# LEGISLATIVE COUNCIL

**Monday 8 November 2004**

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

## BYWATERS, Hon G.A., DEATH

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

That the Legislative Council expresses it deep regret at the recent death of the Hon. G.A. Bywaters, former minister of the Crown and member of the House of Assembly, and places on record its appreciation of his distinguished public service, and that as a mark of respect to his memory the sitting of the council be suspended until the ringing of the bells.

Last week I was saddened to hear that Gabriel Bywaters had passed away. He was 90 years of age, and this state gained much from the many contributions Gabe made to it. Gabe was born in Gawler, South Australia, on 2 September 1914, and spent much of his life in Murray Bridge. In March 1956 he was elected as member for the local seat of Murray and, I believe, he won that seat by fewer than 200 votes. He won further elections for the seat, increasing his margin in 1959, 1962 and 1965. An outstanding and dedicated representative for the people in this electorate, he retained the seat until March 1968 when he lost his seat and Labor lost office. He again ran for the seat in May 1970 but was unsuccessful.

After losing his seat in parliament, Gabe was a member of the Metropolitan Milk Board for 15 years. During his distinguished parliamentary career, Gabe served as a minister in Frank Walsh's Labor government. He served as minister of lands, minister of repatriation and minister of irrigation from 1965 to November 1965. However, he was renowned for his outstanding contribution as minister of agriculture and minister of forests, for which he served from March 1965 until March 1968.

Gabe was a strong supporter of a number of issues important to his electorate. For example, he was supportive of decentralising industry away from urban areas to rural areas. This support was noted in his maiden speech to parliament in 1956, when he stated:

I said before that I supported Mr King's remarks about the decentralisation of industry and population, and I am alarmed at the continuing drift to the metropolitan area. Today, 62 per cent of South Australians live there, and only 38 per cent in the country. This is most unsatisfactory. I believe decentralisation is essential both from an economic and defence point of view.

Gabe also had an ongoing concern for the water quality of the River Murray and, in particular, for salination problems. He was supportive of the reticulation of water through the Mallee lands east of the River Murray, as well as increasing the supply of electricity throughout his region.

Away from parliamentary life, Gabe was always active in his local community. He held various positions with numerous local organisations including that of president. Some of the organisations of which he was a patron or member included the Murray Bridge High School Council (of which he was president), the Adult Education Centre Council, the Mentally Retarded Children's Society, the Church of Christ Officer's Board, the National Fitness Camps Committee, the Murray Bridge Industries Advisory Committee (of which he was secretary), the Murray Bridge Town Band, and the Murray Bridge Lawn Tennis Club.

I am sure that those of us who have been in this parliament for some time would be well aware that Gabe was a regular visitor to this parliament until recently. Like many others here, I had the pleasure of some enjoyable conversations with him on a range of matters over those years. Gabe died in the Philip Kennedy Hospice on Tuesday 2 November after battling cancer for several months. Mr Bywaters' wife died three years ago. He is survived by a son, a daughter, four grandchildren and three great-grandchildren. On behalf of the government I extend sincere condolences to Gabe Bywaters' children, grandchildren and great-grandchildren; however, they can take some solace from the very productive life that he led and the many achievements he attained. On behalf of the members on this side, I commend his contribution to the Australian Labor Party and to the state of South Australia.

**The Hon. R.I. LUCAS (Leader of the Opposition):** I rise on behalf of Liberal members to support the motion and to support the remarks that have been made by the Leader of the Government on behalf of the government and the Labor Party. I did not know Gabe Bywaters well. I knew him to say hello to in and around Parliament House, but I cannot confess to have known him well. I certainly knew him by reputation and knew of his reputation within his electorate of Murray, as it was then known. When one looks at the press clippings that we have been provided with in preparation for our contributions today, I think it is an interesting reflection of the changing times in that period of the 1950s and 1960s.

We have spoken in condolence motions in recent times, for Des Corcoran, for example, that the Labor Party was well represented by a range of people like Des Corcoran, Gabe Bywaters, Tom Casey and others who represented country areas in rural and regional South Australia and represented them strongly. In parts of South Australia, where at the federal level there were very strong votes for the LCL—the Liberal and Country League, as it then was—due to the personal vote, support, following and the hard work of the local Labor members, they held onto those seats in what were, from a federal viewpoint, strongly conservative areas.

When one looks at the shape of the political landscape these days, there are not many examples within the Australian Labor Party, certainly in recent years, of people of that nature representing the sort of electorates that Gabe Bywaters, Des Corcoran, Tom Casey and Allan Burdon of the Mount Gambier electorate and others represented for the Labor Party. Maybe that is a lesson for the Labor Party. I am sure that that lesson is not lost on the Leader of the Government in this chamber.

As the Leader of the Government has indicated, during his time in parliament from 1956 onwards, Gabe Bywaters had a very strong passion for decentralisation. I note from his maiden speech (from which the leader has quoted) that he was a strong opponent of the siting of Elizabeth. He was pre-Don Dunstan—he did not actually call it Monarto—but he believed that the best place for Elizabeth would be close to Murray Bridge. Of course, many years later, Don Dunstan's dream of Monarto in the 1970s—

**The Hon. J.S.L. Dawkins:** They were going to call it Murray.

**The Hon. R.I. LUCAS:** My colleague John Dawkins says that they were going to call it Murray. If one goes through Gabe Bywaters' maiden speech and the other contributions he made, one will see that the reasons he gave for the regional centre of Murray Bridge being the next population growth centre—in that case he was arguing against the decision to

move ahead with the development at Elizabeth—were similar to those used in the 1970s in relation to the development of Monarto. I must admit that I had a bit of a chuckle when I read the following. The political horizons and the political landscape have changed yet again, but the Leader of the Government might have noted from Gabe's maiden speech in 1956 his criticisms about ministers' replies to letters from members when he said:

> I must say that I have had several courtesies extended to me by Ministers, but unfortunately there have been long delays in replying to some of my letters. I realise that perhaps a week or so may elapse between a Minister getting a letter and getting the information for a reply, but there can be little excuse if a reply is not given for many weeks.

Oh, for those days!

**The Hon. P. Holloway:** There were a lot fewer letters in those days.

**The Hon. R.I. LUCAS:** The Leader of the Government says that there were a lot fewer letters in those days—I guess that was probably the case—but some of us who are still asking for replies to questions on notice almost three years later would pine for those old courtesies to which Gabe Bywaters referred. I will not go through the whole of his maiden speech—I am sure the Leader of the Government has read it, as have I—but it is an indication of the depth of his local representation. It talks about outcrops of rocks on local country roads and the damage they were doing and a range of other issues that were obviously important to his constituents in the electorate of Murray.

Just before I came into the chamber, by happenstance I had a brief conversation with a former presiding member, the Hon. Peter Dunn, to whom I indicated that I was about to speak to this condolence motion on behalf of my party. He said that he was surprised to hear that Gabe had passed away (even though he was 90), because he had seen him at the Royal Adelaide Show a bit over a month or so ago, and at that time he was certainly not aware that Gabe was likely to pass away in the very near future.

On behalf of Liberal members, I pay tribute to Gabe Bywaters' contribution to his local community, to public life as a member of parliament and as a minister (as the Leader of the Government has indicated), and also to his service to the Labor Party, and we pass on our condolences to the remaining members of his family and his friends.

**The Hon. IAN GILFILLAN:** I would like to indicate the Democrats' support for the motion and to acknowledge the significant and very interesting observations of the Hon. Gabe Bywaters' maiden speech that have been made by the Leader of the Government and the Leader of the Opposition. My contact with him was in this place when, of course, he was well past his retirement, but I was impressed by the character of the man, his warmth, and the friendship that he showed to me personally and, I am sure, to many other members with whom he had contact. He was a regular attendee of the retired Labor members' lunches, so I had the opportunity to say hello to him on relatively frequent occasions.

The following is only a small quote from his original Address in Reply on 17 May 1956, but it is one which I thought was quite prophetic—and it is his final sentence. He was talking to the Speaker when he said:

> I promise you, sir, that I will at all times endeavour to conduct myself in a dignified manner, and I look forward to a very happy association here.

I believe that his life in this place and afterwards bore that out. Certainly, I would like to pass on our condolences to his family, but I also wish to indicate that I personally found that he fulfilled that anticipation adequately and the impression left in my mind was one of a parliamentary gentleman and a statesman. Although he had 90 years, he will still be missed in this place.

**The PRESIDENT:** I also rise to make a contribution. I have known Gabe Bywaters for many years—almost 16 years as a member of the parliament. Gabe Bywaters and I have somewhat similar backgrounds. We both came from the country and, I believe, were both dedicated to the areas where we lived and wished to make contributions to those areas. As has been said, Gabe Bywaters is probably almost the last of the Mohicans, as far as the Labor Party is concerned, especially in the Riverland. It is bleak country for Labor, but Gabe Bywaters, in a different era, was able to win that seat and hold it for a long time. He maintained a close association with Murray Bridge even up until his retirement.

As is the country way, one is often invited to country sub-branches. They are always pleased to see someone who has an affinity with the country. Gabe Bywaters, although an octogenarian by that stage, often used to return to the Murray Bridge sub-branch. He always offered sage advice and was great friends, of course, with the McLarens, who were the linchpin of Labor in the Murray area. Gabe and I often engaged in conversation in the bar at the 'old buffer's dinner', as we used to jokingly call the monthly meeting of the retired members of the Labor Party. Gabe was never one of those politicians who was an 'I told you so' but, if one sought his opinion he gave, as I said, sage advice. He always remained friendly, and was always a gentleman's gentleman.

I was quite distressed to hear of his passing. I was particularly distressed because, of course, his burial ceremony is taking place as we speak, and we were denied the opportunity to attend that ceremony. But on behalf of myself—and, I believe, country people, who held Gabe Bywaters, in particular, in high esteem—I pass on to Gabe's family and friends my deep condolences and my great admiration for the life of Gabriel Bywaters and his contribution. Gabe Bywaters was a gentleman. He was a great member for Murray, and he was a particularly good South Australian.

Motion carried by members standing in their places in silence.

*[Sitting suspended from 2.34 to 2.52 p.m.]*

## PAPERS TABLED

The following papers were laid on the table:

By the President—

City of Charles Sturt—Report, 2003-04

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

South Australian Department of Further Education, Employment, Science and Technology—Section 38 Review of the Construction Industry Training Fund Act 1993—Final Report, July 2004.

## UNIVERSITY, NEW

**The Hon. P. HOLLOWAY (Minister for Industry and Trade):** I lay on the table a copy of a ministerial statement

in relation to the heads of agreement with Carnegie Mellon made today by the Premier.

## QUESTION TIME

### DEPARTMENTAL FUNDS

**The Hon. R.I. LUCAS (Leader of the Opposition):** I seek leave to make a brief explanation before asking the Leader of the Government a question about financial scandals identified in the Auditor-General's Report.

Leave granted.

**The Hon. R.I. LUCAS:** Members will be aware of concerns about a range of financial transactions expressed by the Auditor-General in his most recent Auditor-General's Report. Members will be aware that the South Australian media has taken to describing some of these events. ABC News is referring to it as the 'stashed cash affair', I understand, and *The Australian* is referring to it as 'slush gate'.

Nevertheless, questions in relation to these particular issues relate not only to the Attorney-General but also to a number of other ministers in the Rann government. I refer, in particular, to the transaction referred to by the Auditor-General between minister Weatherill's former department and minister Hill's Department of Water, Land and Biodiversity Conservation on 1 July 2003, that is, a payment of $5 million. The Auditor-General's Report states:

> In fairness it must be emphasised that neither the responsible ministers nor the chief executives of both DAIS and the Department of Water, Land and Biodiversity Conservation were aware that this transaction had taken place.

I note also that in another part of the report, when the Auditor-General refers to the Attorney-General's position and concerns in relation to the Crown Solicitor's Trust Account, he indicates a number of things about the Attorney-General on the basis of sworn evidence that had been given by the Attorney-General. My questions are:

1. Will the Leader of the Government ascertain from minister Weatherill and minister Hill whether or not they gave sworn evidence to the Auditor-General in relation to whether or not they were aware that this transaction had taken place?

2. If they did not give sworn evidence, did they give any evidence at all to the Auditor-General about their knowledge of the transaction?

3. In particular, did they have a conversation with the Auditor-General or a member of his staff, or did they correspond with the Auditor-General or his staff, and in any way did they indicate to the Auditor-General that they were not aware that this particular transaction had taken place?

4. Will the Leader of the Government ask minister Hill whether he can explain why $5 million was deposited in his department's accounts on 1 July, which sum he and his officers did not discover had been paid until some time in September—almost three months later?

5. Will he indicate whether he believes that is a satisfactory set of circumstances?

6. Will he provide an explanation to the parliament as to how the payment of $5 million could have been made and be unknown to anyone, including himself, for a period of almost three months?

**The Hon. P. HOLLOWAY (Minister for Industry and Trade):** Again, we have the Leader of the Opposition trying to totally beat up and take out of all perspective the Auditor-General's Report. As I have indicated to this parliament on a number of occasions, under the previous government, when the Auditor-General reported that certain unlawful transactions had taken place, the previous government just ignored them. That was their response. The Auditor-General specifically referred to that in the quotation to which I referred in question time several weeks ago.

The leader is trying to ask questions about whether or not they gave sworn evidence, and so on. These are relatively minor matters which are referred to in the Auditor-General's Report year in, year out. As much as the opposition would like to ramp this up by asking these sorts of questions, they will not succeed because the reality is that these are relatively minor matters in the scheme of things; they are technical things.

**The Hon. R.I. Lucas:** Running scared!

**The Hon. P. HOLLOWAY:** Certainly not running scared. The previous government, when it had these sorts of criticisms of unlawful conduct, simply ignored them and said, 'We do not accept it is unlawful.' This government has not done that at all. There has been a full explanation in relation to those matters. When the Auditor-General appeared before the Economic and Finance Committee and answered questions in relation to that he put it in perspective. I noted one point in the evidence: when a member of the lower house who had previously been a minister asked questions, he made the point about whether the minister had been aware of that sort of thing. Almost certainly not, because it is most unusual that ministers would be involved—

*The Hon. R.I. Lucas interjecting:*

**The Hon. P. HOLLOWAY:** No, it is not a question of reading the papers at all—in details of actions. Ministers do not go over to the bank at the end of each day and check on what the current balance in their account funds is. That is why we have not only chief executives but also chief financial officers of departments. That is why there are—

**The Hon. R.I. Lucas:** Scapegoats.

**The Hon. P. HOLLOWAY:** No, they are not scapegoats: on the contrary, there are requirements on senior public servants, in particular, chief financial officers of departments, to behave truthfully. If one reads the comments of the Auditor-General one will see that when he was referring to the subject of the Leader of the Opposition's question he specifically referred to the fact that those senior officers have a responsibility to ensure that those matters are upheld. So, in summary, as much as the opposition might try to take this matter out of all proportion, it will not succeed in doing so.

Finally, in relation to the last question asked by the Leader of the Opposition about whether I would ask my colleague the minister for the environment in another place about his knowledge of transactions, it is my understanding that a number of similar questions were asked in the House of Assembly in relation to these matters, and I believe the minister has answered those matters there, but, if anything further needs to be added, I will refer it on. Certainly, a number of questions have been asked of the minister in another place on this very subject, and I believe he has addressed those matters.

**The Hon. R.I. LUCAS:** As a supplementary question: if upon investigation the minister is to argue that minister Hill has answered the questions, will he please refer to the *Hansard* reference for the benefit of the opposition?

**The PRESIDENT:** The Leader of the Opposition was very close to debating the issue there.

**The Hon. P. HOLLOWAY:** I will take that matter on notice.

**The Hon. J.F. STEFANI:** As a supplementary question: will the minister advise the council whether he believes that the responsibility under the Westminster system does rest with the minister responsible for the portfolio?

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. P. HOLLOWAY:** Again, I can only refer the honourable member to the transcript of the comments that were made by the Auditor-General in relation to this matter during his appearance before the Economic and Finance Committee, and I would support those comments that were made in that report. I do not have a copy of them here, but I will be happy to supply a copy to the honourable member. I support the comments that the Auditor-General made in his evidence.

## ABORIGINAL LANDS TASK FORCE

**The Hon. R.D. LAWSON:** I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question on the subject of the Aboriginal Lands Task Force.

Leave granted.

**The Hon. R.D. LAWSON:** The minister has acknowledged that the tier 1 and tier 2 consultation process related to the Aboriginal lands has been abandoned by this government on the ground that it was too bureaucratic, and instead the Aboriginal Lands Task Force has been established within the Department of the Premier and Cabinet. The Aboriginal Lands Task Force comprises 24 senior public servants and also a member of the minister's own office staff.

The task force has a number of subgroups: a health and wellbeing subgroup, comprising 23 public servants and senior members of agencies; an eight-member review of the act subgroup; a 12-member justice subgroup; a 14-member employment, training and education subgroup; an infrastructure subgroup of 12 members; a swimming pool working group, comprising 15 members, to examine how the commonwealth's $2 million offer to build two swimming pools on the lands is to be allocated, with the state government contributing $100 000; a facility working group comprising 14 public servants; and an agency housing group also comprising 14 members.

We are assured that these have been very active groups, producing a large number of reports. The opposition has been informed that there is a standing instruction issued by the Department of the Premier and Cabinet to the effect that all documents prepared by the task force and its subgroups are to be endorsed with the words 'For cabinet'. My questions are:

1. Will the minister confirm that there is a standing instruction that all documents prepared for this task force and its subgroups are headed 'For cabinet', or words to that effect?

2. What is the purpose, as he understands it, of those reports being endorsed for cabinet?

3. Will he acknowledge that the purpose is, indeed, that those documents cannot be accessed by freedom of information applications, notwithstanding the fact that many of the documents will never be seen by cabinet or any subcommittee of cabinet?

**The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation):** I thank the honourable member for his questions. Certainly the infrastructure that the honourable member has outlined is quite accurate. There has been a change in relation to how the original task force has been restructured. The process by which we are now operating is implementing strategies that were developed in the early period when tier 1 and tier 2 were up. It took considerable time to restructure the way in which we were doing business cross-agency. We have tried to make sure that all the senior CEOs of all the departments that have responsibilities for the delivery of infrastructure services, human services and administrative services to the lands are aware of their responsibilities.

What we found and made admissions to in the period since the collapsing of those two structures, tier 1 and tier 2, was that the response times by the bureaucracies were too slow in dealing with many of the issues within our remote regions. It was not done lightly. We had a number of reports to work upon, and we had a number of departments that were frustrated in their approach in dealing with issues. People involved at a cross-agency level were crossing each other's paths. At a state level we had the commonwealth making overtures to the state in relation to how it would become involved in the COAG trial.

This has been a problem in Aboriginal affairs, and still is, not just in the remote areas but in the regions and in the metropolitan area, so we had to have a different form and structure to engage the commonwealth and the agencies. In that way, everyone sitting around the table who has responsibility for infrastructure, human services and administrative support for Aboriginal groups within the state should be singing off the same song sheet, and coming away from those meetings with instructions that are actually targeted at dealing with the problems at hand, and then having a reporting process that is able to measure results.

Too often, in the past, we have had agencies crossing each other's paths with spending and funding regimes which many of the agencies were not aware that the other was dispensing. The commonwealth had priorities already set that we could not interfere with at that particular time. The commonwealth's priorities had to be stitched into the state's programs, and not-for-profit organisations and the academic institutions had funding streams for supporting our regional and remote areas.

I suspect that we are still not at a point where we have maximised the efficiency of the structures with which we are dealing because, at different points within the delivery programs, that is structural change. But, at this point in time, the honourable member is right—the number of agency people involved has increased. It has been broken down into agency responsibilities. Subgroups have been set up around employment, justice, infrastructure, and the commonwealth priorities of transaction centres. Funding has been promised to the states for swimming pools within that particular region and for the issues of ageing and housing, with which the honourable member will be familiar, as the key issues where the commonwealth and states have to cooperate.

So, since the election has produced a new conservative government, the challenge for the government at the state level is to engage the commonwealth and the cross-agencies to make sure that everyone within the agencies knows what their responsibilities are. At this stage, in DAARE, we are trying to set up a structure that allows for the measurement of change within those communities so that we can roll out

those funding programs. We make admissions, at this stage, that the funding programs that we would like to roll out have slowed because of the lack of skilled support services from those regions and the inability for us to get professional people on the ground because of the housing issue. We have found that there is a major housing shortage not only for Anangu staff within the lands but also for professional support services. We are dealing with that; we have a subgroup looking at housing. Until we get the housing issue right, we cannot expect professional people and skilled labour to live in the lands because of the problems associated with housing; so, housing is a critical issue that we have to get right before we start dealing with the other issues.

As to the purpose of the reports from the cross-agencies being earmarked for cabinet, I will refer that question to the Department of the Premier and Cabinet. In relation to the documents, I am not sure which of the documents, or how many, are marked or whether they are documents that will be available for wider circulation. However, in relation to those going to cabinet, they will have the same FOI standards applied to them as they would if they were going from any other agency. I will pass on that section of the question to the Department of the Premier and Cabinet and bring back a reply.

**The Hon. KATE REYNOLDS:** I have a supplementary question. Will the minister also inquire about who instigated the issuing of this instruction?

**The Hon. T.G. ROBERTS:** I will find out the nature of the instruction in relation to the classification of documents for cabinet to see whether it is a blanket cover or whether some documents will be released. I will pass on that question to the minister as well and bring back a reply.

**The Hon. R.D. LAWSON:** I have a supplementary question. Can the minister advise how many, if any, of the 120 bureaucrats serving on these committees is an indigenous person and is either living or has lived on the lands?

**The Hon. T.G. ROBERTS:** I will endeavour to get an answer to that question. However, I would say that the answer would be: very few, if any. One of the problems that we have in dealing with this issue involves the engagement within the lands of professional bureaucrats who have an understanding of how our governance works. Equally, we need to have enough bureaucrats within our own bureaucracy who understand how the APY network is set up. That is one of the issues that we are dealing with. We have a cultural awareness program running through Iga Warta, and we hope it will be run through the Ngarrindjeri people at Camp Coorong shortly. We are trying to bring our own bureaucracy up to speed in relation to cultural questions.

We hope that, in the short term, we can have enough senior bureaucrats available to spend short stints on the lands until the housing issue is dealt with and that, in the long term, we can have a small number of senior bureaucrats who can relay information from the lands in a far quicker way than the way in which the message is being carried now, and without the mischief factor being dealt into that stream of information. So, we are required to change our governance to make sure that we deal with the serious issue of deprivation within the communities, and we hope that we can reach some better understanding amongst the APY executive and community members of how our governance actually works so that we can engage with each other at a professional level and get the best possible results.

## MINING EXPLORATION, UPPER MALLEE

**The Hon. CAROLINE SCHAEFER:** I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question about mining exploration in the Upper Mallee.

Leave granted.

**The Hon. CAROLINE SCHAEFER:** A group of farmers from the Northern Mallee have raised concerns with regard to mining exploration that is about to take place on their properties. They are concerned that the contracts being offered to them are too open-ended, that they have not been informed as to when this exploration will begin or how long it will take, and that the compensation being offered is grossly inadequate. They are certainly being offered much less than farmers in similar circumstances in Victoria. I understand that an exemption from licence fees has been applied for by the mining company involved, Southern Titanium. Apparently, any such exemption of fees (if granted) in Victoria goes towards the compensation package for the farms affected.

Further, I have been told that farmers in Victoria involved in legal disputes with regard to mining exploration on their properties have their legal costs paid for them. My questions to the minister are:

1. What process is in place in South Australia for farmers affected by mining exploration to have their concerns and objections dealt with?

2. Have farmers from the area to which I have referred sought a meeting with the minister and, if so, when will he speak with them?

3. Has the minister considered the application for exemption of fees from Southern Titanium? If so, has he reached a decision, and will any conditions be attached to such an exemption?

**The Hon. P. HOLLOWAY (Minister for Mineral Resources Development):** An issue has been raised in relation to the payment of compensation (if I can refer to it generically) to farmers in the Mallee region of the state. However, it does not relate to exploration but to the actual mining that is taking place.

*The Hon. Caroline Schaefer interjecting:*

**The Hon. P. HOLLOWAY:** The honourable member mentioned Southern Titanium. Is this the Kevin Heidrich group—

*The Hon. Caroline Schaefer interjecting:*

**The Hon. P. HOLLOWAY:** I assume this involves sand mining. There have been a number of issues with farmers from that group. I met with a group of farmers about a month ago regarding some of the issues which applied to one strand. Obviously, to gain the resource, Southern Titanium (which we hope will be able to proceed with the sand mining in that region fairly soon) needs to have a viable operation. It mines a number of strand lines that go through the area and, clearly, it has to negotiate individually in relation to each one of these strand lines. It has to ensure that it has a sufficient volume of resource available to finalise all its arrangements. Whereas there was some settlement in relation to the earlier strand lines, which would be the main part of the early phase of the project, there are issues about what to do with the strand lines that would be mined five or 10 years into the future—still part of the project, but at some later date. There is a question about timing, as to how one deals with those issues, and that is something that I am grappling with at the moment.

The miners in that part of the Mallee region have been written to by the company. As is required under the Mining Act, there has to be some consultation in relation to any delay regarding those payments to farmers. There are some technical issues in relation to that and, at the moment, it is just going through the consultation phase (if I can describe it in that way), as is required under the Mining Act. The honourable member is perhaps referring to some additional exploration in relation to the strand lines the company is looking at. I will speak to the honourable member afterwards and obtain the details in relation to that and investigate the matter. However, I know that there is a series of issues in relation to mineral sand mining in that region. We have certainly been encouraging the company to negotiate solutions and to look at the standards that apply.

The member referred to what is done in Victoria. I have asked my department to look at those sorts of issues so we have a benchmark to ensure that farmers and other land-holders are dealt with in a similar way, in a standard way, compared to those interstate. Obviously, that is being done. But in relation to the particular issue, I will talk to the honourable member about it: I will obtain the details and investigate it.

Certainly, there is a great potential from that sand mining resource. That region is very rich in zircon, in particular, which is a highly sought after mineral sand that is used in ceramics, particularly ceramic tiles. We would obviously like to see such a venture proceed because it would employ several hundred people. It would also provide a real boost to the economy of the Mallee region, which has been battered fairly heavily in recent years. As members would know, the Murray-Mallee region has suffered from the drought; it was hit particularly badly. So, it does provide some income. We would certainly like to see that the payments those farmers receive are generous. However, as I tried to indicate, there is a number of components that relate not only to compensation for works being done at the time of mining but also in relation to other components—

*The Hon. R.D. Lawson interjecting:*

**The Hon. P. HOLLOWAY:** Yes, there is a whole lot of issues, depending on the timing of when the mining takes place; that is one of the difficulties. We have not come across this before because, basically, this state has not really had any sand mining industry. But I think it is an industry that we are likely to see more of in the future because of the value of the sand. Australia previously has produced a significant proportion of the world's heavy mineral sands, but most of it has come from Western Australia, Queensland and New South Wales. However, South Australia does have the potential. A lot of it is in the Mallee, both south and north of the River Murray.

There are also some highly prospective areas where discoveries have recently been announced by Iluka on the West Coast. We have not had to face before these sorts of issues relating to this type of mining because it is fairly shallow and there is full rehabilitation after the mining takes place, but there is some disruption. That is why the department has been involved in quite lengthy negotiations. Obviously, it is essentially between the company and the farmers concerned, but the government has tried to play its role as an honest broker. We would rather see these issues resolved by negotiation than through lengthy court battles, which will create problems down the track. So, we are doing what we can. I will arrange a full briefing for the honourable member in relation to those issues, because they are fairly complex.

**The Hon. R.D. LAWSON:** I have a supplementary question. Will the minister familiarise himself with the mining regime that applies in Victoria to ascertain whether any of the measures adopted in that state should be adopted here?

**The Hon. P. HOLLOWAY:** As I indicated in my answer, I will ask my department to look at those issues to ensure that the standards we apply are similar. I made the point that we have not had this sort of mining in this state previously and, therefore, a number of issues are raised that have not previously been faced here. The answer to the supplementary question is: yes.

**The Hon. CAROLINE SCHAEFER:** I have a supplementary question. Has the minister granted an exemption of licence fees to Southern Titanium, or has he considered doing so? If so, when will an answer be given?

**The Hon. P. HOLLOWAY:** The only licence fees I understand that are in dispute are in relation to the mining licences for those strand lines that would be mined later. Under the act, there has to be consultation with the land-holders concerned if there is to be any exemption because, if you are not mining these leases for five or 10 years because that will need to be part of the mine plan, that will need to be looked at. Before any exemption on those lines can be given, there has to be consultation with the land-holder. If that is the issue to which the honourable member refers, no decision has been made yet, because there will be some consultation. Indeed, I have had requests for meetings with farmers, and other land-holders, in relation to that matter. However, if the honourable member refers to a different type of licence fee, perhaps that can be clarified when we arrange a briefing.

**The Hon. J.S.L. DAWKINS:** I have a supplementary question arising from the answer. Has the minister asked PIRSA to give an estimate of how long it will be before the rehabilitated strand lines are back to full grain production?

**The Hon. P. HOLLOWAY:** The mine moves in strips of about several hundred metres in length. The rehabilitation continues behind that and is a kind of backfill. Most of the mineral ore is only several metres thick, but it might be up to 30 metres down. The topsoil is removed and the relevant mineral extracted. Ninety per cent of the sand goes back into the hole and the area is rehabilitated. I understand that, where this mining has taken place, the area can be productive in the following season. Certainly, some trials have suggested that, in agricultural terms, the land can be just as productive, if not more, as a result of the mining operation, because the soil has been aerated. Some trials on extraction near the Loxton area have been undertaken, but I will obtain more information. If the honourable member wishes a briefing on that issue, I am happy to arrange one. Certainly, Rural Solutions undertook some contract work on these rehabilitation measures so that these issues could be resolved. I will ensure that the honourable member is briefed on this issue.

## SYDNEY PEACE PRIZE

**The Hon. G.E. GAGO:** I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question about the Sydney Peace Prize.

Leave granted.

**The Hon. G.E. GAGO:** Each year, the Sydney Peace Foundation awards a prize to an organisation or an individual who has made a significant contribution to global peace,

including improvements in personal security and steps towards eradicating poverty and other forms of structural violence. Further, the award acknowledges recipients whose work illustrates the philosophy and principles of non-violence and whose roles and responsibilities enable recipients to use the prize to further the cause of peace and justice. I am aware that there is special significance related to this year's Sydney Peace Prize for the South Australian Aboriginal community. My question to the minister is: will he report to the council on the connection between this year's Sydney Peace Price and the Aboriginal community of this state?

**The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation):** I am happy to give an answer to a question which does have an interesting pitch to it and which also has a very good ending. At the 2004 Sydney Peace Prize, a significant benefit was derived indirectly from the presentation of the prize. Most members would be aware that Ms Arundhati Roy has been awarded the 2004 Sydney Peace Prize. Ms Roy is an Indian writer and human rights campaigner. The jury's citation states:

> Arundhati Roy has been recognised for her courage in campaigns for human rights and for her advocacy for non-violence, as expressed in her demands for justice for the poor, for the victims of communal violence, for the millions displaced by the Narmada dam projects and by her opposition to nuclear weapons.

The sum of $50 000 is attached to the award, and Ms Roy has chosen to realise the efforts of the Australian indigenous organisations by donating the $50 000 prize money that accompanies the award. Indirectly that will benefit our communities. I am very pleased to report that Weena Mooga Gu Gudba Inc. (Aboriginal Women's Group) of Ceduna has been successful in receiving a part of the Sydney Peace Prize award (as selected by Ms Roy) and will receive about $16 000 (one-third of the prize money which is being shared).

WMGG Inc. is the Aboriginal women's group based in Ceduna. It was established in the early 1980s. The coordinator is Avis Dunnett and the chairperson Gwen Miller. The aim of WMGG is to deliver needs-based services to Aboriginal women in the community, such as a drop-in support service, domestic violence outreach services and the No Shame project (which addresses violence in the community), youth support services, CHYKS Group (young mothers), out-of-hours school care for children, family preservation support service, and visitor support service scheme for Aboriginal people detained in the local police station holding cells. They are all very good services, and, just by listing those services within one particular community, it shows the call on support services for Aboriginal people, not just in the remote areas but also in the regions. Funding for those support services, which in the main is staffed by volunteers, is very important. Any income support from the presentation of this prize is welcomed.

I understand that both the WMGG coordinator and chairperson were in attendance and were presented with the donation from Ms Roy. DAAR assisted the group by getting them to the award presentation in Sydney, and I thank them for their efforts. Two other Aboriginal groups—Redfern Women's Resource Centre and the Aboriginal Youth in Crisis Services (ACT)—were also present to receive their donation from Arundhati Roy.

Ms Roy is best known as the author of the Booker Prize winning novel *The God of Small Things*. She follows other distinguished recipients of the Sydney Peace Prize including:

- 1998, the founder of the Grameen Bank for the Poor, Professor Muhammad Yunus;
- 1999, former Nobel Prize recipient, Archbishop Emeritus Desmond Tutu;
- 2000, the poet artist and President of East Timor, Xanana Gusmao;
- 2001, the former governor-general of Australia, Sir William Deane;
- 2002, the former United Nations commissioner for human rights, Mary Robinson; and
- 2003, the Palestinian academic and human rights campaigner, Dr Hanan Ashrawi.

Ms Roy is in good company. On behalf of those groups that have been beneficiaries of the generous donation, I thank Ms Roy for her generosity in recognising the work that is done at the coalface through Aboriginal groups and organisations that desperately need support. She recognised that, as well, by making that donation.

## SMOKE ALARMS

**The Hon. IAN GILFILLAN:** I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Administrative Services, a question regarding smoke alarms.

Leave granted.

**The Hon. IAN GILFILLAN:** In the South Australian development regulations 1993 section 76B—Fire safety requirements—Smoke alarms in dwellings provides:

> (1) This regulation applies to Class 1 and 2 buildings under the Building Code (whenever constructed).
>
> (2) Subject to any other requirement in the Building Code, one or more smoke alarms complying with the Australian Standard 3786—1993 (as in force from time to time) must be installed in each dwelling that is, or forms part of, a building to which this regulation applies in locations that will provide reasonable warning to occupants of bedrooms in that dwelling so that they may safely evacuate in the event of fire.

As a result of another initiative I am making in regard to house inspections, I was approached by a landlord who brought to my attention that, in many residential buildings, although they have to be fitted with smoke detectors, the residents do not like them. They find them a nuisance because they can be triggered by cooking mishaps and incidental smoke generated within the building so, rather than using an extractor fan or opening a window, these residents actually disconnect the smoke alarm. In the case of the older models they may remove the battery, or in the modern hard wired model they may cut the wiring.

As the situation currently exists (and I must say I was stunned to find this), it is an offence to own a residential building with non-functioning smoke detectors, but it is not an offence to disable a smoke detector. So, we have this anomaly where the landlord can find that he or she becomes an offender, yet the person who exposed them to this hazard is not liable to any retribution or charged with any offence. I am amazed to find that. Is the minister aware of this deplorable situation? If so, why hasn't he done something to correct it? If not, will he share the concern of landlords in South Australia—and certainly me—to move swiftly to correct the situation so that anyone who disables a smoke detector is guilty of an offence? I believe the offence should be of quite a serious category, on account of the disastrous consequences that can occur from a non-functioning smoke detector.

**The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation):** I will refer the honourable member's important question to the minister in another place

and bring back a reply. I have been made aware of people who disarm these smoke detectors after a barbecue has got out of control by using a broom handle to switch them off. I would not like to see them charged with any offence on that basis. If the barbecue is put on too late and too much red wine is consumed, sometimes the temporary disabling turns into a permanent disabling, and if it is hard wired it presents a danger to the individual. I understand the point the honourable member is making, if someone turns off and permanently disables a smoke alarm. I will refer that important question to the appropriate minister and bring back a reply.

**The Hon. IAN GILFILLAN:** As a supplementary question, arising from that extraordinary answer: the minister said he did not want to see certain people charged. Obviously, if a smoke alarm has been triggered from an event which is not causing a particular fire hazard, the householder is entitled to quieten the alarm, which is normal procedure. I ask the particular question because the minister needs to reaffirm that in no way should it exonerate a person who has deliberately interfered with the proper operation of a fire alarm, either battery operated or hotwired.

**The Hon. T.G. ROBERTS:** I thank the honourable member for his clarification, and I will refer his important question to the minister in another place and bring back a reply.

## COOBER PEDY, PROBLEM GAMBLING

**The Hon. NICK XENOPHON:** I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Families and Communities, questions in relation to gambling rehabilitation services in Coober Pedy.

Leave granted.

**The Hon. NICK XENOPHON:** Last Tuesday and Wednesday I was in Coober Pedy at the invitation of Mr Boro Rapaic, a local councillor of the Coober Pedy council and President of the Coober Pedy Residents Association, to discuss with him and a number of Coober Pedy residents questions in relation to poker machines and their impact on the Coober Pedy community.

The information provided by Mr Rapaic and a number of residents to whom I spoke was particularly disturbing. Concerns were expressed about the impact on families, with reports that there are a significant number of cases of hardship for residents who are essentially recipients, and who needed to seek emergency assistance for food after losing most, if not all, of their benefits within two or three days of receiving such payments on poker machines, with all sorts of adverse consequences for the children in those families. I was also told by those involved in the local indigenous community of the impact of poker machine addiction being a significant additional stress or cause of dislocation in that community, especially amongst indigenous women. Generally, a number of issues were raised with me about the particularly harsh impact on the Coober Pedy community of poker machine addiction.

I was also told by residents that there were no longer any face-to-face gambling counselling services in Coober Pedy. I was told there was an occasional service several years ago out of Whyalla, but this was discontinued in 1999. My questions are:

1. What level of support is currently given by the Break Even service to residents of Coober Pedy in terms of counselling and other services, and will the minister urgently consider providing face-to-face counselling services in Coober Pedy?

2. Is the minister aware of some of the major problems facing Coober Pedy with respect to problem gambling from poker machines? Is he aware of whether the level of poker machine gambling in Coober Pedy is above the state average, and is he concerned about the level of problem gambling amongst indigenous women in that community?

3. Have FAYS officers in Coober Pedy reported on the social problems linked to poker machines and problem gambling and, if not, will he ask for a report on any such link?

4. Given the apparent lack of support for problem gamblers in Coober Pedy and those affected by it, can the minister advise how much money the state government collected in machine taxes from the Coober Pedy community in the past three financial years?

**The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation):** I thank the honourable member for his questions in relation to problem gambling in Coober Pedy, and I will refer those questions to the Minister for Gambling in another place and bring back a reply.

I was made aware of the issues facing the Aboriginal community as we passed through Coober Pedy. The honourable member will be happy to know that his advertisement in *The Coober Pedy Times* was not wasted. There was an article in *The Times* as well, I understand, reporting the honourable member's visit. It is not only a problem with Aboriginal groups within the Coober Pedy region; it has also been raised in relation to Ceduna and Port Augusta. *The Coober Pedy Times* is very widely read; I picked up a copy, and I think that the article was widely read in Umuwa. The honourable member will be pleased to know that the paper is read throughout the northern part of South Australia.

## URANIUM MINING

**The Hon. D.W. RIDGWAY:** I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question about uranium mining.

Leave granted.

**The Hon. D.W. RIDGWAY:** In Saturday's *Advertiser* there was a feature in the business section entitled, 'South Australian uranium back in world demand'. It detailed that Havilah Resources, an Adelaide-based company, announced in September the creation of a uranium exploration subsidiary. The article goes on to say that the company, Havilah, had known for some time that there was uranium in the tenements it owned in South Australia's North-East. The South Australian Chamber of Mines and Energy Chief Executive, Mr Phil Sutherland, stated:

> We're calling on the state government to show some leadership here and grant approvals for more uranium mines. The state's economic woes could be rectified by mining and selling uranium.

On Thursday 12 October 2004, on the State Plan web site, the government bragged that it had the highest percentage on record nationally of minerals exploration. My questions are:

1. Is the government considering reversing or revising its 'no new uranium mines' policy in light of the substantial investment in this state by prospecting companies and the economic significance of this natural resource?

2. Given the Premier's honourable goal of trebling the state's exports by 2013, will the government admit the hypocrisy of being unwilling to encourage uranium exports?

3. What plans does the government have to ensure that the massive investment in mineral exploration in South Australia is not wasted?

**The Hon. P. HOLLOWAY (Minister for Mineral Resources Development):** I have addressed this question on previous occasions. The Australian Labor Party has a policy at the national level of which I am sure that the honourable member is aware. We have just recently had a federal election and, in accordance with federal rules, all policies of the party will be reviewed over the next period between federal elections. I imagine that this policy, along with all the other policies of the Australian Labor Party, will be reviewed. It is not a 'no mines' policy; it is a 'no new mines' policy, and it has been around for something like 20 years. I think that all members are aware of the conditions in which that policy position was reached. It is a policy position that has been advantageous for this state because, under that policy, and the federal Labor government that existed at the time, only three uranium mines were permitted, and that was at a time when there was an oversupply of the resource; two of those were in South Australia. In fact, a third was subsequently approved just prior to the previous state election—the Honeymoon Mine.

Exploration companies explore for resources at their own risk. They know what the various policies are. I am aware of what Havilah Resources is doing. I was speaking to that company, as a matter of fact, just last week in relation to some of the other work it is doing in the Curnamona province, which is the region adjacent to Broken Hill. Some very promising gold, lead and zinc prospects exist in that region and, of course, uranium is also present in that region. It is right near the region where the Honeymoon uranium resources are. While I am talking about Honeymoon, it is worth pointing out that, even though that mine has approval, mining has not commenced yet even though those approvals have been in place for two or three years.

No doubt there is some rethinking in the world in relation to uranium use, and concerns include climate change and the use of energy in places like China which are massively dependent on coal. There are huge problems in relation to the impacts in those communities from the massive amount of coal that is consumed in those countries, not just greenhouse issues but also air pollution problems. When I was in China earlier this year, I remember reading a story about how 7 000 coal miners had died in China in the first 10 months of the year so, clearly, there are issues in relation to what energy those countries will use. Essentially, it is their choice but, no doubt, they will be the issues taken into consideration if there is any review of this policy at the national level.

We are very fortunate in this state as far as our energy resources are concerned because we do have alternatives. The honourable member himself has asked a question about hot dry rocks and how fortunate we are in this state to have such massive resources of energy that is in that area—

*Members interjecting:*

**The Hon. P. HOLLOWAY:** Well; it is correct. The resources in that area of the Cooper Basin are equivalent to the energy in the Saudi Arabian oil fields—that is how much energy is potentially available as hot dry rocks. We are extremely fortunate that we have a potential source of energy here that is pollution free and that it also has the advantage of being radioactive free. Other countries will have to make their choice. There is no doubt that climate change, global warming and all these issues are extremely important, and other countries will have to make their choice. In relation to policy, companies are free to explore for resources in this state. They know the risks that are involved. Labor policy is something that will no doubt be reviewed along with all other policies over the coming year or so.

## CORRECTIONAL SERVICES, PRISONERS

**The Hon. A.J. REDFORD:** I seek leave to make an explanation before asking the Minister for Correctional Services a question about correctional services figures.

Leave granted.

**The Hon. A.J. REDFORD:** Earlier this year I issued a press release exposing this government's law and order policy as being all talk and no action. In that press release, I pointed out that, despite the Premier's tough talk on law and order, he had only increased the prison population by seven prisoners and that next year he had budgeted for an increase of two prisoners. Last week, *The Advertiser* published an article in which it showed that, since 1994, the average time spent in prison was 'almost double the time spent behind bars'. The table showed an increase from 37 months (three years and one month) in 1994 to 58.7 months (four years and 10 months) under the former government: an increase of 60 per cent. It also showed a further increase to 61.7 months (five years and one month) under this government, which is an increase of three months (5 per cent).

After reading this article, I asked my staff to check the actual prisoner numbers in our gaols. I seek leave to insert a schedule which sets out prisoner numbers that I have obtained from various budget papers.

Leave granted.

| Year | Average jail time for SA Prisoners[1] | Daily average prisoner population[2] |
|---|---|---|
| 1994 | 37 months | No figures available |
| 1995 | 41.5 months | No figures available |
| 1996 | 43.2 months | No figures available |
| 1997 | 45.8 months | 1 499—actual |
| 1998 | 51.2 months | 1 445—actual |
| 1999 | 52.6 months | 1 426—actual |
| 2000 | 55.9 months | 1 338—estimated |
| 2001 | 59.5 months | 1 406—estimated |
| 2002 | 58.7 months | 1 435—actual |
| 2003 | 57.9 months | 1 469—actual |
| 2004 | 61.7 months | 1 476—estimated |

[1]Source—*The Advertiser* newspaper, Thursday, 4 November 2004, page 27.

[2]Source—Budget papers.

**The Hon. A.J. REDFORD:** This chart shows that we now have 23 fewer prisoners in gaol than there were in 1997 and, according to figures provided to *The Advertiser*, we have an average jail term of 15 months less. The only rational conclusion that can be drawn from these figures is that if we have fewer prisoners with a higher average jail term it means that we are not catching criminals. In that respect, the reported rate of serious crime has remained unchanged from 1997.

**The Hon. R.K. Sneath:** The crackdown on crime is working.

**The Hon. A.J. REDFORD:** You're not catching anybody. That's your crackdown on crime! They are missing. They're all going: la, la, la! That's what they're doing.

*The Hon. R.K. Sneath interjecting:*

**The Hon. A.J. REDFORD:** Well, they are. The crime statistics are the same, if you want to challenge that, and

similarly for serious offences. In the light of this, my questions are:

1. Does the minister stand by these figures which have been supplied to *The Advertiser* and provided by the minister's chief-of-staff?

2. Does the minister agree that the only rational explanation for higher than average gaol terms and fewer actual prisoners is that this government is not catching prisoners? If he does not agree, why not?

3. Is the minister aware that last week on radio 5DN the Chair of the Parole Board said that 'violent crime is on the increase', and does this not lend further support to the fact that we are not catching and convicting violent offenders?

**The Hon. T.G. ROBERTS (Minister for Correctional Services):** Some of the figures that the honourable member quotes I do not have in front of me to crosscheck, but I would expect them to be accurate. The information that I have is that some categories of crime have dropped, which would account for some of the reduction in prisoner numbers. The honourable member's figures in relation to serious crimes are possibly right. Most of the prisoners that we deal with are short-term prisoners. That is one reason why the prison system is so hard to manage: many prisoners have a less than 15 day sentence to serve. In relation to capacity—and these figures include some doubling up of prisoners—as at 3 November 2004, the Adelaide Pre-release Centre, which has a capacity of 60 prisoners has 49 prisoners; the Adelaide Remand Centre, which has a capacity of 247 prisoners, has 230 prisoners; and the Adelaide Women's Prison, which has a capacity of 99 prisoners, currently has 75 prisoners.

Cadell Training Centre's capacity is 140, and we have 124 prisoners. Mobilong Prison's capacity is 240, and we have 228 prisoners. Mount Gambier Prison's capacity is 110, and we have 105 prisoners. Port Augusta Prison's capacity is 280, and we currently have 250 prisoners there. Port Lincoln Prison's capacity is 68, and we currently have 65 prisoners there. Yatala Labour Prison's capacity is 405, and we currently have 357 prisoners there. Out of the total capacity of 1 649, we have 1 483 prisoners. Over time, that has been quite static.

**The Hon. A.J. Redford:** So, you're not tough on law and order; you're all talk and no action. When you're tough on law and order you've got more prisoners. That's how it works.

**The Hon. T.G. ROBERTS:** The honourable member said that we are not tough on law and order because we do not have more prisoners. But in terms of some of the categories of prisoners, we have had a fall in those crime statistics. It may be that the way in which the less serious crimes are being treated in relation to alternatives to prison has grown. I do not have those figures with me. I will obtain the figures with respect to all people who have been charged and convicted and the numbers relating to the alternative to prison in the past 18 months, perhaps, and bring those back for the honourable member. I thank him for the question. The issue facing us in relation to the number of prisoners is tied to the configuration of prisons, into which we are now conducting a review.

## PETROLEUM (SUBMERGED LANDS) (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 25 October. Page 301.)

**The Hon. CAROLINE SCHAEFER:** The opposition will be supporting this legislation, which is as a result of lengthy discussions between the various states affected by it and the federal government. It is in response to the Piper Alpha disaster in the North Sea in 1988. Since then, lengthy deliberations throughout the industry have led to new regulatory regimes throughout the world.

In December 2003, the commonwealth parliament amended the commonwealth act to provide for the establishment of the National Offshore Petroleum Safety Authority. That legislation commences operation on 1 January 2005. This bill, in fact, simply allows for that legislation to apply under South Australian law.

Currently, the Petroleum (Submerged Lands) Act, as I understand it, is the administrative authority for such legislation within this state, but is guided by the commonwealth Petroleum (Submerged Lands) Act. This particular piece of legislation only applies, as I understand it, to petroleum exploration outside the three nautical mile limit. There are no such exploration leases within South Australian authority at this time—although, as I understand it, there are eight exploration permits, most of which are interstate.

This legislation has been developed with the full support of industry, government and unions. NOPSA was set up to provide a nationally consistent safety regulatory regime to promote the occupational health and safety of persons engaged in offshore petroleum operations. We believe that the bill is non-contentious and has been agreed across the board. It further seeks to pre-empt, if you like, further legislation that will be introduced by the commonwealth parliament with regard to competition policies. Clauses 9 and 10 seek to bring our legislation into line with that which will be introduced, as well as that which has been introduced.

I have only one query, which I am happy to be answered when the bill is debated in another place, as it is an issue raised by my colleague the shadow minister (Mitch Williams) and concerns the formation of working groups. We seek simply further explanation of what defines a working group—whether it is an elected body; whether it applies to each shift; whether it applies simply to each mining authority on any particular rig; and whether there is any obligation for that working group to be presided over or controlled by union membership. The opposition supports the bill.

**The Hon. P. HOLLOWAY (Minister for Mineral Resources Development):** I thank the Hons Sandra Kanck and Caroline Schaefer for their indication of support. I undertake that the Hon. Caroline Schaefer will receive a response in writing to her question before this bill is debated in the other place. I thank honourable members for their contribution to the debate, and I look forward to the passage of this bill. I thank honourable members for their cooperation in getting it through. We would like this legislation to be in place by the end of this year so that, when the new scheme comes into operation on 1 January, we can play a part, along with the commonwealth and the other states. Again, I thank honourable members for the indication of support.

Bill read a second time and taken through its remaining stages.

## GAMING MACHINES (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 28 October. Page 419.)

**The Hon. R.I. LUCAS (Leader of the Opposition):** I rise to indicate my opposition to this bill. My position on gaming machines is well known to most members of this chamber and, I suspect, to many who follow the gaming machine debate closely. I am one of the members who back in the early 1990s supported the introduction of gaming machines into South Australia. I indicate openly, without reservation, that I have no reservations at all about the vote that I lodged in the early 1990s to support the introduction of gaming machines. Indeed, if confronted with the same position again, I would vote in exactly the same way to introduce gaming machines.

My position has long been that I share the concern of many of the 1 per cent or 2 per cent of the adult population who have problems in relation to gambling, in particular in relation to gambling on gaming machines. However, I continue to support the view that the 98 per cent or 99 per cent of the adult population who either have no problems or are disinterested in gaming machine gambling ought to be able to continue to enjoy gaming machines as a recreational pursuit.

Also, on a number of occasions—I have lost count of the number—I have opposed the notion of a cap on the number of gaming machines in South Australia. There have been probably three or four occasions when, in various guises, we have been asked to support either a cap or a freeze. I have steadfastly opposed those attempts and continue to do so. Put simply, my view is that all we do as a community in relation to caps is put a value on those who happen to be fortunate enough to be the first movers in the industry to own a gaming machine entitlement. If it is not capped, then the value of the gaming machine entitlement is significantly reduced.

So, by parliament's introducing and supporting the continuing notion of freezes and caps in recent years, we have placed a significant value on the gaming machine entitlement, and during the committee stage I suspect we will talk about what the value is of the gaming machine entitlement. We have placed that cap on it and we have given a significant benefit to the existing industry. I am not going to attack the existing industry as the Premier has; he has referred to hoteliers and publicans as 'pokie barons' and used other phrases to attack them publicly. That is not my style; it has been a decision of governments and parliaments to place this additional value on the industry. It was a decision of the parliament, supported in a large way by a former Labor government in the introduction of private members' legislation by Frank Blevins in the South Australian parliament, that saw the introduction of gaming machines into South Australia. So, most of the hotel industry and the people who own and operate hotels in South Australia have indeed had a benefit, but that has been as a result of decisions that have been taken by governments and parliaments. The decisions taken in recent years to support caps and freezes have significantly increased the value of those licences and businesses for those publicans and hoteliers.

I am forever bemused by the portrayal in the media in particular and by some politicians of the amount of money that is wagered, bet or gambled through gaming machines. The net gaming revenue is always portrayed as losses by poor South Australian punters. Along with all other members, I have considerable concern and sympathy for the 1 or 2 per cent of adults who are problem gamblers. However, the rest of the community is quite happy to invest recreational dollars in a recreational pursuit. In this case it happens to be gambling on a poker machine, with whatever social benefits people get from gambling on gaming machines. As I think was indicated previously by my colleague the Hon. Legh Davis on one occasion, I can quite happily go down and watch a Crows game and spend $30, $40 or $50.

*The Hon. T.G. Roberts interjecting:*

**The Hon. R.I. LUCAS:** No; just getting through the gate and getting a ticket and then, with additional dollars on stubbies, food and alcohol of an evening, it is quite easy for a single adult to spend $40, $50 or $70 for two or three hours of enjoyment and recreation at Football Park or AAMI Stadium, as it is now known. If one goes to see the Adelaide 36ers at the Distinctive Homes Dome, the cost of a ticket for an adult is $20 or $30, and again you can easily spend $40 or $50 for a evening's entertainment. There is a variety of ways that individual adults can spend considerable sums of money, whether it be for football or basketball. Those more artistically inclined can spend a whole lot more for a concert.

Those who recently went to the Bocelli concert at the Entertainment Centre spent just under $200 for the cheapest tickets. They spent between $200 and $300 for the middle level tickets and up to a couple of thousand dollars for the corporate entertainment tickets, again, for a couple of hours of recreational enjoyment. At the end of the night, if you have been to a Bocelli concert, to a Sixers game, the State Theatre Company, to see the Crows, or wherever, you have had two or three hours enjoyment, but you have nothing else to show for it other than your memories. It is the same thing if you spend $40 or $50 on a poker machine for two or three hours at your local hotel after you have had a meal.

As I said, in relation to the gambling industry, for all punters and gamblers, the recreational pursuit is described as a loss and, technically, of course, it is. For that small number of people—the one to two per cent who are problem gamblers—it is probably, for most of them, a loss that they cannot afford, but for most of the rest it is a loss that they can afford; it is an investment in their recreational pursuits. They have chosen to spend their $40 or $50 in a particular way. Yes; it can technically be portrayed as a loss as opposed to going to the basketball, the football, the State Theatre Company, or wherever, but for those people who can control their gambling it is a recreational pursuit.

As I said, I am forever bemused by the media, politicians and others who always portray the significant sums of money that are invested in gambling machines as losses being suffered or endured by long-suffering and to be pitied South Australian gamblers. Yes; for one or two per cent of those and their immediate families there is a significant concern, but for the vast majority of South Australians—indeed, Australians—it is a conscious, recreational pursuit; it is a conscious decision that those individuals have followed, and they are entitled to do so. It is a legal pursuit, and they ought to be able to continue to pursue that as unmolested as possible from those who wish to assist the one to two per cent who cannot control their gambling urges.

Given that background and my views in that summary of where I stand in respect of gaming machines, it will be of no surprise that I do not support the legislation. I did not support it when it was first introduced. Given the absolute dog's breakfast of a bill which we now have before us, it is a result

of many hours, a lot of them in the early hours of the morning when, clearly, people were tired. We saw the member for Reynell asleep on the House of Assembly benches so, clearly, members were very tired and not able to closely follow the detail of the considerable number of amendments that were moved in the House of Assembly at the time. When we look at the legislation, we are therefore not surprised to see the mess that now confronts this chamber. It is now this chamber's responsibility to see whether or not the legislation can be improved. For those who have the same view as I do, the question was whether or not there was sufficient cause to defeat the original bill; there is more than sufficient cause now to defeat the mess that we have before us.

I indicate that, for the further reasons that I have outlined, in all likelihood I will oppose the second reading and, certainly, the third reading of this legislation. For someone in my position who does not support caps and freezes, there is no concern in terms of defeating the legislation. There is a cap that stays in place until December. However, I indicate that those who do not have as strong a view as I do about the issue of a freeze or a cap of 15 000 machines, it is possible to defeat this legislation and still support the position that some members have of continuing the cap at the existing level of 15 000 machines without introducing this mess that is in the legislation before us.

Clearly, it is possible for members who think this bill is a mess—and I hope I can do my bit to convince members that this piece of legislation is going backwards rather than forwards—to defeat this legislation and still maintain the position of supporting a cap. It will require, as we have done, I think, on two previous occasions, emergency legislation in the last two weeks to continue with the cap. For those who have a view similar to my own—that is, that we ought to get rid of the cap as well—then, certainly, they can support the opposition to the second and third reading of the legislation.

Members would know that, in about February this year, the Premier gained for himself a lot of media publicity—as is his wont—by indicating that he was going to be a world leader or, if not, at least a national leader in terms of winding back the number of gaming machines. He made a number of extravagant claims in his release of 16 February and in subsequent media interviews.

*The Hon. Sandra Kanck interjecting:*

**The Hon. R.I. LUCAS:** The Hon. Sandra Kanck rightly points out that the Hon. Mike Rann actually supported the introduction of gaming machines into South Australia. I am sure that the Hon. Sandra Kanck will not be highlighting that in her contribution or, indeed, the hypocrisy of the Premier on this issue. Whilst there has been some criticism of former premiers Brown and Olsen on this issue, I do not think one could ever be critical of the fact that they had always been opponents of gaming machine legislation. They were not always in the parliament at the appropriate time for the vote but, right from the word go, they had been opponents of gaming machine legislation. In terms of the introduction of gaming machines, they indicated that, if they had been there, they would certainly have voted against their introduction, unlike the position that I adopted or, indeed, the position that the Premier adopted.

On 16 February this year, the Premier released his press statement and, in *The Advertiser* under the heading '3 000 pokies to be axed', the Premier was reported as saying that poker machines have been a conscience issue 'for time immemorial' and that making it a vote along party lines would have necessitated changes to Labor Party rules. He stated:

> I will be speaking individually to every MP—Labor, Liberal and Independent—urging them to support my position.

It is interesting, and not surprising, when one looks at the House of Assembly debates that, after speaking to my colleagues in the upper house, I cannot find a living, non-government member who has actually been spoken to individually by the Premier, although I do not know whether the Hon. Mr Xenophon has been spoken to. Some of my colleagues will refer to the impersonal, computer-signed letter that they received from the Premier on the issue.

**The Hon. Caroline Schaefer:** Dear Ms Schaffer.

**The Hon. R.I. LUCAS:** Dear Ms Schaffer, evidently, as my colleague says—a very personal letter to 'Dear Ms Schaffer'. No-one seems to have been spoken to individually or personally lobbied by the Premier as he made great play of. He got a lot of press coverage out of that in *The Advertiser* and a lot of the radio and television clips reported those particular comments. It was interesting in the House of Assembly debate that, when opposition members were highlighting that they had not been spoken to by the Premier, even the Labor member for Whyalla, Lyn Breuer, said that she had not been spoken to by the Premier or personally lobbied. So, this is not just an issue of opposition members saying to the Premier, 'What happened to this personal lobbying frenzy that you were about to launch upon all members?' Perhaps, it is not surprising that he did not speak to opposition members, but the member for Whyalla meekly said that she had not been lobbied either by her own Premier on this particular issue. I think that it is testimony to the way that Premier Rann has approached this issue.

For all intents and purposes it is for him a publicity stunt. It is an issue to be milked for the media mileage that it can give him. It is an issue which gives him a cheap column centimetre or two in the Eastern States' papers to say that Premier Rann is the only leader of government seeking to reduce the number of gaming machines in their jurisdiction. It gives him the easy sound bite when he does the Jeremy Cordeaux interview or the like on talkback radio when he says, 'I am the only premier who has ever reduced the number of gaming machines in South Australia, etc.'

**The Hon. Caroline Schaefer:** Mind you, he voted to introduce them as well.

**The Hon. R.I. LUCAS:** Yes. That is the background and the framework within which we are operating. It is not surprising that he got a lot of publicity for this by saying, 'I will personally lobby every member.' A number of my friends said, 'He is obviously very serious. He is not only going to be speaking to his own Labor members: he's going to be speaking to you, the Liberals and the Democrats. He will be sitting down with them.' I know that all my colleagues for months now have been waiting anxiously by their telephone for the opportunity to receive personal lobbying from the Premier on this issue.

We also know that Premier Rann made a number of significant claims after that announcement of 16 February, but they are too many to read onto the public record. He indicated on a number of occasions when he was asked whether or not he was going to support the amendments, but he continued to say pretty simply, 'I am not an expert on these issues. We employ the experts in the Independent Gambling Authority. They have come down with the report. This is the bill.' He was going to support the bill.

On a number of talkback radio sessions, people lobbying on behalf of the clubs put the point of view to him, 'What about exempting the clubs?' When he was confronted with that on talkback radio, he said, 'There are a lot of lobbyists scurrying around the corridors. This is a conscience vote. Even some of my Labor members are going to support it.' But he was supporting the legislation as it was introduced. Again, he returned to the argument that the members of the Independent Gambling Authority were the experts. They had introduced the legislation and he would be supporting that legislation. We know that those who have had the misfortune to slog their way through the *Hansard* transcripts of the House of Assembly—

**The Hon. Sandra Kanck:** Have you?

**The Hon. R.I. LUCAS:** Yes; I have, as have some other members.

**The Hon. Sandra Kanck:** You should get a meritorious service medal.

**The Hon. R.I. LUCAS:** I am not sure whether it is meritorious service but, certainly, it has questioned my sanity.

**The Hon. Sandra Kanck:** Were you having trouble sleeping?

**The Hon. R.I. LUCAS:** I must admit that I finished the last transcript at the end of the Manchester United v Manchester City game this morning.

**The Hon. Sandra Kanck:** What time was that?

**The Hon. R.I. LUCAS:** At about 4.30 a.m. It was a very sad end because it was a nil all draw for those of us who are Manchester United supporters. It was at that stage that I read the last of the committee stage of the House of Assembly debate. It was apparent from that that here was a Premier who, since February, has been saying that he was not going to be rolled by any of the lobbyists stalking the corridors of Parliament House. He was going to stick with the experts of the Independent Gambling Authority and its legislation.

What happened, of course, was that he supported a number of the amendments that were introduced into the House of Assembly and went against what he said on a number of occasions prior to the introduction of the bill. There are at least two or three examples of key amendments that were moved to his own legislation that he ended up supporting. On some occasions, he left his own Minister for Gambling sitting there like a shag on a rock, lonely and unsupported on the other side of the chamber, whilst he scurried across the chamber to get among the numbers for fear of being pilloried by the press as a leader unable to garner support from his own backbench for his position on a number of those key issues—and I will address some of those in committee.

Again, the Premier had ever an eye for the media and ever an eye for how this was going to be played out in the media, and principles flexible enough to say one thing in February and to say another thing and to vote another way when the amendments were introduced and voted upon in the House of Assembly. That was the sort of leadership that Premier Rann provided to his party and his colleagues. As I said, one does not normally feel sympathy for the Minister for Gambling, but perhaps on this occasion he is entitled to a modicum of sympathy, because he was left like a shag on a rock by his own Premier.

I also remember seeing from reading the debate that there has been some revision of history by the Deputy Premier. Of course, he comes to this debate with soiled hands. Anyone associated with the gaming industry would remember the infamous words of Kevin Foley (recorded in *Hansard* of 15 July 2002) when he said to the Leader of the Opposition:

> You do not have the moral fibre to go back on your promise. I have, because I have done the right thing in taxing the industry.

That is an indication of the moral foundation of this government in relation to the gaming industry. As we all know, not long before that, on 26 January 2002, a cosy letter from the then shadow treasurer, Kevin Foley, to Mr John Lewis of the Australian Hotels Association stated:

> Dear John—

very chummy—

> Thank you for the opportunity to explain the Labor Party's position on taxation as it relates to the hospitality industry.

Without reading the whole of the letter, further on is the important statement:

> Importantly, Labor will not raise taxes or charges from current levels or introduce new taxes and charges to fund our modest spending program to achieve a balanced budget.

That was a commitment on behalf of a future Labor government that they would not increase taxes on the gaming industry in South Australia for the four years of this parliamentary term—

**The Hon. J.F. Stefani:** Or any other taxes, for that matter.

**The Hon. R.I. LUCAS:** —that's true: or any other taxes, as the Hon. Mr Stefani indicates. Of course, the Australian Labor Party was quite happy to receive financial contributions from the hotel industry to fight the 2002 state election campaign on the basis of a significant written commitment, but not only did they then have the effrontery to break that promise they had the arrogance to try to rub the nose of the Leader of the Opposition in it. This Labor government was prepared to break its promise, with the Deputy Premier sneering at the opposition: 'You do not have the moral fibre to go back on your promise. I have. . . '

There are some in the industry who are comforted by the fact that this same person and this same government (or a number of its members) have supported, supposedly, a 10-year commitment not to increase taxes and not to reduce gaming machines in South Australia. I have said to industry representatives—and I say it again publicly—that that commitment from this Labor government is worth no more than those two pages of commitment that Kevin Foley gave you on 26 January 2002. This man and this government are quite happy to tear up that written commitment. This man and this government are quite happy to say one thing on one occasion and to quite happily tear up those commitments and agreements weeks or months later.

No-one will convince me that these people and this government can be trusted for any longer than a few weeks, let alone a period of 10 years, in relation to this issue. At least one can give credit to the Minister for Gambling (Hon. Michael Wright) who, without quoting his words exactly—let me paraphrase what he said in another place—said that, in essence, these amendments were a waste of space, a waste of time, because no parliament can bind a future parliament. He was clearly indicating that, in the future, he and other members of this Labor government will again look at these issues of taxation on the gambling industry and the number of gaming machines in South Australia.

They do not feel bound by any commitments, or intentions, that have been placed in the legislation. If they are not bound by a specific personal commitment in a letter and a personal commitment given by the Deputy Premier to representatives of the hotel industry in meetings face-to-face,

eyeball to eyeball, man to man, why would they be bound by the sorts of commitments or intentions that have been put in the legislation in the debate in the House of Assembly?

There are people of goodwill in the opposition in another place, in respect of whom a commitment given will be a commitment kept in terms of intentions and, certainly, those who operate within the hospitality industry can rest assured that those commitments with respect to a future Liberal government would certainly be kept by the people who have given them.

As I said, a couple of features of the House of Assembly debate was certainly an indication of some revision of history, and I will not go through all the detail. The Deputy Premier indicated that he had opposed the establishment of the Independent Gambling Authority. This morning I had a quick look at the debates, and I stand to be corrected if the Deputy Premier can point me to the detail of that, but when he spoke on behalf of the opposition members he indicated support for what he referred to as the administrative processes within that legislation that established the Independent Gambling Authority. There were provisions in relation to a cap, which at that stage he certainly opposed, and that was separated out into a different piece of legislation. But, on the material that I have seen, he was certainly supportive of the establishment of the Independent Gambling Authority.

The other aspect of the House of Assembly debate to which I wish to refer briefly (it seemed to gather a lot of attention in the House of Assembly) was a lot of criticism of the Independent Gambling Authority and, in particular, the role of Mr Stephen Howells. I have not known of an instance of a chairperson of an independent authority attracting such a mauling from such a wide variety of people. When one looks at the debates, one will see that there are the more usual, or noted, critics of the Independent Gambling Authority and Stephen Howells but, in particular, significant criticism of Mr Howells' role by the Deputy Leader of the Opposition (Hon. Dean Brown), of course, comes to this debate from an entirely different perspective to mine. He has been a staunch opponent of gaming machines in South Australia, but he was trenchantly critical of the role of Mr Stephen Howells.

I think that the Premier and the government really need to look at some of the commentary in that debate as it relates to the authority and to Mr Howells' position, in particular. Again, I will not take time in today's debate to go into all the criticisms of Mr Howells, but suffice to say that he is accurately portrayed as a Labor mate. He has done a lot of work with the union movement; he has had close associations with the Bolkus, or Conlon, Left in South Australia; and he is mates with the Minister for Energy (Hon. Mr Conlon) and minister Weatherill. There was significant criticism, without going into all the saucy stuff on this occasion. But there was certainly criticism as significant as 10, 20 or 30 people from the industry assembling for a full day's hearing in South Australia and, without any notice, Mr Howells not turning up for half a day of a particular hearing. So, everyone sat around in a hearing room waiting for Mr Howells, only to find out that he would not be there. As I said, when it involves people from interstate attending these sorts of hearings, that is not the way to conduct business; it is not the way to regulate business in South Australia.

Whilst the government will reject criticism that it might see as partisan in relation to Mr Howells' political connections (and that is this government's style; fair enough), I think it needs to listen to some of the industry criticism of the way in which he has been conducting the operations of the Independent Gambling Authority. As I said, there may well be further discussion and debate on other occasions about that. But I think the government needs to listen to the message that came from a significant number of lower house members and, as I said, from members who come from all perspectives, including people such as the Deputy Leader of the Opposition, who has never been a supporter of the gambling industry or gaming machines in South Australia.

Looking in overall terms at the structure of the bill that we have before us in the Legislative Council at the moment, the bottom line from my viewpoint, and from that of many others, is: we have heard the rhetoric from the leader of the Labor Party as to what a good thing it is to get rid of 3 000 gaming machines in South Australia. But I think that we need to closely look at the impact of the bill we have before us, if it was passed, on the level of problem gambling in South Australia.

It is an easy column centimetre or media headline to say, 'We're reducing the number of gaming machines.' I think it is fair to say that many people probably believe that, by reducing the number of gaming machines, we will in some way reduce problem gambling in South Australia. Certainly, the limited evidence available indicates that that case has not been made out—quite the contrary.

Reading the budget papers, we know that the South Australian Treasury does not agree with that contention. When one looks at the revenue estimates in the 2004-05 budget papers, one sees that the estimated taxes collected from gaming machines in 2003-04 amounted to $280 million; that this year's estimate is $302 million; that a rounded-out estimate for next year is $322 million; and that the following year's estimate is $344 million. Those figures show steady growth, and, from last year's base, there has been an increase this year of $22 million. Compared with the base in 2003-04, next year the increase will be $42 million; the following year the increase will be $64 million; and, in 2007-08, the increase will be $47 million.

From the base of $280 million in 2003-04, there will be an increase of about $175 million in gaming machine taxes over the next four years, with significant growth over the following three years and, when the smoking bans are factored in, the first reduction in absolute terms in gaming machine taxes is estimated to occur in 2007-08. So, the estimates for the growth in tax receipts are: 8 per cent, 6.7 per cent, 6.6 per cent, and then a 4.9 per cent reduction in 2007-08. Therefore, we see that Treasury is saying to the Premier that it knows he is getting rid of 3 000 machines (or he thinks he is, and we will talk about that in a moment, but it will certainly be a couple of thousand if the legislation is passed), but the level of taxation being collected by state Treasury from gaming machines will continue to rise—and rise significantly.

The issue that is estimated to impact is the smoking ban in 2007-08. I understand that some information available for the first quarter of 2004-05 indicates that those Treasury estimates for tax collection in 2004-05 (an increase of $22 million) will be significantly higher. I accept that the results of the first quarter do not always indicate what will happen for the remainder of the financial year but, generally, they have been a reasonable indicator in relation to the gaming machine industry in South Australia.

Potentially, we could see greater increases again than those I have just outlined and those that Treasury has indicated in its budget estimates. Certainly, the evidence is not there that Treasury believes anything that the Premier is

saying. I have a degree of regard for the officers within Treasury who work in this area: they are the loyal foot soldiers of the government of the day in terms of putting the best possible gloss they can (within the constraints of accurate predictions) on these estimates of revenue. However, at briefings we attended earlier this year they found it very difficult to provide to the opposition any evidence that the reduction in gaming machine numbers would do anything to reduce the extent of problem gambling in South Australia. As I said, they have done their best to finesse it, and good luck to them—that is their role as public servants advising a new Premier and a new government. However, speaking frankly, they have been entirely unconvincing to the opposition in being able to provide any evidence that the reduction of 3 000 machines would reduce the extent of problem gambling in South Australia.

I return to what Premier Rann talked about as his reason for supporting the legislation and why it would support the reduction of problem gambling in South Australia. The executive summary of the IGA report states:

> Taking all this into account, the authority has concluded that there is a causal relationship between the 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 places where gaming machines are available should be reduced. The authority believes that there is support in the evidence that such action will reduce the growth in problem gambling and, if carefully implemented, will provide opportunities for a combination of harm minimisation measures to be effective.

That is the claim of the Independent Gambling Authority. I repeat that the authority says that it is satisfied that both the total number of gaming machines and the number of places where gaming machines are available should be reduced. The authority believes that there is support in the evidence that such action will reduce the growth in problem gambling. It is easy to make that claim, but there is precious little evidence at all provided by the Independent Gambling Authority to back up that essential premise, and that is the premise that the government, and those who support this legislation, is putting to this council and to the parliament—that is, reducing gaming machine numbers by 3 000 will reduce the number of problem gamblers. The Independent Gambling Authority (the experts) told us it would; therefore, we will do it, even though the Premier has now changed his position on a number of key aspects. Nevertheless, that was the original position of the Premier.

When one looks at the Independent Gambling Authority report to see what is behind the claim it makes, there is precious little evidence. It refers to a couple of documents. My very good friend and colleague the Hon. Mr Xenophon on occasions has referred to these documents as evidence of the connection between the number of machines or caps and problem gambling; that is, the Productivity Commission and some research which has been done in South Australia, supposedly by Dr Paul Delfabbro. I will to refer to them and go into the detail because many in the community, the Premier and others included, misquote or misunderstand—or both—what exactly the Productivity Commission and Dr Delfabbro, and others, have actually said or done in relation to this essential question as to whether or not a reduction of 3 000 machines reduces problem gambling.

The Productivity Commission report of 1999—it is dated now, but, nevertheless, it is used by all and sundry to back their arguments—in chapter 15 under the heading, 'Regulating access', the summary of key messages states:

> Caps on gaming machine numbers are blunt instruments for reducing adverse social impacts associated with problem gambling or dealing with community concerns.

The essential question here is not the issue of whether or not we as a community now introduce 15 000 or 12 000 machines, and whether or not that will lead to problem gambling: what we are being asked to address as the parliament is that we have 15 000 machines, and will reducing the cap by 20 per cent do anything in relation to problem gambling? Too often, with the greatest respect to my very good friend and colleague the Hon. Mr Xenophon, and others, the research quoted from the Productivity Commission's report and others relates to aspects of their research which talk about, in essence, moving from the greenfield site to the widespread introduction of gaming machines. We have 15 000 gaming machines and we are being asked to support a reduction to 12 000 gaming machines; that is what this bill is about. It is not about the introduction of that number of gaming machines into South Australia. The Productivity Commission's report states:

> However, state-wide caps on gaming machines could, perversely, have adverse effects on existing problem gamblers. As the cap binds, player returns would be expected to slowly fall (possibly as far down as the floor to returns set by the government). As problem gamblers are likely to be less responsive to price changes than other gamblers, they would continue to play at much the same rate as before, albeit at a higher price. This implies that overall expenditure by existing problem gamblers might rise, even though machine numbers had fallen. (Or if playing to the limits of available funds, will run out sooner—putting more pressure on the need to obtain more money.)
>
> For the same reasons, it may also lead gamblers at risk of developing problems to 'cross the threshold'. Among such people would be those who have very inelastic demand and can just afford their gambling prior to the cap. They may experience some of the traits of a problem gambler, such as chasing losses, guilt and preoccupation, but they can just afford their current pattern of play, without major problems. The cap, by inflating prices, increases their expenditure past the point of affordability, triggering some of the more harmful aspects of problem gambling (relationship problems, possible crime, intensification of anxiety and so on).
>
> Thus, whether caps are in the public interest depends on the trade-off between:
>
> · the relative magnitudes of additional burdens placed on incipient and current problem gamblers and pleasure forgone by recreational gamblers; and
> · the magnitude of the costs avoided by reducing the number of new problem gamblers.
>
> The effectiveness of state-wide caps in controlling problem gambling would, in part, depend on the starting point in the community which is contemplating caps. Where the starting point is one of considerable accessibility to gaming machines—as in New South Wales and Victoria—then the current number of problem gamblers is already high relative to the future possible reduction of problem gamblers that could be achieved by any realistic cap. In this case, (binding) caps would not be likely to reduce problem gambling (but would have adverse impacts on recreational gamblers).

It is a long quote, but I want to emphasise the last aspect of it, which refers to the Productivity Commission's view on the effectiveness of statewide caps in controlling problem gambling. They say that you must look at the state of the market about which you are talking when referring to a cap. Members must remember that this report was done in 1999—or probably just before that. Where there is considerable accessibility to gaming machines, say New South Wales and Victoria, then they cast significant doubt on the ability of caps to do anything about problem gambling.

It is my view, not the Productivity Commission's—because we are now in 2004 rather than when this report was written—that we have considerable access to gaming machines in South Australia. We have 15 000 gaming machines spread throughout the length and breadth of South

Australia. They are easily accessible to those who wish to gamble. It is my view, based on what the Productivity Commission has said in relation to New South Wales and Victoria, that we can make exactly the same point here in South Australia; that is, if I can summarise, there is precious little evidence that would indicate that the introduction of a cap will do much in relation to controlling problem gambling in South Australia.

The Productivity Commission report is a significant volume, which is quoted at length by opponents, including the Hon. Mr Xenophon, to support their particular position. What I seek to do, coming from a different perspective, is to indicate that the Productivity Commission certainly cannot be used, in my view, by the supporters of the cap to say, 'Here is the evidence to indicate that a cap in South Australia, in our current marketplace and environment, will actually do anything about the reduction of problem gambling in South Australia.'

'Challenge' is too strong a word, but I am happy to enter into a debate when we get into committee and to hear from the Hon. Mr Xenophon, as I am sure we will, in relation to actual evidence in South Australia which will indicate that this reduction will reduce problem gambling. When one looks at the statements that the Hon. Mr Xenophon makes, we see that he is becoming as clever as the Minister for Gambling as to what the impact will be on problem gambling as a result of these measures. When he is asked by talk show hosts whether this will reduce problem gambling, he is as slippery as the Minister for Gambling in not nailing his colours to the mast. The Minister for Gambling now says there is a range of measures; there is a package.

*Members interjecting:*

**The Hon. R.I. LUCAS:** Slipperiness is to be admired in a politician on occasions; I am critical of downright dishonesty in certain politicians only when they say one thing and do exactly the opposite. I am not accusing the Hon. Mr Xenophon here; he is putting the best possible gloss on his argument, and I suspect—and this is my argument—that he recognises the weakness of his argument when he has to respond to radio talk show hosts in relation to whether he will stand up in this council and say that by itself this measure—the reduction of 20 per cent of gaming machines—will significantly reduce the number of problem gamblers in South Australia.

I challenge the Hon. Mr Xenophon to respond specifically to this question in his contribution, not on the issue of the package, providing gambling orders and a variety of other things which the Minister for Gambling talks about, but by nailing his colours to the mast as the leading opponent of gaming machines in South Australia, and by standing up and saying in this chamber and to his supporters that this measure and this measure alone will in and of itself lead to a significant reduction in problem gambling in South Australia.

Not that I am a gambling man, but I would not mind putting a small wager on the table that we will not get a direct response to that challenge from the Hon. Mr Xenophon, because I think he realises that, as the Minister for Gambling is doing, he must talk about a package. Even the Independent Gambling Authority talked about the need for a more significant reduction. It talked about long-term reductions, along the lines that we will look at what we do with the first bite and come back for more chomps later on. I know that is the sort of approach the Hon. Mr Xenophon will support and, if the Independent Gambling Authority with its current chair stays there, he will support that irrespective of what occurs with legislation: one bite today, but a few more bites down the track to try to get rid of what they see as a cancer within the South Australian community, that is, gaming machines and those whom they see as profiting from them.

The second bit of evidence we referred to came from Dr Delfabbro. The Hon. Mr Xenophon has referred to Dr Delfabbro on a number of occasions when he asked questions. The IGA states in its report that it commissioned research specific to the South Australian environment from the University of Adelaide, and it was undertaken by Dr Paul Delfabbro. One needs to go back to look at the terms of reference for the present study undertaken by Dr Delfabbro. I refer to exactly what he says, as follows:

> The study that is described below was commissioned by the Independent Gambling Authority of South Australia in September 2002. With a time-frame of a little under three months, the aim of this study was to develop a concise discussion paper that would provide the evidence to inform decision-making and discussion in next year's review of the existing freeze of EGM numbers. Given the short time-frame, this would achieved, not through the collection of new data, but via the detailed analysis of the most relevant and available archival data sources.

There was no what you would call primary research of the South Australian situation in terms of evidence. I am not making a criticism of Dr Delfabbro in relation to this, I hasten to say; he was given three months and clearly he was not in a position to be able to do that. I am not criticising him or his integrity or what he was required to do. I highlight the limitations of the research and the evidence that the Premier and others are relying upon to support this notion that a reduction of 3 000 machines will reduce problem gambling. He did not conduct any new data research or primary research but in essence trawled through relevant and available archival data sources. That means he looked at what others had done elsewhere or in the past in relation to South Australia. Further, he states:

> It was not realistically anticipated that the study would have the capacity to identify the existence of a causal link between variations in EGM numbers and harm.

I will repeat that:

> It was not realistically anticipated that the study would have the capacity to identify the existence of a causal link between variations in EGM numbers and harm.

This was the critical point I referred to earlier in relation to the Productivity Commission. We are not talking about virgin territory, dumping 15 000 machines: we are talking about whether we keep them at 15 000 or reduce them to 12 000—that is, a variation in numbers—and whether or not there is a causal link between the levels of problem gambling in the community. In his terms of reference Dr Delfabbro makes clear what the limitations of the study were.

Under point 1.33 of his report under the heading 'EGM availability and problem gambling, supporting evidence,' the report states:

> Thus, the Commission believes that there is almost no question that the introduction of EGMs has significantly increased the level of problem gambling. However, what remains unclear is whether increases in EGM numbers beyond a certain minimum point, (i.e., within States that have machines in the community) is associated with differential rates of problem gambling. That is, in this issue of freezes and changing the numbers it is unclear as to whether or not that is associated with differential rates of problem gambling.

That, after all, is what we are being asked to vote on. That, after all, is what the Premier and others are saying are the reasons why we in this place ought to support a reduction in the number of gaming machines.

The other aspect of this reduction is that, of course, the publicity headline of 3 000 machines looked a lot better when it was 3 000 rather than 2 461 machines. It was, in essence, what Premier Rann was told would be the actual reduction in the number of machines as a result of the model that the Independent Gambling Authority introduced. That did not look as good as 3 000 on the press release, or for the headline in *The Advertiser*. In the implementation of that original Independent Gambling Authority report, if you put the numbers into the sausage machine, it did not churn out a tidy number of 3 000; it churned out a number like 2 461. When that issue was publicly highlighted, there was much paddling underwater, because the Premier told senior advisers, 'Well, I've said 3 000, and it is going to be 3 000, so someone better come up with a way of making it 3 000.' Of course, that responsibility rested on the shoulders of the long-suffering officers within Treasury to come up with the figure of 3 000.

Of course, as a result of the vote in the House of Assembly, that 2 461 has dropped by 285 machines, so we are down to just over 2 000 machines as one processes particular numbers that come through the particular model that we have before us. Of course, added to that we have the additional elements of the model in that there will now be continuing opportunities for hoteliers and others to give up further machines and further reduce the number to get us up to the 3 000. So far, for what seemed to be years, no one in the House of Assembly debate answered the question—

*The Hon. Nick Xenophon interjecting:*

**The Hon. R.I. LUCAS:** Mr Xenophon says 30 hours of debate. No one ever answered the question as to when we were going to arrive at the 3 000. How many years down the track will it be before we arrive at the 3 000? I know that the government spin doctors have been telling the media that that will be a relatively short period of time, and they say, 'Don't you worry about that. I have said 3 000 as the Premier, and it will be 3 000; and that will occur in a relatively short space of time.' There are others within the industry who have put the view to me that they do not share the Premier's optimism, and that it will certainly be a longer period of time. There must be information available to Treasury and the government which would indicate what that time period might be, and that will certainly be one of the issues that we will pursue in the committee stage of the debate.

Of course, one of the other changes that has been introduced and about which we will have some discussion is the cap within the cap; it is now the cap on the value of machine entitlements—a $50 000 cap which has been supported by the House of Assembly and, as I understand it, by the bulk of the industry as well. If one looks at the commercial reality of why someone would give up a machine—and I have not run a hotel—if I had six machines, Mr Acting President, I put the simple proposition to you that, if the potential value of that machine was $100 000 under one trading system, would you be more inclined to sell your six machines than if it was capped at $50 000? I am only a simple member of parliament, but, if I did have six machines, I would say that I would be more inclined to sell six machines at $100 000 than I would six machines at $50 000. The Hon. Bob Sneath possibly even agrees with me on that particular issue.

Therefore, we have the situation where the government has moved from a position where there was considerable encouragement for those who I saw in my travels in regional South Australia over the past three or four months when I met with hoteliers, and I thank John Lewis and the AHA for organising appropriate contacts in regional communities in recent months. Certainly, it is my impression that a number of those hoteliers were rather attracted to the notion of a value that might have gone as high as, I understand it, $130 000 (which is the case in New South Wales) for a gaming machine entitlement; but, even if it was to be only $100 000 it is certainly a significant incentive.

As I understand it, when we get to the 3 000 the proprietor actually loses the 33 per cent commission on the $50 000 entitlement, so the returns to the hotelier will be correspondingly reduced again in the future in relation to the decision as to whether or not he or she will sell into the pool. I am waiting for those who support this cap to explain how this will work, because the notion has been that it is not just the issue of the number of machines that is wrong but also the number of venues. We need to reduce the number of venues. By encouraging the smaller venues to sell their machine entitlements it will reduce the number of venue options in South Australia.

I await the debate in the committee stage where those who support this cap can indicate to me how this will actually encourage a further reduction in the number of venues or sites in South Australia when the value has been reduced possibly by half or even more. I would be interested to hear from the Hon. Mr Xenophon as well on this particular issue as to how this fits with the view that he and others have in terms of encouraging further reductions in the number of gaming machines in South Australia.

Finally, I am currently contemplating having a look at a number of areas in terms of possible amendments. I note that, at this stage, we have not seen any amendments. I am waiting with bated breath for the telephone directory of amendments from the Hon. Mr Xenophon, because we will need to see those before we can get anywhere near the committee stage of the debate. We will need to have some time to have a look at those. I suspect that the Australian Democrats will have some amendments, and we will be keen to look at those.

I flag that, subject to having a look at those amendments, I am currently contemplating the possibility of some amendments. I have not formed a final view yet. I am looking at amendments in relation to the financial viability of the gaming industry. I understand from the AHA that I need to look at some information in relation to stances that have been adopted by the chair of the Independent Gambling Authority, in particular. I have been back through the debates in this chamber; it is quite clear what the intention of the parliament was. As the Treasurer at the time, it is quite clear what my intention was in terms of handling the bill on behalf of government members. We were referring to the gaming industry, in particular, although, because it is the Independent Gambling Authority, the word gambling has been used. The issue of a sustainable and responsible gambling or gaming industry was to be one of the issues which helped guide the operations of the Independent Gambling Authority. That is what is in the objects of the authority under the act.

I am considering an amendment which will not be in the same terms as my colleague the member for Morialta, but it will be along the lines of ensuring that the intentions of the legislation, when it was originally passed in 2001, will be followed and cannot be subverted by any chairman or authority who seeks to reinterpret what was the clear intent of the parliament in relation to what I understand to be a sustainable gambling industry as a whole, as it has been put to me. As I said, I await the further evidence that in some way a sustainable gambling industry might entail being able to wipe out one section of the gambling industry but you could

still have a sustainable gambling industry. That certainly was an intention of the majority of the parliament when that provision went through originally.

I have some concerns about the 33 per cent commission that the government seeks to take. I am looking at what, if anything, I might do in terms of suggesting an amendment to reduce that commission to a more appropriate and reasonable level. I have some concerns about the drafting of the social impact statement clause of the bill, in particular, as to how that might be interpreted. Again, I think I know how the Hon. Mr Xenophon will interpret this provision. I think he would be licking his legislative chops and his legal chops at the same time in relation to this provision.

I am contemplating whether or not a more sensible amendment might be incorporated there. I have some attraction to what was raised by my colleague the member for Mawson in relation to some of the provisions relating to Club One; in particular, whether or not there should be some legislative restriction on the level of management or administrative costs that might be taken out by the administrators of Club One. I am happy to put that on the record and, if Club One proponents are prepared to provide some detail to me about what their constitutional rules will set out, I am prepared to have a look at that. Certainly, I would be concerned if those who operated Club One were to take out what I would deem to be unreasonably high management fees or salaries in terms of administering the Club One concept and thereby reducing what might be any potential benefit going back to the clubs.

When we get to the committee debate on the clubs, my original position is to oppose caps, the legislation and everything but, if I am unsuccessful, and there is a reasonable prospect that I will be, my intention is to support the amendment in relation to the clubs which my colleague the Hon. Terry Stephens has been pushing for some months and, as has been taken up in the lower house in recent times by Mr O'Brien in relation to clubs. I admit that I am a little bemused at some of the claims about the relative health and financial liability of all of the SANFL clubs. I accept the view that some are in trouble, but I would be happy to share how some of those figures might have been massaged to give the appearance of all of them going down the tube at a great rate as it was presented in the House of Assembly.

The other issue that I am contemplating is the reviews of the effectiveness of this legislation, how they might operate and how often they might operate. An amendment to this area has been moved. The government was opposed to having a review after the first 12 months. One can understand that because that would actually be prior to the next state election, and the government would not want a review of the effectiveness of this legislation being revealed publicly prior to the next election. With those remarks, I indicate my trenchant opposition to this legislation and my continuing strong opposition to caps and freezes. I will do all I can to remove caps and freezes but, in the event that I am unsuccessful, I will contemplate amendments along the lines that I have outlined.

**The Hon. CARMEL ZOLLO:** As this legislation requires a conscience vote for government members, I indicate my support for the reduction of 3 000 poker machines in South Australia. It is interesting to hear that the Hon. Rob Lucas believes that the Premier's support for this legislation is purely a media stunt, given that the legislation before us is the direct result of recommendations by the IGA. Is the honourable member saying that the Premier should not show leadership when we have a very serious issue identified by an authority which was set up by this parliament?

During my time in this chamber I have tried my utmost to support all harm minimisation efforts in recognition of the dreadful impact that the introduction of poker machines has had on the lives of those who become addicts and the subsequent impact on their families and friends and the wider community. On previous occasions I have spoken at some length about this harm and the evidence to back it up. Unlike the other place, those of us who have been in this place since the last parliament have had the opportunity to speak on many occasions on gambling, probably because of the presence of the Hon. Nick Xenophon.

As I flicked through some past contributions, I noted what I said in the debate in July 2000. I suspect these comments were made in respect of one of the freeze debates, and I said:

> . . . we need to seriously consider just how much more our gaming machine industry can expand without a substantial growth in our population and without the social costs that come with such growth.

The Independent Gambling Authority's view is that at least 2 per cent of the adult population is made up of problem gamblers. That equates to some 15 per cent of gamblers who, in turn, apparently represent 40 per cent of gambling expenditure and turnover.

On the last time we sat, I made some notes in preparation for this legislation, but I was pleased to receive—as I am sure all members have—information from the Centre for Economic Studies dated 1 November 2004. The centre points out that, relative to Victoria and New South Wales, on a comparative population basis South Australia should have approximately 10 000 machines. I agree with the centre's view that this reduction from 15 000 to 12 000 is appropriate. Whilst it is a blunt instrument, it will assist problem gambling at some level.

I think the analogy that the centre used to point out the importance of the issue of problem gambling was very telling. It compared the number of people ultimately estimated to be affected by problem gambling and those affected by drink driving and other safety driving issues. There is no argument that the strategies used are vastly different. The ministers in the other place and in this chamber have clearly set out the manner in which the reduction of 3 000 machines (or a 20 per cent reduction) is to be achieved. In this bill, as it was presented in the other place—a mess is what I think the Hon. Rob Lucas says we have before us—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 called Club One to assist the clubs sector.

The merit of Club One is commendable. This single special-purpose non-gambling entity is to be established to assist the clubs sector by rebuilding its capacity and resourcing. Again, the manner in which Club One is to be established and to operate is clearly set out in the second reading explanation. I see no reason to go over it again other than to say that, as I have said, I agree that it will have the capacity to provide a significant advantage to the clubs industry. The case is made that tradability will result in fewer machines and fewer premises which, of course, is of benefit to problem gamblers. The IGA has concluded that there is a causal relationship between the accessibility of gaming machines

and problem gambling. Therefore, the reduction in the number of machines makes it harder, I guess, for patrons to gamble.

On this occasion I have had some difficulty in coming to a decision, in relation to not the reduction in numbers but, in particular, whether the numbers should be reduced as per the original legislation in all venues where they are currently installed. We have received some intense lobbying to have the clubs sector exempted. The reason for my indecision about the exclusion of clubs is that this parliament set up the Independent Gambling Authority, and I believe it is now properly resourced, so we should take heed of its advice, which is to reduce numbers across all venues. As I have heard the minister rightly point out on a number of occasions, this bill is about trying to reduce problem gamblers, and problem gamblers will gamble at any venue.

I understand that the current maximum number of gaming machines in South Australian hotels and clubs is 15 127 in 609 venues. There are currently 14 851 gaming machines operating, and the remaining 276 machines are not installed or have been suspended for various reasons. The proposal to reduce the number of gaming machines will compulsorily reduce 2 461 gaming machines from hotels and clubs; 285 from 38 non-profit venues (9 per cent of the 3 000 machines destined to be removed); 2 176 from 202 hotels; and 63 per cent of clubs and 44 per cent of hotels will have no reduction in machines. Overall, 53 per cent of venues will have a reduction in the number of gaming machines applied.

As I have indicated, it has taken me a while to decide whether I will support the legislation with the exclusion of clubs, because logic would dictate that one should not and, generally speaking, I like to follow my logic. However, I have decided to support the legislation as it has come to this place, which includes the exemption of clubs. I have been persuaded that they have a unique place in our community life. More than 350 000 people are members of clubs. It is significant that 68 per cent of community groups have received a donation from a licensed club in the past 12 months. Clubs assist our community through social, sporting and charitable involvement. Of course, we have some very large establishments that are community clubs, and also a few community hotels, such as Berri and Ceduna, but they are in the minority.

It is the view of Clubs SA, Break Even and the Heads of Churches Task Force that the overwhelming proportion of harm is generated in hotels, and I believe that such logic is difficult to argue with. I think it is worthwhile placing on the record a comment received by Clubs SA to support this assertion. Clubs SA stated:

> Clubs SA argues that if the cull is about gaming related harm, then the movement of any patron from a venue that promotes harm to an environment where there is a less chance of harm should be encouraged. Clubs SA points out that the overwhelming proportion of harm is generated in hotels. There are good and logical reasons for this—hotels have to make profits. They are commercial entities. Their prime activity is to obtain the maximum return for every dollar invested. They have no other purpose than to make money. As a result they can only be expected to maximise the return they obtain from each patron. Hotels thus can only be expected to encourage gaming and thereby they can only be expected to, as they do, contribute to the incidence and prevalence of harm.
>
> In contrast, clubs have another purpose for their gaming activities. They spend their money on facilities and services for the community. The drive for clubs is not to maximise an individual's profit but rather to meet the costs of providing facilities and resources. In many cases, such as the SANFL clubs, the adoption of gaming machines was a replacement activity. The machines were installed because the superior efficiency and appeal of hotel based gaming machines destroyed other fundraising activities. Consequently the gaming machine has replaced minor gaming that funded clubs, as it is the only option that works. In sum, clubs took up gaming to replace lost income that is now the hoteliers profit.

I hasten to add that I would not in any way suggest that the majority of hotels are not responsible in their duties. It is obviously just a cultural and business difference. Our hotels receive over 96 per cent of all gaming income and, as described by Clubs SA, the power and persuasion that this entails. Again, the Centre for Economic Studies makes the case that hotels have 88 per cent of machines, and clubs only 12 per cent of machines. The removal of 3 000 machines from hotels only over a longer time frame will effectively alter this ratio, which will partially address a previous inequity.

If the legislation were to pass in its present form, I appreciate that our hotel industry will not be ecstatic that it will have to carry the entire burden of the 3 000 machine loss. However, I believe that it does not necessarily equate to a loss of revenue because, of course, the utilisation rate of the remaining machines will rise. I am also comforted by the fact that, hopefully, we should not see any job losses.

I know that we have all been lobbied at various levels, but I am heartened by the recent letter I received from Leigh Whicker, the Executive Commissioner of the South Australian National Football League. Mr Whicker stated:

> By supporting the exemption of sporting clubs from this legislation, you will be ensuring community-based funding for junior sports development and other community programs and underpinning the foundation of SA football—a sector which generates $400 million in economic activity in South Australia every year.
>
> You have our undertaking that should the upper house choose to exempt licensed sporting clubs from proposed gaming machine reductions, the SANFL and its member clubs will continue to adhere to the principles of responsible gambling in relation to gaming machines on our premises and that income generated from this source will continue to be directed towards the development of young South Australians.

I know that this parliament will hold the SANFL to its word if legislation passes in this chamber excluding clubs from the reduction in the number of poker machines. Various other amendments have met with success in the other place. I appreciate that, even if all meet with success, including any that may be filed in this place (and I suspect that quite a few will be filed), they probably will not have the effect of diluting this legislation to see poker machines reduced by 3 000 in South Australia. However, at this stage, I am disinclined to support them, because I believe that the integrity of this legislation will be lost, if not the intent.

The legislation now before us removes the power to implement regional caps on the number of machines in provincial cities. Both the South Australian Heads of Christian Churches Gambling Task Force and the South Australian Centre for Economic Studies make a strong case for supporting the minister's provision for regional gaming machine issues to be addressed. It is also my view. We have ample evidence that it is to the detriment of problem gamblers in regional South Australia. The only possible advantage would have to be that of assisting tourists on a few special occasions during the year. I think that case does not hold up when one considers that the primary reason for tourists being there in the first place would not be for poker machines.

The statistics are alarming when it comes to comparing them with the state average. The South Australian Centre for Economic Studies tells us that the provincial cities have a higher number of machines per 1 000 adults, at 18 machines, compared to a state average of 11. In Port Augusta there are

30.1 machines per 1 000 adults and in Mount Gambier there are 25 per 1 000 adults. The provincial cities possess a disproportionate share of all gaming machines, at 14.9 per cent, yet have a population share of 9.1 per cent. Some eight of the nine provincial cities are above the state average in terms of average net gaming revenue per adult, but only two of the nine are above average in terms of income, those being Mount Gambier and Port Lincoln.

That is to say, there is an inverse relationship between a region's income and the total amount spent on gaming machines. In 2001-02, the provincial cities had a per capita gambling expenditure of $590, whereas the figure for South Australia was $472 per person. It cannot be argued (as some have sought to) that there are no problem gamblers in the country. Statistics from 2000-01 indicate that, in the provincial cities, the gaming machine tax revenue was $217 per person and $185 per person in South Australia. Other statistics I think worthwhile placing on the record are the average loss per non-problem gambler and the average loss per problem gambler. I seek leave to have that statistical table inserted in *Hansard*.

Leave granted.

| | Non-problem gambler | Problem gambler |
|---|---|---|
| All South Australia | $678 | $9 732 |
| Adelaide metro | $652 | $10 065 |
| Provincial cities | $673 | $9 188 |
| Other non-metro | $606 | $9 732 |

**The Hon. CARMEL ZOLLO:** I know that we can all do different things with statistics, but the most telling statistic would surely have to be that East Burnside has less than one machine per 1 000 adults, compared with, as already mentioned, Port Augusta with 31 per 1 000 adults and Mount Gambier with 25 per 1 000 adults. The legislation now before us has removed the need to renew licences every five years (clause 7 in the previous bill). I agree with the Heads of Christian Churches Task Force that such renewal provides checks and balances—checks to make certain that all procedures are in place, and training is an example. I hasten to add that most venues will do the right thing, but some will not. Of course, many licences need to be renewed every five years, such as those involving tradespeople, financial advisers, travel agents and some professionals.

I am unable to agree with the 10-year certainty clause inserted in the other place. The South Australian Heads of Christian Churches Task Force rightly points out that it is not at all consistent with the primary objective of this legislation, that is, to reduce problem gambling. More importantly, this move limits the capacity of the current and future parliaments to respond to problem gambling. I know that the Hon. Rob Lucas says that we probably cannot bind any future parliaments but, nonetheless, I think it important that we send a message that we need to respond to any change in circumstances. The task force also points out that the bill provides an unfair advantage to one industry group and that it is anti-competitive. Although no doubt some amendments are yet to be filed, it is probably best for me to indicate my position in relation to other amendments at the committee stage. I add my support for the reduction of 3 000 poker machines in South Australia.

**The Hon. G.E. GAGO:** I rise today in support of this bill in its current form. I acknowledge that it has attracted much controversy and many differing opinions from members. For this reason, I intend to address briefly the basic tenets of the bill and to highlight what I consider to be some of the significant issues. Before doing so, I stress that the Minister for Gambling (Hon. Michael Wright) introduced this bill because of the enormous adverse impact of problem gambling on the community as a whole. Not only does the problem gambler suffer but their family and friends also bear the negative consequences, as does the general community.

Data collected by the Productivity Commission's 1999 report indicates that the social impacts of problem gambling are far reaching and deeply entrenched. For example, studies show that around 60 per cent of those with moderate gambling problems indicated that they suffered from depression as a result of gambling and that gambling has been linked to between 35 and 60 suicides per year. Further data estimates that there are approximately 1 600 gambling related divorces annually and, on average, one in seven people are adversely affected by the behaviour of a severe problem gambler. In addition, gambling losses represent an average of 22.1 per cent of household income for problem gamblers, with the average problem gambler spending $12 000 per annum on their gambling addiction. These figures give us only a small insight into what a huge social problem this is for South Australia.

This bill forms one important part of the Rann government's broad legislative reform package aimed at tackling the issues of problem gambling. Its reform agenda is based on three broad principles: first, the reduction of overall access to gaming machines and gambling opportunities; secondly, additional restrictions on the gaming machine environment, ensuring that the venues take on their responsibilities to address problem gambling; and, thirdly, measures targeting the individual problem gambler and their family. The bill before us today focuses primarily on the first principle, namely, to reduce the number of gaming machines to the number of gaming venues. If it is successful, the number of gaming machines will be reduced by 3 000 (a reduction of 20 per cent), that is, from 15 000 to 12 000 machines. The number of venues will be reduced by a tradeability system (and I will refer to that later). I was interested to note that a paper by the Centre for Economic Studies, dated 1 November 2004, reports that there are 11 machines per 1 000 adults in South Australia, compared with eight machines per 1 000 adults in Victoria.

It is important to emphasise that this bill is based on the principle of harm minimisation, rather than, as some members have claimed, its being an attack on the hotel and club industry, or an attack on the rights of individuals to gamble. Its aim is not to impose a harsh restriction on people's right to gamble as a legitimate leisure and social activity: on the contrary, it is about minimising the damage caused to society and to the family members of problem gamblers, who make up 15 per cent of the gambling population and create 40 per cent of gambling expenditure. The Rann government is not an abolitionist government, nor am I an abolitionist. Although, on a personal level, as one of my nieces says, gambling does not do it for me, I believe that people have the right to pursue such activities. The focus for government intervention, amongst other things, should be about protecting the vulnerable from exploitation and reducing the harm which may be caused. Where possible, this needs to be done in a way which considers key stakeholders and balances different interests.

It would be remiss of me not to mention that the South Australian government has benefited substantially by the introduction of gambling machines. In the 2003-04 financial

year the government received a total of $378.96 million in gambling taxes. This revenue has enabled the government to fund public services that are vital to the community. It is also important to recognise in this debate the significant contribution of the South Australian hospitality industry in providing employment for more than 24 000 people; in fact, it is one of our largest employers in South Australia, and it boosts the state's economic growth. It is one of South Australia's biggest industries, with its commercial and capital value standing at over $2.1 billion. The continued robustness of this industry is important to the ongoing prosperity of South Australia.

The hotel and club industries have reaped the economic rewards of gaming machines in a massive way, and clearly they are the party that will be significantly affected by the introduction of gaming machines. I note that, when gaming machines were first introduced into South Australia, no price was paid by applicants for gaming machine licences. The only cost incurred by hoteliers and club owners was the price of the gaming machine that they purchased. Therefore, I find claims by some that the hotel industry is owed compensation for predicted loss of revenue that may eventuate as a result of the reduction in gaming machines quite remarkable, particularly in light of the fact that, through the tradability system which is included in this bill, hoteliers and club owners are able to sell their gaming machines for up to $50 000. Prior to the introduction of this bill, the only way hoteliers and club owners could sell their gaming machines was if they decided to sell their hotel or club.

The member for Enfield in another place aptly pointed out that this bill creates a capital value on gaming machines that does not presently exist and, as a consequence of the tradability system, hotels and clubs stand to gain significant financial benefits from being able to sell their gaming machines—a choice that was not previously available to them. It is envisaged that the tradability scheme will result in a reduction in the available gaming venues. This will occur because smaller venues are being given an incentive to sell their gaming machines for a considerable profit. As the Minister for Gambling puts it, smaller venues will be able to trade out of the industry if they so choose.

Members may recall that reducing the number of venues in which people have the opportunity to gamble has been found to be a key factor in decreasing the incidence of problem gambling. I was interested to note again that in the paper from the Centre for Economic Studies it was reported that there are 50 gaming machine venues per 100 000 persons in South Australia, compared with 15 in Victoria. In fact, this interrelationship between the density or location of gaming machines and the incidence of problem gambling is highlighted in the IGA's inquiry into the management of gaming machine numbers. Its report states:

> It was found that the greater geographical concentration or availability of gaming machines appears to be associated with greater gambling losses and a higher prevalence of problem gambling.

The Australian Productivity Commission's report into Australia's gambling industries released in November 1999 also found the following:

> Unequivocally, the prevalence of problem gambling is related to the degree of accessibility of gambling, particularly gaming machines.

By including the tradability system in this bill, the minister has taken on board the sound advice of two reputable and independent research reports, both of which point to the location of gaming venues as a key factor that increases the rate and incidence of problem gambling.

I was disappointed to read some of the comments made by the Leader of the Opposition in another place regarding the Independent Gaming Authority's chair, Mr Stephen Howells QC, in this bill. The Leader of the Opposition in another place claimed that this bill is 'a totally stupid and unfair attack on the enemies that he shares with this government'—and by that he is referring to Stephen Howells. If the Leader of the Opposition truly believes that this bill, which reduces the number of gaming machines and gaming venues, is 'a totally stupid and unfair attack,' he is demonstrating complete contempt and an apparent lack of understanding about the enormous social issue of problem gambling.

The opposition has maintained a continued and spiteful attack on Mr Stephen Howells QC. You can always tell when one of the strategies or initiatives of the government is working, according to the degree and level of criticism from the opposition, so, given the level of criticism that has been targeted towards Stephen Howells, the IGA under his chairmanship is obviously implementing a very effective public strategy.

In spite of the opposition's continued and spiteful attack on Mr Stephen Howells in his position as chair of the IGA, he has performed his role with integrity and has demonstrated an expert understanding of the complex issues involved in tackling problem gambling. In spite of what the Hon. Rob Lucas has said, all of those I have spoken to from the industry sing his praises and hold him in very high regard. Even though there are some parties who clearly do not agree 100 per cent with everything he says, nevertheless they hold him in high regard and have significant respect for the very difficult work he does so successfully. The impetus behind this government's gambling reform and agenda is directly attributable—

*Members interjecting:*

**The Hon. G.E. GAGO:** Just in case Hansard is missing this because of the interjections, I repeat that the impetus behind this government's reform agenda is directly attributable to the intellectual capacity and tireless effort that Mr Howells brings to the Independent Gambling Authority.

One example of the IGA's effectiveness in dealing with the issue of problem gambling is the increased cooperation that is evident between key stakeholders regarding the stage 2 code development issues. I understand that Skycity Adelaide, the churches' gambling task force and the Break Even network have reached a common agreement on many of the stage 2 issues to present to the IGA in its forthcoming hearings later this month. For example, these organisations have agreed that the following occur at the Skycity Casino:

1. Mandatory warnings be included on the advertising of gambling products.

2. Restrictions be applied to on-venue but not in-venue signage.

3. The sights and sounds of gambling should not be visible or audible outside the gaming area.

4. A close working relationship between the casino and Break Even services be fostered through formal quarterly meetings to discuss harm minimisation issues.

The proactive position taken by the IGA in developing and implementing codes to minimise harm caused by gambling has put pressure on key stakeholders to consult and cooperate with one another. That is no easy task considering that their interests are so divergent, yet they have come together to work in a cooperative and collaborative way, and have come

to an agreed position on many of these very difficult issues. Again, I think the IGA and the effect it is having on the industry cannot be held in too high a regard.

The IGA has created an environment that encourages key stakeholders to reach an agreement on codes of practice to submit for consideration. This code of practice, round 2, is one of the many outstanding reforms that the IGA has instigated. I would also like to bring to members' attention some of the IGA's previous achievements. The IGA introduced the first round code developments last year, which included the Advertising Code of Practice and the Responsible Gambling Code of Practice. The advertising code imposes restrictions on the timing and content of the advertising of gambling products. For example, the advertising of gambling during family television time is entirely banned, and the sounds of gaming such as coins being dispensed into cash trays and the sound of gaming machines are banned from advertising commercials.

The Responsible Gambling Code of Practice requires all gambling providers to prepare and display a document setting out how staff training and problem gambling intervention measures would be implemented, and it also must provide responsible gambling materials for patrons. So an enormous amount of work is already being done. Hotel and club gaming venues and the casino must take all reasonable and practicable steps to prevent patrons from playing more than one gaming machine at any one time. The provision of alcohol to patrons standing or sitting at gaming machines is prohibited. As I said, all this has been achieved within a very short time frame. These are just some of the measures that have been dealt with by the IGA and key stakeholders.

This bill involves many issues about which I will not now take up the council's time in going through in detail, but I will address them if and when needed during the committee stage, and I refer to issues such as the regional caps and exemptions to clubs, and so on. As I said, I support the bill in its current form, but these issues may need to be addressed again depending on the amendments, which we have not seen as yet.

In closing I would like to emphasise that the bill before us is one strategy in a package of many aimed at reducing harms associated with problem gambling. Although this bill involves a conscience vote, I believe that, yet again, the Rann government has shown its willingness to tackle difficult issues which it pulled out of the too-hard basket of the previous state Liberal government, which sat on its hands for eight years in relation to reducing harm associated with problem gambling; it did very little, as the records clearly show. In light of these comments, I urge others to also support this bill.

**The Hon. T.J. STEPHENS:** I rise to speak against this bill for a number of reasons. To me, there are serious issues regarding property rights, problem gambling and freedom of choice which this bill fails to recognise or deal with. As has been stated many times, the Labor Party introduced gaming machines with the support of many Liberal members in 1993. Since then, both hotels and clubs have prospered from the revenues that poker machines provide. It is my understanding that the idea is that gaming machines were to provide a funding base for clubs and hotels in the future, and especially with the hotel industry at the time ailing, it was meant to be a shot in the arm. It was also meant to bring South Australia into line with, predominantly, the rest of Australia.

I think it is a good thing for South Australia that business be allowed to make money so that jobs can be created. I am equally sure that members would appreciate the fact that both clubs and hotels contribute these profits back into their local communities. In fact, clubs effectively have no choice but to contribute, and hotels choose to contribute to be good social citizens. If we simply look at the economic benefits from gambling in the hotel sector alone, we see that there have been over 4 400 jobs created; support to local clubs and charities has exceeded over $9 million; and gaming machine tax is around the $300 million mark and, I believe, the government is expecting that to rise substantially this year. Refurbishment of premises costing over $450 million has taken place. It has gone directly to the building industry and has done a great job of creating further employment.

This legislation further highlights this government's anti-support and, quite frankly, socialist attitude towards policy making. As I recently said in my matters of interest, if we look at the Central Districts Football Club, we can see the benefits that gaming machine revenues provide to the local community. Over $200 000 has been spent to support a dozen different programs and clubs, from under-age teams to competition at the elite level, the funding of which comes from that one club alone.

As we are well aware, this government has paraded itself as a picture of fiscal rectitude. It is probably for this reason that this legislation does not allow for any compensation to the owners of gaming machine licences who will face substantial losses from this reduction, even though they bought the licences in good faith and have done nothing wrong since. It is tantamount to theft that this government coerces the property of its citizens without compensation. You do not need to be a lawyer to understand that even casual viewers of the movie *The Castle* would understand that it is morally wrong to do that.

I find this galling given the lip-service that this government is paying to the issue which is supposedly at the heart of this legislation. Many members in this chamber would share my concern over the fact that the effects of this bill are for the government to be revenue-neutral; in fact, it would have no effect. Problem gamblers are not protected by this bill and the government does nothing to try to protect them in this bill. It is another case of legislation by media. If it looks good in tomorrow's headlines, this government will do it.

Additional to the issues of support to local groups that both hotels and clubs provide is the question of choice. A fundamental Liberal principle is that of choice and the freedom of the individual to choose. It is what separates us from the socialists opposite. If I use gaming machines, the only person who loses is me. It does not intrude upon the rights or safety of anybody else. Ultimately I have faith in the vast majority of people who can, in these circumstances, make a decision that is in their own best interests.

I realise that the Hon. Mr Xenophon will argue that problem gambling will impact on families and crimes, but problem gambling accounts for approximately 1 per cent of the population; far more people smoke. Passive smoking is far more threatening to other people and my own health than gambling, yet we have no intention of criminalising that. The people who make up the parliament as a whole must not presume to be able to make decisions for the million or so other people who live in South Australia on matters of choice. If people wish to win or lose money on gaming machines, that is their choice. Governments of both persuasions have set

up assistance through the Gamblers Rehabilitation Fund and associated hotlines to assist those who are unable to control their habit. I call on the government to use some of its record level of gambling revenue to increase funding on this important program. Whilst the number of people afflicted by compulsive gambling is small, I recognise that the government has a public duty to ensure that these people get the assistance they need. I have rarely played poker machines, but my aged parents do responsibly and enjoy playing them very much. I say good luck to them.

My concern is that, as a strong supporter of the racing industry who, from time to time, enjoys the occasional punt at the races, this legislation will be the thin end of the wedge. Then the wagering and racing industries will be next on this government's hit list. I speak against the bill.

**The Hon. R.D. LAWSON** secured the adjournment of the debate.

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

Adjourned debate on second reading.

(Continued from 28 October. Page 419.)

**The Hon. R.D. LAWSON:** I rise to indicate the Liberal Party members' support of the passage of this bill. The Commission of Inquiry (Children in State Care) Act 2004 was assented to as recently as 5 August this year. The act is to provide for the establishment of a commission of inquiry into allegations of failure on the part of government agencies, employees or other persons to investigate or appropriately deal with allegations concerning sexual offences against children who were, at the time of those offences, under the guardianship, custody, care or control of the minister responsible for the protection of children.

The government has announced that the honourable Justice Mullighan will be appointed Commissioner under this legislation. You might recall, Mr President, that the Liberal opposition indicated at the time of the introduction of this measure that it would have preferred to have seen a commissioner appointed from outside of this state. Notwithstanding those reservations, the opposition supported the passage of the bill. I have certainly been heartened by the communications we have received from Justice Mullighan as to the manner in which he proposes to go about the commission. It is very important that this commission enjoy the confidence not only of the general community but more particularly of those victims of sexual abuse who wish to come forward to give evidence to a commission.

*Members interjecting:*

**The Hon. R.D. LAWSON:** If you are going to whistle, whistle in tune.

**The PRESIDENT:** Order! Whistling is definitely out of order. The backbench of Her Majesty's Loyal Opposition has become quite recalcitrant.

**The Hon. R.D. LAWSON:** This amending bill seeks to clarify a couple of matters that were not considered at the time of the passage of the act itself. In particular, it was not recognised at that time that there were in the past children who were not under the direct care of the minister but who were under the care of a body corporate known as the Children's Welfare and Public Relief Board, and the terms of reference contained in the schedule of the act are being amended to acknowledge that fact.

Section 10 of the act provides that information could be provided to the Commissioner by victims and others. The legislation, as originally enacted, contained a requirement that the Commissioner should report material to the Commissioner of Police and/or the Director of Public Prosecutions. The only circumstance in which the Commissioner was not required to report information to the police was where the Commissioner had reasonable grounds to believe that the information had already been reported to the police or that the Commissioner himself decided to report the matter to the Director of Public Prosecutions.

As a result of representations made to the opposition by victims groups, it was recognised that that provision had two weaknesses. One was that it did not sufficiently recognise the fact that there might be circumstances in which victims would not wish to have information passed on to the police. One can envisage situations where people would be prepared to come along and speak about events that happened—many of them very many years ago—but they would not want to revive police investigations or would not want to go through a process which might be very painful for them or their families. However, they might want to put on the record their experiences and their evidence on the understanding that the Commissioner, whilst he might take that information into account when conducting his inquiries and whilst he might have regard to that information for the purpose of verifying other information that might be provided by other witnesses about what had happened in a particular institutions, would not want the matter to go further.

In order to accommodate that concern and the wishes of victims in this regard, the government (in our view, wisely and entirely appropriately) has introduced an amendment. The act also requires the Commissioner to provide information to the Commissioner of Police unless he has reasonable grounds for believing that the information had already been reported or provided to a police officer. Once again, those representing victims have presented the argument to the opposition that there may be cases where the Commissioner would have very good reasons to believe that information had already been provided to the police but that the police did not act upon it, or that it might have been provided at a time when the police could not act upon the evidence and mount a prosecution, and that it would not be relevant for them to obtain information if it could not possibly lead to a prosecution by reason of the statute bar to prosecutions which existed at that time.

As the council knows, that statute bar was removed on the initiative of the Hon. Andrew Evans following a joint committee investigation into the question. So, there could be cases—and there probably would be cases—where, under the existing bill, the Commissioner would be relieved of the obligation to report matters to the police when the victim suggested that they should do so. In order to remove that possible out for the Commissioner, the opposition in another place moved (and the government supported) an amendment to insist that the information already reported to the police must have been recently considered or reconsidered.

We did not want the situation to arise where somebody could say that the Commissioner is not obliged to report a matter to the police—notwithstanding the fact that the victim might be prepared to report it to the police—on the basis that it was all reported to the police in 1972; they did nothing about it then; again, in 1982, they did nothing about it;

therefore they will not bother reporting it again. We think there may well be cases where, with the victim's consent and upon their request, information should be passed on to the police to be re-examined, re-investigated and reconsidered by them. We think this bill is important, because it responds to concerns which have been expressed by victims.

There are two matters that I should once again place on the record. This government continues to suggest that it was this government's initiative that led to the removal of the statute bar in relation to sexual offences committed before 1982. The fact is that it was the Hon. Andrew Evans who introduced that measure, and the government did not immediately support it. The government said they would not support it; and they sent it off to a joint committee. So, the matter went to a joint committee, and both Labor and Liberal members and other members of that committee (after hearing the evidence and recommendations of a number of interested parties) came to a unanimous conclusion that it was appropriate to remove the bar. So, lest the government once again repeat the lie so often repeated—that it was their initiative to remove the bar—the fact is that it was the Hon. Andrew Evans's initiative, it was not initially supported by the government, it was eventually supported by the government and all other members of the committee, and, ultimately, all other members of the parliament supported it.

The second matter that I should mention in indicating support for the passage of this bill is that I was disappointed to see in the minister's summing up in another place that the minister was suggesting that this inquiry was an opportunity for victims to tell their story: it is important that they be able to tell their story. In my view, this commission of inquiry is more than just providing a forum for people to come along and tell their story. It is true that there may be people for whom simply the telling of their story provides some relief, some redress, some catharsis; but to dismiss this commission of inquiry as merely a forum where people can come along and tell their story, it will all be recorded, it will be written up in a nice report and nobody will have to do any more about it, we will all be absolved of responsibility for what happened in state care, in my view completely misses the point.

I cannot imagine for a moment that Justice Ted Mullighan would be interested in simply being a receptacle for people's stories. There will need to be findings and recommendations. I know that the chairman, Justice Mullighan, does not see this inquiry as replacing the criminal court or, indeed, the civil court. This is not another avenue for the prosecution of individuals. The evidence that he will be taking will be with a view to making recommendations, not with a view to making findings about guilt or innocence. It will not be a commission where the chairman will have to make a ruling one way or the other about allegations, but he will at the end of the day have to make recommendations and a report to this parliament and to the community of South Australia.

I look forward to that day, but simply to suggest that this commission of inquiry will provide an opportunity for people to come along and tell their story misses the essential element in this commission of inquiry. This is a commission of inquiry which will go about an investigation and which will come up with recommendations and make findings: not necessarily findings of guilt or innocence in relation to individual instances but to make a judgment about the way in which this state, first, at the time abuse occurred handled these matters and, more particularly, what the government and governments over the years and the institutions over the years have done in order to redress what is now being recognised as serious deficiencies in our system.

The inquiry will be looking at the system. It will be looking at systemic defects in our system. Hopefully, it will provide a way forward to ensure that we as a community do not commit the same errors again and, hopefully, will provide redress for those who have been harmed by what has undoubtedly occurred. The commission of inquiry will begin operating, we are told, on 6 December when Justice Mullighan will have concluded his duties as a judge of the Supreme Court. We look forward to the early commencement of this inquiry. We do have confidence that, with these amendments, the commission will be able to provide a positive benefit to the community. I indicate support for the second reading and the rapid passage of this bill.

**The Hon. R.K. SNEATH** secured the adjournment of the debate.

## CORRECTIONAL SERVICES (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 16 September. Page 93.)

**The Hon. IAN GILFILLAN:** I indicate that the Democrats will support the second reading of the bill, but during the committee stage we will be looking critically at amending and debating some of the more contentious points. I am minded to introduce my contribution with a quote from Robert A. Heinlein, a science fiction writer of some repute, who was lamenting the inability of conservatives to learn from their mistakes. He said:

> It didn't work for grandaddy, and it didn't work for daddy, but it dang well should have, so we're going to do it again.

What is it that compels this government to continue to persist with the 'same old, same old', when examples abound of successes elsewhere? And why does it persist with the same tired sleight of hand, trying to distract us with a gift in its left hand while taking away something with its right? Here we have a bill that gives additional powers to the chief executive of a prison to revoke conditions placed on a prisoner who is on leave of absence from prison—and that is tidying up a simple omission—and addresses the situation of prisoners on interstate leave of absence or passing through the state in the custody of an escort. These things are clearly worth doing.

But what do we make of clause 11—the insertion of a new version of section 37AA—which will increase the powers of the manager of a correctional institution to conduct drug tests on prisoners? The new powers allow the manager to require a drug test on the initial admission of the prisoner to the institution; on the prisoner's returning to the institution after being absent; and in any other circumstance that the chief executive thinks fit.

I note that the new powers also go beyond the urine sample that the manager could request, to the new biological sample, which includes samples of urine, saliva or sweat. I have no doubt that the government would love to increase the terms of 'biological sample' to include hair, fingernails and blood, and some may already argue that these things are already included by the ejusdem generis principle (interpreting the terms listed in the definition as members of a family or genus). In other words, because of the term 'biological sample' it would, by virtue of that, include these other matters to which I have just referred.

My main concern, and the Democrats' main concern, about these increased powers is the effect that they will have on the prison population in general. It is easy to forget that a major purpose of prisons is to rehabilitate, so that offenders come out with a reduced likelihood of reoffending. I would argue that this will have an opposite effect. It is appropriate to indicate that Michael Dawson, the Director of the Victim Support Service (a body set up, obviously, to look at the results of crime and to look sympathetically at the role of dealing with victims), frequently reinforces the point that, unless prisons rehabilitate, they are not serving any positive purpose in our community—in fact, they are serving a negative purpose in our community.

If we want offenders to give up their dependence on drugs and alcohol and we want this new behaviour to stick, we will not achieve that objective by putting people under increased scrutiny and removing personal freedoms. If anything, I would expect that this level of intrusion into a person's private domain—and I would argue that there is no domain more private than a person's own body—would result in a decreased sense of self-worth and self-control, and that would result in a greater chance of drug and alcohol abuse both in and out of prisons. When we sentence an offender to a term of imprisonment, in theory, we determine the punishment as the loss of freedom but not the loss of personal pride, personal identification and personal rights.

The Law Society shares similar concerns and, in an opinion that it has prepared on this bill, states:

> Additional testing without back-up support once substance dependence and abuse issues are identified is unlikely to achieve meaningful progress unless it is for therapeutic amendments.

I would like to compare this with the prison system that I witnessed in 1991 in Sweden, Europe. The prisoners had volunteered for a higher level of routine drug testing in exchange for vastly improved privileges, including a greater variety of activities and entertainment—Saturday night dances were held, allowing members of the public to enter the prison and mingle with the prisoners. Mr President, I think you and other members will have recognised how frequently I compare the Australian incarceration system with what I observed even more than a decade ago in the Scandinavian countries.

This particular prison held a range of offenders imprisoned for offences from murder to the lesser crime of theft. Because of this undertaking, the community held itself out as a community of self-respect from both outside the prison and the administrative staff within the prison. However, it was a one-strike-and-you-are-out undertaking and, if any inmate of that prison proved positive just once, they went out of that particular prison into the normal prison system. However, while they are there, they make contact with society and their own sense of trust is palpably clear to anyone who visits the prison and, without having the statistics before me, I believe that the rehabilitation of offenders in those circumstances is infinitely greater than in prisons with strict and oppressive disciplinary regimes. So that pattern fits more closely with the idea of rehabilitation and reintegration into society than our efforts in South Australia have to date.

I have a particular concern with the power to authorise drug testing in 'any other circumstances that the chief executive thinks fit', and this is clearly carte blanche for victimisation and abuse. No doubt the chief executive would rely on advice from prison officers and no doubt some would be tempted to use this provision to punish prisoners who do not comply exactly with instructions from authorities. Consider the psychological effect that this would have on a person. Clearly, it is bad for both parties, as the gaoler would be tempted to abuse the power and the gaoled can be victimised. Mr President, I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

## ADJOURNMENT

At 6.29 p.m. the council adjourned until Tuesday 9 November at 2.15 p.m.