LEGISLATIVE COUNCIL

Thursday 28 October 2004

The PRESIDENT (Hon. R.R. Roberts) took the chair at 2.15 p.m. and read prayers.

ALDINGA DEVELOPMENT

A petition signed by 780 residents of South Australia, concerning the proposed Aldinga residential development and praying that the council will impose a moratorium on this site to coincide with the 12 month moratoriums placed on other local sites to enable thorough archaeological and environmental studies to be carried out before any developments are to proceed, was presented by the Hon. Sandra Kanck.

Petition received.

A petition signed by 135 residents of South Australia, concerning the proposed Aldinga residential development and praying that the council will impose a 12 month moratorium on the residential development on the site at section 796 to coincide with the 12 month moratorium placed on all further residential developments in the Aldinga Bay area, in order to enable thorough archaeological and environmental studies to be carried out on section 796, was presented by the Hon. Sandra Kanck.

Petition received.

BLOOD DONORS, SOUTH-EAST

A petition signed by 114 residents of South Australia, concerning blood donor collection services in the State's South-East and praying that the council will do all in its power to ensure that a blood donor collection service is urgently reinstated for the people of the South-East, was presented by the hon. Sandra Kanck.

Petition received.

GENETICALLY MODIFIED CROPS

A petition signed by 20 residents of South Australia, concerning the Genetically Modified Crops Management Act 2004 and praying that the council will amend the Genetically Modified Crops Management Act 2004 to remove section 6 of that act, was presented by the Hon. Ian Gilfillan.

Petition received

RECONCILIATION FERRY

A petition signed by 30 residents of South Australia, concerning a proposal to establish a 'Reconciliation Ferry' and praying that the council will provide its full support to the ferry relocation proposal and prioritise the ferry service on its merits as a transport, tourism, reconciliation, regional development and employment project and call for the urgent support of the Premier, requesting that he engage, as soon as possible, in discussions with the Ngarrindjeri community to see this exciting and creative initiative become a reality, was presented by the Hon. Sandra Kanck.

Petition received.

PAPERS TABLED

The following papers were laid on the table:

By the Minister for Industry and Trade (Hon. P. Holloway)—

Reports, 2003-2004—
- Emergency Services Administrative Unit
- Energy Consumers Council
- Electricity Supply Industry Planning Council
- SA Country Fire Service
- South Australian Metropolitan Fire Service
- South Australia Police
- State Emergency Service

Regulation under the following Act—
- Firearms Act 1977—Policing Conference

By the Minister for Aboriginal Affairs and Reconciliation (Hon. T.G. Roberts)—

Reports, 2003-2004—
- Department for Environment and Heritage
- State Heritage Authority

Independent Gambling Authority—Study into the relationship between Crime and Problem Gambling—Report.

GREAT SOUTHERN RAILWAY

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I lay on the table a copy of a ministerial statement in relation to a rail report made today by the Minister for Transport.

SCHOOLS, FUNDING

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I lay on the table a copy of a ministerial statement in relation to school pride, maintenance boost for local schools, made on Wednesday 27 October by the Minister for Education and Children's Services.

QUESTION TIME

POLICE, ANTI-CORRUPTION BRANCH

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make an explanation before asking the Leader of the Government, representing the Treasurer, a question about inquiries by the Anti-Corruption Branch of South Australia Police.

Leave granted.

The Hon. R.I. LUCAS: Members are aware that in recent days there has been significant criticism of the role of the Treasurer (Mr Foley) and Treasury and Finance officers in relation to the financial scandals outlined in the Auditor-General's Report. Members will also be aware that in the past couple of days there has been significant criticism of the role of Treasurer Foley, as the police minister, in relation to $1 million left over from the Adelaide Police Station redevelopment being secretly hidden in the Crown Solicitor's Trust Account.

Given that background, I now raise another issue. The Liberal Party has been provided with leaked information from a very senior Department of Treasury and Finance source, namely, that on 24 September this year the Under Treasurer (Mr Jim Wright) received a letter from the South Australian police. The opposition has been informed that this letter relates to inquiries by the Anti-Corruption Branch of the South Australian police and concerns the investigation of corruption or serious misconduct allegations involving public servants. My questions to the Treasurer are:

1. Will he confirm that the Under Treasurer (Mr Jim Wright) received a letter on 24 September this year relating

to inquiries by the Anti-Corruption Branch of the South Australian police which concern the investigation of corruption or serious misconduct allegations involving public servants?

2. Has the Treasurer been briefed by the Under Treasurer on this issue and, if so, what are the concerns of the Anti-Corruption Branch?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I will refer that question to the Treasurer and bring back a response.

DEPARTMENTAL FUNDS

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Leader of the Government, representing the Attorney-General, a question. Will the Attorney-General confirm that, in relation to his 2002-03 budget, he received a briefing note that was entitled '2001-02 budget versus 2002-03 budget analysis', and that this memo explicitly informed the Attorney of unapproved carryovers in his portfolio? I will quote the note—

The PRESIDENT: The Hon. Mr Lawson has not sought leave to make an explanation. We are now going into the explanation phase of his question.

The Hon. R.D. LAWSON: I did seek leave at the commencement, then I proceeded with the question. I may have confused the chair. I certainly seek leave again.

The PRESIDENT: The Hon. Mr Lawson did not say what the subject was, either. If the member is seeking leave to make an explanation, I will allow it to occur. The Hon. Mr Lawson is seeking leave to make an explanation on the subject of ministerial notes.

Leave granted.

An honourable member: Let him have his say.

The PRESIDENT: Order! I will have no reflections on the chair from the back bench of Her Majesty's Loyal Opposition.

The Hon. R.D. LAWSON: The budget briefing reads:

> Unapproved carryovers to 2002-03 and increase in approved carryovers from 2001-02, $4 198 000.

I emphasise the word 'unapproved' carryovers. My questions are:

1. Will he confirm that his briefing did contain that passage?

2. What action did he take when informed of these unapproved carryovers?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I will refer that question to the Attorney. However, in order to facilitate an answer, perhaps I should call on the member to table the document he quoted from, and that should make any clarification much easier. I move:

> That the document be tabled.

Motion carried.

The Hon. R.D. LAWSON: I have no objection to tabling the draft question.

The PRESIDENT: It is not a question of objection: the Hon. Mr Lawson now has a direction of the council to do it.

DAIRY FARMERS

The Hon. CAROLINE SCHAEFER: My question is to the minister representing the Minister for Environment and Conservation. How many dairy farmers have signed agreements with the South Australian government with respect to water trusts on the Lower Murray irrigation flats? As a result, how many are eligible for rehabilitation funding? Why has the government not reimbursed moneys overcharged for the environmental levy in that area? Will the minister give details of all moneys expended on the rehabilitation project so far?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will refer those important questions to the minister in another place and bring back a reply.

FINANCIAL MANAGEMENT REFORMS

The Hon. CARMEL ZOLLO: My question about financial management reforms is directed to the Minister for Industry and Trade. What steps have been taken within the Department of Trade and Economic Development to improve financial management?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I am very pleased that the Hon. Carmel Zollo has asked the question, because I am able to report that there has been very considerable activity since the establishment of the Department of Trade and Economic Development to improve financial management practices. Upon its establishment, the Department of Trade and Economic Development began the process of financial management reform. Achievements to date include: a comprehensive review of financial delegations in line with Treasurer's Instructions; simplification of the chart of accounts; the outsourcing of financial transactional services to PIRSA; and improved divisional reporting.

The Department of Trade and Economic Development has completed a comprehensive budget review of its budget allocation within the context of the overall budget as presented in the 2004-05 budget papers. The monthly reporting and analysis comprises the following key aspects: a production of preliminary financial statements for each division; detailed discussion between the finance branch personnel and divisional directors to ensure understanding between the groups of the nature of the transactions, major accruals to process; and the cause of variances and the mitigation action required. This step will result in the final reports being provided. A documented summary of the month to date and the projected year end position will be provided to the directors for their reference and future action. This information is also provided to the chief executive, and this summary is then compiled into a departmental view of the results and provided to the chief executive and me.

The above monthly reporting and analysis process was undertaken for the first time in September 2004, following the requirement to redefine the financial reports into a true accrual format. This process will continue in future with modifications being made to the process to ensure that the relevancy of information is maintained. Reporting against the programs, as published in the 2004-05 budget papers, will be facilitated by the realignment of the DTED programs along divisional lines. This step will facilitate monthly reporting against programs. In addition, in June 2004, DTED commissioned an internal review of financial management practices of the former department of business, manufacturing and trade, and that came about after discussions between the chief executive and me.

This review was commenced in July 2004 and focused on the following issues: a sample audit of 2003-04 transactions to verify accuracy; improvements in the former DBMT financial management policies, practices and procedures to ensure consistency with the financial management framework and, in light of the delivery of transactional services through

a shared environment, improvements to internal reporting; and, finally, review and recommend improvements to the budget management process. Once the review is finalised, an implementation plan will be developed to address issues raised in the context of the new department moving forward, and it will be provided to the chief executive for review and endorsement.

This implementation plan will recognise the importance of financial management within DTED, and resources will be applied accordingly. It is anticipated that the majority of recommendations will be implemented by June 2005. A significant amount of work has been done to improve the way in which financial management is conducted within the Department of Trade and Economic Development to ensure that some of the past practices are no longer repeated.

INDEPENDENT LIVING AND EQUIPMENT PROGRAM

The Hon. KATE REYNOLDS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Disability, a question about equipment for people with disabilities.

Leave granted.

The Hon. KATE REYNOLDS: The Independent Living and Equipment program provides and maintains more than 5 000 pieces of equipment which are essential for daily living for thousands of people in the South Australian community. The cost of providing and maintaining this equipment has increased over the years for a number of reasons, including changes to occupational health and safety regulations, increased costs of new technology, particularly for communication devices, and because more people with disabilities are now living in the community. On numerous occasions in this place in the past few weeks I have spoken about unmet needs in the disability sector and have given examples of people waiting for two years for a wheelchair for their child, or months (possibly even years) for a new cushion for a wheelchair.

Parents have told me that the current campaign by the group Dignity for the Disabled is, in part, due to the additional stress placed on families who cannot access proper or safe equipment for their young adult children with disabilities. In its 2004-05 budget submission, the South Australian Council of Social Services called for the South Australian government to instigate new approaches to the provision of equipment; that is, approaches which recognise and meet the cost of assessment, purchase, delivery, training and maintenance of equipment for people with disabilities. SACOSS and other disability organisations have also called for the investigation of rent-to-buy arrangements. My questions are:

1. How many people are on the waiting list for new or replacement equipment, and how many of these people are on the high priority list and how many are children under 18?

2. What is the average waiting time for all people on the high priority waiting list?

3. What is the cost of the equipment needed for people currently on the waiting list?

4. What is the predicted replacement cost for equipment as children grow?

5.What action is the government taking to investigate rent to buy arrangements and to develop improved approaches to assessment, purchase, delivery, training and maintenance of equipment?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will refer those questions to the minister in another place and bring back a reply.

GAMBLING, PROBLEM

The Hon. NICK XENOPHON: My questions to the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Gambling, are as follows:

1. What steps have been taken to publicise amongst the Breakeven network of gambling counsellors, welfare agencies, problem gamblers groups and the broader public the existence of the problem gambling family protection orders legislation which came into force on 1 July 2004?

2. What resources have been used to publicise the scheme under that act?

3. Is the minister aware that there is widespread ignorance of the protection orders legislation, and does that concern the minister since the scheme was touted by the government as a significant advance in assisting problem gamblers and their families?

4. What additional funding and resources have been allocated for the implementation of the scheme?

5. How many inquiries have been made from 1 July to date in relation to the protection orders and their availability to the Independent Gambling Authority or any other agencies? Further, how many applications have been made in relation to such protection orders to the Independent Gambling Authority?

6. Given the apparent lack of resources to publicise and implement the legislation, what plans does the minister have in the very near future to ensure the widespread effectiveness of the legislation?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will refer those important questions to the minister in another place and bring back a reply.

CROWN SOLICITOR'S TRUST ACCOUNT

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make an explanation before asking the minister representing the Attorney-General a question about the Crown Solicitor's Trust Account.

Leave granted.

The Hon. R.I. LUCAS: As has been revealed in recent days, the Crown Solicitor's Trust Account is a special deposit account operated within the Attorney-General's broader department. Some members would also be aware that there is a normal practice involving ministers, where ministers sign approvals, generally on an annual basis, and delegate authority for the operation of departmental accounts. I refer particularly to Treasurer's Instructions 8, 'Expenditure for supply operations and other goods and services.' Appearing below that is Treasurer's Instruction 8(21), which provides:

> The responsible minister may grant annually a standing authority to incur expenditure for the financial year not exceeding a specified amount of money appropriated from Consolidated Account; and
>
> (2) Held in a special deposit account.

The remainder of that section of Treasurer's Instruction 8 details the responsibilities for both the minister and also the public servant with the delegated authority. My question is as follows. Since March 2002, has the minister signed any document that gave delegated authority or approval to any officers within the Attorney-General's Department to operate

the special deposit account known as the Crown Solicitor's Trust Account? If so, how can the Attorney-General continue to claim, as he did in his sworn evidence to the Auditor-General, that he did not even know of the existence of the Crown Solicitor's Trust Account?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I will refer that question to the Attorney-General and bring back a response. However, given that the Leader of the Opposition keeps using the preamble to these questions to make comment on what has been happening, I think it is only appropriate that in my answer I put on the record exactly what the Auditor-General said when he appeared before the Economic and Finance Committee of the parliament in relation to this matter.

It is worth the council listening to this. It should be remembered that the whole issue that has come out of this is that the opposition is trying to make something out of nothing. It, of course, came from the Auditor-General's Report. Let us go back to the core source of the information. When he appeared before the Economic and Finance Committee, the Auditor-General stated:

> My experience is that, unless a minister of the Crown has a particular matter drawn to his attention about a particular account, it is unlikely that the minister would be cognisant and aware of all the transactions with respect to all the accounts that work within his departmental responsibility. A minister of the Crown has the right to rely upon the chief executive and the senior executives within his department to ensure that proper and lawful processes are complied with at all times, and that there is regularity in the way in which public financial transactions are undertaken.

Members interjecting:

The Hon. P. HOLLOWAY: I will not allow the interjections of the opposition to divert me. Let it be put on record the comment of the Leader of the Opposition, because it shows that his views towards the Auditor-General apparently have not changed from the disgraceful behaviour that he exhibited as the Treasurer of this state—behaviour that is probably unprecedented in this state. The only other parallel I can think of is probably Jeff Kennett in Victoria and, of course, he had the same fate. All I was doing was quoting from the evidence of the Auditor-General before the Economic and Finance Committee. The Auditor-General continues:

> So from my point of view, the bottom line is this: the Attorney-General is certainly accountable as the responsible minister but he is not responsible for what happened.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Let it be recorded that the Leader of the Opposition is laughing at that quotation—laughing uproariously, as he says—of the Auditor-General. The Auditor-General continues:

> That is the dichotomy which is now used to explain ministerial responsibility and that is how I would see it. The bottom line is that the Attorney really did not know. It is not fair to say that he should have known and, from what I understand, when he became aware of it, he took all the necessary steps to ensure that corrective procedures were undertaken.

I think that everybody in this parliament needs to understand that the opposition is trying to build something out of nothing. But these are the words of the Auditor-General himself. Need I say more?

The Hon. R.I. LUCAS: I have a supplementary question arising out the minister's answer in relation to evidence given to the Economic and Finance Committee. Can the minister confirm that on page 3 of the transcript of the Economic and Finance Committee, Mr MacPherson stated:

> So I arranged for the Attorney to attend my office and he gave sworn testimony to the fact that he did not know about the existence of the account.

The Hon. P. HOLLOWAY: The quotation that I made is from page 3 as is that quotation, but the point is that the Auditor-General indicates that—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Well, again, we have these allegations. The fact is that try as they might—

An honourable member interjecting:

The Hon. P. HOLLOWAY: No; it is not a scandal. I tell you what a scandal is. A scandal is when a minister of the Olsen government was involved in shonky land deals and had to resign. That was—

The Hon. R.I. Lucas: Point of order, Mr President.

The PRESIDENT: Order! The point of order is that I am on my feet, and the point of order is that standing orders clearly provide that interjections are out of order. You are guilty of that and you are making an objection to offensive comments by way of interjection, which is even more out of order. If I have to raise the issue again, because you have consistently been doing it, you will not enter the debate any further.

The Hon. R.I. LUCAS: I rise on a point of order, Mr President. The Leader of the Government just said that the former premier had to resign as a result of shonky land deals.

Members interjecting:

The Hon. R.I. LUCAS: The former minister had to resign as a result of shonky land deals, and I ask the minister to withdraw that.

The Hon. P. HOLLOWAY: I will withdraw that, but I will substitute that the fact is that there were four ministers, including the premier of the previous government, who were forced to resign for various levels of impropriety. We can argue what they were, but that is a matter of fact. We had this tactic yesterday where I had to put up with a question from the Hon. David Ridgway, who quoted me where I had been interrupted halfway through an answer and then sought to misrepresent it. I do not mind people interjecting and I do not mind responding to answers, but it is a bit rich if members opposite breach standing orders, interrupt answers and then quote the incomplete answer saying it was inaccurate because it was incomplete. I do not mind robust debate but, if that is the sort of standard we will have here from now on, we will have to take a different view towards interjections.

The PRESIDENT: Order! There is too much hubris in the council today. It is not a question of whether the minister minds interjections: standing orders are quite clear. When a member is orderly debating a matter, interjections are out of order; and offensive and objectionable interjections are always out of order.

The Hon. J.F. STEFANI: As a supplementary question: will the Leader of the Government advise the parliament as to the date when the Attorney-General gave sworn evidence to the Auditor-General?

The Hon. P. HOLLOWAY: I would suggest that the only person who could provide that information is either the Attorney or the Auditor-General, so I will see whether I can get the information.

Members interjecting:

The PRESIDENT: Order!

VISITORS TO PARLIAMENT

The PRESIDENT: I draw honourable members' attention to the presence in the chamber today of some distinguished guests of South Australia, from the Australian Parliamentary Education Officers' Conference being conducted in our parliament under the guidance of our own Education Officer, Ms Penny Cavanagh, who are here studying the theme of 'Looking back and looking forward'. They are charged with the very responsible job of studying the parliamentary process and educating others. I am sure they will enjoy their trip, and they have probably learnt many things today, more in a negative sense than a positive sense. I welcome them on behalf of all honourable members.

Honourable members: Hear, Hear!

LAND TAX

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Premier, a question about land tax charges.

Leave granted.

The Hon. J.F. STEFANI: There has been much publicity about increases in land tax by the Rann Labor government, which increases many have described as a rip-off. During the last election campaign the Labor leader promised the electorate that there would be no increases in taxes and charges. I am advised by many constituents that this publicity and community anger will continue to grow as taxpayers receive this year's land tax accounts, because they reflect a range of increases from 51.5 per cent to 122 per cent.

By way of example, three property owners operating small businesses have provided me with the following information regarding their land tax accounts for the year 2004-05. A Moonta Bay constituent who last year paid $3 000 in land tax is now required to pay $5 000, an increase of 66.6 per cent. A small business proprietor who last year paid $2 822 in land tax is required to pay $4 270 for the current year, representing an increase of 51.45 per cent. A property owner who last year paid $840 in land tax is required this year to pay $1 865, or an increase of 122 per cent. In view of these continuing skyrocketing tax bills, which many taxpayers have described as a greedy grab by the Rann Labor government, my questions are:

1. Will the Treasurer initiate an urgent review of the way in which property valuations are carried out?

2. Will the Treasurer advise the parliament what action he is proposing to take to alleviate the huge burden that is being imposed on many property owners and businesses?

3. Will the Treasurer confirm the exact amount of land tax collected by the Rann Labor Government from private taxpayers for the year ending 30 June 2004?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): This is the second question we have had along the same lines this week, and I made some comments in relation to that earlier. The only thing I would add to that question—and I referred it to the Treasurer, so I think we will get a response to the previous question, which will refer to this one also—is the allegation that this tax has in some way been increased by the Labor Party. That is not correct. What has happened is that property values have increased significantly over the past two years, so people's wealth has increased significantly. The only other point I wish to make—and I am sure the Treasurer is aware of this matter, and it is one of those issues we will look at in the forthcoming budget considerations—is that members opposite have been raising issues about disability services and how we need tens of billions of dollars more in those sort of areas.

This government has been roundly criticised by a number of members opposite for not delivering the increases in services that people would like. There is a recognition out there in the community that this government has done an awful lot in many areas, particularly in relation to child abuse and areas like that, into which this government has poured tens of millions of dollars over the past few years as they were badly neglected. As I said previously in relation to another question, with disability there are significant areas of unmet need.

This government, like any other government in its budget deliberations, has to consider taxation relief versus addressing some of these other enormous unmet needs in the community. Governments are elected to make these difficult decisions within the budget. I want the council to understand that a number of choices are available to government and, if one is to reduce taxes, it inevitably follows that there will need to be a reduction in services.

The Hon. NICK XENOPHON: By way of supplementary question, what steps is the government taking to alleviate the problems faced by bed and breakfast operators in relation to land tax charges?

The Hon. P. HOLLOWAY: I will refer that question to the Treasurer. I have answered questions on that in the past, but I will get an update from the Treasurer on that matter.

CORRECTIONAL SERVICES, TECHNOLOGY

The Hon. J. GAZZOLA: I seek leave to make a brief explanation before asking the Minister for Correctional Services a question about emerging new technology in Correctional Services.

Leave granted.

The Hon. J. GAZZOLA: The Department for Correctional Services plays an important role in keeping our community safe. Much of this safety relies on the security measures in place in our correctional institutions. Every day new technology is being developed that improves the way we do business. Will the minister inform the council how the Department for Correctional Services is keeping up with emerging technology as an important tool for the corrections industry and prisoner management?

The Hon. T.G. ROBERTS (Minister for Correctional Services): I thank the honourable member for his question and his interest in all things technological. Emerging technology has a two-fold effect on the corrections system and provides correctional authorities with valuable knowledge and the means by which to enhance the security and safety of prisons. It also brings about ways in which prisoners can interact more with prison officers if the application of the technology is made appropriate.

Critical to any medium and high security prison system is the perimeter fence security. Each fence is a combination of delaying measures to slow down any prisoners who may be attempting to escape, and detection devices alert prison staff to anyone attempting a break out. An integral part of the perimeter security is the control room, which operates 24 hours a day and which is a focal point for alerts.

I am proud to say that South Australian prison authorities are widely regarded as leading Australian control room tech-

nology. As an aside, we have an individual within correctional services who has a special technical interest in a whole range of applications and whose knowledge has been called upon interstate. The scope of our department's physical security and resources team experience is gaining an international reputation. Its views are being sought by correctional jurisdictions throughout Australia and the world, and the individual I spoke about earlier is currently addressing a correctional services conference in Beijing, having recently addressed similar conferences in America and New Zealand.

As the honourable member indicates in his question, emerging technology has a major impact on every correctional environment. Given that every year throughout the world tens of billions of dollars are spent on this industry, the potential benefits for those who can stay ahead of the technology race can be significant. If those applications within our system can be applied either interstate or overseas, the intellectual property realised by those applications will be valuable not only to this state but also to the industries that flow from them.

I was delighted to sponsor a South Australian technology initiative at the most recent ministerial conference in Hobart. Some members will remember that in this place several months ago I touched briefly on this matter. With the federal government, South Australia successfully lobbied correctional authorities around Australia and New Zealand to establish a technological working group to look at emerging technology and how it can be applied to the correctional industry. The federal government's involvement is as a result of its involvement with detention centres.

As a result of our efforts, technologists from New Zealand and every Australian state and territory will meet once a month to identify emerging technology that can be used to assist the correctional industry. To start the process, a meeting of the group will be hosted by the department in Adelaide on 3 November 2004. Future meetings will be conducted by videoconferencing. This group will work closely with local technology companies developing new and improving existing equipment for the correctional industry. Hopefully, this new initiative by South Australian correctional services will reduce the dependency that the Australian corrections industry has on overseas technology.

The applications in South Australia have been developed in conjunction with human contact, that is, correctional services officers complementing the use of technology. High-tech prisons, and those that run solely on technological services, have proven in other states not to have the same rehabilitative effect as those with a mixture of human and technological services. A very new prison in Victoria was not seen as being a fit place for rehabilitation, and I do not think it was in service very long before alterations had to be made. So, a balance is required between technology applications and human services.

The honourable member mentioned the issue associated with Port Augusta Prison recently. In cases where low security prisoners are being prepared for exiting, again there has to be a balance of human contact and technology and, where that technology application is not suitable, improvements have to be made. Those changes to the system in relation to perimeter fencing have been made at Port Augusta Prison, and other improvements are being made continually throughout our system in this state.

The Hon. A.J. REDFORD: I have a supplementary question. Given that the possession of mobile phones by prisoners could be described as technology, will the minister describe precisely to which technology he was referring in his answer?

The Hon. T.G. ROBERTS: At the Tasmanian meeting there were discussions on the way in which mobile phones are being used in prisons. Tracking devices, or technologies that interrupt signals, were being discussed widely throughout Australia. The commonwealth frowned upon the issue of blocking signals, because the technology was not able to differentiate between signals coming out of prisons and detention centres and signals from phones that were being used by the general public. So, the ability to apply technologies for blocking out mobile phone services and systems was being looked at in South Australia and in other states. It has been a universal problem throughout Australia and it is now being looked at seriously to determine whether a filtering process can be developed to identify where mobile phones are located and how to isolate those phones and identify their location.

I commend the people who are working on that very difficult issue, because the phones are getting smaller and are not so easy to recognise, identify and find. The way in which the drug industry, in particular, uses phones within the prison system in the eastern states is a huge problem.

The Hon. A.J. REDFORD: Sir, I have a further supplementary question. In his original answer (and this was my last question), the minister on a number of occasions referred to technology that indicated, according to the minister, that South Australia was at the leading edge. Can the minister describe what technology and, indeed, what equipment he was referring to in that respect?

The Hon. T.G. ROBERTS: The individual who is developing applications for technology within our prison system has made applications of technology already in use for security purposes, mainly to assist in exiting services systems. The majority of our prisons now have no keys; most of the systems are electronic with respect to doors opening and closing. The movement of prisoners has been made much easier. Although there have to be fail-safe measures in relation to the dangers associated with fires within prisons, those are the sorts of applications that are being made not only with respect to the design of new prisons but this service also has been used in changing the internal systems to make the entry, exit and movement of prisoners much easier. It is an internal—

The Hon. A.J. Redford: So, it is for locking and opening and closing?

The Hon. T.G. ROBERTS: That is one application that can be identified for sale in many other prisons. If the honourable member wants a complete list of the applications—

The Hon. A.J. Redford: Yes, please.

The Hon. T.G. ROBERTS: I will refer that request to the department and bring back a reply.

STATE LIBRARY

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Minister for Industry and Trade, representing the Premier in his capacity as Minister for the Arts, a question about changes to retrieval times at the State Library.

Leave granted.

The Hon. SANDRA KANCK: On 19 July this year, the State Library extended the waiting period for retrieval of items stored on site from half an hour to, in some cases, half a day. Under the new arrangements, should a patron request a stored item at, say, one minute past two in the afternoon, they could feasibly have to come back to the library the next morning to have a look at the desired book or manuscript. That is despite the fact that the library does not close until 6 p.m. on Thursdays. Similarly, a request after 5 p.m. on Monday, Tuesday, Wednesday or Friday could require a return trip, despite the library's not closing until 8 p.m. on those days. At other times during the day, waiting times of up to four hours can now be encountered—and I stress that this is simply for on-site retrieval. My questions are:

1. Is the increase in on-site retrieval time the result of a failure to budget properly for the maintenance of the new building, resulting in the need to cease the employment of casual retrievalists and replacing them by drawing professional staff away from their other duties?

2. Does the Premier consider the on-site retrieval time satisfactory?

3. What does the Premier intend to do to improve this situation?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I will refer those questions to the Premier and bring back a response.

ROYAL ADELAIDE HOSPITAL

The Hon. A.L. EVANS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Health, a question about waiting times in the emergency department of the Royal Adelaide Hospital.

Leave granted.

The Hon. A.L. EVANS: Official hospital figures show that from January to August this year 945 people waited more than 12 hours in the Royal Adelaide Hospital's emergency department. This figure is reportedly up 80 per cent on the previous year. In a recent interview with Kaye Challinger, CEO of the Royal Adelaide Hospital, it was mentioned that on 5 October 2004 patients were diverted for 1½ hours to Flinders Medical Centre to cope with the large influx of people waiting in the emergency department of the Royal Adelaide Hospital. Australian Medical Association State President Dr William Heddle has attributed the increase in patients in our emergency departments to an increase in our ageing population. Others have pointed to the problem of bed blockages at the ward level.

On 1 June 2004, the Flinders Medical Centre adopted the patient-flow initiative which is designed to improve patient flow whilst maintaining the care that is required for the patient. The figures released by the Royal Adelaide Hospital showed that, for people who need admittance to a bed, there has been an increase in the length of time that they may spend in the emergency department before they get to a hospital bed on a ward. My questions are:

1. What does the minister propose to do about peak times when patient numbers are at levels that the hospital cannot handle?

2. What strategies are in place to adopt the patient-flow initiative (which has already shown some effectiveness at Flinders Medical Centre) for the Royal Adelaide Hospital?

3. What does the minister propose to do about bed shortages in the Royal Adelaide Hospital that are impeding the efficiency of its emergency department?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for his questions. The minister in another place was asked a similar question yesterday and she also issued a press release in relation to the funding that was made available from the AAA dividend. However, I will take those important questions on board and refer them to the minister in another place and bring back a reply, and also forward a copy of the press release.

GLENELG RIVER

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister Assisting the Minister for Environment and Conservation and the minister representing the Minister for Agriculture, Food and Fisheries a question about the Glenelg River.

Leave granted.

The Hon. J.S.L. DAWKINS: Most members would be aware of the Glenelg River which flows through a large portion of south-western Victoria before entering the sea at Nelson. However, the river does flow for a number of kilometres in South Australia, passing through the holiday and fishing destination and former South Australian tidy town winner Donovans, of which I am sure the minister is well aware. I recently became aware of a strategy to manage carp in the Victorian section of the Glenelg River. Apparently researchers, managers, local government and the community met earlier this year to develop a management plan to address the growing number of carp in the Glenelg River system. The workshop, which was coordinated by the Glenelg Hopkins Catchment Management Authority, brought together a range of experts to help develop a range of feasible actions to manage and control carp in the Glenelg system. It was recognised that the management and control of carp in the river will require an integrated approach. My questions are:

1. Will the minister indicate what, if any, input the South Australian government has had in the development of a carp management plan for the Glenelg River system?

2. Will the minister also indicate what action, if any, has been taken to manage carp in the Glenelg River by the Department of Water, Land and Biodiversity Conservation and PIRSA fisheries?

3. Has the state government consulted with the national carp task force, an initiative of the Murray-Darling Association, in relation to the Glenelg River?

The Hon. T.G. ROBERTS (Minister Assisting the Minister for Environment and Conservation): I thank the honourable member for his question. It is indeed a part of the river system that flows from the Grampians through western Victoria into South Australia for a short distance and then out to sea, and it produces good fishing in the lower and upper reaches. I think you could catch trout if you are sharp enough. I have spent some time trying to catch bream and mulloway at the mouth, but I have never been too successful. I have never caught a bag limit in my life.

The problem associated with carp is a real one for all fresh water river systems where they are present. If there is a problem emerging in relation to carp, it is important that it is handled as quickly as possible in the best possible way. I recommend that all members who are not familiar with the Glenelg River they visit the area when they take their break

during the summer holidays. The weather is perfect and it is a perfect time to visit—

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

The Hon. T.G. ROBERTS: No, I don't think so. From time to time, a number of shacks down there gain the attention of the Department for Environment. I will take the questions on notice and refer them to the minister in another place and bring back a reply.

The Hon. J. GAZZOLA: I have a supplementary question. Will the minister also seek the views of the opposition, as they are experts in whingeing and carping?

The Hon. T.G. ROBERTS: I thank the honourable member for his excellent supplementary. I will make that recommendation to the minister in another place.

BIKE LANES

The Hon. IAN GILFILLAN: I seek leave to make an explanation before asking the Minister for Industry and Trade, representing the Minister for Transport, a question about the provision of bike lanes on major roads.

Leave granted.

The Hon. IAN GILFILLAN: I am advised that the Minister for Transport is no stranger to cycling, so she may be aware of the problem to which I am referring. Provision has been made for secure bike lanes alongside many roads in Adelaide—and, of course, major roads are the responsibility of the minister's department. We have an embarrassing and, in fact, very dangerous anomaly in that these lanes terminate in quite significant locations with no alternative for the safety of the cyclist using the lane. The most significant sites where this is happening with monotonous regularity are at traffic lights and intersections. Not only do the bike lanes disappear but frequently an additional motor vehicle lane is squeezed into that territory, which means that motor vehicles are competing with any intrepid cyclist who is expecting to get through relatively safely and comfortably, having been, I am afraid, somewhat led astray by the bike lanes that lead up to those intersections. The problem is that, where you have that extra motor vehicle traffic—and even where you do not—the cyclist then becomes the vulnerable user of the road, both physically and in their right to that territory.

Where a bicycle lane is marked, it is very clear that the motorist and the cyclist both know exactly what the allocation of the territory is. I believe this government and the minister really want to encourage cyclists to feel that they can use bike lanes with confidence. But we are confronted with this particularly dangerous situation which, up until now, the government has shown no signs of addressing either by showing any sympathy to the situation or seeking to resolve it. We know there are alternatives that are used in most progressive countries in the world for cyclists, particularly in Europe, where cyclists have priority at an intersection. They move with confidence to an intersection, wait for the lights to change in front of the motor vehicles and then move off free of any harassment to continue their journey on the other side of the intersection. The cycling community and Bicycle SA, of which I have the privilege of being the patron, both believe that, until there is an attitude like that in Adelaide, we will not see a significant increase in commuter bicycle use on the roads of Adelaide, even though lip-service is paid by the government, the opposition and others that they want to encourage cycling. My questions are:

1. Does the minister recognise that there is a dangerous anomaly in the allocation and use of bicycle lanes, particularly in Adelaide, at intersections?

2. Has the minister developed any program for correcting this anomaly in the allocation of bike lanes? If not, will she? Will she explain to the cycling public of Adelaide why she is either not intending to take any action or when she will take action to give them the confidence that they will be cared for by this minister?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I will refer the question to my colleague in the House of Assembly and bring back a reply.

VICTORIA SQUARE DRY ZONE

The Hon. J.M.A. LENSINK: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question about the Adelaide City Council Victoria Square dry zone?

Leave granted.

The Hon. J.M.A. LENSINK: I have already asked a couple of questions about this subject in this place. One of them I have had a reply to, and one of them is still awaiting reply. I note that the chair of the Social Inclusion Board, Monsignor David Cappo, has made some calls recently in relation to this issue, and they were reported in the *City Messenger* of 7 October. I refer to an article therein where he stated that the dry zone should be scrapped. The article also stated:

> . . . discussions are urgently needed to establish measures to ensure crime and anti-social behaviour does not return to the square. . . 'it's a racially discriminatory policy and it should not be there. . . The racial overtone was there right from the beginning but it has reduced crime and people being accosted in Victoria Square. We need to lift the bad public policy but we have to make sure the situation doesn't return where we have inappropriate behaviour back.' Monsignor Cappo said the state government needed to sit down with prominent Aboriginal people to work on a solution to ensure the dry zone could be lifted without any backlash.

My questions are:

1. Does the minister agree with Monsignor Cappo's comments that the policy is racially discriminatory?

2. Has the minister met with Aboriginal people as has been suggested?

3. What progress has been made regarding the cross-agency strategy which is referred to in a reply to my question on notice on this matter of 22 July 2004 regarding transitional accommodation to address people sleeping in the parklands? The reply stated, 'Cross-agency strategies are being investigated to tackle this issue. This includes providing transitional accommodation for homeless and itinerant people.'

4. What progress has been made on that initiative? Is it in place? Have the agencies received funding?

5. When will the government tell the public what is happening in relation to the dry zone in Victoria Square?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): Many of those questions fall under the portfolio of the Minister for Families and Communities, who is handling the cross-agency negotiations. In relation to the position of Aboriginal people and whether the declaration of the dry zone is racially motivated, that is certainly not the case. It is not the case that only Aboriginal people drink or were drinking in the Victoria Square zone; it was homeless non-Aboriginal people as well. It was not aimed solely at Aboriginal people in the square, although many transitional people were identified who gathered there.

Again, many of the people who gathered there did not do so to consume alcohol, but there were certainly some issues with those who over-consumed and who became public nuisances in that region. Local government bodies, the Adelaide City Council and many other agencies have been working on a suite of solutions, including transitional housing for women. There certainly has been a build-up of services provided by the non-government organisations (NGOs) in Wright Street, and I invite honourable members to visit the Wesley service and other non-government agencies that have started to cater for homeless people in that area.

One issue that needs examination and a solution is the aggregating of people in the West Parklands who may have been more visible in the inner city area. There is still an issue relating to that. The other agency programs I will refer to the Minister for Families and Communities.

The Hon. Kate Reynolds: Have you asked them to act on the Social Inclusion Unit's advice?

The Hon. T.G. ROBERTS: By way of interjection I have been asked whether I have asked the minister to act on the advice of the chair of the Social Inclusion Unit. I will pass on that question to the minister and bring back a reply. It is not just the declaration of the dry zone in the Adelaide metropolitan area or the inner city square: other declarations of dry zones have been made throughout the state of which local government is taking the benefit.

Each local government area has to manage the differences of opinion that emerge within communities and the different emerging issues. For instance, Ceduna and Port Augusta have done so, and Mount Gambier in the South-East is discussing implementing a dry zone at the moment. I know that the Wattle Range Council has made declarations. It is a way of stopping the over-consumption of alcohol by a wide range of people whose behaviour impinges on the rest of the community. I think it is sometimes used as a blunt weapon to control problems within communities that perhaps could be controlled in other ways if the police and other authorities and agencies were able to cooperate to bring about solutions to those problems.

TOBACCO PRODUCTS REGULATION (FURTHER RESTRICTIONS) AMENDMENT BILL

Bill recommitted.

Clause 12.

The Hon. P. HOLLOWAY: I move:

Page 6—

Line 9—After 'licence' delete 'and no other such vending machine is situated in the gaming area or any other part of the premises in respect of which the licence is in force under the *Liquor Licensing Act 1997*'.

Line 14—After 'holder of the licence' delete 'and no such other vending machine is situated in the premises in respect of which the licence is in force.

Line 17—After '1997' delete 'and no other such vending machine is situated in the casino'.

The Hon. Sandra Kanck: Can we get a copy of the amendments?

The Hon. P. HOLLOWAY: Essentially they are Ms Lensink's amendments—

The Hon. Sandra Kanck: You're trying to get them out?

The Hon. P. HOLLOWAY: Yes.

The Hon. Sandra Kanck: Does she know that?

An honourable member interjecting:

The Hon. P. HOLLOWAY: That is not quite true. As I have moved those amendments, I am happy to wait until the Hon. Ms Lensink is in the chamber. There are two matters to deal with in the recommittal of this clause. We will deal with one in relation to nicotine replacement therapy in a moment. The other matter the government would like reconsidered is Ms Lensink's amendments in relation to vending machines which were carried last time. I have moved that those be reversed, and I will explain why.

One of the key aims of this legislation is to reduce the recruitment of young people to smoking. South Australian research has shown that nine out of 10 attempts by children to buy tobacco from a vending machine are successful. On the issue of one cigarette vending machine per venue, it is the government's preference to go back to the essence of the clause of the bill. It should be remembered that, to all intents and purposes, a vending machine is a point of sale. In its original form, the clause allows licensing conditions that may restrict the number of sales points, such as vending machines. The government's clause does not stipulate specifically how many such points of sale are allowed. This has been done in order to allow some flexibility around the issue. This would not be possible should the one vending machine per venue decision stand. A degree of flexibility is necessary in order to take into consideration those particularly large outlets or premises. However, in most cases the government will restrict the number of points of sale to one under the tobacco licensing conditions. I believe that it is important that we have that flexibility in relation to the number of machines. In its original form, this clause would apply to very few premises. However, we believe that it is important to recognise that we need some flexibility in those situations.

The Hon. J.M.A. LENSINK: I think it a little unfortunate that the government has taken this path. We had the opportunity to debate this the other night. Appropriate notice was given, and I was of the understanding that everybody knew where they stood. This amendment has not been raised by the government with me formally.

The Hon. Sandra Kanck: That would have been nice.

The Hon. J.M.A. LENSINK: Yes. We turn up today and find that it is being recommitted. I suppose it is an inconvenience for the government that anybody else's amendments might get through, because it seems to be embarrassed if somebody else thinks of something it has not. I urge all honourable members to consider this in the same light as when we voted on it.

The Hon. SANDRA KANCK: I will not support this backdown. It seems that we go from rollovers one day to backdowns the next. I sincerely hope that the members who supported this amendment previously will vote to retain it. To argue for flexibility is arguing for more points of sale. The minister has said that each of these vending machines represents a point of sale. I do not understand why this government wants to have more points of sale when it can have fewer. Why put temptation in people's way?

The Hon. NICK XENOPHON: Another day, another rollover. I do not accept what the government is attempting to do. I still strongly support the amendment that was previously passed by the Hon. Michelle Lensink, and I will continue to do so.

The Hon. A.L. EVANS: I also support the amendment, and I do not wish it to be withdrawn. I think it is well considered, and we should proceed along this way.

The Hon. P. HOLLOWAY: I think what has happened is that a number of members have had the opportunity to consider the impact that this clause in its amended form might have upon some businesses as a result of the amendment's being carried. I believe that it will have virtually no impact in relation to the smoking issue, but it certainly could have a significant impact in relation to some of those businesses, particularly the very large hotels. It is really for that reason that we are simply providing the opportunity for the committee to re-examine it.

From the point of view of the government, our position remains: there is no rollover, backflip or anything else. We are simply saying we understand that the AHA and other groups have expressed a view to a number of members about what impact this might have, and we believe there is a clear understanding about the impact it might have. It is up to the committee now to choose, and we will go along with whatever the decision is.

The Hon. KATE REYNOLDS: So that the Hon. Angus Redford is not the only smoker who has stood in this chamber and spoken on this bill—

The Hon. A.J. Redford: No, Bob Sneath did.

The Hon. KATE REYNOLDS: Okay, the Hon. Bob Sneath also has spoken. That now makes three of us, from different corners of the chamber. I will be voting with those members who do not want to see an increase in the point of sale, but can the minister give us examples of some of those large hotels that he thinks might be affected?

The Hon. P. HOLLOWAY: I gave an example the other day of the West Lakes Resort, which is a particularly large hotel, which was one that came to mind. The casino might possibly be another; there is a number of floors in that building. Obviously, there are some particularly large hotels, and if we have just one it could be particularly restrictive for the very large hotels. But for the average sort of hotels, where you most likely see smoking—your suburban hotels—clearly, in most of those cases, it will be just one machine. But when you have very large complexes which might have many floors or which are spread over a very large area, that is where we think this measure could have an unreasonable impact.

The Hon. SANDRA KANCK: This is a bill that has been introduced by the health minister. I assume that, when we are dealing with a bill introduced by the health minister, we are interested in health outcomes, not outcomes for the AHA. It will be far healthier for these addicts to go for a walk—maybe 100 metres, maybe 200 metres—and, if it is too onerous for them to go for a walk, they might smoke one or two fewer cigarettes that night, and that will surely be a better health outcome. What on earth are we talking about if we are not talking about health outcomes?

The Hon. A.J. REDFORD: I am not sure that I will miss the Democrats after the next election—

The Hon. Nick Xenophon: They will still be here for a few years.

The Hon. A.J. REDFORD: Yes, I know.

The Hon. Sandra Kanck: I've got another 5½ years, don't worry; I could make your life miserable.

The Hon. A.J. REDFORD: I know. I was thinking you have to get seconders. There are examples other than the big hotels to which the minister has referred. For example, a drive-in bottle shop. It is totally impracticable; the licensee will have to work out where to put the vending machine. Will he put it in the bottle shop or will he put it in the premises? You will have people parking their cars in drive-in bottle shops. It is not a place that I would ever expect to see the Hon. Sandra Kanck, because she does have a limited life, but the public safety issue of having cars sitting in driveways at drive-in bottle-os while people go into the bar, queue up, buy their cigarettes and then come back out is just silly. If there was a public health outcome associated with this, I have absolutely no doubt that the government would have considered it, because I think the government has gone a bit far in some respects, but I respect it.

There are little practical situations such as that. There are practical situations that arise with clubs. There are a number of clubs in this state where the licensed area extends beyond the physical building to playing surfaces or to spectator areas and shelter areas nearby. I know that there are a couple of country clubs that would be affected by it. In my capacity as the shadow spokesperson for racing, whilst most racing is smoke free—and I know, Mr Chairman, you would appreciate this—some picnic race meetings are spread out across quite large distances. I appreciate that obviously somewhere earlier in the honourable member's life a smoker offended her and now she has taken it upon herself to say that these addicts should walk 200 yards, and she thinks that is a clever thing.

I know that she has a general hostility that has gone through this debate about smokers, and I accept that she has this hostility and prejudice towards smokers. I know and I will ensure that every smoker I bump into—

The Hon. Sandra Kanck: Some of my best friends are smokers, Angus.

The Hon. A.J. REDFORD: From some of the comments that you have made over the last three days, I think when they read them, they might be a bit more cautious about you. I think this is just being bloody-minded—'Let's stick it into the smokers.' If the honourable member can point to one public policy health outcome that might arise from this, fine, but she cannot. All she has done is abuse smokers—and that is fine, we have got thick skin. I just hope for her sake that the theory about osmosis advanced by the leader does not work and that she lives a long and healthy life, and I will not try to interfere in that. I just sincerely hope she would stop interfering in mine.

The Hon. CAROLINE SCHAEFER: Like Maxi the dog, I am one of the people who probably will roll over on this particular issue because, thinking about it afterwards, the reality is that one vending machine or three vending machines will not make any difference to the number of people who purchase cigarettes out of a vending machine and it will not stop anyone from smoking. As I have said on a number of occasions during this debate, this was meant to minimise smoking throughout the state. The more we look at it, the more it is a mishmash of compromises that will do very little. I can see very little point in removing some vending machines.

The Hon. R.I. LUCAS: I am terrified that the Hon. Mr Xenophon will have my photograph on top of Maxi the dog's head if I roll over, rather than the Premier Mike Rann's. For those reasons, and some others, I intend to stick to my position. Now that the Hon. Mr Xenophon is here, as I said, I do not want a photograph of me on top of Maxi the dog's head. Does the West Lakes Hotel currently have more than one vending machine and has the minister had concerns expressed from the proprietors of the West Lakes?

The Hon. P. HOLLOWAY: I cannot confirm that; I believe that is the case. The only reason I mentioned that as an example is that I gather that had been one that had arisen in conversations with the AHA in relation to the impact of the bill, so I think it is a reasonable presumption to say it has more than one. My advice is that it has three.

The Hon. A.J. Redford: One in the gaming area, one in the front bar and one in the drive-in bottle-o.

The Hon. P. HOLLOWAY: I probably did not make this clear enough earlier: the objective of the government's amendments to the Tobacco Products Act was to ensure that, where vending machines are located in licensed premises, they now be subject to much greater scrutiny than they were in the past so that minors cannot buy tobacco products. Normally, in most hotels that would mean just the one. However, for larger hotels, where there is a huge number of people, it is reasonable to provide that flexibility.

However, it is important to understand that the bill in its original form provides that level of supervision, and that comes about in two ways. One is that cigarettes are purchased using tokens, which can be controlled by hotel staff. The whole objective of this clause is to deal with under-age smoking. After all, the act of smoking is what causes the damage; the purchasing of the cigarettes itself is not damaging. Where the act of purchasing cigarettes becomes a problem is when minors are doing the purchasing. You can get around that by—

The Hon. Sandra Kanck: Having more machines helps to stop that?

The Hon. P. HOLLOWAY: No, it does not help to stop it, but it need not do anything to contribute to it providing the new measures are incorporated in the bill, namely, that cigarettes are purchased by way of tokens so that there is the hotel employee intervention—the tokens have to be purchased, so there is that control over the age of the purchaser. The other is that vending machines have to be located in the gaming area, because hotels have an obligation to ensure that everyone in that area is over the age of 18. The point is that the health protections that the Hon. Sandra Kanck was talking about are included in the original bill. All we are doing is allowing a bit more flexibility for the larger premises. However, it should not have any detrimental health outcome, and that is the important point.

The Hon. KATE REYNOLDS: First, can the minister briefly define 'larger premises' and, secondly, does that mean that, if we talk about hotels only, those hotels that do not have a gaming room will not be allowed to have a cigarette vending machine?

The Hon. P. HOLLOWAY: No, hotels that do not have a gaming room certainly can have a vending machine, but there has to be the employee intervention that I have talked about. To use the vending machine, one would have to obtain a token from an employee or the machines could be activated by infra-red or some other device, so that the hotel employee or the licensee, or whoever is responsible, can activate the machine. In other words, there is employee control over the vending machine. In a large hotel, such as in the case the Hon. Angus Redford talked about, where you might have a drive-in bottle department, you can ensure that that intervention takes place in that location. It may also be in the gaming room 200 or 300 metres away with another door from the other side of the building—

The Hon. R.I. Lucas: You could have one in every room if you liked.

The Hon. P. HOLLOWAY: The point is that there has to be that employee intervention. So, in that other case, you could have that employee intervention there as well. Of course, if it is a gaming machine venue, you have the intervention, anyway, in another form, because you are not allowed in the gaming area if you are under age. When I refer to larger hotels, I am using that term in the generally accepted sense. It is not part of the bill; it is simply a measure that will allow those hotels that have a very large number of customers spread over a large area to provide the service to the customers. However, at the same time, in keeping with the philosophy behind the bill, it will ensure that there is employee intervention from the holder of the licence, or an employee of the holder of the licence, to ensure that minors do not have access to cigarettes.

The Hon. J.M.A. LENSINK: I understand that part of the rationale for the location of vending machines is to enable closer scrutiny by staff. The logic would run that, the more vending machines you have per venue, the less able the staff is to monitor them. Staff will not spend all their time running around making sure the kids are not getting cigarettes.

The Hon. Kate Reynolds: And scrutiny is not the same as control.

The Hon. J.M.A. LENSINK: Yes; I agree with that interjection of the Hon. Ms Reynolds. Part of my rationale is to provide some equity with supermarkets, which have only one site per supermarket. I reiterate for the record that I believe that it is a sly move on behalf of the government to recommit this as nobody discussed it with me beforehand, and I urge honourable members to take that into consideration when they vote.

The Hon. D.W. RIDGWAY: Since Tuesday night when we first debated this, I have not been contacted by one hotelier or proprietor who has a vending machine to say that they are distressed by it. I will not change my position.

The committee divided on the amendments:

AYES (8)

Gago, G. E.	Gazzola, J.
Holloway, P. (teller)	Redford, A. J.
Roberts, T. G.	Schaefer, C. V.
Sneath, R. K.	Zollo, C.

NOES (10)

Evans, A. L.	Gilfillan, I.
Kanck, S. M.	Lawson, R. D.
Lensink, J. M. A. (teller)	Lucas, R. I.
Reynolds, K.	Ridgway, D. W.
Stefani, J. F.	Xenophon, N.

PAIR

Dawkins, J. S. L.	Stephens, T. J.

Majority of 2 for the noes.

Amendments thus negatived; clause as previously amended passed.

New clause 16A.

The Hon. P. HOLLOWAY: Members will recall that this is the clause moved last night by the Hon. Mr Xenophon in relation to a nicotine replacement trial, and we agreed that there be further negotiations in relation to that matter. A smoker's chance of quitting can be roughly doubled by using a pharmacological aid such as nicotine replacement therapy. When a smoker also receives counselling such as that provided by the Quit Line service, the likelihood of a successful quit attempt increases even further. Jurisdictions internationally have implemented population-based nicotine replacement therapy schemes. The most notable schemes have occurred in England, New Zealand and New York City.

In 1999-2000, smoking cessation services were set up in the 26 health action zones in England with services rolled out across the National Health Service to the rest of England in 2000-01. In an evaluation of quit rates in 2002-03, a total of around 234 900 people set a quit date through smoking cessation services. At the four-week follow-up, around 124 100 (or 53 per cent) of all those setting a quit date had successfully quit.

Nicotine replacement therapy is free of charge under the National Health Service in England as long as their doctor prescribes it. Smokers need to pay a £6 prescription fee. In 2003 the City of New York provided 34 090 free NRT kits to approximately 5 per cent of the city's smokers to accompany the introduction of their smoking bans in all public places, including bars. An estimated 33 per cent of people who received the NRT quit smoking. It was found that those who received telephone follow-up counselling were significantly more likely to quit.

In New Zealand a nationwide program was implemented in 2000 through the New Zealand quit line. The program experienced a very high level of demand, especially in the first 12 months. A subsidy reduces the cost to the smoker from $199 to $15 (New Zealand)—a 92.5 per cent subsidy for eight weeks' supply. Around 41 000 smokers a year in New Zealand register with the quit line and are issued with vouchers for nicotine replacement therapy. It has been found that 13 per cent of program participants quit at 12 months. The government believes that this evidence shows that nicotine replacement therapy can assist people to stop smoking and that schemes for larger population groups can work, but quit rates vary. Consequently, due to the evidence in relation to these programs, the government is not supportive of another trial on this matter. Furthermore, a trial should not be included in legislation.

The Hon. Caroline Schaefer interjecting:

The Hon. P. HOLLOWAY: Yes. The Minister for Health received a letter from Dr Andrew Ellerman, Manager of Quit SA, today (28 October) reiterating this viewpoint. He stated:

> In my opinion the detail of such a scheme is not appropriate to include in legislation. However, such a project would be an excellent adjunct to roll out during the phase-in of the smoke-free legislation.

Dr Ellerman adds that this program should be accompanied by an evaluation of cost effectiveness and uptake for the subsidised NRT. The state government endorses the comments by Dr Ellerman and therefore is supportive of extending its current nicotine replacement therapy program to a larger scale in collaboration with Quit SA, Tobacco Control Research and Evaluation, and other interested parties. However, this type of program needs special consideration to ensure that it will be effective. There are numerous issues on which the government will embark to resolve when developing this program, whether the NRT will be distributed through the Quit Line or whether other means of distribution will be more effective.

Some nicotine replacement therapy schemes in the past have had little impact because many participants given nicotine replacement therapy vouchers do not redeem their vouchers at a pharmacy. The optimal level of subsidisation needs to be considered to ensure that the program reaches a significant group of people. The optimum level of counselling needs to be determined so that there is an appropriate call-back component. As the Hon. Robert Lucas commented yesterday, the issue of capping the amount of subsidy received per person needs to be considered so that the benefit of the scheme is shared. Eligibility criteria also need to be determined to ensure that this scheme reaches those most in need.

Nicotine replacement therapies are also not safe for some people: therefore it is important that processes are established to ensure GPs or pharmacists give advice. All these issues will be given due consideration. A program will be developed which will provide nicotine replacement therapy to accompany the introduction of these new tobacco laws. In my discussions with the Minister for Health (Hon. Lea Stevens) she has confirmed that she is pleased to give assurances to the house that she will work with Quit SA, the Tobacco Control Research and Evaluation Unit and other interested stakeholders to develop this program. The Minister for Health takes the expert advice of Quit SA on this matter, both on the program proposal and the recommendation that this not be legislated. Quit SA are the experts, as the Hon. Nick Xenophon's amendment recognises. I urge others to also follow this advice.

The Hon. R.I. LUCAS: Mr Xenophon will lead the debate in relation to this issue and I am interested in his response, but I indicate that my position has not really changed from last evening, namely, that I indicated that I was prepared to support this amendment at this stage and reserve my position when it comes back from another place. My position essentially is unchanged as a result of the statement that has been made by the government. I still maintain a position that there should be a cap on the cost, both individual and total. I still have a view that there should be means testing in some way in terms of access to the program.

I have indicated publicly and privately to the Leader of the Government or the minister last night that I am open, when the legislation comes back, to either a legislative amendment (which is not the preferred course of the government), or a specific commitment from the government given in both houses by the minister, and a minister representing the minister, as to the total cost that will be allocated from the minister for a pilot program and the time of that program (that is, that it will occur in the next 12 months or so) and the essential details without requiring the specific details (which I accept from the minister in terms of a clinical trial—indeed the shadow minister has similar views in relation to this aspect).

Those sorts of issues are difficult to resolve in a legislative amendment. I accept that in principle but desire a specific commitment given from the minister and also a specific commitment that the minister will not reduce the existing level of funding to Quit SA to undertake the program. If the minister were to say, 'I am prepared to commit $250 000 to a trial for nine months in the following form,' and the next week says to Quit SA, 'Your budget of $1.X million will now be reduced by $250 000 because that evil Mr Xenophon and others have supported an amendment in the Legislative Council,' that would be counterproductive to the good intentions of the amendment.

It is my view that the Minister for Health is over a barrel—or over a patch, or a butt—in respect of this issue. Clearly, she is very keen that this legislation not pass. I am disappointed in the response we have heard today, namely, that there is no specific dollar or time commitment to this issue, other than exploring it further with Quit SA and others. Therefore, it is my view that the committee should bring this to a close this afternoon and pass this amendment, possibly with the amendments in relation to capping and a version of the means testing that the Hon. Mr Xenophon canvassed last

night. It may not be perfect, but at least it gives the intention, and the minister can then consider whether she wants to further amend the amendment or, indeed, seek to reach an agreement with the Hon. Mr Xenophon and other interested parties on a specific form of commitment that the government is prepared to give along the lines that I have outlined.

The Hon. P. HOLLOWAY: The Hon. Rob Lucas has made a 22-year career out of playing political games, rather than dealing with substance—and here is another example today.

The Hon. R.I. Lucas: You are trying to introduce politics into this serious issue. Shame!

The Hon. P. HOLLOWAY: What a hypocrite!

An honourable member: That's unparliamentary.

The Hon. P. HOLLOWAY: It might be unparliamentary but, gee, it's accurate. After parliament sat for the first two weeks, I issued a notice to everyone stating that it was important that we get this bill up so that we can start to give the proper three-year notice before things come through.

An honourable member: Whose fault was it?

The Hon. P. HOLLOWAY: It was the opposition's fault—absolutely and totally. You spoke on the very last day and sought leave to conclude your remarks two weeks after I gave notice that it was to be a priority. The shadow minister then issued a grossly dishonest press release, blaming the government for delays, and now we have the leader talking about bringing this bill back. The other place has been held up all week by the opposition until the early hours of the morning, and now it says, 'Let's bring it back. Let's hold it up a bit longer. Let's not get this through today.' Let us just have the vote on this measure once and for all and be done with it. Of course, as is appropriate, if this measure is passed (and I suspect that it will be), the implications that will flow from it will be the responsibility of those who voted for it. This government will ensure that they accept the responsibility for the stupid consequences that will come from it.

The Hon. NICK XENOPHON: I am pleased that, in its response to this amendment, the government has acknowledged that there are significant benefits in using nicotine replacement therapy.

The Hon. P. Holloway: So, let us use the money for doing that, rather than having another trial that will just waste that money. You are saying that we should waste money, and that will be the responsibility of every one of you who votes for this.

The CHAIRMAN: Order! The Hon. Mr Xenophon has the call.

The Hon. NICK XENOPHON: The minister makes a point when he says, 'Let's get on with it' in relation to nicotine replacement therapy. The very point of this legislative amendment is that the government has not made a rock solid commitment to funding nicotine replacement therapy. This was a compromise amendment after discussions with other honourable members in this place to limit the scope of the scheme and at least to have a substantive scheme in place so that 1 000 South Australians, particularly those on low incomes (and I will address the issue of means testing in a moment), could have a chance to attempt to quit. I am grateful to the minister's outlining the various groups entitled to subsidised nicotine replacement therapy at the moment, but that scheme involves $10 000. You would not call that even a token scheme; it is a minimalist scheme. It is the worst form of window-dressing.

This amendment is about taking a comprehensive approach and is part of a wider approach to encourage the federal government, once South Australia has led the way with such a scheme, to attempt to obtain matching commonwealth funds to expand it. The minister has told us that in New York City, the UK and in New Zealand, where these schemes have been widely used, they have been a great success. If you accept what the tobacco control lobby says and what people such as Ann Jones of ASH, who works exclusively in this field, say—namely, that for every dollar spent on measures such as this there is a saving to the public health budget of $2—let us go down this path. Instead, the clear implication—and I make it clear that this was not from the minister who has the carriage of the bill in this place—and from others in the government—

The Hon. R.I. Lucas: It was the minister. Let's be honest about it.

The Hon. NICK XENOPHON: I am not being dishonest. I am saying that the implication from the health minister was that, if this amendment were passed, it could mean that there would be a reduction in Quit SA's funding, and that seriously concerns me.

The Hon. G.E. Gago: What a cynical man!

The Hon. NICK XENOPHON: The Hon. Gail Gago says that I am cynical.

The Hon. P. HOLLOWAY: That is where the government's anti-smoking money goes: to Quit SA to let it decide where it is best spent. You are complicating it by saying that we have to spend whatever this thing costs on a particular issue, even if Quit does not think it is the best way to spend it. So be it: if that is parliament's wish, let it happen, and you will accept responsibility for it.

The Hon. NICK XENOPHON: That is a terrible admission on the part of the minister, and I am surprised that he says that.

The Hon. P. Holloway: It is not an admission—it is a fact.

The Hon. NICK XENOPHON: Well, the government is not willing to go down this path. This was a compromise amendment.

The Hon. P. HOLLOWAY: Go down what path? We are saying that we do not need a trial. These things do work and they should be funded, and the extent of the funding needs to be worked out through Quit SA. We do not need legislation.

The Hon. NICK XENOPHON: I believe we do need legislation, because the government has not been willing to fund this sort of program, which we know works, other than with the most token approach. The idea of this trial is to encourage people who have not had a chance to quit, or who have not gone down that path, to do so. Therefore, I will be guided by my colleagues on both sides as to whether we vote on this amendment in its current form or I move amendments to the effect that it be made clear that participants in the trial must be selected according to a means test and, further, that the cost involved must not exceed $300 per participant.

I am quite happy to do that and I will be guided, to an extent, by the Hon. Mr Lucas, who has raised this previously—and by others, because I thought they were legitimate concerns—as to whether we pass this amendment in its current form on the understanding that it is subject to negotiation or, alternatively, I move amendments that make it clear that participants in the trial must be selected according to a means test and also that the cost does not exceed $300 per participant. If that is the preferred wish of members, I will move that amendment shortly, and I will be guided by you, Mr Chairman, in that respect.

In relation to Quit SA, I want to put something on the record. There was a suggestion that this sounded like a funding application for Quit SA. I want to make it absolutely clear that having a subsidy in relation to nicotine replacement therapy was my own idea. I did speak to Quit about obtaining research material and about the efficacy of nicotine replacement therapy. Quit's role has never been to give me any policy advice; that would not be appropriate. Whilst I note that Quit has said that it would rather this not be done legislatively, I am not acting in concert with Quit on this. I have sought its advice—

The Hon. G.E. Gago interjecting:

The Hon. NICK XENOPHON: That is right. I want to make it clear. I have sought its advice as to the effectiveness of this program. I am not satisfied with the minister's undertaking, in the sense that it is too open-ended. That is all I am asking; I am asking for something that is much more solid. I think one of the points made was—

The Hon. P. Holloway: That is open-ended.

The Hon. NICK XENOPHON: No, there were those amendments—

The Hon. P. Holloway: Let's just get on with it. Let's get this legislation through—

The Hon. NICK XENOPHON: I agree with the minister. Mr Chairman, I will be guided by the protocol with respect to my amendment and whether I should just move it.

The CHAIRMAN: The procedure appears to be that the Hon. Mr Xenophon will move his amendments and we will then consider them. If that affects the Hon. Ms Kanck's position, she will have to rise again.

The Hon. SANDRA KANCK: I did find some of what the minister said to be a little provocative. The fact that the government watered down its own legislation, I think, was part of the reason for the delays about which he is complaining, because it meant extra consultations with people and having extra amendments drafted as a consequence.

The Hon. P. Holloway interjecting:

The Hon. SANDRA KANCK: The bill that we have before us is not the same bill that the minister talked about 12 months ago.

Members interjecting:

The CHAIRMAN: Order! There is a formal process for dealing with matters in committee, and the Hon. Mrs Kanck has the call.

The Hon. SANDRA KANCK: In relation to the Hon. Mr Xenophon's amendment that was originally tabled, I recognise that patches already work, and it does not require further research. I think it is a somewhat complicated way that the Hon. Mr Xenophon has derived to get, effectively, a rollout of subsidised patches. We received a limited undertaking from the minister about what will happen in response to the letter from Quit SA. I am also concerned about some of the inferences that were drawn by the minister about people in this chamber having to bear responsibility—for exactly what I am not sure.

Given that I do not believe that research is needed, I am trying to determine, if I support the government's position and an agreement is reached between the government and Quit to have some sort of subsidy of patches, whether there will be a reduction in the budget of any of the anti-smoking groups that the government currently funds. I would like a clear yes or no to that answer, so that I can decide what position I will take on this.

The Hon. P. HOLLOWAY: In relation to the last point, the government gives funding on an annual basis to Quit SA, and I think I quoted the figure of $1.265 million. That is the budget allocation given to Quit SA for programs, including the work that it has done in relation to nicotine replacement therapy.

The Hon. Caroline Schaefer: You will not increase its budget at all as a result of this?

The Hon. P. HOLLOWAY: That is really up to the government. It would have to be considered in a budget context, as any other new measure. There is no additional levy—

The Hon. Caroline Schaefer interjecting:

The Hon. P. HOLLOWAY: It is the same as anything else, isn't it? There is a certain budget. The amount of $9 billion has to be spread around this state, and there is probably three times that amount of demand for things and in the end—

The Hon. Caroline Schaefer: You are slippery.

The Hon. P. HOLLOWAY: Let that go on the record. I am being accused of being slippery because I am saying—

The Hon. R.I. Lucas: Hear, hear!

The Hon. P. HOLLOWAY: And the leader agrees—because I am saying that, in the government's process in relation to its expenditure, everything should go through cabinet and have proper approval. For a start, the Auditor-General would demand that, if nothing else. There is an allocation for anti-smoking programs and money has been spent on nicotine replacement therapy. The point is that it has already been spent. What I have been arguing all the way through is the priorities for where the anti-smoking dollar should go and, in the past, the government has not put any restrictions on where that money should go. Here we have parliament saying there should be restrictions, that the money should be spent in a particular way. That has not been done before.

In the past, we have left that up to the experts to decide where a significant budget is spent. What happens in the future in relation to funding is something on which obviously the government will have to make decisions. This amendment came out of the blue two days ago. I cannot give any undertakings about what the views of cabinet or the government might be in the future in relation to budgetary allocations. If that makes me slippery, then, okay, I will have to wear that, but I would have thought it was just plain commonsense. It is our wish that every dollar we make available to anti-smoking campaigns should be used in the best possible way, and Quit SA and groups such as that are the best bodies to determine where that dollar should go. I cannot really say much more than that.

The Hon. SANDRA KANCK: Four bodies have been involved in lobbying to strengthen this bill. Quit SA is one of them, the Asthma Foundation, the Cancer Council and the Heart Foundation. From the way in which the minister spoke earlier, my impression is that X amount of dollars is available for anti-smoking and that is divided up between groups such as these and the government's programs. What I am asking for is a guarantee that none of those bodies that I have mentioned—Quit SA, the Asthma Foundation, the Cancer Council and the Heart Foundation—will have any grants that the government gives them reduced in next year's budget compared to this year's budget. It is a very simple request.

The Hon. P. HOLLOWAY: I cannot say what the cabinet will decide in next year's budget. I cannot see how anyone could do that. All I can say is that, over the last few years, the budget that has gone to this area has been maintained and, as far as I am aware, it is the government's

intention to do so. However, I cannot foreshadow what the state of the economy might be and what the Treasurer might decide, but it is certainly not our intention to do that. I do make the point that Quit SA is the one that determines the program and spends the money on behalf of the government. I think this is what the Hon. Sandra Kanck is asking: 'Will we let a body other than Quit SA do the trial?' It may very well be that, if we are to do this trial, we would use a body such as Quit SA. I think that is probably a reasonable assumption. Who else would do it? Who else would carry out an anti-smoking program other than those bodies that are most expert to do it? Why would we use anyone else?

The Hon. NICK XENOPHON: I wish to move two amendments to my amendment. I have circulated a photocopy of them in my shocking handwriting. I move:

After section 70(2)(b) insert—

(ba) participants in the trial must be selected according to a means test;

and

After the words 'nicotine replacement therapy' in paragraph (c) insert 'but not exceeding $300 per participant;'

The Hon. P. HOLLOWAY: Apparently the budget this year for Quit SA was $1.256 million. That was an increase of about 10 per cent on what it was in the previous year, so this government is putting more money—

The Hon. Caroline Schaefer interjecting:

The Hon. P. HOLLOWAY: The Hon. Caroline Schaefer sneers, 'Oh, you only gave a 10 per cent increase.' Aren't we a dreadful, awful, mean government, just 10 per cent. What is that—$125 000.

The Hon. Caroline Schaefer: I said that is not what she asked.

The Hon. P. HOLLOWAY: Just a 10 per cent increase.

The Hon. Sandra Kanck interjecting:

The Hon. P. HOLLOWAY: What I am saying is that we are putting more money into it. That extra 10 per cent ($125 000) would almost fund a complete trial, and that is what we gave extra in one budget. I think that puts that all into perspective. The overall anti-smoking budget of the government is $3.9 million, some of which goes for the administration, but the $1.256 million is specifically Quit SA's allocation—up by 10 per cent. The $3.9 million includes the administration, plus grants to a number of other areas. A significant budget goes into this area.

The Hon. SANDRA KANCK: I do not in any way refute what the minister is saying. I want to be able to support the government and not support the Hon. Mr Xenophon. All I am asking for is a simple guarantee that these bodies will not have their budgets reduced next year. That is all I ask: it is so simple. If the minister can give me that guarantee, then I will support the government's position. It is so simple.

The Hon. P. HOLLOWAY: Apparently, Quit SA had the same budget of $1.14 million during the five years Dean Brown was the minister. This government increased that budget by 10 per cent. The history is that this government increased the budget to Quit SA, so why would we reduce it? I cannot speak for what cabinet might decide, but history shows that this government increased the funding that had been static for five years under the previous government. That is what I have been advised. Why would the government reduce funding to Quit SA? We have no intention of doing so. However, one would think that, if you have these sort of programs—and if they are considered the best way to go—obviously those bodies which receive the anti-smoking money would use it for that purpose. I am not suggesting for a moment that this government will be petulant and reduce funding to those bodies, but one would expect that those bodies would undertake this work. They receive a significant amount of money—just the increase they received last year would just about fund one of these trials.

The Hon. NICK XENOPHON: It was late in the evening, but my understanding in relation to the health minister is that, if this amendment for funding were carried—and it would be fair to say that there was some concern that the original amendment would cost about $2 million, based on the New Zealand study in terms of the number of people who would take it up, because that is our best comparison jurisdiction—in relation to the $250 000 or $300 000 this would cost, essentially, the budget of Quit SA would be reduced to pay for it. That seems to me to be entirely counterproductive. This is about the parliament attempting to do something positive to assist people to quit, and that is my concern. I am not blaming the minister. Many members are concerned and want to see some advance on this.

I acknowledge the responsibility of the federal government, with the tobacco excise it collects, to come to the party. However, I would have thought that this was an opportunity for the state government to show some leadership at a national level in relation to nicotine replacement therapy to be used as a wedge or lever—or whatever you want to call it—to encourage the federal health minister to come to the party down the track. Here is an opportunity for us to do something very positive to assist people to stop smoking. The amendments I have just moved take into account what I think are the very legitimate concerns of the honourable member with respect to issues such as the means test and the capping of the cost so that it does not blow out. That is what it is about. I am not being critical of the minister; I understand that he has the carriage of the bill in this place. However, where there is a clear implication that, if we pass this amendment, Quit SA will be cut off at the knees, I find that entirely unacceptable.

The Hon. P. HOLLOWAY: I have never suggested that Quit SA—

The Hon. Nick Xenophon: Not you.

The Hon. P. HOLLOWAY: —or anyone else has ever suggested that Quit SA would be cut off at the knees. However, since that is the body responsible for spending anti-smoking money, this parliament is saying that it knows better than Quit SA where its money should be spent. It is saying, 'We'll tell you where your anti-smoking money should go.' We are not saying that we will cut funding to Quit SA, but this amendment effectively is saying, 'The parliament knows better than Quit SA.' It is saying, 'Spend the anti-smoking money in this particular area,' and, if that is what the parliament wants, so be it.

The committee divided on the amendments:

AYES (12)

Evans, A. L.	Gilfillan, I.
Kanck, S. M.	Lawson, R. D.
Lensink, J. M. A.	Lucas, R. I.
Reynolds, K.	Ridgway, D. W.
Schaefer, C. V.	Stefani, J. F.
Stephens, T. J.	Xenophon, N. (teller)

NOES (7)

Gago, G. E.	Gazzola, J.
Holloway, P. (teller)	Redford, A. J.
Roberts, T. G.	Sneath, R. K.
Zollo, C.	

Majority of 5 for the ayes.

Amendments thus carried.

The committee divided on the new clause as amended:

AYES (12)

Evans, A. L.	Gilfillan, I.
Kanck, S. M.	Lawson, R. D.
Lensink, J. M. A.	Lucas, R. I.
Reynolds, K.	Ridgway, D. W.
Schaefer, C. V.	Stefani, J. F.
Stephens, T. J.	Xenophon, N. (teller)

NOES (7)

Gago, G. E.	Gazzola, J.
Holloway, P. (teller)	Redford, A. J.
Roberts, T. G.	Sneath, R. K.
Zollo, C.	

Majority of 5 for the ayes.

New clause as amended thus inserted.

Bill reported with further amendments; committee's report adopted.

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I move:

That this bill be now read a third time.

I was asked a question yesterday in relation to the schools' policy for confiscating cigarettes from schools. I will read this out in answer to the question. In March 2004 the Department of Education and Children's Services released the document 'Intervention matters: a policy statement and procedural framework for the management of suspected drug related incidents in schools'. In this document tobacco is recognised as a legal but unsanctioned drug within the parameters of what it considers to be a drug. The policy clearly states that there is no place for the use of illegal or unsanctioned drugs in schools, including tobacco, within the latter category. This document provides schools with a very clear set of guidelines for responding to drug related incidents. In part 3, 'Managing suspected drug related incidents,' procedures are identified for staff who suspect a student of possessing, distributing or using a drug. Step 5, 'Initial procedures—all drugs' states: 'Safely collect any suspected drugs and drug paraphernalia.'

The policy makes very clear the legal position in relation to all categories of drugs, including tobacco. It makes clear that the supply of tobacco to minors is an illegal behaviour and that smoking on school grounds is an unsanctioned behaviour. In the case of a legal drug (tobacco) being used in an illegal or unsanctioned manner, the policy advises that the principal or delegate may need to contact police for clarification of the level of police involvement required. Parents are informed of the action that has been taken when students are found in possession of cigarettes. Schools are also required to respond in a meaningful way to indicate that the behaviour is inappropriate and that support for cessation should be provided and accessed. Currently, Quit SA is implementing, in collaboration with all education sectors, training in the use of a new resource called Keep Left to support the process of tobacco cessation for students.

In New South Wales, police officers have the authority under the Public Health Act 1991, No. 1 (58) to seize tobacco products from a person they suspect is under 18 years of age in a public place. These products are forfeited to the Crown. There is no penalty for this offence. Generally, school principals consider that they have the right to confiscate cigarettes from students under their duty of care requirements to maintain safety and good order in their schools. Normal procedure is to confiscate the cigarettes and inform the parents of their actions. I trust that adequately answers the questions which were raised yesterday and for which I undertook to get an answer. I commend the bill.

The Hon. R.I. LUCAS: (Leader of the Opposition): I rise to speak briefly to the third reading. I have received an email, but I do not have a copy of it with me at the moment, so I am working from memory. It related to the claims made by the Hon. Mr Xenophon during the debate as to cigarette companies making significant payments for product placement in movies. I think the Hon. Mr Xenophon will remember the specific allegation; I think it was about Philip Morris. Anyway, I am working off memory, but the Hon. Mr Xenophon did make claims in relation to cigarette companies paying significant sums of money for product placement in movies.

I have been contacted by a representative of the Philip Morris company who wanted to indicate that, while it had been true in the past, he thought the Hon. Mr Xenophon was referring to the early 1980s—some 20 years ago—and that there might have been an impression—intended or otherwise—that the Philip Morris company had continued with such corporate behaviour. He made it clear that for a period of time (I do not remember how long) Philip Morris had not sanctioned corporate behaviour along those lines, and he wanted to make clear—if it was possible—that, whilst that behaviour that had been referred to may have been true some 20 years ago on the part of his company (and possibly others; I do not know), it was not the current corporate behaviour of that company internationally.

The Hon. Sandra Kanck: Their halos are positively glowing.

The Hon. R.I. LUCAS: It doesn't hurt to have the facts on the record, Sandra.

The Hon. J.M.A. LENSINK: I want to make a brief contribution on this, just to state, having had passage of this on behalf of the Liberal Party, how amazed I have been at some of the answers the government has provided on this matter. I have found some of its responses unnecessarily vitriolic, and some of the answers have been complete furphies. In my belief this government has demonstrated that it does not believe that any member of this parliament, apart from its own members, has any contribution to make to debate or any ideas to contribute.

'Commend' is perhaps not the right word, but I appreciate the fact that I belong to a political party that provides its members with conscience votes. In particular, on this issue we have been provided with the freedom to vote as we see fit, to make our own judgments and to exercise that judgment based on our experience and on its merits. There is a diverse range of views on this side of the chamber, and that has been reflected in a number of the votes. It is a pity that members on the other side are not afforded the same opportunities, because they vote as a block all the time and therefore they have to advance these ridiculous arguments in favour of their own cause. I thank all members on all sides of the council—except for the government—for their contribution to improving this bill.

The Hon. A.J. REDFORD: I would like to make three short observations. This has been an experience for me. I have listened for three days in a row where the Hons Nick

Xenophon and Sandra Kanck have continuously looked out for the health of the Hons John Gazzola, Bob Sneath, Kate Reynolds and me. I hope I am not taking liberties by saying on behalf of all those members that we are very grateful for the series of lectures over three successive nights about our habits, longevity and health. I hope that they understand that we take this in good health and that we look forward to some of their other ideas on how they can live our lives better than we can. It is all good ahead of us.

Secondly, I remind members of the importance of the osmosis principle, which I had not heard of before and which was a stunt by the Leader of the Government who said, as I understand it, that poisons and toxins seep into any cloth chair I sit in and, for those unfortunate non-smokers who sit on my chair, the toxins say, 'Hey, boys, there is a non-smoker here', and they seep into the non-smoker and cause substantial ill health or even death. That has been a learning experience and I look forward to hearing from government members more about this osmosis principle.

I have some scepticism about that principle, but I always stand to learn. I am sure the Hon. Bob Sneath and I agree on this point: we started off smoking behind a shed back in our teens, and I suspect that when these guys get their way we will be back behind a shed at the end of our smoking career. I suppose one can only say, 'Such is life'.

Bill read a third time and passed.

STAMP DUTIES (MISCELLANEOUS) AMENDMENT BILL

In committee.

Clauses 1 to 9 passed.

Clause 10.

The Hon. IAN GILFILLAN: I move:

Page 10, lines 1 to 8—Delete subclause (3).

I apologise to the committee for the fact that it has not had a draft of my amendments on file for very long. However, in my second reading contribution I indicated the two factors in the bill that we oppose, namely, the limiting of exemptions currently available to a totally or permanently incapacitated person to only one vehicle. Secondly, we oppose the government's attempt to close the supposed loophole, where a primary producer can avoid stamp duty when converting a vehicle's registration from conditional to full registration. I will talk to all three amendments now, and that will exclude any need for further debate.

We believe that the first issue is quite clearly an unreasonable and unfair imposition on people recognised by the government to have a justified case for an exemption for one vehicle, namely, those who are totally or permanently incapacitated. We see no reason why that consideration should not embrace a second vehicle, if that is the wish of the incapacitated person. Amendment Nos 1 and 3 on file specifically attempt to remove that restriction.

Amendment No. 2 relates to the government's closing the opportunity for a primary producer to convert a vehicle's registration from conditional to full registration and avoid paying stamp duty. We believe that that is a very petty and small-minded approach to a section of the community that bears a lot of financial imposition by living away from the metropolitan area. The amount of money likely to be saved would be trivial and, if this measure passes, it yet again shows the government's lack of awareness and sympathy for those who live in the primary producing areas of South Australia. I indicate that, if I am unsuccessful with this amendment, I will not proceed with amendment No. 3, because it is consequential. However, I have indicated as clearly as I can that amendment No. 2 is an imposition on primary producers.

The Hon. P. HOLLOWAY: I indicate that the government opposes the amendments. The first area raised by Mr Gilfillan relates to where an exemption from stamp duty is currently provided on an application to register or transfer the registration of a motor vehicle for ex-servicemen who are totally and permanently incapacitated as a result of that service. Currently, there is no restriction on the number of vehicles for which a TPI person can receive the exemption. This contrasts with another exemption contained in the act, where a person is eligible for a stamp duty exemption in respect of an application to register or transfer the registration of a motor vehicle when the person has lost the use of one or both legs and, as a consequence, is permanently unable to use public transport, provided that the person is the owner of the vehicle and that it is used predominantly for transporting that person. This exemption prevents a disabled person receiving an exemption in respect of more than one motor vehicle.

The exemptions mirror provisions in the Motor Vehicles Act 1959, which also provides reduced registration fees for such persons. That act limits the benefit of these fee reductions to only one vehicle registered in the name of the owner. Therefore, the proposed amendment provides consistency in relation to the concessions available to incapacitated persons under both the Stamp Duties Act and the Motor Vehicles Act. Similar exemptions are available in all other jurisdictions, and only the Northern Territory does not limit the exemptions to one vehicle. Therefore, the proposed amendment is consistent with the approach taken in the majority of jurisdictions. If the exemption is available for more than one vehicle, it would be possible for an incapacitated person to register many vehicles in his or her name. Clearly, this would be an unintended outcome.

The second measure proposed by Mr Gilfillan relates to cases where a primary producer obtains conditional registration under the Motor Vehicles Act which is exempt from stamp duty and then fully registers the vehicle. That act enables a primary producer to conditionally register a vehicle that is to be used between separate parcels of land worked in conjunction with each other by the primary producer. The act provides an exemption from stamp duty payable in respect of an application to conditionally register a motor vehicle under the Motor Vehicles Act. Further, an application to register a motor vehicle is exempt from duty where, immediately before the date on which the application is made, the motor vehicle was registered in the name of the applicant and not in the name of any other person. This exemption exists to ensure that stamp duty is not payable each time a motor vehicle is re-registered (renewed) in the same name.

Thus, the potential for avoidance arises when a primary producer obtains conditional registration under the Motor Vehicles Act and then fully registers the vehicle. The full registration would be exempt from stamp duty because the vehicle has been re-registered in the same name. To obtain registration of a motor vehicle, which is to be used in an unrestricted manner on the road, free from stamp duty through a technical loophole in the act is clearly undesirable. This would provide primary producers with benefits not enjoyed by other persons in the community without any grounds for doing so. Although this is a technical loophole, and there is no evidence of its being exploited, given that this

method of avoidance is now in the public arena it is even more desirable that it be closed off. Primary producers are not being disadvantaged by this amendment, as they were never intended to be able to benefit from the avoidance opportunity which has been identified. We oppose the amendments.

The Hon. R.I. LUCAS: I addressed these issues in my second reading contribution. I indicate that the opposition supports the bill and therefore will oppose the amendments.

Suggested amendment negatived.

The Hon. IAN GILFILLAN: I move:

Page 10, lines 9 to 12—Delete subclause (4)

Suggested amendment negatived; clause passed.

Title passed.

Bill reported without amendment; committee's report adopted.

Bill read a third time and passed.

GREAT SOUTHERN RAILWAY

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I table an investigation report for Great Southern Railway Ltd. Earlier today, I tabled a ministerial statement from the Minister for Transport in another place which related to this report. That statement announced that the minister was tabling the report in another place. I believe it is appropriate that the report be tabled in this chamber as well.

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

A quorum having been formed:

PINK RIBBON DAY

The Hon. CAROLINE SCHAEFER: I move:

That this council acknowledges the importance of Pink Ribbon Day on 25 October 2004 and recognises:

1. The significant improvements in early detection techniques through breast screening programs that have reduced breast cancer deaths in women; and
2. The improved approaches to early detection of cancer in men, younger women and indigenous women.

It is with pleasure that I move this motion, which acknowledges the importance of Pink Ribbon Day which was held this week during Breast Cancer Awareness Week throughout Australia. The pink ribbon is the symbol for breast cancer awareness, and it was started in the USA in 1991 by Evelyn H. Lauder, who was founder and president of the Breast Cancer Research Foundation, and Alexandra Penney, who was the then editor of *Self* magazine. It has since been used throughout the world as a fundraiser for breast cancer research and awareness.

I hope that my moving this motion does not begin a landslide of acknowledging every ribbon day, but I wanted to do it once because of the enormous success of breast cancer research and breast cancer awareness throughout South Australia and, I believe, Australia. BreastScreen SA provides a service throughout South Australia, not just in the six clinics in metropolitan Adelaide, I am pleased to say. It also has three mobile units that visit 27 country regions every two years. As a result of this service, in the past year, 71 574 mammograms were performed throughout South Australia.

One in 11 Australian women will develop breast cancer and, although the statistics are considerably smaller, the number of deaths from breast cancer for men in Australia is in the two hundreds. Although we tend to think of breast cancer as a disease exclusive to women, that is far from the truth. However, in spite of that rather alarming statistic of one in 11 women in Australia developing breast cancer in their lifetime, the statistics of death from breast cancer have fallen dramatically over the past 10 years. This is largely due to early detection and early detection, in turn, is largely due to the education that has been accepted by women and the use of breast screening for early detection. I raise this issue today because, although it is not a preventable form of cancer, through early detection most people go on to live long and fruitful lives. It is treatable, providing it is detected early enough.

The awareness of this particular week, the wearing of the pink ribbon and the reminder to all of us (and particularly those of us who are over 50 when the chance of contracting breast cancer accelerates quite dramatically) that a simple mammogram once every two years could well save our lives makes it important enough for me to move this motion in this place. I am well aware that there has been quite a bit of pedantics this week and that we do have a number of other issues to debate, so I will not make my contribution particularly long. As I say, 2 500 women died of breast cancer in the year 2000 (which were the last figures that I was able to procure), but that figure is falling dramatically by the year.

It is interesting to me that breast cancer is the second most common cancer among Australian women after non-melanoma skin cancer. The difference being that non-melanoma skin cancer is hardly ever fatal. For women in particular, but also for men, early diagnosis is important, and awareness that early diagnosis is available is important. Breast Cancer Week and the wearing of the pink ribbon symbolises that there are very few of us whose lives have not been touched by a member of our family or one of our friends contracting breast cancer. There would be very few people in the parliament, I expect, who have not have experienced the death of someone who is relatively close to them.

As I say, importantly we can do quite a bit for breast cancer. It is largely dependent on how early it is detected. It is treatable. For the men in the room, while a mammogram is not a particularly pleasant experience, it is over fairly quickly. This motion is merely to do my small bit to draw people's awareness to the fact that early intervention is possible, that the wearing of the pink ribbon does raise money for cancer research and, in particular, breast cancer research, and so it is a pleasure to move this motion.

The Hon. G.E. GAGO: I support the Hon. Caroline Schaefer's motion acknowledging the importance of Pink Ribbon Day, which was held on 25 October this year. Pink Ribbon Day is an annual event promoted by Cancer Council Australia to increase awareness of breast cancer and to raise funds to combat this disease. Fortunately, many important advances have occurred in detecting breast cancer through breast screening programs. Figures contained in the 2003 SA Cancer Registry report indicate that mortality from breast cancer is decreasing in South Australia. The report found:

Since the late 1980s the age standardised death rate has dropped by approximately 20 per cent among 50 to 69-year old women.

This reduction in the death rate from breast cancer is attributable to mammographic screening and early detection within the at-risk age group of 50 to 69-year old women.

Regular screening mammograms are currently the most effective tool to detect breast cancer at an early stage. I note that the number of mammograms undertaken by Breast-

screen SA increased by more than 3 000 to the record number of 71 574 in the last financial year—a very impressive number. This is an excellent achievement and I applaud the outstanding work that Breastscreen SA carries out in assisting to reduce the incidence of breast cancer. In fact, my own mother is a testimony to the benefits of breast screening and early detection. Just over a year ago she was diagnosed with breast cancer. She went on to have treatment, including surgery and a range of other treatments as well. It was certainly a terrible time for our family.

However, we know for certain that, if it were not for regular screening which allowed for early detection and intervention in her case, she would not be the healthy person that she is today, and that is something for which I am terribly grateful. I know for a fact (to which the Hon. Caroline Schaefer alluded) that other members in this chamber have experienced similar situations with family and friends. Most of us have been touched in some way. I was pleased to discover that South Australia has the highest rate of women participating in breast screening programs in Australia. In the two years ending on 31 December 2003, 64.4 per cent of all South Australian women aged between 50 and 69 years participated in a breast screening program.

Mobile breast screening units visit country locations every two years and are a vital way to detect breast cancer in indigenous and non-indigenous women living in rural and remote South Australia. BreastScreen SA has forged a strong working relationship with indigenous health and community workers around South Australia to ensure greater numbers of indigenous women benefit from receiving regular mammograms.

A significant improvement in the approach to early detection of breast cancer in indigenous women has been the production of BreastScreen SA's promotional material in a culturally appropriate manner. For example, educational information about breast cancer has been translated into Pitjantjatjara language to encourage greater numbers of indigenous women to participate in breast screening programs. Men and younger women are also being encouraged to have greater awareness of the early symptoms of cancers in general but also breast cancer, that is, taking note of lumps and any other changes in skin tissue and lesions, as well as breast tissue, and to seek medical advice should any irregularities be found.

The Rann government has shown its commitment to reducing breast cancer rates by funding many health initiatives, one of which is the newly expanded Breast Cancer and Lymphoedema Clinic at the Flinders Medical Centre, which was opened yesterday by the Hon. Lea Stevens, Minister for Health. The clinic expansion offers patients vastly improved patient consulting areas and a range of services. This clinic provides a critical service for breast cancer patients, and each year about half of South Australia's 1 000 new breast cancer cases will be treated in that clinic. I want to add to Caroline Schaefer's acknowledgment of the importance of Pink Ribbon Day, and I lend my support to her motion.

The Hon. CAROLINE SCHAEFER: I thank the Hon. Gail Gago for her contribution. As I have said, I do not intend to use private members' business for this type of issue particularly often. However, given that one in 11 women, and probably far more families than that, are affected by breast cancer, anything we can do as a parliament to publicise that early intervention and screening can save many lives in this state is well worth doing. I thank members for their support.

Motion carried.

KING GEORGE WHITING

The Hon. CAROLINE SCHAEFER: I move:

That the regulations under the Fisheries Act 1982 concerning King George Whiting—Prescribed Quantities, made on 23 September 2004 and laid on the table of this council on 12 October 2004, be disallowed.

Unfortunately, this might be a slightly longer contribution. Mr President, having been in my position as shadow minister for fisheries, you would know—and I am sure the Hon. Paul Holloway would sympathise as well—that, whether as minister or shadow minister, there is no section of primary industries that takes more effort or time than fisheries. I think that is partly understandable—

The Hon. P. Holloway: Never has so much been done for so little for so few.

The Hon. CAROLINE SCHAEFER: By way of interjection, the minister has probably summed up the frustration we have all felt from time to time. I think it is understandable, given that our fisheries, unlike other primary industries, are in transition between wild fishery and farmed fishery. We no longer hunt for cattle or sheep; they have been safely ensconced and managed behind fences for many years. However, our fishery, particularly our scale fishery, is still very much a wild fishery.

The debate that has taken place over the last few months has concerned scale fish and our most prized fish, the King George whiting. We have a finite resource which everyone who fishes believes they have a right to share in, and I agree with them. However, it is a matter of how that cake is sliced up in a fair and equitable fashion. I place on record that I have had more correspondence on this issue than any other in the 11 years I have been in parliament. I am pleased that by far the majority of people who have contacted me agree on one thing and probably one thing only, namely, that our King George whiting stocks are under threat and that something needs to be done about it. Sadly, that is about where the agreement finishes.

Each section of the fishery believes that it has the answer and the right. I have received many constructive suggestions and, indeed, criticisms on how the fishery can be better managed into the future. I put on the record that I am the shadow minister and not the minister. I do not have the ability to introduce policy, to legislate or to amend regulations. My only weapon in this whole debate is to seek to disallow regulations. My party and I have tried to take a responsible approach to this.

I do not believe—and I have made this very public—that minister McEwen handled this issue well at all. It was interesting to hear him the other day admit on radio that he had learnt from his mistake and, with regard to what will become a mandatory code of conduct for the charter fishery, he has put out yet another discussion paper for all registered charter boat operators in the hope that the world will not explode around him in the way that it did with this. I think the lesson is that, in a resource like this one with around 380 000 people who fish in South Australia and 40 000 boats which fish more or less regularly in South Australia, while you may think you have consulted, it is almost certain that without a massive publicity campaign you probably will not have consulted, and the result will be the uproar that we have seen.

The only common ground that we have been able to find in this is that almost everyone agrees that the resource is

under threat and something needs to be done. There are those who believe that all would be well if we banned commercial net fishing; however, the statistics indicate that, of the 390-odd tonne of whiting caught by commercial fishers in South Australia, only 90 tonne comes from net fishing. Of course, the net fishers do not fish for whiting alone, and those of us who want to be able to buy garfish or tommy ruff, for example, would find it very difficult to do so if there were no net fishery in South Australia.

Another argument is that the commercial sector has taken none of the pain. There is some validity to that in respect of this particular round. Of course, they argue that the total catch of whiting by the commercial sector decreased from 600 tonnes to 370 tonnes between 1999 and 2002, largely due to the amalgamation of licences and the reduced catch allowed because of those reduced licences. As we speak, another stock assessment is going on. I hope I have not given anyone the impression that this is necessarily the last round of this war. If the stock assessment that comes back is unsatisfactory, even more draconian methods may have to be brought in.

As a result of the debate that has raged, I have probably read more about the whiting fishery in the past couple of months than I would ever have dreamt I would need to read. I found that the various arguments about size, bag limit, etc. overlook the fact that the whiting go to the deep waters to the south of South Australia around the bottom end of Eyre Peninsula and, in particular, around Kangaroo Island where they spawn. The very small fish then swim to the nursery areas in the vicinity of Franklin Harbor, etc. where they stay for about 3½ years. They then swim back to Kangaroo Island to spawn.

Not surprisingly, the scientific paper that I read, which is what minister McEwen based his new regulations on, calls it a gauntlet fishery. It describes exactly what happens. The boats, both commercial and recreational, sit in the gulfs and catch the fish as they swim from north to south. The science is there to talk about that but, if these measures are not successful, I believe that we will need to do a rapid rethink of whether we have to close the fishery for part of that time in the same way as the snapper fishery has been closed. In saying that, I recognise that tomorrow I will have a round of more irate calls, but it is one of the issues that may have to be looked at.

I have argued at all times that minister McEwen took what he imagined would be the easy way out of this, and it turned out to be the hard way. There needs to be much more science and a much more holistic approach to the whiting fishery in South Australia. Because of that, and in spite of the fact that we have been relatively unhappy with the introduction of this and the way that it has been foisted on recreational fishermen without any really discussion or education, a regional impact study was done.

But, when I read the regional impact study, at no stage were people such as caravan park and roadhouse operators or seaside publicans—in fact, the regional tourism industry generally in South Australia—consulted. So, there are gaping holes in the approach that has been taken. As I have said earlier, nevertheless, my only weapon is to disallow regulation. I think it would be irresponsible to disallow the regulations with regard to size. I have said that publicly and, although I am unhappy with it, I am not seeking to disallow the bag or boat limit, because generally the people who contact me know that there has to be some pain. They would ask who is taking most of the pain, but they would agree there has to be some pain. My motion then is to disallow the possession limit.

I believe the possession limit has been in legislation since the late 1980s. It is currently set at 75 fish, and it was put there to give compliance officers the ability to stop black market trading. Possession of over 75 fish was considered to be a commercial quantity. It has never been enforced, although people complain to me that they see people come in with their boats and freezers and once they fill one freezer they go and buy another freezer. They are actually outside the law now. This government has a large amount of disposable money; it has $230 million it did not budget for out of GST alone, plus a windfall in land tax. It seems to me that, if it is serious about preserving this biomass, the time has come for it to enforce the possession limit as it is.

The greatest pressure on the whiting fishery is in Gulf St Vincent, where the best guess—and that is really all it is—is that 60 per cent of all King George whiting is taken by the recreational sector. As an aside, if you look at some of the leisure craft that are out there now, they are equipped as well as, and in many cases better than, the commercial fishers. The old sport of going out with a tinnie and a hand line is in my view not what is causing the pressure on the whiting fishery.

The Hon. Ian Gilfillan: Certainly not from me, Caroline!

The Hon. CAROLINE SCHAEFER: Certainly not from me, either. The Hon. Ian Gilfillan says it is certainly not from him, and I would have to agree with him in my own case; whiting or any fish are pretty safe if I go fishing. As we become a society with more leisure time, many recreational fishers fish three, four and five days a week. So, even though they will look me in the eye and say, 'It couldn't be possible that we are taking that many fish; I hardly catch any,' if you multiply the efforts of those boats by 40 000, which I am reliably informed we should be doing, obviously there is pressure from the recreational sector.

So, one of the reasons we have decided to disallow the possession limit of 36 is what we believe would be the effect of that on those families who traditionally go to the West Coast in particular for their summer holidays—and they do: they fish for a fortnight; that is their annual holiday and they come home again. If the end result was that they could only keep three days' bag limit, they would stay at Gulf St Vincent closer to home and increase the pressure on the fishery over here. According to the scientific report, which is all anyone can go on, the King George whiting stocks are considerably healthier on the West Coast. We also believe that it will be difficult to police a possession limit anyway. The idea of a compliance officer knocking on their caravan door and demanding to inspect their freezer does not please most South Australians, and it will therefore need to be at a limit where most people accept the necessity to comply with that possession limit.

So, my aim with this disallowance motion is to get the minister to put sufficient compliance officers on to police a reasonable possession limit. I think a reasonable possession limit is 75, not 200 and not 36. At 75 it is roughly the same as the possession limits in both Victoria and Western Australia, which are the only other two states which have a significant King George whiting fishery. It allows the people who traditionally fish for their fortnight, three weeks or a month to do so and to bring a reasonable catch home. As I have pointed out, the possession limit of 36 did not ever say that you could still not catch your bag limit or boat limit of 36 a day: what it actually said was that, if you fish for a week and are lucky enough to catch a bag limit every day, you have

to give most of it away or eat a lot of fish for a week. I think the motion I am moving to disallow the regulation with regard to a possession limit of 36 is entirely reasonable. It will not go as far as the recreational sector would like and it will go further than others would like, but I think it is a reasonable, small step which will allow tourism to continue in the coastal areas.

Hopefully the reduced bag and boat limit will be sufficient to restore whiting stocks. If it is not, there is no doubt we will be revisiting this whole argument in a year or two. The Liberal Party said before the last election that it was in favour of a voluntary buy back, and again the government is in the financial position to be able to do that with some net licences. We are not talking about a compulsory buy back or ban. If we want to sustain our King George whiting fishery we all have to take a more broad-minded and holistic look at the fishery in the long-term.

The Hon. IAN GILFILLAN: I indicate Democrat support for the motion and emphasise that our support is restricted entirely to the disallowance on the possession limit. I made quite plain to the minister that my view was that the possession limit of 36 would, ipso facto, make criminals of a whole lot of people who certainly are not exploiting the fishery and certainly are not deliberately setting about breaking the law. I am glad to hear indirectly and by inference that, although the government may oppose the motion, it will be a fairly low key opposition and the minister has indicated that it is not his intention to reintroduce the regulation, which has been a pattern of other ministers with other regulations, therefore obviating the will of the parliament.

I am pleased to see that the result of the motion will be beneficial in so far as it removes the risk that innocent people could be caught and it brings some sort of rational balance to that. The other measures may not be the perfect solution—in fact I doubt whether they are—but they are steps in the right direction and far be it from us to even hint at opposing such steps. Members also know that I have already introduced a bill to ban netting in Gulf St Vincent, and it will not be many years before we will ban the netting of fish in all coastal waters of South Australia. It has been beneficial on the West Coast and the argument holds up for other waters as well. We will still have the same availability of fish, but as the fishery increases we may well find that whiting in particular is more readily available both to the fishers—Caroline and me, who find it a bit tough at times—and to consumers. The by-catch damage by use of nets is inarguably an extremely deleterious factor to maintaining the whiting fishery.

I thank the shadow minister for introducing the disallowance motion, which I believe is a sensible one and indicate Democrat support for that. However, in case there is, as there has been up until now, some misunderstanding, the motion is not to disallow the regulations in toto: it is one small part, although a significant part, of those regulations. The Democrats support the regulation regarding size limit and bag and boat limit.

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I acknowledge the contributions made by both members as having relevancy and points made are shared generally, but the government's position is to support the regulation. In so doing I will put some facts on the record so that, if there is to be a debate at a later time, or if anglers want to look at the reasoning behind the government's decision, they will be able to do that by looking at *Hansard*. The minister has said publicly that, if the motion is defeated he will not reintroduce it, so that undertaking is given.

Relevant points made by the minister are that King George whiting have been scientifically identified as over-fished in both Spencer Gulf and Gulf St Vincent and fully fished on the West Coast, given the current level of fishing effort by the recreational and commercial sectors. Recreational anglers are estimated to take 58 per cent of the total annual catch of King George whiting. Commercial net fishers take only about 12 per cent of the total catch, with commercial line fishing taking about 30 per cent.

There are approximately 320 000 recreational anglers in South Australia who fish at least once a year. Commercial fishing licences in the marine scale fishery have reduced from to 671 to 395 in the past 15 years and only 107 licences are involved in net fishing. A number of changes to the management of King George whiting have been implemented by the government after consultation with a statutory advisory body recognised under the Fisheries Act, the Marine Scalefish Fishery Management Committee and other stakeholders.

The purpose of changes to the management of King George whiting is to provide for the long-term sustainability of the whiting stocks. The new management control of an increased minimum size limit (30 to 31 centimetres) east of 136 degrees (Cape Catastrophe near Port Lincoln), reduced recreational bag and boat limits from 20 and 60 to 12 and 36 respectively, and a possession limit of 36 fish (being three times the daily bag limit) will affect the way some people fish. It is inevitable that a reduction in fishing effort must lead to a reduction in catch. Possession limits already exist under the fisheries regulations. Possession limits are in use in Western Australia, Victoria, New South Wales and the Northern Territory.

A change to the legal minimum length of King George whiting occurred in 1995 from 28 centimetres to 30 centimetres, based on biological concerns for the species, with a recommendation that a possible increase to 32 centimetres should be considered in the future if warranted on biological grounds. As a result of SARDI scientific stock assessment of King George whiting in September 2003, showing that King George whiting are overfished in Spencer Gulf, Gulf St Vincent and fully fished on the West Coast (given the current level of fishing effort by both the recreational and commercial sectors), the Marine Scalefish Fishery Management Committee undertook a review of the King George whiting management arrangements. Management objectives established by the MSFMC for the review were:

- to increase egg production to 30 per cent of the pristine population. Changes needed were an increase in egg production of 34 per cent in Gulf St Vincent and 16 per cent in Spencer Gulf; and
- to reduce the level of harvest rate of no more than 20 per cent of the fishable biomass, which meant a reduction in catch of 13 per cent in Spencer Gulf and 36 per cent in Gulf St Vincent.

Management controls identified to reach objectives were to increase the minimum size limit of King George whiting to 31 centimetres, or 32 centimetres, various seasonal closure options and/or closures to protect spawning populations. The review took into account the impact these various management options may have on commercial fishers, recreational fishers, regional communities and the supply of fresh fish.

However, the priority was the long-term sustainability of King George whiting fish stocks.

The total harvest of King George whiting by all sectors in 2000-01 was 1 030 tonnes. According to catch returns submitted by commercial fishers and catch estimates from the National Recreational and Indigenous Fishing Survey, commercial line fishers take 30 per cent, commercial net fishers take 12 per cent and recreational anglers take 58 per cent of the total catch. King George whiting is the highest value commercial marine scalefish species at $5.1 million. It is also the most numerous species caught by recreational anglers. The fishery for King George whiting is a 'gauntlet' fishery, where fishing effort is principally focused on juvenile fish in sheltered inshore waters. Increasingly, fewer fish are reaching the full adult stage and are migrating offshore into deeper water to stimulate gonad maturity and to spawn.

There are three distinct populations of King George whiting: the West Coast, Spencer Gulf and Gulf St Vincent and Kangaroo Island. Scientific fishery stock assessments have been conducted on the King George whiting in 1979, 1990, 1991, 1998, 1999 and 2003. The resource has been recognised as fully exploited for many years. This means that the level of total fishing effort has been equal to the capacity of the stock to spawn and maintain the population at its current size. However, the 2003 stock assessment indicated that the stock status has shifted from fully exploited to over exploited and that the fishery was in decline. The 2003 assessment showed that the exploitation rate (which is the total catch as a percentage of fishable biomass) for Spencer Gulf was 32 per cent; Gulf St Vincent, 44 per cent; and the West Coast, 14 per cent. The internationally accepted standard for exploitation in this type of fishery is 28 per cent. Therefore, a reduction in exploitation (fishing effort) is required in the gulfs to arrest further stock decline.

The 2003 assessment also showed that current egg production (as a percentage of virgin stock) was 26.7 per cent for Spencer Gulf, 21.9 per cent for Gulf St Vincent and 30 per cent for the West Coast. The internationally accepted standard for egg production in this type of fishery is 30 per cent. Again, it was clear that action needed to be taken to rebuild egg production levels in the gulfs, so the management objectives set by the MSFMC were based on the internationally accepted standards, as follows:

- increase egg production to 30 per cent of the pristine population level; and
- reduce the level of harvest rate to no more than 28 per cent of the fishable biomass.

To develop management options to meet these management objectives, the MSFMC established a King George whiting working group, comprising commercial fishing representatives, recreational fishing representatives (including SARFAC), fishery managers and scientists. The working group met three times between September and November 2003 and once in May 2004. It explored management options and recommended an increase in the minimum size limit to 32 centimetres and a package of arrangements, which included:

- an increase in the minimum size to 31 centimetres throughout the state, or an increase to 31 centimetres in waters east of Port Lincoln;
- a reduction in the bag and boat limit from 20 to 12, setting the boat and possession limits at the current rations; and
- to continue to broaden the commercial licence amalgamation scheme to include B class and rock lobster licence holders.

Accusations have been made by the South Australian Recreational Fishing Advisory Council that the data from the National Recreational and Indigenous Fishing Survey was corrupt and incomplete. It believed that the figures used for the number of recreational boats in the survey are wrong and that this therefore changes the estimate of the King George whiting catch. However, the estimate of recreational boats in one section of the survey report was not used to estimate the recreational catch. Estimates of catch were taken from the voluntary logbooks completed by the 1 317 households in South Australia that agreed to participate in the recreational survey. In all, 2 428 fishers completed a full 12-month survey on which the total catch figures for the state were estimated.

Possession limits are in effect in Western Australia, Victoria, New South Wales and the Northern Territory. In Western Australia, the possession limit is two days' bag limit of whole fish and, specifically, 40 King George whiting on the South Coast and 16 on the West Coast. In Victoria, the possession limit is the same as the daily bag limit; for King George whiting, this is 20 fish. In New South Wales, the possession limit is also the same as the daily bag limit, depending on the species taken. For sand whiting, the bag or possession limit is 20 fish. Therefore, a comparison with the new possession limit for King George whiting in South Australia with other states indicates that 36 fish is still a generous limit.

It is no longer appropriate that recreational anglers in South Australia think that they can continue to take large quantities of King George whiting. The fishery is under significant pressure, and anglers need to think about targeting many other fish species available to them under the recreational management arrangements. There are many other attractive culinary species to take, such as snapper, garfish, calamari, sand whiting, yellowfin whiting, snook, tommy ruff and kingfish. The bottom line is that the catch of King George whiting by all sectors must be reduced, or the prospect of being able to take King George whiting in future years will become a diminishing reality. It is far better to manage the fish at an acceptable, sustainable level than to try to recover a collapsed stock, which may result in severe management restrictions in future years, including the prospect of a total closure. That is, basically, why we are taking the course we are taking now.

In summary, recreational anglers take an estimated 58 per cent of the total annual harvest of King George whiting. Commercial net fishers harvest about 12 per cent of the total catch. Commercial fishing licences in the marine scale fishery have reduced from 671 to 395 over the past 15 years. Controls on catch and effort are required to arrest the decline of the stock. Possession limits allow for better sharing of the resource between recreational anglers and also assist in reducing illegal sales. Failure to act will result in future erosion of the spawning biomass, leading to possible collapse of the stock in the future.

Motion carried.

GAMING MACHINES (MISCELLANEOUS) AMENDMENT BILL

Received from the House of Assembly and read a first time.

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I move:

That this bill be now read a second time.

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

On 20 June 2002 the Government directed the Independent Gambling Authority (IGA) to conduct an inquiry into the management of gaming machine numbers in South Australia. On 22 December 2003 the IGA provided its report to the Government. The full inquiry report was publicly released on 14 January 2004.

The Authority prepared its inquiry report following extensive submission and public consultation processes. All industry and welfare sector stakeholders had numerous opportunities to put their views to the Authority. With the information provided by these submissions, and research specifically commissioned for this inquiry, the Authority formulated its position on issues as requested by the terms of reference.

The main recommendation of the report proposed a reduction in the number of gaming machines in South Australia by 3,000 or 20%. Other recommendations include the ability to trade gaming machine entitlements, regional caps on gaming machine numbers, new processes for establishing gaming sites, five yearly renewable gaming machine licences and the establishment of a single special-purpose non-profit gambling entity to assist the clubs sector (to be known as Club One). The Authority's report outlines the rationale for these recommendations and the potential benefit, together with a package of other measures, to address problem gambling.

The Authority concluded that there is a causal relationship between accessibility of gaming machines and problem gambling and other consequential harm in the community. The Authority is satisfied that both the total number of gaming machines and the number of venues where gaming is available should be reduced. The recommendations of its gaming machine numbers report were formulated to achieve that result and the Authority believes that there is support in the evidence that such action, when implemented with other current gambling reform measures, including the new advertising and responsible gambling codes of practice, will be effective in addressing problem gambling.

The Bill introduced into the Parliament reflected the recommendations of the IGA report in full. A number of the provisions implementing those recommendations have been amended prior to the Bill being introduced into this chamber. The changes are:

1. Removal of a requirement for 5-yearly renewal of gaming machine licences;
2. An exemption for non-profit associations from the compulsory reduction in gaming machine numbers; and
3. Removal of the power to implement regional caps on the number of machines in provincial cities.

Under the legislation before the Council the reduction of 3,000 gaming machines is to be achieved through an initial cut of machines from hotel venues which will yield 2,176 gaming machines with the remaining machines to be removed through a compulsory relinquishment of a portion of machines associated with those sold through the newly established gaming machine entitlement trading system.

Specifically, the initial 2,176 cut in gaming machines is to apply to other than non-profit associations as follows:

- venues with 28 or more gaming machines to be reduced by 8 machines; and
- venues with 21 to 27 gaming machines to be reduced to 20 machines.

Venues that have less than 20 gaming machines and all non-profit venues will not be required to reduce their number of machines.

One gaming machine entitlement will entitle the holder of a gaming machine licence to operate one gaming machine.

The proposed $50,000 fixed price trading system for gaming machine entitlements is to be established in the regulations. The system would be operated by the Government; direct sales between licensees would not be permitted. Gaming venues wishing to sell entitlements would nominate the number of machine entitlements they wish to sell. The entitlements would then be offered in turn to approved licensees with initial preference to be given to those venues that were subject to the initial compulsory reduction in machine numbers and those who reduced by the greatest amount. The Government has committed to finalising the regulations in consultation with the industry sector and the opposition.

It is proposed that for every 3, or part thereof, gaming machine entitlements sold in trading, 1 additional gaming machine entitlement would be relinquished. For clubs this relinquished machine entitlement would be transferred to Club One, for hotels the relinquished entitlement would be cancelled.

The progressive cancellation of entitlements will achieve the 3,000 reduction in gaming machines. Once that goal has been reached, hotels selling machine entitlements would no longer be required to relinquish machine entitlements but sales would become subject to a commission of one third of the value. The revenue raised from the commission would go to the Gamblers' Rehabilitation Fund. Club sector gaming machine sales would not be subject to a commission, but would still be required to relinquish machine entitlements to Club One.

It is proposed that one round of trading of gaming machine entitlements would occur before the initial reduction in gaming machine numbers. This would aid the transition process for those venues that wish to continue to operate 40 machines and are able to purchase them through the trading system. The maximum number of gaming machines at any hotel or club is to remain at 40.

The Bill explicitly provides that no right to compensation arises for gaming machine licensees from these amendments or as a result of the cancellation or lapse of a gaming machine entitlement under this Act.

Amendments in this Bill will also allow the licensing of a single special purpose non-profit gambling entity to assist the clubs sector. This entity is referred to as "Club One".

Club One will be established as a board with specific minimum skills requirements for appointments. The intended operations of Club One will include:

1. Service assistance to club venues, for example management expertise and consulting services;
2. Assist existing clubs to relocate or co-locate machines to improve profitability;
3. Place gaming machine entitlements in gaming venues through the use of a newly established special club licence; and
4. Establish and operate gaming machine venues in its own right.

Club One will be able to receive machine entitlements from existing clubs and also be able to purchase entitlements in the trade process.

Club One is an entity that has the capacity to provide a significant advantage to the club industry. ClubsSA has indicated that it envisages that this entity will be able to distribute funds to clubs and sporting associations for the improvement of club facilities in the State.

Involvement in Club One will be totally voluntary for clubs. It is also proposed to provide for flexibility for clubs to amalgamate and relocate. This will assist clubs to be more profitable.

Consistent with the recommendations of the Independent Gambling Authority the test for issuing a gaming machine licence for a new site will be strengthened. In determining an application for a gaming machine licence, the Commissioner will now also be required to have regard to the likely social effect on the local community and, in particular, the likely effect on problem gambling. The Commissioner will be required to have regard to guidelines issued by the Authority for this purpose.

The Bill also provides that:

- Guidelines issued by the Authority with respect to new game approvals and new gaming machine licences will be disallowable by the Parliament as regulations.
- It is the intention of the Parliament that taxation on gaming machine revenue will not be changed, and that no further reduction in gaming machine numbers will occur, before 30 June 2014.
- An early intervention program must be included in the responsible gambling codes of practice for gaming machine licensees.
- The Minister must, as soon as practicable after the second anniversary of the commencement of the amendments in this Bill, obtain and table a report on the effectiveness of the amendments in reducing the incidence of problem gambling.
- Lessees will not inadvertently breach their lease conditions because of the compulsory reduction and, should the parties not reach agreement, disputes would be dealt with by the District Court.

The Bill also includes a number of technical amendments including the removal of the State Supply Board as sole gaming machine service licensee. Other technical amendments have been included following recommendations of the Liquor and Gambling Commissioner to strengthen regulatory and administrative processes.

The gaming machine service licence authorises the licensee to install, service and repair approved gaming machines, their components and related equipment. As required by the Gaming Machines Act, the single licence is currently held by the State Supply Board. The Board fulfils the role of this licence through the

appointment of agents approved by the Liquor and Gambling Commissioner, which carry out the work on the Board's behalf.

On 7 March 2003 the Government announced its support of an amendment to the *Gaming Machines Act 1992* to remove the State Supply Board as gaming machine service licensee and replace it with a more competitive arrangement. This decision was consistent with a finding of the national competition policy review of the Act, which found that the existing sole service licence held by the State Supply Board was inconsistent with competition policy principles. The National Competition Council has stated that this amendment is necessary to meet competition policy requirements.

The provisions of this Bill provide for gaming machine service licences to be issued to suitable applicants. The Liquor and Gambling Commissioner will issue licences subject to normal suitability assessments. The Commissioner will continue to approve gaming machine technicians to conduct work on behalf of gaming machine service licensees.

These amendments will enable gaming venues to choose their service agents within the strict regulatory controls applied by the Liquor and Gambling Commissioner.

The State Supply Board will retain its gaming machine suppliers licence requiring all licensees to deal through the Board for the purchase and sale of gaming machines and associated equipment. This is considered important to maintain probity and integrity in gaming machine regulation and the retention of this provision is consistent with competition policy principles.

I remind Members that the current freeze on gaming machine numbers in South Australia expires on 15 December 2004.

I commend the Bill to the House.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

This clause if formal.

2—Commencement

This clause deals with commencement. Subclause (2) provides that Part 2 (the extension of the moratorium) is to come into force on assent. The provisions reducing the number of gaming machines will come into operation on a date to be fixed by proclamation, but falling at least 4 months after the commencement of the provisions providing for the issue of gaming machine entitlements.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *Gaming Machines Act 1992* (extension of gaming machines moratorium)

4—Amendment of section 14A—Freeze on gaming machines

This clause provides for the extension of the present moratorium on gaming machine numbers until the new provisions limiting the number of gaming machines that a licensee may operate to the number of gaming machine entitlements held by the licensee in respect of the relevant premises come into operation.

Part 3—Amendment of *Gaming Machines Act 1992* (gaming machine entitlements)

5—Amendment of section 3—Interpretation

This clause introduces definitions that are required by the new provisions.

6—Amendment of section 14—Licence classes

This clause provides for a new category of licence, namely, a special club licence to be held by Club One. It defines Club One's right to operate gaming machines on licensed premises as agent for the licensee.

7—Repeal of section 14A

This clause repeals section 14A which provides for the freeze on gaming machines.

8—Amendment of section 15—Eligibility criteria

This clause deals with the right of Club One to hold a gaming machine licence (in addition to the special Club licence which does not authorise it to operate a gaming machine venue in its own right). It also modifies the criteria governing the grant of licences. The Commissioner is required to have regard to the likely social consequences of the grant of the licence on the local community, and in doing so, take into consideration any guidelines issued by the Authority.

9—Substitution of section 16

This clause substitutes section 16 of the principal Act. The new provision limits the number of gaming machines that a licensee may operate by reference to the number of gaming machine entitlements held by the licensee in respect of the relevant premises. The upper limit on the number of gaming machines that may be operated in any particular set of licensed premises remains at 40.

10—Amendment of section 24—Discretion to refuse application

This clause amends section 24 which deals with the Commissioner's discretion to grant or refuse an application. The Government believes that it is appropriate for the Commissioner to have a general discretion to refuse a licence but that the converse should not apply. The amendment provides accordingly.

11—Insertion of section 24A

New section 24A deals with the grant of the special club licence to Club One and the conditions affecting the licence.

12—Insertion of Division 3A

Clause 12 inserts Division 3A (new sections 27A to 27E) dealing with the issue, transfer and location of gaming machine entitlements.

Under new section 27A, each licensee will be assigned gaming machine entitlements as follows:

- if the licensee is a non-profit association, the number of gaming machine entitlements will be the same as the number of gaming machines currently approved for operation under the licence;
- if the licensee is not a non-profit association, the number of gaming machine entitlements will be determined according to the number of gaming machines currently approved for operation under the licence as follows:
- 20 or less gaming machines—that number;
- 21 to 28 gaming machines—20;
- more than 28 gaming machines—8 less than the number of gaming machines.

New section 27B provides for the transfer of gaming machine entitlements. Gaming machine entitlements may be transferred with a gaming machine licence. A non-profit association may transfer gaming machine entitlements to Club 1 or in the course of a merger or amalgamation of gaming machine operations with another non-profit association. Otherwise gaming machine entitlements may be sold in the approved trading system set up by regulations under the section. This system provides for a fixed price of $50 000 for each entitlement. Subclause (3) lists matters that may be included in the regulations. Special provisions are included in relation to gaming premises that are leased. For the future, the lease may exclude or limit the right of sale of gaming machine entitlements. For existing leases, all parties must agree to the sale or the sale may be authorised by the District Court.

New section 27C creates a link between the entitlements and the licensed premises of the licensee who holds the gaming machine licence. When an entitlement is transferred under the approved trading system, the entitlement is to relate to premises nominated by the purchaser and approved by the Commissioner. Special arrangements are included for Club One to purchase entitlements and re-allocate them from one set of licensed premises to another. There is also a provision for re-allocation from one set of licensed premises to another on the removal of a liquor licence from one premises to another in the same locality.

New section 27D expresses Parliament's intention to make no further reduction in gaming machine numbers before 30 June 2014.

New section 27E ensures that licensees are not in breach of existing leases, mortgages or related agreements by reason of any reduction in gaming machine entitlements effected under the amendments.

13—Amendment of section 37—Commissioner may approve managers and employees

This clause makes a consequential amendment relating to the approval of managers and employees.

14—Amendment of section 70—Operation of decisions pending appeal

This clause enables the Commissioner, the Court or the Authority to make appropriate temporary orders to suspend the effect of an order or decision pending an appeal.

15—Insertion of section 71A

This clause inserts a provision stating Parliament's intention that there should be a moratorium on increases in the rate of gaming tax for the next 10 years.

16—Insertion of section 86A

This clause inserts a provision providing that guidelines issued by the Authority are to be laid before Parliament and to be subject to disallowance under the *Subordinate Legislation Act 1978*.

17—Insertion of sections 88 and 89

New section 88 excludes any claim to compensation as a result of the amendments. New section 89 requires the Minister to obtain (in 2 years) and present to Parliament a report from the Authority on the effect of the amendments in this Bill on gambling in the State and, in particular, on whether the amendments have been effective in reducing the incidence of problem gambling.

18—Amendment of Schedule 1—Gaming machine licence conditions

This clause adds a gaming machine licence condition limiting the number of gaming machines in a licensee's possession to the number of gaming machine entitlements held in respect of the relevant licensed premises.

Part 4—Amendment of *Gaming Machines Act 1992* (miscellaneous amendments)

19—Amendment of section 3—Interpretation

Approved gaming machine manager is currently defined to include a director or member of the governing body of a licensee. The definition overlooks the case where a natural person is the licensee. This clause amends the definition so that the term also includes a natural person licensee.

20—Insertion of section 7A

This clause confers on the Liquor and Gambling Commissioner further procedural powers to deal with hearings:

- power to grant an application on an interim basis
- power to specify that a condition of a licence or approval is to be effective for a specified period
- power to grant an application on the condition that the applicant satisfies the Commissioner as to a matter within a period determined by the Commissioner
- power to revoke the licence or approval, or suspend the licence or approval until further order, on failure by the applicant to comply with the above condition
- power to accept an undertaking from a party in relation to the conduct of proceedings and, on failure by the party to fulfil the undertaking, to refuse to hear the party further in the proceedings subject to any further order of the Commissioner.

21—Amendment of section 14—Licence classes

The licence classes under the Act are adjusted so that—

- there may be more than one gaming machine service licence
- it is clear that such a licence is to be held by the proprietor of the business and not employees personally performing the work of installing, servicing or repairing gaming machines (who will be required to approved as gaming machine technicians, see proposed new section 50).

22—Amendment of section 14A—Freeze on gaming machines

23—Amendment of section 15—Eligibility criteria

The amendments made by these clauses are consequential on proposed new Part 3 Division 4A.

24—Amendment of section 26—State Supply Board to hold supplier's licence

The State Supply Board is no longer to hold a single gaming machine service licence.

25—Insertion of Part 3 Division 4A

New provisions are inserted modelled on sections 73, 74 and 75 of the *Liquor Licensing Act 1997*. These provisions allow continued operations under a licence by the devolution of the licensee's rights in the following circumstances:

- the death of the licensee
- the mental or physical incapacity of the licensee
- abandonment of the licensed premises by the licensee
- the bankruptcy, insolvency, winding up, etc, of the licensee.

26—Amendment of section 30—Objections

The Commissioner is empowered to allow an objection to an application for a licence to be made out of time. A provision is added to ensure objectors are parties to the proceedings on an application to which they have objected.

27—Amendment of section 36—Disciplinary action against licensees

28—Insertion of sections 36A and 36B

Various changes are made to the current provisions relating to disciplinary action against licensees:

- provision is made for the Commissioner to hold an inquiry, on the Commissioner's own initiative or on the complaint of the Commissioner of Police
- the forms of disciplinary action are extended to include a fine not exceeding $15 000, cancellation of gaming machine entitlements and disqualification from obtaining a licence
- cancelled gaming machine entitlements may be offered for sale under the approved trading system if the total number of entitlements in force has been reduced by 3 000
- a disqualification may be made to apply permanently
- a suspension or disqualification may be made to apply for a specified period, until the fulfilment of stipulated conditions or until further order
- any disciplinary action may be directed to have effect at a specified future time or at a specified future time unless stipulated conditions are fulfilled
- the Commissioner is required to give the licensee and the Commissioner of Police at least 21 days' written notice of an inquiry and afford them a reasonable opportunity to call and give evidence, to examine and cross-examine witnesses, and to make submissions
- the Commissioner is allowed to hear and determine a matter in the absence of a party if the party does not attend at the time and place fixed by the Commissioner.

29—Insertion of section 38B

The Commissioner may, on application by the holder of a gaming machine service licence, approve a natural person as a gaming machine technician for the holder of the licence.

30—Amendment of section 42—Discretion to grant or refuse approval

In order to be approved as a gaming machine technician, the Commissioner must be satisfied that the person is a fit and proper person to personally perform the work of installing, servicing and repairing gaming machines.

31—Insertion of section 42A

Part 3 Division 5 of the Act makes provision for the advertising of applications for licences and for objections to be made to such applications. A new section is inserted making similar provision in relation to applications for approvals under the Act.

32—Amendment of section 43—Intervention by Commissioner of Police

The Commissioner of Police is empowered to intervene in any proceedings for approval of a person on the question whether the person is a fit and proper person.

33—Substitution of sections 48, 49 and 50

Offences relating to:

- management of a gaming machine business or positions of authority in a licensee that is a trust or corporate entity
- employment in gaming areas
- approved gaming machine managers and employees carrying identification,

are made to apply in addition to the licensee.

A new offence is added requiring the work of installing, servicing or repairing a gaming machine to be personally performed by the holder of a gaming machine service licence or a person approved as a gaming machine technician.

34—Amendment of section 51—Persons who may not operate gaming machines

The list of licensees and others prohibited from operating gaming machines is extended to include the holder of a gaming machine service licence or a person in a position of authority in a trust or corporate entity that holds such a licence, or an approved gaming machine technician. An exception is made for operating gaming machines on licensed premises as necessary for the purpose of carrying out gaming machine servicing duties.

35—Amendment of section 52—Prohibition of lending or extension of credit
The offence under the section is amended so that the licensee is also punishable where the licensee's gaming machine manager or employee contravenes the section.
36—Insertion of section 53B
The Commissioner is empowered to give directions to secure gaming machines against unauthorised use or interference. The power may be exercised where gaming machines are left on licensed premises after the premises have been vacated by the licensee or the Commissioner has any reason to believe that gaming machines are not adequately secured against unauthorised use or interference.
37—Amendment of section 59—Licensee may bar excessive gamblers
The offence under the section is amended so that the licensee is also punishable where the licensee's gaming machine manager or employee contravenes the section.
38—Amendment of section 69—Right of appeal
The section currently allows an appeal against a decision by the person the subject of the decision. This clause amends the section to ensure that the right of appeal extends to other parties to proceedings such as objectors or the Commissioner of Police.
39—Amendment of section 72B—Recovery of tax
If default is made by a licensee for more than 10 days in paying gaming tax that is due and payable, the Commissioner may suspend the licence until the amount, and any fine, is paid.
40—Amendment of section 74—Annual reports
This amendment is consequential.
41—Amendment of section 82—Service
Provision is made for service of notices and other documents under the Act on persons other than licensees.
42—Amendment of section 85—Vicarious liability
Under this amendment, if there is proper cause for disciplinary action against a trust or corporate entity, there will be proper cause for disciplinary action under against each person occupying a position of authority in the entity unless it is proved that the person could not, by the exercise of reasonable care, have prevented the misconduct.
43—Amendment of Schedule 1
The amendments in subclauses (1) and (2) are consequential only. The condition of licence requiring a licensee to adopt a code of practice approved by the Authority is altered to require the code to deal with a program for early intervention in problem gambling.
44—Amendment of Schedule 3
This clause extends the Roosters Club licence until the new provisions for reduction of gaming machine numbers come into force.
45—Insertion of Schedule 4
The new Schedule deals with the issue of gaming machine entitlements to an applicant for a licence where the application was made before the introduction of the freeze on gaming machines.

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

COMMISSION OF INQUIRY (CHILDREN IN STATE CARE) (MISCELLANEOUS) AMENDMENT BILL

Received from the House of Assembly and read a first time.

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I move:

That this bill be now read a second time.

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

On 5th August 2004 the *Commission of Inquiry (Children in State Care) Act 2004* was assented to by her Excellency the Governor in Executive Council.

The commencement of the Act is yet to be proclaimed. It is anticipated that the Act will come into operation in about mid November 2004. The Government intends to recommend to Her Excellency the Governor the appointment of the Honourable Justice Mullighan as Commissioner to undertake the Inquiry. Subject to Her Excellency's approval, it is expected Justice Mullighan will take up the appointment on 6 December 2004.

In the meantime arrangements are being put in place to enable the Inquiry to commence its work as soon as the Commissioner is appointed. Counsel, a social worker, an investigator and other staff provided for under the Act are being recruited and accommodation is being established.

For the purpose of the terms of reference established under the Act a child in State care is defined as a child who was at the relevant time, a child who had been placed under the guardianship, custody, care or control of a designated Minister or another public official under a relevant Act.

A relevant Act is defined as the *Children's Protection Act 1993* or a corresponding previous enactment dealing with the protection of children.

Since the passage of the legislation the Crown Solicitor has advised that a thorough historical check of the corresponding previous Acts to the *Children's Protection Act 1993* has been undertaken. That process has revealed that prior to 27 January 1966 children who were determined to require protection were not placed under the guardianship etc of a Minister or another public official, but were placed in the custody and control of the Children's Welfare and Public Relief Board under the *Maintenance Act 1926*.

The definition of a child in State care under the Inquiry Act does not extend to children who prior to 1966 were under the care of the Children's Welfare and Public Relief Board. The Board is neither a Minister or public official. Accordingly the Commission of Inquiry has no power to examine allegations relevant to children in State care prior to 1966.

The possibility that the Commission will receive allegations of sexual abuse and possibly the death of children in State care prior to 1966 can not be excluded. It is therefore considered essential that the Commission of Inquiry have the power and scope to deal with these matters . Accordingly the deficiency in the definition of a child in State care should be remedied before the Act comes into operation.

Discussions have taken place with Justice Mullighan and myself together with a number of officers to ensure appropriate arrangements are in place for the Inquiry to be established and for him to take up the appointment immediately upon his retirement.

As part of these discussions Justice Mullighan has drawn my attention to the requirement under the Inquiry Act that the Commissioner conducting the Inquiry must refer information concerning a sexual offence against a child to the Commissioner of Police or the DPP (unless the Commissioner undertaking the Inquiry believes on reasonable grounds that the information has already been reported to the Police).

Justice Mullighan has expressed concern that alleged victims who wish to make submissions or put information before the Inquiry but who do not wish to become involved in a police investigation or prosecution may be deterred from coming forward.

Justice Mullighan considers that it is essential that potential witnesses who are alleged victims and wish to maintain confidentiality should not be deterred from making submissions or providing information to the Inquiry.

As a matter of public policy it is usually preferable that allegations of criminal conduct against children be investigated by the Police. In this case that consideration is, in my view, outweighed by the need to remove any obstacles to individuals coming forward. Those who do come forward will do so for a variety of reasons. Not all will want to endure the hardship and pain caused by a criminal investigation and prosecution. Some will simply want to tell their story and focus on the alleged failure of authorities to act appropriately rather on the conduct of the alleged perpetrator.

In reality there is little point in referring allegations to the Police for investigation if the alleged victim is not willing to cooperate with an investigation or prosecution.

Accordingly, the Bill proposes an amendment to the Act to give the Commissioner undertaking the Inquiry the discretion to accede to a request from an alleged victim of a sexual offence not to have his or her allegations referred to the Police for investigation if it is in the public interest to do so.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

The measure will be brought into operation by proclamation.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *Commission of Inquiry (Children in State Care) Act 2004*

4—Amendment of section 10—Provision of information

This amendment relates to the circumstances where information concerning the commission (or alleged commission) of an offence will not be provided to the Commissioner of Police under the provisions of section 10 of the Act. The amendment will provide that the Commissioner appointed to conduct the Inquiry will not provide information to the Commissioner of Police if the victim has asked the Commissioner not to provide the information to the police or to the DPP, subject to the exception that the Commissioner may "hand on" the information if the Commissioner considers it in the public interest to do so.

5—Amendment of Schedule 1

This amendment will alter the definition of ***child in State care*** so as to include a child who was under the guardianship, custody, care or control of the former body corporate known as the *Children's Welfare and Public Relief Board*.

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

TOBACCO PRODUCTS REGULATION (FURTHER RESTRICTIONS) AMENDMENT BILL

The House of Assembly agreed to the amendments made by the Legislative Council without any amendment.

ADJOURNMENT

At 6.05 p.m. the council adjourned until Monday 8 November at 2.15 p.m.