied. I also highlight to the honourable member that it would be novel for a government to issue a licence for the length of time that the honourable member suggested. One of the reasons for a licence is to keep control of a situation and, by that very fact, one would not extend it for a great length of time. While I am not dismissing the honourable member's concerns, I point out that that is why the government has provided in this bill for a variation of the conditions, and we would envisage a shortish licence period.

Further, I highlight that, under the approved licensing agreement in clause 10, the wording of subclause (1)(b) with respect to fees and paragraphs (c) and (d) with respect to the terms and conditions are taken straight from the Casino Act. That was introduced into a greenfield situation because there had been no Casino before, and at the time parliament saw fit to put in those broad terms so there was a base for negotiation, and that has worked in the state's interests. There has been change in the arrangements since that act was introduced, which I believe was in 1983. I remember it was one of the first things that I was faced with as a member, having been elected in late 1982. This expression has been seen in practice to have worked and that is why it has been taken from the Casino Act and the same provisions in the same terms have been placed in this bill.

The Hon. M.J. ELLIOTT: I observe that, in clause 9(2), as referred to by the minister, while the last words are 'vary supplementary licence conditions', it is subject to 'a licensee's approved licensing agreement'. Ultimately it is

something that is covered by clause 10. Clause 9 entertains variants but clause 10 could mean that the conditions of the licence do not allow for significant variation. The minister has cited the Casino Act as the act from which clause 10 was drawn. Can the minister indicate for how long the current operators have been granted a licence? That gives me some indication as to the sorts of terms and conditions that are currently being applied.

The Hon. DIANA LAIDLAW: I will take that question on notice and have the Treasurer check that because I am not directly responsible for the operation of the Casino. I think it is about 15 years. The Casino has been sold so it is quite a different operation. If it is 15 years, that would be one of longest times for a licence.

The Hon. M.J. ELLIOTT: I make the observation that a 15-year licence, as things currently stand, is quite a lengthy licence. I think that significant pressure is building in the community to examine games, advertising practices and those sorts of things, and it seems to me that a very long licence agreement would put significant constraints on what government might choose to do. I know that business needs certainty but the counterpoint at this stage is that there is an enormous amount of uncertainty in the community in relation to this issue and how to go about handling it.

The Hon. R.K. SNEATH: The type of racing provided for in this bill has excited three areas in South Australia—Millicent, Waikerie and Port Augusta. If a licensee seeks a licence to operate at Waikerie, are there any restrictions in the bill to ensure that the licensed person cannot change their mind and move to metropolitan Adelaide, Ceduna or Kangaroo Island? If the licence is sold, can the purchaser of the licence operate anywhere else in South Australia?

The Hon. DIANA LAIDLAW: Generally the licensee would have made a considerable investment in their enterprise. For instance, I understand that at Waikerie earthworks have commenced already. In addition, I am advised that this could be addressed under the approved licensing agreement (clause 10) pertaining to the conditions of the licence. The matter could be raised by the government. Irrespective of the conditions of the licence, local councils may well offer financial inducements to keep an organisation there, and some councils have already strongly supported TeleTrak's overtures. At this stage, we would say simply that it could be binding or it could be expressed in more relaxed terms under the conditions of the licence.

The Hon. R.K. SNEATH: As far as fishermen are concerned, the boat does not go with the person who buys the licence; the licence is more attractive than the boat, so the boat stays. In this case—

The Hon. T.G. Cameron interjecting:

The Hon. R.K. SNEATH: You don't know anything about fishing.

The Hon. T.G. Cameron interjecting:

The Hon. R.K. SNEATH: Well, if you can't follow that—

The Hon. T.G. Cameron interjecting:

The Hon. R.K. SNEATH: The Hon. Mr Cameron says that he cannot follow that, but what happens when the—

The Hon. T.G. Cameron: Perhaps you could explain it again more clearly.

The Hon. R.K. SNEATH: The attractive part of a cray fisherman's operations is actually the pot licence, not the boat, and the attractive part of this industry will be the licence because the races will be run on a straight track that can be graded out of probably anything, and a few signs will be put up around the place, because no-one goes and you do not need a grandstand. So, it probably will not take much shifting. Waikerie is probably better known for greyhounds than gallopers but, if someone had a licence and then decided that it was not a going concern and wanted to sell the licence, it might be more attractive for the new purchaser of the licence to shift it to metropolitan Adelaide.

As the minister said, perhaps something should be written into this clause, because those people in the Riverland and Waikerie—or Millicent or, probably to a lesser extent, Port Augusta—will probably put a lot around about this and get pretty excited about it as a going concern in their area. They could be shot down in two years' time by a new purchaser who buys the licence and immediately transfers it to metropolitan Adelaide, where they could have perhaps a lot more horses and an indoor horse area—we know that Waikerie is not a real horse area—rather than setting up a stud there. There would not be much expense involved in transferring a straight track with no grandstand, so I think some protection might have to be included.

The Hon. DIANA LAIDLAW: I am a little puzzled by the honourable member's line of questioning considering that he is a member of the Labor Party that opposes this measure and would not wish to see it established at Waikerie in the first place, but if this bill does pass and if there is a proponent to license it—

The Hon. T.G. Cameron interjecting:

The Hon. DIANA LAIDLAW: I must respond to the Hon. Terry Cameron's interjection to make sure that it is recorded in *Hansard*. I understood his interjection to be that, if this bill passes, if there is a proponent, if they do have a licence, and if they do establish a course at Waikerie, the honourable member expects the AWU to go there pretty promptly to sign up members—and the honourable member would not want to lose those members at Waikerie notwithstanding the fact that he opposes this bill. I am not suggesting that there is some reason for me to be puzzled by this line of questioning, but I want to put on the record that I find it difficult to follow. However, I suspect that the honourable member is right: the local community, if it works, would not necessarily want to see it lost, but I will not entertain that matter and get involved in it tonight because it is very hypothetical.

The Hon. R.K. Sneath interjecting:

The Hon. DIANA LAIDLAW: That is interesting. I am told that the honourable member does not care if it is lost to Waikerie. He does not even support this bill to see whether it could even be established at Waikerie. He speaks with a bit of a forked tongue. Out of respect for the fact that he is a new member and this is his first session, I will not get stuck into this. He is on probation.

Members interjecting:

The CHAIRMAN: Order!

The Hon. NICK XENOPHON: My concerns in relation to the approved licensing agreement are similar to those of the Hon. Mike Elliott, namely, that, given the structure of the approved licensing agreement as provided in this clause, once an agreement is in place, if in years to come the parliament decides that there ought to be restrictions on, for instance, the types of advertisements that are placed by gambling entities or the types of products to be offered, that could well lead to a claim by the proprietors against the government.

In the context of the Casino debate in which the Treasurer moved an amendment with respect to interactive gambling so that the Casino had an opportunity to offer games if

another entity offered similar games, I think it was made clear by the Treasurer that he was concerned about contractual liability on the part of the state, that it could be subjected to a damages claim. In that regard, I have very grave reservations about the inflexibility of a licensing agreement to allow for changes in community attitudes towards gambling as reflected in the parliament to be reflected ultimately in a licensing agreement without the state being subjected to a damages claim.

Members interjecting:

The CHAIRMAN: Order!

The Hon. NICK XENOPHON: The Hon. Angus Redford says that parliament is supreme. I still have some concerns about contractual liability. The Hon. Diana Laidlaw says that it is lawyers touting for business. I think it was Shylock who said, 'Let's kill all the lawyers.' So, I have some reservations about this. The Heads of Churches Task Force on Gambling in respect of licences generally has indicated that it believes that it calls for the responsible service of gambling products. A key part of that would be to have fixed time periods for any gambling licence to ensure that a licence is not granted for forever and a day. In Victoria, poker machine licences are granted for five years. I think one of the grave mistakes in gaming machines legislation is that licences are granted for forever and a day in the context of the legislative framework. I have had discussions with the Hon. Mike Elliott in this regard, and he shares my concern. My preference is that there be a time limit on licensing agreements.

The Hon. T.G. ROBERTS: Does the marketplace determine the transfer price of the licence?

The Hon. DIANA LAIDLAW: It is in the commercial contract.

The Hon. P. HOLLOWAY: Regarding some of the terms of the agreements with licensees, will it be a requirement of this government that the South Australian TAB or its successor be the provider of off-course totalisator services under this agreement or could, for example, one of these proprietary businesses make some arrangement with a competitor TAB?

The Hon. DIANA LAIDLAW: I am not ducking the question, but I ask the honourable member to ask the question again in relation to the Authorised Betting Bill, because that is where those issues are addressed, not in this bill. This bill does not deal with wagering issues.

The Hon. P. HOLLOWAY: This bill does not deal with wagering issues, but it does deal with licences which the government enters into with proprietary racing businesses. All I am really asking is whether, under clause 10, it would be a condition of the licence that the South Australian TAB be the provider of the services.

The Hon. DIANA LAIDLAW: I am advised that if the licensee wishes to bet within South Australia they must do so through the TAB; but if it is off-course and overseas, we do not have those provisions in the bill.

The Hon. P. HOLLOWAY: I understand that it is not addressed by the bill, but if I take the minister correctly that means that, to the extent that there is totalisator betting, the South Australian TAB is to be the sole provider under the agreements. Is that a correct interpretation of what you said?

The Hon. DIANA LAIDLAW: No; that is not a correct interpretation. I am advised that all this bill does, as we are aware, is deal with the licensing of the operator. If they wish to sign a contract for an overseas authority in terms of betting practices and so on, they are able to do so.

The Hon. P. HOLLOWAY: I think that answers the question. I now turn to the fees. Clause 10(2) provides:

> It is a condition of a proprietary racing business licence that the licensee must pay the fees (and any interest and penalties for late payment or non-payment) payable under the agreement.

Clearly it is the agreement itself which sets the fees. I think the committee would be interested to know exactly how these fees will be set and on what basis they will be determined. I assume that this is the sole return that the taxpayers of the state will get in return for licensing these ventures.

The Hon. DIANA LAIDLAW: This is essentially the matter that the honourable member seeks to address in his amendment. Do you wish to ask those questions when addressing the amendment?

The CHAIRMAN: We are starting to range further than the next amendment.

The Hon. DIANA LAIDLAW: I confirm, as I said before, that there is no fee in mind. It will vary from proponent to proponent and it will be dependent on the type of business and how often an event is conducted. So those variations will be taken into account in terms of developing the fee. As I say, I intend to address those matters when we reach the appropriate clause.

Clause passed.

Clauses 7 to 9 passed.

Clause 10.

The Hon. T.G. ROBERTS: I move:

> Page 9, line 7—Leave out 'the fees, or periodic fees,' and insert 'the initial fee, and subsequent annual fees,'.

It seems to the opposition that this is a fairer way of raising some revenue for the state.

The Hon. DIANA LAIDLAW: The government opposes the amendment. This matter was canvassed in the other place. As the minister highlighted then and I do again, there is a mechanism in the bill for licence fees, and that is provided for in clause 10. It is certainly the government's intention to charge a licence fee but, I repeat, there is no fee now in mind. It will vary from proponent to proponent and will depend on the type of business and how often the event is conducted.

The Hon. P. HOLLOWAY: If it is dependent on how many events are conducted, will the fee structure for these proprietary racing businesses be an upfront fee for the entire term of the contract or, under the terms of these agreements, will the proponents have to pay at the time of each event?

The Hon. DIANA LAIDLAW: I am advised that that is still to be determined and will be part of the submitted business plans and the consideration of those matters.

The Hon. M.J. ELLIOTT: It seems to me that the amendment is more limiting than the clause in that the only sort of fee that seems to be entertained is an annual fee. It might be possible to have fees which are on particular meetings or even on individual runners and individual events, which I think is adequately covered by fees or periodic fees. Periodic fees allows for an annual fee or could allow for a fee on some other basis.

The Labor Party might feel that it knows more precisely what it will get with its amendment, but it does seem to me that everything it is trying to get is possible under this clause and that there are other potential fee raising options which I think are better covered by the existing clause rather than by the amendment.

The Hon. P. HOLLOWAY: It is rather incredible that the government does not have some idea about what it has in mind before going into this situation.

The Hon. M.J. Elliott interjecting:

The Hon. P. HOLLOWAY: But we have already had agreements signed between the TAB and one of the proponents, so there is already a contract signed in relation to that: they have got to that stage. Surely the government knows exactly how it intends to structure the fees for these meetings. After all, one of the big issues in relation to proprietary racing is what impact this will have on existing codes and existing racing. Surely we should be aiming for a level playing field so that, whatever has to be contributed by the existing racing codes, applies equally and has fees and conditions that are similar to all other players in the business. That is why I support the amendment—

The Hon. A.J. Redford: You're starting to sound like an economic rationalist, Paul; this is news to my ears.

The Hon. P. HOLLOWAY: I would have thought it was commonsense. We are talking about introducing new competition here, and I would have thought that whatever structure we get should at least lead to some sort of level playing field.

The Hon. DIANA LAIDLAW: I want to ensure that the honourable member appreciates that no contract has been signed with the government and there is no application fee before the government. The contract, as I said in summing up the second reading debate, is with the harness and greyhound codes and Cyber Raceways Ltd. I wanted to correct the statement the honourable member has just made.

The Hon. P. HOLLOWAY: Given that an agreement has been signed with the TAB, as I indicated earlier, in relation to the existing codes, there is a structure of refunding the money that punters pay into the TAB back to those codes. When I asked the minister this question earlier this evening, she was unable to tell me exactly what is happening under this new agreement because it is commercially confidential. I believe that what is happening under that agreement is relevant in relation to providing some equality of treatment for the industry as a whole. However, I will not pursue this matter further because, clearly, I am not going to get any answers to it.

The Hon. DIANA LAIDLAW: Proprietary racing groups that are licensed will have to pay the tax on turnover as is the practice with other traditional racing codes.

The Hon. P. HOLLOWAY: What would happen with distributions?

The Hon. DIANA LAIDLAW: My advice on that matter is not clear and I would rather not provide the parliament with advice which is unclear or which I cannot provide with authority. Therefore, I seek to provide that advice to the honourable member either tonight or this week because I do not have that information with me now.

The Hon. A.J. Redford: Back again, Bob?

The Hon. R.K. SNEATH: Yes. I remind the minister not to ever go easy on me because I do not ask that of anyone.

The Hon. T.G. Cameron: I think she just feels sorry for you.

The Hon. R.K. SNEATH: That is all right: I feel sorry for her sometimes, too. It is a while since she has had a smoke. What worries me is that I am not too sure at what stage the operator is able to apply for a licence. Is it at a stage before the preparation is completed, or is it just a matter of applying for it? It seems to me that it would be silly to go to the trouble of doing a lot of work, and incurring a lot of expense, before applying for a licence. I imagine you would put in for a licence first, then after the licence was granted—and I am thinking of an area such as Waikerie—then not doing any work in a particular area, you then might be able to say, 'I have the licence but I have not made any investment in this area so I will shift the licence to metropolitan Adelaide where it might be more advantage to me or provide me with a greater profit.' That concerns me. The minister says that the opposition is not supporting this bill: if it did not have as many damn holes in it and it was—

The Hon. A.J. Redford: You have found one there, Bob.

The Hon. R.K. SNEATH: There are holes everywhere: it leaks like a sieve. If the bill is fixed, and it provides a lot of jobs in the country—

The Hon. A.J. Redford: You will vote for it.

The Hon. R.K. SNEATH: I have not finished yet. If it will create a lot of jobs in the country, if it is fixed so that it is without any holes, and if there is a lot of advantage, perhaps my colleagues and I will reconsider. I would hate to see someone in a country area such as Waikerie, Millicent or Port Augusta being granted a licence with a promise to open and, at the last minute, those country areas being sold out. I am surprised that the member for the Riverland has not put forward a provision to ensure that this does not happen; I am sure that when the bill is returned to the other place she might.

The Hon. DIANA LAIDLAW: Who is selling them out? We are trying to get this bill through to provide the legal framework and the probity and you are defeating—

An honourable member interjecting:

The Hon. DIANA LAIDLAW: The honourable member should read the Hon. Mr Cameron's speech and he would see that it was all about—as were those of my colleagues—jobs in regional areas. We have been promoting and championing that line.

The Hon. T.G. Cameron interjecting:

The Hon. DIANA LAIDLAW: Yes. Considering the line of your questioning, perhaps you had better come and join us. You have only just got into the Labor Party in this place: you should leave them now because—

Members interjecting:

The Hon. DIANA LAIDLAW: I am just trying to bring some credibility to the line of the honourable member's questioning, or at least to show the flaws. I alert the honourable member to my amendments to schedule 1 transitional provisions, because we seek to deal with the issue that the honourable member has raised. It provides:

The minister may grant an interim proprietary—

An honourable member interjecting:

The Hon. DIANA LAIDLAW: Well, you say it is good, so perhaps you will support these interim provisions and you may even support the bill. This is looking particularly encouraging: there are only five members of the Labor Party and not six—they are deserting by the minute.

Amendment negatived.

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

Page 9, line 10, subclause (1)(c)—After the word 'licence' insert 'which must not exceed five years'.

Members may not agree with it, but it is a fairly easy notion to follow. I am saying that, in the granting of a licence, the term should not exceed five years. It has come about as a consequence of the discussions that we had in relation to the granting of a licence when I asked questions about how long a licence might be granted for. One of the points I made during that early discussion was that this is certainly a new area. The granting of a licence for an extended period

constrains our ability to respond to anything that goes astray or to be able to respond to community attitudes and so on.

As I said, I think the whole gambling area is now in a significant state of flux, and it seems to me that to grant a licence for an extended period, particularly in this new area, is not the way to go. For that reason, I suggest that a licence term of up to five years is reasonable. The government might decide that it wants to do this on an annual basis. That is not a problem; it does that with many sorts of licences. I think a period of up to five years is reasonable.

The Hon. DIANA LAIDLAW: I will not entertain the amendment. It may well be that the licence is determined for five years but to ask this parliament to do this on the run—because the honourable member has had a fit of inspiration—without actually knowing what the impact of this might be and its effect on an investor or proponent and their financial arrangements is not acceptable. We have had a whole lot of arrangements, including public transport and competitive tendering, where we have not bound the companies and the government in determining the contractual term of the contract so that we gained the best arrangements for the state as a whole, in both service and finance.

I oppose the amendment. It may be that five years is what is ultimately determined in the licence agreement, but I do not believe that we should support an amendment introduced on the run, without understanding the implications. I hope that is the view of the majority of members of this place.

The Hon. NICK XENOPHON: I support the amendment for a number of reasons. First, notwithstanding the remarks of the minister in terms of other agreements with respect to transport, where there have not been time limits, gambling businesses are different. That has been acknowledged by the Productivity Commission, and it has been acknowledged by the gambling businesses themselves. In fact, by virtue of legislative sanction, they have a quite unique position in the community.

It is not as though you can set up a gambling shop or a business without this legislative sanction. The five year time limit is consistent with the recommendations made by the Heads of Churches Task Force with respect to responsible gambling. I would have thought five years was not an unreasonable term as the minister—

The Hon. A.J. Redford interjecting:

The Hon. NICK XENOPHON: The Hon. Angus Redford asks, 'Do they have a legitimate expectation for renewal?' I think they would if they complied with the act. However, it would depend on a whole range of factors. It would mean that the parliament would not be constrained in altering conditions. It might be that there is a minor altering of conditions with respect to the terms under which the proprietary racing businesses are run. I would have thought that, if the businesses have not caused a significant impact, if South Australians are not betting with them, if the proponents of proprietary racing say that it will have specific benefits (which I have great reservations about), and if after five years it gives an opportunity for the parliament to revisit it, there might be some minor adjustments to be made in line with community expectations and other changes to gambling legislation. Otherwise we could be locked into a position where, forever and a day, this licensing agreement will effectively be it. I think we ought to give some flexibility to future parliaments to amend the agreement to whatever extent.

The Hon. T.G. ROBERTS: The opposition's position is slightly ambivalent. Whether it is one year, five years or 10 years—

The Hon. T.G. Cameron interjecting:

The Hon. T.G. ROBERTS: Usually we have fixed positions but in relation to five—

The Hon. A.J. Redford: Did you have a caucus meeting about this?

The Hon. T.G. ROBERTS: I have just had a discussion. It is a late amendment brought on, as the Minister said, without any notification. We have had a quick chat about it. We are prepared to support the five years limit. It should give the proponent time to get established and test their bonafides. If the renewal is up in that time, a government—if the applicant has done the right thing in the previous five years and got it established—would be pretty hard pressed not to renew it. However, as I say, we do not have a strong point of view.

The Hon. T.G. CAMERON: I will not be supporting the amendment. I do not accept the reasoning outlined by the Hon. Mike Elliott or the Hon. Nick Xenophon on this amendment.

The committee divided on the amendment:

AYES (10)

Elliott, M. J. (teller)	Gilfillan, I.
Holloway, P.	Kanck, S. M.
Pickles, C. A.	t.) Roberts, R. R.
Roberts, T. G.	Sneath, R. K.
Xenophon, N.	Zollo, C.

NOES (10)

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

The CHAIRMAN: There are 10 ayes and 10 noes. As there is an equality of votes, I cast my vote for the ayes.

Amendment thus carried; clause as amended passed.

Clauses 11 and 12 passed.

Clause 13.

The Hon. DIANA LAIDLAW: I move:

Page 10—
Line 24—After 'enter into' insert:
, or be a party to,
After line 25—Insert:
(aa) an agreement or arrangement with a for-profit entity under which the licensee conducts races on which betting is to occur (whether in this state or elsewhere):

Clause 13 provides that a person, which includes a racing club or controlling authority, cannot make an agreement or come to an agreement with a for-profit entity under which the licensee conducts races on which betting is to occur without the approval of the Gaming Supervisory Authority. The amendment relates to all the probity provisions that I have already highlighted and the earlier amendments to the interpretation clauses.

Amendments carried; clause as amended passed.

Clauses 14 to 17 passed.

Clause 18.

The Hon. DIANA LAIDLAW: I move:

Page 13, lines 22 to 31—Leave out subclause (3) and insert:

The Authority must not approve of or ratify a transaction to which Division 3 applies, or would apply if the transaction were entered into, unless satisfied that each person who is or will be a party to the transaction (other than the licensee) is a suitable person to be or to become a party to the transaction.

This provides that, where a person or persons has or have entered into an agreement or arrangement with a licensee that is a racing club or controlling authority to conduct racing events on which betting is to occur, that person or persons must be suitable persons in accordance with criteria to be applied to applications determined by the Gaming Supervisory Authority.

Amendment carried; clause as amended passed.

Clauses 19 and 20 passed.

Clause 21.

The Hon. A.J. REDFORD: I raised this matter in my second reading contribution. Clause 21 relates to the cost of investigation relating to applications. I note that clause 21(6) provides that the section does not apply in relation to an application for approval of a person to become a director or executive officer of a licensee. If one looks at the equivalent legislation upon which this is based, one sees that section 25 of the Casino Act has no such clause. Is there any reason why the cost of the investigation of an application for approval of a person to become a director or executive officer of the Casino must be paid by the Casino, whereas in this case it does not have to be paid?

The Hon. DIANA LAIDLAW: I do not have all the notes in front of me, so I apologise to the honourable member. I am advised that you may be misreading the Casino Act. Section 25 of the Casino Act provides for no fees to be charged.

The Hon. A.J. REDFORD: I have a copy of the Casino Act right in front of me, and it is not there.

The Hon. DIANA LAIDLAW: The approval of management and staff and directors is provided under section 28, and the cost of the investigations is dealt with under section 25. Therefore, my advice is that your concerns are dealt with in the Casino Act and have just been expressed in a different form in this bill.

The Hon. A.J. Redford interjecting:

The Hon. DIANA LAIDLAW: You highlighted clause 21(6) of the bill, and I am advised that that is expressed but in a different way in section 25(1) of the Casino Act. The honourable member queried why, under costs of investigations relating to applicants, there was a subsection (6), whereas in the Casino Act there was no similar provision. The cost of investigations under the Casino Act is addressed through clause 25, and such costs relate only to part 3 of the Casino Act, for applicants for grant or transfer of a licence, whereas all the other provisions relate to part 4 of the act, in terms of directors.

So, there is a different way in which the acts and the parts have been drawn up in the Casino Act and the Racing (Proprietary Business Licensing) Bill before us. However, in essence there is no difference in terms of the force of what is provided; it is just a different way of expressing it in different parts of the Casino Act and this bill.

The Hon. A.J. REDFORD: I am not sure I understand that, but I will not push it because legislation like this has a habit of coming back to have rats and mice fixed up. I suspect that we will have one of those rats and mice bills to fix it up in March or April next year and I will have another look at it.

The Hon. M.J. Elliott: What odds do you reckon on that?

The Hon. A.J. REDFORD: We are all collectively responsible for this legislation and the honourable member well knows, having been here longer than most, that those things happen. As a betting man, I suspect that this will happen in this case. Clause 22 is part of division 6, 'Investigations by authority', and investigations in relation to division 6 relate to part 2 of the bill. Part 2 has division 1, the grant of a licence. If one looks at the Casino Act, it is under part 3, 'Application for grant or transfer of licence'. I am not sure that there is any difference, but I will not belabour it. We can deal with it when we do our rats and mice bill on this next year.

Clause passed.

Clauses 22 to 25 passed.

New clause 25A.

The Hon. DIANA LAIDLAW: I move:

New clause, after clause 25—Insert:

Limitations on associated betting operations

25A. (1) It is a condition of a proprietary racing business licence that the licensee must ensure that all reasonable steps are taken to prevent interactive betting operations on races conducted under the licence involving the acceptance of bets from persons within South Australia.

(2) In this section—

'betting facility' means an office, branch or agency established by a person lawfully conducting betting operations at which the public may attend to make bets with that person;

'interactive betting operations' means operations involving betting by persons not present at a betting facility where the betting is by means of internet communications or any other form of interactive electronic communications.

The amendment prohibits persons resident in South Australia from betting via the internet, telephone, or by any other interactive electronic communications on events conducted by persons licensed under this bill. The amendment that I am moving reflects the undertakings given by proponents of TeleTrak, so we are simply clarifying undertakings provided earlier. It should generally be a matter that we can all accommodate.

The Hon. NICK XENOPHON: I understand the intent of the clause: my concern is whether it will be effective. What does the minister consider would be 'all reasonable steps'? Further, if it is found that the licensee did not take all reasonable steps, what would be the effect of that? Would it mean that there would be a breach of the licensing conditions? Would there be a sanction against the licensee? Would any rights arise in terms of anyone who placed a bet? And that brings me to the foreshadowed amendment.

In order that this clause can have some contractual teeth—and I appreciate the government has made an effort in this regard—I will be moving an amendment that states that a bet of the kind referred to in subsection (1) accepted from a person within South Australia is void and the amount of the bet is recoverable by the person as a debt from the person with whom it was made.

In other words, if it slips past the gatepost the bet is void so the transaction is cancelled, which is the sort of approach that the Hon. Angus Redford and I discuss in our dissenting statement with respect to online gambling. Given the intention that South Australians not bet using interactive means, this proposed amendment ought to give it some contractual teeth.

The Hon. P. HOLLOWAY: I want to do something unusual and compliment the Hon. Angus Redford on his speech earlier this evening about the need for parliament to determine a position on internet and interactive gambling. He made the point that we should do so in specific legislation rather than, as we have been doing so much in recent times, having to deal with bits and pieces as specific legislation comes up, and I concur in that point. Nevertheless we have to deal with the matter that is before the committee now.

Consistent with the position that I adopted as a member of the select committee on internet and interactive gambling, I have said that in principle I support a managed liberalisation approach towards internet gambling but I have pointed out on a number of occasions that I believe we have to get the framework of regulation in place before we move down that track. That is why in principle I support this measure. However, those members of the internet gambling select committee know how difficult it will be to achieve the objectives of proposed new clause 25A, that is, to prevent interactive betting operations conducted outside the state. Those who supported the majority report came to the conclusion that it would be virtually impossible to—

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: That may be so but it was the view of the majority that it would be virtually impossible to prohibit that sort of thing. While I have some sympathy in the current climate with the sentiments of the proposition, I am doubtful as to whether it can be successful.

The other issue that I wish to raise is that the definition of interactive betting operations includes any other form of interactive electronic communications. That seems to outlaw betting by telephone. Presumably that means that it would be impossible for proprietary racing businesses to operate with any bookmakers on site. Is that the interpretation that the minister makes? That might be the intention of the government in doing that. I take no issue with that but I would like the minister to clarify whether it is the intention of this measure that it includes any form of telephone betting, which would effectively eliminate bookmakers.

The Hon. A.J. REDFORD: On a number of occasions I have set out my views on this issue, and I do not propose to repeat everything I have said, but the question asked by the honourable member came up when I had discussions with the minister when this was being drafted, and the answer to the honourable member's question if I can speak in relation to the conversation I had with the minister and the parliamentary draftsman at the time is yes, it is outlawed.

The Hon. T.G. CAMERON: I will support the amendment moved by the minister. It is consistent with the proposals that were outlined for TeleTrak and I believe that it is appropriate that the racing industry, the trotting industry and the greyhound industry in South Australia be insulated from the impact of proprietary racing. It was always my hope that at some stage the thoroughbred industry would embrace this concept, pick it up as its own and run with it, but perhaps that will occur down the track.

I support the comments made by the Hon. Paul Holloway about the difficulty of policing the internet. I do not know whether any members other than, I suspect, the Hon. Angus Redford and the Hon. Paul Holloway have had a close look at the internet or sat down with a few computer specialists and had a discussion about just how difficult it will be to control interactive or internet gambling. My doctor happens to have a doctorate in mathematics and computer science as well, and he has taken me through some of these issues at a cerebral level greater than my IQ but, being a qualified computer programmer and systems analyst myself, I have some knowledge of the way in which computer programming works. I do not care what position the committee has come up with because it will find the task of controlling internet gambling extremely challenging. I wish you well.

The Hon. A.J. Redford interjecting:

The Hon. T.G. CAMERON: I am not going to respond to the honourable member's interjections because I do not want to encourage him. I am not suggesting that the challenge is not one worth taking up but I caution members of the select committee that it will be extremely difficult. I am not attracted to the amendment in the name of the Hon. Nick Xenophon. I do not like that approach. I think it is unnecessarily litigious and it could end up being a picnic for plaintiff lawyers. I will not support his amendment but I will support the government's amendment.

The Hon. M.J. ELLIOTT: I will support the government's amendment but I will keep my powder dry on the second issue for the moment. One of the two chief concerns I expressed in the second reading debate related to the expansion of gambling opportunity in South Australia. This proposed new clause seeks to address that in so far as it aims to ensure that South Australians do not become involved in gambling on proprietary racing. I imagine that this measure will be removed within a couple of years, and I would not object to that once the government has moved down the path that I have been encouraging in terms of more coordinated regulation and harm minimisation programs.

While I support this clause and while I consider that it is worth while and necessary at this point, if after a couple of years other things have happened, I will agree with its removal, subject to those other things. The fact that this clause has been introduced largely addresses one of the two fundamental issues. If we look at this provision, compared with what the Hon. Nick Xenophon is seeking to add, it seems that the major penalty that is available here is to the holder of the licence. If they hold a licence and if they knowingly do not make reasonable attempts to establish where the person who is betting comes from, they should put their licence at risk. That is one of the reasons why I argued for a shorter licence period.

I have no problems with licences being renewed if they do the right thing. Given all the various licensing arrangements in this state, I cannot think of cases where people have not had their licences renewed if they have done the right thing. If it is married with a regular licence renewal system, that is our best way of containing gambling from within South Australia. All it needs is a few people coming forward, telling their stories about gambling on this opportunity and, if it is shown that the company did not make a reasonable effort to establish whether or not they were South Australians, it would breach its licence.

This clause seeks to ensure that all reasonable steps be taken. If it is adequately monitored, it will provide the level of protection that I want so as not to expand gambling opportunities within South Australia in the absence of a more thorough regulatory framework and harm minimisation.

There is one problem that I have which I think is easily fixed. The definition of 'interactive betting operations' means 'operations involving betting by persons not present at a betting facility where the betting is by means of internet communications or any other form of interactive electronic communications'. I am not sure what dictionary would give you a definition of an 'interactive electronic communication'. Is a telephone an 'interactive electronic communication' or not? You could have a debate in court about what 'interactive' means. The word is put there and, if a court wants to give it a purpose—

The Hon. A.J. Redford: The answer is 'Yes.'

The CHAIRMAN: Order! Let the honourable member ask his question.

The Hon. M.J. ELLIOTT: I spoke with parliamentary counsel briefly, and I would like to put the matter beyond

doubt. All I suggest to the minister is that, before the word 'internet' in the second line, the word 'telephone' be inserted, so that it simply states that 'betting is by means of telephone, internet communications or any other form of interactive electronic communications'. The Hon. Angus Redford feels that the word 'telephone' is implied already; I just want to put it beyond doubt.

The Hon. DIANA LAIDLAW: I would have thought that because 'interactive electronic communications' means 'interactive' and 'two-way', the definition would certainly embrace the word 'telephone'. I place on the record that that is the intention of the amendment. If it is a matter of pedantic interest to the honourable member—true to form—

The Hon. A.J. Redford interjecting:

The Hon. DIANA LAIDLAW: I am conditionally happy to insert the word 'telephone'. I seek leave to amend my amendment as follows:

Insert the word 'telephone' before the words 'internet communications'.

Leave granted; amendment amended.

The Hon. DIANA LAIDLAW: Regarding subclause (1), which seeks to ensure that all reasonable steps are taken to prevent such 'interactive betting operations', if those reasonable steps are not taken there are statutory default provisions. So, I think it is quite a thorough amendment and cautious in that respect.

Whilst I am on my feet, if the Hon. Mr Xenophon intends to move his foreshadowed amendment, I would like to indicate that I strongly oppose it. I am taking my cue from the Hon. Terry Cameron who has already indicated that he opposes it. I think this clause is known as the Kyl clause, is it not?

The Hon. Nick Xenophon interjecting:

The Hon. DIANA LAIDLAW: Yes, Mr Kyl from the United States, a Democrat senator. This clause or type of clause is designed to stamp out illegal business. It is not needed or relevant here because all businesses will be licensed. Therefore, it will not be an illegal business.

The Hon. NICK XENOPHON: I move:

After subclause (1) insert:

(1a) A bet of the kind referred to in subclause (1) accepted from a person within South Australia is void and the amount of the bet is recoverable by the person as the debt from the person with whom it was made.

I outlined the reasons for this amendment earlier; I do not propose to restate them.

The Hon. T.G. ROBERTS: Although the bill before us is not supported by the Labor Party for other reasons, it appears to me that this is one of the cornerstones as to why the original TeleTrak proposal was set up.

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: I understand that, but it appears that there is an electronic hoop that now has to be—

The Hon. A.J. Redford: Only for South Australia.

The Hon. T.G. ROBERTS: I understand that—perhaps a limited electronic hoop is being put in front of a potential licensee.

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: No, I am just stating a case. The Labor Party has stated that it does not support the bill for other reasons, but it appears to me that this was a cornerstone for the people who first put around the TeleTrak proposal before it became what it has become, and it appears that that is what the proponents wanted. I am a bit perplexed about this electronic hoop being put in front of us. If it is going to be a catch-all, I tend to agree with my colleague the Hon. Mr Cameron, in this instance. Tasmania is moving its state legislation, and I have a lot of sympathy for the proponents of any new gambling form that is now trying to become licensed in a market that is saturated with gambling—poker machines certainly made sure of that.

There is a lot of competition for the gambling dollar, and you have to work out where the growth is going to come from. By the time this legislation is finalised, there will not be too many people who will want to jump through the hoops that are being put up to try to get something off the ground that is able to compete in the marketplace whether or not it is on an equal footing.

There are also the vagaries of the commonwealth legislation where states are blocking out betting by people in their own state—Tasmania has done it and other states will follow. In effect, what will happen is that each state will block out participation by its own constituents but will be able to draw in all these new products from other states. I just make that observation. I think the vote is already determined and the government will not need our support to get it through.

The Hon. CARMEL ZOLLO: Should the bill pass, I indicate my support for the minister's amendment.

The Hon. A.J. REDFORD: I would be grateful if the minister—and I do not expect an answer now—could give some consideration to ensuring that, if interactive betting is made available in other states in Australia, their licensing systems and jurisdictions are respected just as we would expect them to respect ours.

The Hon. Mr Xenophon's amendment negatived; new clause inserted.

Remaining clauses (26 to 50) passed.

New schedule.

The Hon. DIANA LAIDLAW: I move:

After clause 50—Insert:

SCHEDULE 1

Transitional Provisions

Interim proprietary racing business licences

1.(1) The minister may grant an interim proprietary racing business licence to an applicant for a proprietary racing business licence if the applicant satisfies the minister that before 26 October 2000 the applicant had commenced to carry on, or entered into substantial arrangements for the purpose of the applicant carrying on, the proprietary racing business to which the application relates.

(2) An interim proprietary racing business licence remains in force, subject to this act, until determination of the application for a proprietary racing business licence.

(3) For the purposes of subclause (2), an application for a proprietary racing business licence will be taken to be determined when—

(a) a proprietary racing business licence is granted to the applicant; or

(b) the applicant is notified in writing by the authority or the minister that it will not be granted a licence.

(4) The minister may impose conditions of an interim proprietary racing business licence (including conditions fixing fees or periodic fees payable for the licence) and may, by written notice to the licensee, vary or revoke the conditions or impose further conditions.

(5) An interim proprietary racing business licence is not transferable.

(6) Sections 8 and 13 (inclusive) of this act do not apply to an interim proprietary racing business licence but the other provisions of this act apply as if the licence were a proprietary racing business licence.

Schedule 1 provides that an interim proprietary licence may be granted by the minister to an applicant where substantial arrangements were in place prior to 26 October 2000 regarding the carrying on of the business. The interim licence

is not transferable and remains in force until the Gaming Supervisory Authority has determined the suitability of the applicant. The transitional provisions also apply to persons who have entered into an agreement or arrangement with the applicant.

New schedule inserted.

Schedule 2 passed.

Long title.

The Hon. DIANA LAIDLAW: I move:

Leave out 'bodies other than clubs conducting' and insert: persons carrying on certain businesses involving the conduct of

Amendment carried; long title as amended passed.

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I move:

That this bill be now read a third time.

The Hon. M.J. ELLIOTT: During the second reading debate I expressed concern about issues relating to probity and about the expansion of gambling-related harm in South Australia in the absence of protective measures, in particular improved gaming regulation and harm minimisation programs. As the bill has now passed, I feel that it has adequately addressed those two issues.

New clause 25A makes it a condition of the licence that the licensee ensures that all reasonable steps are taken to prevent interactive betting operations on races. I am not foolish enough to think that some people will not do it, but clearly if it affects a large number of South Australians then the licensees would (and should) put their licence at risk as a consequence of that.

The new clause, which was moved by the Minister for Transport and Urban Planning, plus the amendment I moved in relation to five year licences—which, as I said, so long as the licensee has done the right thing I would expect it to be renewed as a matter of course—and the fact that it needs to be renewed, I suggest gives the legislation sufficient teeth in relation to the concern that I have about the expansion of gambling in South Australia.

I expect that at some time in the future the product will be offered in South Australia, but I also expect that before that happens we will have bitten the bullet in relation to gambling-related harm. I leave one message: I expect the legislation not to come back to the chamber to remove any of the protections that have been inserted but, if that occurs, the Democrat numbers in support of the bill will dissolve. However, at this stage we are prepared to support the third reading and we hope and expect that our amendments are accepted by the other house.

The Hon. T.G. CAMERON: I rise to support the third reading. I would like to place on the record my appreciation to all the individuals who provided me with detailed information in relation to TeleTrak, in particular the Mayor of Wattle Range Council, Don Ferguson. It is also appropriate to congratulate the member for Chaffey on finally achieving her objective of at least having enabling legislation passed which will allow her constituents to pursue the possibility of establishing proprietary racing in their electorate.

I will not be one of those wishing them bad, hoping that it all falls apart and that they end up in bankruptcy. Quite simply, this provides an opportunity, just like Yumbarra did up at Ceduna. It offers a ray of hope for our depressed regional communities. I take this opportunity to wish the people of Waikerie, Millicent and Port Augusta all the best in their pursuit of trying to build up their local regional economies. I wish them well.

The Hon. T.G. ROBERTS: I indicate that the opposition's position has not changed but, as the Hon. Mr Elliott has said, some of the amendments have tidied up a lot of our concerns. However, our major concern is with respect to the financial contribution that the proponents would make to the state in relation to either a licence fee or a turnover tax, or something similar, and that has still not been addressed. We believe that should have been the starting point, particularly if assistance is required down the track. I know and understand that it is a private venture with private capital and, in theory, will not draw on any public resources but, as with all infrastructure development, I suspect that it will call on extra expenditure from the state in relation to its capital budgets and could possibly even draw on recurrent spending as well. The opposition does not wish the proponents any harm and I certainly add my best wishes to them. The—

An honourable member interjecting:

The Hon. T.G. ROBERTS: I have explained—

The Hon. Diana Laidlaw interjecting:

The Hon. T.G. ROBERTS: No, I am not. I will not condemn all the hard work done by the proponents to get it this far but there are a lot of hurdles that they still have to jump. I certainly would like to see Port Augusta with the jobs that it has been promised; I would like to see the Riverland with the jobs that it has been promised; and I would like to see the South-East with the jobs that have been promised.

Members interjecting:

The Hon. T.G. ROBERTS: Honourable members keep asking me why we did not support it. I have explained the reasons—

Members interjecting:

The Hon. T.G. ROBERTS: It is none of the above. There has been an attempt to get this project off the ground for four years and this bill may offer some value to the people who are putting the project together. I am not one of those economic rationalists who believe in the intervention of the state to protect private interests when private interests could possibly stand on their own feet. I suspect people will be knocking on our door for assistance and support to continue proprietary racing because we will be in government by that time.

The Hon. NICK XENOPHON: For the record, I indicate that I cannot support the bill because of my concerns in relation to the potential expansion of gambling activities in the state. Whilst I welcome clause 25A and congratulate the government for introducing it, my concern is that it does not have sufficient teeth to enable bets to be voided in the event that South Australians are betting with respect to these betting operations. Therefore, for those reasons, I cannot support the bill.

Bill read a third time and passed.

TAB (DISPOSAL) BILL

Adjourned debate on second reading.

(Continued from 6 December. Page 839.)

The Hon. T.G. CAMERON: I support the bill. In his second reading explanation, the minister said:

The government's comprehensive review of the business has identified that, under continued government ownership, both the SA TAB and SA Lotteries would, in the future, find it increasingly

difficult to compete in the rapidly changing and intensely competitive Australian and global gambling markets.

I agree with that statement, but only in part. I agree with it in relation to the South Australian TAB, but I do not agree that the statement is necessarily valid for the sale of South Australian Lotteries. The minister went on to talk about the difficulty of allocating scarce financial resources towards the expansion of TAB and argued that we could see an diminution of earnings and, ultimately, a lower sale price. I accept those arguments; I do not intend to go into a great deal of detail on them. I am hopeful of concluding my speech in 30 or 40 minutes, but I guess I could easily go for two or three hours.

I would refer anybody to a more detailed explanation of some of the difficulties that the TAB will be facing. It is not a monopoly: it turns over $620 million a year, and about $80 million of that is bet on South Australian races, so it is not a monopoly. At this stage I do not want to go into a detailed analysis of why I agree with the minister, but I would merely refer people to the contribution by the Hon. Legh Davis, who raised most of the points that I would have discussed.

I notice that this is the fifth TAB to be sold. Two of those TABs—the Queensland TAB and the New South Wales TAB—were sold by Labor governments, which both recognised that, in a rapidly changing environment with increased competition and more pressure on the consumer dollar, continued ownership of their TABs could present the government with some risks. I would go further and state that all of the governments that have sold their TABs came to the conclusion, 'What on earth is the government doing in the gambling business?'; and that they would be better off selling them and regulating the industry.

I make the point, although it was fleshed out in more detail by the Hon. Legh Davis, that the South Australian TAB represents only 6.5 per cent of the $9.6 billion Australian gambling market. More and more people are coming to recognise that, on this issue of gambling, the lotteries are, in part, competing with the TABs and that TABs are, in part, competing with the racing industry, which is competing with the greyhounds, trotting and the Casino. Competition for the gambling dollar is increasing, so the risks to government ownership are increasing as well.

I make the point—and the Hon. Legh Davis mentioned it briefly—that, when you examine the viability of the business and look at its long-term future, you have to make a very careful analysis of what your fixed and variable costs might be. The South Australian TAB could face increased competition as a result of internet gambling or a more aggressive marketing stance by the interstate TABs. In fact, we do not know how many providers of gambling there might end up being in the foreseeable future. We can see this already because the machines are available if you want to look at them. They are little hand-held devices that you can connect directly into your computer network and proceed to buy and sell shares, buy products or gamble. You can do just about anything you want on them.

I had an interesting conversation the other day with the Hon. Bob Such in the bar, where we briefly exchanged views about nanotechnology, I think it was, and just what kind of a market that will open up. It is probably not too far away from the future, certainly in our lifetimes, that you will have a very small computer and be able to talk to it. You will be able to do anything you want on it, or just about. We are living in a rapidly changing world. One of the only constants we have these days is the fact that we live in a rapidly changing environment.

I thank the Hon. Legh Davis for the contribution he made. It did help me make a final decision on this issue. I did take the opportunity to read all the contributions made in both houses but, unfortunately, the contributions made by members of the Australian Labor Party were of little assistance in my arriving at a final decision. At no stage did I believe that the Labor Party—at least according to the *Hansard* record—conduct a proper and detailed financial analysis of the merits of a sale or an analysis of the issues identified by the government. Instead, it relied on rhetoric, which at times became somewhat emotional and flamboyant, and its ideology.

I shall come back a little later to a financial analysis that I did undertake. However, it will not be anywhere near the detail of the 20 or 30 pages I have written out here to speak from. I would like now to address the question of state debt. I note that even the Auditor-General has been prepared to acknowledge and give a complement, albeit backhanded, to the government. It is the first one I can recall in the last few years. However, he did almost grudgingly acknowledge in his documents that state debt has fallen dramatically. I think he quotes a figure of $9.5 billion and it is now down to $3.5 billion, if you believe the government's advertising program. It stated that debt in real terms today was $10.1 billion when it took over. From my calculations, that figure would appear to be closer to the mark than the $9.5 billion that was used by the Auditor-General. I am sure the Hon. Paul Holloway would appreciate that, if you want to do a proper analysis of statistical financial data from two different dates then, to get a true picture, you need to be talking about real terms.

However, whichever figure you believe, state debt has fallen dramatically to $2 006 per head. The Treasurer's other statements in this chamber can only be interpreted that state debt has reached manageable levels. One can only conclude from the statements he made that a reduction in state debt is no longer a compelling reason for the sale. However, I accept the view that the state, like any company or individual, should constantly review its assets—the reasons for holding them, the risks associated with the holding of those assets—and, if it is believed there are compelling reasons for the sale, the company or individual should act accordingly. One can only assume that was the approach of the South Australian government when it sold of SAGASCO or that was the approach of the federal government when it sold off a litany of assets so eloquently outlined by the Hon. Legh Davis.

History records that the Liberal governments of Victoria, the Northern Territory and the ACT and the state Labor governments of New South Wales and Queensland have sold off their TABs and Lotteries. We are considering selling of only the TAB. I was involved in those debates when they took place in the Australian Labor Party. The Hon. Carolyn Pickles shrugs her shoulders and sighs. I seem to recall a Labor Party conference in Hobart when your faction congratulated me for my principled stand on selling government assets and Senator Nick Bolkus sent a dozen bottles of champagne up to my room. So, there we go.

Once again, for those who are interested in this issue—and they might want to go back and have a look at *Hansard*—I would refer them to the contribution made by the Hon. Legh Davis. The arguments used by both Labor and Liberal governments to sell state assets were identical. It is the same

set of arguments that were used in each case. But, for some reason which I find somewhat difficult to understand, if a Labor government sells one asset it is a mild sin and it goes along to the confessional box and everything is all right next week; but if a Liberal government attempts to sell a state owned asset it is the devil incarnate. If you support it, as I have done, you will be sent to purgatory for the rest of your life. Any consideration of a sale necessitates an examination of a likely sale price, and this has not necessarily been a simple task; the information has been hard to come by. Reports in the press indicated that the TAB might be sold for values as low as $20 million; quite frankly, at that kind of price you would keep the asset.

It is possible to look at the sale prices received for VicTab and the New South Wales and Queensland TABs which will give you some indication, but a more accurate assessment is to look at what those TABs are now worth on the stock market, the turnover and earnings and weigh up possible risks and the prospects of expanding a future market—any normal due diligence that someone would undertake for an asset that they were about to purchase. My own personal view on what the government is likely to get for the asset is around $80 million to $100 million. I stated on a previous occasion that I would like an indication from the government as to what it thought it might get for the asset. I had a number of detailed discussions with the minister—I thank him for his time—and, as expected, the government argued that it is very difficult to put a price on the sale of an asset and that it might compromise the government's negotiating position or it may be interpreted in a particular way by some of the potential bidders and could result in lower bids being submitted.

I certainly would not want to place myself in the position of the Labor Party when it came to the sale of the ETSA assets. I will not bore members with all the statistical details, but it is worth noting once again that, if you look at the prices received for VicTab, the New South Wales TAB and the Queensland TAB; look at the price that the shares for VicTab were issued at, and what they are selling for today on the Stock Exchange; and do a similar financial analysis of Victoria, New South Wales and Queensland, the TABs of which were sold in that order, you will see the evidence quite clearly. There might be some puzzled looks on some members' faces but the Hon. Legh Davis would pick it up immediately. Victoria got the best price for its TAB assets, just as it did for its electricity assets.

New South Wales saw the writing on the wall. It tried to get rid of it electricity assets but was stopped by the trade union movement. However, Carr and Egan were successful in persuading the branch that it could get rid of its TAB and lottery assets. New South Wales got a good price and the world has moved on and the people who bought the shares at the issue price are now showing a reasonably comfortable capital gain. It is not quite the same in Queensland, where the issue price was $2.05 and the current price is about $2.30. I read that a week ago and still remember it. So, not only did the investors in the public float not do as well in Queensland but one could only assume that the Beattie government was glad that it got in when it did. I can assure members that, if it were to sell the Queensland TAB assets today, it would not get the same interest in them that it did then. In fact, I thought the Queensland government was lucky to get $2.05 at the time; I thought a more appropriate price was about $1.95.

The Hon. L.H. Davis: And they fell below the issue price.

The Hon. T.G. CAMERON: They did; I was just about to say that they were over subscribed and fell below the issue price. The world has moved on. On that point, there has been some discussion about whether or not the government should have floated the TAB, as was done in Victoria, New South Wales and Queensland and, for example, as we did when we floated off the Commonwealth Bank. If my memory serves me correctly, the Commonwealth Bank was floated for $5.80 and the second tranche was floated off at $10.40 to $10.60, but the Commonwealth Bank shares are now selling for about $34, and I suspect that if interest rates start to edge downwards it will not be long before they are around the $40 mark.

I offer that analysis because, when a government, irrespective of which government it is, decides to walk down the path of a public float, it must discount the share price. Any political realist would understand that a government will not go out and flog off an asset and float it at $3 a share if it thinks it will open at $2. There might be some political pain involved in that, perhaps similar to what T2 Telstra shareholders are currently experiencing with the second tranche.

The Hon. Nick Xenophon interjecting:

The Hon. T.G. CAMERON: As distinct from T1. Muggins me did not take up the offer of T1 but took up the T2 offer, but what you lose on the merry-go-round you pick up on the swings.

I am opposed to a public float because if the government sells off an asset in my opinion it has a fiduciary responsibility (with certain other caveats which I will not go into) to try to maximise the sale price it might achieve for the taxpayers of South Australia, and it will not do that with a public float. The price it will get will be at least 20 per cent less. Heaven forbid! The administrative costs of going through a prospectus and so on are even more than you would pay the consultants to do a private sale—although I suspect that the consultants' bill for this one will expand quite a bit from the $2.7 million we have spent so far and the 1.2 per cent success fee.

When you sell off or float a government asset, the only people who get in on the float are those lucky enough to have spare available cash to be able to invest, and then there is another group of people who work for the stockbroker handling the float who are able to get an even bigger share. Basically, 20 per cent of the population ends up owning the asset, the other 80 per cent miss out, the asset is sold off cheaply to accommodate some of those political concerns and at the end of the day the taxpayer misses out but, through a trade sale, the taxpayers of South Australia get full value for the asset.

A perusal of the bill indicates that it has been set up to maximise the outcome for South Australia. I will come back a little later to the agreement that was negotiated with the PSA and the ASU and to the arrangement that has been entered into with the racing industry.

The minister stated that these provisions, which are consistent with the approach taken in other government asset sales, will enable the government to manage the sale process so as to maximise the outcome for the state. He stated that the breadth and flexibility of powers under this bill are primarily to ensure that the potentially interested bidders in the sale process can be accommodated. I agree with that and, if we are to believe the minister, one can see that we will have a competitive bidding process and that the sale price will be maximised.

People have said to me, 'Who would want to buy the South Australian TAB?' VicTab, the New South Wales TAB

and the Queensland TAB would be interested. I understand through discussions with the racing codes that they are interested in picking up a percentage share in conjunction with another bidder or a joint bidder, and I understand that there may be another couple of bidders. We have the potential for six or seven bidders for this asset, which should ensure a competitive tendering and bidding process, and I feel confident that the government is taking the necessary steps to ensure that we maximise the value and hence the return to South Australian taxpayers.

I want to come back to the question of what we might get for the asset, because I know that the Hon. Paul Holloway will question me during the committee stage. I have already noted that there are some difficult sensitivities in relation to this, but I put the question directly to the minister and his response was that we should be able to achieve a sale price of up to $130 million or $140 million. Personally, I think that is optimistic, but if I were in his position I would put in a bit of padding there myself.

I am not suggesting that he has, but I would put a little bit of padding in that figure because you would not want to give these bidders a clear idea of what you are expecting for the asset. Anyone in this chamber who has ever placed a house on the market to be sold at auction knows that you do not walk around the potential bidders holding up the reserve price, letting them know what you are going to accept. The reserve price is a secret.

The Hon. L.H. Davis: Paul Holloway would.

The Hon. T.G. CAMERON: Perhaps he would. I had a private discussion with the Hon. Legh Davis on this matter. I am not prepared to repeat the text of that conversation, and I hope that he does not mind, except to indicate that his figuring was very close to my own. The Hon. Paul Holloway may wish to question me about why I have not been able to extract a minimum price from the government or why I am not prepared to place a minimum price on the record.

I would only put to him that I have conducted a fairly detailed analysis and I cannot see any way in the world that the government will get less than $70 million or $75 million for this asset. In relation to that, the minister has satisfied my concerns about the price we might get for the asset. I also want to address another comment that was made by the minister, when he said that the government has clearly stated that the price offered for the business will not be the only important factor in evaluating a bidder, and that other issues, such as employment of existing staff and service standards, will also be very important considerations.

I had some concerns about just what the minister meant by 'service standards' and I was going to raise that as a question, but he was able to answer that for me. During the tortuous process of the consideration of this bill I had detailed discussions with the minister, the ASU, the PSA, and I do not know how many meetings I had with the racing industry. It seemed that every time I walked back into my office there was a message, a package or a parcel from Michael Birchall with some additional information for me to consider. I will refer a little bit later to the racing industry's lobbying.

I understand from my discussions with the PSA and the ASU that the retrenchment package has been agreed to. I was going to request that the package be incorporated into the *Hansard* record but, on reflection, I do not consider that is necessary. There was a little bit of mirth in this place about the retrenchment package. Whilst I am quite happy to support what the government has done in this regard, because that really is a government decision (it is not the opposition or members like myself to be getting involved in issues like that), I would record that it is an excellent package and I congratulate the unions on being able to achieve such agreement from the government.

However, one has to acknowledge that the original offer was upped because they engaged in some industrial action at a particularly sensitive time for the government. I do not have a problem with that: that is a legitimate role for the unions. When I was industrial officer with the AWU, I was never backward in pulling on a bit of industrial action if the boss was being unreasonably difficult. But I do congratulate the unions for achieving an excellent result on behalf of their members. In fact, I suspect that the result is so good that many of them will take the package and leave the TAB.

It has been a little difficult to ascertain exactly how much the retrenchment package is going to cost. The minister has put a figure of $17 million on it, but it is really a little like reading tea leaves. You cannot ask anyone to look into the minds of the existing TAB employees to try to work out just how many will go. So, the government did what any government would have done: it worked out the worst situation and then worked out what the best situation might be. I understand that it has put a figure of $17 million on what it expects that package to cost.

When one considers that we might be looking at a sale price of $80 million, if I can use that figure, for the TAB, then $17 million will be going to the existing employees. Some people have suggested that the figure could go as high as $20 million. Without putting too fine a point on it, the employees may well be the recipients of some 20 to 25 per cent of the eventual sale price of the TAB asset. I guess that the ETSA employees would like to have been in a similar position. As I understand it, that will come off the sale price and be paid out immediately.

I would like to look briefly at the agreement reached between the three racing codes. As I indicated before, I had numerous meetings with the three codes and extensive discussions with Michael Burchall, and I take this opportunity to compliment the three codes on their persistent and consistent lobbying efforts. I am sure they would be prepared to acknowledge that, last week, I probably would not have supported this but tonight I am. I spent many hours having discussions with them and I am glad I did because it was only towards the latter part of that extended negotiating period that I came to appreciate fully the parlous position that the three racing codes find themselves in.

I have had my differences with Michael Burchall in the past and, as I am sure representatives from the SAJC know, I have had my differences with the SAJC, too. As a result of one of those differences, I ended up spending an hour or so in a gaol cell. For those of you who might be concerned, I had a picket around the Victoria Park racecourse and, when the ASU members walked straight through the picket and did not honour the AWU, myself, Les Birch and Paul Dunstan (led by me), after being tidied up by the management of the SAJC with our industrial dispute, decided to climb up in the stalls. I got dragged down by some huge member of the Star Force, thrown into a paddy wagon and locked up in a gaol for a while. Fortunately, I did not have to go through the indignity of being fingerprinted like Paul Dunstan did. However, life moves on and, as everybody in this chamber would appreciate, I am not one to hold a grudge. I am a mild mannered person and, despite having disagreements with people, I get on with it.

I place on record my appreciation to Michael Burchall for the time and trouble he took to help me. Any piece of information that I requested turned up on my desk, at times within minutes. Politics is about people and we have to consider people in politics. The more I talked to Michael Burchall, two things became readily apparent to me. The first was that he was a man who was in love with the racing industry, and I hope he does not mind me putting it that way. He loves the industry, and the more I talked to him, the more that came through. What also came through to me was the genuineness of his concern that the racing industry is, basically, at hell's door.

Michael Burchall genuinely believed that this might well be the last gasp for the racing industry and, to his credit, for the information of the other codes I advise that Michael also lobbied me in relation to trotting and greyhound racing as well. The more I talked with the man, the more I realised that I was talking to someone who had a deep commitment for and a passionate love of the racing industry. I could tell that he was almost desperate about an industry and a sport that he loved.

I will not go into the details of the agreement that was entered into, and it has been covered adequately in contributions by other members. However, it needs to be stated for the record that the codes are happy with the agreement that they have reached and they are all happy about the proposed sale. I suspect that they are a little bit envious that they may not end up owning the asset and integrating it into the racing industry in total. Perhaps money will not allow them to do that, but I encourage them to bid for it.

I know that a claim was made in the other place that the racing industry has been bought off. That is just a nonsensical claim and I have four pages of analysis here if I want to run through it all, but I am not sure—

The Hon. R.R. Roberts: It looks like there is only one there.

The Hon. T.G. CAMERON: You wouldn't follow it, so that is one reason that I should not go through it.

The Hon. R.R. Roberts: You haven't got it! Show it to us. Four pages of analysis?

The Hon. T.G. CAMERON: One, two, three, four—would you like me to continue? What a goat you are at times. I refer the Hon. Mr Roberts to the Hon. Legh Davis's contribution. I know he has read it three or four times already and is having trouble understanding it. If he would like me to explain a few points to him, I would be happy to do so. The suggestion was also made by Michael Wright in another place that we cannot possibly let the TAB sale go through because the racing codes will be given all this money, some $18 million, and they have not told us what they are going to spend it all on. When is parliament and when are politicians going to accept that we have corporatised the racing industry? I thought we were trying to get meddling, interfering politicians out of the industry so it could run it properly for themselves.

My observation of government interference over the last 20 to 30 years is that we have hindered rather than helped the industry, and I believe it is time for it to get out there and show us what it can do. I am one of those politicians who will not be impressed if the codes come back cap in hand to the government in two or three years asking for more money. I was concerned about the distribution of the profit to the respective codes and I asked Michael Burchall, the trotting industry and the thoroughbred industry to examine the distribution to the greyhound industry because I felt that it was the loser in that carve up. I am pleased to report that they looked at that matter, a new arrangement has been entered into and the greyhound association has reported to me that it is more than happy with the outcome.

I know the Hon. Legh Davis covered some of these matters, and he would be disappointed if I did not run through some of them. An examination of the TAB results over the last five years shows that, from 1995 to 2000, the turnover of the TAB went from $515 million to $496 million, $524 million to $593 million, and then to $620 million in 1999 and $620 million in 2000. Whilst profitability has risen from $46 million in 1995 to $53 million in 1999 and the year 2000, any examination of the TAB as a business clearly demonstrates that the pips are squeaking, that the TAB is struggling to grow its business and that, more importantly, it is struggling to maintain its profitability. That is despite what I consider to be an extremely aggressive marketing campaign by the TAB. I place on the record that I consider its current marketing program to be somewhat offensive and I do not particularly support it, but sometimes offensive advertising is done deliberately to attract people's attention.

I mention the interaction of fixed and variable costs and profitability. It should be noted that out of the $620 million turnover that the TAB experienced in 1999, $540 million was on interstate wagering and $80 million on South Australian wagering. However, if you look at the 2000 figures, you see that state turnover stayed at $620 million yet South Australians were wagering less on South Australian races. As I understand it, turnover fell from $80 million to $75 million, which is worrying if you own a business. It is particularly worrying for the three codes because, if the turnover falls, their take falls.

Quite frankly, there has not been sufficient growth in the profitability and hence the distribution from the TAB to the codes over the past few years to enable it to maintain its industry. What do I mean by that? I mean that stake money is under pressure. Currently, it is at $19 000. Let us look at the thoroughbred industry. I will run through all the balance sheets if necessary. It is $1 million in debt. A simple cash flow analysis would show that it is almost like an e-commerce company at the moment: it is burning up more money than it is earning. That cannot go on for too much longer. It will rack up another $1 million deficit between now and the end of the financial year. It cannot keep going into debt forever. If the turnover happens to drop by $20 million or $30 million, it might find its profitability dropping by $10 million or $15 million. In other words, if turnover drops by 10 per cent, its profitability might be impacted by 15, 20 or 30 per cent, depending upon the statistical interaction between fixed and variable costs.

So, anyone who argues that the TAB is currently a thriving business, that it has 'blue sky' exponential growth, etc., I am afraid is not facing commercial reality in the year 2000. I spent a number of hours discussing these very points with the respective codes. I conducted an analysis of the breakdown of the distribution of profits (ordinary distribution plus extraordinary distribution) for the years 1995 to 1999 for SATRA, SAHRA, SAGRA, RIDA, SANFL, and the government. SANFL profits fell from $160 000 in 1998 to $102 000 in 1999.

I will pull a couple of figures out of the air. The Hon. Ron Roberts thinks that I do not have these figures in front of me, that I have not done this analysis. In respect of SAHRA, for example, between 1998 and 1999 the increase in distribution was $1 000 for the year; for SATRA it was $6 000. How on

earth will we maintain a viable racing industry, harness racing industry (for the Hon. Ron Roberts) and greyhound industry if they have to try to survive with those kinds of funds? I ask any member of this Council or the other place to conduct an analysis and come up with a scenario that paints a different picture. I think I understand why no-one has done so. Perhaps they have, but they do not want to disclose the sad and sorry state in which our three codes find themselves. What is more worrying is what will take place in the future.

During my discussions with Michael Birchall and the codes, I appreciated that there were times when I had to ask difficult questions and play the devil's advocate. I became even more concerned. Looking at the emotions that I was dealing with from the heads of the codes and Michael Birchall, I could see that either I was dealing with something that I did not fully appreciate or I was just missing something. So, I asked the industry to prepare a detailed set of figures for me. I thank Michael Birchall for that information which was provided to me within a matter of hours. I will run through some of the points that have been made.

Clearly, the racing codes in this state are in trouble. I asked the racing industry to give me figures for 1998 to 2000. In 1998, the number of runners at Lindsay Park fell by 31 per cent from 776 to 536; and at Mount Gambier it fell from 729 to 694. I wondered why there was such a small drop in Mount Gambier regarding horses under training when the drops elsewhere ranged from 8 per cent at Murray Bridge to 26 per cent at Naracoorte. I think the answer is fairly obvious: owners are going over the border and racing their horses in Victoria. When I questioned them about that, I found that that was exactly what was happening. So, we are barely treading water in Mount Gambier. The reason for that is that not only are the horses going to Victoria to race but, if I can recall Michael's words, there was an uncharacteristic big fall in 1997-98 of the number of horses under training at Mount Gambier.

There was a 26 per cent fall at Naracoorte; a 10 per cent fall at Millicent; 19 per cent at Penola; 8 per cent at Murray Bridge; and 5 per cent at Morphettville. The total number of runners in 1998-99 was 15 609—a reduction of 828 (5.3 per cent). So, in just two years there are now 800 horses left in South Australia under training. If that is not enough to convince people that the industry is in a desperate state, I ask members to digest some of these figures. In just over one year, from 1998-99 to 1999-2000, the number of meetings held has fallen from 192 to 189; the number of races has fallen from 1 456 to 1 440; and the number of starters has fallen from 15 609 to 14 789. And here's the sting in the tail: the TAB turnover on South Australian racing has fallen from $79 million to $75 million. There are 240 fewer runners at Lindsay Park, 245 fewer at Morphettville, 140 fewer at Murray Bridge, 105 fewer at Oakbank, and 88 fewer at Port Lincoln. Only Port Augusta, Strathalbyn and Victoria had more runners.

What about the average field size? I asked for details on that because I can recall a comment that was made by the Hon. Ron Roberts about the harness racing industry. Every member in this place would know that the Hon. Ron Roberts loves the harness racing industry and has a real commitment to and concern about it. During the debate he said, 'We are having trouble getting a decent field together now.' I think the honourable member made a point along those lines.

The Hon. R.R. Roberts interjecting:

The Hon. T.G. CAMERON: Yes, that's correct. 'How on earth are we going to get them to go up to Waikerie and get decent size fields there,' and it is a valid point. But that is not my or the parliament's concern: that is the concern of those promoting proprietary racing. But there is a concern about the size of races, that if they get too low it could have a severe impact on TAB turnover.

I used to be a bit of a punter but those bloody bookies are too hard to beat, so I gave it away. One needs to appreciate that a field of eight or more pays a win and a place for the first three; once it drops to seven, it is only for the first two; and if it gets down to only four starters it pays a win only. So, unless we can maintain the size of the fields the pool of money that people will bet on a race will fall.

Those who know the racing industry know that some people love to put their bet on the nose; and the more timorous of them (like myself) would prefer to bet each way. One knows that, if one is dealing with a field of eight versus a field of seven, one would much rather be getting four to one or five to one in an eight horse race. When I was a punter I would look at a seven horse field and I would think, no, I am not having a bet in this race because I can only get a dividend for first and second.

So it will impact on the fields—and here is what has happened. The state average in 1998-99 was 10.7 and in 1999-2000 it was 10.3. In 1998-99, 203 races had less than the requisite number for each-way betting, and in 1999 that number had jumped by 10 per cent to 234. I do not know how much detail I should go into, but I will satisfy the Hon. Ron Roberts that I do have this data in front of me. We can see that the average field size has been suffering.

If we look at provincial and country racing we can see that that is where it is impacting. I asked for a break up of the figures: not content with those figures, I wanted a break up to see the difference between metropolitan, provincial and country racing. In 1998-99 to 1999-2000 in the metropolitan area we have been able to maintain the field size, but we have not been able to achieve that in the country.

I guess that has something to do with why country people associated with racing and trotting—and I apologise for not having the time to speak to everyone—were ringing my office and sending me faxes and emails urging that something be done to ensure that the TAB is sold, because it was the only way that their industries could be revitalised. There were 11.4 runners in 1998-99 and 10.7 in the year 2000. The average number of starters for provincial areas in 1998-99 was 9.8, and it is now down to 9.2.

I am looking around at the punters in this room—the Hon. Nick Xenophon would not have a clue what I am talking about, but perhaps the Hon. Ron Roberts, who may have a bet from time to time, would appreciate it. We are getting to a situation in the country now where, if the average falls below 9, some 50 per cent of the races held in the country will not have the requisite number of starters to offer a proper each-way bet to punters. If you know anything about the industry, that represents a serious problem.

The South Australian Centre for Economic Studies is not necessarily known as a right-wing economic think tank. However, what it had to say—and it is important—is as follows:

> The second area where the racing industry may have a degree of importance for the South Australian economy is in the fact that it is a high profile industry. As such it delivers an external benefit to South Australia in a number of ways. First, it has an importance in relation to South Australia's image interstate and perhaps even overseas. Interstate South Australia is already often perceived as being something of an economic backwater. This view could only be strengthened if a high profile industry, and one which is both an

accepted and expected part of a modern economy, especially in an Australian context, were to cease to exist in South Australia.

This would likely have several negative consequences for South Australia including how South Australia is viewed by both potential tourists and investors. Consideration should also be given to the role that major racing carnivals such as Oakbank . . .

I know that a number of members of this chamber go to Oakbank, as I do whenever I can. It is arguably one of the best two days in the racing calendar. I confess that Oakbank now is the only race meeting that I attend. I take this opportunity to congratulate the people who conduct this race. It is a tribute to them and it is acknowledged Australia-wide as a premier racing event. I do not say this humorously, but it is right up there with the Cox Plate and others. It continues:

Consideration should also be given to the role that major racing carnivals such as Oakbank, the Adelaide Cup, and when it is Adelaide's turn, the Interdominion, contribute to South Australia's image and to the state's tourism product.

Another piece of information that I tripped across, and it is one that I agree with—just a couple of statistics—is that it has been estimated by the Centre for Economic Studies that in 1998 the direct economic contribution of the racing industry to South Australia's gross state product was $126 million, and that, taking into account the multiplier effect of the racing industry, its the overall economic impact in 1996-97 was estimated to be $160 million. It is not a small industry. Unless we can do something about rejuvenating this great industry, we could witness a 30 per cent decline in employment and the first sections to feel the impact of the decline would be those located in rural areas.

When first confronted with that statistic, I would have voted against the sale and I asked for a detailed analysis in relation to the racing industry as to how many people are employed in the industry. I know that 200 to 300 people may lose their jobs at the TAB but I note that anyone who accepts a redundancy with be recompensed with a retrenchment package. However, there are 7 500 other people who work in the racing industry and they are real people.

To emphasise that we are talking about real people, I point out that RIDA, SATRA, SAHRA, SAGRA employ 196 people; bookmakers employ 656 (including agents and clerks); the TAB employs 568 and the SAJC employs 141. There are 59 other racing club staff; 1 208 harness trainers, drivers and stable hands; 850 greyhound trainers and handlers; 1 246 thoroughbred trainers, jockeys, stable hands and track riders; 23 farriers and 201 breeders. That is a total of 5 330. Therefore, excluding TAB employees, something like 4 700 people work in the industry. In addition, it is estimated that another 2 170 people (farmers, feed growers, merchants and suppliers, veterinarians and unpaid family employees) are involved.

Unfortunately, when weighing up a decision on this matter, it is not a simple matter of considering the employees who currently work for the TAB. One has to also consider the broader ramifications, that is, the racing industry. I assure honourable members that if there is a 30 per cent decline, of the roughly 7 000 people employed in the racing industry, in excess of 2 000 jobs could be lost in the racing industry over the next few years. Those people are employed by the private enterprise sector and they will not receive any retrenchment package. There will be no pay-out for them when their operations close down: they will just be sacked. That factor weighed very heavily on my mind when I considered the welfare and continued employment of the people in the racing industry.

For honourable members who are not aware of it, I spent 9½ years as an industrial officer with the Australian Workers Union and I had the pleasure of representing the racing industry; I am not so sure that it was a pleasure for the SAJC whilst I was there. However, after our blues, we did patch things up and we got on with it. I happen to have an intimate knowledge of the racing industry and I used to love going to the races. If members ever have the opportunity, they should walk around the stables and have a look at the stable hands and the horses, and have a look at the barriers and stalls. I think one of God's most magnificent animals must be a thoroughbred racing horse—preening itself, excited and tense, with a jockey on its back decked out in colourful splendour. It really is something to see. Unfortunately, I cannot help myself and I have to have a bet if I go and, despite getting good information, I have found it too difficult to beat the bookies.

I want to refer to some statistical information for the benefit of the Hon. Ron Roberts. To understand and appreciate what was the arrangement that had been entered into, I had a number of discussions with Mark Campbell who, I understand, is an accountant who works for Gardner Paul and Company. I asked him to do a number of calculations for me because I did not have the information, the capacity or the time to do it. I asked him to develop three scenarios for me: one based on a turnover of $620 million (that is, no growth over the next 10 years); one based on growing turnover growth to $700 million by the financial year 2003-04; and one based on TAB turnover growth to $800 million.

I know some people have said that the TAB turnover will not grow; it will stay static; it will make no difference; and they will not be able to grow the business. I had better be careful what I say here, because this will put the Hon. Nick Xenophon off. Some people say, 'What makes you think that the business will grow by selling it and having it run by private enterprise?' I will not go into all the statistical data, but I ask members to look at how the business was grown in Victoria, in New South Wales and Queensland. Although the growth has not been quite as spectacular in Queensland, it has been remarkable elsewhere.

I congratulate the minister and the industry for the package that they have developed because it provides a very real incentive for the racing industry to get out there and work with whoever the new owners of the TAB will be, if it is sold, to grow the business. We can see that if it is possible to grow the business from $620 million to $700 million over the next 10 years—and I can assure members that that is a conservative estimate based on the growth in Victoria, New South Wales and Queensland—it will provide growth for the thoroughbred, harness and greyhound codes.

If the TAB is sold, it will provide an immediate cash injection for the three codes. When I questioned them on what they were going to spend that money on, I was advised that debt will be reduced—for example, the thoroughbred industry (I will not go through all of them) will get rid of its $1 million debt; but it will need another $1 million just to maintain prize money at $19 000. Without the sale of the TAB, in my opinion, the thoroughbred industry would have no alternative but to immediately slash stake money in this state to somewhere in the vicinity of $15 000. I know that Michael Burchall said $16 000, but I do not think the stake money could be maintained at $16 000. That is a provincial race meeting stake in Victoria. No wonder our trainers, our horses, our owners and our breeders are leaving South

Australia and moving to Victoria. You just have to have a look at the stake money.

I was more than satisfied with the answers that I was given by the thoroughbred, harness and greyhound industries in terms of what they intend to do with the money. Unlike the Hon. Michael Wright, I do not want them to give me a detailed assessment of how every cent will be spent, signed off in blood and I will check in three years to see that they have behaved appropriately. We will give them the responsibility of running their industries without us interfering.

It is possible to grow the business over 10 years, increasing the turnover from $620 million to $800 million. That is still a modest, reasonable forecast compared with the growth in Victoria and New South Wales. If you have a look at that you can see that, for example, the thoroughbred industry's take, excluding the capital injection that you would get, would rise from $24.6 million in 1999-2000 up to $34.8 million; for the harness industry, $5.9 million to $7.9 million; and for the greyhound industry, $3 million to $6 million. In other words, the total distribution to the three codes would rise from $33.5 million to $48.7 million.

That is what the industry needs. What the industry now has is financial certainty. There is now a plan. We now have a plan in place to try to revitalise and rejuvenate the industry. It might not be a plan that everybody likes. It might be a plan that everybody would approve of. However, there is a saying (and I cannot remember it exactly): if I have choice between something with no plan and something that has a plan, then always take the course of action where there is plan.

If this is wrong and it does not work, we might have to come back and address it in four or five years. This is a plan for the rejuvenation of the thoroughbred racing industry, the trotting industry and the greyhound industry. In the absence of a policy free zone that I see elsewhere in this state, what alternative do we have? There is no other plan there. The only other plan that seems to be on offer is, 'Let us not do anything. Let us leave it as it is and we will just let the codes slowly disintegrate into disrepair, financial ruin and bankruptcy with the inevitable continuation of an industry which we should be proud of in this state going across the boarder and with at least a 30 per cent decline in employment over the next five years.'

We have all seen what has happened to South Australia as the head office of corporation after corporation has left this state over the last 20 years. There is such a thing as a critical mass. You will not have a situation where our racing codes will gradually decline over a 10 year or 20 year time frame. We have four or five years. We will get to the point where there will be a critical mass and it will collapse in a heap. I say to every member in this chamber that, if you do not like this plan, in four or five years' time we will be talking about having to find $40 million, $50 million or $60 million if we want to maintain any semblance of our racing codes here in this state.

They are some of the considerations I had to take on board in relation to this bill. I have been torpedoed into this invidious situation. The Hon. Trevor Crothers is unfortunately ill at the moment and is unable to be here. He could not vote on this legislation tonight. Neither the Labor Party nor the Democrats will give him a pair.

The Hon. P. Holloway: He hasn't asked for it.

The Hon. T.G. CAMERON: You refused to give him a pair. Every single time he has asked for a pair you have refused.

The Hon. P. Holloway interjecting:

The Hon. T.G. CAMERON: He has asked for a pair and you have refused. You have told me not to bother to ask for a pair as you will not give me one, so do not give me that nonsense. That is just arrant nonsense, Holloway, and you know it. You refuse to give the Hon. Trevor Crothers a pair. The Hon. Trevor Crothers told me a month ago and has continued to tell me ever since right up until I last spoke to him yesterday that he would support the sale of the TAB if he were here. Last week, in discussions I had with him, he was prepared to support it and I was going to oppose it.

The Hon. Trevor Crothers is not here and I have to wear the responsibility for this decision on my own, which is why I have gone into some of the detail I have. Rest assured I could easily go on for another couple of hours with what I have here. However, I shall not because you are all getting sick of this.

This is a plan for the revitalisation and rejuvenation of the South Australian racing industry in the absence of any other alternative on offer. I know some people have suggested that we keep the TAB and give the codes $20 million. The case I would put to people is, 'I am prepared to look at that but can you let me know if that is the path you want to walk down? Where is the $20 million going to come from? Will we put more poker machines into South Australia to raise that money? Do we cut expenditure on schools or hospitals? Do we bump the Emergency Services Levy up even further?' I know that the Australia Labor Party supports the Emergency Services Levy because I was bound to vote for it.

The Hon. P. Holloway: You had resigned from the party at that stage.

The Hon. T.G. CAMERON: Had I? In that case I must be mistaken. I thought it was before and I would have been bound. However, we have no alternative on offer. Where will that $20 million come from? Do we put up taxes? Do we cut expenditure? Do we put another 200 or 300 poker machines into South Australia? I do not find any of those suggestions palatable.

I shall conclude by saying that, with the excellent package that the unions have negotiated on behalf of the TAB employees, taking into account the parlous state of the racing industry here in South Australia, taking into account the state's financial position—the money just is not there to be plucked out of the air and doled out, so to speak—when one considers the implications for employment in the racing industry and all the risks associated with holding the asset, I believe that there is only one conclusion to come to: the best thing for South Australia and certainly the best thing for the racing industry, now that the TABs have been sold in all other states except Tasmania and Western Australia, and the only course of action to take, is to support the sale of the TAB. I indicate that SA First will once again be putting the people of South Australia first, particularly those working in the racing industry, and supporting this legislation.

The Hon. NICK XENOPHON: In its report on Australia's gambling industries released at the end of last year, the Productivity Commission gave a run-down of the percentage of gambling losses that derived from problem gamblers. At the bottom of the list was the Lotteries, with 5.7 per cent of gambling losses being derived from problem gamblers, as defined by the commission. The list crept up steadily in respect of other forms of gambling, with poker machines at 42.3 per cent, and for wagering—that is, effectively TABs and bookmaking—the figure was 33 per cent, so that is an area of significant concern for me.

The Hon. Mike Elliott has said that he feels that there is an absence of an appropriate framework to deal with problem gambling, an issue that affects some 10 per cent of South Australians. That is based again on the Productivity Commission's report, which found that 10 per cent of South Australians are in some way adversely affected by problem gambling, when you consider that some 2.1 per cent of Australians have a significant gambling problem each affecting at least five others, on average.

This is an issue of great concern for me. I endorse the Hon. Mike Elliott's remarks when he says that he feels that, in the absence of a number of regulatory frameworks and measures that will tackle problem gambling, including meaningful harm minimisation measures that can deal with problem gamblers, he will have difficulty supporting the bill in its current form. My concern is that, if the TAB is privatised and agreements are entered into, those agreements may contractually preclude the parliament from acting in the future to deal with problem gambling in a way that is more comprehensive than the scant regard that it is being given now in the context of the current legislation.

I acknowledge that the Authorised Betting Operations Bill deals with a number of issues, and I will move a number of amendments to that bill, but the Hon. Mike Elliott has a point in proposing a bill for a gambling impact authority, similar to that which I proposed in the gambling industry regulation bill. Those sorts of mechanisms must be in place before we go down the path of privatising.

The information I have obtained from the Rev. Tim Costello from the Victorian Interchurch Gambling Task Force is that, when TABCorp was privatised (and again I have to qualify this by saying that TABCorp is involved in a duopoly with respect to poker machines, so there is some distinction), it took a much more aggressive approach in its operations in respect of increasing its revenue and, with that, there was a significant increase in levels of problem gambling. They are my concerns. I look forward to a constructive debate in the committee stage, and I particularly urge members to implement some meaningful measures with respect to the powers of regulatory authorities in the context of the Authorised Betting Operations Bill.

The Hon. R.I. LUCAS (Treasurer): I thank members for their contribution to the second reading. In particular I thank the Hon. Mr Cameron for his comprehensive analysis of the racing industry and the arguments for and against the disposal or privatisation of the TAB in South Australia. I join with the Hon. Mr Cameron in expressing disappointment that the Hon. Mr Crothers is unable to be with us for the debate on this issue; he takes a particular interest in it.

I was disappointed with the interjections of the Hon. Ron Roberts during the debate when he said that the Labor Party does not give pairs to scabs. That is not an appropriate way to address the chamber during a second reading contribution and, given the Hon. Mr Crothers illness, it is a disappointing approach from the honourable member to the Hon. Mr Crothers' position during the second reading contribution. It reflects on the Hon. Ron Roberts rather than anyone else. I thank members for their contributions to the second reading and look forward to the committee stage of this bill and, should it be successful, the attached Authorised Betting Operations Bill as well.

The Council divided on the second reading:

AYES (10)

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

NOES (10)

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

The PRESIDENT: There being 10 ayes and 10 noes, I give my casting vote for the ayes.

Second reading thus carried.

In committee.

Clause 1.

The Hon. A.J. REDFORD: Can the Treasurer confirm that there is an agreement between the TAB and TeleTrak or Cyber Racing, and was that agreement subject to the passage of the previous bill, the proprietary racing bill?

The Hon. R.I. LUCAS: Yes, I am advised that there is an agreement between the TAB and TeleTrak.

The Hon. A.J. REDFORD: Will the Treasurer give us a general summary of the effect of that agreement?

The Hon. R.I. LUCAS: I am advised that there is a confidentiality agreement in relation to that agreement but, evidently through third parties, on the public record some summary has been provided that indicates that it is an agreement to provide betting services on straight line racing on a worldwide exclusive basis by the TAB.

The Hon. A.J. REDFORD: When was the agreement entered into and what is the term of that agreement? What I am specifically interested in is whether it exceeds the term of the licensing arrangement pursuant to any arrangements that might apply to a private owner of the TAB.

The Hon. R.I. LUCAS: That is not a matter for the public record. It evidently has not been placed on the public record by third parties or anyone else, and the confidentiality aspects of the agreement will not allow an answer to that question being placed on the public record in this debate.

The Hon. P. HOLLOWAY: Who actually pays whom in this? Does the TAB pay Cyber Racing or does Cyber Racing pay the TAB?

The Hon. R.I. LUCAS: Again, the confidentiality agreement restricts what I am able to say, but in very general terms I understand that it involves some form of upfront fee from the TAB, first, which is then more than compensated for by an ongoing revenue stream from the licensee.

The Hon. A.J. REDFORD: I note that to this point most of the answers to the questions are that they are subject to some degree of confidentiality. First, can we at least see the confidentiality clause and, secondly, can the Treasurer explain why it is confidential?

The Hon. R.I. LUCAS: I do not have a copy of the confidentiality clause so I am not in a position to be able to show it to the honourable member. As to why it is confidential, the honourable member is a lawyer: I am not sure whether he has ever drafted a confidentiality clause, but both parties to the agreement obviously believe that they do not want the information in the public arena and shared by others.

Whether that is because there is some sort of value in the arrangements they have struck that they do not want other parties to be aware of, or they do not want people to know the particular aspects of financial arrangements of the deal between the parties, or a dozen other possible reasons, I am

not in a position to articulate to the honourable member the exact reasons for the deal that has been struck between the TAB and the licensee.

The Hon. A.J. REDFORD: When was the agreement entered into?

The Hon. R.I. LUCAS: The honourable member has already asked that question and I have already given a reply. I am not in a position to be able to indicate that.

The Hon. A.J. REDFORD: Will you at some later stage?

The Hon. R.I. LUCAS: I would need to take legal advice and obtain advice from the minister on that. If it does not breach any confidentiality provision, it may be possible to provide that information to the honourable member. I guess the minister would need to take legal advice on that issue and, if possible, provide some sort of answer to the honourable member.

The Hon. A.J. REDFORD: Will the Treasurer at some stage table or provide me and others with a copy of the actual confidentiality clause in this agreement?

The Hon. R.I. LUCAS: I cannot give a commitment to that. Again, the minister will need to take legal advice on the issue, I presume, to see whether or not that breaches the confidentiality provision. It may be that the minister is quite happy for the particular provision or clause to be provided to the honourable member, but I am not in a position during the committee stage tonight to provide the honourable member with an answer. I will be happy to take up the issue with the minister to see whether or not he is prepared to provide a copy of the specific clause that the honourable member is inquiring after.

The Hon. A.J. REDFORD: I sincerely hope—otherwise it might become farcical—that at least the confidentiality clause is not the subject of a confidentiality agreement. That is my sincere wish.

The Hon. P. HOLLOWAY: I noticed when watching the news this evening that apparently in another place today the Premier brought down a report from the Prudential Management Group in relation to the Motorola deal. I was sure that I saw the Premier on television this evening telling us all how a new, open, non-secretive government would operate from now on. The Premier said that he would do absolutely everything he could to make every agreement available to all of us so we could all see it. I put on the record that it is somewhat disappointing that this new-found openness has not lasted very long.

In relation to the confidentiality clause, how will the information contained in the agreement be passed on to the new owners of the TAB if this legislation is successful? Obviously there will be some liabilities or assets (I hope for the sake of the taxpayer and the TAB that they are assets), but the new purchasers will have to look at this agreement and try to weigh up how it will affect the sale price. How will this information be passed on to the potential new owners of the TAB and, given the confidentiality clause, how will that be managed in the sale process?

The Hon. R.I. LUCAS: On the first issue, before I take advice on the second, I refer the honourable member to the ministerial statement made by the Premier today. There is no indication of the purported statements that the Hon. Mr Holloway has attributed to the Premier, that is, that he was going to provide all details of all contracts, or whatever words similar to that the honourable member attributed to the Premier. The Premier said, 'We are moving down a path where we look at issues on a case by case basis.' He has asked the new Chief Executive Officer of the Department of the Premier and Cabinet, Mr Warren McCann, to prepare a proposal to cabinet that seeks to establish principles on achieving a better balance between commercial confidentiality and the issue of the public interest. Earlier in his ministerial statement, the Premier said:

> Ultimately it is a matter of balance, of ensuring the public interest is satisfied without compromising the long-term interests of South Australia.

I can only go on the ministerial statement that has been prepared. Certainly there is nothing in that ministerial statement anything like the comments that the Hon. Mr Holloway has put into the mouth of the Premier, claiming that is what he said. I will have those checked and, if the Hon. Mr Holloway has misled this chamber in what he claimed the Premier has said, I am sure that the Hon. Mr Holloway will make a speedy entry to the chamber and apologise for having misled the Legislative Council as to what the Premier might have said tonight on the evening TV.

I am told that clause 5(3) allows the minister to authorise the release of information to bidding parties as part of the process that might be of a confidential nature. That was certainly the case in relation to the electricity disposal process where confidential information needed to be provided as part of the due diligence or data room processes that bidding parties went through before they put in final bids for the electricity businesses.

The Hon. P. HOLLOWAY: For at least the last year, probably longer, the TAB has been under ministerial direction, so basically the TAB has not been able to take any action without getting the approval of the minister while it has been going through the sale process. Was this agreement entered into at the direction of the minister?

The Hon. R.I. LUCAS: I do not have the minister here with me but the advice that I am provided with is that, under the operations of the directions which I understand have been in place since March 1998, so it is almost 2½ years, without being specific about the wording, there is a general clause that talks about entering into contracts with the approval of the minister. It would be our understanding that, under that general direction, the minister would have approved the contract that was entered into by the TAB.

The Hon. P. HOLLOWAY: I understand that the minister would have approved it but did he direct the TAB to enter into the agreement?

The Hon. R.I. LUCAS: As I said, my understanding and my advice is that, under that general direction, he approved the contract. I have no information in relation to the minister directing the TAB to enter into the contract.

The Hon. P. HOLLOWAY: Can the minister say who initiated the discussions that led to the contract?

The Hon. R.I. LUCAS: We would need to check but I think it is probably likely that it was initiated by TeleTrak. I will need to take definite advice on that and, if it is anything different to that, I am sure the minister will be able to correct the record. That is probably the situation as my advisers indicate to me.

The Hon. CARMEL ZOLLO: I understand that the TAB has entered into an agreement with Cyber Raceways, TeleTrak being the major stakeholder. Is the minister able to advise who are the other stakeholders in Cyber Raceways with whom the TAB has entered into this agreement?

The Hon. R.I. LUCAS: It is probably better that I check that. I am not sure what the answer to that question is, so we will need to take that on notice and, through the minister, try to provide some sort of response to the honourable member

in writing. Some time between now and the next session would be the hopeful expectation.

The Hon. P. HOLLOWAY: During the second reading debate, there was considerable discussion about the new distribution to the racing codes that will result if this bill is passed. All of the information that I have seen relates to the racing codes. However, I am aware that the TAB also takes a very small amount of its betting on the SANFL and I know that, when the Statutes Amendment (Lotteries and Racing—GST) Bill was before parliament earlier this year, a formula was put up for distributing the benefits from the SANFL income back into the football league. How will that distribution change as a result of this bill? We know that the codes will get a lot more, but will the disposal of the TAB affect proceeds to the SANFL?

The Hon. R.I. LUCAS: I am advised that there are some transition provisions in the Betting Operations Bill which cover the existing arrangements, but there are discussions currently being conducted with representatives of the SANFL in relation to the circumstances that might apply in the post-sale environment. Should agreement be reached, it is highly likely that that will be part of the sale agreement documents prior to the new owners and operators taking over.

The Hon. P. HOLLOWAY: Does the Treasurer's answer suggest that some agreement must be reached? Can the SANFL in some way delay the whole sale process by refusing agreement?

The Hon. R.I. LUCAS: I expect that it would be the minister's and the government's intention to reach an amicable agreement with the SANFL, as the minister has been able to do with a number of other parties, albeit sometimes after tortuous discussion. It is therefore expected that some agreement will be arrived at with the SANFL, but ultimately the answer to the honourable member's question is that the SANFL is not able to delay the sale process by refusing agreement.

The Hon. P. HOLLOWAY: In that regard, in the negotiations with the SANFL is it intended to increase the return to the SANFL along the same lines as the agreement that has taken place with the racing codes? In other words, can we expect that it will get an additional dividend from the sale proceeds in the same manner as the racing codes?

The Hon. R.I. LUCAS: I am told that, essentially, the objective will be to maintain the status quo, although there has been some discussion about the structure and the manner of the way in which the current arrangements operate, but the intention is broadly to see the status quo continue. Of course, that will be the subject of discussion or negotiation between the SANFL and the representatives of the minister.

The Hon. P. HOLLOWAY: In the discussion that we have had on this bill, much of the promise that has been held out for the future of the racing industry if this bill passes has been based on an estimated increase in revenue which would flow to the new privatised TAB. Are the government's estimates, which obviously have been used in working out the economics of the process, based on growth in wagering in the traditional codes (galloping, harness racing and greyhounds) or is this new growth expected to come from new and additional forms of wagering?

I ask that question because in the weekend newspapers the minister announced there was to be fixed wagering on various sports events—in other words, an increase in sports betting—and that it would cover other sports. If there is to be growth in wagering on other sports, does that mean that the proceeds from those sports will go back to those particular sports or will it be passed on to fund the increased revenue for the horse racing codes?

The Hon. R.I. LUCAS: I am advised that increases in revenue from sports betting do not go to the racing industry.

The Hon. P. HOLLOWAY: Regarding the estimates that have been circulated—I believe there are some floating around and that the government has estimated its growth in payments to the racing industry on the basis of those estimates—what are they based on, how have they been determined by the government, and what are the components of this growth that is expected to take place in the future?

The Hon. R.I. LUCAS: The commercial advisers that the minister has put together, given their experience in the industry, in putting together their analysis of the industry have been responsible for the projections. As with any projections, obviously you look at past trends, what is happening currently and what might happen in the future in terms of the industry. Someone has to make an informed commercial judgment about all of that. I am advised that it is not just about growth in wagering revenue: in terms of the value of this business, it is also about the private sector operators coming in and reducing costs with better pooling arrangements.

An honourable member interjecting:

The Hon. R.I. LUCAS: Well, it can be also through better pooling arrangements and other management decisions which the new owners and operators may well be able to institute into the operation of the business, which obviously will increase the margins for operating the business.

The Hon. CARMEL ZOLLO: Given that an agreement has already been signed between the TAB and Cyber Raceways, does the minister now believe that that agreement may need to be renegotiated given that we inserted in the proprietary racing bill new clause 25A which prohibits interactive gambling in South Australia?

The Hon. R.I. LUCAS: Again, I think I need to take some advice from the minister to see whether we can provide any information as to whether the parties to the commercial agreement have the capacity under that agreement to renegotiate subject to the clauses. Not having a copy of the contract, I am not in a position, or indeed entitled, to respond to that question. The minister will need to take some advice in relation to what he can say regarding the contract. There is obviously a commercial agreement between two commercial parties. It is always possible, whatever the contract says, if they have come to an agreement, to renegotiate. If either party does not want to renegotiate, it depends on the terms of the contractual arrangement they have as to whether there are provisions in it for renegotiation. I am afraid that that is about the only information I can provide to the honourable member at this stage. I will certainly refer the honourable member's question to the minister and again see whether or not he is in a position to be able to provide any further information.

Clause passed.

Clause 2 passed.

Clause 3.

The Hon. P. HOLLOWAY: In this clause TABCO(A) and TABCO(B) are defined. TABCO(A) is the TAB as converted to a company under the Corporations Law; and TABCO(B) means a state-owned company nominated by the minister by notice in the *Gazette* as TABCO(B) for the purposes of this act. Will the minister explain why these two entities are being used and say exactly which assets will be channelled into each of the two companies?

The Hon. R.I. LUCAS: I am advised that the current intention is for the existing TAB to be transformed into TABCO(A), which is a company under the Corporations Law. At this stage no decision has been taken to establish or transfer assets into TABCO(B). It might be a situation where most of the assets from TABCO(A) or the existing TAB might be transferred to TABCO(B), which is what might be purchased, and any residual liabilities or assets might be retained in TABCO(A).

It would be very similar to the arrangements under the electricity businesses where we now have a RESI Corp, which is a residual corporation that holds on to residual assets and liabilities that are not leased or sold; and in this case that would be sold. So, they might be assets or liabilities that the government might retain. At this stage no decisions have been taken about anything other than a TABCO(A) mechanism being utilised. Nevertheless, TABCO(B) is an option that might be used subject to further consideration by commercial advisers, the minister and others.

The Hon. P. HOLLOWAY: Does the government have an idea of the sort of residual assets or liabilities that might be left over as part of the sale and might need to be transferred into one of these shelf companies.

The Hon. R.I. LUCAS: No, not at this stage. If I can give an example concerning the electricity businesses again: there might be longstanding occupational health and safety issues which pre-date the operation of the new business, and obviously this is more appropriate potentially to an electricity business rather than to a wagering business. So in the electricity business case, some of those liabilities stayed with the residual corporation and with the government. At this stage I am advised that we have not got into the detail of considering the issue and that we are still trying to get the legislation through the parliament.

The Hon. P. HOLLOWAY: Are there any assets or liabilities that the government would not expect to be on the sale block at this stage? Are we looking to sell it as a whole or are there assets that need to be taken out?

The Hon. R.I. LUCAS: I think that is just another way of asking the last question. At this stage I am advised that we are not in a position to provide an answer to that detail. I am told that there is nothing envisaged at this stage in relation to residual assets and residual liabilities. They will be issues that the commercial advisers and others will need to work on with the minister should the parliament agree to the legislation.

The Hon. R.K. SNEATH: Some of the speakers have expressed concerns about stake money and the differences between Melbourne in Victoria, Sydney in New South Wales and Adelaide. I think that people in the industry are basing a lot of their fears on that, too. The Hon. Legh Davis said that we have lost a number of trainers to Victoria and other places, and this it quite true: a number of trainers have gone across the border, and some of them have set up satellite stables back in Adelaide.

The Hon. Terry Cameron mentioned stake money as well and said that Victoria has double that of South Australia. The speakers implied that this has happened since the privatisation of the TABs in New South Wales and Victoria. I point out that in 1977 a handicap race in Adelaide was worth $3 000 and in Flemington in Melbourne it was worth $6 000. In 1983 a handicap race in Adelaide was worth $5 000 and a handicap race in Melbourne was worth $12 000. In 1990 a handicap race in Adelaide was worth $15 000 and over the border it was worth $30 068. So the privatisation of the Melbourne and Sydney TABs has not made any difference to the stake money: we are still that percentage behind.

The Hon. L.H. Davis interjecting:

The Hon. R.K. SNEATH: The Hon. Terry Cameron produced evidence to support his arguments. I would have thought that he would have produced evidence to support that argument, but he did not do that. Clause 14 provides:

(b) in payment of amounts for the development of the racing industry;

I take it that the racing industry will be looking at some of those amounts to boost stake money. I realise that stake money is low in South Australia in comparison with other states, but it always has been. It would be nice for those people who put an effort into the industry and who train horses to have it higher. Does the Treasurer think the passing of the bill and the sale of the TAB will result in an increase in stake money? Has the racing industry indicated how much of an increase in stake money will be required for the people in the industry—those who race horses—to be better off? The Treasurer is basing an argument on that, as have some government speakers.

The Hon. R.I. LUCAS: As the Hon. Terry Cameron adequately described before, ultimately the decisions as to the new deal for the racing industry are going to be taken not by members of parliament but by the racing industry, and ultimately the test will be for the racing industry to implement the new package within the industry. One of the issues that the racing industry clearly wants to look at is the relativity in some of these areas which the Hon. Mr Davis highlighted and which the Hon. Bob Sneath raised by way of question.

Ultimately the extent and degree to which they are able to reduce the differentials will depend on the relative health and success of the racing industry in South Australia compared to its health and success in other states of Australia. The final decision really rests with the racing industry; it is not a decision that either the minister or the parliament is in a position to be able to dictate. However, we are told that that is one of the objectives of the new package that is being negotiated by the industry.

Clause passed.

Clauses 4 to 15 passed.

Clause 16.

The Hon. P. HOLLOWAY: I move:

Page 14, lines 6 to 9—Leave out subclause (6).

There is an unfinished issue as far as the opposition is concerned in relation to superannuation. It is the view of the opposition that the government long ago should have resolved this matter with the unions, as it has resolved the other issues in relation to termination payments. There has been considerable correspondence between the unions and the government in relation to these superannuation matters. It is the view of the opposition that the government should take this opportunity, since it is almost midnight, to go away and talk to these unions to try to come up with some sort of satisfactory arrangement in relation to the resolution of superannuation issues. I indicate that I will be testing the will of the chamber on that matter shortly by moving that we report progress. Perhaps before I do that I will indicate that I will give other honourable members the opportunity to raise some general questions in relation to superannuation, because I believe there are a number of issues which need to be brought out through questions.

The Hon. R.K. SNEATH: I understand that a memorandum has been signed off by one of the unions. In relation to

the Ports Corporation and ETSA, I understand that the memorandums included agreement on the superannuation issue but, with respect to the TAB sale, I understand that the memorandum does not include agreement on superannuation. If that is not the case, will the minister advise why not?

The Hon. R.I. LUCAS: My advice is that there has been agreement reached and under the agreement the TAB superannuation scheme will continue. However, there was a clause (or sentence) in the agreement which said that this did not prejudice further discussions between the two parties because, evidently, the unions wanted to consider further the option of terminating the scheme. The scheme has been continued to protect all the rights of the workers and to ensure that everything that they have been promised they will get. No-one can claim that they will get anything less than they were originally promised. I understand that has been agreed.

However, my advice is that the union wanted to reserve the right to perhaps argue the case or to reach agreement on terminating the scheme upon sale. In broad terms, what has been agreed is that there can be further discussions on that but, if there is no agreement on terminating the scheme, the first agreement continues, that is, that the existing rights of the workers have been protected and everything that they have been promised continues so that no union representative, like the Hon. Mr Sneath or others, could say that the workers had been dudded in any way and what they have been promised in terms of superannuation can continue. But, as I said, the union did want to explore the option of terminating the scheme. That is the issue about which there has been some debate, and I presume that is why the Hon. Mr Holloway is moving to amend this clause.

The Hon. R.K. SNEATH: Today we heard a ministerial statement on the TAB staff superannuation fund, and I will ask some questions about that in a moment. Would the government consider attaching an appendix to the memorandum that satisfies both the unions and their members in the split of the surplus in the superannuation fund? This issue looks like a dog's breakfast in the ministerial statement—it is all over the place.

The Hon. R.I. LUCAS: I am sure my advisers will correct me if I am wrong—so yell if I am heading down the wrong path. There appears to be some misunderstanding about the issue of the surplus. I think the union, and those working with the union, have a view that there is $4 million sitting there which can be grabbed and divvied up. My advice is that, in the agreement that has been drawn up between the unions and the employer, the scheme will continue. In those arrangements, there is no $4 million that can be divvied up. All the benefits and protections for the workers have been provided for. At the last actuarial review in 1999 there was a calculation that there was an actuarial surplus of $1.6 million not $4 million, and it was agreed that that would be divided between the employees and the employers. The employees received extra benefits along the lines of increased resignation benefits before age 55 and a discretionary accumulation account.

So, at the time of the 1999 actuarial re-evaluation, which shows that there was an actuarial surplus not of $4 million but of $1.6 million in the scheme at that time, there was an agreement between the employer and the employees that it be shared. And the workers received increased benefits along the lines that I have just mentioned. The employer took a premium contribution holiday. These actuarial reviews are generally done every three years. The next actuarial review is scheduled to occur in 2002.

The Hon. R.K. Sneath: Has that been agreed by the union?

The Hon. R.I. LUCAS: That has all been agreed. The workers received their extra benefits, which are over and above what they were originally entitled to. They agreed to the distribution between the employer and the employees. And the current agreement says that that scheme will now continue, but the union did want to keep open the option, as I understand it, to terminate the scheme: that is, not to have the scheme there with those defined benefits continuing for the workers. If that scheme continues, as is the current intention, there will be no $4 million surplus that seems to be at the back of the amendment that is being talked about by the Hon. Mr Holloway.

The Hon. Mr Holloway has not moved his amendment yet and I am not surprised. I am not sure whether he has had a closer look at it, but I am advised there are some significant conceptual difficulties in understanding what the Hon. Mr Holloway is driving at in his amendment, if I can put it kindly.

It is talking about divvying up a surplus. The union was talking to its members about $4 million and dividing that up on a 50 per cent basis, yet I am advised that the Hon. Mr Holloway's proposed new subclause (3) contemplates a continuation of the scheme. As I have indicated, if the scheme is to continue, there is no magic pot of gold with $4 million waiting there to be divided up amongst the employees and employers or amongst the employees.

This issue about terminating the scheme is an interesting one. I think a lot of work will have to be done on behalf of individual workers to make sure some workers will not be, if I can put it politely, dudded by the termination of the scheme. Conceptually, a lot more work would need to be done. If you are a relatively young TAB worker with many years ahead in the participation of the TAB scheme so that at this stage you are not entitled to a huge amount of superannuation but you are part of a generous superannuation scheme, more generous than a scheme that might replace it—a superannuation guarantee arrangement—it is an issue. For example, if you joined the TAB at 17 and you have had five or 10 years and you have the prospect of 30 or 40 years ahead in terms of accruing additional superannuation benefits, and if the union is arguing to terminate the scheme, that worker will have lost all the potential benefits for the next 30 or 40 years in that scheme. This is a more generous scheme, so I am told, than what they might potentially be left with, which is just a superannuation guarantee arrangement for that particular worker.

There might be others who might benefit. If union representatives such as the Hon. Mr Sneath are interested in all the workers and want to make sure no-one gets dudded by a proposal to terminate the scheme, then I caution the Hon. Mr Sneath to be asking the Hon. Mr Holloway some serious questions as to what he is really after and what he is driving at in relation to this amendment. Is the Hon. Mr Holloway able to guarantee that no worker will be dudded by this amendment that he is moving? Is he asking fellow members of the caucus to dud some workers through this amendment?

As I said, I am not yet in a position to give definitive answers. The government's position is that we will oppose the amendment proposed by the Hon. Mr Holloway. However, I would have thought the onus was really on people such as the Hon. Mr Sneath to be asking the Hon. Mr Holloway some hard questions such as whether he can guarantee that no-one will be disadvantaged by this amend-

ment. If Mr Sneath is not satisfied with the answers he gets from the Hon. Mr Holloway, then, rather than reporting progress as the Hon. Mr Holloway is talking about, I think cautious retreat might be the wisest course for the Hon. Mr Holloway. He could let the amendment be defeated on the voices so that the Hon. Mr Holloway does not have to be seen to be voting formally for an amendment which may well, if we can do further work over the next few days, be shown to disadvantage individual TAB workers in some way.

I know that the Hon. Mr Sneath is keen to look after the interests of workers in relation to these things. A continuation of the existing scheme, if that is the way it eventually goes—and the current arrangement obviously protects the existing benefits and arrangements of the employees in terms of what they have—and ultimately if some agreement can be reached by the employee associations and the government where they have accepted it even if some might be disadvantaged, I guess is always something that is potentially open as an option. At this stage, I would urge caution for members such as the Hon. Mr Sneath before they hop too far down the path of this amendment.

The Hon. P. HOLLOWAY: The Treasurer summed up the situation when he said that a lot more work needs to be done. The strategy I outlined earlier leads on from that statement by the Treasurer. Yes, a lot more work needs to be done. That is why we would like the government to do that work.

The Hon. R.I. Lucas: We are not going to do it between now and tomorrow morning.

The Hon. P. HOLLOWAY: If the government had the will to do it, I am sure it could make some significant progress on the matter. I have seen it do it in the past. The Treasurer managed to do this in relation to some of the ETSA sale issues regarding superannuation; if I recall he did that pretty quickly. I am sure if he wanted to on this occasion he could do the same. The very fact that there is a lot more work that needs to be done is the very reason why we would like to get the government to talk to the relevant unions about this matter.

I want to return to the statement we heard today because the amendments I put on file were based on the information that was provided by the minister in another place. The Treasurer has said that there is not this $4 million surplus that would apply if the fund was to continue. If the fund was to continue it would be in the order of $1.6 million. Let there be no doubt there is a surplus in this fund.

The Hon. R.I. Lucas: That has already been distributed.

The Hon. P. HOLLOWAY: On what basis? This is on the 44 per cent to 50 per cent basis, is it?

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: And a contribution holiday for the employer. One of the problems we have in this whole situation is that, if the fund is to continue and a new employer takes over, presumably they can use what surplus is in the fund to subsidise new employees they may wish to take on, and those members who had made their contributions over many years would not get the benefit. I think the minister's statement today raises a number of key questions. First, how did the minister discover that there was this error in the information he provided just last week when the bill was debated in another place? Why was such a big error made in the first place that he had to come in and make this statement today to correct it? Will he also explain some more details of this distribution? He said that 50 per cent of the actuarial surplus would be returned to the TAB by a reduction in the contribution rate and 44 per cent would be returned to employees by way of improved benefits. Where is the other 6 per cent?

The Hon. R.I. LUCAS: The 6 per cent is retained in the fund as a surplus. I am not sure, but I have noted some fact sheets being distributed by the union which talk about an estimated $4 million surplus currently existing in the staff superannuation fund, so clearly a number of claims are being made which in the context of a continuing scheme are not accurate. There have been claims about $4 million and $1.6 million. In the past there may well have been some confusion between those two estimated surpluses and the two separate sets of circumstances I have described. It is a difficult concept; I acknowledge that. The actuarial world is not one that is easily accessible to most of us, I can assure you; so I make no criticism of anyone in relation to actuarial surpluses.

Having now put the differing concepts on the record and made them clear, in the interests of sensible debate it is now important to talk about what actually exists there. I am told that there is not $1.6 million sitting there waiting to be distributed. It has been distributed. As I described earlier, the workers have had additional benefits over and above what they were promised in the superannuation scheme. The employer has had a benefit, and 6 per cent has been retained within the fund.

The Hon. P. HOLLOWAY: If in fact the $1.6 million actuarial surplus (if the fund continues) has already been distributed to the employees—and I believe that is what the Treasurer said—or at least 44 per cent of that had gone to the employees, that is about $700 000 or thereabouts. Will the Treasurer say exactly in what manner and what form this surplus has been distributed to employees by way of improved benefits? Exactly what has been the nature of this?

The Hon. R.I. LUCAS: I explained that about four questions ago, in answer to the Hon. Mr Sneath.

The Hon. NICK XENOPHON: This question relates to the Hon. Paul Holloway's amendments, and I invite the Hon. Paul Holloway also to respond to it. In the absence of the Hon. Paul Holloway's amendments in relation to the board and the trustee fixing a certain amount to be distributed with respect to the surplus—the 50-50 approach—what is the position in terms of any surplus and distribution? Is it a discretion of the board and the trustees? Is that the current position with respect to any surplus that may arise?

The Hon. R.I. LUCAS: If we talk about what has occurred—that is, the $1.6 million example I just talked about—that requires a change of trustee, which requires the agreement of the trustees; and the trustees are equal numbers of employee and employer representatives. There was therefore an agreement among the trustees which involved the employer and employee representatives, and they came up with this 50-44-6 split, 44 per cent going towards extra benefits for the workers, 50 per cent for a contribution holiday, and 6 per cent. That is the best example of the question that the honourable member has put. It has actually occurred; there was this actuarial valuation of $1.6 million; the trustees, comprising employer and employee representatives, had to agree on it; and we have got what I just described, which was seen by everyone as an equitable distribution of what had been given as the actuarial surplus in the scheme in 1999.

The Hon. NICK XENOPHON: So, is the Treasurer in fact saying that the Hon. Paul Holloway's amendment seeks

to superimpose a new regime of distribution rather than what has already been decided?

The Hon. R.I. LUCAS: As I said, we are not sure what the Hon. Mr Holloway's amendment is driving at, to be frank. The union fact sheets that have been distributed talk about a $4 million surplus in the scheme which, based on all the advice we have, just does not exist in this scheme. The Hon. Mr Holloway's amendment mentions a 50-50 distribution, yet in subclause (3) he talks about the continuing operation of the scheme. My advice is that, if the scheme continues in operation, any existing surplus has already been distributed, so we do not have any surplus to be distributed in any particular way. It is really for the Hon. Mr Holloway to explain what he intends by his amendment. My advice is that the superannuation scheme is not in a position to explain it, so perhaps we can ask Mr Holloway to explain in response to the Hon. Mr Xenophon's question.

The Hon. P. HOLLOWAY: At this stage I want to go into a little bit of the background of how this issue came about. The well-known racing identity and Adelaide businessman, Philip Pledge, who was the chair of the TAB some time back, had made a recommendation that there be a 50-50 split in relation to the surplus of this fund; that is, 50 per cent to the TAB and 50 per cent to the employees. As I understand it—and this certainly came through in the debate in another place—a heated dispute over this matter ultimately led to Mr Pledge's leaving the TAB several years ago. The matter we are pursuing now is essentially that recommendation. I would point out that it appears clear—and I do not think the Treasurer has denied it—that, certainly if the superannuation fund were to be wound up (and we are not necessarily suggesting that it should be), there would be something of the order of $4 million of surplus in that fund at the present time. If that is incorrect, then let the Treasurer say so.

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: I understand that that is the actuarial advice.

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: That is the figure that has been widely used.

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: For a start, the minister used it in another place. He has come back today and used a different—

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: We are talking about an actuarial surplus, if the fund was wound up, of $4 million. In other words, you look at the liabilities—

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: I don't know. Unlike the Hon. Terry Cameron, we do not get any access at all to the government on these matters: it tells us nothing. The government really should have resolved this matter with the unions. If what the Treasurer says is correct and there has been this distribution, if it is all easily explicable and there is no trickery, it is all above board, then surely it would not take the Treasurer particularly long to convince the representatives of the employees concerned that their best interests were being looked after.

However, those people are certainly not convinced of that at the moment, and I believe it is up to this government to try to do that. But the minister was certainly quite happy to use this figure. As I understand it, if the scheme were wound up, that would be the surplus that would be in the fund. The minister talked about this $4 million figure last week: today he talks about a $1.6 million actuarial surplus on the basis that the fund continues to operate.

We are really talking about two figures here, and it is important to understand that. The minister in another place certainly did not deny that that $4 million figure was the actuarial surplus if the fund had been wound up. I need to get back on the track. A recommendation was made by the former chair of the TAB that there be a fifty-fifty split in relation to the surplus. As I understand it, as a result of some dispute on this matter a year or two ago he left the TAB.

The point that needs to be made here is that if the actuarial surplus in this fund is not distributed in the way that my foreshadowed amendment would suggest, that is, half to the TAB and half to the employees, then the benefit of that surplus would go entirely to the new owner of the TAB.

The Hon. Nick Xenophon interjecting:

The Hon. P. HOLLOWAY: No, because the fund is actually being—

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: It would be factored into the sale price.

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: The Hon. Terry Cameron may say that this is money that belongs to the taxpayer but, in fact, it is money in a separate superannuation fund that is the accumulated earnings and investments of the money that has been contributed by the employees of that organisation and, of course, the matching government contributions and, because the fund has performed well, it is in surplus. That is where the surplus derives from.

Why should the benefit of that go to some new owner? Whether or not that affects the sale price is another issue, but as I understand this legislation the fund is to be transferred to the new owner of the TAB, and it is the new owner who will effectively get the benefit of that surplus. All we are asking for at this stage is that the government should go back and try to reach a resolution of this issue with the unions concerned, so that this matter can be determined amicably. If the government tried as hard as it did in reaching an agreement on the redundancy issue, I am sure that it could—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: What we do know in this whole issue is that the minister responsible expects that at least half the workers at the TAB are going to go. I imagine that most of the people—

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: That's right: they could all go. In fact, the most likely outcome, and the outcome the government has budgeted for, is that 100 per cent of the call centre and 90 per cent of the head office staff would go. I presume that many of the employees concerned would be working in the head office. Clearly, what could happen is that these workers could end up not being wanted by the new owners and the benefit of their superannuation fund, the surplus that has been generated in that fund, then goes to the benefit of that new owner.

We believe that that is inequitable and, obviously, the previous chair of the TAB thought that it was inequitable. What I was going to suggest when I move the amendment is that there be a fifty-fifty split of those benefits. I would argue that on equity—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: What I would like the government to do is go and talk to the unions and see exactly what they want. It is best that the workers themselves work

out what is in their best interests. My amendment obviously assumes that the fund will continue, but the preferred option of the opposition would be that the government just go and talk to the workers concerned, to the representatives of the employees, and see if it can find some resolution of this matter.

If the government was able to do that fairly speedily in relation to the redundancies, why can it not do it in relation to the superannuation? It should not be that hard.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: These sale processes have been twisting and changing. Look at the port sale: it went for months. Every two or three months there was some new change to the whole process, and the same thing has happened here. This thing has been on and off again for years. We are saying, 'At this eleventh hour why don't you just go and talk with the unions concerned and see if you can resolve this matter?'

The Hon. L.H. Davis: You're desperate, aren't you? You're absolutely desperate.

The Hon. P. HOLLOWAY: No, it is not desperate; it is sensible. It is commonsense. What is so difficult about that? At this stage I will allow other members to ask some questions.

The Hon. CARMEL ZOLLO: I think that the concerns expressed by my colleague the Hon. Paul Holloway are best summed up in this letter from the union to Minister Armitage dated 24 November, which has not been responded to. It is not a long letter, and it reads as follows:

> Dear minister,
>
> The PSA has been advised of the government's proposal to transfer the $3.5 million to $4 million TAB superannuation fund surplus to the new owner if the TAB is sold. PSA members want the fund wound up if the sale proceeds as only a small number of fund members are likely to remain in the fund after a sale of the TAB. The trust deed provides for the surplus to be distributed to fund members if the fund is wound up.
>
> However, in principle and subject to actuarial advice, members are prepared to split the surplus evenly with government. This would give government a windfall gain of up to $2 million. During sale negotiations it was agreed that superannuation would be addressed when all other matters were resolved. The advice of an independent actuary was to be obtained. Following discussions with government representatives, the unions forwarded a letter on 7 November 2000 proposing issues to be considered by the independent expert.
>
> It is now understood that no further consideration is being given to the future of the fund and it is proposed to transfer the fund to the new owner.

The union is seeking an urgent meeting with Minister Armitage and seeking a commitment this morning that that will occur.

The Hon. R.I. LUCAS: I cannot add much more than what I have indicated before. There is an agreement in relation to ensuring that the workers are protected with whatever they were promised when they joined the TAB in terms of superannuation, whether it was five years ago or 20 years ago—

The Hon. Carmel Zollo: Was the union involved in that agreement?

The Hon. R.I. LUCAS: Yes. They signed off on it. They have agreed that the scheme will continue for the existing workers. If a worker has been there for five years or 50 years, that scheme will continue. However, what the union asked for and what was agreed was that it wanted to leave open the option of arguing for the termination of the scheme. It was left open that there could be further discussions about the option of terminating the scheme.

Workers who entered the TAB with existing rights in terms of superannuation have had all those rights protected. As I explained earlier, they have been given additional rights or benefits. They got 44 per cent of the $1.6 million actuarial surplus last year, and they were given additional benefits over and above the benefits they were promised when they entered the scheme. Not only do they have the benefits they were guaranteed at the start but they have additional benefits in terms of a distribution of the $1.6 million surplus. That has been guaranteed to them.

No-one can stand in this chamber and say that the workers and their superannuation rights have been downgraded or threatened in any way. My challenge to the Hon. Carmel Zollo is the same as it is to the Hon. Bob Sneath: can they guarantee in the amendment of the Hon. Mr Holloway that they have pledged to support that no TAB worker will be dudded?

The Hon. T.G. Cameron: It is impossible to give that assurance.

The Hon. R.I. LUCAS: The Hon. Terry Cameron is exactly right. The government's proposition guarantees that TAB workers and their rights will be protected. Can the Hon. Carmel Zollo, as a member of the Labor caucus, guarantee that the amendment that the Hon. Mr Holloway has moved will guarantee that each and every TAB worker will not be dudded in terms of the superannuation entitlements that they can look forward to? I challenge the Hon. Carmel Zollo and the Hon. Bob Sneath to sit down with the Hon. Paul Holloway and others to think about a young TAB worker who has five years' accrued superannuation and is looking forward to a career of 30 or 40 years under this scheme. If the scheme is terminated, all that worker will be left with is their share of the payout, which may be less than that of a 40-year TAB worker, but I cannot say that for certain because it depends on what the arrangements will be. In that set of circumstances, that young worker has to rely potentially on the superannuation guarantee arrangements, which I am told are nowhere near as generous to workers as the existing TAB superannuation scheme.

The union representatives and the worker representatives are saying at this stage that we should terminate that scheme. Before they vote on this, I challenge individual Labor members to stand up in this chamber and say that they can guarantee to each and every TAB worker that not one of them will be dudded by the amendment that has been moved by the Hon. Paul Holloway. I cannot say that because I do not understand his amendment but, if Labor members are going to move it and support it, they need to stand up and say to the workers that not one of them will be dudded by this amendment, should it get up. That is the challenge for individual caucus members if they support the amendment moved by the Hon. Mr Holloway.

They cannot stand up in this chamber and attack the government on workers' rights and superannuation entitlements if their amendment, which I do not understand, duds even one worker in the TAB. Labor members may not stand up in here and preach about superannuation entitlements and workers' rights and criticise the government in relation to these issues if they cannot guarantee every worker's rights under that amendment.

The Hon. CARMEL ZOLLO: My criticism was that the minister has failed to consult with the union and to respond to its concerns. Simply arrange a meeting face to face. That was my criticism.

The Hon. R.I. LUCAS: An agreement has been reached in relation to protecting the superannuation rights of the workers. For those who support the termination of the scheme, further discussions can continue between now and the sale to see whether or not some agreement can be reached in relation to that. That is what has been agreed. In effect, that is the base position, which protects the rights. If there can be an agreement between the employees and employers between now and the sale, and everyone is satisfied in terms of the final deal, that option remains open to be negotiated.

There is no way of being able to sort that out in the next 12 or 24 hours in relation to this provision. There is a protection there and, in the end, it is an option to try to negotiate something else, and if everyone agrees it is in everybody's mutual benefit to do so people can agree. A protection, which is a basic foundation, is included as part of the legislation and the current discussions. That is a reasonable position. The workers' position has been protected. If in the end there can be negotiation prior to sale with which everybody is happy, and if we can convince everybody that no-one will be dudded by that arrangement, that can be entered into and agreed. I assure members that, whether or not the minister gets up at 6 in the morning and meets with the union, it cannot be resolved in the time frame that we are talking about.

The Hon. R.K. SNEATH: The union is certainly of the opinion that there is a surplus in the fund. Has the Treasurer seen or read a copy of the ministerial statement that was made today?

The Hon. R.I. Lucas: Yes.

The Hon. R.K. SNEATH: Does the minister think it is confusing?

The Hon. R.I. LUCAS: As I said earlier, I can understand that actuarial reviews and notions of actuarial surpluses are very hard to understand by most people who are not actuaries or familiar are the work of actuaries. That is not a criticism. It is a very difficult concept and I can understand why there can be misunderstanding. Let me make that quite clear: it is a difficult concept. Having highlighted the facts of the situation in as simple language as I can, I hope that we can have a sensible debate, whether or not there is a surplus, whether there is a $4 million pot of gold there, and whether the rights of workers have been protected.

The Hon. R.K. SNEATH: I think by his remarks that the Treasurer has said that it is confusing. If this was sent out to workers, they would be totally confused, because it has confused the person who has been given the advice, that is, the Minster for Government Enterprises.

The Hon. T.G. Cameron: Do you find it confusing, Bob?

The Hon. R.K. SNEATH: It has confused the minister on three occasions. When I read it, perhaps the Hon. Terry Cameron will be confused as well.

The Hon. T.G. Cameron: I am trying to sort out whether you are confused.

The Hon. R.K. SNEATH: I am not so much confused, but it does not make sense. The ministerial statement reads:

> On Tuesday 28 November 2000 in the committee stage of the TAB Disposal Bill, the member for Ross Smith identified a surplus between $3 million and $4 million in the TAB staff superannuation fund. I have been subsequently advised that this represents an actuarial surplus in the case that the fund is wound up. Further, I have now been advised that at 1 July 1999 the actuary identified a surplus—

The Hon. A.J. Redford: You should have practised this before you tried it.

The Hon. R.K. SNEATH: —listen and you might get confused too—

> in the order of $1.6 million in the TAB staff superannuation fund on the basis that the fund continued to operate. I have now been advised—

that is the third time—

> that following the actuary's advice the trust deed was changed to increase employee benefits and reduce TAB contributions effective from 1 July 1999.

I understand that the Treasurer and his advisers are saying that that is the time that the surplus was taken up with an extra contribution going to the members—

The Hon. R.I. Lucas: An extra benefit.

The Hon. R.K. SNEATH: Yes—an extra benefit going to the members and a reduction to the employer in the way of contributions. That sometimes does happen in respect of similar local government funds, etc.: sometimes it will go totally to the employer and the next time it will go totally to the employee. I argue that a fifty-fifty split is not sufficient, because part of the employer contributions would have been made through pay rises over the years. The minister goes on to say:

> I had previously been advised that this represented a fifty-fifty split between employer and employee for a $4 million. . . surplus. I have now been advised—

this is about the fourth time—

> that, based on the calculations at the time, the effect of these changes to the trust deed is that 50 per cent of the. . . surplus will be returned to TAB—

and he was first advised on 28 November—

> by reduction in their contribution rate—

I understand that the Treasurer said it had been, and this statement recognises that some of it was done in 1999. He then goes on to say:

> and 44 per cent will be returned to employees by way of improved benefits. . .

And he still says that 'the actuarial surplus is $1.6 million and not $4 million.' If the Treasurer's argument is right, that paragraph in particular should have read, 'I have now been advised that, based on the calculations at the time, the effect of these changes to the trust deed is that 50 per cent of the surplus was returned to the TAB by a reduction in the contribution rate and 44 per cent was returned to the employees by way of improved benefits.'

Based on the Treasurer's argument, that makes a bit more sense to me. This statement by the Minister for Government Enterprises would confuse the best legal minds and most commissioners. It is absolute garbage. As this statement was issued today and the unions now have it and it will find its way to the employees, the onus is now on the Minister for Government Enterprises to meet with the unions as soon as possible to clear up this load of garbage that he has put out.

The Hon. P. HOLLOWAY: One final point that I wish to make in relation to this debate is that, at present, the TAB operates under ministerial direction, as the Treasurer indicated earlier. This means that the board of the TAB cannot operate, take decisions or be involved in any negotiations without ministerial approval. I suggest that that is probably part of the reason why this matter, something which could be resolved fairly easily and quickly, has not been resolved because, under the ministerial directions, the board is not in a position to resolve it. The minister has kept the veto power over this matter.

I think this is an appropriate stage to test the will of the Committee and to provide the government with an opportunity to go back and discuss these matters and try to resolve them fairly quickly. I move:

That progress be reported.

The committee divided on the motion:

AYES (10)

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

NOES (10)

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

The PRESIDENT: There being 10 ayes and 10 noes, I give my casting vote for the noes.

Motion thus negatived.

The Hon. P. HOLLOWAY: I am disappointed that the government has not taken the opportunity to try to resolve this matter in the most satisfactory way. I remind members that during the ETSA sale debate, when a like motion was carried on a similar issue in relation to superannuation for the employees of the Electricity Trust (as it then was), the government went away, and the following morning, when we came back, it had reached some sort of agreement to resolve the matter. It is unfortunate that the government has chosen not to do so on this occasion. However, I will now proceed to discuss the amendment.

As I indicated, it was a recommendation of the former Chairman of the TAB several years ago, when it was determined that a surplus was identified within the TAB superannuation fund, that it should be split on a 50-50 basis. As a result of the question that my colleague the Hon. Bob Sneath asked, we had a statement from the minister saying that it will be distributed, but then we heard from the Treasurer that he claims that the surplus has already been distributed to members. That contradictory information should be sufficient to make members realise that something is not right here.

The amendment in the first part of new clause 16A would require the trustee to 'as soon as practicable, obtain appropriate advice and, on the basis of that advice, determine the amount by which the fund exceeds that necessary to maintain the level of benefits payable by the fund to the members', that is, the fund surplus. So, the first task is to identify the fund surplus. Subclause (2) provides:

> The board and the trustee must, as soon as practicable after the fund surplus has been determined and in accordance with the deed, amend the deed so that 50 per cent of the fund surplus (or as near to 50 per cent of the fund surplus as is reasonably achievable) will be applied in the provision of benefits to the members in a manner that the board and trustee determine to be equitable as between the members.

No doubt the Treasurer will get up and say, 'How can we guarantee that no-one will be worse off?' The requirement under subclause (2) is that any distribution will be applied in the provision of benefits in a manner that the board and trustee determine to be equitable as between the members. Might I also say that as I understand it, and as the Treasurer has indicated, there is a guarantee that talks will continue on the future of this fund between the government and the relevant unions. As I understand it, the problem is that, as a result of the ministerial directions over the board, those discussions cannot continue because the minister does not wish them to. If that process continues at some stage in the future then, depending on what outcome is finally reached, there will have to be some sort of division, anyway. So, any difficulties that I might have in giving a guarantee that no-one will be worse off would apply equally when negotiations are finished, anyway, and this matter has to be finalised. That is something of a red herring that the Treasurer is raising on this occasion. If the fund continues, if that choice is made, the surplus will be transferred to the new owner. In effect, that will be a windfall gain to the new owner—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: The Treasurer says that it will not be. I will let him explain that later, if he can. If there is an actuarial surplus in the fund and that fund is transferred over and comes under the control of the new managers, I fail to see how it could be anything other than a windfall gain.

If the fund is wound up, the money will be distributed to the employees and no-one will be disadvantaged. What happens in relation to this fund will be determined by the outcome and negotiations. All I was trying to do earlier was to at least initiate some of those negotiations so that the unions concerned (the representatives of the 90 or so members of this fund) could have some confidence and information about how the whole process is proceeding. It is absolutely regrettable that the government is not even prepared to do that and instead is leaving this matter up in the air.

This clause is supported by the representatives of those workers concerned, and they are prepared to abide by whatever risk is contained in relation to the distribution in this manner. In any case, regardless of the outcome, they will be involved in the negotiations, anyway. Of course, the surplus can be distributed to the employees and the fund can continue. In effect, that is what this amendment is all about because it says that, if the fund is continuing, the surplus will be determined under clause 1 and distributed on a fifty-fifty basis in clause 2. There would still be a windfall gain to the employer of half the surplus anyway under this arrangement. If the fund continues, that surplus can be distributed and, if some other arrangement is reached, that matter can be determined in the future by negotiation. I repeat: it is regrettable that the government chose not to take the opportunity to try to reach a more amicable solution to this matter.

The Hon. R.I. LUCAS: In relation to the $1.6 million actuarial surplus identified in 1999, when we start talking about present and past tense, we are not talking about 'has been decided': the decisions have been taken in the way distribution will occur. For example, the contribution holiday is in process and will go for a period of three years, one would assume, until the actuarial review. The decision has been taken that there will be future benefit for the employer in that regard. In relation to benefits for the employees, the decision has been taken, past tense, but the benefits are ongoing benefits long-term. It is not actually a cash distribution of so many dollars to everybody in 1999. If the statements I have made have confused members I apologise, but the decisions have been taken but the future benefits for both the employer and employee are ongoing.

The Hon. R.K. Sneath: What about the ones who leave?

The Hon. R.I. LUCAS: The ones who leave get their entitlements. One of the benefits was an improved benefit for

workers under the age of 55 years who left. Snap! One of the benefits negotiated was that workers who left got an increased benefit if under 55 years of age. In response to an earlier question, that was one of the benefits I put to you. The decision has been taken, but those benefits on both the employer and employee side will accrue over a period of years. If a worker under the age of 55 years was to leave next month, that person will be entitled to the new benefit in relation to the deal negotiated in 1999.

The Hon. R.K. Sneath: What about redundancy?

The Hon. R.I. LUCAS: It was an additional benefit for under 55 year olds. That is the third time I have said it. I indicate to the unions that on my understanding I am not aware of any refusal for continuing discussions with unions about this issue. Whilst I have not had an opportunity to discuss it with the minister, I am prepared on behalf of the government to indicate that genuine discussions will be entered into at the earliest opportunity between representatives of the minister and the union to try to negotiate this issue. On behalf of the minister and government I give that commitment. It is not a commitment to make a change or do anything but it is a genuine commitment that it will not be a case of not talking about it.

The current agreement says that further discussions can continue about this termination option that the unions and others are wanting to pursue. Whether we reported progress five minutes ago or not, there is no way it will be resolved between now and later today when, hopefully, we conclude this section of this session of parliament. It will require genuine endeavours on both sides to negotiate. The challenge I put to the Hons Bob Sneath and Carmel Zollo is the question I put to the union representatives, namely, that we simply leave this example. I do not know the answer, but I am raising questions on behalf of the workers to ensure that they will not be dudded by this option. This is one example: if you are a young worker who just joined the TAB, you are 20 or 25 years, you have the prospect ahead if the scheme continues of 40 years in what I am told is a generous superannuation scheme. At the age of 20 or 25 years you are not entitled to much.

As members know from the parliamentary superannuation scheme, the longer you are in it the better it looks for you in terms of the benefits you get. So, you are a young worker and that is the option you have if the scheme continues: 40 years ahead of you of accruing benefits under a fairly generous superannuation scheme. What is being offered in Mr Holloway's amendment is that at the age of 20 or 25 years the scheme is terminated, you get a share of it (and at this stage we do not know how much), you have lost the generous scheme and possibly go back under a private employer to the basic superannuation guarantee scheme, which is not as generous as the existing TAB superannuation scheme.

The Hon. R.K. Sneath: You can allocate a surplus and continue the scheme. You don't have to wind up the scheme to allocate the surplus.

The Hon. R.I. LUCAS: This $4 million you are talking about is there only if you terminate the scheme. At this stage—

The Hon. R.K. Sneath interjecting:

The Hon. R.I. LUCAS: No, if you terminate the scheme. That is what the ministerial statement you read out to me very slowly made clear. There was an actuarial evaluation in 1999 which said it was $1.6 million; a decision has been taken about that. There will be another actuarial evaluation in 2002 and that may well determine that, even if the scheme continues, because of the people who have come and gone, there might be an actuarial surplus at that time, and again a decision could be taken about that. At this stage we are not aware of anything other than the 1999 actuarial review which we have talked about earlier.

I will not repeat it all again but I do indicate that there will be genuine endeavours from representatives of the minister to sit down with the union representatives to see whether or not they can come to an agreement in relation to the termination option they want to pursue. The challenge is for the example I have given (and some other examples which I am sure can be put up)—anything that might be agreed which would mean that the scheme was terminated rather than continued and the individual rights of the workers being protected.

What I am saying to members opposite is that I do not believe that any of you can stand up tonight—because I have challenged each of you and no-one has stood up and said they can guarantee that this amendment will guarantee that the individual rights of every TAB worker will not be downgraded in some way—

The Hon. R.K. Sneath interjecting:

The Hon. R.I. LUCAS: What I can guarantee in relation to their superannuation rights is that the government's arrangement will ensure that whatever they have been promised originally will continue. The additional benefits they received in 1999 are also currently part of their superannuation arrangements as well.

The Hon. M.J. ELLIOTT: Frankly, in the debate about actuarial amounts and apportionment between 12 midnight and 1 o'clock, not only have neither the government nor opposition convinced each other of anything but I have not been convinced by either side. We could go on for another hour and I do not think it would be likely to change. I think it is a pity that we did not report progress, if for no other reason than to have a chance to come back to it with a slightly clearer mind than can be managed after sitting in this place for a considerable number of hours, and now well into the morning. If this is going to a vote now, I will support the amendment, if for no other reason than to keep the debate alive, but I stress that at this stage I really have not been convinced by the arguments on either side, nor will I be convinced if it goes on for another hour tonight.

The Hon. NICK XENOPHON: I have very similar views to those of the Hon. Mike Elliott in this regard. I have not been convinced by either side. I accept that the Treasurer is using his best endeavours to give assurances in respect of the fund, but the union asserts that it has not had an opportunity to meet with the minister, Dr Armitage. They say that they have attempted, on a number of occasions, to meet with him to deal with these outstanding issues. I would have preferred that progress be reported. Something similar occurred in the course of the ETSA debate with respect to the superannuation fund, and those issues were resolved. I would like to think that, with a bit more time—not tonight, but with a bit more time in the cool light of day—something could be resolved.

Again, I make clear to the union that I am not yet convinced by its arguments, but what convinces me to either agree to reporting of progress or to supporting the amendment as a fallback position is that it says that it has attempted to meet with the minister on a number of occasions about its concerns and it has not had a hearing. In terms of natural justice, I would have thought they should have that opportunity within the next 24 hours.

The Hon. P. HOLLOWAY: I make one final point, as the government is obviously intractable on this matter. I think we need to realise that virtually all the members who are in the TAB superannuation scheme work in head office. The minister has already told us, in the House of Assembly, that up to 90 per cent of head office positions are likely to go in a sale. That was the contingency.

The Hon. A.J. Redford: That is unlikely.

The Hon. P. HOLLOWAY: No, it is likely, because we all know who is going to buy the TAB. We will go through the debate again. It is likely to be one of the bigger TABs in an eastern state. They will reduce their costs by closing head office.

An honourable member interjecting:

The Hon. P. HOLLOWAY: Everybody knows that. Surely, at 1 o'clock in the morning, the Hon. Leigh Davis is not trying to assert that that will not happen: we all know it is going to happen. So, the question for the Treasurer is: how does he explain how a continuation of the fund would be an advantage for those workers for whom the surplus is being continued, when 90 per cent of them are likely to go?

The Hon. R.I. LUCAS: I am advised that about half the members of the superannuation fund are actually not central office employees.

The Hon. P. HOLLOWAY: Therefore, half of them lose their job, so half of them get no benefit from the thing. And where are the others?

An honourable member: You said 90 per cent.

The Hon. P. HOLLOWAY: No, I said 90 per cent of head office positions will go in the sale. That is what Dr Armitage has allowed for. That is his contingency plan.

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: Dr Armitage has said it: read *Hansard*. That is his contingency; that is what he has provided for—90 per cent of head office staff, 100 per cent of call centre staff and 10 per cent of agency staff. Whether or not it is 50 per cent, the fact is that, if these people lose their jobs, then a continuation of the fund obviously will not be of much help to them and they will not get the benefit from the fund. What a pity that this government has not taken the opportunity to talk to the employees about this matter.

The committee divided on the amendment:

AYES (10)

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

NOES (10)

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

The CHAIRMAN: There being 10 ayes and 10 noes, I give my casting vote to the ayes.

Amendment thus carried; clause as amended passed.

New clause 16A.

The Hon. P. HOLLOWAY: I move:

After clause 16—Insert:

Superannuation Trust Deed

16A.(1) The Trustee must, as soon as practicable, obtain appropriate advice and, on the basis of that advice, determine the amount by which the Fund exceeds that necessary to maintain the level of benefits payable from the Fund to the members (the Fund surplus).

(2) The Board and the Trustee must, as soon as practicable after the Fund surplus has been determined and in accordance with the Deed, amend the Deed so that 50 per cent of the Fund surplus (or as near to 50 per cent of the Fund surplus as is reasonably achievable) will be applied in the provision of benefits to the Members in a manner that the Board and Trustee determine to be equitable as between the Members.

(3) If the making of a transfer order or sale agreement will necessitate the making of an employee transfer order, the transfer order or sale agreement must contain provisions necessary to continue the application of the Deed to the employees who will be transferred by the employee transfer order.

(4) In this section—

(a)' Deed' means the deed of trust dated 28 July 1969 establishing the superannuation fund known as the South Australian Totalizator Agency Board Staff Superannuation Fund, as amended from time to time;

(b) the expressions 'Board', 'Fund', 'Member' and 'Trustee' have the same respective meanings as in the Deed.

(5) This section comes into operation on the day on which this Act is assented to by the Governor.

This is a package, so let us just take the vote we have just had as an indicative vote. This new clause is a consequential amendment.

New clause inserted.

Clauses 17 to 26 passed.

Schedules 1 to 3 passed.

Schedule 4.

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

Clause 3, page 24, lines 10 to 13—Leave out paragraphs (a) and (b).

Clause 4, page 24, lines 17 to 21—Leave out paragraphs (a) to (e) inclusive and insert:

(a) by striking out from section 3(1) the definition of 'the Hospitals Fund' and substituting the following definition: 'the Hospitals Fund' means the fund of that name kept at the Treasury and continued in existence under this Act;

(b) by inserting after section 16A the following section:

Hospitals Fund

16AB.(1) The Fund entitled the 'Hospitals Fund' established at the Treasury will continue in existence under that name.

(2) The Hospitals Fund may be used for the provision, maintenance, development and improvement of public hospitals and equipment for public hospitals by making payments as approved by the Treasurer to the Consolidated Account to match amounts appropriated by Parliament and paid from the Consolidated Account for those purposes.

Clause 5, page 24, lines 22 to 24—Leave out clause 5.

The government does not necessarily have much attraction to hypothecated funds. Certainly, as Treasurer, I am not overly attracted to them, either; I think they—

The Hon. T.G. Roberts: You were attracted to the salinity fund.

The Hon. R.I. LUCAS: That is separate: that is where you must find new money. With the Hospitals Fund you are spending $1 billion plus, or whatever else it is, and you have a hypothecation of $100 million or so going into the Hospitals Fund. It is not actually adding to it: it is there. There has been an industrial and community campaign arguing that, in some way, this would mean less money going to hospitals when the reality is that it is not.

If a billion dollars is going to hospitals now, if $100 million was coming from a hypothecated fund from the lotteries and TAB then $900 million comes from consolidated revenue. If you do not have a Hospitals Fund, the $100 million from the lotteries and TAB goes into consolidated account and a billion dollars comes from the consolidated account. But those who have base political purposes or other reasons for causing grief to the minister and the government can seek to portray the abolition of the Hospitals Fund in an unfavourable light.

It is easy to misrepresent, and that has been occurring. This amendment will ensure that the Hospitals Fund continues and that it will continue to get moneys from the Lotteries Commission and some moneys from the TAB.

The Hon. P. HOLLOWAY: I wish to move an amendment to the amendment moved by the Treasurer. There are actually three amendments listed here, and my amendment is to the second one. Are we moving these separately or as a block?

The CHAIRMAN: The first thing I point out is that it is a money schedule, if I can put it in those terms, so the wording will be couched in that it will be a suggestion to the other house. That does not affect what you want to do: you are indicating that you want to amend the amendment to page 24, lines 17 to 21. We should be dealing with them separately. I can put the first amendment, that is, schedule 4, clause 3, page 24, lines 10 to 13.

Suggested amendment carried.

The CHAIRMAN: The Treasurer has already moved the second amendment. What does the Hon. Paul Holloway wish to do?

The Hon. P. HOLLOWAY: In paragraph (b), 'Hospitals fund', 16AB(2) provides:

> The Hospitals Fund may be used for the provision. . . .

etc. My amendment is to insert the word 'only' after the word 'may', so that the clause would read as follows:

> The Hospitals Fund may only be used for the provision, maintenance, development and improvement of public hospitals. . .

As I understand it, the clause that has been removed from the Lotteries Act originally provided that the Hospitals Fund 'shall be used', I think it was, for the provision, maintenance, development and improvement of public hospitals. I understand that the word 'may' in legal terms does not have the same force. By adding the word 'only' we can ensure that that is where the money from this Hospitals Fund will be directed.

The CHAIRMAN: Is the Treasurer prepared to seek leave to have that word inserted in his amendment or does he want to go through the amendment process?

The Hon. R.I. LUCAS: I am told that it is very poor Parliamentary Counsel drafting but, in the interests of a peaceful life, I seek leave to have it incorporated in my amendment.

Leave granted.

The CHAIRMAN: The question now is that it be a suggestion to the House of Assembly to amend the schedule by leaving out paragraphs (a) to (e) and inserting new paragraphs (a) and (b). Everyone understands that the word 'only' is now part of that wording.

Suggested amendment carried.

The CHAIRMAN: The third amendment is that it be a suggestion to the House of Assembly to amend the schedule by leaving out clause 5.

Suggested amendment carried; schedule as amended passed.

Title passed.

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

That this bill be now read a third time.

The committee divided on the third reading:

AYES (9)

Cameron, T. G.	Davis, L. H.
Dawkins, J. S. L.	Laidlaw, D. V.
Lawson, R. D.	Lucas, R. I. (teller)
Redford, A. J.	Schaefer, C. V.
Stefani, J. F.	

NOES (9

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

PAIR(S)

Griffin, K. T.	Pickles, C. A.

The PRESIDENT: There are 9 ayes and 9 noes. There is, therefore, an equality of votes and I cast my vote for the ayes. The bill passes the third reading.

Third reading thus carried.

HARBORS AND NAVIGATION (MISCELLANEOUS) AMENDMENT BILL

The House of Assembly agreed to the bill without any amendment.

STATUTES AMENDMENT (TRANSPORT PORTFOLIO) BILL

The House of Assembly agreed to the bill without any amendment.

ROAD TRAFFIC (ALCOHOL INTERLOCK SCHEME) AMENDMENT BILL

The House of Assembly agreed to the bill without any amendment.

DEVELOPMENT (SYSTEM IMPROVEMENT PROGRAM) AMENDMENT BILL

The House of Assembly agreed to the bill with the amendment indicated by the following schedule, to which amendment the House of Assembly desires the concurrence of the Legislative Council:

Page 25, line 18 (clause 23)—Before 'during' insert:
unless otherwise determined by the council—

SHOP TRADING HOURS (GLENELG TOURIST PRECINCT) AMENDMENT BILL

The House of Assembly agreed to the bill without any amendment.

[Sitting suspended from 1.34 to 9.30 a.m.]

AUTHORISED BETTING OPERATIONS BILL

Adjourned debate on second reading.

(Continued from 30 November. Page 753.)

The Hon. R.I. LUCAS (Treasurer): I thank honourable members for their contributions. This is really just the attendant or second bill. The substantive debate was conducted last evening on the TAB (Disposal) Bill, and we are now considering authorised betting operations. There is a considerable amount of work to be done in the committee stage of the bill. Our colleague the Hon. Mr Xenophon has some 15 or 20 pages of amendments to be considered in committee. I have had some brief discussions with the Hon. Mr Holloway. Perhaps I will leave it to clause 1 of the bill to outline a possible course of action that we might adopt. I thank members for their support for the bill.

Bill read a second time.

In committee.

Clause 1.

The Hon. P. HOLLOWAY: I did not have an opportunity to make a contribution during the second reading debate. Unfortunately the lift was somewhat congested getting down here this morning and that is why I was not here at the beginning of proceedings. I shall use this opportunity to make a few comments. It is not an issue that we wish to spend too much time on now that the major racing legislation has been passed. Last night we passed the TAB (Disposal) Bill and we also passed the proprietary racing bill.

The Authorised Betting Operations Bill is of course a companion to the TAB sale bill. It is the mechanism by which the new private operator of the TAB following the sale will be licensed. I should make the general comment that this is really part of a trifecta of measures leading to the government opting out of racing in South Australia. The industry is happy with the government opting out at the moment because it is getting loads of money as a result of the TAB sale.

One wonders about and one fears what the situation might be in five or 10 years when, with the government totally divorced from the industry, the only role it will have will be to collect 15 per cent taxation from the private TAB provider. One wonders what the industry will do if the decline that we have seen over the years continues. However, given the other bills that have been passed, that is now beyond the control of the opposition. It would be fairly pointless to oppose this bill. Once the sale is agreed to, the opposition will try to do the best it can to ensure that there is some accountability and fairness, and some protection for the public, in relation to how the new operator of the TAB will conduct its business. The opposition will support the passage of the bill, but a number of amendments have been listed, including one in my name, and we will address them in detail as we move through the clauses of the bill.

The Hon. M.J. ELLIOTT: I also did not speak during the second reading stage but the Democrats support the second reading. I will again put on the record that the Democrats believe that there needs to be a far more comprehensive review of gambling regulation in this state and of the adoption of a harm minimisation approach. This bill, I suppose, covers as much as is necessary for the time being, recognising that the TAB is about to be privatised, but the Democrats believe there is an urgent need for more comprehensive legislation for a gaming commission (call it what you will) with broad regulatory powers and, I would argue, a separate body to look at issues of gambling related harm and to act as a monitoring body, as distinct from an enforcement body. I believe that there is great value in separating those two roles. Nevertheless, despite the Democrats' desire for that to happen, we are prepared to support this bill as an interim measure.

The Hon. R.I. LUCAS: As the Hon. Mr Holloway has indicated, after the substantive debate that we had during last evening and the early hours of this morning on the TAB (Disposal) Bill, we are now into the detail of the Authorised Betting Operations Bill and some 15 to 20 pages of amendments that have been tabled by the Hon. Mr Xenophon.

I am sure that all the members of this chamber admire the Hon. Mr Xenophon's persistence on these issues. However, the position I would like to put to the committee is that, in my view, a significant number of these amendments are issues that we have debated or will continue to debate as part of gambling industry reform in areas such as the Lotteries, the Gambling Supervisory Authority, the casino bill (which we will be debating again later on today), the gaming machines act (which is on the agenda for March), and the Gaming Supervisory Authority/Gaming Impact Authority, debate on which is definitely on the agenda for March under the bill proposed by the Hon. Mr Elliott. The proposed alternative that I have outlined on a number of occasions regarding the notion of a gambling impact authority, rather than having a separate authority, is to significantly beef up the functions and operations of the Gaming Supervisory Authority.

As I have indicated, in March the parliament will have an opportunity to choose one of the two options, because there will have to be debate on the notion of a new authority (the Gaming Impact Authority) or an alternative course of action which will be made available to members to consider—the notion of significantly beefing up the role and function of the Gaming Supervisory Authority.

This bill starts that process, as did the associated Lotteries Commission bill, because it provides additional functions to the Gaming Supervisory Authority in a role that is not part of its traditional role. As we move through the committee stage of this bill, for the first time we will see an indication of the government's general intent, that is, that the Gaming Supervisory Authority did have an original role, which came out of the original establishment of the Casino in 1983 or 1984 (or whenever it was), and it had a traditional regulatory function. In this bill and the associated bill relating to the Lotteries Commission, which will not now be introduced into the Legislative Council, the government's genuine endeavours in this area were flagged—to indicate that there ought to be an increased role and function for the Gaming Supervisory Authority.

Speaking frankly, even if the majority of members in this chamber see that as being the preferred course of action, rather than having a new authority, I suspect the view of a majority of members would be that the government's moves in terms of this bill, and the Lotteries Commission bill, are relatively modest. There will be much more substantive debate about the more significant issues and functions that might go to the GSA, some of which are picked up in the GIA bill that the Hon. Mr Elliott has talked about, and some of which have been discussed at the Ministerial Council on Gambling, in general matter and form; and some have been canvassed by the Hon. Mr Xenophon on a number of previous occasions in relation to what the role of an oversight body might be.

To summarise all that, in March there will be a number of pieces of legislation on gambling reform with which we will again have to wrestle. It is my fervent plea regarding the committee stage of this debate that we not spend all day and night debating the 20 pages of amendments when we will revisit all these issues in one form or another in March. This bill cannot be avoided in March, so no-one can suggest that we are putting it off because we do not want to do it in March. There are already two pieces of legislation (and a third) that we will debate later today. That makes it quite clear that this will have to be an issue for debate in March, April and May next year.

I indicate generally on behalf of the government that, as a matter of form rather than substantive debate on the merits of the individual clauses, the government will not support the amendments of the Hon. Mr Xenophon. We prefer to have the debate in the March-April-May period when we deal with the two or three bills that we will debate then. I am not indicating that the government's opinion is set in concrete against the individual merits of some of the amendments which the

Hon. Mr Xenophon intends to move to this bill but, as a matter of process and procedure, we believe that this bill ought to be about the particular issue involved: that is, the disposal of the TAB and how we manage it, rather than seeking to amend legislation that exists in this state in respect of the Casino, gaming machines, the Lotteries Commission, the Gaming Supervisory Authority and so on.

The only other point that I make is that there are a number of issues which obviously are specific to this legislation. Some amendments have been moved by the Hon. Mr Xenophon and the Hon. Mr Holloway on the issue of interactive gambling, and I think an amendment, which was defeated, was moved by Mr Wright in the House of Assembly. Clearly, that is an issue about which we will have some debate in committee. Hopefully, as we have discussed interactive gambling 1 000 times—it seems like that—in the past two years (or 12 months in particular), we will not have to replicate the whole of that debate as we come to some resolution. However, there are a number of different amendments now and, if there is some conflict between the various amendments, it will be difficult to work through exactly what the impact of some of those amendments will be on what has now been approved by this Council regarding the disposal of the TAB in South Australia.

The Hon. M.J. ELLIOTT: The Treasurer says that when we return in March we will debate a range of issues. I would like to have that clarified, because clearly there will be some debate on private members' bills, but the danger is that it will be for 10 minutes a week on some of these matters as they struggle along during private members' business. We now have a proposal for a gaming machine freeze on which we will vote later today. Clearly, that is only intended to be a stopgap measure if, as the Premier proposes, it becomes a temporary freeze.

There is a clear need to have a comprehensive debate across the whole gaming regulation area. I wonder whether it is the government's intention to ensure that we have a comprehensive debate or whether the government intends either to introduce a bill or bills of its own or to make available some government time to have a comprehensive debate rather than what might become a piecemeal debate about just poker machines or some other narrow aspect.

The Hon. R.I. LUCAS: Let me speak frankly and say—

The Hon. T.G. Roberts: As you always do!

The Hon. R.I. LUCAS: Yes, as I always do. Given what has occurred during the past week, over the past week or 10 days there has not been a considered debate in the cabinet about how we should approach this issue. However, regarding the continuum to which the honourable member refers, there is clearly a commitment by the Premier and me as Treasurer that in the March, April, May period—or however long that session goes (we might come back in February, as I understand)—there will be a comprehensive debate on all the issues that I have highlighted in my earlier contribution in both government and private members' time.

To be fair to the government, during this session in the Council we have used government time as a commitment. I do not think that has been recognised by some commentators outside of this chamber, but all members here will know that, during this session, we have regularly slotted in extra sittings on Thursday mornings which, in essence, is government time.

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: Yes. I am just saying that that is a general indication of our genuine endeavours. We have not said that you can debate these matters only on Wednesday afternoons and Wednesday nights; we have actually allowed them to be debated on Thursdays and, in a couple of weeks, we have done it on Tuesdays to try to get the Casino legislation through. So, the answer is 'Yes'. Whilst this is not a formal decision of the cabinet, the Premier and I are committed during February, March, April and May—or however long the session goes—to discussion on a range of bills during private members' time and also to use some government time.

I understand that the Hon. Mr Xenophon is committed to gambling reform, but some of the rest of us, given the amount of time that we have spent on gambling reform over the past two years and looking at the first six months of next year—

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: That is true, but it may well be that the majority of members do not agree—

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: It may well be that there is a consensus on the middle ground. As I have said, ultimately, between where the Hon. Mr Xenophon sits and where the industry might be, there is a position in the middle. I am somewhere in between the two groups as well. In the end, in terms of the time that we devote to parliament, I hope that, at some stage, we reach the stage where gambling takes up an important part of the program but does not dominate the agenda. Members have highlighted the issues that ought to be debated in this chamber, but we have not been able to get around to them.

The Hon. Carolyn Pickles: Such as prostitution.

The Hon. R.I. LUCAS: The Hon. Carolyn Pickles has a strong view on prostitution. Clearly, if the Hon. Mr Crothers had been here this week, we would not have been able to fit in the debate on prostitution.

An honourable member interjecting:

The Hon. R.I. LUCAS: We may well have, but I am just saying that we would not have been able to fit it in. The simple answer is that there is a commitment to private members' time and reasonable amounts of government time—even if, as the Hon. Mr Xenophon says, it means putting him out of his misery—hopefully to get to some of the issues that have been eddying around this parliament for the past year, or two years in particular. As I have said, there are one or two pieces of the Hon. Mr Xenophon's legislation still on the *Notice Paper* from March. There is also the legislation from the Hon. Mr Elliott on GAI. The Premier is committed to introducing further legislation which, given the way in which it would operate and whilst there will still be a conscience vote on many issues, will be debated during government time, because I assume that it will be introduced in the House of Assembly by the Premier and that, once it has been dealt with there, it will be sent up to us to try to sort it out. The simple answer to the honourable member's question about time limits is 'Yes.'

The Hon. P. HOLLOWAY: The Treasurer has suggested a course of action in relation to the Hon. Nick Xenophon's amendments. As far as the opposition is concerned, we would concur where those amendments relate to other acts that are not directly related to the authorised betting operations. In other words, I note that some of the amendments the Hon. Nick Xenophon has on file relate to the Casino Act and many are matters which we are considering in his Casino bill, so the opposition does not really see much benefit in going through all those under this bill. However, some of the Hon. Nick Xenophon's amendments—those in the early part of his 15 pages of amendments—do relate specifically to issues

concerned with the Authorised Betting Operations Bill, and I think we have to address those here. We will make our judgment; where those issues are extraneous to the matter directly at hand, we will concur in the Treasurer's suggestion that we delay them until later. But, where there are issues that in our view are urgent in relation to authorised betting operations, we will look at them.

During the debate we had yesterday the Hon. Angus Redford pointed out (and I complimented his for his views) that we have not had a proper parliamentary debate in relation to internet and interactive gambling. We have had a number of debates on reports and so on, but our approach has been fairly piecemeal in that we have tacked on a number of amendments to particular bills. Obviously, what is happening is that interactive technology is changing by the day and the whole area is exploding, and we in this parliament are significantly behind that. At some stage—hopefully in February or March next year—undoubtedly we will have to address all those issues in greater detail. That is inevitable and appropriate. But, at the same time, given that these things are changing by the day, I do not see any alternative to at least doing a quickie patch-up job in relation to this bill until that more comprehensive debate comes later.

The opposition has no wish to prolong this debate unnecessarily. We need to get the Authorised Betting Operations Bill through now that the TAB sale has been passed. We will be constructive in our approach and consider just those measures that are important in ensuring that this bill is effective in the short term to deal with any contingencies that might arise.

The Hon. M.J. ELLIOTT: I did not speak during the second reading, and I do not intend to take up much time on this bill once we get going. I want to make one observation while we are talking about some frustration in tackling issues of gambling related harm. The other day a speech made on 18 August 1982 by Heather Southcott, the then Democrat member for Mitcham, was bought to my attention.

The Hon. A.J. Redford interjecting:

The Hon. M.J. ELLIOTT: No; before that Robin Millhouse held the same seat. The debate was about the legislation to introduce the Casino into South Australia. I want to pick up a couple of matters that were raised in that debate. Heather Southcott said that her constituents' concern was covered by the first two recommendations of the select committee, recommendation 11.1 and recommendation 11.2 (page 210 and 211 of the report), calling for a national inquiry into the effects of gambling because of the lack of such evidence in Australia. She supported this call and urged the government to act on the matter as soon as possible. The closest we have had to a national inquiry is the recent report that has so often been cited by the Hon. Nick Xenophon. At the end of the speech, she notes the need for a survey into the effects of gambling in Australia.

In 1982 the Casino was just coming in, and people expressed concern about gambling related harm. A select committee was saying that survey work needed to be carried out and that, by implication, if further action was needed, it would be acted upon. Some 18 years later we are pretty well at the same point. I recall that, when the gaming machine legislation was being debated, there was a call for a study on the impact of gaming machines as they were introduced, and it was two years before a select committee was established to look at that issue.

That is the major reason why the Democrats have become very impatient about this further expansion of gambling opportunity that has been going on, and there is still a failure to address issues of gaming impact. We keep hearing the Premier saying 'Enough is enough', and now we have a temporary freeze on gaming machines. All sorts of interpretations could be put on 'Enough is enough.' It could be for public consumption only. People are saying that enough is enough, and that is not a statement that there should be no more gambling or no gambling. For the most part, people are saying there is a major social problem and asking when, for goodness sake, we will get around to addressing it. We keep passing legislation in this place which enables further harm—that is not the direct reason for the legislation but it is a consequence of it—but we keep baulking our social responsibilities. Enough is enough, to quote the Premier, and we really do want to see genuine action.

Clause passed.

Clauses 2 to 6 passed.

New clause 6A.

The Hon. NICK XENOPHON: I move:

After clause 6—Insert:

Factors to be taken into account in administration or enforcement

6A. (1) A person or body engaged in the administration or enforcement of this act is required to have due regard to the need to foster the responsible conduct of gambling activities, including (without limitation) conduct designed—

(a) to promote responsible gambling; or

(b) to provide or promote services to address problems associated with gambling; or

(c) to otherwise minimise the potential for harm from gambling activities

(2) A person or body engaged in the administration or enforcement of this act must take into account the findings in the report of the Productivity Commission 1999, *Australia's Gambling Industries*, Report No. 10, AusInfo, Canberra.

I am acutely aware of the time constraints that parliament has in relation to its business today, but it is important that this issue be discussed and hopefully supported by members. The bill gives some minimally increased powers to the Gaming Supervisory Authority. The purpose of proposed new clause 6A is to bring South Australia more into line with the eastern states which have passed responsible gambling legislation in the past 12 months, and to give real teeth to the authority so that, when it considers its administration and enforcement of the act, it must have due regard to the need to foster the responsible conduct of gambling activities, including, and without limiting to these factors, to promote responsible gambling; to provide or promote services to address problems associated with gambling; or to otherwise minimise potential harm from gambling activities.

These are all principles which members, whether they are pro or anti-gambling, appear to have endorsed in this and the other place over recent months. I note that the Treasurer has indicated that these principles ought to be taken into account in a broad sense and that he is concerned about levels of problem gambling in the community. Proposed new clause 6A(1) takes these factors into account.

In the failure of this clause, I am very concerned that the authority will not have sufficient powers to deal with a whole range of issues. It will not have the legislative teeth required effectively to address issues of problem gambling and to reflect that in its administration and enforcement of the act. Subclause (2) provides that a person or body engaged in the administration or enforcement of the act must take into account the findings of the Productivity Commission. Whilst I do not necessarily agree with all parts of the Productivity Commission's report (and I have said that previously), the fact is that it is a world leader in its comprehensiveness and

its cogent analyses of the issue of gambling in Australia, the impact of problem gambling, informed consent of consumers and a whole range of measures that it considers ought to be implemented to reduce the level of harm in the community caused by problem gambling, particularly due to poker machines. That is all I intend to say on that.

As the Treasurer is all too aware, I have some 15 pages of amendments. I will regard this as a test clause with respect to subsequent amendments that are mirrored in the Casino Act and other acts. I understand the opposition's point that it does not wish to deal with anything other than amendments to the Authorised Betting Operations Bill.

However, I urge members, if they do not wish to support the clause at this stage, at least to keep an open mind so that, if this matter is revisited in three months, we can have a robust debate as to the extent of powers required of the authority, so that it can actually begin to wind back the damage caused by gambling in this state.

The Hon. R.I. LUCAS: I will not repeat this each time: I hope that avid readers of *Hansard* will go back to my introductory comments. As we move through a number of these amendments, some we will oppose on the basis of the merit of the argument whereas with others we believe that this ought to be a debate about issues directly related to the TAB and its disposal. There is very strong opposition to this amendment and the whole notion that we would be applying this to anyone engaged in the administration or enforcement of this act.

I am told that that could be everyone who works for the GSA, everyone who works for the Liquor and Gaming Commissioner and, potentially, even everyone who works for the Commissioner for Police; that anyone else who might be involved in the administration and enforcement of provisions of this act would have to take into account the findings of the report of the Productivity Commission.

In my 20 years in the parliament I have not seen drafted anything that says that you have to take into account the findings of the Productivity Commission. If that were ever to become law in this state, it would set a very unhealthy precedent for future legislatures, with everyone drafting provisions that say that, when you do this, you will have to take into account the findings of the report. Even the Hon. Mr Xenophon does not agree with all aspects of the Productivity Commission report. He quotes a number of aspects but, when it comes to its recommendations that in essence—and I am paraphrasing—caps on poker machines are not the solution—

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: As I say, I am paraphrasing. In a number of other parts that are inconsistent with his views, even the Hon. Mr Xenophon disagrees with the Productivity Commission report. No report is 100 per cent consistent. To say in a piece of law that everyone who administers this act must take into account the findings of the report of the Productivity Commission, with due respect to the honourable member and without wishing to get off on the wrong side of him in the early stages of the debate, is a touch bizarre in terms of legislative reform.

I hope that members are not attracted to this notion and we do not need to have a long debate about it. I will not go on highlighting the problems. The Hon. Mr Xenophon has advised me that the Hon. Mr Cameron is not well; he is not here at the moment. The Hon. Mr Xenophon has suggested a course of action whereby, if something is obviously within one vote of having been decided, we might agree to recommit.

If there is a large number of those, perhaps the bill will go to the House of Assembly and then, when it comes back, we may have to decide whether, if it is critical to the government, we have to come back next week or whenever the Hon. Mr Cameron is able to come. He may be able to indicate his view and, through pairing arrangements, we might be able to take his view into account, if that view is critical to determination.

Given the approach that the Hon. Mr Holloway and I have indicated, a number of these amendments are likely not to hinge on the vote of the Hon. Mr Cameron, so I am comfortable with proceeding. Having had that discussion with the Hon. Mr Xenophon, I am pleased to indicate on behalf of the government that we are happy with that course of action that he has suggested, so we will approach the committee stage from that viewpoint.

The Hon. P. HOLLOWAY: I agree with the Treasurer that incorporating in an act a requirement to give consideration to a particular report is probably a most unsatisfactory way of going. After all, given the rapid developments in this area, the report could become dated very quickly. As good as that report by the Productivity Commission might be, I do not think that anyone could realistically suggest that it is the way to go for all time.

In principle, I would have no objection to the first parts of the honourable member's amendment, paragraphs (a) and (b). In relation to new clause 6A(1)(c), we have the same concerns we had yesterday when discussing the Casino bill, in that it might give rise to litigation in relation to these matters. That would probably be a conscience vote for members of our party but I indicate that, because of the problems with the clause as a whole, I certainly oppose it.

The Hon. M.J. ELLIOTT: I note that with the Liberal Party and the Labor Party opposed this clause will fail. The Democrats would have been prepared to support new clause 6A(1) but have difficulty with new clause 6A(2). If it had been moved in an amended form, the Democrats would have had no problem with it. Can I move an amendment that clause 6A(2) be deleted?

The CHAIRMAN: Yes. The question is that the amendment moved by the Hon. Mr Elliott to the Hon. Mr Xenophon's amendment be agreed to.

Amendment carried.

The Hon. R.I. LUCAS: As I understand it, we are now going to vote on new clause 6A(1)(a), (b) and (c). We had this debate on the Casino bill last night or the night before. I do not intend to repeat it, as I can refer *Hansard* readers back to the debate. There was a majority view in this chamber that clauses drafted like this would potentially open up the capacity for litigation as identified by the Hon. Mr Holloway in his contribution. I oppose new clause 6A(1) and would certainly have some problems if it were still to be part of the legislation after it has been through the parliamentary consideration of both houses.

The Hon. NICK XENOPHON: I understand the position of the government and the opposition with respect to this clause. I am disappointed that they will not be supporting it, but I would like to ask the Treasurer whether, over the Christmas break, in addition to the matters raised, if he has concerns about this clause or clauses such as this, his office would be prepared to provide further detail so that it may well advance debate, rather than something being put in the committee stage and, in three months if a similar clause

comes up with respect to a government bill, to outline their concerns as distinct from similar legislative provisions in the eastern states with respect to harm minimisation and dealing with problem gambling.

In other words, will the Treasurer or his office be prepared to outline the concerns they have about these sorts of clauses, with reference to legislation passed in the eastern states in the past 12 months? That would at least provide a foundation to establish whether there is a potential compromise down the track, rather than reinventing the wheel in three or four months. I intend to divide on this clause but, to expedite the debate, I do not intend to divide on the amendments to clauses 21, 22 and 23 if the vote is similar in terms of its being opposed by the opposition and the government.

The Hon. R.I. LUCAS: I am very pleased to be able to give an indication, but a more positive one than that sought by the Hon. Mr Xenophon. Rather than arguing what the problems are with this drafting, we can look more along the lines of what we can get out of what we put into gambling reform legislation. We had a long debate on the Casino bill about paragraph (a), which is an objective of the Casino, and we said in a positive way that it ought to be about trying to promote responsible gambling. Without repeating the debate, I believe that the majority of members were concerned that, once it went over that, it might give lawyers the capacity to try to generate actions against operators.

I am happy to give a commitment that, as a result of the debates that we have had, we are looking for some form of words that does not open up a legal nirvana for lawyers but gives a commitment, with parliament saying that we are looking for people who operate in this field to promote responsible gambling practices. That is a more positive commitment, rather than highlighting the negatives, as suggested by the Hon. Mr Xenophon.

The committee divided on the new clause as amended:

AYES (4)

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

NOES (13)

Cameron, T. G.	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, R. R.
Schaefer, C. V.	Sneath, R. K.
Stefani, J. F.	

Majority of 9 for the noes.

New clause as amended thus negatived.

Clauses 7 to 20 passed.

Clause 21.

The Hon. NICK XENOPHON: I move:

Page 19, after line 4—Insert:

(ab) must, in the case of an application for the grant, renewal or transfer of the licence, be accompanied by—

(i) a community impact statement; and

(ii) a statement of responsible gambling initiatives for the operations under the licence;

After line 17—Insert:

(2a) In preparing a community impact statement or a statement of responsible gambling initiatives, the applicant must have regard to relevant guidelines issued by the authority.

I do not want to take too much of the committee's time in relation to this, given that I understand that the numbers are against it, but I will raise briefly the purpose of these amendments. They are to ensure that, with respect to the grant, renewal or transfer of a licence there must be a community impact statement and a statement of responsible gambling initiatives under the licence, and, further, that in preparing a community impact statement or a statement of responsible gambling initiatives the applicant must have regard to the relevant guidelines issued by the authority.

I am trying to bring this act into line with legislation interstate, particularly Queensland and Victoria, which are beginning to consult with the community on a whole range of issues as to the impact of gambling in a particular community. It gives it a broad discretion, it does not prescribe what must be taken into account, but it is intended to give broad berth to the authority, taking into account principles with respect to responsible gambling.

Given that clause 6(a) has been defeated, it makes this clause somewhat more problematic: I concede that. I indicated earlier that I do not intend to divide again if I can get an indication from the Treasurer, the Opposition and any other honourable members interested in this clause that they are at least willing to engage in discussion over the break so that we can get some consensus for a compromise position to ensure that the legislation can have more teeth in the context of responsible gambling.

The Hon. T.G. CAMERON: For the information of the committee, I indicate that, following the contribution that has just been made by the Hon. Nick Xenophon, SA First will not support any of the amendments standing in the name of the Hon. Nick Xenophon or the Australian Labor Party. I had a bit to say about this the other day. We have 15 or 16 pages of amendments on file, and some of them were filed as late as 6 December. I repeat what I said the other day: I will not be stampeded into dealing with pages and pages of complex legal amendments at the eleventh hour—even for the Hon. Nick Xenophon. So, I will be opposing all the amendments. I am more than happy to look at all these issues during the break, and I look forward to the debate on the Hon. Mike Elliott's Gambling Impact Bill. My advice to the Hon. Nick Xenophon is to put these amendments to a vote so that we can move on.

The Hon. R.I. LUCAS: This is one of those issues where I think there is the capacity to reach some sort of common-sense position. A number of other states have something similar. I think we have to look at what they have done, and at what is required and how this area can be improved. We are certainly prepared, having already initiated some action in terms of trying to gather information, to do further work. I am happy to liaise with the honourable member during the break in relation to that. I indicate that, as part of the general principle, this is an example of something that we are prepared to look at. However, until we have had a chance to look at it, as a matter of form we will oppose it. We are prepared to consider it in the package of legislation in February, March, April and May.

The Hon. NICK XENOPHON: I understand the Hon. Terry Cameron's concerns. I did get to work on amendments to this bill shortly after it was passed in the Assembly. I was not certain of its final form, so it took a while to draft them. I apologise for any delays but I did try to deal with the bill as expeditiously as possible. At least now there is something that has been drafted that I hope will provide some foundation for a discussion, whether members agree with it or not. It will at least provide some framework for ongoing discussions in the coming months before parliament resumes.

The Hon. P. HOLLOWAY: I believe there is some merit in the Hon. Nick Xenophon's amendments. However, the Opposition is placed in the difficult situation where there is

such a large and comprehensive package of amendments that it is very difficult to examine each of them closely to ensure that there are no loopholes. That is our biggest fear. Whereas, in principle, the idea of having a community impact statement before a grant, renewal or transfer of licence is a reasonably attractive proposition, what we would like to do before we come to a final position is to think about exactly what might be involved in terms of resources, the costs of these measures and so on. Whereas we were prepared to come in here and debate this legislation, it looks like the numbers are not here for it anyway.

In the circumstances I think it would be better if we did review this measure and others that are similar in nature at a later time. We do not disagree in principle to a large number of these amendments, but there could well be some practical difficulties. What we would like in relation to these is perhaps a response from the government about how costly or onerous these statements might be. Only the government is in a position to do that. It is hard for us as the opposition, without that information, to judge. That is why we are loath to support the amendments at this stage, even though we may well find them attractive in a fuller debate.

The Hon. M.J. ELLIOTT: I have a great deal of sympathy for people who are concerned about the lack of time they have to examine amendments and legislation. I have complained of that myself. I must say, though, that this provision does not seem to be terribly complex. It is really straightforward and to suggest that there could be a loophole in this one surprises me. The Democrats are quite prepared to support the amendments.

Amendment negatived; clause passed.

Clause 22.

The Hon. NICK XENOPHON: I move:

Page 19, after line 27—Insert:

(2a) The authority must in determining an application for the grant, renewal or transfer of the licence have regard to information about social and community issues and the adequacy of the licensee's proposed responsible gambling initiatives.

Effectively, this amendment requires that the authority must, in addition to taking into account whether or not a person is a suitable person to carry on a business—essentially probity issues such as a person's reputation, character and financial background—in determining an application for a grant, renewal or transfer of the licence, have regard to information about social and community issues and the adequacy of the licensee's proposed responsible gambling initiatives.

Again, it appears that the numbers are not here for it to pass: I can count with respect to the amendment. I urge members not to have a closed mind with respect to it, particularly the latter part relating to the adequacy of the licensee's proposed responsible gambling initiatives. I believe that it will provide some real teeth in any framework for the transfer or granting of licences so that measures can be put in place with the aim of reducing harm in the community.

If I can obtain an indication from the Treasurer, the opposition and other interested members that they are prepared to deal with the issue over the Christmas break before we resume, we can perhaps reach a consensus position so that South Australia is not left behind the eastern states in terms of measures that will begin to tackle the issue of gambling related harm.

The Hon. P. HOLLOWAY: The opposition is happy to discuss the matter later. As the clause now stands, we would have great difficulty supporting it, particularly the reference to information about social and community issues. That is just such a broad, vague proposition that, in my view, it would be most impractical. What particular social and community issues should the authority have regard to? It could be anything. It seems to me to be fairly impractical. I think the Hon. Nick Xenophon virtually made that comment himself when he asked us to have regard to particularly the last part of the amendment. It is a matter that we would be prepared to look at seriously next year.

The Hon. R.I. LUCAS: I share some of the concerns of the Hon. Mr Holloway. As with all the amendments, we are happy to have further discussion and debate between now and March.

Amendment negatived; clause passed.

Clauses 23 to 32 passed.

Clause 33.

The Hon. NICK XENOPHON: I move:

Page 23, lines 7 and 8—Leave out 'the management, supervision and control of'.

This amendment seeks to remove the words 'the management, supervision and control of' from subclause (1) so that it would read:

The authority may, by written notice, give directions to the licensee about any aspect of the operation or licensed business.

My concern is that the Gaming Supervisory Authority is too restricted in terms of its current powers. Restricting it to management, supervision and control unduly fetters its role in terms of monitoring licensed businesses and in particular having a positive role to play with respect to responsible gambling. This was brought home to me in relation to the Adelaide Casino's gaming manual, which apparently was circulated to a number of employees for a number of years whilst the casino was under state ownership.

The Gaming Supervisory Authority took the view that it did not have a role to play with respect to approval or disapproval of the manual. I think that points to a loophole in existing legislation or at least a distinct lack of power of the authority to deal with these sorts of issues. That manual included references to baiting the hook (the way in which you bait and hook players), including issues such as quoting writers on the gambling industry who say that free drinks have never been known to promote an attitude towards responsible gambling and that clocks should not be in casinos because you can have a timeless air of unreality in a casino.

I would have thought that, if the authority was to have an effective role, it was unduly fettered by the words 'management, supervision and control'. Of course, it could look at the issues of management, supervision and control, that goes without saying, but it could have a broader role. I look forward to discussing this issue with the government, the opposition and any other members over the Christmas break so that these issues can be addressed in what appears to be a totally inadequate regulatory framework.

The Hon. P. HOLLOWAY: While we would be happy to discuss the subject with the Hon. Nick Xenophon, I do not think that we could support the amendment as it is now worded. What the clause would read, if it was carried, is:

The authority may, by written notice, give directions to the licensee about any aspect of the operation of the licensed business.

That is an incredibly broad power. That means that they can give direction about the colour of their signs, what happens in the car park and so on. It is one thing to give directions about the management, supervision and control of any aspect of the operation of the licensed business, but if you are going to get into that sort of level we believe that that is really an

intrusion that could not be warranted. Nevertheless, if there is some other way that we can perhaps amend the provision to something that is more satisfactory to the honourable member in relation to any areas he might see as deficient, we are prepared to look at that.

The Hon. R.I. LUCAS: The government shares some of the concerns that have been expressed by the Hon. Mr Holloway. Obviously, we are happy to have discussions.

Amendment negatived; clause passed.

Clauses 34 to 41 passed.

New Clause 41A.

The Hon. NICK XENOPHON: I move:

After clause 41—Insert:

Interactive Betting

41A. (1) It is a condition of the major betting operations licence that the licensee must not conduct interactive betting under the licence except as authorised by regulation.

(2) A regulation made for the purposes of subsection (1) cannot come into operation until the time has passed during which the regulation may be disallowed by resolution of either House of Parliament.

(3) If interactive betting is authorised by regulations under this section, it is a condition of the major betting operations licence or an on-course totalisator betting licence that the licensee must not accept a bet in the course of interactive betting operations under the licence on a contingency related to a race, sporting match or other event after the commencement of that race, sporting match or other event.

(4) In this section—'interactive betting' means—

(a) betting by means of internet communication; or

(b) betting by any other electronic means of communication that is interactive and includes transmission of visual images.

I note the amendment of the Hon. Paul Holloway. From my point of view, that would be my fall-back position, subject to the views of honourable members in respect of the new clause I have moved.

The Hon. R.I. Lucas interjecting:

The Hon. NICK XENOPHON: The amendment relates to interactive betting. It makes it a condition of any major betting operation's licence or on-course totalisator betting licence that the licensee cannot conduct interactive betting under the licence except as authorised by regulation. In other words, it provides for parliament to have a role with respect to disallowing regulations in relation to interactive betting.

This new clause replaces amendments I filed on 30 November this year in order to include references to sporting matches and other events; in other words, to allow for sports betting. My concern is the recent cricket scandal and the match fixing involving Hanse Kronje and a number of Indian bookmakers. This new clause would allow for a framework to be put in place in relation to sports betting as well.

The TAB, as recently as Tuesday of this week, now offers sports betting on a range of sporting events. My concern is that we do not have an adequate regulatory framework. That framework ought to be subject to scrutiny by this parliament, given the potential for sporting codes to be undermined. In the circumstances, I urge all honourable members to consider the new clause. I note that, if the committee does not support my new clause, my fall-back position is to support the Hon. Paul Holloway's new clause because at least, in a prospective sense, it attempts to deal with the issue.

The Hon. P. HOLLOWAY: I move:

After clause 41—Insert:

Parliamentary approval required for interactive betting

41A.(1) It is a condition of the major betting operations licence or an on-course totalisator betting licence that the licensee must not conduct interactive betting under the licence except as authorised by regulation.

(2) Subsection (1) does not prevent the holder of the major betting operations licence from conducting interactive betting of a kind conducted by the South Australian Totalizator Agency Board on or before 29 November 2000.

(3) A regulation made for the purposes of subsection (1) cannot come into operation until the time has passed during which the regulation may be disallowed by resolution of either House of Parliament.

(4) In this section—'interactive betting' means—

(a) betting be means of internet communications; or

(b) betting by any other electronic means of communication that is interactive and includes transmission of visual images.

On a number of occasions I have referred to the select committee report on internet and interactive gambling. I indicate that, in relation to the report brought down earlier this year in relation to that subject, my position was that it would be virtually impossible to prohibit internet and interactive gambling and I supported a scheme of managed liberalisation. We need to develop a proper regulatory framework for managing internet gambling.

My new clause proposes to draw a line under the TAB in respect of the extent of its gambling operations. The internet betting now available on the TAB through phone accounts is the only type of internet gambling which is presently legally conducted in South Australia. We do not wish to do anything to restrict that at all. However, we do not believe that that activity should be expanded without the parliament properly considered it. I indicated earlier today that, in the near future, we need to have a comprehensive debate on how we manage interactive gambling. Hopefully, that can be part of the wide-ranging debate on gambling that we have next year. It is certainly urgent. I have already referred to the Hon. Angus Redford's speech yesterday where he put similar views.

My new clause is essentially a holding amendment. We are saying: let us draw a line under it until we have a framework for proper regulation so that, if there is to be any expansion of gambling activity within the TAB, it must first come through this parliament. I think it is important that we do that before the sale so that it is made crystal clear to the new owners of the TAB that they should not expect some automatic right to expand internet gambling without this parliament's approval.

My view is that at some stage in the future, when we have a proper framework, and if I am satisfied with the safeguards, I will be inclined to support some extension of the activities. I do not believe that we should allow that to happen at this stage until that framework is in place and the parliament has considering it. That is why I think it is important that we move this amendment.

My amendment is similar, but slightly different, to that of the Hon. Nick Xenophon. Clause 2 of my amendment provides that we would not seek to prevent the new operator of the TAB from conducting interactive betting of a kind that is already being conducted, and it sets 29 November as the date for that. The opposition wants to make it quite clear that we do not want to stop what is already in place but we want to ensure that, before any expansion takes place by the new owner, it is considered by the parliament. I believe that is particularly important now that the TAB is to be privatised, because there is no doubt that the new owner will look for ways to expand gambling revenue, and we have a responsibility to the people of South Australia to ensure that that expansion is given some oversight by this parliament. I ask the committee to support my amendment.

The Hon. R.I. LUCAS: I have a significant problem with both the amendments before us. This bill, and the privatisa-

tion process, are issues of some substance. In relation to the amendment moved by the Hon. Nick Xenophon, I am advised that if it is successful all the existing interactive betting allowed on horse racing by the TAB will be banned.

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: I assume that the Hon. Mr Xenophon, and others who support him, would not be supporting that. For a period of time (I do not know for how long) people have been able to bet by telephone with the TAB on horse racing in South Australia and nationally and then, for a period of time, they have been able to do exactly the same thing via the internet. There are a number of punters who have been betting via the internet, through the TAB, on horse racing. If the Hon. Mr Xenophon's amendment is successful, from the passage of the legislation, that would not be permitted unless you successfully went through a process of getting the regulation along the regulation path and then not disallowed by the houses of parliament. There are some very significant concerns with the amendment that the Hon. Mr Xenophon has moved, because it seeks to wind back arrangements that have existed for the TAB for some time in South Australia.

I also have significant concerns in relation to the amendment moved by the Hon. Mr Holloway, and these further concerns also relate to the amendment moved by the Hon. Mr Xenophon. As I would expect, the amendment by the Hon. Mr Xenophon's has the widest impact—

The Hon. Nick Xenophon: You wouldn't have expected anything less, would you?

The Hon. R.I. LUCAS: —I would not have expected anything less from the Hon. Mr Xenophon—right across the board. My concerns in relation to the Hon. Mr Holloway's amendment also apply to the Hon. Mr Xenophon's amendment. I am advised that sports betting on the TAB in South Australia commenced on 4 December, which is five days (or whatever it is) after the cut-off date that the Hon. Mr Holloway has stipulated in his amendment. I guess it depends on what the Hon. Mr Holloway meant when he said that he is not seeking to wind back current arrangements, because the current arrangement is that, for some time prior to the start of December, there has been approval for sports betting: costs and implementation costs and processes have been set up and it is now operational.

The other significant issue—and I understand the views of the Labor Party—is that last evening we debated the proprietary racing bill and, I think, an amendment by the Hon. Mr Redford which talked about interactive gambling being conducted on proprietary racing as long as it is not done by South Australian residents, or words to that effect. So, the contract the TAB has is that it will be offering interactive gambling to people outside South Australia—whether they be in Australia or in other countries—on proprietary racing being conducted in South Australia. That has been supported by a majority of members in this parliament.

My understanding is that, whilst we would require legal advice on the construct of the Hon. Mr Xenophon's proposed new clause 41A(2), there is a reasonably good prospect that this amendment will pick up the interactive gambling provision that was discussed last evening in terms of proprietary racing. As evidence of that, I am told that the federal parliament's moratorium legislation uses the words 'betting of a kind', which is the same phrase used by the honourable member. Senator Alston, the author of the legislation, argued that this new form of racing (it can be assumed that he is referring to proprietary racing) is not 'betting of a kind'.

If the reports of Senator Alston's views on the federal legislation are correct, and if that follows through in terms of the legal interpretation of this clause, the Hon. Mr Holloway is having another bite of the debate that we had last night. After long debate last night, the upper house—and we understand that the lower house is likely to agree—approved an arrangement whereby the TAB contract with Cyber Raceways, which will allow interactive gambling by non-South Australian residents, effectively might be prevented subject to another debate on regulations in this chamber as a result of the Hon. Mr Holloway's amendment.

When the Hon. Mr Holloway said that he did not seek to wind things back in relation to sports betting and given that, yesterday, during the debate his views were unsuccessful, is it his intention to use this as a mechanism to again try to stop the interactive betting arrangement for proprietary racing, or is this an unintended consequence of the drafting of his amendment? The government has significant concerns with the breadth of the Hon. Mr Xenophon's amendment but also with the amendment as drafted by the Hon. Mr Holloway.

The Hon. P. HOLLOWAY: First, in relation to the sports betting issue, if that has been introduced subsequently I have some sympathy. The reason for the date in my amendment of 29 November is that my amendment is identical to the one moved by my colleague in another place when the bill passed the House of Assembly. The date can be adjusted to today's date. If that resolves that problem, I am amenable to that.

Regarding the debate on the bill last night, if the TAB has entered into some commercial agreement with Cyber Raceways, I asked a number of questions last night during that debate but I got no answers at all. The minister responsible told me that it was all commercially in confidence. I asked at least a dozen questions and got absolutely no information at all. If the government is going to enter into these agreements with Cyber Raceways before the parliamentary legislation is even passed, personally, I do not have a great deal of sympathy with that.

If the government is not even prepared to give us the details of that agreement, I am not going to put myself in a position of having to agree to an agreement that has been made when we have absolutely no idea of what constraints there are on it. We do not want to be difficult. If the government legitimately enters into a contract with another party, it is a tradition that the Labor Party will honour those contracts in the future, because we do not want to get into a situation where we might be liable for compensation or anything else. It is a very difficult position for us when we cannot get any answers whatsoever on what agreements might have been signed. I am not prepared to sign a blank cheque but, if the government can come up with some reasonable proposition, if it cares to give us the details and provide us with information on what difficulties there might be, we would be prepared to look at it.

The Hon. M.J. ELLIOTT: I support the Hon. Mr Holloway's amendment.

The Hon. R.I. LUCAS: Whilst I understand the frustration of the honourable member in relation to some of the questions that he and other members asked last night about the commercially confidential contract between the TAB and Cyber Raceways, I do not believe that that was the response to the general discussion about the general nature of the interactive gambling arrangements in that contract. I think

there was pretty clear discussion about the fact that, because it was moved as an amendment by the Hon. Mr Redford, the legislation will make it clear that betting on proprietary racing in South Australia will only be available to non-South Australian residents. That is the import of the Hon. Mr Redford's amendment, which was subsequently approved by the parliament.

As I said, whilst I understand the criticisms about other aspects of the commercially confidential contract between the TAB and Cyber Raceways, I do not intend to pursue that debate today. I do not believe that it is fair to imply that the general nature of the interactive gambling component of that contract was not made clear last night. I make it clear that there is a contract between the TAB and Cyber Raceways; and the TAB will provide the betting options for proprietary racing for non-South Australian residents if the legislation is passed to allow proprietary racing in South Australia.

I will not prolong the debate. Obviously, we are opposed to the Hon. Mr Xenophon's amendments and we are certainly opposed to the Hon. Mr Holloway's amendments. Should they be successful in this chamber, they will obviously require further discussion between interested parties in the House of Assembly before the legislation comes back to us.

The Hon. P. HOLLOWAY: To shorten the debate, I seek leave to amend my amendment as follows:

Delete '29 November 2000' and insert '8 December 2000'.

Leave granted; amendment amended.

The Hon. P. HOLLOWAY: Regarding the other matter raised, if this clause is passed that can be resolved later but, at this stage, given the fact that we do not have any information at all about the agreement, I do not think we should alter our position.

The Hon. Mr Xenophon's new clause negatived.

The committee divided on the Hon. Mr Holloway's new clause as amended:

AYES (10)

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

NOES (9)

Cameron, T. G.	Davis, L. H.
Dawkins, J. S. L. t.)	Griffin, K. T.
Laidlaw, D. V.	Lawson, R. D.
Lucas, R. I. (teller)	Schaefer, C. V.
Stefani, J. F.	

Majority of 1 for the ayes.

New clause as amended thus inserted.

New clause 41B.

The Hon. NICK XENOPHON: I move:

Insert new clause—

Approval of systems and procedures to prevent betting by Australians on proprietary racing.

41B. (1) If the holder of the major betting operations licence or an on-course totalisator betting licence is authorised to conduct betting operations in resect of proprietary racing, it is a condition of the licence—

(a) that the licensee must have systems and procedures approved by the Commissioner designed to prevent the acceptance of bets on proprietary racing from persons within Australia; and

(b) that the licensee must ensure that the operations under the licence conform with the systems and procedures approved under this section.

(2) In this section—

'for profit entity' means a person or body other than—

(a) a body corporate that is unable, because of its constitution or its nature, lawfully to return profits to its members; or

(b) a body corporate each of the members of which is a body corporate of a kind referred to in paragraph (a); or

(c) a body corporate each of the members of which is a body corporate of a kind referred to in paragraph (b);

'proprietary racing' means races conducted—

(a) by a for-profit entity; or

(b) under an arrangement with a for-profit entity,

with a view to generating profit for that entity;

'race' means any form of race.

This amendment relates to approval of systems and procedures to prevent betting by Australians on proprietary racing. We dealt with this issue with respect to the proprietary racing bill last night. It relates to having systems and procedures in place. I do not intend to call for a division on it. It seems that to some extent it has been dealt with, at least with respect to South Australians, in the debate on the bill last night. Again, I ask members to consider the whole issue of an appropriate regulatory framework. I will not take any more time with respect to the clause.

The Hon. R.I. LUCAS: For reasons I have outlined earlier we oppose this, and we are happy to have further discussions about the amendment.

New clause negatived.

Clause 42.

The Hon. NICK XENOPHON: I move:

Page 27, after line 33—Insert:

(3) The licensee must, when seeking the approval of the location of an office, branch or agency under this section, provide the Authority with—

(a) a community impact statement; and

(b) a statement of responsible gambling initiatives for the operations under the licence at that office, branch or agency.

(4) In preparing a community impact statement or a statement of responsible gambling initiatives, the applicant must have regard to relevant guidelines issued by the Authority.

This amendment is similar to a provision which we debated a few moments ago and which was defeated quite convincingly. I do not propose to say further about it, other than that it is similar to amendments seeking a community impact statement or a statement of responsible gambling initiatives in relation to location of an office, branch or agency.

Amendment negatived; clause passed.

Clause 43 passed.

Clause 44.

The Hon. NICK XENOPHON: I move:

Page 28, after line 15—Insert:

(c) allow a person to use a credit card or charge card for the purpose of paying for, or setting aside an amount for, bets.

I am particularly concerned about this amendment given its potential impact on reducing levels of problem gambling. Clause 44(b) provides that it is a condition of a major betting operations licence or an off-tote totalisator betting licence that the licensee cannot lend money or anything that might be converted into money or extend any form of credit. I consider that that clause does not cover circumstances where a person is allowed to use a credit card or charge card for the purpose of paying for or setting aside an amount for bets, and that is what this amendment seeks to do. My concern is that people have easy access to credit via their credit cards. At the moment, I believe it is a grey area: the TAB allows people to use their credit cards with a phone bet facility to put funds into an account via their credit cards and then bet from that. Having easy access to credit is a real concern in terms of levels of problem gambling.

I urge members to consider this. I have dealt with individuals who have used credit cards where there has been a misdescription of transactions, and I will refer to that briefly in relation to proposed new clause 44A. The current provisions are a bit of a joke. Clause 44 does not cover the field, so this amendment would ensure that credit cards could not be used for the purpose of betting so that, if you are to have a bet, you ought to have the money available rather than using credit for the purpose of betting, which is very much a key driver in gambling addiction and levels of problem gambling.

The Hon. P. HOLLOWAY: In broad terms the position of the opposition on this matter is that we would seek to go with the status quo. I would like some indication from either the Hon. Nick Xenophon or the Treasurer on the current situation in relation to the use of credit cards. We would not support a restrictive measure. If any element of this clause was retrospective in the sense that it restricted activities that might now be legal, we would not support that, but if it is preserving the status quo we would consider the amendment.

The Hon. R.I. LUCAS: The simple answer is that it does not preserve the status quo: it would restrict activities that are currently legal. I understand where the honourable member is coming from. Not that I want to assist him, but in terms of his own drafting I think he needs to think it through. It is possible for me, even under his construct, to transfer money from a credit card account to a savings account and then have the money come out of the savings account to go into the TAB account. You could drive a Mack truck through the honourable member's drafting.

That is not criticising the Hon. Mr Xenophon: I am just saying that, whilst not wishing to encourage him to come back with further creative drafting now, he might want to do that in March. The answer to the Hon. Mr Holloway's question is that it is not the status quo. It would significantly wind back the current arrangements. Even if we wanted to adopt the position of the Hon. Mr Xenophon, it will not achieve what he seeks to achieve, because it is just a simple mechanism to get around his proposed drafting of the clause.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Holloway is indicating that he is not supporting it. I indicate that the government is prepared to support the status quo as it has operated in relation to the TAB. If the honourable member wants further discussions on this issue (together with the other 246 issues that we have agreed to) we are happy to do so. Obviously, there is a fair bit of work to be done if the honourable member is to achieve what he wants to achieve without being unduly restrictive of many people who are not problem gamblers and who quite happily manage their credit and bet on the TAB.

I am told that the arrangement here would mean that account holders would have to send cheques or money orders, perhaps pay funds at a branch or transfer funds from standard savings accounts. As I said, there is a mechanism whereby someone could transfer credit to a savings fund then to the TAB. The honourable member's amendment would not be able to pick up that position.

The Hon. NICK XENOPHON: I thank the Treasurer for his remarks. The current position with respect to the Gaming Machines Act is that you are not supposed to bet on credit. The provision of credit from a gaming machine licence holder or an authorised staff member is a serious offence. My understanding of the public policy reasons behind that is that to give credit to someone in the context of the gaming machine venue is something that can fuel levels of problem gambling. That is why that clause was inserted in the act back in 1992.

It seems to be a public policy rationale that this parliament with respect to gaming machines says that it is not desirable that credit be given to people because it can increase levels of problem gambling. Again, the Productivity Commission report—most of which I agree with, although I do not agree with it all—has indicated that the provision of credit is a significant driver in increasing levels of gambling addiction.

The difficulty we have in relation to the TAB with respect to phone bet accounts is that it can be easily facilitated, and I have raised this in the chamber on a number of occasions. You just transfer the credit from your card into an account and bet. The Treasurer is quite correct in suggesting that, if someone transfers that money from a credit to a savings account and from a savings account to a TAB account, that would—

The Hon. R.I. Lucas interjecting:

The Hon. NICK XENOPHON: But at least it is one step removed, so that might act as a pause for reflection. In any event, it would not be unduly restrictive. It just prevents the TAB and other operators from encouraging people to use their credit cards, which the TAB is doing at the moment, for the purpose of gambling. In other words, it does not encourage that culture of betting on the never-never, which is one of the issues raised in the Gaming Machines Act debate.

That is the rationale behind it. I understand that I do not have the numbers for this, but it is an issue that at least ought to be considered in the next few months, because it is a key factor in increasing levels of problem gambling.

The Hon. R.I. LUCAS: I think it is unfair to say that the TAB is encouraging credit card betting.

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: If the honourable member can show me that, I am happy to stand corrected. I understand that what the TAB does is say that you have to have money in your account, and only if you have money in the account will they allow you to bet. They will not allow you to bet on credit in relation to phone betting or internet betting.

The point I want to make and which I made by way of interjection is that at the moment, through phone banking in your home at night, using your computer or telephone, you can transfer money from your credit card account to your savings account and then to your TAB. You can go to an ATM machine and transfer money from a credit card by the push of a button to your savings account.

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: That is right. You can go to the ATM and take money out against your credit card limit. You can go to an ATM machine and actually get cash on credit (that is, you are going into debt), and go along, even under the amendment, and hand over $200 or $500 in cash to the TAB. Technology, the reality of banking in the year 2000 and what the honourable member is seeking to do by way of this amendment clash pretty significantly. He does not achieve what he wants to achieve.

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: No, he does not achieve what he wants to achieve. Equally, for the very large number of people who can happily bet on the TAB using their credit card account or whatever account it might be without getting into trouble, it is a significant impediment. In relation to the brochure the honourable member is talking about, when we come in March to talk about responsible gambling practices, advertising codes and those sorts of things, gambling

providers openly encouraging people to bet on credit is different and I would not support that; I would oppose it. That is different from allowing people who can handle their problems to gamble sensibly on the TAB or wherever it might be.

The Hon. R.R. ROBERTS: I will not be supporting this proposition. We have to remember that professional punters, in particular, are not walking around with $10. Sometimes we are dealing with thousands and thousands of dollars, and a lot of people want to use their credit card so that they do not have to carry large amounts of money around, for security reasons.

If we are talking about filtering money through the betting system, if it is actually recorded through a credit card it sets up a money trail that is helpful when we are investigating disputes over gambling that may not be entirely legal.

Also, I was a bit worried that this would take away the old nod bet at the races, which has been going on for years where, again, thousands of dollars change hands and you may not be able to settle with your credit card, you have to go around with the cash. Whilst well intentioned, this amendment is not drafted in a form that I find acceptable.

Amendment negatived; clause passed.

New clause 44A.

The Hon. NICK XENOPHON: I move:

After clause 44—Insert:

Misrepresentation or misdescription of credit transactions

44A. (1) A responsible person must not, in any transaction involving a payment at an office, branch or agency of the holder of the major betting operations licence or at a racecourse by means of a credit facility provided by an ADI, describe or represent any cash advance extended to another person who the responsible person knows, or could reasonably be expected to know, intends to use the cash advance to gamble at the office, branch or agency or racecourse (as the case requires) to be a payment for goods or services lawfully provided at the office, branch, agency or racecourse or elsewhere.

Maximum penalty: $20 000.

(2) In this section—

'responsible person' means—

(a) in respect of an office, branch or agency of the holder of the major betting operations licence—the holder of that licence or an agent or employee of the holder of that licence;

(b) in respect of a racecourse—the holder of an on-course totalisator betting licence for the racecourse or an agent of employee of the holder of an on-course totalisator betting licence.

This relates to a misrepresentation or misdescription of credit transactions. It is an issue that I have raised privately with the Treasurer in relation to instances that have been brought to my attention by gambling counsellors where some venues, gaming machine venues in particular, have misdescribed a credit card transaction for the purpose of advancing cash to a person to play gaming machines. In one case, an individual lost $30 000. I should be fair and point out that the venue was a licensed club, not a hotel, and it provided cash advances by referring to the transactions as food and drink, which was clearly a misrepresentation.

The Hon. M.J. Elliott: He had an eating problem.

The Hon. NICK XENOPHON: Yes. That person has had quite severe problems as a result of those losses and his family has been deeply impacted by it. He told me that the fact that he could get the easy credit made it feel that he was not really betting with his own money. In fact, he was not, but now he has a bill of some $30 000.

New South Wales legislation has been passed along these lines. Richard Face, the New South Wales gaming and racing minister, moved amendments to this effect a number of months ago, and I have picked up on that. Again, I understand that the government and the opposition are not prepared to support this clause at this stage, but this is not a radical amendment. I would like to think that, in the new year, there will be some consensus, given that there is virtually an identical clause in New South Wales and that it would prevent those venues that are unscrupulous from misrepresenting credit card transactions for the purposes of providing cash advances for gambling.

The Hon. R.I. LUCAS: As indicated before, we are happy to have those discussions. I am advised that we will have to bring the Attorney-General into discussions relating to credit transactions because that is his formal responsibility, so I would be happy to involve the Attorney in those discussions as well. At this stage, while I understand it might be in New South Wales legislation, we need to get our head around this issue and involve the Attorney-General. I am happy to have those discussions.

The Hon. CARMEL ZOLLO: I did not hear the Hon. Nick Xenophon explain where this had occurred previously in relation to food, so I wonder whether he would repeat it.

The Hon. NICK XENOPHON: It has been brought to my attention on a number of occasions that gaming machine venues have advanced money for gaming on credit cards. In this case, which involved a licensed club, $30 000 was advanced to an individual via his credit card. The transactions were described as food and drink, up to $500 in one night, and now that person has quite severe difficulties, as has his family. There may well be issues about a duty of care on the part of the venue to that person. There have been abuses, and I do not think that responsible operators would have a difficulty with this, given that the Hotels Association and Clubs SA have endorsed principles in their code of practice with respect to credit card transactions being properly described, or to that effect. I understand that the numbers are not here now, but I would like to think that this is one very basic reform that can be dealt with early next year.

The Hon. P. HOLLOWAY: We are happy to deal with it next year. The new clause as it stands is a rather complex piece of drafting, as anyone who reads it would understand. It is one of those issues that is so complex that it warrants a lot further attention.

New clause negatived.

Clauses 45 to 48 passed.

Clause 49.

The Hon. NICK XENOPHON: I move:

Page 29, line 21—After 'agencies' insert:
, and on betting tickets,

This states simply that betting tickets provide information in relation to problem gambling, and that is not unusual in a number of jurisdictions overseas. For example, in the US, even a lottery ticket provides information as to where one can get help for problem gambling. It is just a reminder and part of a cultural shift to acknowledge that gambling carries a significant downside for an increasing number of South Australians. I urge members to support this minimalist change.

The Hon. R.I. LUCAS: Despite the honourable member's strong urgings, we are happy to have discussions on this issue between now and March but, at this stage for the reasons indicated earlier, we will not be supporting it.

Amendment negatived; clause passed.

New clause 49A.

The Hon. NICK XENOPHON: I move:

After clause 49—Insert:

Staff training or instruction manuals

49A. (1) It is a condition of the major betting operations licence or an on-course totalisator betting licence that the licensee must submit to the authority—

(a) any staff training or instruction manual; and

(b) any proposed variation of a staff training or instruction manual,

at least 14 days before the manual or variations become effective.

(2) The authority may, by written notice to a licensee, require a staff training or instruction manual or proposed variation of a staff training or instruction manual to be altered as set out in the notice.

(3) It is a condition of the major betting operations licence or an on-course totalisator betting licence that the licensee must ensure that all alterations required to be made by written notice under subsection (2) are made in accordance with that notice.

(4) In this section—

'staff training or instruction manual' means any material (in printed or electronic form) prepared by or on behalf of a licensee containing information that may reasonably be considered relevant to staff of the licensee in the conduct of, or in training for, their duties in relation to gambling activities.

This relates to the authority's having some input into staff training or instruction manuals. This has been triggered by the Adelaide Casino gaming manual, which was in circulation for a number of years, and I do not think that anyone in this place would endorse all the things contained in that manual in terms of some of the practices that it appears to sanction or countenance. I do not propose to divide on the measure but it is an important issue that ought to be put into the melting pot of appropriate gambling regulation in this state.

The Hon. R.I. LUCAS: This is one of the areas where it may well be possible to reach some sensible accommodation, but work will have to be done. We are happy to do that with the honourable member and other interested parties.

The Hon. P. HOLLOWAY: It seems reasonable to the opposition, but it is probably best considered as a total package next year.

New clause negatived.

Clauses 50 to 55 passed.

Clause 56.

The Hon. NICK XENOPHON: I move:

Page 32, after line 18—Insert:

(2) However, a permit may not authorise interactive betting.

(3) In this section—

'interactive betting' means—

(a) betting by means of internet communication; or

(b) betting by any other electronic means of communication that is interactive and includes transmission of visual images.

The amendment seeks to prevent the permit holder from offering interactive betting. What it is about is pretty axiomatic. It is to restrict the operation of the permit holder. My concern is that they could arguably offer interactive betting. If that is the intention of the government then at least it can be put on the record. For the reasons that I have already outlined in the course of this debate, I have grave reservations about that.

The Hon. R.I. LUCAS: I am not well informed in relation to what the likely future developments in this area are in terms of bookmakers. We will have the opportunity in March to debate this issue, so at this stage I have an open mind. I have strong views about interactive betting but I have an open mind in the context of the total debate in this parliament about how bookmakers fit into it, but I think I need to talk to the Bookmakers League to find out what if any problems might be caused by this measure if it was put into the legislation now, or even in March. At this stage I have not had those discussions so I am really not in a position to support it.

The Hon. P. HOLLOWAY: This is likely to be a conscience vote for members of the opposition and I think all of us, particularly those members who have been doing other things and handling other bills during this very busy end of session, would like the opportunity to consider our views on this over the break.

Amendment negatived; clause passed.

Clauses 57 to 60 passed.

New clause 60A.

The Hon. NICK XENOPHON: I move:

After clause 60—insert:

Prohibition of lending or extension of credit

60A. It is a condition of a bookmaker's licence that the licensee must not—

(a) accept a bet unless the licensee has received the amount of the bet; or

(b) in connection with the making of the bet, lent money or anything that might be converted into money or extend any other form of credit; or

(c) allow a person to use a credit card or charge card for the purpose of paying for, or setting aside an amount for, bets.

As I understand it, the current position is that bookmakers can provide credit. I would have thought that, given the public policy position set out in the Gaming Machines Act about the provision of credit, and the potential of credit betting to increase levels of problem gambling, at least there ought to be some uniformity or some consistency in respect of this approach. That is why I am moving this amendment. The whole issue of credit gambling ought to be seriously considered by honourable members, and I would like to think that, if it cannot be supported now, there should at least be some broad discussion in the next few months so that this issue can be dealt with. It seems to be an extraordinary loophole within the current legislation whereby bookmakers can offer credit betting with impunity.

The Hon. R.I. LUCAS: I think this is one where there might be some significant difficulties. I think the Hon. Ron Roberts will have a word or two to say on this issue. This is a significant issue in terms of the culture, tradition and practice of bookies. If this amendment is successful, on my advice we might see world war three in and around the bookmakers. I am told that the whole notion of betting on the nod with known customers, particularly the big punters, is a traditional part of bookmaking—one of the great traditions and joys of bookmaking. Obviously, they only do that with people they know and with whom they can settle their arrangements afterwards. To ban betting on the nod, particularly for professional punters here in South Australia—

The Hon. Nick Xenophon: How do you define 'professional punter'?

The Hon. R.I. LUCAS: I am sure the bookies somehow manage to do that. I think there would certainly be a significant cultural change in the operation of bookmaking in South Australia. I do not support this and, I think before any members are tempted to support it, they ought to do some quick research and have some discussions with people involved in the racing industry, particularly those who want to see a continuation of bookies operating at the track here in South Australia. It is part of the colour, as one member mentioned last night in terms of the colour of racing in South

Australia. I am strongly opposed to this provision and I would urge other members, if they are attracted to do it, to at least be cautious and have some discussions with those who might be affected by this before they support it.

The Hon. P. HOLLOWAY: The Opposition is opposed to this clause for the reasons the Treasurer has just set out. We are happy to review most of the Hon. Nick Xenophon's amendments, but I think this is one that the opposition is extremely unlikely to support in March.

New clause negatived.

Clauses 61 to 80 passed.

New clauses 80A and 80B.

The Hon. NICK XENOPHON: I move:

After clause 80—Insert:

Prohibition on sports betting by participants and families

80A.(1) A person must not make a bet in respect of a sporting event (other than an animal race) if—

(a) the person is to participate in the event as a player, umpire, referee, coach or team manager; or

(b) the person is the spouse, child, parent or sibling of a person referred to in paragraph (a).

Maximum penalty: $50 000.

(2) The holder of the major betting operations licence, an on-course totalisator betting licence or a bookmaker's licence must not accept a bet knowing that the making of the bet would be in contravention of subsection (1).

Maximum penalty: $50 000.

Register of major sports betting

80B.(1) The holder of the major betting operations licence, an on-course totalisator betting licence or a bookmaker's licence must—

(a) notify the Authority of each bet accepted by the holder in respect of a sporting event (other than an animal race) of an amount of or exceeding $5 000; and

(b) provide the Authority with information relating to the bet, as required by the Authority.

Maximum penalty: $10 000.

(2) The Authority must maintain a register of bets notified to it under subsection (1) and make that register available to the Commissioner, a person authorised by the Commissioner for the purpose or a police officer acting in the course of his or her duty.

Proposed new clause 80A prohibits sports betting by participants and families. Members are aware of scandals involving a number of cricket players, in particular Hansie Cronje, in relation to match fixing allegations. Given that sports betting is now being offered by the TAB as of, I think, 4 December, my concern is that players, umpires, referees, coaches or a team manager not be allowed to bet on the outcome of the match they are involved in. The rationale behind it is to prevent match fixing or at least to draw a line in the sand, that it is not appropriate for players to be betting on their own match. With respect to proposed new clause 80B—

The Hon. L.H. Davis interjecting:

The Hon. NICK XENOPHON: The Hon. Legh Davis says that the law says that murder is illegal and it does not stop it happening, but I do not think the Hon. Legh Davis is saying that, if we get rid of the law, we get rid of murder. There ought to be a framework in place so that the integrity of the sporting codes can be maintained and not undermined.

We have seen what has happened to cricket in South Africa and India, and to some extent reports have been produced with respect to that. The International Cricket Board is looking at the issue of match fixing and the impact of gambling on cricket. There is a danger that, unless you have some rules in place to prevent players from directly participating in betting on a match, you could compromise the sporting code.

I would like to think that members will look at this matter seriously, if not now at a later stage, given the potential for match fixing that has been realised in recent months. Some members would look askance at some Australian cricketers being paid handsomely for so-called weather reports and pitch information, and I think the Australian Cricket Board has been looking at that—

The Hon. J.F. Stefani interjecting:

The Hon. NICK XENOPHON: The Hon. Julian Stefani says, 'Other sports', whether it is soccer, Australian Rules, rugby or whatever: they are all issues where it is an area of concern. Now that sports betting has come on the scene—

The Hon. L.H. Davis interjecting:

The Hon. NICK XENOPHON: The Hon. Legh Davis I know is jesting. In relation to a register of major sports betting, if I can speak to proposed new clause 80B, that is a fall-back position. It simply provides that, if there is to be a bet in excess of $5 000, there must be details of the bet that has been accepted. So, if several hundred thousand dollars was bet on a match and there was an unusual result, at least the authority has some mechanism of trying to track down if anything untoward occurred.

Having said that, I hope members, if they do not consider this now, will at least look at the issue of preserving the integrity of sporting codes in the context of increasing sports betting with respect to the amendments.

The Hon. T.G. ROBERTS: If you did it properly, in the light of recent events, you would have to make it illegal for bribes to be offered. Just to prevent a player—

The Hon. J.F. Stefani interjecting:

The Hon. T.G. ROBERTS: Bribes or incentives. You would never stop players placing bets by proxy and you would have to cut that out, because that is how they get around it. They do not place the bets themselves: they have bagmen do it. I think the bill needs to be recommitted for further consideration next year. It just shows for all the cricket lovers in the chamber that a sport that we all know and love so well has been not only tainted but almost brought to the point where you do not trust your own ability to make assessments any more on the basis that there is a cloud hanging over the sport because of the corruption issues that are associated with it.

As legislators we have probably sat back and said that we will allow the internal investigatory bodies to do something about it, but obviously, from one cricket lover, that has not been enough. As legislators we need to get together and have a pool of ideas as to how to come to terms with it, because it is killing sport and it is killing a lot of people's confidence in sporting programs not being fixed.

That will include lots of other sports as Sports Bet and other forms of gambling start to play a role in aggregating large sums of money where stakeholders will have an investment in trying to influence the outcome of games. I cannot understand why those people who fix games do not go straight to the umpires rather than spread their largesse amongst a large number of people, but that is only a private view.

The CHAIRMAN: The honourable spin bowling Treasurer.

The Hon. R.I. LUCAS: Mr Chairman, I am glad you mentioned that, because I am appalled. I hope this does not prevent a friendly wager on the parliament versus the press cricket game every year—a friendly $10 wager or whatever on the outcome of the annual press—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: It is certainly not an animal race. In terms of nobbling, after recent years we have very

effectively managed to circumvent the problems we have had with the parliament losing increasingly to the press because—

The Hon. T.G. Roberts interjecting:

The Hon. R.I. LUCAS: No, what we have done is taken the captain of the media team out of the media and put him in the government. Other significant members of that media team may well be getting jobs outside the media before next April or May—as an indication of how you want to nobble the opposition.

The Hon. L.H. Davis: And this is a clever way of circumventing the clause.

The Hon. R.I. LUCAS: Exactly. I have some significant concerns about the honourable member's amendments. As he knows, the interactive gambling select committee is about to take evidence in the next week or two from one of the major national sporting associations about the whole issue of sports betting. I think there is a view—and I am sympathetic to some of the views expressed by the Hon. Terry Roberts—about what the national sporting associations are going to do in terms of policing their own operations.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: But as a foundation we need to know what the AFL, the Cricket Board and the major associations are going to do in relation to the control of their own participants in their sporting codes. Before we in the parliament rush in with a sledgehammer, we need to have sensible discussions with the major sporting associations and bodies and find out what it is that they are doing.

In the end, if we think that they are being dilatory, that they are not moving with the pace that we believe they ought to be moving, then clearly there is the capacity for the parliament to seek to legislate. But even if you were to seek to legislate, I think the honourable member's proposal is a bit extreme, if I can politely put it that way.

Proposed new subclause (2) provides that the holder of a betting operations licence or a bookie or on-course totalisator must not accept a bet knowing that the making of the bet would be in contravention of subsection (1), and there is a penalty of $50 000. Subsection (1) provides that, if somebody is a sibling, child or parent of a participant in a sporting contest, they are not allowed to bet. So if someone knowingly takes a bet from the child, parent or sibling of someone who is in the sporting contest, they are in contravention of subsection (2) and the maximum penalty is $50 000.

Equally, if you are a member of the Australian Cricket Team and you are betting against yourself in a particular test match or something like that, a lot of people might recognise that person; but frankly you would be very surprised if not everyone recognises every member of the Australian Cricket Team even if they are doing television commercials for Weetbix or Vita-Brits or whatever it is at the moment.

Whilst many of us might recognise the prominent members of a cricket or Australian rules football team, or a rugby or soccer team, not everyone will do so. It may well be that someone will say that you should know them, and that you should know the captain of the national soccer team or whatever. Someone else could say, 'How could you not have known that it was Steve Waugh when you took the bet at the front counter? Everyone knows who Steve Waugh is!' There may be people who can say quite genuinely that they do not know Steve Waugh or Mark Waugh from a bar of soap. Yet there may be the argument that everyone knows who Steve Waugh is and therefore they should not have accepted that particular bet, because it contravenes subclause (2)—

The Hon. L.H. Davis interjecting:

The Hon. R.I. LUCAS: I think that is the point made by the Hon. Terry Roberts, who said that there are ways of circumventing this. However, I think we should at least look at the national associations in particular. I think we are talking about those areas where there is a lot of betting potential, such as cricket and football. Soccer may be another area; the Hon. Julian Stefani may well be able to comment on that. Rugby is another area, and there may be other sports. At this stage we do not support the provision. Clearly, there will be discussion and we will start that in the interactive gambling select committee in the next couple of weeks.

The Hon. P. HOLLOWAY: The Labor caucus has not had an opportunity to discuss this amendment because it has been circulated only in the past 24 hours or so. I can say personally that I have some support for the idea of stronger legislation which tightens up betting by participants, and the events we have seen in cricket underline that. I think everyone in this parliament would probably agree that we need to do something about the problem. However, I am not sure that this is the answer, and I guess we need to look at whether this is the appropriate act in which to address it. There may be other acts that do it more effectively. I will leave it up to the legal people to determine that.

It may also be that to regulate betting by participants we need to require the sports themselves to develop some codes of conduct. I am thinking aloud on these things. I certainly think we need to put a lot more effort into it, and hopefully the select committee to which the Treasurer has referred will come up with some recommendations shortly that will help the parliament develop these rules.

New clause 80B requires the notification of major bets. From the opposition's point of view, I think we would like to talk to the industry and the people involved to get their opinion. I think for all those reasons it would be better if we did not deal with it today. However, I would not want people to think that the opposition does not believe that this matter is very urgent. Obviously it is urgent, given what has happened in cricket, and hopefully we can come up with some worthwhile changes to our legislation early next year.

New clauses negatived.

Clauses 81 to 91 passed.

New clause 92.

The Hon. NICK XENOPHON: I move:

After clause 91—Insert:

Review of Act

92. The minister must, within 12 months after the day on which this Act is assented to by the governor, cause this Act to be reviewed in light of the report of the Productivity Commission 1999, Australia's Gambling Industries, Report No. 10, AusInfo, Canberra and cause a report of the review to be laid before both Houses of Parliament.

I indicate that, after this amendment, there are various amendments to the Casino Act, the Gaming Machines Act and the Lotteries Act. I do not want to deprive honourable members of the opportunity to debate any of these clauses but it seems, given the consensus between the government and the opposition, that these matters ought to be dealt with at a later time. I respect that in a sense. We have already had a test clause in relation to the Authorised Betting Operations Bill in that that provision is very much mirrored in other acts. I do not propose to move any of my other amendments unless honourable members are keen to deal with all of them now.

My proposed new clause provides that, within 12 months after the day on which this act is assented to by the Governor, the minister must cause this act to be reviewed and cause a

report of the review to be laid before both houses of parliament. It also refers to 'in light of the report of the Productivity Commission'. Given what the Treasurer and the Hon. Paul Holloway have said about that, I am quite happy to live with that part of it being deleted. I understand the Hon. Paul Holloway proposes to delete those words, and I am more than prepared to accept that. I think it is important that we have a review of this act. I urge honourable members to support this clause so that we can have further meaningful discussions in relation to this bill in the context of a review that is laid before both houses of parliament.

The Hon. P. HOLLOWAY: I move:

Delete the words 'this act is assented to by the Governor, cause this act to be reviewed in light of the report of the Productivity Commission 1999, Australia's Gambling Industries, Report No. 10, AusInfo, Canberra' and insert 'section 7 comes into operation, cause this act to be reviewed.

That would then provide that the minister must, within 12 months after the day on which section 7 comes into operation, cause this act to be reviewed and cause a report of the review to be laid before both houses of parliament.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: The minister must do so within 12 months after the day on which section 7 comes into operation. Parliamentary Counsel advised me that, if we had left it as 'the day on which the act is assented to', it may well be that the act is assented to fairly quickly but most of the provisions of the act may not become operational for some months afterwards. What I have done, with the advice of Parliamentary Counsel, is to suggest that, 12 months after the day on which section 7 comes into operation, that is when the major licence is issued. Then we cause this act to be reviewed and cause a report of the review to be laid before both houses of parliament. I think that is a more sensible approach to adopt. That would give us 12 months after the licence becomes operational.

The Hon. R.I. LUCAS: The government is opposing this amendment; if it passes, it will have to be debated in the lower house. The only issue is whether it creates some uncertainty for the bidders for the TAB. While we might understand this to mean that it is a review, and the review in itself does not mean a change, if you are a potential bidder for the TAB and you are being told that you are buying this but, in 12 months the whole thing will be reviewed again, and the whole regulatory framework may be changed, that is not conducive to bidder certainty in relation to future investment.

It would probably not make the difference between someone bidding or not but it may well be the difference between bidding a certain price or bidding a lower price if it cannot be guaranteed, in some way, in the other arrangements in the deal, that whatever this review shows up in 12 months will not significantly impact on the future operation. Potentially, they will not be as interested. I might retract my earlier statement because, on reflection, it may well be that some people are marginal in their interest in the asset and, if they see that there will be a review in 12 months, they may well consider whether or not they will bid at all, particularly given the value range that a number of members have put on the public record during earlier debate on the TAB (Disposal) Bill.

In reality, the parliament and the ministers can review the act at any stage if they want to. Speaking rationally with bidders, and intending bidders, you can indicate to them that, 'This can happen at any time and you shouldn't be too concerned' and that sort of thing. I have to say that, having lived through the process for three years, I know it is not always the case, in relation to interested parties, that people act in accordance with your own version of rational thinking. Some things in bidders' minds take on greater weight than you might think, as a seller, they ought to. It is their right to see things differently to you as a seller. It is a bit like selling a house, I guess. You might think it is the greatest house in the suburb but, if the buyers do not see it that way, for whatever reason, there is nothing much you can do about it. That is the only cautionary note that I highlight. If the legislation is successful in this place, there will need to be further discussion in the House of Assembly before it returns here.

The Hon. P. HOLLOWAY: It is not the wish of the opposition that the government receive less for the sale of the TAB than it otherwise would, but I find the Treasurer's arguments a little specious. After all, during the debate today on a number of clauses, we have all decided that we will be discussing major issues of gambling control next year. A huge number of issues have been canvassed in the debate today and the opposition has said that it will look at them. It is quite clear to anyone reading the *Hansard* of this debate that there are a number of issues that will need revisiting and, of course, some may well be to the favour of the purchaser of the TAB. I have indicated what my future view might be in relation to internet gambling if the proper framework is put in place. Ultimately, it will be this parliament that determines whether that moves ahead. I am sure that any prospective purchaser of the TAB may well make a judgment as to what the chances are of this parliament adjusting to any extension of those sorts of gambling in the future should community tastes change.

My other point is that most of this bill deals with the conditions under which licences are granted, renewed and so on, and there is much in the bill which needs to be reviewed and which will not necessarily affect the operations of the TAB. I put on record that the opposition has consistently taken the view that, where a contract is legitimately entered into (and this would apply to the purchaser of the TAB), we respect the conditions of that, and I believe our record is proved by the position we have taken in relation to the Casino. We indicated in that regard that, where there are clauses, sale agreements and sale conditions, we would respect and honour those into the future.

I indicate that the opposition does not wish to damage any future purchasers of the TAB by supporting changes that would adversely affect them. I find it hard to believe that, if a purchaser reads the entire debate—and given the commitment from all sides of the parliament, I thought, that we would have to have a major review of many of these issues—this clause being subject to an official review in 12 months should, in that context, particularly worry any new purchaser.

The Hon. M.J. ELLIOTT: I indicate my support for the amendment moved by the Hon. Paul Holloway to the amendment.

The Hon. R.I. LUCAS: In the interests of saving time I understand that, with the support of the Hon. Mr Xenophon, the Democrats and the Labor Party, and, given your past practice and convention in relation to amendments, Mr Chairman, it is likely that this new clause in an amended form will pass the Council and go to the House of Assembly. I do not intend to divide on this issue. We will see whether we can have some further discussion in the House of Assembly.

The Hon. Mr Holloway's amendment carried; new clause as amended inserted.

Schedules and title passed.

Bill read a third time and passed.

EDUCATION (COUNCILS AND CHARGES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 6 December. Page 839.)

The Hon. M.J. ELLIOTT: The bill seeks to establish a local school management system of governance in public schools and to allow a range of compulsory and voluntary charges in government schools. While the Australian Democrats support greater school council and parent participation in schooling, we do not support compulsory school fees for public education, because we believe that education is a right for all and not just a privilege for a few. Frankly, I believe that this bill is the beginning of a very slippery slope towards the final destruction of the public education system in South Australia.

We have previously expressed concerns about the state government's rush for schools to enter the Partnerships 21 model of local school management in the absence of solid evidence of the model's benefits and limitations. We have also highlighted the great risk that Partnerships 21 gives public schools all the financial responsibility but none of the power to budget or make major financial decisions. That will become increasingly obvious over the next couple of years. Schools will discover that local management means that they will manage the budget, but all the important educational decisions will be made outside the school. For these reasons the Australian Democrats' starting position is opposition to the school fees component of this bill and a commitment to careful consideration of the changes in relation to school governance.

The key question before us is whether the proposed new system of governance furthers school council and parent participation in public schooling or whether it is just a means to entrench the flawed Partnerships 21 model of local school management. To answer this question will take time and careful consideration. I do not believe there has been sufficient time to consider this bill. It is the Democrats' preferred position that we do not vote on the second reading this side of Christmas, because at this stage we have not had a chance to have any meaningful consultation with parent and teacher groups and any other interested parties. In fact, the only formal meeting we have had so far has been with the minister and his advisers.

It is unrealistic for this bill to proceed at this stage. It is also worth noting that the House of Assembly has only just established an inquiry into public education, and in fact that inquiry will look at issues that are directly relevant to what is in this current bill. I invite members to think about that very carefully. What is the point in passing legislation when it is about matters which are currently being studied by a parliamentary select committee?

It is our preferred position that we wait for the findings of that inquiry and also allow proper community consultation over the Christmas break before voting on this bill. I have been informed that the state government has argued that any delay will put school funding arrangements for next year at risk. I must say that such arguments are both nonsense and hypocritical. They are nonsense because some schools are already charging fees at exactly the same rate as last year.

The only reason for change would be if there was a clear intention to use the legislation to increase fees. In fact, the South Australian Secondary Principals Association has expressed overwhelming concern that councils have already set budgets for the next 12 months, even without, I note, a finalised global budget from the government. In some cases, they have sent invoices home to parents, and I have already received mine.

To introduce this legislation now would actually cause a greater deal of inconvenience to schools, quite the contrary to what the government is arguing. I received correspondence from the South Australian Secondary Principals Association, which is a much more conservative body than the Australian Education Union that the minister enjoys having a shot at, which stated:

> The Executive of the South Australian Secondary Principals Association ask that the Education (Councils and Charges) Amendment Bill be rejected until further investigation has been undertaken. The changes proposed in the bill have caused a great deal of angst and concern amongst our members and their school communities. Issues that have been identified include:
>
> · the current level of School Card payment and recognition of the levels of disadvantage present in school communities;
> · the timing of the bill and the required changes that would need to be made immediately to the financial management of schools;
> · the compulsory/voluntary aspects, which include:
> · the level of fees;
> · the GST component of voluntary contributions; and
> · included categories and specified charges in the voluntary contributions.
>
> We are seeking representation on any review which is established to investigate this bill.

The South Australian Secondary Principals Association is quite a conservative body in the education field. I made contact with that body and said that, while the points were made, I felt there was insufficient detail for the purposes of analysis of the association's viewpoint, particularly in terms of presentation to others. I received a further set of notes from the association yesterday which expand upon those points. In relation to timing, the first point states:

> 1.1 School councils set budgets in July-August for the following year.
> 1.2 Material and service charges are set on a school-by-school basis by councils and would have been announced some months ago.
> 1.3 Most schools would have distributed invoices for the 2001 school year by mid-November.
>
> · Compliance for 2001 will prove immensely costly and embarrassing for schools across the state should the bill be passed in its current form.
> · We note that there was no consultation with principal groups before the bill and its accompanying guidelines for schools were published.
> · We further note the seeming inconsistency of school councils being actively encouraged to opt into Partnerships 21 and local school management while, at the same time, this bill proscribes and restricts the ability of councils to formulate financial plans appropriate for their school communities.

Quite contrary to the government's claim that the timing makes this urgent, the association makes the point that the timing is such that the legislation should not pass now. On the topic of voluntary and compulsory issues, the association notes:

> 2.1 Real world 'reality' suggests that virtually no-one will pay voluntary charges to government schools. To assert otherwise is foolish.

For the first time, what we are going to see is a statement coming home to parents that says, 'Here is your compulsory component; here is your voluntary component.' It is true to say that fees have been voluntary forever, despite the

government's constantly reintroducing a regulation after it has been knocked out in the past couple of years. While a small number of parents have not paid the full fee, it has been a relatively small number. The problem now is that every parent will receive a statement that says, 'Here is what you have to pay and here is what we would like you to pay.'

When this whole argument began I predicted that this would become a problem. Now the very forms that are to be used will clearly state the two components. In the case of my own school, Blackwood High School, where my second child will be in year 12 and my third is just about to start, the fee is around $420. Half of that will be compulsory and half voluntary. I know that I will pay mine, but I make a very strong prediction that the school overall will collect less money this year than it did back in the old days when a very small number of parents opted not to pay their contribution.

I think there will be a much larger number, and the government is just kidding itself if it does not recognise that that is what will happen. The Secondary School Principals Association states that that is precisely what it fears will happen. The association comments:

> 2.2 This means that schools across the state will have to budget for a parent contribution of at best $215 per student. Current M&S charges range from $220 to $480.

In fact, I believe that one public school is more than $500. As I said, in the case of my own school they are in the low four hundreds. It continues:

> 2.3 GST implications of voluntary components in school accounts have not been considered in this bill.

On the next matter, the per capita funding of state schools, the association states:

> 3.1 The critical issue is the actual cost per student of providing a rich and diverse curriculum to a range of students attending state schools. If the parent contribution is going to be capped, then per capita grants will have to be increased and the level of School Card subsidy raised.
> 3.2 Where does the figure of $215 come from?
> 3.3 In our view the current levels of per capita grants and School Card subsidies, when considered in conjunction with the amount of $215, are entirely inadequate and do not reflect the costs of delivering the sort of curriculum that the community rightly expects.

I note, for instance, that at Blackwood High School, where my children attend, there is a computer levy, which is outside the materials and services charge. It is part of the optional component. How anyone could see computers as being optional in schools today has me beaten. There is a very grave risk that that levy will not be paid by large numbers of people.

Certainly, School Card does not address those sorts of costs. We are on a very dangerous and slippery path. I have no doubt that schools will have to come back saying they have just not received most of the money they need and the next step will be that the compulsory fee needs to be higher. I have said that the arguments from the state government have been hypocritical because it itself has not finalised global budget formulas for next year, which are the basis of the Partnerships 21 schools budgeting process.

So, the schools have done their budget as best they could, but those who have actually gone into Partnerships 21 still do not know what the global budget formula is, and the government will throw even more uncertainty in other areas. For instance, the most recent version of the global budget formulas still do not recognise changed allocations or flexible initiative resource staffing, which is worth in excess of $22 million to schools.

The Australian Democrats will resist the rush to pass this legislation without proper consultation and will vote against the bill should the state government wish this Council to pass it this week without that consultation. On the little consultation that my office and I have been able to carry out in the past week, several issues have emerged that require answers from the government. They include:

- Is this legislation the result of the public consultation held last year in relation to the Education and Children's Services Act? If so, why have only these components been selected for specific legislation?
- When is the full review of the act due? The basis of the proposed change in the system of governance is the use of school constitutions in one of four forms.
- Is the minister asking the parliament to vote for a school governance system based on those constitutions without parliament even seeing a draft or template of those constitutions?

I make two points. First, we are voting on a piece of legislation that will lead to regulations being replaced by documents that have not been shown to all members of this place. Even though I asked whether I might see them, they have simply not been provided. I also note that this legislation provides that the minister can change those documents, so we are going from a position where we used to have regulations to a position where the minister, solely at his or her discretion, can change these constitutions, the drafts of which we have not seen. That is a significant change in terms of the role and interest that parliament has in public education. My questions continue:

- Is the minister aware that the South Australian Association of School Parents Clubs disputes the claim that they have been involved in the development of a model constitution and the code of practice for school councils?

I was told, and I believe other members in this place were told, that the school parents clubs were involved in the consultation. I made contact with that organisation and found that the minister has not given us the true picture. I received an email from Judy Bundy, who is currently Vice-President of the Australian Council of State School Organisations and who is immediate past president of the South Australian Association of School Parents Clubs, which reads:

> Just want you to know that our association is very disturbed by the statement made by the minister that 'the Australian Education Union, the parents committee SASSPC [sic] and the South Australian Association of School Councils have all been involved in the development of the model constitutions and the code of practice and will continue to be involved. (*Hansard*, House of Assembly, 14, 15 and 16 November, page 561.) Our association has not even been consulted let alone involved in any development of the model constitution for affiliated committees—the first we knew about it was when we saw it in the bill!

In a subsequent note she said:

> The actual date when we were given a copy of the bill was at a meeting with the minister on 17 October—before that we had no idea of what the minister had in mind for affiliated committees. After that meeting some of the questions we had were answered (not very satisfactorily) by Chris Harrison. I doubt very much whether the AEU has been involved either, and I understand that members of SAASSO executive have expressed concern about the lack of consultation with them.

I cannot vouch for SAASSO, but there is no question that the school parents clubs association simply was not consulted, despite the minister making that claim in *Hansard*. In relation to these model constitutions, while I am making some comments in terms of the views of the school parents clubs,

it is worth quoting from a press release that was put out under the name of President Jane Hodge, as follows:

The South Australian Association of School Parents Clubs (SAASPC) the state parent organisation representing the interests of all parents and students in public schools and preschools believes that the government should be paying for the educational requirements of all students in public schools and preschools.

The SAASPC does not support compulsory school fees in public schools.

Compulsory fees cause divisiveness and alienate communities. They create ill feeling within schools through their attempts to recover fees through the legal process. The pressure to find funds may cause many parents to feel alienated from their children's schools. The very partnerships that our association strives to promote between parents and schools are threatened. There is also a concern that compulsory school fees have the potential to increase the gap between the advantaged and disadvantaged.

SAASPC appreciates that schools need to make up their shortfall in funding by charging parents fees, but will not accept that such fees should be compulsory.

Schools should be reaching out to members of their community to find out why fees are not being paid and using constructive strategies to assist parents with appropriate plans to provide such payments, not bully tactics which are demeaning, humiliating and emotionally scarring for the parents and children concerned.

SAASPC believes that it is the fundamental right of all Australian children to have access to a free, diverse and equitable education of the highest quality, and that resources should be provided to enable all students to enter educational programs according to their needs, in public schools that are fully funded by the government.

There is no need for legislation to set up governing councils because they and their committees can already be formed. My questions continue:

- Is the minister aware that much of the attraction of local school management to many parents and school councils is to influence curriculum and administrative process; yet this legislation expressly prohibits input in this area from the governing council?
- Is the minister aware of the potential legal problems in making governing councils accountable for school decisions when they are not direct employees of the department?
- Is the minister also aware of the potential legal liability difficulties with delegating his powers to governing councils?
- Is the minister aware of concerns that this legislation will shift the oversight of public education in this state from parliament to the minister?
- Is the minister aware of the difficulties in defining what should be compulsory curricular items and what should be voluntary extra curricular items in relation to school fees?
- Does the minister agree that having compulsory and voluntary fees may result in many people not paying fees they previously paid because they now see them as voluntary?
- Does the minister acknowledge that this will result in less revenue for schools, which will put pressure on schools to increase compulsory fees in the future?
- Is the minister aware of concerns raised about the current level of School Card payments and the impact of these school fee structures on the disadvantaged in school communities?
- Does the minister also acknowledge that the significant time and effort taken in debt collection will become a significant administrative burden for schools?
- Has the minister considered the privacy issues of school governing councils having access to information about which parents have and have not paid their fees, which is a change on the current situation?
- Is the minister also aware that the South Australian Secondary Principals Association, the South Australian Association of School Parents Clubs and the AEU have expressed serious concern about this legislation?

In conclusion, the Australian Democrats maintain their opposition to compulsory fees in public schools but are prepared to look at the latter part of the bill in relation to school councils, looking for greater school council and parent participation in public schooling, but we do not believe, and certainly our experience is, that we have not had an adequate chance to consult with significant members of the community in relation to the bill that is now before this place. For that reason, the Democrats believe this bill should be voted on in March and not at the present time.

The Hon. R.I. LUCAS (Treasurer): I thank members for their contribution to the second reading. A number of members will want to pursue a range of issues in committee. I do not intend to delay that by an extensive reply at the second reading. My views on the issue of material service charges are well known to members of the Council. I do not intend to repeat them. We can explore them again in the committee stage. Ultimately, this is a decision that the Council, and parliament, has to take for the reasons that the Hon. Terry Cameron, for example, outlined in his second reading contribution, and as I have indicated on a number of occasions. I will leave further discussion to the committee stage.

The Council divided on the second reading:

AYES (9)

Cameron, T. G.	Dawkins, J. S. L.
Griffin, K. T.	Laidlaw, D. V.
Lucas, R. I. (teller)	Redford, A. J.
Schaefer, C. V.	Stefani, J. F.
Xenophon, N.	

NOES (7)

Elliott, M. J.	Gilfillan, I.
Kanck, S. M.	Pickles, C. A. (teller)
Roberts, R. R.	Roberts, T. G.
Sneath, R. K.	

PAIR(S)

Lawson, R. D.	Holloway, P.
Davis, L. H.	Zollo, C.

Majority of 2 for the ayes.

Second reading thus carried.

In committee.

Clauses 1 to 5 passed.

Clause 6.

The Hon. NICK XENOPHON: I indicate that, following discussion with the Hon. Terry Cameron, I will not move the amendment I have on file. It refers to a sunset clause regarding school charges. The Hon. Terry Cameron proposed that the sunset clause not come into place until 1 December 2002. I would have to amend my amendment—

The Hon. Carolyn Pickles interjecting:

The Hon. NICK XENOPHON: I want to support December rather than June.

The Hon. R.I. LUCAS: To try to assist the process, I point out two things. If there is agreement between the Hons Mr Cameron and Mr Xenophon—which I understand there probably is—the Hon. Mr Xenophon could move his amendment in an amended form—we agree with that—and then we can vote accordingly. I understand that the Hon.

Mr Xenophon may have a very short amendment to page 14, line 3 of subclause (a) which might come before consideration of the amendment after line 9.

The Hon. NICK XENOPHON: With respect to new section 106D, which provides that the minister must cause sections 106A to 106C of this act to be reviewed—

The Hon. Carolyn Pickles interjecting:

The Hon. NICK XENOPHON: I will speak up, Mr Chairman; I will enunciate slowly. Proposed new section 106D provides that the minister must cause sections 106A (which relates to the materials and services charge) to 106C to be reviewed in light of the report of the parliamentary select committee set up on this and other issues following a motion by the Hon. Bob Such in the other place and established on 9 November, and cause the results of the review to be embodied in a written report and a copy to be laid before both houses of parliament no later than three months after the making of the report of the parliamentary select committee. I move:

Page 14, line 3, after 'cause' insert:
'Part 8 and'.

I move this so that the minister must report to both houses of parliament on the entire operation of the bill in relation to school councils, so that the review will be comprehensive in light of the select committee.

I understand the reservations of the Hon. Mike Elliott and the Hon. Carolyn Pickles in relation to this. I would have thought that, in terms of a review process, the select committee in the other place has a lot of useful work to do, and requiring the minister to undertake a review following the select committee handing down its findings in respect of all aspects of the bill would be a step in the right direction.

The Hon. CAROLYN PICKLES: It seems that you want the elements of the whole bill referred to the parliamentary select committee. Is that the intent of your amendment?

The Hon. Nick Xenophon: Yes.

The Hon. CAROLYN PICKLES: In that case, we support it.

The Hon. R.I. LUCAS: Given the numbers in this chamber, the government will not die in a ditch on this issue. I think, as the Hon. Mr Xenophon indicated, that the parliamentary select committee on DEET funded schools has a very broad purview in terms of what it can currently look at. Under this provision, the minister in essence has to review what was the original intention in new sections 106A to 106C. Now, however, it will be part 8, as well as those sections, to be reviewed in the light of that report. So, the committee will look at virtually everything. If you have seen the terms of reference of the one we had before—

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: Yes, exactly. The Hon. Carolyn Pickles and I go back a few years on this issue. The committee is looking at virtually everything and, if someone gives evidence on something that is marginally related, there is always a term of reference which allows them to give that evidence and for the committee to report on that issue should it so choose.

The minister, under this provision, will have to cause the sections now with the Hon. Nick Xenophon's amendments to be reviewed in the light of that report; then the results of the review will have to put be put into a report and that report will then have to be laid before the houses of parliament within a certain time frame.

Given the direction from which the Labor Party, the Democrats and the Hon. Mr Xenophon are coming, it is not surprising that they support the further extension of this. Although I have not had a chance to speak to the minister directly, I think he certainly would not die in a ditch on this. He might even be comfortable with it. From the government's point of view, seeing the numbers are there, we do not intend to divide on the amendment and we will send it down to the House of Assembly.

Amendment carried.

The Hon. NICK XENOPHON: I move the following amendment in an amended form to that circulated, as follows:

Page 14, after line 9—Insert new subsection as follows:
(2) Sections 106A to 106C of this Act expire on 1 December.

I understand the concerns that the opposition and Australian Democrats have had on the question of materials charges in schools. I did not support the government on previous occasions in respect of a disallowance of the regulations. Rather, I supported a motion for the disallowance of the regulations moved, I think, by the Hon. Carolyn Pickles or the Hon. Mike Elliott.

In reviewing the arguments given in terms of what I said in the context of my second reading contribution, it seems to me that this debate is about the issue of whether there ought to be power to recover charges from those 5 per cent of parents who do not pay those materials and services charges. We have discussed previously the history behind that. I understand the concerns of the opposition and the Democrats with respect to that.

However, it seems to me that, if this debate were about totally free education in the sense that materials provided to students were entirely free, it would be a different issue. Given that the history has been that for something like 40 years now parents have been sent accounts in relation to basic materials charges for their children, and given that it appears that some parents are not paying without a reasonable excuse, it indicates to me that the government's proposal is not unreasonable.

The fact that this has been introduced in a bill rather than by way of regulation I think is much more open and transparent. The minister has indicated that 42 per cent of students who have a School Card do not pay these charges in any event. The legislation allows the principal to have a discretion whether or not fees are to be charged in cases of hardship. Given those protections, I can support this clause.

The purpose of having a sunset clause in there is to say that not only should this be reviewed but also that it needs to come back before the parliament again in a couple of years. I am not supporting this forever and a day, and I think it is important that a sunset clause is included so that this issue, if it is causing consternation, is dealt with again by 1 December 2002.

The Hon. M.J. ELLIOTT: It is no surprise that I am bitterly disappointed that the Hon. Nick Xenophon is supporting what is now a fundamental change. It is the first time in Australia that there have been compulsory fees in the primary school system anywhere. In terms of secondary schools, I am not even sure whether they are to be withdrawn in Western Australia.

The local SAASSO organisation—to the mystification of everyone else—is supporting what the Australian school parents bodies are opposing (both the body that represents school councils as well as the school parents groups). Therefore, SAASSO is really the odd one out. I am pleased

that at least there is a sunset clause. I am not sure whether the Hon. Nick Xenophon was in this place during my second reading contribution, particularly in relation to the Secondary Principals Association, when I said that no-one is in a better position than the association to know the implications of the timing of the introduction of this bill. It is a pretty conservative group and, no matter what the minister says about the AEU, he cannot make that same sort of allegation, no matter how much he tried to concoct it, about the Secondary Principals Association.

The association has expressed grave reservations about the timing of this legislation, and the difficulties it will create, as well as a number of other important points it made about the issue of fees, including the fact that it is clearly delineated that the voluntary contribution is compulsory. Some schools will lose a lot more money than in the past when a small percentage of students did not pay their fees. I am bitterly disappointed because this is a radical change in the direction of education in South Australia. The Hon. Nick Xenophon has facilitated this change by his support generally for the charging of fees, and the sunset clause is only a small saving grace.

The Hon. CAROLYN PICKLES: The opposition opposes the amendment for the reasons that the Hon. Mike Elliott has just indicated. This is a radical change for the education system in South Australia and it is something that we have opposed on a number of occasions in this chamber. I am not sure whether honourable members understand the difficulties in the schools at the present time. It is now that they have the mess, and it is now that they want to call a halt to this—not in two years. We do not know which party will be in government in two years. I assure honourable members that, if it is a Labor government, we will review this whole issue of fees and charges long before 2002. In fact, I have heard that the election might be held in March next year.

The Hon. R.I. Lucas: Only if you listen to Mike Rann.

The Hon. CAROLYN PICKLES: No; from your people. In New South Wales, Queensland and Victoria fees are not compulsory because successive governments have chosen not to activate legislation. Fees are not compulsory in the Northern Territory and may be compulsory in Tasmania to the extent that they are not a source of general revenue, and in Western Australia fees are voluntary in primary schools and compulsory in secondary schools. Therefore, I think that the honourable member's speech about what goes on in the various states is a good argument to oppose this legislation in its entirely, but particularly in relation to fees and service charges.

The opposition has been consistent on this issue. There is still a muddle with the GST, and the opposition has consistently opposed it. I do not think that a sunset clause will offer any help to the schools that are struggling to make some kind of logic of this issue. It is now that there is a problem. It is the principals who have been jacking up and constantly contacting the shadow minister for education and local members about this issue. It is now that we have the problem. If the honourable member will be against a materials and service charge in a couple of years, he should be against it now. I urge him to rethink his rather strange amendment.

The Hon. R.I. LUCAS: It is incorrect to say that this is the first time that a state has made provision for the collection of a materials and service charge. The Tasmanian Education Act has made provision for it, and discussion is going on in one or two other states at the moment. Given the problems associated with the collection of the materials and service charge, people are obviously watching what is occurring here in South Australia.

In relation to comments made by the Hon. Mr Xenophon, and others who have commented afterwards, I point out that SAASSO is the peak parent body in South Australia and that it speaks on behalf of South Australian school parents. There is another parent body but the peak parent body, as a former Minister for Education, is SAASSO. If the national body of SAASSO (ACSO or whatever it is called) has a view different to South Australian parents, that is entirely up to it. South Australian parents, and their association, have spoken and they strongly support this.

I am unsure as to the current attitude of the principals associations, but when I was Minister for Education the five heads of the principals associations—secondary, primary, junior, junior primary and area—sat in a room with me and asked me to take action in relation to this. I said, 'You have to get out there and if you are prepared to support it, together with the parents associations, then as a government we are prepared to take action.'

As I have said, I am not currently the minister, but at that stage the principals associations supported the position, and that is the reason the government took the action it did to support the principals and parents in the collection of fees through the only power we had at that time, which was through the regulation making power.

The third and final point I would make touches on the issues that the Hon. Mr Cameron talked about, at least indirectly. The greatest pressure I had for this power came from school councils in what I would call the general middle northern suburbs area taking in Pooraka, Salisbury and Para Hills; and the other area was the southern suburbs, such as Port Noarlunga and Christies. It was not the Burnside and Springfield school councils putting the pressure on me and saying, 'You have to do something about the collection of the fees. We don't think it is fair that somebody who can afford to go on a holiday to the Gold Coast for three weeks or buy a new car can come to the school council and thumb their nose at the rest of us and make us pay a higher fee, because we are the mugs who will scrimp and save and put the money together to pay the higher fee. They thumb their nose at us, because they say that no-one can force them to meet the cost.'

The figures indicate that 42 per cent of children in our schools have School Card. Those who are in need of assistance get it. Over and above that, those who want them can arrange instalment payments and so on. I know that at one stage when I was minister one of the high schools in the mid northern metropolitan area was making provision for $2 per week to be paid by some parents. They were quite happy to do that to meet their commitment for the payment of the materials and services charge.

The government's position is very strongly in support of this. Our preference would be not to see the amendment, but we nevertheless accept the political reality and are prepared to support the amendment. In conclusion, we think it is the height of hypocrisy for the Labor Party to stand up in this chamber and oppose this amendment. Let us nail the flag to the mast now; should it be in government in two years, this amendment would have provided that this whole compulsory collection would have disappeared, and the Labor Party would have had to do nothing about it.

This is political cowardice on the part of members opposite. They say one thing to the teachers' union, another thing to the parents and the school councils and they skulk into this chamber under instruction from Mike Rann and the

shadow minister in another chamber. They will vote against this amendment from the Hon. Mr Xenophon because, should they be in government, they do not want to have to face the hard decision. They never want to face the hard decisions on these issues. They do not want to face the hard decision on this issue at the end of 2002 when, if they are in government, they will want to say, 'That nasty Liberal government, supported by that nasty Mr Xenophon and terribly nasty Mr Cameron, put this in there and we can't do anything about it. We'll leave it in there or have another review in another three years.'

The Hon. CAROLYN PICKLES: The comments made by the Hon. Mr Lucas are ridiculous. At least we are consistent. We have consistently opposed it on every occasion and we will oppose it today. We will oppose the third reading of this bill. I can assure you that at the last election when I was the shadow minister for education we certainly had a different proposal to put to the electorate in relation to this issue. I did so with a lot of opposition from some schools, because I fervently believe in a free education. I think that certain members of the Labor Party at that time were somewhat hesitant about pushing ahead on that issue because they were being heavily lobbied by certain schools. It made my life a bit difficult for a time. I believe that free education is a right of all South Australian children in state schools; it is something that we have supported. We understand the realities of voluntary payments by parents, but I must say that I am shocked at the amount that parents are being expected to pay now. I know that at some schools children simply do not go to functions, because parents cannot afford it.

I do not want to see two classes of education in our state. It is already happening. I know that in the eastern suburbs area where my children went to school they were more advantaged, because the parents had more money to put into the school. That is very unfair. It is a concept that we have not supported in this place previously. It is not an act of hypocrisy. I will not be part of the next Labor government; I will be sad not to be, but that is the reality of life. If elected, it will be up to a future Labor government to espouse its own policies after the next election, and this issue will certainly be addressed. The government's voting for this measure at this time is just a political stunt. I am disappointed that it was moved, because I understood that in the past people on this side and on the cross benches have consistently voted against a materials and services charge; and we will do so today.

The Hon. T.G. CAMERON: I support the Hon. Nick Xenophon's amendment, which I understand he has amended. I proposed a similar amendment. On all previous occasions I have voted to disallow the regulations on this matter, but it is degenerating to the point where we have a somewhat farcical situation where none of the teachers, schools or parents are quite sure where they are going on this matter of charges and regulations. If my memory serves me correctly, it has been repromulgated and disallowed three or four times. I would have thought that, rather than walk down the path of reregulating, as the government has done before, it would be commended for bringing the matter before the parliament and giving it some finality, settling the matter once and for all so there was certainty for schools, teachers, parents and so on. It is that uncertainty, indecision and chopping backwards and forwards that led me to the conclusion that we had better settle this matter once and for all.

I felt a little uncomfortable about voting for materials and services charges, but I then become aware of the Nick Xenophon amendment. I am attracted to the amendment, because there is an element of democracy about it—almost an element of Nick Xenophon's approach to the ETSA dispute, with his call for a referendum. As I understand it, this amendment proposes to insert a sunset clause and, in the event that the government changes at the next election, there will be an opportunity for the new government to deal with this issue. I would love to be a fly on the wall when the Labor caucus considers this, if it happens to win the next election. I would take a bit of a punt: I reckon Trish White might want to keep it, but that is her decision, not mine.

Nick Xenophon's amendment provides for stability and certainty for the following two years, but it also leaves the door open and provides an opportunity for the Labor Party, should it win the next election. Nobody knows what the result of the next election will be, but I will be here after the next election and, if there is a Labor government, we will have an opportunity to listen as it argues that we should abolish all materials and services charges and make education free here in South Australia. I recall having voted with the left at a Labor Party conference, because I was opposed to Bilney's proposition to introduce HECS—tertiary fees. I nearly got kicked out of the Centre Left for walking across the floor and voting with you.

The Hon. Carolyn Pickles: And John Quirke.

The Hon. T.G. CAMERON: Yes, and former Senator John Quirke. It was actually Senator John Quirke who convinced me. He had heard of the government's proposal, flew around to the party office, got me as I was about to go home and said, 'I'll come with you: I want to talk to you about the HECS fees.' He did not have much trouble convincing me, because my father, who was a former senator, was horrified when he heard that the Labor Party was going to introduce tertiary fees and asked me to come down and see him. In his opinion, the proudest achievement of the Whitlam government was the abolition of university fees.

The Hon. M.J. Elliott: Free education.

The Hon. T.G. CAMERON: Yes, free education. He lived long enough to see the Labor Party reverse its stand on that issue. I must say that I do not quite follow the convoluted argument that gets put forward about free education. However, there are different sets of opinions on this. I checked in the little time allowed to me and found that some people were strongly opposed to it. Other parents, and I spoke to mothers, fully supported the government's move, for the reasons that were outlined by the Treasurer, to which I have referred before.

As I understand it, it is only about 5 per cent of people who do not pay. The government collects about $21 million, if my advice from people who briefed me is correct, and about $1 million is not paid. The fact that some 5 000 or 6 000 families choose not to pay is of concern. I can recall on a previous occasion discussing this with my former wife and asking her for her opinion. Much to my horror, she related a conversation to me.

She had been out with one of her mates one day, swanning around in the BMW, and my wife complained that she was a bit short that week because she had had to pay all the school fees and complained that I had not given her a part contribution towards them as a top-up to her budget, only to be regaled by this person who told her what a fool she was, how much of an idiot she was, and who said, 'Don't you know they can't sue you? We haven't paid our school fees for seven years and our next door neighbours don't, either.'

I could not believe it. I said, 'You've got to be joking: take me down and show me their house.' It was a 40 square

mansion that I reckon would have been worth about $400 000 or $500 000. That creates dissension and division amongst schools. My ex-wife has continued to pay her school fees because she believes in making a moral contribution towards a child's education, notwithstanding the fact that she would be entitled to have claimed School Cards, I understand.

I had two calls to my office stating that the only fair thing to do here would be to support a system that said that everybody should pay. Notwithstanding that, I had discussions with Malcolm Buckby and two officers from his department, since I had a similar concern to that of the Hon. Nick Xenophon. I hope that if this amendment gets through we are not going to see a draconian approach by the government and the schools, having summonses issued, bailiffs sent out, etc.

The Hon. Nick Xenophon can speak for himself, but I received assurances from the minister that taking any legal action against anyone for this would be an absolute last resort, and that made me feel comfortable. I would place on record my appreciation of the lobbyists from Malcolm Buckby's office (and I apologise for not being able to recall their names at the moment). They were excellent briefings that were thoroughly appreciated by my staff member, Kathy Williams who, in the last discussion I had with her, had changed her mind and was now supporting the government's position.

I queried her as to why she had changed her mind and she said, 'With all the facts and the information that was put before me, I guess my blinkers were taken off and I could see the issue for what it really is.' I suspect that a lot of people in the community would be in a similar position if they could come to grips with what is a fairly complex issue and were able to see the global picture for the state rather than their own isolated position. I note that School Card holders have been exempted from the voluntary payment.

I am prepared to support the government on this proposition. I thank the Hon. Nick Xenophon for his amendment, because I had not considered that possibility and that was attractive to me. It provides for a situation where we can all get on with it for a couple of years. If the government changes or if the opposition wishes to have a look at the matter once the sunset clause expires, then we can all do so.

I will not dwell on the matter, like the honourable Treasurer, but I am somewhat perplexed and a little disappointed that the Labor Party would not embrace the sunset clause. I am not quite sure where it leaves us if the government is not prepared to support the sunset clause. I guess that I could only take my lead from the Australian Labor Party and, if this sunset clause goes down, then I will still be prepared to support the original provision on the basis that the Australian Labor Party was not prepared to support the sunset clause. If the opposition does not want a sunset clause there and the government is not prepared to support it, although I am not sure of the opposition's position—

The Hon. Carolyn Pickles interjecting:

The Hon. T.G. CAMERON: Thank you for that. I indicate that I would have been prepared to support the legislation anyway, because we need some finality with this matter.

[Sitting suspended from 1.19 to 2.15 p.m.]

The Hon. M.J. ELLIOTT: When I spoke to the amendment earlier, I was critical of it because I perceived it to be inferior to simply rejecting those clauses which introduce compulsory fees into schools. However, at least there is a sunset clause of two years. There is an opportunity during both the second and third reading stages to reject the whole notion of compulsory fees. I took that opportunity during the second reading debate, and I will take it again at the third reading stage. I am absolutely stunned by the Labor Party's saying that it is opposed to compulsory school fees, but that, given a choice of two years or forever, it will go with forever.

The Hon. Carolyn Pickles interjecting:

The Hon. M.J. ELLIOTT: You can go for never by opposing the individual clauses at the second and third reading stages, but that is not the choice that is before us now. That opportunity has passed, but we will get a chance to reject it at the third reading stage. It is a bit like the electricity debate, to some extent: clearly, there are some Labor members who do support compulsory fees just as I know there are some Liberal members who oppose them. I heard some rumours that some members of the Labor Party were prepared to support compulsory fees, but now that there is an opportunity to choose between compulsory fees ad infinitum or for the next two years, they go for ad infinitum.

The Hon. Carolyn Pickles interjecting:

The Hon. M.J. ELLIOTT: That's the choice. As I said, you've had other opportunities, and there will be another opportunity to reject the fees outright, but that is not what this amendment is about. I am surprised that the Labor Party is taking this position on this amendment.

The Hon. P. HOLLOWAY: One point that the committee needs to bear in mind when we discuss this issue is that the debate that we are having now is not the debate we have had in the past relating to school fees. I say that in the sense that the sort of fees that we now have are quite different as a consequence of the GST. Previous debates about disallowing the regulations in this parliament relating to compulsory fees referred to the fees that schools charged that included a large number of components. This government called them materials and services charges, because it was a convenient political device to persuade parents that they were not paying for anything that included a tuition or educational component, that they were paying for extras or additional amounts. It suited governments of the day to call these charges materials and services charges. There was the perception that they had nothing to do with the actual delivery of education services.

What we have now as a consequence of the GST is a quite confused situation. The government proposes under this bill to split its charges into two sections. Instead of the current single materials and services charge, there will now be tax invoices for a fee made up of a compulsory materials and services charge plus a voluntary contribution as well as a GST on the voluntary contribution. We know that the compulsory fees are to be capped at an indexed $161 for primary schools and $215 for secondary schools or any amount prescribed by the regulations. This bill includes a list of the things that can or cannot be included in those charges. Unfortunately, however, it is not conclusive: a number of items do not fall into either definition. Under this bill, different charges can be set for different students according to any criteria. The bill also allows for different charges to be set for any criteria whatsoever.

This new system to set up two fees, which was obviously designed to get around the GST or problems created by it, is an absolute mess. Senior people in our schools system have quite rightly expressed their horror at what is happening. During the debate in the House of Assembly, my colleague Trish White, the shadow minister for education, put on record

a number of approaches that have been made to her relating to this new system and the absolute mess that we are in. For example, I refer to correspondence from the South Australian Secondary Schools Principals Association, which states:

> The executive of the South Australian Secondary Schools Principals Association met last Friday. Considerable concern was expressed from members across the state regarding a number of provisions of the bill designed to amend the ways in which schools—

The Hon. M.J. Elliott interjecting:

The Hon. P. HOLLOWAY: Okay, it is on the record. There is widespread concern across the system, because insufficient time has been given to schools to adjust to it. That is why the opposition fundamentally opposes this bill. It contains elements of the Partnerships 21 system which has been debated elsewhere. However, in relation to fees, the great concern of the opposition is the system that we now have for the year 2001. If the Hon. Michael Elliott had read out all the information, he would have read out the great difficulties that schools now face. They have already set their budget for the year 2001 and suddenly, at the last moment, they receive this package of information that tells them what will be in and what will be out of the charges.

This has created great difficulties. This is not the AEU that the Treasurer and other members of this government love to attack on every occasion. Perhaps principals are members of the AEU, but they are not teachers. Principals are responsible for the management of schools in this state. They have expressed grave concern about what is going to happen in 2001 as a result of this charge. One of the great concerns of the opposition about the way in which it is now structured is that the government has so manipulated the 2001 school fee that it will mean that the proportion of parents who are willing to pay school fees will be diminished. The incentive is for schools to try to shift as many of these components to compulsory charges as they can because—

The Hon. M.J. Elliott: Only up to $215.

The Hon. P. HOLLOWAY: Up to the limit, but there are many schools below that limit, particularly some of the poorer ones, and there is also the School Card component which distorts things. However, the impetus is to increase the compulsory component, thereby leading to an increase in the overall school fee that is charged, which will be paid by an even smaller group of parents. That is a fundamental concern of the opposition. Before the lunch break, the Hon. Terry Cameron spoke about this matter and said that we need certainty. I could not follow his logic. He said that we should support this clause, which provides that the whole thing will end in the year 2002, but he said that he has been calling for certainty. He accused us of chopping backwards and forwards, yet he supports an amendment that does exactly that.

Apart from the logic of that, we have to consider the absolute chaos that this creates for our school fees in 2001. It is an absolute mess and it needs to be sorted out now. It will be much too late in two years to resolve the problems that have been brought about by the introduction of the GST. Apart from the problems it has created in the education system, one could go into the housing system too. Particular problems have been created in education for next year and it will be far too late to address those problems in future. They really need to be addressed now and addressed urgently.

Again I make the point that this debate, because of the changes made in this bill as a consequence of the GST, should not necessarily be a re-run of the debates that we have had in the past. The fee structure that the government is introducing is completely different. Any future government will have to find a way out of the mess that we are now in because of the additional problems that the GST has created for the education sector.

The opposition rejects this bill and the whole mess that has been created by the government. We should not let it go through, at least until some of the issues that have been raised by principals throughout the state, city and country have been addressed. The amendment moved by the Hon. Nick Xenophon to put a cap on it reminds me of the amendment that he moved during the ETSA sale process, where the idea was that we would lease our electricity assets, but for the period after 25 years, the lease would have to come back to parliament after the next election to get approval. As the opposition pointed out then—

The Hon. Nick Xenophon: There is no comparison.

The Hon. P. HOLLOWAY: There is a comparison in the sense that, once you make a decision, once you sell, once you go down a particular track, it is like Humpty Dumpty—it is a bit hard to put the pieces back together again. If this bill goes through and the system is put in place, once the government tinkers with all the problems created by the GST, it will be hard to unravel it again.

The Hon. R.I. LUCAS: For all the words that we have just heard from the Hon. Mr Holloway, the simple reality for the reader of *Hansard* is that, if this amendment were supported by the Hon. Mr Holloway and the Labor Party, in two years compulsory materials and services charges would stop automatically. It is that amendment that the Hon. Mr Holloway and the Labor Party are opposing. As I said before the lunch break, and as I repeat: it is an act of political cowardice from the Labor Party. When I was minister, half of the members of the front bench supported the compulsory collection of the materials and services charge, but I am not sure what the current disposition is.

The Hon. Mr Elliott is correct in relation to the mixed feelings within the Labor caucus and the front bench on this issue. The Labor Party knows that, to get the support of the AEU for the election campaign and the million dollars it wants to spend against the government, it will have to pretend to be supportive of this issue while it is in opposition, which would soon be jettisoned, mark my words, should it be elected to government.

The Hon. Mr Holloway tried to indicate that this debate is different from the others. In reality that is wrong. We are having exactly the same debate that we have had on three previous occasions. In fact, the introduction of the GST has had quite the reverse effect to the one that the honourable member spoke about. Prior to the GST and the introduction of the ATO in this issue, what went out under the compulsory materials and services levy was the decision, within some very general guidelines, taken by the schools. As a result of the GST and the ATO's involvement, there is a tighter boundary on what can go into the compulsory element.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Holloway says it is a whole change, the inference being that it is much broader and bigger. It is actually much tighter. It is quite the reverse of the case that the Hon. Mr Holloway put in his earlier comments. Some of the things that some schools charged in the past no longer can be attributed to the compulsory materials and services charge. It is a much tighter definition as a result of the GST and the ATO involvement in this issue.

The Hon. Mr Xenophon asked me to read on to the public record some assurances the Minister for Education has given,

and I am happy to do so. The first question asked by the honourable member in the Legislative Council was:

Has the Western Australian minister indicated publicly or given an assurance that debt collection is to be only used as a last resort?

The answer from the minister is:

Yes, during the debate, the Western Australian minister made a commitment to the Western Australian parliament that debt collection is to be used only as a last resort.

The second question was:

Does our minister have a similar position in respect of that?

The minister answered:

The Minister for Education and Children's Services confirms that debt collection by school councils is, and will be in the future, used only as a last resort.

The principal already has, and will continue to have the power to waive or reduce the materials and services charge or allow payment by instalment.

Parents who are approved recipients of the School Card automatically receive a full waive of the charges.

In all cases the bill protects a child's rights to education as the provision of materials and services cannot be denied for the non-payment by parents of the materials and services charge.

I am sure that we will not convince each other of our individual positions on this issue. The Labor Party, at least formally, has indicated its opposition to the materials and services charge. The government's position has been clear for a while, so I think it would be worthwhile to move on and have a vote on this measure.

Amendment as amended carried; clause as amended passed.

Clause 7, schedules and title passed.

The Council divided on the third reading:

AYES (10)

Cameron, T. G.	Dawkins, J. S. L.
Griffin, K. T.	Laidlaw, D. V.
Lawson, R. D.	Lucas, R. I. (teller)
Redford, A. J.	Schaefer, C. V.
Stefani, J. F.	Xenophon, N.

NOES (8)

Elliott, M. J.	Gilfillan, I.
Holloway, P.	Kanck, S. M.
Pickles, C. A. (teller)	Roberts, T. G.
Sneath, R. K.	Zollo, C.

PAIR(S)

Davis, L. H.	Roberts, R. R.

Majority of 2 for the ayes.

Bill thus read a third time and passed.

SOUTH AUSTRALIAN PORTS (DISPOSAL OF MARITIME ASSETS) BILL

The House of Assembly agreed to the amendment made by the Legislative Council without amendment and agreed to the suggested amendment without amendment, and has amended the bill accordingly.

RACING (PROPRIETARY BUSINESS LICENSING) BILL

The House of Assembly agreed to amendments Nos 1 to 6 and 8 to 12 made by the Legislative Council without any amendment, disagreed to amendment No. 7 and has made the alternative amendments as indicated in the following schedule in lieu thereof:

No. 1 New clause, after clause 31—Insert:

Records relating to default incidents

31A.(1) The Authority must cause a record to be kept of every default incident that comes to the notice of the Authority or an authorised officer.

(2) The record must include—

(a) details of the default incident; and

(b) details of any action taken under this Part in relation to the default incident; and

(c) if action was not taken under this Part in relation to the default incident, a statement of the reasons why action was not taken.

(3) A default incident consists of an incident that the Authority considers could, on the available evidence, reasonably be found to constitute a statutory default (whether or not, in the opinion of the Authority, warranting action under this Part).

No. 2 Clause 49, page 26, lines 29 to 31—Leave out paragraphs (a) and (b) and insert:

(a) a copy of the records of default incidents under this Act for the preceding financial year; and

Consideration in committee.

The Hon. DIANA LAIDLAW: I move:

That the Legislative Council do not insist on its amendment and agrees to the alternative amendment made by the House of Assembly.

The House of Assembly has not agreed to the amendment which we passed last night and which provided that a proprietary racing business operation licence must not exceed five years and has proposed a range of provisions that will ensure that the authority must record every default incident, and that these must be provided to the parliament. So there is that openness in terms of accountability that the Hon. Mr Elliott was seeking when he moved the amendment.

It also addresses the misgivings that I expressed at the time, that five years may be a very arbitrary and restricting provision before the authority even gets a proposal before it to consider, including a business plan. In terms of financial arrangements, five years may not be the optimum arrangement. I understand this amendment made by the House of Assembly and agreed to by the Australian Democrats who moved the original five year provision for the licence.

The Hon. M.J. ELLIOTT: The purpose of the original amendment which the House of Assembly has disagreed with was to try to put some additional pressure on the operators to ensure that they complied adequately with the rules. If you know that your licence must be renewed, you would have a likely expectation of renewal as long as you adhered to all the agreements.

It should be noted that there is another clause which does allow for the removal of a licence on the basis of default. The new set of amendments ensures that there is a very rigorous maintenance of records in terms of any defaults that occur. I suppose that then means that it gives a clear message to the operators that there is a risk of not only heavy fines but also the ultimate penalty of loss of licence depending on the seriousness and/or frequency of the default. I believe these new amendments effectively achieve the same end, albeit by other means, as the original amendment.

The Hon. T.G. ROBERTS: When this issue was discussed last night, I think I said that the opposition was ambivalent toward the proposal, anyway. Had the government proposed the amendment prior to the amendment we subsequently adopted, I think we would have supported the government's position. So, we will support the amendment as well.

The Hon. T.G. CAMERON: I understand that we are considering the records relating to default incidents. I have been around long enough to know—

The Hon. P. Holloway interjecting:

The Hon. T.G. CAMERON: Are we are on the term of the contracts?

The Hon. Diana Laidlaw: It is completely related.

The Hon. T.G. CAMERON: The term is going out and this one is going in. I have been around this place long enough to know how some of these amendments end up following agreement. I understand that the government is supporting this amendment. However, I think it is overly bureaucratic, unnecessary and even irrelevant. In the words of the honourable member, he says that there are not likely to be too many of these default incidents. I wonder why you want to keep them in some record; we should just prosecute them if they break the law. However, this gives me the impression that they will not be prosecuted. They will get a slap on the wrist, be called naughty boys and their name will be put in a book. That is what it will lead to. I would much rather see a stronger approach. Whilst I support the bill I will not support the amendment.

Motion carried.

The Hon. DIANA LAIDLAW: I must move a consequential amendment.

An honourable member interjecting:

The Hon. DIANA LAIDLAW: It relates to the telephone issue. I have been told that there has been some misunderstanding in the lower house and, because we are so accommodating in this place, we will correct the misunderstanding that has arisen in the other place. I move:

Leave out from the definition of 'interactive betting operations' the words 'telephone, internet communications or any other form of interactive electronic communications' and insert 'internet communications'.

This amendment arises from a question asked by the Hon. Mike Elliott last night and his wish to have 'telephone' inserted in the definition of 'interactive betting operations' on the basis that 'interactive electronic communications' may mean 'telephone'. That was my understanding, and I was conditionally happy to agree to this amendment. I am glad that we have moved that way because it has cleared up a misunderstanding in the other place, and by those who have taken a very active interest in this issue. I have been advised that it was never considered that telephone betting should not be made available. Because there may be an unforeseen consequence, I am advised that it is necessary to amend the definition of 'interactive betting operations' as a result of the statutory default provisions in the bill which could be inadvertently triggered against the traditional racing industry through existing contracts.

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: The honourable member says it is nonsense and turns up his nose. All I am saying is that all the best legal advice is that, in the future, these codes may well have to have a proprietary racing licence. If that is the case, with this bill we will be banning telephone betting. The unforeseen consequences of the simple clarifying amendment we debated last night would be profound and, I would argue very strongly, should not even be entertained. Therefore, I am moving the amendment on file, which I have circulated. I urge all honourable members to support it. The amendment to insert the word 'telephone' was done on the run last night and it has been useful in clarifying what was in the earlier amendment that I had on file but, with consideration overnight, it is clear that we were being over-zealous and we must now pull back without having repercussions well beyond what we had anticipated.

The Hon. M.J. ELLIOTT: Those people who have had as many sleepless nights as we have had lately and who read *Hansard* from last night will find that, when I asked whether or not telephone betting was covered, I was told that it definitely was and that the inclusion of the word 'telephone' was totally unnecessary. I am now being told something quite the contrary. Now you are telling me—

The Hon. Diana Laidlaw: I accepted the amendment last night.

The Hon. M.J. ELLIOTT: That is right. I am not saying 'you': I am saying 'the government'. Somebody is—

The Hon. Diana Laidlaw: On behalf of the government I accepted the amendment last night, so get off your high horse and address the consequences.

The Hon. M.J. ELLIOTT: This is important, and I am addressing the consequences. Last night it was made quite plain that the intention was that telephones would be covered. It was argued as to whether it was necessary to insert the word 'telephone' but it was said that 'telephone' was meant to be covered by 'interactive device'. In fact, I was told that I was being petty but that it would be accepted anyway. Now we are being told that, in fact, it is intended that telephones not be included—the exact opposite to the advice I was given last night.

Adequate explanation has not been given as to what the problem is. When you look at the clause as it currently stands, before this proposed amendment, you see that it relates only to races being conducted under a proprietary racing licence. In other words, it only relates to races on the straight track. So, in terms of the TAB offering bets in relation to other racing operations, they will not be affected.

The Hon. A.J. Redford: They can't.

The Hon. M.J. ELLIOTT: They cannot be, because it is not doing that—

The Hon. Diana Laidlaw interjecting:

The Hon. M.J. ELLIOTT: With respect, you have said that the best legal brains have said this, but what you have not gone into is the construction of the argument by which the TAB is captured with respect to races other than on the straight track. I am not arguing about who has the best legal brain: I am saying that you have not put an argument on the table other than saying, 'The best legal brains have said that we have to change it.' I am asking you to put the argument as to why TAB operations in relation to conventional racing and telephone betting are captured by a clause which relates to races conducted under the licence, and it is a proprietary business licence.

The Hon. Diana Laidlaw interjecting:

The Hon. M.J. ELLIOTT: It does not. The TAB may be involved in a proprietary racing business licence but that does not mean that everything it does is covered by that licence. The TAB will have other operations that do not relate to races conducted under a racing business licence. I think we have exposed that there is obviously an intention to have betting in South Australia on proprietary racing straight away, which is not what we were told last night.

For instance, even if we do not have a live broadcast of proprietary racing, we can watch it on the internet and then have a telephone bet. That is what you will be able to do: you will be able to watch it on the internet because it is not being beamed live into South Australia. The whole reason for this being moved—and it is the Minister for Transport and Urban Planning's amendment—is, in the first instance, to guarantee that no interactive gaming takes place in South Australia in

relation to proprietary racing. That will be the result of this consequential amendment.

It was on the basis of this clause that I said I was prepared to support the bill. There has been an act of bad faith—an extreme act of bad faith—regardless of whether you think that proprietary racing is a good or bad thing, or whether or not you think that it should operate in South Australia. There is an act of bad faith in that we were told that a clause would do a particular thing, and then, having supported it, we are now told that it has a quite different effect. That is an act of extreme bad faith.

The Hon. DIANA LAIDLAW: What we have been alerted to by legal advice from the TAB today, subsequent to the advice that we had last night, is that there are existing contracts between the TAB and proprietary racing, and the amendment that we passed last night would bring those contracts into statutory default. With the benefit of that advice, I am now asking parliament to not put those contracts in default. I am standing here simply because I have received further advice as a result of some people sleeping on this overnight, and I am now providing that advice to the parliament. It would be wrong not to do this, especially when the advice is that it would bring contracts into statutory default. We should not do that, as much as you want to get excited about this and as much as you want to berate me for what happened last night. There is further advice and we must heed it.

The Hon. M.J. ELLIOTT: I can accept that the minister does not have direct carriage of this bill—she just has it in this place and is probably not fully in the loop as to what is going on. I am making the point that last night we were told that the effect of this amendment would ensure that there is no interactive gaming in South Australia on proprietary racing. That was important to the Democrats because we did not want an expansion of gambling and, therefore, increased gambling-related harm until there had been real action in terms of addressing those issues.

It appears to me that what the minister is now saying—still reading slightly between the lines—is that, clearly, whatever else these contracts contain, they have elements which involve the delivery of some form of interactive telephone betting on proprietary racing that is conducted here in South Australia. That information was not given to this place previously, and it obviously was not given to the minister. I have made that point before that not a lot of information about this issue has been placed on the table. The Hon. Angus Redford said that we would be back here in the new year amending this; well, it has happened within 24 hours—

The Hon. A.J. Redford: Less than that.

The Hon. M.J. ELLIOTT: In less than 24 hours—it is more like 12 hours—we are back here trying to patch up something which, in this case, it appears even the government got wrong, and perhaps that has occurred because it was not getting all the information. It is simply not acceptable for parliament to be making decisions on the basis of inadequate information. I do not know who is responsible for it, but it is not acceptable that we are being kept in the dark while we are being asked to vote on something as significant as this.

The Hon. NICK XENOPHON: I share many of the concerns of the Hon. Mike Elliott. Can the minister confirm that it is proposed that proprietary racing, or any proprietary racing business, will offer bets via the telephone as a result of an agreement with the TAB?

An honourable member interjecting:

The Hon. NICK XENOPHON: I repeat: will the minister confirm that it is her understanding that proprietary racing businesses have entered into a contractual agreement with the TAB to offer telephone wagering on their races via the TAB?

The Hon. DIANA LAIDLAW: That is the advice with which I have been provided.

The Hon. M.J. Elliott interjecting:

The Hon. NICK XENOPHON: It is worth noting that the Hon. Mike Elliott says that this was initially aimed at the Asian and English morning markets; and it certainly appears to be a significant departure from what other members and I understood about proprietary racing.

The Hon. Diana Laidlaw interjecting:

The Hon. NICK XENOPHON: The minister has acknowledged that it was also her understanding. I will leave aside the issue of telephone betting, which concerns me, but my primary concern is with respect to interactive internet betting and its potential to cause increased levels of harm because, whether or not I like it, telephone wagering is a feature of the gambling scene in South Australia with respect to racing. I hope that the Opposition and other members can see that there is a flaw here with respect to what is being proposed. My concern is that altering the definition of 'interactive betting operations' and simply inserting 'internet communications' ignores the fact that we are on the cusp of getting digital TV in Australia. The start-up date is 1 January, and in the next seven or eight years all television will be digital.

The Hon. T.G. Cameron interjecting:

The Hon. NICK XENOPHON: The Hon. Terry Cameron says, 'If you can afford to buy one.' I do not get a chance to watch much television. I can understand the intention of what the government is trying to do because of its concerns about telephone betting, even though I agree with the Hon. Mike Elliott's concerns but, with respect to internet communications, the definition is simply too narrow, because you are ignoring the advent of digital television. The technology already exists to allow interactive betting with digital television. Within the next few years we will all have either a digital television or a set top box which will allow that sort of interactive communication. In an earlier bill the Treasurer was talking about loopholes that you can drive a Mack truck through. By simply referring to 'internet communications' you are leaving one that a dozen road trains would be able to drive through, side by side.

The Hon. M.J. Elliott interjecting:

The Hon. NICK XENOPHON: The Hon. Mike Elliott makes the point that you will be able to watch it on the internet and bet by telephone, although I understand that that is the case with Sky Channel.

Members interjecting:

The CHAIRMAN: Order! The Hon. Nick Xenophon has the floor.

The Hon. NICK XENOPHON: I share the Hon. Mike Elliott's concerns regarding being able to watch it on the internet and then have a bet at the time, although I would imagine that you would have to place your bet beforehand—not being an expert on these things. I am sure the Hon. Legh Davis could confirm that you have to place your bet on a race before it starts running. There is a fundamental problem which is that simply leaving the definition of 'interactive betting operations' as 'internet communications' ignores the advent of digital TV. From a policy point of view, if the government wants to be consistent on this, it should also prohibit betting on digital television, because otherwise it will

become a mockery. In the next few years the internet will not be the way that people will be dealing interactively: it will be by digital television.

If we are talking about a definitional criterion, there is an argument that, if you are getting digital via a cable, it is not an internet communication as such. You are not using the internet: you have a cable into your home. If the government wants to be true to its altered principle in relation to this, simply referring to 'internet communications' alone is a joke. You need to take into account digital TV, otherwise the clause will be ineffective and can be circumvented very easily, and the incidence of gambling related harm will increase.

The Hon. T.G. CAMERON: Like some of the other speakers, I was under certain impressions in relation to proprietary racing. However, over the past 18 months or two years I have become accustomed to the goal posts being moved every time we got hold of the football in relation to this issue. It has been quite difficult to tie these people down and work out exactly what is going on. I will be supporting the consequential amendment to new clause 25A. When I was living at Kapunda it got a bit lonely up there occasionally: I got a satellite dish so that I could watch a bit of satellite TV. It is a fact of life that, if you want to bet on the telephone and watch the races beamed to your house by satellite, you can do that now; the facility is already available.

I make that caution in relation to the issue of gambling, although I accept the Hon. Mike Elliott's position. It is not gambling per se that we should be attacking: what we should be looking at are the incidences of problem gambling. I like a glass of red wine; I used to like it by the bottle but, after getting ulcers and a range of other complaints, I now drink it sparingly. It is an occupational hazard when you are secretary of the Australian Labor Party; you have to go out and deal with all these factions every day of the week, and business would often be done over a bottle of red wine.

Everybody accepts that about 2 per cent of the population has a problem with alcohol, cannot handle alcohol properly and probably would not fall into the category of being a responsible drinker, but we do not adopt the position of trying to ban everybody from drinking. It is a fact of life that, for the majority of the population—excluding the Hon. Trevor Griffin—having a few drinks is a relaxing pastime. I come back to this question of gambling and poker machines. We all know that since the introduction of gaming machines the problems associated with problem gambling have skyrocketed, because—

The Hon. M.J. Elliott interjecting:

The Hon. T.G. CAMERON: Expanded opportunities, but for a particular type of gaming. I have not heard the Hons Mike Elliott or Nick Xenophon or any other member of this place talk about gambling on (heaven forbid) something such as a horse, greyhound or trotting race as being involved in real problem gambling. We have had racing in this state now for 150 years. We probably all know somebody who has had a gambling habit associated with racing, but gambling on the races does not have that addictive, repetitive, mesmerising effect on a person's behaviour—particularly if they fall into the risk category group—as does a gaming machine.

We ought to look at horse racing and gaming as being separate forms of gambling. To lump the two together and say they are as bad as each other is a bit like saying that a bloke who has a couple of shandies on his way home from work has the same kind of problem with alcohol as somebody who drinks half a dozen bottles of methylated spirits every week. I suggest that we put this into perspective. I am a little annoyed about this, too. However, I made the point yesterday: you ain't going to be able to control internet gambling, let alone internet communications. It does not matter what flowery or legalistic or whatever advice you have; you can pass whatever law you like in this place, but it does not necessarily mean that people out there in the community will follow it, particularly if you base the law on the idea that you can stop them. I do not believe you will be able to do so, with respect to internet communications.

It is the eleventh hour: it is 3.15 and we have many more bills to consider, so I will be brief. I am not prepared to torpedo this entire bill on the basis of this amendment. We have regional communities at Port Augusta, in the South-East and in the Riverland who have been heartened by the news that this parliament has carried enabling legislation to allow them to get on with the job of seeing whether they can make this work.

I appreciate the subtlety of the Hon. Mike Elliott's argument that we are slightly expanding the gambling opportunities available. But please: do not lump betting on a horse race into the same category as sitting there mindlessly pressing a button on a poker machine. I will be supporting the consequential amendment.

The Hon. T.G. ROBERTS: I understand that some discussions are going on about some changed wording to the definition of 'internet communications' as we speak, and I am not quite sure whether there is going to be an amendment to the amendment. The principle on which the Labor Party is operating—and I raised this last evening—is that we could not understand why restrictions were being put on.

Although we were opposing the bill and we voted against the third reading (and are still of that opinion), we could not understand why electronic hoops were being put in front of the proponents that would restrict their ability to maximise their interest in terms of the technology they were using. The surprise, as noted before, is that we now have this amendment back before us on the basis of contractual arrangements of which this Council was not given all the details.

The Hon. Diana Laidlaw: It's not that you weren't given them: we didn't have all the details.

The Hon. T.G. ROBERTS: I understand that. The information required to make full assessment and work out whether our position was based on logic or blind faith has now been recognised: we were all voting in some instances on blind faith. It has now come unstuck and it is another lesson learnt, as we seem to be saying at the end of every session when we run legislation into this chamber at the rate at which we do, with these time frames. I have sympathy for the minister and for the government.

The Hon. Diana Laidlaw: Mainly for me.

The Hon. T.G. ROBERTS: Mainly for the minister who has to carry it outside her portfolio area. But the fact is that this is a project in which not only have the goalposts kept shifting right up until now but the football ground, or the race track, has shifted on us continually, all the way through. I understand that we are moving enabling legislation and it is not within our province to dictate to the providers of the racing programs or to comment or interfere in that process, but it does show that, the more legislation you make in haste, the more you pay for it after. We will support the government's position on this. Is there going to be any wording change?

The Hon. Nick Xenophon: Yes.

The Hon. T.G. ROBERTS: I will have a look at the final amendment. Some consensus may be able to be worked out between the government and—

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: We may able to do it in the time frame we have here now, without suspending. We are basing our assessment on the fact that this would have been an unnecessary restriction, if you like. Technology has caught up. It was not taken into account and, if the wording is maintained on this, it still will not take into account any forward advances in technology in relation to interactive gambling.

We have a promise from the government that in the next 12 months we will be looking at all aspects of interactive gambling. We have a well defined report from the committee that sat on interactive gambling, which is being looked at separately to try this side of Christmas to get some applications into bills that will make sense. We have spent the past three hours of the morning session talking about putting together changes in the next 12 months to come together around some of the views we have on harm minimisation in relation to gambling, and we hope that this would fall into the same category.

We can get a closer look at it at a later date, and we can look at the outcomes of matching our legislation with the technological advances we expect to occur, and with the expectations that proponents of gambling (particularly the TeleTrak, Cyber Raceway people) would have. I would see it as a very expensive way of tossing up two coins, myself, but I am not too sure how members of the public are going to view it.

The Hon. NICK XENOPHON: I just repeat the concerns I have about the current definition of 'interactive betting operations.' Obviously, I prefer the broader definition of the Hon. Mike Elliott but, as I understand the opposition's point of view, it is not likely to support that. It seems that the government has entered into a contractual relationship with the operators, so it says that it is now bound to go down that path, particularly with respect to telephone betting, which I think means that many of us here and in the community have been misled about the extent to which proprietary racing, wagering, would be made available to South Australians.

However, I think it important that we at least make an attempt to keep the government true to its intention with respect to internet communications not being allowed for South Australians to bet on proprietary racing. If the government does not have a problem with internet communications being prohibited, then interactive digital television communications ought not to be a problem for the government, because essentially it is the same technology. It is looking at remedying the same issue, that is, not to allow for this interactive visual communication so that you can bet interactively.

The Hon. NICK XENOPHON: I move to amend the Hon. Diana Laidlaw's consequential amendment as follows:

After the words 'internet communication' insert 'and interactive digital television telecommunications'.

The Hon. DIANA LAIDLAW: The government does not support this amendment. We have done a fair bit on the run in terms of this bill recently, including amendments which were made last night which we are now spending an inordinate amount of time seeking to redress. I strongly argue that we have dealt with the main issue. One of the reasons why the government moved the amendment last night is that it was always our understanding that it reflected verbal undertakings which the proponent company TeleTrak had given to certain members of my party and, on that basis, we were comfortable with having those verbal understandings reflected in the bill.

It is clear that the world has moved on, as it always will with internet and interactive communications because, since those verbal undertakings were given to certain members of my party, other contractual arrangements have been entered into. I will not today on behalf of the government, on the run, move to support this amendment. We have already learnt by trial and error that, notwithstanding the goodwill of this place, we may have unwittingly breached existing contracts with the traditional racing. I think it would be most unwise, as legislators, to fall unwittingly into a further trap and, on the run, move amendments, notwithstanding how well-intentioned those amendments might be.

The committee divided on the Hon. Nick Xenophon's amendment to the consequential amendment of the Hon. Diana Laidlaw:

AYES (4)

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

NOES (15)

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

PAIR(S)

Majority of 11 for the noes.

The Hon. Nick Xenophon's amendment thus negatived; the Hon. Diana Laidlaw's consequential amendment carried.

GAMING MACHINES (FREEZE ON GAMING MACHINES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 29 November. Page 672.)

The Hon. CARMEL ZOLLO: I am on record as supporting a cap and I will continue to do so. In the absence of being able to progress the bill to which I spoke on Wednesday, that of the member for Spence (Michael Atkinson MP), I indicate that I would prefer to see the bill of the Hon. Nick Xenophon pass without the filed amendments that are now before us. Nonetheless, the amendment in itself indicates that the Premier has been beaten at his own game. I am pleased to see the positive actions of my colleague in the other place bear results.

I would describe the amendment as a cap when one does not have a cap. It would appear to allow some further applications, around 3 000, to be processed, but I think that the number in the amendments that have been filed today has changed, compared with what is contained in the bill before us and in the bill of the member for Spence. Given that we have approximately 12 500 machines now, I have to assume that the cap number nominated in the amendment takes care of all existing applications which are yet to be processed or have been issued certificates pending planning approvals, etc. Perhaps the Hon. Angus Redford can respond to these

comments during committee, given that he has filed the amendments.

Whilst I want to see a cap and have been consistent in my strong support for a cap, I note that some of the clauses of the bill which were also picked up by the private member's bill of the member for Spence have been deleted. I thought they took care of some of the obvious need for genuine transferences and greenfield applications so, once again, I ask the Hon. Angus Redford to respond in committee as to how he envisages such contingencies will be dealt with during the six-month freeze.

I had an explanation of the clauses to the bill of the member for Spence inserted in *Hansard*, and they took care of some of the concerns of the industry, because they dealt 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. They relate to situations where a liquor licensee's rights devolve to an executor, administrator or relative of a deceased licensee or to an official receiver or administrator in the case of insolvencies. They also relate to situations where a liquor licence is being removed to new premises and the gaming machines licence needs to follow.

This issue is to be revisited by parliament on 31 May 2001. In the short time that I have been in parliament, I have seen amending legislation to legislation that is about to expire, so if this bill is passed it will not give the industry the security it is really looking for. The private member's bill of the member for Spence attempted to seek that fairer balance and provided some mechanisms for transfers of licences in special circumstances, as I have said, and genuine greenfield cases. I gave a succinct explanation of the bill the other day, so I see no point in repeating those comments.

While this is not legislation that I would have liked to see pass, I summarise the reasons that I believe parliament should at least support a cap. It will not stifle growth. There are very few places, locations and venues without poker machines, and recurrent revenue will not be affected. We will not lose existing employment. It will stop uncertainty hanging over the industry. This amended bill will do so in the short term, and it is a first step to responding to community concerns, acknowledging that this form of gambling, by its very nature, has caused many more problems than other types of gambling.

In the absence of the opportunity of progressing the private member's bill of the member for Spence or the bill of the Hon. Nick Xenophon in its unamended form, I indicate that I support a cap. For those of us who wanted to see a cap, it does not really matter how we achieve the results. Whether it is because the *Advertiser* has continued to help the Premier, and today's headline was a good example, or whether it is because of the constructive assistance of the member for Spence or the dedication of the Hon. Nick Xenophon, it does not matter. What matters in the end is that results have been achieved, I hope.

The Hon. R.I. LUCAS (Treasurer): Members will be delighted to know that I refer avid readers of *Hansard* to my three or four previous contributions in relation to freezes, pauses or temporary freezes. My views remain the same for essentially the same reasons, and I intend to vote accordingly.

The Hon. SANDRA KANCK: In 1997 a debate was held in this place, just four years ago, regarding the location of—

The Hon. Nick Xenophon: Three years ago.

The Hon. SANDRA KANCK: Yes, three years ago, 1997.

The Hon. Nick Xenophon: It seems longer though.

The Hon. SANDRA KANCK: I agree! I have this sense that we ought to be going to an election now. That bill dealt with the location of gaming venues in shopping centres. At that stage I was a member of the Social Development Committee and we had just begun taking evidence on a reference about gambling in South Australia. As a consequence of that, I moved an amendment to that piece of legislation to put a 12-month freeze on the granting of licences for any more gaming machines while the Social Development Committee took evidence. At the end of the 12 months, the Social Development Committee would have reported with its recommendations and the freeze would have bought a little bit of time so some sensible action could have been taken, if that was the sort of recommendation that we came up with. A majority of members in this chamber defeated my motion, so I will look with great interest at the vote that occurs this time around.

Members interjecting:

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): Order! There is too much audible conversation in the chamber.

The Hon. SANDRA KANCK: I will be interested to see whether there has been a change of heart. I fear that, because the Premier has spoken, a number of Liberal backbenchers may well fall into line on this one. I changed my view on this as a result of the evidence that I heard on the Social Development Committee and I made a comprehensive speech about that in June 1999. If anyone is interested to follow that up, they will see my reasons. I espoused a philosophical framework in which I reached my decision.

The Hon. T.G. Roberts: Is it on the web site?

The Hon. SANDRA KANCK: It is probably on the web site; I do not know. The upshot is that, since I spoke 18 months ago, I have not received any evidence that would cause me to alter my view that a cap on gaming machines is not needed.

We hear the anecdotal stories. And this is what happened all the time in the Social Development Committee—we heard the anecdotes. But we never looked at the hard evidence. We were given evidence that some 1½ per cent of people have a gambling problem. The converse of that is that 97½ per cent of people do not have a gambling problem.

The Hon. R.I. Lucas: That should be 98½ per cent.

The Hon. SANDRA KANCK: Sorry, 98½ per cent do not have a gambling problem. Even if you say, 'Okay, that 1½ per cent is an average. If you take out poker machines there is a higher percentage of people with a gambling problem'—let us say 5 per cent of people who play gaming machines have a problem—that still means the other 95 per cent who play gaming machines do not have a problem. We are penalising the rest of the population for the problems of a small group of people.

I will not support the freeze on gaming machines any more than I would support a freeze on the number of cars driving on our roads because of the carnage that occurs on the roads. I have not seen a similar amendment to put a freeze on the amount of alcohol that can be produced in South Australia. If someone were to suggest that, there would be absolute uproar about the damage this would do to our economy.

There is a huge inconsistency amongst the people who are calling for a freeze on gaming machines. When I hear a call and see legislation for a freeze on the amount of alcohol to be produced in the state and a freeze on the number of cars that are to be sold and allowed on the roads, then I will look at a freeze on gaming machines. My contention is that there is absolute inconsistency, if not hypocrisy, amongst many of the people who support a freeze on gaming machines, and I cannot support the legislation.

The Hon. M.J. ELLIOTT: When last we considered a freeze I expressed the view that I do not believe that a cap in itself is of any special value other than if it is put in place to give us 'thinking time'. I do not know what the consequences of changing the rules regarding gaming machines would be, but it would depend on what those changes were. You might decide to place restrictions not necessarily on the numbers of machines but on the games or a range of other things.

For a person to make an investment and have the rules change is always extraordinarily difficult. To be considering a change in rules, have new people come in and even more people affected by a change in rules I do not think is a good thing. A decision could be made for a reduction in numbers, but I do not really think so.

I opposed the initial introduction of gaming machines but, as I see it, they will be with us for some time to come. If we are to reduce the damage done by gaming machines, we will need an alteration to the game and the operation of the machines themselves. Those sorts of things have been discussed in this place in the past and I have raised them on previous occasions, in particular issues such as limiting the size of bets, the frequency of bets, modifying the game so they do not build up credits, and spitting out the coins regularly so you have to make a conscious decision to reinvest. There are a whole range of things that one might do to try to make the games less addictive.

I am not sure whether the suggestion has been put on the record in this place, but a Labor member in the other place suggested that, if the Treasurer's smiling face came up and said 'Thank you' every time a person lost, thanking them for their kind donation, that would be a guaranteed way of making gaming machines less attractive. We may consider that as a worthwhile path to follow, although the hotels might complain because it would be driving away customers and not just slowing them down.

My view has always been that a cap in itself is of no special value other than if you are using it for a chance to reassess the situation, which is long overdue. People keep talking about it, but it does not happen. The Treasurer indicated in an earlier debate today that this is the real thing—that come February-March we will have a broad ranging debate and that we will come to grips with this. I welcome that, and I think that a temporary freeze, a temporary cap, whilst that debate goes on, makes sense.

The Hon. CAROLYN PICKLES (Leader of the Opposition): I oppose the cap and have done so on several occasions that it has been before the Council, and I do not intend to take up too much of the Council's time to debate it again. I guess my reasons are somewhat civil libertarian ones. I think there is an element of snobbishness about the whole poker machine debate. It seems to me that a lot of people like to play the poker machines. It is not my cup of tea: I like to go to the opera, but some people do not. Who am I to say that they should not be allowed to do it?

I agree that there are some people who cannot control their gambling, but there are also some people who cannot control their drinking, sexual behaviour and other behaviours, and we can certainly try to do something about the harmful side of it. However, I do not believe a cap will do it: it is ill-conceived.

If the Premier had wanted to do something about the harmful side of gambling, he has had 43 sittings days in which to do it. He has brought this in at the last minute. Obviously, the Premier wants this amendment, and we will look at it again next year. The government has all the resources—public servants and expertise—and if the Premier had felt that a problem had been going on for some time he could have done something about it before.

I think it is monstrous that we are here having had very little sleep in the last few days debating government business, and now we have to face the issue yet again. I suspect that some people will have changed their mind because this has now become the Premier's issue.

I know that my colleague in another place wanted to have a cap on poker machines. It is a conscience issue for members of my party and it will remain a conscience issue. But, quite frankly, I think that, if the government wants to do something about what it perceives as the harmful side of poker machines, it has had adequate time to do it instead of bringing this in as some kind of cheap political stunt.

The Hon. R.K. SNEATH: When poker machines were introduced, I was pleased that the Hon. George Weatherill had the good sense to limit the number to 40 per establishment. There is too much gambling in this state, and in this country for that matter. If 1½ per cent of the population are problem gamblers, that is 1½ per cent too many. I do not think the amendment will address that, but we have to find some way to address it. The people who are operating the gambling places do not seem to have any idea how to address it.

The Hon. Mike Elliott got nearly half way there by saying that, if the Treasurer's face came up on the screen every time you lost with a bit of a laugh like some of those things you hear when you are in a hotel having a drink, it would help solve problem gambling. Perhaps it would be worse if multiple images of his face came up across the screen when you won.

The Hon. T.G. Cameron: Do you reckon it would stop people gambling?

The Hon. R.K. SNEATH: It might help. The thing is—

The Hon. R.I. Lucas: My mother reads *Hansard* and will be offended by this personal abuse!

Members interjecting:

The ACTING PRESIDENT: Order! The Hon. Bob Sneath has the call.

The Hon. R.K. SNEATH: I am sure the Treasurer's mother is a delightful lady and that the Treasurer is not all her fault. I do support a temporary freeze on gaming machines to be reviewed in several months. Because it is a conscience vote, that is how I will vote.

The Hon. T.G. CAMERON: I indicate that whilst I have, and have always had, some reservations about the effectiveness of a cap, I do think it is appropriate and timely to send a message to the community in relation to poker machines. I do not accept the argument that, if we reintroduce a cap, that will be the end of all our problems with problem gamblers. If anybody thinks that, that is a nonsense.

I have always had the view that, rather than adopting an overall generic approach to problem gamblers, we should adopt the bullet approach and deal with the question of problem gamblers, as I have said before. For reasons best known to people who play poker machines it is obvious that people derive entertainment, enjoyment and satisfaction from them. Just as I do not have a problem with responsible drinking, I do not have a problem with responsible gaming.

Things have got a little bit out of control here in South Australia. The uptake of poker machines has far exceeded anybody's expectations. When I was on the Social Development Committee and supported a cap I think we had about 11 000 machines here in South Australia. The Hon. Sandra Kanck sat with me on that committee. I think, if my recollection is correct, she also supported a cap but had some reservations as to whether this would be a panacea for curing all of the ailments in relation to problem gambling. If my recollection is correct, her position is reasonably similar to mine.

I happily support placing a cap on poker machines. I shall be supporting a cap until May next year. I look forward to the government bringing back a bill which both houses can consider. I suggest to the government—not that I think for one moment that it will follow up on it—that it have discussions with the Hon. Nick Xenophon during the break—

The Hon. Nick Xenophon interjecting:

The Hon. T.G. CAMERON: Yes, well I am encouraging it to take the initiative rather than you beating its door down or kicking it in the ankle every other night on television. I am encouraging it to take the initiative—

The Hon. Nick Xenophon: The ankle?

The Hon. T.G. CAMERON: That is a euphemism for where you usually kick people. I encourage the government to enter into dialogue with the Hon. Nick Xenophon and to seek the views of any other interested members of parliament on this issue. If we can find some common ground before we bring a bill in, it might avoid some of the endless debates we have on clauses in relation to gaming.

I will not support the resolution of the House of Assembly. It was a nonsense. It was a bit of political theatre and playing politics in an attempt to embarrass the government. I do appreciate that the bill got the numbers but it was an ill considered piece of legislation and, in my opinion, has no real teeth and will not really do anything about problem gambling in this state. I support the placement of a freeze until 31 May 2001. I remind the government that, if it is unable to come back to this place with a bill, I will not support extending the freeze, because that would only further delay an issue that must be addressed.

It will probably deny it, but I perceive a more realistic attitude these days from the AHA in relation to this question of problem gambling. In case members do not know, it is my understanding that the hotel industry in this state is the only hotel industry in Australia that contributes towards a gambling rehabilitation fund. If that is not correct I am sure the Hon. Nick Xenophon will—

The Hon. Nick Xenophon interjecting:

The Hon. T.G. CAMERON: Right. I have noticed a more realistic attitude, a thawing if you like. I have noticed that John Lewis, the General Manager of the AHA, is more temperate in his use of language, and I encourage him for that. We do not need an hysterical debate about poker machines. I am not suggesting that the Hon. Nick Xenophon has been hysterical, I do not have to; I just leave that for the Treasurer and the Hon. Legh Davis.

I think all the parties have reached a point where we can have a decent debate and, hopefully, when legislation is brought back to the parliament, it will have the general agreement of the industry, this parliament and, I hope, although there is a question mark, the Hon. Nick Xenophon. I support the amendment and I will be supporting the cap.

The Hon. R.R. ROBERTS: I will be supporting a cap on the number of gaming machines. Some months ago, when the Hon. Nick Xenophon introduced a bill that provided for a cap and proposed a proper assessment as to where gaming machines were heading, I supported the proposition. I suggested then that it was time to pause and reflect before we go down this path.

Other speakers have said that only about 1.8 per cent of the population has a gambling problem. Put in those terms it does not sound too many until you consider that that represents 290 000 Australians with a gambling problem. People would be up in arms if it was said that 1 per cent, or 290 000 Australians, had been affected by another product. One of the problems is that this government has itself become addicted to poker machines, and the whole perspective has changed since the introduction of gaming machines. I was one who supported the introduction of gaming machines and, at the time, I was assured that only a certain amount of money would be available for gaming machines and that they would not go very far. We were told that we could expect something like $80 million a year maximum out of gaming machines: it is now $500 million. I do not think that it can keep going.

I have not be persuaded by arguments that jobs in the entertainment and hotel industry would be put at risk. It is a fact of life that we are putting on a cap: we are not abolishing gaming machines. We are saying, 'Let's just stop for the moment.' The people who have gained employment through this industry (and we are happy about that) will still be there tomorrow, but we must balance the social cost against any future opportunities that may be there.

There will be not only job opportunities but more opportunities for people to become gambling addicts. It is not necessarily only the gambling addict who suffers in these situations. If you talk to the people in the social welfare department and the social welfare industry and see some of the effects of addiction to gaming machines on families and children, you get a different perspective other than the blase statements of people such as the Hon. Sandra Kanck, who talks about 'only about 1.8 per cent'. They are real people with real lives. What is being proposed here is not a hard ask. All that is being proposed is: 'Let's stop and have a look. If we need to go forward or we need to go back, or we need to adjust, let's do it.'

There are trends around Australia regarding poker machines. I can remember that, when the Labor Party caucus was considering Nick Xenophon's bills on gambling and casinos, we made certain decisions based on what we knew at the time, and there was a divergence of opinion as to what we should do on a number of issues. I took one view and others took another view. However, since that six or eight months has passed, what has occurred in many other states (and I might say, Labor states) is that the problem has been recognised and corrective action has been taken. Some of the propositions which the Hon. Nick Xenophon has proposed in his other bills and which have been rejected by this parliament have been seized and acted upon by governments which, in my view, are taking a much more responsible attitude to the problem of gaming machines.

It is true that gaming machines have brought many benefits but they have also caused a lot of misery, and what is being proposed by the Hon. Nick Xenophon and, I suppose, in his own way, the Premier in another place, and Michael Atkinson, is an opportunity for this parliament to show the sort of responsibility that we ask of gambling addicts to say, 'Stop and reassess your position; see if you can modify your behaviour for not only yourself and your families but for the whole of the community.' I think this is a sensible piece of legislation which should have been supported eight or 10 months ago, but it is better late than never. I would urge all members to support this bill.

The Hon. T.G. ROBERTS: Unfortunately, I am unable to support the Hon. Mr Xenophon's position, because it is a recycled position that the honourable member has and the closer we get to a full inquiry which is expected next year to look at gaming generally, the more accurate the predictions that the honourable member has been making over the last 18 months become.

In relation to South Australia drowning in poker machines, it is almost upon us because it is surely not far off saturation point now. However, the problem with caps and, in particular, temporary caps, or the talk of temporary caps, as the Hon. Mr Cameron has indicated, is that the only message it sends to the community is, 'Get your applications in now—

The Hon. Nick Xenophon: It has been backdated.

The Hon. T.G. ROBERTS: I know it has been backdated. If you look at the previous scares that have occurred in the community, there has been a surge of applications by people when they anticipate the implementation of a cap. They only have to anticipate a cap and up goes the application rate and a surge of poker machines go in. I would say that as soon as the cap comes off in May there will be another surge of applications by those people who fear that a real cap may result from the discussions that have started and the political performance that has occurred with this whole subject. Some good may come out of that.

Every speaker on their feet today and last night, whether they were talking about the TAB, proprietary racing, and now poker machines, said that there are too many gambling options in this state, that there are not enough probity programs, and that there is not enough support for victims; and they mentioned a number of other issues associated with gambling. When a state relies so heavily on the revenue from gambling, it has a number of obligations to provide services and backup provisions. If those things do not exist, the government should commit itself to a full inquiry to determine whether the figure is 1.5 or .05 per cent of problem gamblers; how we can help dissuade people from becoming problem gamblers; how we can help problem gamblers; and how we can discourage people from abusing the addictive services of legalised gambling. Then we should have a look at what sort of assistance we can provide across the board—not just with poker machines, but with other forms of gambling, including the new one about to enter the race via the internet.

I do not support the cap, so I do not support the bill before us, but I will take part in a future inquiry, whether it be a select committee, a standing committee or a committee of both houses, to look at all aspects of gambling in an attempt to determine the most effective way of coming to terms with some of the problems we have in the community and recognise the concerns that the community has in respect of gambling. If we do something like that, I think we will serve the community a lot better than just playing political games. I throw that accusation at both sides of politics in relation to the political games that are played. I would like to see something more happen, because with a temporary cap, as I said, the only thing that will happen is either another surge of applications for when the cap comes off, or there will be a shift in investment that the state may not be happy with.

The Hon. P. HOLLOWAY: The final day of every parliamentary session seems to have become ground hog day. On the last three occasions that we have debated a poker machine cap it has been the last item on the last day of a sitting. However, I am not sure whether the vote will be the same on this bill. It certainly will be as far as my vote is concerned, but I have the feeling that there are a few changed consciences among us. I guess we will see.

We are talking about a gaming machine cap. We have discussed this matter three times before. If my speech is repetitive on the matter, I apologise for that, but I guess it will keep being the same while we have these motions being moved. I oppose the cap, because the problem with caps is that they create economic distortions. Once you impose a cap you confer a monopoly benefit on those that already exist in the industry. A number of other problems also come about. Against that, the evidence is that caps do not achieve a lot of good; in fact, the finding of the Productivity Commission was that they do not achieve any good at all. It found that the introduction of a cap across the board would achieve little or nothing in terms of harm minimisation.

The only case that I can think of for a cap would be part of a broader approach to dealing with the problems created by gaming. I notice that before the last Victorian election the government there proposed a number of measures of which a cap was part, but I believe that what its was proposing was a cap in local government areas. That might have some superficial attraction, because in some metropolitan or country areas you may get an over-saturation of machines, and that would enable a cap to be applied locally. The only problem there is that there would be problems at the boundaries. There might be a high concentration within, but near the edges of the boundaries there might be problems. One of the problems is that, whatever sort of cap you try to come up with, you will get problems with it.

We know that the reason why this bill has come about today and why we are debating it in the form of the Hon. Nick Xenophon's bill is that the Premier announced that he wanted a bill. The Premier is at least being consistent; he has always opposed poker machines (and that is fair enough), as some of us in here have always supported them.

I read through the debates in the other chamber, and I noticed that the Premier indicated that he wanted to come up with measures which would pass through this chamber and which would be consensus measures or be acceptable to the broader community. The only problem that I see with that is how you do it. I noticed that at least the government is now talking to the hotels association, which after all represents the operators of most poker machines. That is a positive thing; if we are dealing with this problem we should at least talk with the people at the coal face.

I compliment the hotels association on the positive contribution that it has made in the past towards harm minimisation measures. As has been pointed out, it provides a significant amount of money to the fund that deals with problem gambling and has also introduced a code of practice that deals with problem gambling. I wish the Premier well in

trying to come up with a form of legislation over the next few months that will deal with all the problems; however, I do not think he will succeed.

If we look at the correspondence that has recently been given to us by the hotels association and its view on the cap, we can see some of the problems it has picked out, and they show just how difficult it will be to come up with a cap. It is my understanding that the Premier intended to introduce a bill in the House of Assembly today. As I understand it, that bill has not been introduced, and I am not surprised, because it will be incredibly difficult—

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: I would suggest that the Hon. Angus Redford not make interjections like that, or we could be here all day. If he really wants to get into the politics of it, we could say an awful lot on this bill. I make the point about how difficult it will be to come up with any sort of measures to address the problems that would be created by a cap. In the hotels association submission to us, it states that the minister should have discretion to grant gaming machine licences to new development, securing future economic growth and employment in South Australia. I agree—

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: The whole point about this—the reason why we are dealing with this bill, with amendments—is to provide a cap until such time as the government can come up with measures that we are told will address this problem in a broader scale. That is my understanding of why we are here; if I am wrong on that, I invite the Hon. Angus Redford to tell us all afterwards. One of the suggestions is that ministers should have a discretion to grant gaming machine licences to new developments, securing future economic growth and employment in South Australia. I certainly would agree with the principle that we should not have caps which reduce or have a detrimental effect on economic growth here, but could we really envisage a situation where a minister had discretionary powers? Would the Treasurer want discretionary powers to hand out poker machine licences?

The Hon. Terry Cameron was talking about donations to political parties. Can one imagine the chaos we would have if a minister had discretionary powers to grant gaming machine licences to new developments? Clearly, that would be an extraordinary proposition. That is one of the problems that a cap would create. If we bring in caps, what do we do about areas that have not had machines? There might be a shortage; someone might have a proposal for a tourism, greenfield or resort development that is very good for South Australia, but how would we deal with such a situation?

The hotels association suggests that the minister have discretion, but I would suggest that that would be an incredibly dangerous thing to do politically, and that no government would want to touch a measure such as that. Clearly, we would have to find some expression in the legislation—some way of describing in legislation how we would allow these new developments to proceed. Most of us would want that to happen, but I think that would be extraordinarily difficult to do, without giving a discretionary power.

Another problem we have is with transferring machines. The hotels association has suggested that we should have flexible regulations controlling machine transfers to give hotels with a few machines the chance to increase numbers up to a maximum of 40 machines. If we do that, what is the point of having a cap, anyway? There is no point in a cap if it becomes too flexible; that just reduces the whole purpose of a cap.

We are also told by the AHA that an acceptable cap would be a global cap on gaming machines for a limited period. But, again, what happens if we have a limited period? As soon as the period ends we will immediately see an explosion of applications. We had that with the prices and incomes freeze back in the 1970s; that is why that policy has long since been abandoned. The problem with freezes is that when you lift them and do not have other measures they just do not work.

They are the main suggestions. The other one was retrospectivity. I do not know that that is necessarily relevant to the debate here, so I will not go into that. These are the suggestions from the AHA—and I think they are reasonable suggestions in principle—that, if we are to have a cap, these are the things we should look at. The point I am trying to make, however, is that we would create enormous difficulties and it would be very difficult to write those specifically into workable legislation that can govern the introduction of new machines. If the government can come up with some sort of cap that addresses all these problems without creating further problems, I would be prepared to look at it, but I do not believe it is possible. That is the reason why I will be consistent and oppose this cap.

It is not that I think we do not have to do anything about addressing the problems of poker machines in our community. One of the best speeches I have read on this subject was that which the Attorney-General made at the end of the last session. The Attorney made the point in his speech that one of the problems we have had is that, because it has been a conscience issue, there has been no focus on the problem and that (I hope I am doing justice to the Attorney here), if the government were to focus on the problem of gambling as it does by having specific government agencies focusing on the problems created by liquor, then we could come up with a better response.

I think that was a very important speech that the Attorney made, and I support the sentiment in it. At the end of the day, that is really the only way we will address the problems created by gambling. I do not think that a cap, whether it goes until May next year, for a year or, even, indefinitely, will achieve a lot. Those clubs and hotels that already have poker machines will not be particularly worried by a cap. They will effectively have a form of monopoly under such a regime and it will not affect them at all.

It is also worth pointing out that in this state, if you count the applications in at the moment, there are over 15 000 gaming machines, whereas Victoria has 27 000 for a significantly greater population. That would suggest that, if we are not at saturation point already, we must be pretty close to it. A cap in that situation would be even less effective than a cap when there was a much lesser number. All it would do is create problems for new developments that were coming along.

As the Hotels Association points out, there may be some very good developments, economically important to the state, the economic viability of which may depend on the availability of machines. All these issues have to be addressed. As I said, if the government can come up with something and address all these issues, well and good. We will look at it on its merits. In the meantime, I indicate that I will be consistent with the position that I have adopted in the past and will oppose this cap, simply because in my view it will do nothing at all to address the principal problems we have in gambling.

The Hon. J.S.L. DAWKINS: I have opposed a cap on poker machines in the past. However, at this point I will support the amendment to be moved by the Hon. Angus Redford as I believe its passage will provide the opportunity for all relevant sectors of the community to discuss the best way forward in relation to gaming machines in South Australia.

I am not convinced that a cap will achieve what many expect of it. However, I believe that the temporary freeze is worth supporting to enable all stakeholders to have input into developing a policy on an issue which has obviously generated considerable concern in significant sections of the community.

The Hon. NICK XENOPHON: I thank members for their contributions; some more than others. This debate has been most useful. There have been some dramatic developments in the past two weeks in the context of dealing with the issue of a poker machine freeze and, just as importantly, issues dealing with gambling generated harm in the community.

To members who say that it is only 1½ or 2 per cent of the community and therefore we should not be so concerned about it, I say 'Let's put it into perspective.' The Productivity Commission's report on Australia's gambling industry, the most comprehensive report on gambling in this country ever compiled, has indicated that there is a clear link between accessibility and problem gambling; that electronic gaming machines are the biggest contributor to problem gambling in this country.

Between 65 and 80 per cent of Australia's 290 000 significant problem gamblers have a problem because of electronic gaming machines, and there is a clear link between accessibility and problem. To say that a cap will not do anything misses the point. The Premier made the point about drawing a line in the sand, and he is absolutely right. It is important that we have a cap. Even a temporary cap for six months will give us valuable breathing space to deal with this issue.

When some members say, again, that only 2 per cent of the population is affected by problem gambling, the commission made very clear that between five and seven people are affected with each problem gambler. Looking at the Productivity Commission's figures—not my figures—we have in South Australia 21 000 to 25 000 significant problem gamblers, and 65 to 80 per cent of them are due to electronic gaming machines. That means that we have something like 15 000 to 18 000 problem gamblers in this state because of gaming machines.

Five to seven individuals are affected with each problem gambler, so in this state we have in the vicinity of 100 000-plus South Australians in some way worse off because of the gambling bug, brought about by problems with poker machines. That is a significant number of South Australians and an issue that must be addressed with comprehensive legislation.

I can count: I know that there are not the numbers here for a long-term freeze of poker machines and I appreciate that. We have had a number of votes in this chamber over the past two years in respect of that, and I acknowledge that a six month freeze is a compromise but, more than that, it provides an opportunity to look at a number of comprehensive harm reduction measures.

It is about time that we dealt with this issue. I do want to praise the Premier for the statement that he made in parliament yesterday, when he made a commitment, I believe, to look at a whole range of issues in the next six months. This temporary freeze will give us an opportunity at least to grapple with a whole range of issues that this parliament has not grappled with in the past three years.

I do welcome the Premier's statement and I look forward to working with the Premier, the opposition and all parties in this place and in the community, so that we can achieve a good outcome and reduce the devastation that has been brought about by the widespread access to poker machines in South Australia. Having said that, I look forward to this bill being dealt with expeditiously today so that we can actually have a freeze in place. I look forward to working with all parties so that we can achieve an outcome that makes a real difference to the many tens of thousands of South Australians who have been hurt quite deeply by the impact of poker machines on the community. I commend the bill to members.

Bill read a second time.

In committee.

Clause 1 passed.

Clause 2.

The Hon. A.J. REDFORD: I move:

Page 3—

Line 14—Leave out '24 November 2000' and insert:

7 December 2000

Line 31—Insert:

(3a) Despite any other provision of this act, a person whose application for a gaming machine licence or for approval to increase the number of gaming machines to be operated under a gaming machine licence had not been determined as at 7 December 2000 cannot, after that date, seek to vary the application so as to increase the number of gaming machines sought to be operated by the applicant (and any application for such a variation will be taken to be void and of no effect).

After line 33—Insert:

(5) This section expires on 31 May 2001.

This amendment seeks to implement a gaming machine freeze commencing 7 December 2000 until 31 May 2000, although some might well call that a gaming machine pause. I have become increasingly concerned that, every time someone mentions a freeze, a rush of applications is filed, which is entirely counterproductive to what the proponents of a freeze are actually seeking.

Indeed, it was exceedingly disappointing that last week this important issue descended into a situation where some who oppose a freeze sought to suspend standing orders, only to subsequently vote against the freeze which, in my mind, led to a diminishing of the debate and a diminishing of the important issues that we are dealing with.

I remind members that the Productivity Commission's final report into Australian gambling industries, released in December last year by the Prime Minister, showed that Australians are the world's biggest per capita gamblers, losing an average of $760 per adult.

The report states that we have 290 000 problem gamblers (2.1 per cent of Australian adults) and that problem gamblers account for one-third of all gambling expenditure. It states that levels of problem gambling are linked to the level of accessibility of gambling products and then, specifically and importantly, it refers to public concern about the level of gambling in Australia: nationally, about 70 per cent of Australians believe that it does more harm than good and, in the state of South Australia, the figure is 85 per cent. I note that the Productivity Commission reports that 92 per cent of Australians do not want to see any more gaming machines.

Yesterday, the Premier announced that it will work with 'interested parties to develop a comprehensive bill which addresses all the issues'. I understand that a comprehensive bill, as far as gaming machines are concerned, will cover an extraordinary range of issues such as advertising and promotion practices; warnings on machines and at premises; improved consumer awareness; machine activities such as rates of play, autoplay and maximum bet; the modification of player behaviour such as breaks and breaks after wins; rules in relation to intoxication; and other important measures. Most importantly in my mind is an indication on the part of the Treasurer and subsequently the Premier that the government will consider an extension of the role of the Gaming Supervisory Authority to monitor the impact of gaming. That would have to be a positive step forward.

These are all issues that warrant the attention of this parliament and the community and require reasoned and rational debate. In my view, a permanent freeze on the number of machines will achieve only one outcome: the enrichment of poker machine proprietors. However, if we are to debate all these issues, in my view, future poker machine licensees should be in a position to know what they can or cannot do.

With such a significant debate to take place from March to May next year on this topic, it would be inappropriate to proceed to issue licences. It would be unfair and potentially misleading to applicants, particularly if parliament makes any significant change to the legislation. In the past, I have opposed such measures. Indeed, most of the debate in the last parliament centred around the issue of transferability and the like: in other words, protecting the existing wealth of publicans. Indeed, they were a bit like that in another place.

I close by making one comment and that is how exceedingly disappointed I am in the politicisation of this debate. People such as the Premier and the Hon. Paul Holloway who have differing views hold those views genuinely. We do ourselves no service by playing politics on issues which go to the very heart of the conscience of a member of parliament. It is my view that, if we do play politics on issues such as this, we run the risk of creating a perception within our own major political parties that we can take individual consciences away from individual members. It is a very risky thing to do.

Finally, I want to comment about a headline in today's newspaper. The Premier has conducted himself extraordinarily well throughout this and, at every stage, has respected the right of each and every member to a conscience vote. He has at no stage provided us with any orders, nor has he suggested any consequence arising for any member if that member exercises a conscience vote. For that, he has my respect and endorsement, and I am sure that that view is shared by all my colleagues on this side. The fact is that we have come to the view that now is the time to properly and fully debate this issue and that a poker machine pause is a good way in which we can commence this important debate.

The Hon. T.G. CAMERON: I rise to support the amendment moved by the Hon. Angus Redford. This is an extremely satisfactory course of action in contrast with the debacle of the debate that took place in the other place. As every member of the Legislative Council would know, we are used to showing the other place how to deal with these matters in a reasonable way.

The Hon. T.G. Roberts: We're beyond politics.

The Hon. T.G. CAMERON: Yes, we in this chamber are beyond politics. That is why the Labor Party now wants to keep the house of review. The honourable member sees merit in its ongoing existence after all.

The Hon. T.G. Roberts interjecting:

The Hon. T.G. CAMERON: A policy change. I urge all members who support the cap to support this amendment so that during the break we can address some of the issues relating to problem gambling. As I said previously, I do not expect a cap to make one zip of difference to problem gamblers but, for some of the reasons that were clearly outlined by the Hon. Angus Redford in his contribution, I support the amendment.

The Hon. M.J. ELLIOTT: I have indicated on a number of occasions that I am prepared to support a cap as a temporary measure, which is what this amendment will achieve, to give us the breathing space to take a close look at the regulation of gambling and, in particular, methods of harm minimisation. It is interesting to see that the numbers in this place have changed on this matter: last time, we were very short of numbers, and now we are not. I noted in an earlier debate today that the government had the chance to have permanent fees but actually ended up with a temporary fee arrangement. I just hope that a temporary freeze has not been exchanged for temporary fees. I must say that it does look a bit that way. I will look closely to see whether or not there is a genuine commitment, particularly by government members, on this issue or whether we will have what we have had on previous occasions, and that is window dressing.

The Hon. CARMEL ZOLLO: This is a conscience issue for the Labor Party. I have already indicated twice this week that I support a cap. I personally support the amendments of the Hon. Angus Redford. He referred to politics and politicising issues. Whatever has occurred, I am pleased that it has because it has brought this legislation before us for further consideration.

The Hon. R.I. LUCAS: For the reasons that I outlined in the second reading explanation and as I indicated three or four times during members' contributions, I cannot, do not and will not support a cap, a freeze or a pause. I understand from those who have spoken and discussions with a number of members on all sides, that, as there were the numbers for the second reading, there are the numbers and the support for this particular series of amendments.

I want to make clear, lest there be any distortion by the media between now and May, as the Hon. Mr Holloway indicated in his second reading speech, the official estimate of numbers and what we are talking about capping is 15 209—that is the best estimate.

It ought to be placed clearly on the record, as the Hon. Mr Holloway has done, that we do not want to see 'shock, horror' headlines that, because of the way in which the legislation has been formed and the administrative procedures followed by the commissioner have to be adopted, the media then starts running a line that, because there is future processing between now and 31 May, ''Shock, horror', we weren't told.' The Hon. Mr Holloway has made it clear—and the advice that I have been given confirms what he has said—that, in essence, this is about placing a potential cap on the number of gaming machines at about 15 209 until 31 May next year.

In ballpark terms, there are 13 500 installed machines; about 14 500 machines that have been approved; 1 000 of those have not been installed; about another 500 or so applications prior to 7 December are before the commissioner for approval; and in 180 cases the commissioner has made a decision but there has been no formal approval. For example,

this type of approval or decision is where a gaming machine licence is pending the receipt of a liquor licence for a hotel development or something like that. If the liquor licence arrives between now and 31 May, there is an automatic provision of the gaming licence.

As the Hon. Mr Holloway has done, I wanted to place on the record what is being achieved by this, so that we do not see between now and 31 May any shock-horror headlines that there has been some purported increase in the total number, contrary to the wishes of the parliament.

The Hon. P. HOLLOWAY: I indicate that I oppose the cap. As far as I am concerned, this can be a test clause for the will of the committee on this matter.

The Hon. CAROLYN PICKLES: Since this is a conscience vote for members of the Labor Party, I just want to place on record once again that I am opposed to this amendment and opposed to a cap in any shape or form.

The Hon. NICK XENOPHON: I note that the Hon. Angus Redford has indicated that he will oppose clause 3, which was inserted originally to provide for the surrender of poker machine licences. I would be grateful if the Hon. Angus Redford could put on the record his view as to why he is opposing that clause so there is no question mark over his opposition, which I understand to be on the basis of advice that he has received.

The Hon. A.J. REDFORD: In short answer, my understanding is that there was a risk that there might be some abuse in so far as this measure was concerned to the extent that it might get around the objects of the act. I concede that, if this was a long-term freeze or pause, there would be a real necessity for clause 3, but given that the pause or freeze is for a limited or short period, it was felt that, in order to close it off without any possibility of anyone sneaking through any cracks, the clause should be defeated because it is a freeze of such a short duration.

Amendments carried.

The committee divided on the clause as amended:

AYES (13)

Cameron, T. G.	Davis, L. H.
Dawkins, J. S. L.	Elliott, M. J.
Gilfillan, I.	Griffin, K. T.
Laidlaw, D. V.	Lawson, R. D.
Redford, A. J. (teller)	Roberts, R. R.
Sneath, R. K.	Xenophon, N.
Zollo, C.	

NOES (7)

Holloway, P. (teller)	Kanck, S. M.
Lucas, R. I.	Pickles, C. A.
Roberts, T. G.	Schaefer, C. V.
Stefani, J. F.	

Majority of 6 for the ayes.

Clause as amended thus passed.

Clause 3.

The Hon. NICK XENOPHON: The Hon. Angus Redford has given an explanation as to why he opposes this clause. I agree with his explanation. It seems to be a sensible way to proceed, that the clause not be included, as this is only a temporary freeze bill.

The Hon. CARMEL ZOLLO: This clause, a surrender clause, was also part of the private member's bill of the member for Spence in the other place and, given the explanation that the Hon. Angus Redford has made, because it is a short-term freeze, I concur in his remarks.

Clause negatived.

Title passed.

The Hon. NICK XENOPHON: I move:

That this bill be now read a third time.

I indicate my thanks to those members who have supported the bill to this stage. Notwithstanding that it is a temporary freeze, it is a breakthrough and a step in the right direction. Given the statements made by the Premier in the other place yesterday, I believe that there is a real chance that some real change can be brought about in South Australia with respect to gaming machines in the next few months.

I am also grateful for the support of members on the other side of the Council. I believe it is important to acknowledge that the contribution of Michael Atkinson, the member for Spence, who has consistently opposed poker machines and has taken a consistent line on the issue, in this debate has been quite helpful. It is also important that the government consult widely, not only with the industry but also with those who are concerned about the impact of problem gambling in the community, so that a position can be achieved to do something that will make a real difference to the lives of those tens of thousands of South Australians who have been deeply affected by the impact of poker machines.

Bill read a third time and passed.

COUNTRY FIRES (INCIDENT CONTROL) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 5 December. Page 773.)

The Hon. IAN GILFILLAN: The Democrats support the second reading of the bill. I have one minor regret and that is that there was inadequate time for me to have adequate consultation with the parties involved. However, I have been reassured, through conversations with the shadow minister, Pat Conlon, and the minister, Robert Brokenshire—both of whom seem to be able to quite genuinely indicate that the parties involved are satisfied with the legislation—that the National Parks and Wildlife representatives who have been involved in discussions are satisfied with it, and in fact are quite pleasantly surprised particularly with the amendments that are on file, which I also indicate we will be supporting.

Fortunately, I had an opportunity to catch up with a colleague of mine who is the chief of National Parks and Wildlife on Kangaroo Island. Without much notice I was able to get his feedback. He believes that the climate between the CFS and national parks is much more cooperative and amiable now than it was in the days when there were rather horrific standoffs and when there were disputes as to who should take control of the fire and what should be done. He assures me that, as far as his knowledge is concerned—and it is critical to me that it is the case on Kangaroo Island—there is a strong sense of cooperation.

It is not the time now (nor do I have the detail) to analyse it as much as I would like, but I think it is important to share with the chamber a couple of quite critical observations that he made. First, there are fire management plans being drawn up for Flinders Chase and a couple of other significant parks in South Australia and they will be quite detailed in a whole range of aspects including management and procedures for dealing with fires in their various categories.

However, as he pointed out, that only applies to a very small number of national parks in the state. The vast number of national parks only have fire management statements

which are very brief and rather superficial (and that is as much my judgment as his comment; I do not want to burden him with all the responsibility of what I am saying), and clearly these statements are inadequate as regards substantial guidelines for fighting fires and the cooperation between the CFS and national parks in those parks.

From the legislation it is clear that the incident controller will be appointed by the CFS, but it does not stipulate that the person has to be a member of the CFS. It could, under certain circumstances, be a national parks officer, particularly one who has had years of experience, as many of them have, and it would be appropriate for that person to be the fire controller. It appears to be a reasonable and useful step.

The feedback that I have been able to get has reassured me that, to a large degree, it has substantial support from National Parks and Wildlife. During an informal conversation with the minister he gave an undertaking, which possibly could be pressed a bit further, that the situation will be reviewed after there has been some experience of firefighting. Let us hope we do not have very much experience of that this season, although sadly it is almost inevitable that we will have some experience at least to draw further judgment on. With those observations, I indicate the Democrats support for the bill and the amendments.

The Hon. T.G. ROBERTS: The Labor Party's position has changed from a point of opposition to a point of supporting it on the basis of the amendments and further discussions that were held, as the Hon. Mr Gilfillan has outlined. We were not particularly endeared to the changes in the bill, but the amendments have addressed the concerns that we had. If one reads the second reading contributions in the lower house, one would be a bit confused as to whether or not a conscience vote or a party position was being adopted.

There was general agreement on support for the bill, but I think it has been improved markedly by the amendments. We hope that the cooperation that has commenced between the National Parks and Wildlife and the CFS continues so that, in the first instance when an incident is reported, discussions occur around who is to be in control and who takes over from the controller when tiredness sets in or the length of the incident continues. We hope that those sorts of issues can be worked out amicably so that we do not need to have heavy-handed legislation. The best way for those services to be integrated and work efficiently is for them to work cooperatively. We support the bill.

The Hon. M.J. ELLIOTT: Although this is a CFS matter, it also directly impacts on what happens in national parks. As the party's environment spokesperson, I want to make a few comments in this regard. About the time I came into this place some 15 years ago I recall a fire in the Danggali Conservation Park. The park rangers based there, as part of their fire policy, felt that the fire should continue to burn. The CFS arrived on the edge of the park with bulldozers saying that it wanted to go in and put it out. As I recall, the police had to intervene because of the strong disagreements between the rangers and the CFS. One hopes that some progress has been made since then, although I am told that there has been the odd stand-off in the interim. I suppose one reason for the government wanting the legislation is that it does not want to have stand-off situations.

A point that has to be made is that fire does not necessarily damage a national park. Some people have an attitude that if a fire starts and burns in a park it has destroyed the park. Fires are part of the environment. What has an impact on the park is how frequently we have fires. Different vegetation associations are adapted to different fire frequencies. Grasslands, for example, are adapted to high frequency fires. In fact, it is self perpetuating. Grasslands burn readily and grass grows well in places that have been burnt regularly. Bushland will tend to carry fires less frequently and tree country even less so.

If you get an area with trees in it and burn it regularly, the trees will eventually be lost, the land will go to bush, and eventually to grass. I think everybody accepts that rainfall has an impact on vegetation, and they accept that soil has an impact on vegetation. Fire also has an important impact on vegetation and, therefore, also upon the animals. The reason why I say you cannot just say 'we saved the park because we put out the fire' is that, if the park has a particular vegetation association and you keep putting the fires out, the vegetation association will change and the animals that go with it also will change. In fact some areas will, in a biological sense, degrade.

This approach places a park at great risk. In America they had a policy for a very long time of putting fires out. Then they had one really bad summer after several decades of successful firefighting. They had a huge build up of vegetable detritus, and then wildfire of the most unimaginably furious kind really damaged the parks because the vegetation was not adapted to wildfire. Yellowstone, among other parks, suffered significant damage.

The damage is not done just because there is a fire. The damage is done, as I said, because of the frequency and intensity of the fires, and the intensity also relates back to the frequency. That is why it is really important that whoever is involved in firefighting in national parks needs to have an understanding of the relationship between bushfires and the natural environment. The ideal situation is, perhaps, for parks to have a number of fires that burn at different times to create a mosaic effect. I mean that, if you have one area that was burnt five years ago and another fire starts and burns up to it, it then runs out of fuel and goes out, and you end up with a patchwork which keeps reinforcing itself. Eventually, the area that was burnt five years ago has enough vegetation that it will burn better and a fire that enters into the more recently burnt area will then peter out.

If you rush in every time there is a spot fire from lightning and put it out immediately, you will lose your mosaics and end up with a continuous stretch of vegetation that has not been burnt for a long time. You will then get a wildfire totally out of control that will do enormous damage. I think it is fair to say that even the national parks themselves have not got on top of this issue of fire management; nor do I think they have developed an adequate fire policy for their parks. If you acknowledge that, you realise that for the most part fire control now will not be in their hands but in the hands of the CFS. So, there is the potential for mistakes to be made, but not with any mal-intent or because people do not care about the vegetation; in fact, they might care too much. They could be so desperate to get in there and protect it that they end up doing damage.

It is also worth noting that, as I understand it, about 85 per cent of the fires in national parks enter from outside. About 20 per cent of fires in parks leave the parks. Particularly at this time of year farmers are out with their headers. A bit of straw builds up somewhere, a fire starts, and then it rips into the native scrub. Not only are matters of fire frequency important but if you decide to put out a fire you have a

choice. If you use water bombers and you have added retardants to the water, they are sometimes phosphorous rich. Australian soils, for the most part, are really poor and low in phosphorous. If you start putting fires out using phosphorous, you then change the nutrient status of the soil and invite an invasion of weeds. Therefore, you again damage the park while trying to help it. Water is fine but, if you throw in high levels of phosphorous or other nutrients, you will damage the park while endeavouring to protect it. Similarly, if you go in with bulldozers to create firebreaks you will disrupt the seed bed and probably remove a lot of the seeds that would have germinated after a fire and, at the same time, that will lead to the introduction of weeds.

I know that rollers can also be used. They are less likely to do damage if you are trying to create a path into a park, in the same way that mining teams in the north, rather than grading seismic tracks, are now rolling the seismic tracks and the vegetation tends to recover quite quickly. The old seismic tracks that were bulldozed are, decades later, still highly prominent.

I thank the minister for providing quite a deal of information to me in terms of incident control systems and the incident response plans for a couple of parks. There is no question that there is an attempt to look at what parts of the park may be sensitive and therefore how to react. I appreciate that we are starting to head in the right direction. Having said that we probably still have insufficient knowledge in relation to fire management itself, even within national parks, I suspect that we also have inadequate knowledge about what in our parks needs protection. I will give one example of this. It was only about a decade ago that a species of pine—the Wollemi pine—was discovered in national park near Sydney that had been thought to be extinct for tens of millions of years. Only this week, the *Advertiser*—

An honourable member interjecting:

The Hon. M.J. ELLIOTT: No. I think a ranger came across it. The point I make is that the national park is quite close to Sydney and is probably quite heavily used and a very small number of remnant trees of a species presumed to be extinct for tens of millions of years was discovered. If we do not know our parks well—and, unfortunately, due to lack of resources, we do not know our parks well—while we will have systems that seek to identify the areas that need to be treated carefully—such as 'Don't send the bulldozers into that valley'—if the Wollemi pine was growing in the South Australian park system, we probably would not know about it. In relative terms, the parks system in New South Wales is much better staffed and I am surprised that the Wollemi pine was only so recently discovered.

When plans are developed, we have to adopt a precautionary principle that, if bulldozers enter national parks, it has to be a last resort and there must be major justification for it. I will be looking for these fire management plans to become increasingly sophisticated with improving knowledge. In his concluding remarks, will the minister advise whether fire management plans for all national parks will be readily accessible to the public? If we want to inspire confidence in this system we are to adopt, having the plans readily accessible will mean that there is the chance of input because of knowledge that is perhaps held by some groups and I think that would be useful.

When I talk about the knowledge of some groups, I stress that, in relation to the consultation process, I am assured by conservation groups that they have not been consulted. The consultation which has occurred has been entirely between the CFS and National Parks and Wildlife. I am informed that National Parks and Wildlife did not then consult with other conservation groups, and that is very unfortunate. When I spoke with the minister responsible for the CFS, it was his opinion that the National Parks and Wildlife Service was not under his direct control and it was not for him to tell it what to do. Nevertheless, I note that the consultation was not particularly wide. It is unfortunate timing that we have a bill before us at the end of the session and at the beginning of the fire season. Plenty of arguments have been put forward as to why it should not be delayed but I think serious questions have to be asked about the quality of the consultation at the public level.

The Hon. K.T. GRIFFIN (Attorney-General): I thank honourable members for their indications of support for this bill and for their indications in advance of their support for the amendments on file. The only question I need to respond to is the question asked by the Hon. Mr Elliott and that is: 'Will all management plans be publicly accessible?' As the honourable member and everyone else would know, park management plans are the responsibility of the Department for Environment and Heritage. It is the standing policy to consult and also to make these publicly available and I have no advice that there has been any change in that policy. The fire suppression plans developed by the Country Fire Service will be based on the park management plans and they will be open to public scrutiny and be publicly accessible.

Bill read a second time.

In committee.

Clauses 1 to 5 passed.

Clause 6.

The Hon. K.T. GRIFFIN: I move:

Page 4, lines 3 to 8—Leave out the definition of 'incident controller' and subclause (4) and insert:

'incident controller' for a fire or other emergency means the person for the time being appointed to be the incident controller for the fire or other emergency in accordance with procedures approved by the board.

(4) The appointment of an incident controller will end or be superseded by a subsequent appointment in circumstances defined by the board.

I do not think I need to spend time talking about the role of the incident controller. There was some question about the description of the responsibilities of the incident controller, and I think the amendment—compared with what was in the bill that came to us—is clear. The subsequent amendment to clause 7 is related but, in so far as the first amendment deals with the incident controller, it does seek to put the responsibility back on to the CFS board—and that is appropriate—and to ensure that proper processes are in place for both the appointment and the ending of the appointment, or the superseding of the appointment.

Amendment carried; clause as amended passed.

Clause 7.

The Hon. K.T. GRIFFIN: I move:

Page 4, after line 24—Insert:

(3a) The board must take steps to have any relevant provisions of their management plan for a government reserve brought to the attention of the CFS members who might exercise powers under this section with respect to the reserve.

This is quite an appropriate provision to include in the bill. This would have happened, I would suggest, in any event, but to make it a statutory responsibility strengthens that responsibility.

Amendment carried; clause as amended passed.

Title passed.

Bill read a third time and passed.

NATIVE TITLE (SOUTH AUSTRALIA) (VALIDATION AND CONFIRMATION) AMENDMENT BILL

The House of Assembly agreed to the bill with the amendments indicated by the following schedule, to which amendments the House of Assembly desires the concurrence of the Legislative Council:

No. 1. Clause 6—Leave out subparagraph (iii) of paragraph (d) of the definition of 'excepted act' in proposed section 36F (4) and insert:

(iii) the interest arose under a lease granted under section 35 of the National Parks and Wildlife Act 1972 solely or primarily for any of the following—

.garden;

.grazing and cropping.

No. 2. Clause 6—Leave out paragraphs (e), (f), (g), (h), (i), and (j), of the definition of 'excepted act' in proposed section 36F(4).

Consideration in committee.

Amendment No. 1:

The Hon. K.T. GRIFFIN: I move:

That the House of Assembly's amendment No. 1 be agreed to.

The government will seek to have the committee agree with all the amendments made in the House of Assembly. They relate to issues which have been the subject of debate in the Council and to matters with respect to which the government was not successful when they were being considered in committee. I propose that we deal with each of the amendments separately.

In relation to the second amendment, sir, you might care to put the amendment to leave out paragraph (e) separately from the others, because of the way in which the voting patterns occurred. That might be the most effective way of dealing with it.

The first amendment deals with national park leases. As the bill left the Council, it would mean that all leases granted under National Parks and Wildlife Act would not be confirmed as extinguishing tenure, and that is not a position that the government supported. The government amendment which now comes to us would mean that two national parks leases—one for a garden and the second for grazing and cropping—would be removed from the schedule to be consistent with the removal of miscellaneous leases granted solely or primarily for grazing and cultivation purposes.

As I have previously indicated, the government is firmly of the view that all national parks leases contained in the original bill extinguished native title at the time they were granted. The removal of the leases which include grazing as a purpose was done to be consistent with the government's preparedness to ensure that grazing leases per se would never be extinguishing tenures by virtue of this legislation and at the request of the South Australian Native Title Steering Committee.

The other leases on the schedule relating to national parks are clearly for intensive purposes to the exclusion of other interests and are in the form of common law leases that grant rights of exclusive possession, and it is not appropriate to exclude them from the operation of the bill. I need not remind members that the government amendments which I moved and which would make quite substantial concessions to remove certain tenures from the coverage of this legislation have been accepted by the House of Assembly, and no further reference need be made to those.

The Hon. SANDRA KANCK: I put my arguments yesterday when I first moved my amendment. I do not think I will canvass them again, other than other than to say that it is not acceptable to me that the clause has been removed.

The Hon. T.G. ROBERTS: The opposition's position is the same as that of the honourable member: we would like the amendment to remain in the bill.

The committee divided on the motion:

AYES (10)

Cameron, T. G.	Dawkins, J. S. L.
Griffin, K. T. (teller)	Laidlaw, D. V.
Lawson, R. D.	Lucas, R. I.
Redford, A. J.	Schaefer, C. V.
Stefani, J. F.	Xenophon, N.

NOES (8)

Elliott, M. J.	Holloway, P.
Kanck, S. M. (teller)	Pickles, C. A.
Roberts, R. R.	Roberts, T. G.
Sneath, R. K.	Zollo, C.

PAIR(S)

Davis, L. H.	Gilfillan, I.

Majority of 2 for the ayes.

Motion thus carried.

Amendment No. 2:

The Hon. K.T. GRIFFIN: I move:

That the House of Assembly's amendment No. 2 be agreed to.

I propose that we put it, first of all, on the basis of leaving out paragraph (e) and, as we did in committee, paragraphs (f), (g), (h),(i) and (j). Paragraph (e) deals with leases with public access reservations; we had quite an extensive debate about that last night. As members would know, the government has a very strong view that the Crown lease is perpetual and that the miscellaneous leases remain on the schedule where there is a right of public access; and that they have extinguished native title and the public access reservation is not a reservation which has allowed native title to survive.

The grant of the lease, in the government's very strong view and on all the decisions of the High Court, has already extinguished native title. I will deal with them all, just to give a quick background. Paragraph (f) relates to historic leases. Members will recall that the government agreed and the bill now has excluded from its coverage all those leases on the Schedule of Extinguishing Tenures which were not current at 23 December 1996. This particular paragraph seeks to extend that exclusion to all historic leases, including those that are not on the Schedule of Extinguishing Tenures.

In relation to paragraph (g), we talked last night about community purposes leases: leases for things such as community halls, for sporting purposes, for charitable purposes, for religious and educational purposes, racecourses and sporting grounds. Again, the government's very strong view is that those leases, when granted, extinguished native title.

Paragraph (h) seeks to exclude any lease larger than 40 square kilometres that allows the lessee to use the land for grazing or pastoral purposes, even if it also allows all sorts of other purposes. That would include a number of perpetual leases as well as common law leases that are not confined to a specific purpose. As I indicated last evening, this amendment places a disproportionate emphasis on the size of the lease, when size is only one of the many factors that need to be considered when determining whether a lease is granted exclusive possession.

Paragraph (i) deals with leases requiring building works forfeited or surrendered without the building works being undertaken. Again, the government's very strong view is that, when granted for those purposes, those leases extinguished native title. Paragraph (j) relates to leases for a term of 21 years of less, which would mean that any lease granted for a period of 21 years or less that is either larger than 12 hectares or less than 12 hectares and that allows the lessee to use the land for grazing or pastoral purposes is not covered by the confirmation provisions of the bill.

Again, this amendment places disproportionate emphasis on the term for which the lease is granted and assumes also that a 21 year lease is a short-term lease. That is something with which the government does not agree. In brief, they are the tenures that are covered by the paragraphs referred to in amendment No. 2. As I said, there was extensive debate on these both last night and on earlier occasions, and it is the government's very strong view that they should not be included in this bill as excluding those tenures from the coverage of this legislation.

The CHAIRMAN: It is my intention, if it is the wish of the members, to put the amendment in two clauses: one will be paragraph (e) and the other will be the other paragraphs.

The Hon. T.G. ROBERTS: I appreciate the way in which the Attorney has summed up, and I will sum up in similar fashion by giving an explanation of how the opposition sees the position. It is clear that we have not been able to come to an agreement, and it is a pity that that happened and that paragraph (e) is the major stumbling block for agreement.

Whatever the outcome in relation to the final aspect of the bill, there will always be a lingering feeling that perhaps a little more consideration could have been given to come to terms with the arguments that we have been putting, and that there is not a lot of difference—although there may be some more consideration given to a solution to the problem—in the two positions. It may be inconvenient to separate individual leases in some cases where extinguishment may or may not have been carried out.

We have a view, the government has a view and, unfortunately, that may or may not be the end of it. I expect that, if the bill is passed and extinguishment does take place, we have to take the considered position that the Federal Court case may or may not impact on decisions made here rather than, as we wanted, to move an amendment that would give consideration to a holding motion, if you like, in relation to any application of a decision that would prematurely extinguish native title rights before federal decisions were made.

In relation to public access rights, the opposition believes that any lease that includes a public access right over the whole or any part of the land should be excluded from the extinguishment provisions of the bill. It is a strongly held view—and this is the one that has separated us—that, where a right is reserved in favour of the public, for example, right of access to natural waters, at the very least the similar native title right is likely to have been preserved and consideration should have been given to that position.

Advice has been given, and any observer of the environment and the culture of our indigenous people knows that, wherever water exists, particularly around the Goyder Line and above, it is generally not just the access rights to that water to sustain life but there is generally some ceremonial consideration to be considered for those land formations and for the water. We believe that if extinguishment occurs, there may be an inability for indigenous people to negotiate to allow access to carry out any of their traditional uses for those areas.

It may be a spiritual or cultural attachment, but no consideration is given to it. I would hope that there is an open door for considerations of strongly held beliefs by traditional owners and custodians in those areas where those anomalies are identified either under heritage or under identification programs through Indigenous Land Use Agreements, that we are able to strike a negotiated position between indigenous custodians and the government. I would not like to see the position whereby, if extinguishment does take place if this bill is successful, those rights are excluded.

The decision of the Full Federal Court in WA v. Ward provides legal authority for the proposition that leases with a reservation of a public access right would not extinguish native title—and we do have some differences in this area. In considering a right to the public to 'have at all times free and uninterrupted use of the roads and tracks. . . ', the Full Court considered that 'the breadth of this condition is contrary to an intention to grant rights to the lessee that are inconsistent with the enjoyment of any native title rights'.

If the intent of the bill, as the explanatory memorandum to the Native Title Amendment Bill 1997 (paragraph 5.1) suggests, is merely to 'confirm the effect of acts' which the state has done, then a lease with a reservation of a public right of access should not be included in a category in the bill which gives such a lease the effect of wholly extinguishing native title.

The Attorney-General indicated in a circular that was distributed on 13 November 2000 that 'to the extent that any rights granted to third parties are relevant they have already been taken into account.' That document has been inspected and considered. In relation to the compilation of the schedule, there is no evidence to suggest this. We have secured legal advice on a further argument regarding the effect of the reservation of public access rights. That opinion remains unchanged regarding the likely preservation at common law of similar native title rights as a result of such reservations.

Regarding proposed new paragraph (4)(f), our advice is that community purpose leases are leases for community, religious, educational, charitable or sporting purposes. Some leases may allow general access by the public to at least part of the lease where there are no buildings on the land or where there are significant undeveloped grounds. Where the public have unrestricted access rights, native title access rights (at the very least) are likely to have survived. That is another argument that the government has not taken into consideration. Regarding identified sites which may have some special consideration for indigenous uses but which may not be registered, we would like some consideration to be given to negotiations by groups or individuals for whatever purpose they consider possible for those areas.

Where a lease is over a large area of land and it has no specific purpose, it is most likely that the land was not leased for an intensive purpose. As a result, it is arguable that the lease was not intended to exclude and did not have the effect of excluding the holders of native title from the land. The example cited is the 1972 Holroyd River lease considered in Wik not to have extinguished all incidents of native title even though the lease itself did not expressly limit the permitted use to pastoral or grazing activities.

Regarding proposed new paragraph (4)(i), where a lease imposes a condition on the lessee requiring the construction of improvements, native title may not be extinguished in relation to the relevant part of the leased land until, in

compliance with the condition, improvements are in fact constructed. An example of such a situation is a lease of part of a national park for a tourist development which never eventuates. We have some examples of that in this state. At least until there is substantial commencement of the development, native title would not be wholly extinguished by the grant of the lease.

In respect of proposed new paragraph (4)(j)—the Full Court of the Federal Court in WA v. Ward considered that, where the grant of a lease is a grant only for a short period, the grant may not be inconsistent with the continuance of native title rights. The effect of the shortness of the term of a lease and in particular whether, in such circumstances, native title rights may be suspended rather than extinguished is yet to be determined by the High Court. Until that has occurred, leases for 21 years or less, where the lease is not used for an intensive purpose, should be excluded from the bill.

Proposed new subparagraph (h) includes a specific area of 40 square kilometres. That was done to try to accommodate a complaint that was put forward that we could not leave smaller leases unattended in recognition of those people who have small leases which they have occupied for a considerable time, and where there was intensive or domestic use no-one was really interested in making a claim. In accordance with the Attorney-General's definition, this amendment becomes unwieldy. The opposition believes that we are better off trying to manage these leases in an orderly way using the skills and negotiating powers of indigenous people in those areas to bring about a negotiated settlement and set aside or at least ensure that the fears of those people who hold small leases (whether it be through private ownership or leasehold) are eliminated.

I must say that in the Council members have been able to work through their differences. We have agreed to differ in a number of areas in relation to this amendment. I, together with others who have attended the debate in the other place, was disgusted with the way in which some members addressed this issue. They certainly did not make it any easier for any of us who are trying to reconcile the differences between indigenous people and ourselves. They gave no hope to those in the gallery who were trying to get a fix on what sort of a consensus—if there was one—was emerging in the parliament of South Australia.

I hope that, at the end of this process, the Attorney will at least be able to offer some hope to those people who are hanging their hopes on our ability to keep alive the fact that, in respect of extinguishment that will take place, the door will still be open in cases of special interest in relation to spiritual and cultural needs and access for other reasons.

The Hon. SANDRA KANCK: Yesterday when we were dealing with these issues, I asked the Attorney-General a question about access, and whether he had any examples of, and I think the words I used were, capricious, arbitrary or even mischievous behaviour of Aboriginal people going on to the land that we are talking about. He failed to give me an answer to my question, in fact. He talked about the example of a racecourse where there might be an implied right of access for native title holders and that the board of that racing committee might want to build something in the middle of the racecourse and that is why we are doing it.

The Hon. K.T. Griffin: I did not say that. You know that is not right.

The Hon. SANDRA KANCK: I find that a pathetic reason. The reality is that this government is discriminating in favour of leaseholders and against Aboriginal people. The government's desire for certainty for leaseholders matters more than reconciliation.

The Hon. K.T. Griffin: That is nonsense, and you know it is nonsense.

The Hon. SANDRA KANCK: No, it is not nonsense, it is the truth. We are asking Aboriginal people once again to make the concessions, to make the sacrifices. I believe there was an opportunity here that the Attorney-General has passed up. I remind members that native title is the most tenuous form of land title in this country. Native title applicants have to prove their association with that land. If there is any conflict between their title and other forms of title, they have to give way. The best that we have out of this is coexistence: that is the best that we have. That is the huge threat that the Attorney-General somehow thinks will affect leaseholders in this state, that there could be coexistence. What a terrible threat!

A mature society would deal with native title, not pretend that it does not exist. I think that the government's approach on this is mean spirited, to say the least, and I think that any form of extinguishment of native title will set back reconciliation in this state.

There being a disturbance in the gallery:

The CHAIRMAN: Order! I know there is emotion in the gallery, but I warn those people against demonstrating in that way.

The Hon. K.T. GRIFFIN: I do not intend to get into a slanging match with the Hon. Sandra Kanck. Now is not the time for that sort of debate. I take exception to the personal references she has made to me and my role in this. Anybody who knows and who has participated with me in dealing with native title issues knows that I have bent over backwards to endeavour to achieve accommodation. In fact, that has been part of my responsibility even between 1979 and 1982 when I was very much involved in the negotiation of the Pitjantjatjara Land Rights Act.

I know that this is an emotive issue and I have tried on behalf of the government for the last two years, and even before that when the federal legislation came into operation in 1993, coincidentally at about the time we came into government, to accommodate all the diverse interests and pressures that were present in the context of the debate about native title. I will continue to try to accommodate those interests and to meet those pressures. The fact of life is that we are never going to achieve perfection. The great hope, which the Hon. Terry Roberts suggested we should be offering, is what indigenous land use agreement negotiations offer, in my view, because they offer something in the present or the near future, not 15 or 20 years down the track when litigation has exhausted resources as well as personal energy. As I have said so many times before, if everybody goes to court the only people who will benefit will be the legal advisers, and I am not prepared to cop that.

I think there is a better way of doing this and I am intent upon doing it through the indigenous land use agreement negotiation process. If members look at the legislation that is before us, even with the amendments from the Australian Democrats and the Australian Labor Party, which are not going to get up, I hope, they will see that it offers more compromises than any other comparable legislation in Australia, even more than in Western Australia. People will say that is not enough. I understand that there is a real concern that this does not go far enough, but at some stage a line has to be drawn and this is where, in my view and in

the view of the government of South Australia, that it is to be drawn.

In terms of the indigenous land use agreement negotiations, I can say already that, as part of the process that has been occurring for the last eight or nine months, there has been significant progress in developing issues relating to Aboriginal heritage, which applies across all land, not just in relation to pastoral leases or land that is under native title claim. That will continue. There is goodwill on the part of the government to try to reach some satisfactory outcome that will encourage the community as a whole to reconciliation and to get on with our lives.

The Hon. Sandra Kanck said that this is an opportunity that has been missed. I do not, with respect, agree with that. I know as I said last night that, in the minds of native title claimants and indigenous people, this is inextricably entwined with indigenous land use agreements and native title claims. I have said so many times that, if one looks at it objectively, that is not the case. I understand how people can bring the two together. This is not the opportunity in my view to go further than what is being proposed. The great opportunity is offered through indigenous land use agreement negotiations, and the government is committed to that.

The Hon. NICK XENOPHON: The Attorney has gone a long way in the last two years and he has been patient, as have indigenous groups, on this issue. My concern is that, with respect to public access, there could have been some further room to negotiate. I make it clear that I believe the Attorney-General has approached this with goodwill but I am concerned that he could not give a little bit more in terms of the issue of public access leases. I believe there has been goodwill with all parties in relation to this and there have been some significant achievements.

I am concerned that, in relation to public access leases, if the Hon. Sandra Kanck's amendment is defeated, it will be retrospective in a sense because claims that are currently registered—and I understand that some 16 claims have been registered; in other words, they have gone through the registration and re-registration process—and have already been accepted prior to the introduction of this bill, will be taken away—

The Hon. K.T. Griffin: Public access rights remain.

The Hon. NICK XENOPHON: That does not mean that they will be rights in the context of a bundle of native title rights. I think that I have been fair to the Attorney because he has gone a long way and he deserves recognition for that but, if the Hon. Sandra Kanck's amendment does not get up, it will mean that claims that have been accepted will be lost in so far as it relates to public access leases. No ifs, no buts, it will be retrospective. I know that the Attorney has taken a stand on retrospectivity in the past, but my concern is that it will be retrospective on those claims that have already been registered. That is a primary concern.

The Hon. K.T. Griffin: It is not retrospective; it cannot possibly be retrospective.

The Hon. NICK XENOPHON: My understanding is that it would be, and that is one of my concerns in that respect. That is all I want to say on this issue, but I make the point that I thought there would have been an opportunity for some further negotiations between the government and indigenous peoples because of the concerns that they have had in respect of this. I have acknowledged and praised the Attorney for the considerable headway that has been made with respect to this, but I would have thought that there could be just a bit more give, particularly in relation to those claims that have already been registered.

The CHAIRMAN: I will put the question in two parts. The first question is that the amendment to leave out paragraph (e) be agreed to.

The committee divided on the question:

AYES (9)

Cameron, T. G.	Dawkins, J. S. L.
Griffin, K. T. (teller)	Laidlaw, D. V.
Lawson, R. D.	Lucas, R. I.
Redford, A. J.	Schaefer, C. V.
Stefani, J. F.	

NOES (9)

Elliott, M. J.	Holloway, P.
Kanck, S. M. (teller)	Pickles, C. A.
Roberts, R. R.	Roberts, T. G.
Sneath, R. K.	Xenophon, N.
Zollo, C.	

PAIR(S)

Davis, L. H.	Gilfillan, I.

The CHAIRMAN: There are 9 ayes and 9 noes, therefore an equality of votes. I cast my vote for the ayes.

Question thus agreed to.

The CHAIRMAN: The second question is that the amendment to leave out paragraphs (f), (g), (h), (i) and (j) be agreed to.

Question agreed to.

DEVELOPMENT (SYSTEM IMPROVEMENT PROGRAM) AMENDMENT BILL

Consideration in committee of the House of Assembly's message.

The Hon. DIANA LAIDLAW: I move:

That the Legislative Council agree to the amendment made by the House of Assembly.

Members may recall that during debate on the bill there was considerable discussion on clause 23 about regional panels and the consultation process, and in particular whether meetings should be held in public or in camera in relation to a number of conditions, and in terms of reaching a decision on an application.

Subsequent to the consideration of amendments to clause 23 in this place last week, I had further discussions with the Local Government Association and it was considered that a small amendment, moved in the House of Assembly by the Hon. Dean Brown, representing the government, would help with this matter. The amendment moved was that the policy, in terms of a regional panel, meeting in public or in private under certain conditions, should be always open and always made by the council unless otherwise determined by the council.

This amendment simply re-confirms that it is the council, not the regional panel, that makes the determination with respect to whether the panel should have its hearings on both the application and reaching its determination in public or in camera. I confirm that all parties in the other place supported this small amendment, and I ask the committee to support the amendment made by the House of Assembly.

Motion carried.

STAMP DUTIES (LAND RICH ENTITIES AND REDEMPTION) AMENDMENT BILL

The House of Assembly agreed to the suggested amendment made by the Legislative Council without any amendment.

CONTROLLED SUBSTANCES (DRUG OFFENCE DIVERSION) AMENDMENT BILL

The House of Assembly agreed to the bill without any amendment.

OCCUPATIONAL HEALTH, SAFETY AND WELFARE (PENALTIES) AMENDMENT BILL

The House of Assembly agreed to the bill without any amendment.

CONSTRUCTION INDUSTRY LONG SERVICE LEAVE (MISCELLANEOUS) AMENDMENT BILL

The House of Assembly agreed to the bill without any amendment.

TAB (DISPOSAL) BILL

The House of Assembly agreed to the suggested amendments made by the Legislative Council without any amendment; agreed to amendment No. 1 without any amendment; and agreed to amendment No. 2 with the following amendment:

At the end of proposed section 16A(2) insert 'and the balance of the fund surplus will be paid to TAB or TABCO'.

Consideration in committee.

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

That the House of Assembly's amendment to amendment No. 2 of the Legislative Council be agreed to.

I will not prolong the debate. We had this debate at length last night. In the end the numbers are not with the government. The views of the opposition and the Independents in another place and the opposition and the Independents in the upper house have prevailed in relation to this issue. I repeat what I said last night: this amendment does not make sense. I think the worrying thing here is that, whenever actuarial and superannuation experts advise the government that there is a major problem and then the union representatives take the alternative view, automatically the Labor Party and everybody else disagree with the superannuation and actuarial experts and agree with the union representatives.

It just seems to be an unusual way to form final judgments on these things, but the reality is that we are now lumbered with this. The situation is, as I said last night, there can be no guarantee that this set of amendments will not disadvantage individual TAB workers. There are certainly some longstanding TAB workers who will do very well out of this should the scheme be terminated, but potentially it will be at the expense of some individual TAB workers.

The only other point I make in conclusion is that what has now been agreed by the Labor Party, the Independents and the Democrats is that, under the previous arrangements, when the deed was terminated the workers received all of the surplus. If the deed had been terminated under the old arrangements, all the TAB workers would have distributed $4 million between them—if the figure was $4 million.

Under this arrangement they will be distributing only $2 million. In essence the workers will share in $2 million less under this arrangement. However, that is the situation that has been agreed to by the majority of both houses of parliament. We will not delay the proceedings now. We warned last night that this would occur. It has been further discussed and made clear to the Labor Party spokesperson in another place and the Independents. They do not believe the facts that have been provided to them. They prefer the union assessment of the situation, and the reality is that that is where we are. I accept the amendment only on the basis that that is where the numbers are and nothing much will be resolved by prolonging this. Clearly, it is not possible to shake the union's view on this issue, and that has obviously been the swing issue in all of this.

The Hon. P. HOLLOWAY: The opposition supports the recommendation that has come up from the House of Assembly. I thank the Independents in another place, particularly Rory McEwen, for their role in this matter. Without repeating the debate from last night, I reiterate that it is a pity that the government did not go away and negotiate with the union in an attempt to come up with some satisfactory resolution of this matter. If the government had adopted that approach, it would not have required the lengthy debate we had last night and these amendments now coming through.

It would have been far better had the government decided to come to a reasonable position on this early in the piece. I will not repeat the rest of the debate other than to comment that I am pleased that this matter has finally been resolved to the satisfaction of the employees of the TAB.

Motion carried.

AUTHORISED BETTING OPERATIONS BILL

The House of Assembly agreed to amendment No. 2 made by the Legislative Council without any amendment and disagreed to amendment No. 1.

Consideration in committee:

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

That the Legislative Council do not insist on its amendment.

In so moving, I indicate that we have had enough debate about interactive betting to last us a millennium, so I will not go through the debate again. If other members want to, I will leave it to them. We had this debate earlier today or yesterday and the varying views are clearly laid out. In moving that the Council do not insist on its amendments I have been asked by the Minister for Government Enterprises to indicate that in this whole package of amendments there has been some give and take on both sides in terms of trying to come to a successful resolution of the issue. The Minister for Government Enterprises has asked me to indicate that on behalf of the government a number of those issues in terms of interactive betting that the Hon. Mr Redford and others have raised will obviously be part of further consideration by the government and the parliament in the new year when we discuss attitudes and approaches to interactive betting. It may well be that there is some discussion even on the Legislative Council select committee that is still in operation.

The Hon. P. HOLLOWAY: The opposition will certainly strongly insist on the recommendation before us. This recommendation says that when the TAB is sold the new private owner of the TAB cannot extend its internet or interactive gambling activities beyond those that exist on this

day. I would have thought that that was the view of a majority of members in this parliament. It will be interesting when we test it in a few moments' time, as some of those people, particularly the Hons Angus Redford and Terry Cameron have told us in the past couple of days during lengthy debate that they did not want to see any extension of interactive gambling. If that is the case, there is only one way they can vote in this the matter and that would be to uphold the amendment as it left this chamber. If we knock this out, it can only mean one thing, namely, that the TAB has entered into an arrangement with proprietary racing that will permit an extension of interactive gambling over and above what we have now. That can be the only conclusion we can draw.

What a incredible situation on a day when the Premier has been on the front page of the paper and no doubt tomorrow everyone will be upholding a major anti-gambling victory for the government because we have a cap on poker machines, which as I indicated earlier will be virtually worthless. At the same time they have knocked this back, which can only mean one thing, namely, that there will be an extension of interactive gambling in this state. If one looks at clause 2 of this motion, one can see that it permits the TAB, under a new private owner, to operate in exactly the same way with exactly the same sort of betting operations that exist now with the TAB. The only reason the government could be so strenuously opposing this clause (and no doubt the government will be successful and it will go ahead) is that it will mean that there will be an extension of interactive gambling in this state. Those people who have stood up here and claimed to be proponents of that will have a lot of explaining to do. It will be complete hypocrisy.

I will not extend the arguments any longer. We have had more than enough discussion in this parliament on the subject in the past few days and I think we have more to go. I just hope that the newspaper in this state that is so happy to publish front page stories like it did this morning somewhere has a journalist who might look beyond that and look at the changing positions individuals have taken on this subject. Perhaps they will look beyond it and see the total hypocrisy that will be displayed by this government if it defeats the motion before us. I strongly urge the Council to uphold this motion and ensure that there is no extension of interactive gambling in this state unless it comes before the parliament and the parliament itself has a say, because that is what it will mean.

The Hon. CARMEL ZOLLO: I rise to strongly support my colleague the Hon. Paul Holloway. It is only right when we have asked the Casino to come before this parliament for an extension of interactive gambling that everybody else should be treated in the same way.

The Hon. M.J. ELLIOTT: The Democrats will continue to insist on this amendment.

The Hon. NICK XENOPHON: I too strongly support the amendment by the Hon. Paul Holloway. It is a compromise amendment, but I am pleased to support it. I am concerned with what we were told initially would be the case with respect to TeleTrak or proprietary racing. It now goes way beyond that, and undertakings given previously have been breached. I am disappointed that the opposition could not support my amendment with respect to proprietary racing to include interactive digital television. I cannot understand it, and I am grateful for the support of the Australian Democrats in that regard. Notwithstanding that, this amendment is important as it will give some real teeth to preventing the expansion of interactive betting in this state. The fact that the government is not prepared to support it bodes ill for the future expansion of gambling in this state and for the inevitable increased levels of gambling addiction that will follow.

The Hon. A.J. REDFORD: As I think that some of the comments are directed at me, I should go on record to explain why I support the government. First, I accept the government's undertaking and good faith in bringing to this place a comprehensive package of legislation dealing with gambling and gaming issues and also dealing with the issue of interactive gaming. That is a clear extension of the undertaking given by the Premier in his ministerial statement yesterday, and that is to be welcomed. I cannot see how there can be a massive extension of interactive gambling in the period between now and when we come back, which I understand to be in the last week of February next, and we will be able to deal with appropriate legislation at that time.

If the government seeks to extend interactive gambling by means of underhand deals or secret agreements, then I will support any motion for a select committee and I will support any motion for the tabling of any contracts that might be entered into between now and then. So, those who are charged with the responsibility of managing the TAB, or the sale process, must understand that I will give every support, notwithstanding any party allegiance, to the disclosure of any information that relates to any agreement that might possibly extend or relate to interactive gaming or internet gaming between now and when parliament deals with that package of legislation.

Also, I am a little chastened by the experience that I have had over the last 24 hours in relation to the proprietary racing issue and the matters raised both by myself and the Hon. Michael Elliott, and it is an often-repeated criticism that dealing with legislation of such significance in the past 36 hours in this sort of environment is not conducive to making appropriate policy decisions on the part of a parliament. I do not think that it is appropriate now to sit down, argue about this clause and then lead into a deadlock conference.

I think it would be a very foolhardy government that extended interactive gambling or to do any deal such as they sought to do with TeleTrak in the period between now and when parliament returns, and I urge any buyer of TAB to understand that I will not, in terms of any voting pattern, recognise any privity of contract or any confidentiality in relation to matters between now and then.

I close by making this point, and it is a criticism of the way in which this gambling legislation has been dealt with by both major parties. It has been a tradition in this parliament that we deal with all gambling issues on the basis of a conscience vote. I have not detected, in the dealings with legislation associated with the TAB or the authorised gambling legislation, any hint of any conscience vote aspect. It has certainly been a debate that has not been as full and as free as we have seen in relation to gambling legislation or gaming legislation introduced by the Hon. Nick Xenophon, or others, in private members' time, and that is to be deplored.

I know—and the Hon. Paul Holloway has reminded me of this on a number of occasions—that it is a unique situation as far as the ALP in this state is concerned that they have a conscience vote. I think he has suggested to me, and he will correct me if I am wrong, that that owes itself in some part to the history of the ALP and the fact that there was a significant number of methodists who joined very early in its

history. I think that is something that we all should respect. I hope that the government, in dealing with these issues—and I know it makes it just that little bit harder—will respect that and ensure that, when we deal with these issues in the future, we will not be bound by it.

In closing, I say that I will support the government position on this because we are in no condition, having limped to the end of an extended session, to deal with this issue right now in the guise of a deadlock conference, nor are we in any position to see if we can resolve it in any other way between the two houses of parliament. I do not think members have either the energy or the resources in terms of the sorts of advice we might need to be able to resolve this at our fingertips. So, I am satisfied that the government will not do anything precipitous between now and when we deal with the comprehensive package of legislation. If it did, it would do so at its own peril. Therefore, I will support the government.

The Hon. P. HOLLOWAY: I do not wish to unnecessarily prolong the debate but there are a couple of points that I omitted to make earlier. In relation to the Hon. Angus Redford's comments, I appreciate that he says he will assist in making available any secret agreements. I think one of the problems we have is that the arrangement, or any details of it, between the TAB and Cyber Raceways have not been revealed. I think anyone who reads the report of last evening's debate, when questions were asked by the Hon. Angus Redford and me, could not come to any conclusion other than the amount of information provided was totally unsatisfactory. I think part of the problem is that we do not know what is in that deal.

What makes me highly suspicious is that, as the government says, this clause appears in some way to be contradictory with that agreement. So what does that mean is in the agreement? If the Hon. Angus Redford is serious about making those agreements available, or certainly at least parts of them (I am not necessarily suggesting that the whole agreement needs to be made available), I would certainly like to know what clause is in there which relates to internet gambling and which creates a problem with this clause. Until I know that, I will be most concerned.

The other point I want to make quickly—because I do not want to delay anybody—is that the commonwealth legislation has, of course, imposed a moratorium. That may be the best protection that we have, in the interim, over any extension of gambling. I have not seen the terms of it and I guess most members have not had an opportunity to look at that but, given that a moratorium is imposed by the commonwealth, that may well be the only protection that we have.

The Hon. Nick Xenophon expressed disappointment or some confusion about our position when voting earlier to clause 25(a) of the Racing (Proprietary Business Licensing) Bill where we supported the government in changing the definition of interactive betting operations. The point is that there is a consistency in our position. If that amendment had not been made, a new racing proprietary operator would not have been able to conduct betting via telephone at those courses. In other words, that would not have been a level playing field between proprietary racing and other forms of racing. That was essentially the reason why we supported it: to keep the status quo.

However, we believe that this clause provides protection, because—as I pointed out last night in the debate—there are only two ways in which interactive gambling can be introduced into this state under current legislation—and that is through the government agencies, the TAB or the Casino. With the Hon. Nick Xenophon's bill, we are tying up the Casino unless some other agency gets a licence. The only other agency that could get a licence is the TAB, and this clause at least closes that loophole. That is why I think it is so important that this clause be passed, because it closes off that loophole.

I repeat that I am not necessarily opposed to an extension of interactive gambling in the future. All I say is that it should come back to parliament before that happens. It should not be done by administrative action of this government. Unfortunately, if we oppose this clause now, that will be the situation.

The committee divided on the motion:

AYES (9)

Cameron, T. G.	Davis, L. H.
Dawkins, J. S. L.	Griffin, K. T.
Laidlaw, D. V.	Lucas, R. I. (teller)
Redford, A. J.	Schaefer, C. V.
Stefani, J. F.	

NOES (9)

Elliott, M. J.	Holloway, P. (teller)
Kanck, S. M.	Pickles, C. A.
Roberts, R. R.	Roberts, T. G.
Sneath, R. K.	Xenophon, N.
Zollo, C.	

PAIR(S)

Gilfillan, I.	Lawson, R. D.

The CHAIRMAN: There are 9 ayes and 9 noes, therefore an equality of votes, and I cast my vote for the ayes.

Motion thus carried.

CASINO (MISCELLANEOUS) AMENDMENT BILL

In committee.

(Continued from 6 December. Page 857.)

Clause 6.

The Hon. K.T. GRIFFIN: I spoke on the last occasion when clause 6 was before us and indicated that this clause was in a form which I could not support if it were to be a permanent provision in the law, because proposed section 42A would reverse the onus of proof for the offence of permitting an intoxicated person to gamble in the Casino. The prosecution would need to prove only that the person was intoxicated and gambled in the Casino. The licensee would then need to overcome a statutory presumption of permission by proving that he or she took all reasonable steps to prevent the supply of liquor to intoxicated persons in the Casino and to prevent gambling by intoxicated persons in the Casino.

I also made a number of points, which demonstrated that this clause imposes a quite unfair burden on the Casino licensee. I also made the point that there is already sufficient legislative provision to deal with this situation. But if it were believed that there was not sufficient legislative provision to deal with the situation then, if there was to be a code of practice, that would be a more appropriate way of addressing this issue than by criminal sanctions. I must say that I am rather surprised that there is a reverse onus of proof in the bill. Looking at clause 6, the maximum penalty is $10 000 and I think that we ought to use reverse onus of proof provisions quite sparingly. They could have the potential to make law enforcement personnel who are involved in prosecuting much less cautious about laying charges and they could involve much more difficulty in relation to the

gathering of evidence, and normally I would reject them out of hand.

I understand, though, that the numbers are probably here to get this clause through. If that appears to be the case, could I suggest that, before the matter is resolved in the House of Assembly, there should be some discussions about a more appropriate way of dealing with this issue of intoxicated persons on the Casino premises, remembering that much of the Casino is licensed under the Liquor Licensing Act and, in those circumstances, already there is provision there, properly balanced, to deal with the issue if the Casino operator and its supervisors or other agents are prepared to be vigilant in relation to the signs that would demonstrate that there is an intoxicated person in the Casino and actually participating in gambling.

That is how I would suggest we might deal with it. I am certainly prepared to have some more work done on it from my point of view and to make that available to members in further consideration of this clause. There are a number of other matters that I have already raised: I do not want to go over them in view of the hour, but they all point to this clause being quite unsatisfactory in its present form.

The Hon. P. HOLLOWAY: I indicate that the opposition's caucus position on this clause was that we would support it but we did have some reservations in relation to the wording of the clause. I indicate that, if the Attorney can come up with some other alternative clause or approach to this matter, we would be amenable to looking at that. It is a very sensible process that we pass the clause now but, given that there are some question marks over it, let us hope that we can resolve them satisfactorily before the bill is finalised in another place.

The Hon. NICK XENOPHON: I indicate that this is not an onerous clause. It is based open the New South Wales Casino Control Act. The Star City Casino has corresponded with me in terms of its practices and what it does to comply with the responsible service of alcohol. I do not propose to read into the *Hansard* all those details but I am happy to circulate that to members. In respect of the information we received, only two disciplinary hearings have been held in the past eight years since this clause has operated and there have been no prosecutions. It can hardly be said to be onerous, but it does put an onus on the Casino to do the right thing in relation to the service of alcohol in the context of its gambling operations.

Clause passed.

Clause 9.

The Hon. P. HOLLOWAY: I move:

Page 5, after line 36—Insert:

(3) The Governor may, by regulation, grant an exemption from subsection (2) 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.

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

(5) A regulation under subsection (3) cannot come into operation until the time has passed during which the regulation may be disallowed by resolution of either house of parliament.

(6) The minister must, within three months after expiry of an exemption under subsection (3), cause a report to be laid before both houses of parliament about the conduct and results of the trial.

This amendment is a mirror image to the amendment we moved to the Casino Act. It simply permits trials of smart cards for the purposes of looking at their potential to minimise harm. I ask the committee to support the amendment.

Amendment carried; clause as amended passed.

Title passed.

Bill read a third time and passed.

ADJOURNMENT DEBATE

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

That the Council at its rising adjourn until 13 March 2001 at 2.15 p.m.

In moving the traditional adjournment motion, I note that we have to wait here for a little while—although, as we do not have any more divisions, I am sure that, in the spirit of Christmas good cheer, those members who want to move on to other arrangements can do so.

The Hon. M.J. Elliott: You can do it on my behalf.

The Hon. R.I. LUCAS: I will do it on behalf of the Hon. Mr Elliott, who is leaving now. First, Mr President, I thank you. I thank the Leader of the Opposition, the Leader of the Democrats, the Leader of SA First, the sole member of No Pokies—the Leader, whip extraordinaire, and backbencher—the Hon. Mr Xenophon and, of course, the Hon. Trevor Crothers, who has been unable to be with us for the past couple of weeks. Even though I know that there are significant political differences among some members, I hope that I speak on behalf of all members when I say that I am sure that no-one would wish any member ill-health. The Hon. Mr Crothers obviously has been struggling with his health in the past few weeks. So, on behalf of all members, I hope, we wish Trevor good health and hope that, during the period between now and 13 March, he can regain his health and that we will see him again in the new year.

I thank the whips: Madam Lash on the government side; and I am not sure of the Hon. Carmel Zollo's title on the Australian Labor Party's side. They have worked very well together, and it has made for the smoother working of the Council.

Mr President, I again thank you for the way in which you have conducted the proceedings of the Council and your generous allowances for interjections, only mildly getting annoyed every now and then towards the end of the session. I thank Jan, Trevor and all the table staff for what they have done. I thank the representatives of Hansard who are present in the gallery; they represent many others. As always, I thank the members of the media who are here right to the very end, faithfully reporting the exciting things that go on. They are here to the very last minute, assiduously covering the work that is done in the Legislative Council, and we thank them.

The Hon. L.H. Davis: And, on occasions, reporting in advance.

The Hon. R.I. LUCAS: Exactly—as the Hon. Mr Davis says, sometimes reporting in advance of what has occurred, and accurately. So, indeed, it is very prescient of the members of the media, in particular. I thank all the other members of the Parliament House staff, who work hard for us all through the year. I thank all my colleagues for their contribution. I wish them all the best wishes for the Christmas season, and I am delighted that the adjournment motion of 13 March will be supported by all and sundry. A lot of hard work will be done by all members, but I hope that they can squeeze in a small amount of recreation during the coming weeks.

The Hon. CAROLYN PICKLES (Leader of the Opposition): I am happy to second the motion. I would like

to concur with the remarks made by the Treasurer. Certainly, it has been a pretty hectic period. I would still like to have just one grumble. I think it is time that we revisited the recommendations of the Women in Parliament Select Committee and looked at the sitting hours of parliament. I think that, to try to get as much done as we have in the past few days, with very little sleep, is just more than a body can bear, quite frankly.

I also would like to thank the government leader, the ministers and members of the government, members on my own side, in particular, and independent members, for cooperation on some things—not all things; not enough. I think it is interesting that, in this chamber, in particular, we seem to get an enormous amount done. Often we are left to cope with the mess that has been left in another place, and the expectation that we can facilitate that rapidly, with such a divergence of views, is often quite impossible.

I also would like to particularly thank you, sir, and Jan, Trevor and all the table staff, the messengers, Hansard, and the staff in the parliamentary dining room, who have kept us fed and watered through a very busy session. I wish all honourable members a merry Christmas, a happy new year, a long break and more sitting days in the new year.

The Hon. NICK XENOPHON: In relation to the positive sentiments expressed by the Leader of the Government and the Leader of the Opposition, I say 'ditto'.

Motion carried.

EDUCATION (COUNCILS AND CHARGES) AMENDMENT BILL

The House of Assembly agreed to the amendments made by the Legislative Council without any amendment.

RACING (PROPRIETARY BUSINESS LICENSING) BILL

The House of Assembly agreed to the consequential amendment made by the Legislative Council without any amendment.

GAMING MACHINES (FREEZE ON GAMING MACHINES) AMENDMENT BILL

The House of Assembly agreed to the bill without any amendment.

COUNTRY FIRES (INCIDENT CONTROL) AMENDMENT BILL

The House of Assembly agreed to the amendments made by the Legislative Council without any amendment.

ADJOURNMENT

At 7.13 p.m. the Council adjourned until Tuesday 13 March 2001 at 2.15 p.m.