

LEGISLATIVE COUNCIL

Tuesday 23 November 2004

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

PAPERS TABLED

The following papers were laid on the table:

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

Reports, 2003-04—

Legal Practitioners Conduct Board

Legal Practitioners Disciplinary Tribunal Report to the Attorney-General and the Chief Justice, pursuant to Section 90A of the Legal Practitioners Act 1981

South Australian Infrastructure Corporation (InfraCorp)

Regulations under the following Acts—

Liquor Licensing Act 1997—

Long Term Dry Areas—Renmark and Paringa

Short Term Dry Areas—Victor Harbor

Superannuation Act 1988—Contracts without Tenure

Land Management Corporation Charter

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

Reports, 2003-04—

Boileroo Centre District Hospital and Health Services Inc

Bordertown Memorial Hospital Inc

Chiropractors Board of South Australia

Coast Protection Board

Commissioners of Charitable Funds

Crystal Brook District Hospital Inc

Dog Fence Board—South Australia

Kingston Soldiers' Memorial Hospital Inc

Lower Eyre Health Services

Mallee Health Service Inc

Naracoorte Health Service Inc

Occupational Therapists Registration Board of South Australia

Orroroo and District Health Service Inc

Outback Areas Community Development Trust

Repatriation General Hospital Inc

Riverland Health Authority Inc

Rocky River Health Service Inc

South Australian Psychological Board

State Supply Board

Strathalbyn and District Health Service

Tailem Bend District Hospital

The Mannum District Hospital Inc.—incorporating

Mannum Domiciliary Care Service

Regulations under the following Acts—

Optometrists Act 1920—Fees

Workers Rehabilitation and Compensation Act 1986—

Occupational Therapy.

HOME SERVICE DIRECT

The **Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation)**: I lay on the table a copy of a ministerial statement on Home Service Direct made earlier today in another place by my colleague the Minister for Administrative Services.

TRANSFER OF PRISONERS SCHEME

The **Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation)**: I seek leave to make a ministerial statement.

Leave granted.

The **Hon. T.G. ROBERTS**: At 6.30 p.m. last Thursday I received an application for an offender to be transferred from the UK to South Australia under the International Transfer of Prisoners Act. Transfers pursuant to this act require the consent of the UK authorities, the commonwealth justice minister and the South Australian minister. This offender was convicted of child sex offences in 1997 and sentenced to 10 years imprisonment. He was paroled in December 2002 and his parole is due to expire in December 2006.

I understand that departmental discussions between the commonwealth, state and UK officials have taken place over the past few months. However, as I stated, it was not until the evening of Thursday 18 November 2004 that the department and I received an application for this transfer. When I became aware of this I immediately put in place steps to make sure that this offender would not travel to Australia. On 18 November the commonwealth minister for justice informed me that if the offender was not transferred under the international transfer of prisoners' scheme he could return to Australia and not be subject to any parole conditions on his return. Crown Law advice I obtained confirms this view.

Yesterday the Premier wrote an urgent letter to the UK Home Secretary, David Blunkett, asking him to put an immediate hold on allowing the offender to travel to South Australia to settle here permanently. The Premier also wrote to the federal minister for justice (Hon. Chris Ellison) asking him to do all he can to prevent this man from coming to South Australia—and certainly before any proper consideration and consultation has been undertaken of his application. Last night the Chief Executive of the Department for Correctional Services worked throughout the night with the UK authorities on this matter.

I have been informed that the UK authorities have reversed their earlier decision and put on hold any plans for this offender to travel to South Australia. This will allow us to properly consider his application as intended under the International Transfer of Prisoners Act. This is a victory for commonsense. I thank the commonwealth for its help and support over the past few days. As I have said, I know that the commonwealth has previously expressed concern to the UK at the unrealistically short time frames that were initially imposed by the UK. In that regard I have directed the Chief Executive of the Department for Correctional Services to review this case and, in particular, the communications processes that have occurred.

I have further directed that, as a matter of urgency, protocols be developed and coordinated with the commonwealth to ensure that any future request of this nature is processed in a timely manner with due regard to the time frames required to make proper decisions. I will be writing to the commonwealth minister to urge the commonwealth to do the same.

SOCIAL DEVELOPMENT COMMITTEE

The **Hon. G.E. GAGO**: I bring up the report of the committee on an inquiry into postnatal depression. Report received and ordered to be printed.

QUESTION TIME

AUDITOR-GENERAL'S REPORT

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make an explanation before asking the minister representing the Treasurer a question about financial scandals of the Rann government outlined in the Auditor-General's Report.

Leave granted.

The Hon. T.G. Roberts interjecting:

The Hon. R.I. LUCAS: I think he called them 'unlawful acts', if the member prefers that descriptor. On 30 July 2002, the Treasurer was asked a question in the estimates committee along the following lines:

Will the Treasurer investigate whether any ministers have allowed prepayments of the total costs of some consultancies in June 2002 even though the work was to be substantially completed in 2002-03, and will you provide a report on this issue and state whether or not any ministers have breached the Treasurer's instructions?

The Treasurer responded, in the estimates committees in 2002 (almost 2½ years ago), as follows:

I am happy to take that on notice. I am not aware off hand. I cannot recall that. I am happy to take that on notice and come back to you with an answer.

It might not surprise you, Mr President, or indeed other members, to know that almost 2½ years later the opposition is still waiting for a reply from the Treasurer in relation to that most important question. Given the concerns expressed by the Auditor-General in his report, this issue of potential prepayment for consultancies and whether or not ministers have breached any instructions or committed any unlawful acts is obviously a most important issue for consideration.

The opposition is aware that on 20 August 2002 a confidential memo was sent from the Under Treasurer, Mr Jim Wright, to the Treasurer, providing him with advice on answers to this question of prepayments for consultancies. So, on 20 August 2002 we are aware of a confidential memo from the Under Treasurer going to the Treasurer on this issue. My questions are:

1. Why has the Treasurer refused for almost 2½ years now to answer the question asked by the member for Morialta in estimates committees, on 30 July, on the important issue of prepayments for consultancies and whether or not ministers have breached Treasurer's Instructions?

2. Was the Treasurer provided with advice on 20 August by the Under Treasurer of Treasury concerns in relation to this issue?

3. Has the Treasurer taken a decision to prevent the release of this particular memo and others that relate to it under freedom of information?

4. Will the Treasurer now abide by the commitment he gave the parliamentary committee on 30 July that he would bring back an answer to the parliament in relation to that question?

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

WIND POWER

The Hon. CAROLINE SCHAEFER: My questions are:

1. Does the minister share the views of the Essential Services Commissioner Mr Lew Owens that the state's

electricity sector cannot afford to become more reliant on wind power beyond the currently approved projects because of a lack of generating capacity at times when little wind is blowing?

2. Given that only one project has started, does the minister believe that the approximately \$1 billion worth of wind farms listed in the major development South Australian directory will be built?

3. If they are built, does the minister share the views of the Essential Services Commissioner that they will result in more expensive power?

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

ANANGU PITJANTJATJARA LANDS

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation questions about coronial inquests.

Leave granted.

The Hon. R.D. LAWSON: In September 2002 the South Australian Coroner Wayne Chivell handed down a 75 page judgment in connection with an inquest into the deaths of four young residents of the APY lands who had died as a result of petrol sniffing over a protracted period. The coronial findings also contained an extensive blueprint of recommendations to remedy the situation on the lands. Earlier this year, the Coroner was due to return to the lands for the purpose of continuing his inquiries to ascertain measures taken at that stage to implement his recommendations. However, the government on that occasion pre-empted his return by announcing that self-government on the lands was dead and blaming the AP executive for the fact that this government had not taken any steps to remedy the situation or implement the recommendations of the Coroner. The minister's responsibilities were taken over by, first, the Deputy Premier and, subsequently, the Department of the Premier and Cabinet.

The Coroner was due to return to the lands to resume his inquest today, but yesterday the minister issued a lengthy media release saying that the government was implementing a number of programs, which had been announced in the budget this year when \$13 million was committed to the APY lands over the next five years. The minister's self-congratulatory statement issued yesterday did not mention the fact that the Coroner was to resume his inquest today, as is in fact the case. My questions are:

1. Is it not the case that the media release which the minister issued yesterday, on the eve of the resumption of the inquest, was a cynical exercise to divert attention from the government's failure to effectively implement any of the Coroner's recommendations?

2. Is it the case that the media release was timed to pre-empt the resumption of the coronial inquest and any media attention which it might receive today?

3. Why was there no mention at all in the minister's extensive media release yesterday of the fact that the coronial inquest is to resume today?

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

I thank the honourable member for his questions. It is true that the government is rolling out a number of programs on the APY lands over four years.

The Hon. R.D. Lawson: Will be; isn't yet.

The Hon. T.G. ROBERTS: Some money has been directly expended immediately, but there are a lot of problems, as the honourable member would know and understand about engaging the communities in partnership. A lot of gaps exist in our ability to be able to roll out services, given that we cannot find the appropriate people in many of the professions and trades to enable them to pick up a lot of the issues that the APY lands need. Housing is a major issue, as I have raised in this council many times, and that is being dealt with. We cannot get the professional people required to partner AP and many of the issues associated with our spending regimes, because of the housing issue. We cannot solve that in five minutes. It is one of those issues that has two edges to it. One is housing priorities for APY people who have been forced to live in numbers that we would find unacceptable in our society. In some cases, 20 to 25 people are living in the one house—that is totally unacceptable for APY. We are trying to do something about that.

We also have to find housing to accommodate those professional people whom we need to partner in a lot of the services that we need on the lands. However, we have provided targeted funding for petrol, alcohol and drug misuse, and that was one of the recommendations of the Coroner. We have provided \$2.3 million to employ seven youth workers, as recommended by the Coroner. Although there may not be seven non-Anangu youth workers, we have Anangu workers working alongside youth workers. I do not have an update on that, but I suspect that three or four youth workers in the community are non-Aboriginal. We have \$1.746 million for seven environmental health workers.

The Hon. R.D. Lawson: How many are on the lands now?

The Hon. T.G. ROBERTS: As I said, finding professional health workers for programs involving family support, primary health, positive behaviour and abstinence associated with drug, alcohol and petrol abuse is not easy; they are not falling out of the trees. There is a severe shortage of social workers throughout the country, and finding people to go into remote regions is very difficult, but we are starting those programs. As I have said before, we are coming off a very low base.

The press release mentions that the government is also focused on the recommendations of the Coroner. We make specific reference to the Coroner's inquiry. Although the 2002 Coroner's report into deaths on the lands is associated with deaths that occurred prior to our coming into government, there were a number of more recent deaths within the community, so the recommendations in the Coroner's report are being worked on. We have briefed the Coroner. I briefed the Coroner with my CEO, Peter Buckskin, on one occasion, and I have asked him to keep regular updates with the Coroner to inform him without going into print or making it public and flying flags, because we know that progress will be slow. Not only are we finding problems in the APY lands, but also the standing committee has made visits to other regional and outback communities that urgently require support and assistance from professional people—not only professional people to partner but also professional people to mentor and supervise the introduction of programs within the lands.

That is proving to be much harder and taking much longer than I envisaged. I did not think that the time frames we would be talking about would be so long. But the funding is available via the normal budget processes, and we are trying as hard as we can to get those professional people and trades

and skilled people on the lands to ensure that the plight of those living within the remote regions is not maintained past reasonable levels of anybody's expectation.

The Hon. R.D. LAWSON: I have a supplementary question. Will the minister confirm that none of the seven environmental health workers referred to in the statement yesterday have been appointed; that the Department of Health-Department of Families and Communities coordinator based on the AP lands has not yet been appointed; and that the Positive Behaviours Unit referred to in the minister's media release yesterday has not yet been established?

The Hon. T.G. ROBERTS: As I said, I will bring back a reply in relation to the progress of the applications of professional people to run those programs and what position they are in, but my understanding is that there are very few applicants for those jobs and we are now searching for appropriate people to fill those positions.

One of the reasons the press release went out was to try to get an understanding in the community of the need for professional people such as this. One of the things that may need to happen to secure skills for remote and regional areas is the creation of a chair within the university and a program that spells out to applicants the roles, responsibilities and problems associated with working in remote regions. There may have to be a new way of getting skilled people trained to fill these positions, because I think governments over the years have tried the normal channels of posting advertisements and hoping the appropriately skilled people will apply but, unfortunately, when you do a skills audit within the lands you cannot find enough people for any of the basic jobs. There are no people with the skills required to run the stores and do the most basic of jobs, because the training programs that should have been put in place over the years have let down those people.

There has been a withdrawal of services by TAFE over the years and we are now starting to rebuild TAFE services within the communities, but there is an urgency in terms of the skills loss within those communities and we need to try to bring about a changed way in which to educate and train APY people. We need mentors and, as I said, we need supervisors for programs, and we certainly need a new dedicated line of traineeships to allow governments and the private sector to pick up the skills that are required for those particular regions. Fly-in and fly-out is not an appropriate option, which is what is happening in the short-term with police officers at the moment. We have to get those skills that are required within remote regions working within the human services and infrastructure areas so that we can sustain life and a reasonable standard of living for people. If we have to work alongside the mining industries and other industries (such as the heavy earthmoving equipment industries) to put together training packages and educative practices, we will do that.

The Hon. KATE REYNOLDS: I have a supplementary question. Will the minister table a report which outlines progress on each of the Coroner's recommendations and, if so, when?

The Hon. T.G. ROBERTS: I will endeavour to do that as soon as possible.

STATE ECONOMY

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Minister for Industry and Trade a question on the economic outlook.

Leave granted.

The Hon. CARMEL ZOLLO: The Leader of the Opposition in this place was reported on radio last week as attributing a slowing down of jobs growth in South Australia and its lagging behind other states to problems in the Department of Trade and Economic Development. The Leader of the Opposition in this place said:

It's a department in disarray. There is very low morale there—I think all the wrong people might be leaking to you—

and there are people in the department who really don't know what they are meant to be doing. There really needs to be some vision from the government, from the ministers, as to what is the role of the Trade and Economic Development Department in terms of jobs growth in South Australia.

My question is: can the minister describe how South Australia has performed in terms of jobs growth since the election of the Rann government and are the statements of the Leader of the Opposition in this place correct?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I am delighted that the Hon. Carmel Zollo has asked this question because it gives us the opportunity to put the facts on the record and to refute some of the nonsense that the Leader of the Opposition has been peddling on the radio in recent days. Let us look at the latest unemployment figures that came out on Thursday, 11 November. They showed South Australia reaching a record high in seasonally adjusted terms in the number of people employed in the state and, at the same time, in trend terms, a record low in unemployment. That was the lowest figure since 1978, when those figures began. Nearly three-quarters of a million South Australians are now in work, reaching a new record high of 724 800 in seasonally adjusted terms. In trend terms, total employment has risen for the 10th consecutive month to 723 300. If one looks at the ANZ Job Ads Series—

The Hon. Caroline Schaefer: How does that compare with other states?

The Hon. P. HOLLOWAY: I am not sure whether other states have reached the lowest ever since 1978; perhaps they have. Whatever the other states are doing, this state is performing incredibly well. If one looks at the ANZ Job Ads Series, which is recognised as a leading indicator of employment growth, it also shows strong growth in South Australia. That will answer at least in terms of the Job Ads Series how we compare with other states. From September 2004 to October 2004 job ads grew by 6.9 per cent in seasonally adjusted terms in South Australia compared to 5 per cent nationally, but, if one looks over the year from August 2003 to August 2004, the growth in the Job Ads Series is up by 17.3 per cent compared to 5.2 per cent nationally, and those figures give a strong expectation of future jobs growth in South Australia. Pleasingly, these figures come on the back of South Australia's AAA credit rating, which was awarded by both Standard and Poor's and Moody's rating agency.

The Hon. D.W. Ridgway: How do you get that?

The Hon. P. HOLLOWAY: By balancing the budget. By cutting—

The Hon. D.W. Ridgway: How did you do that?

The Hon. P. HOLLOWAY: It is something members opposite could never do. This government has got its budget in balance and got the AAA rating. It has accrual balance. As

this state government understands the importance of maintaining the momentum, we have cut business taxes in our most recent state budget, as well as making an aggressive marketing push to bring more business and skilled migrants into the state.

The Hon. J.M.A. Lensink: What about land tax?

The Hon. P. HOLLOWAY: Members opposite are telling us why they can't balance the budget. They want to give it away. You have to take hard decisions if you want to balance the budget. That is why the Liberals could not do it. Let us look at some other indicators of growth. The latest ABS figures have officially confirmed that South Australia's economy is booming. The figures show that our annual gross state product, estimated at \$52.4 billion, grew by 4.3 per cent in the last financial year, compared to 3.8 per cent nationally. South Australia recorded the third highest growth rate of all the states behind Western Australia and Queensland. The result reflected strong household consumption and a strong growth in business investment.

The housing market continues to grow strongly, with housing investment up by 19 per cent compared with 7.4 per cent nationally. South Australia's nominal retail turnover grew by 5.9 per cent in seasonally adjusted terms through the year to July—the same growth experienced on a national level. Private new capital expenditure by business in South Australia grew by 10.8 per cent in seasonally adjusted terms from the March quarter this year to the June quarter 2004—five percentage points higher than the national figure at 5.8 per cent. In trend terms, growth in private investment from the 2002-03 financial year to the 2003-04 financial year was 6.7 per cent in South Australia and 8.4 per cent across the nation.

The government is encouraged by the positive contribution made by exports, which, in the past couple of years, had been adversely affected by the appreciation of the dollar; and that is certainly something I as trade minister acknowledge (as, indeed, does the federal government at this time) does pose a significant threat to exports at present. However, the turnaround in South Australia's merchandise exports continues with merchandise exports for the three months to September up 7.6 per cent on the same period last year. Business confidence also remains strong. The census business index, which fell two points from May to August, remains at the second highest level for the past four years. It is also worth noting that the ABS has also released a revised gross state product growth figure for the previous financial year from 0.1 per cent to 1.4 per cent. I remember the Leader of the Opposition attacking this government at the time that figure was released, but I made the point that it was likely that that figure would be revised upward and, indeed, it has been.

I would also like to talk about the Department of Trade and Economic Development. It is a department that has a number of very talented and dedicated staff, who I think have been unjustly accused by the Leader of the Opposition in this place. Perhaps the leader wants to return to those days when money was being given hand over fist to companies, many of which were designed to go bust. It is interesting that over the past few months the opposition has been highlighting a number of companies which have downsized and retrenched staff. The opposition likes to talk about the loss of over 2 000 jobs, even though, as I just said, we have the highest employment that we have ever had in seasonally adjusted terms. If one looks at the companies which the opposition

keeps talking about, that is, the companies which have lost jobs, it is worth putting on the record—

The Hon. R.I. Lucas: Mitsubishi.

The Hon. P. HOLLOWAY: —that many of them are companies which the previous government supported. In the case of Mitsubishi, as the leader points out, this government has given some support to the continuation of that company because it is a key industry and one of the major employers in this state. However, if one looks at those companies which have downsized, in many cases they are companies which the previous government brought to this state with large financial packages. I will name 17 companies in which there have been job losses: Mitsubishi Motors, Mobil Oil, Pilkington Australia, Electrolux, Kangara Foods Pty Ltd, Sheridan, Santos, Solar Optical, Sabco, Berri, Hensley Industries, Aunde Trim, Sellick's of Unley Pty Ltd, Fletcher Jones, Levi Strauss, Motorola and JP Morgan.

It is interesting that, of those 17 companies, 13 of them have been recipients of government assistance in many cases to bring them here. I think that really does make the point that the focus of the current Rann government is correct in terms of moving away from those sorts of industry packages we had in the past. Instead, we encourage those companies which have a real reason to be in this state because they have a natural competitive advantage here. Indeed, as I said, the success of the government has been indicated by those figures which I indicated earlier.

Rather than the Leader of the Opposition making comments such as he did on radio last week, I think it is time that he gave credit where credit is due and, if he is too mean spirited to say something about the government—and one can perhaps understand that he might be too mean spirited to say anything good about the government—at least he should refrain from attacking those public servants within the Department of Trade and Economic Development who have worked very hard and very successfully for the benefit of this state.

The Hon. R.I. Lucas: As a supplementary question, if the economic conditions are as good as the minister has indicated, will the minister explain to the council why South Australia's job growth in the past 12 months was the second lowest of all states in Australia, and was at only 1 per cent compared to growth in Queensland of 5 per cent and Tasmania's growth of 2.9 per cent (almost three times as high as the growth in South Australia)?

The Hon. P. HOLLOWAY: This state has the highest level of employment ever in seasonally adjusted terms. We all know that Queensland has a much younger population than does this state. The fact is that, by any measure, our gross state product is growing by 4.4 per cent. Jobs have grown by 1.4 per cent. The jobs growth—

Members interjecting:

The PRESIDENT: Order! The Leader of the Opposition has asked a serious supplementary question and he is entitled to hear the answer in silence.

The Hon. P. HOLLOWAY: The point I wish to make is that we are moving away from attracting companies with big dollar handouts that are likely to fail. That has been a practice of the past. We are moving away from that.

An honourable member interjecting:

The Hon. P. HOLLOWAY: Yes, jobs have gone in relation to many of those companies—13 companies of those 17 were recipients of government largesse. However, in trend terms, what we have here is the lowest unemployment level

ever since the figures were first recorded in 1978, and we have the highest level of employment; but, still, the Leader of the Opposition is not happy.

The Hon. R.I. Lucas: As a supplementary question, will the minister confirm that the latest figures from the Australian Bureau of Statistics show that, in the past 12 months, of the 210 000 new jobs created in Australia only 6 700 were created in South Australia?

The Hon. P. HOLLOWAY: I do not have the national employment statistics with me, but what I am very happy to confirm—and I will keep confirming it—is that we have the lowest level of unemployment in trend terms that this state has ever had since statistics were first recorded back in 1978. Also, we have the highest level of employment in this state ever; and, as I said, it has been trending upwards for the past 10 months.

LOCAL GOVERNMENT, INCOME AND EXPENDITURE

The Hon. KATE REYNOLDS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for State/Local Government Relations, a question about local government income and expenditure.

Leave granted.

The Hon. KATE REYNOLDS: I am aware of a range of claims being made by various members of parliament in relation to council rates growth and, in particular, growth in metropolitan council expenditures on salaries and wages. As members would be aware, this issue has generated considerable debate within the media and the community. Mid this year I attended one of the forums organised by the Local Government Association for members of parliament to discuss rating issues and expenditure by councils. Sadly, only a handful of members attended.

If my memory serves me correctly, no Independents and no members of the government were present at that forum. Around the same time I attended a briefing which included on-site visits with staff and elected members from the City of Charles Sturt to examine and discuss revenue raising and expenditure issues within that council area. Sadly, significantly fewer than a handful of MPs attended this event. Issues of income and expenditure were also discussed and debated in various forums during the recent Local Government Annual Conference in Adelaide at which a couple of MPs attended at various points.

I understand that the Local Government Association has recently commissioned a report on actual senior salary positions within local government, including what is, I believe, an independent comparison of local government chief executive officer salaries with those in the public and private sectors. My questions are:

1. Will the minister table the report commissioned by the Local Government Association?
2. Will the minister provide information on percentage movements in enterprise bargaining agreements in local government in recent years?
3. Will the minister clarify whether the claim that 1 000 employees in the local government sector are on a salary of \$100 000 or more is true?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I will take that question on notice and bring back a reply.

LICENSED PREMISES

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Attorney-General, a question about discrimination by licensed premises.

Leave granted.

The Hon. T.G. CAMERON: Following a recent article in *The Advertiser*, my office has received a complaint from a constituent upset about what he considers to be blatant discrimination against men by many of Adelaide's nightclubs. My constituent was with a group of male friends who were recently refused entry to a city nightclub; they were told it was a full house. However, a group of young women who arrived shortly thereafter were ushered in without waiting.

According to *The Advertiser*, the most basic of club management laws is that women attract men into a venue. I cannot disagree with that! It is a standard procedure for clubs to aim for a 60 to 40 per cent ratio in women and men, even though men still make up to 70 per cent of a club's takings. Mr Matt Grech, the Food and Beverage Manager for the Ramada Pier Hotel at Glenelg, admitted to *The Advertiser* that women have an easier time making it into the hotel's two venues. He was quoted as saying:

It's harder for guys. We don't allow ripped jeans or sandals for the girls, their footwear is never really a problem. . . Every guy knows it helps you get into a club easier if you have girls with you.

After looking at a couple of clubs here in Adelaide where there were some of these problems, it certainly seems to me that a man can be refused entry on dress code much more easily than can a woman. I have also been made aware of the practice of women being given free entry to clubs and reduced price happy hours that do not apply to male patrons. This is in contravention of the Equal Opportunity Act and is nothing more than reverse discrimination. Once again, we have a double standard operating.

I would encourage all young men and women—particularly young men—to lodge a complaint with the Commissioner for Equal Opportunity if they feel they have been discriminated against. They should not argue with the bouncer; we have seen what happens if you do that in an incident in Victoria. They should walk away and lodge a complaint with the Commissioner for Equal Opportunity. It is only by complaining many times that we will bring these clubs to a situation where everyone will be treated equally. My questions are:

1. How many complaints has the Commissioner for Equal Opportunity received in the last two years regarding discrimination against male patrons by South Australian clubs and hotels?

2. If a licensed premises is found guilty of discrimination, what range of penalties would apply?

3. Will the minister ask the Commissioner for Equal Opportunity to immediately investigate how prevalent is the practice of different standards for females and males in relation to dress, entry fees and drink prices in South Australian clubs and hotels and report back to the parliament?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I will refer those questions to the Attorney-General and bring back a reply.

MINERAL SANDS

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question about the Murray Mallee Community Consultative Committee.

Leave granted.

The Hon. J.S.L. DAWKINS: I understand that the Murray Mallee Community Consultative Committee (Mineral Sands) was established earlier this year. The committee was formed under a stated aim of maximising the opportunity presented to all stakeholders by the mineral sands mining project of Southern Titanium Pty Ltd (apparently soon to be known as Australian Zircon) in the Murray Mallee region. The committee is chaired by Mr Paul Heithersay, Executive Director, Minerals and Energy Division of PIRSA. My questions are:

1. Will the minister indicate the other members of the committee and the number of times it has met?

2. Will the minister indicate whether this committee is dedicated to the mineral sands project at Mindarie?

3. If so, will the minister establish a similar committee in relation to the mineral sands mining project proposed by Southern Titanium in the Derrick strand near Loxton?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): In relation to the latter question, that is part of the same project. The Southern Titanium project is unusual in the sense that it covers such a large number of properties. The Hon. Caroline Schaefer asked a question about this matter several weeks ago. Certainly, a reply is being prepared, and I will follow it up to ensure it is given as soon as possible. I know that I have had some approaches from some landowners in that district. I assume they are those referred to earlier by the Hon. Caroline Schaefer. It is my intention to try to arrange a meeting with those people as soon as possible. As I indicated in answer to the question asked by the Hon. Caroline Schaefer, we are seeking some information in relation to the situation in Victoria. The preliminary advice I have is that the measures that apply in this state are fairly similar to those applying in Victoria. In fact, they do not necessarily adversely impact upon land-holders in this state relative to the conditions that apply in Victoria.

What is unusual about this particular operation is that so many land-holders are involved because of the nature of the project. The sands tranches just happen to be so located that they do traverse a significant number of properties, and that makes it a challenging task for the department to manage. As I also indicated in answer to the Hon. Caroline Schaefer's question some time back, it is an unusual situation, because we have not dealt with this sand mining that covers a large area, although it does result in the land being fully rehabilitated. It involves a number of challenges in terms of managing the land, particularly when the resource will be mined over some 10 years or thereabouts. It means these land-holdings have to be secured a long time before the mining takes place, and that raises questions about the timing of lease payments and so on, which is one of the concerns. It is my intention to meet with the land-holders in the area as soon as I can.

There are a number of issues in relation to that matter. As the honourable member said in his question, a community consultative committee is chaired by Paul Heithersay, Executive Director of minerals and energy within Primary Industries and Resources SA. I will take the question on

notice in relation to the other members of that committee, but I do know that the committee has been meeting fairly regularly. It includes representatives of the mining company to try to address these concerns. I will provide an update to both the honourable member and the Hon. Caroline Schaefer in relation to these matters. Like those two members I am keen to see the matter resolved amicably, because it is in the best interests of that community that we get an amicable agreement. Mining in that area certainly has the potential to increase job opportunities and the wealth of the Murray Mallee region but, obviously, the land-holders need to be taken into consideration—and that is what we are attempting to do.

OUTLAW MOTORCYCLE GANGS

The Hon. T.J. STEPHENS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for the Southern Suburbs, a question about outlaw motorcycle gangs.

Leave granted.

The Hon. T.J. STEPHENS: Following on from my question in the last sitting week regarding this issue, members would be aware that the Office of the Southern Suburbs is charged with coordinating a whole of government approach with respect to planning and various other issues in the southern area, including the area mentioned in the report in the Messenger Press. Given that this issue crosses over areas of government, such as crime, urban planning and local government, my questions are:

1. Will the minister detail what action the Office of the Southern Suburbs has taken to coordinate the government's response to this issue?

2. Has the minister himself undertaken any action to coordinate the government's response and, in fact, shown any interest in the subject?

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

CORRECTIONAL SERVICES

The Hon. G.E. GAGO: I seek leave to make a brief explanation before asking the Minister for Correctional Services a question about initiatives being undertaken by the Department of Correctional Services.

Leave granted.

The Hon. G.E. GAGO: Members of this council would be aware that water is the most important commodity in South Australia and that every effort should be made either to limit or reuse, where practicable, this very precious and scarce resource. I understand that the Department for Correctional Services has undertaken several water-saving initiatives. Can the minister provide details of these undertakings to the chamber?

The Hon. T.G. ROBERTS (Minister for Correctional Services): I thank the honourable member for this important question. As members would be aware, the Department for Correctional Services has nine prisons located throughout South Australia. Through the activities of its physical resources branch and in conjunction with prison management, the department has undertaken a number of initiatives to make better use of water. At Port Lincoln Prison a waste water treatment plant has been installed to treat all the waste water that comes from the shower, kitchen and ablution areas.

The treated water is then used on the recreation area around the prison and on a wood lot that the prisoners recently planted. I have inspected these, and they are worthwhile projects. The wood lot surrounds quite a large lake on the prison property and attracts considerable bird life, in particular, Cape Barren geese. It is intended that this initiative will eventually result in further developments at the prison including honey and citrus production.

At the Port Augusta prison a 45 000 litre tank has been installed to complement the existing waste water management system to treat grey water, and this has saved water. It has two main uses: one is watering the oval and the other is for native tree and orchard production areas. A long-term goal is to install a subsurface irrigation system for the grounds, thereby reducing the use of mains water. The materials have been purchased for this project. It is intended that prisoners, under the supervision of staff, will install this system.

At the Cadell Training Centre approximately 25 hectares of dairy pasture is grown, using treated water from the effluent system to supplement the normal water from the River Murray. It is estimated that this initiative saves about 50 kilolitres of water each year, and a soil moisture measuring system has been installed to minimise any unnecessary water use or overuse during irrigation. Prisoners are also installing under-tree microsprinklers rather than overhead sprinklers in the orchards. These last two initiatives are expected to reduce the prison's water consumption in those areas by about 25 per cent. Members will marvel with me at that reduction. These initiatives by the department further demonstrate the government's commitment to water conservation and the recycling of this scarce resource wherever possible. We are leading the way. I thank the member for her question.

ROYAL ADELAIDE HOSPITAL

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Health, questions about political lobbying from within the Royal Adelaide Hospital.

Leave granted.

The Hon. SANDRA KANCK: Last week I received a fax which purports to come from the Department of Medical Physics of the Royal Adelaide Hospital. It was lobbying against the relationships bill and, in the tick box, it asks for a reply. I am aware that my colleagues the Hons Ian Gilfillan and Kate Reynolds also received a copy of this letter. It asks that we do not support the relationships bill, and that is actually printed on this fax. In handwriting it states:

The fact that RED CROSS BLOOD BANK refuses donation [sic] from HOMOSEXUALS... PROVES THAT IT IS UNHEALTHY...

Of course, that belies the fact that lesbians have one of the lowest levels of HIV/AIDS worldwide. My questions are:

1. Does the Department of Medical Physics at the RAH have an agreed point of view about the relationships bill?

2. Are there any protocols at the RAH in regard to the use of departmental letterhead?

3. If the contents of this fax do not reflect the view of the Department of Medical Physics and if protocols have not been followed, will the minister:

(a) ascertain how widespread the distribution of this fax has been, and

- (b) ensure that this woman is given information about the appropriateness of her actions?

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

FILM CLASSIFICATION

The Hon. A.L. EVANS: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Attorney-General, a question about the restrictions on appeals for films awarded unrestricted classifications.

Leave granted.

The Hon. A.L. EVANS: Under the review process for classification decisions made by the Office of Film and Literature Classification, film and publication distributors have access to a system of review and a right to appeal. Almost invariably, distributors apply to have the classification lowered. No such right applies for the public. If they believe that a classification is too lenient and should be raised, their options are very limited. They must prove that they are 'persons aggrieved' by the classification decision in order to be heard. If they cannot meet this requirement, their only option is to persuade the state Attorney-General to lodge a request for a review with the federal Attorney-General.

Changes to the Classification Act have expanded the class of persons who can be considered to be aggrieved, but only in regard to appeals concerning decisions relating to 'restricted publications' such as MA, R, X and RC films and computer games. These changes now allow organisations whose objects or purposes include, and whose activities relate to, the contentious aspects of the theme or subject matter to qualify. Further, a person who has engaged in a series of activities relating to or who has researched the contentious aspects can also be considered aggrieved. Organisations or members of the public concerned about material being given a rating of G rather than a PG, or a PG rather than an M, do not benefit from these changes.

In the Office of Film and Literature Classification Annual Report 2003-04, it was noted that each year there has been some dissatisfaction with the classification given to some family films. Young Media Australia is an organisation that provides detailed reviews and advice to the public about the media and the developmental needs of children. Its work is highly valued by both professionals and parents who are concerned about protecting children from the material in the media that is not appropriate or can be harmful to their developmental needs. Young Media Australia would have challenged the classification given to films such as *Scooby Doo*, but the combined requirements of a time limit of 30 days, the cost and having to prove that they were within the definition of persons aggrieved by the decision prevented such action. My questions to the Attorney-General are as follows:

1. Why was it seen to be more important that the definitions of who can be aggrieved were relaxed in relation to legally restricted films, but not for films for wide consumption by hundreds of thousands of children?

2. Will the Attorney-General pursue a review of this anomaly that prevents the public and interested organisations, other than distributors, appealing films and other material in the unrestricted categories in the same way as can now be done in regard to material given a restricted classification?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I thank the honourable member for his question and I will refer it to the Attorney-General and bring back a reply.

CAMPBELLTOWN CITY COUNCIL

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for State/Local Government Relations, a question about the operations of the Campbelltown City Council.

Leave granted.

The Hon. J.F. STEFANI: In a recent article written by Craig Farmer in the *East Torrens Messenger*, the Minister for State/Local Government Relations (Hon. Rory McEwen) was quoted as saying, 'Ratepayers should have more say in the projects their council rates fund.'

On 11 May 2004 the Campbelltown council was provided with cost estimates for various options for the libraries and community facilities project by Currie & Brown (Australia) Pty Ltd. Option 2 of the cost estimates provided by the quantity surveyors detailed the cost for each of the 14 projects to be considered by the council. The total estimated expenditure was \$24.925 million. This did not include an amount of \$3.739 million for professional fees, which brought the total cost of the project to \$28.664 million.

At a special secret meeting of the council held on 5 July 2004, the elected councillors present at the meeting were provided with certain financial information on the facilities feasibility study. On 23 July 2004, the chief executive officer provided written details to the elected members of the council. The financial details outlined the cost of the projects at \$23.6 million. When using the \$3.9 million held in reserve funds by the council, a rate revenue increase of 9.42 per cent in rates payable by the ratepayers was projected. I am advised that many of the ratepayers of the City of Campbelltown would not be aware of the pending increases in the council rates.

In fact, the Campbelltown Residents and Ratepayers Association has been expressing concern at the lack of accountability of its council and has written to various members of parliament, including the Premier and the minister, requesting an urgent investigation of the Campbelltown council. In view of the serious concerns expressed by numerous constituents about the operation of the council, my questions are:

1. Has the minister received written submissions from concerned residents and ratepayers of the Campbelltown City Council?

2. Will the minister confirm that the Premier has received similar representations?

3. Has the minister discussed the matter with the Premier and, if so, what was the outcome of those discussions?

4. Does the minister agree that the ratepayers of Campbelltown have had no say in the council's decisions regarding the projected expenditure of their money on projects that they do not want?

5. Will the minister intervene as he did in the conduct of the Barossa council and instigate an urgent investigation into the operations of the Campbelltown City Council?

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

TRANSFER OF PRISONERS SCHEME

The Hon. IAN GILFILLAN: My question is directed to the Minister for Correctional Services regarding the statement he just gave to the council about the transfer of a UK parolee. In the third paragraph of his statement, the minister stated:

I understand that departmental discussions between the commonwealth, state and UK officials have taken place over the last few months. However, as I stated, it was not until the evening of Thursday 18 November 2004 that the department and I received an application for this transfer.

Which state official from which department had been discussing this matter for the last few months? If it is not the Department for Correctional Services, which is his department, I fail to see in the statement—and offer him the opportunity to answer the question—how those two facts marry, namely, that an official of his department had been discussing the matter for a few months and yet the department and the minister had not received the application until Thursday 18 November?

The Hon. T.G. ROBERTS (Minister for Correctional Services): There were discussions between the commonwealth, the United Kingdom and the state through the Department for Correctional Services. There was some discussion about this being the first of the prisoner transfers to be facilitated under the act. There were some discussions between the three parties at different levels. I was informed on the Thursday evening, when I was in Yalata, that some agreement had been reached on a way to proceed.

The Hon. Ian Gilfillan: Your department did know about it for months.

The Hon. T.G. ROBERTS: No; my department was involved with discussions with the Home Office and—

The Hon. Ian Gilfillan: The statement says so.

The Hon. T.G. ROBERTS: Yes.

The Hon. Ian Gilfillan: The statement says they are.

The Hon. T.G. ROBERTS: They are?

The Hon. Ian Gilfillan: They have been involved for months. I just read it out.

The Hon. T.G. ROBERTS: Yes; that is what I am saying—they were involved. My department and the Home Office were involved in discussions, and my department and the commonwealth were involved in discussions, but no application had been received in relation to that prisoner until last Thursday evening. I was in Yalata. I asked my staff to find out what the details of the application were and what our responsibilities were.

The Hon. Ian Gilfillan: Would you agree that it is a confusing statement?

The Hon. T.G. ROBERTS: It probably is a little bit confusing.

The Hon. Ian Gilfillan: That is all I need.

The Hon. T.G. ROBERTS: In clarifying it, all parties were involved in discussions about this prisoner and how to deal with the parole period and the transfer of his parole from the United Kingdom to Australia. Being the first one, I would have thought that more consideration may have been given to the details in the application a lot further out than the time we understood the individual prisoner was going to be put on a plane. It takes all parties to agree, and I would have thought that more time would have been given in which to allow that to occur. However, unfortunately, the time frames were shortened. We are now trying to extend those time frames through discussion. As the statement says, we are now setting up protocols in relation to other possible applicants.

We would like those time frames to be extended to allow for both the state and the commonwealth to at least examine some of the implications of the background of the prisoner, for instance, where the prisoner will be placed, what conditions would apply if parole were to be extended into this state and those sorts of things. We thought we would have a longer time frame to discuss those issues. As the ministerial statement says, in the future we would like that to occur.

FIRST HOME OWNER GRANT (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 22 November. Page 559.)

The Hon. R.I. LUCAS (Leader of the Opposition): I rise on behalf of the Liberal Party to support the bill. It is a relatively straightforward bill. It seeks to insert a six month principal place of residence criterion in the act; and it also inserts some new provisions to help assist the process of catching and convicting grant rorters. The government advises that, at present, there is no requirement in the act for a grant recipient to reside in the home for a specified period. The government advises that there have been some examples where persons who have successfully received the first home owner grant have moved into the place as their principal place of residence for a very short length of time—in some cases days, in other cases weeks—and have then moved out and used it as an investment property. There is no requirement which says that you have to live in the place as a principal place of residence for a particular period.

The intention of the legislation in part is to include a six month principal place of residence criterion. I think that there is a question as to whether or not six months would be long enough. The opposition will not seek to amend it. Advice from government officers is that, in their view, six months is long enough and that most people involving themselves in investment properties would probably not want to be moving into a place for six months at a time. I suspect that it will still be the case, knowing some young people (and older people, I should say), that they will move into a place for six months and then move out and use it as an investment property, anyway.

The government will probably have to acknowledge that that is likely still to be the reality: that some will still get through. However, I think that the government's advice has been that this amendment should significantly impact on the numbers of people who might engage in that practice. The bill also seeks to extend from two to three years the time period within which an applicant can be prosecuted. The second reading explanation outlines in a little detail (and the officers have provided further detail) the length of time required to put together a case for a prosecution. The opposition is prepared to support that aspect of the legislation.

The third aspect seeks to allow the Commissioner of State Taxation to impose a financial penalty where the applicant has provided false and misleading information in the application as opposed to the current act where an applicant's dishonesty must be proved before a penalty can be imposed. I understand that the Commissioner's position is that the

current requirements are too onerous in terms of successful convictions, and that there needs to be an easier conviction process envisaged in the legislation.

We have received answers to some questions from government advisers. However, from the opposition's viewpoint, a number of issues still remain unclarified and we will seek answers to those in committee. Certainly, it is our current intention to support this provision of the act subject to, I guess, any responses we might get in committee. Rather than going through the specific questions in the second reading debate (as we plan to progress to committee immediately), I will leave the detailed questions on that aspect until the committee stage.

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I thank the Leader of the Opposition, the Hon. Kate Reynolds and other members who have spoken for their indications of support. We will be pleased to answer questions during committee. I commend the bill to the council.

Bill read a second time.

In committee.

Clause 1.

The Hon. R.I. LUCAS: I seek from the minister an indication as to the current estimate of when the act will come into operation?

The Hon. P. HOLLOWAY: My advice is that as soon as the bill is assented to we will try to get it in place.

The Hon. R.I. LUCAS: Before the end of the year?

The Hon. P. HOLLOWAY: If possible; assuming we get it through both houses, yes.

The Hon. R.I. LUCAS: I have a series of questions I indicated I would ask in committee. I will ask questions in relation to the issue of penalties and how that might compare with the Tax Administration Act when we come to clauses 11 and 12.

Clause passed.

Clauses 2 to 6 passed.

Clause 7.

The Hon. KATE REYNOLDS: I move:

Page 3, lines 28 and 29—

Delete all words in these lines and substitute:

Section 11(3)—delete subsection (3) and substitute:

(3) An applicant is also ineligible if, before the commencement date of the relevant transaction—

(a) the applicant or the applicant's spouse—

(i) held a relevant interest in residential property in South Australia or an interest in residential property in another state or territory that is a relevant interest under the corresponding law of that state or territory; and

(ii) occupied the property as a place of residence for a continuous period of at least six months; or

(b) the applicant or the applicant's spouse held an interest in residential property outside Australia that conferred on him or her rights in relation to the property that are equivalent to the rights, under the law of this state, of the holder of an estate in fee simple.

As you would be aware, Mr Chairman, housing affordability is one of those current buzz phrases. In Adelaide, things are pretty good for some people. However, the introduction of this bill to address some of the anomalies or rorts of the first home owner grant provides what we see as a perfect opportunity to also address what the Democrats consider to be an unfair and unjustified advantage experienced by people who own or have owned a home in another country. I will give four examples that were provided to me by just one constituent from people she personally knows. In the first example, a married couple from the United Kingdom moved to South

Australia (and this occurred very recently). Ten weeks later, they purchased a home for \$205 000 and were eligible for the first home owner grant of \$7 000, even though they had sold their home in the United Kingdom to move to Australia, whereas Australian born residents wanting to sell one home and move to another home are not eligible for the first home owner grant. That is the first example of what we see as a major inequity.

In the second example, an unmarried man from New Zealand lives and works here in South Australia. Although he already owns a home in New Zealand, he is eligible for the first home owner grant of \$7 000. So, there is another example of inequity. In the third example, a married couple who want to purchase a home and start a family, where the husband has a part share (I think just one-third) in a holiday house he inherited from a parent, is ineligible for the first home owner grant and, therefore, so is his spouse. In the fourth example, following separation, a woman with three dependent children agreed with her former partner to sell their matrimonial home. She paid the appropriate property settlement to her former husband, and she now wants to buy a new home for herself and her children, but she is ineligible for the first home owner grant because she has once owned, or part owned, a home.

To add injury to insult, the state government stamp duty concession applies only to those people classified as first home buyers. As this constituent said to me, it is difficult to understand how people who have so far contributed either nothing or very little to the community and to the state's economy get what she calls a lucky break. However, people who are ordinary South Australians, especially battlers doing their best to secure a home and those who have family responsibilities, are denied assistance. This amendment seeks to redress the advantage that overseas born permanent residents of Australia have over Australian born residents. I urge honourable members to support it.

The Hon. T.G. CAMERON: I support the government position on the first home owner grant. There are only a couple of matters that need tidying up. I support the extension of the grant from two years to three years. I have a query in relation to the removal of the onus on the Commissioner to prove an applicant's dishonesty providing 'greater flexibility in applying an appropriate sanction to applicants in this league. . .'. There is no doubt that it will provide greater flexibility for the Commissioner. But, in the event that someone might disagree with the Commissioner's ruling, is there any procedure for an appeal? Apart from that I support the government's bill.

I have some queries in relation to the amendment moved by the Hon. Kate Reynolds. I—and I think most members of this parliament—would agree with the sentiments expressed by the Hon. Kate Reynolds in her genuine desire to tidy up what she sees as some loopholes, but I am unable to support this amendment. I do not fully understand what new section 11(3)(b) means. I foresee a number of problems with the way in which it has been worded. My fears are that carrying the amendment moved by the Hon. Kate Reynolds will have unintended consequences, which could unfairly discriminate against people whom the honourable member has no intention of discriminating against.

I did not catch the full drift of the honourable member's argument in relation to New Zealand. The example the honourable member used would be appropriate if one were comparing Australia with New Zealand, but what about an Australian, for example, who may marry an Indonesian,

Philippina or Malaysian? She comes out here, he has never owned a house, and they decide to buy a house. It may be that this person has an interest in a residential property. A lot of property throughout Asia is owned in family groups. When asked, 'Does she hold any interests in residential properties?' she would have to say yes; and we could be disqualifying someone from getting a grant when the value of the property overseas in which they have an interest is less than the grant itself. In many parts of Asia one can buy a house and land for \$5 000, particularly outside the major city areas. I am concerned that the honourable member's amendment may have unintended consequences. I support the sentiment behind the amendment, which is to try to stop double dipping and people unfairly accessing this grant. As I understand it, the numbers are not there for it anyway, but I wanted to explain why I will not be supporting the amendment.

The Hon. P. HOLLOWAY: The government is not supporting the amendment. The Hon. Terry Cameron has made a very interesting point in relation to the merits of the proposal. The government's reasons for opposing the amendment are a little more—

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: Well, the government's reasons relate more to the impact this would have on the arrangements. We are talking about a national scheme. It applies under an intergovernmental agreement, and part of that agreement is that there should be consistent eligibility between the states and territories of Australia. Apparently no other state or territory has this measure in relation to property held outside Australia. In itself that would make it extremely difficult to check, if we were the only state to have it. Notwithstanding that it is against the agreement, it would be extremely difficult to check it in any case. It is essentially for that reason that the government opposes it.

I should point out that protections would apply anyway relating to permanent residency or citizenship. The recipient has to have permanent residency or citizenship to receive this grant and that, in turn, implies a qualification period of residency in this country. It is for those reasons that the government opposes the measure. However, I think that the Hon. Terry Cameron has also pointed out some other difficulties in relation to the merits of the proposal, which I will not comment on, but I think that they are interesting.

The Hon. R.I. LUCAS: The opposition does not support the amendment, either. I think that a number of issues need to be addressed, as well as other practical issues regarding how one can determine or not determine the ownership of property in countries other than Australia. Agreements and arrangements exist between the various revenue offices in Australia in being able to determine the truthfulness or otherwise of claims made about the ownership or interest in properties in other states. Being able to do that for all other countries in the world is potentially difficult in practical terms in being able to manage it. I understand completely the point that the Hon. Kate Reynolds makes, but I think that some significant practical issues exist in its implementation. The point that the Hon. Terry Cameron makes is also important. I was thinking along similar lines.

We have 2 000 residents in Adelaide from the Sudanese community. A number of other new refugee groups come from parts of the world where their interest in residential property is very modest, forgetting the point that the Hon. Terry Cameron raised about where you may hold an interest or share in a family property. We might not be talking about thousands of dollars: we might be talking about significantly

less than that. I would have thought that it was not the Hon. Kate Reynolds' intention in relation to members of that community, for example, who, under the definition of her amendment, may have had an interest in a very modest property in Sudan or other parts of the world. Having fled those parts of the world to come to South Australia, under the current arrangements, they would be eligible for some assistance in terms of first homeowners grants and would find, by the nature of this amendment, that they were potentially excluded. Knowing the Hon. Kate Reynolds' background in working with the refugee community, I am sure that that would not be her intention.

I think that the Hon. Terry Cameron has raised an important point and, while there are many other examples, we do not have to waste the time of the committee this afternoon going through all of them. The government has indicated its opposition and, on behalf of Liberal members, I acknowledge the intent of what the Hon. Kate Reynolds has outlined, but, for the practical reasons I outlined earlier and the unintended consequences that the Hon. Terry Cameron has explored (and I have given some further examples), I do not think that it would be wise for the committee to support this amendment to the legislation.

The Hon. KATE REYNOLDS: Members will be pleased to know that I will not be seeking to divide on this, but I would like to make a couple of comments. I believe that the administrative issues could be addressed, if the will of the parliament were there; I accept that it is not. I point out that the example raised by the Hon. Terry Cameron is, in fact, exactly the same as the third example I gave where a married couple want to purchase a home and start a family, but the husband has a part-share in a property. In this case, it is a holiday house; and I can tell you that it is a very modest property from what I have been told. It is perhaps one-third, not even one half, that is shared between more than three family members. That asset cannot be realised, because the other title holders in that property are not willing for it to be sold. So, in this case, that makes the married couple ineligible because the husband is a part-owner in a property. It could be on the beaches; it could be in Sedan as opposed to Sudan; but in my view the situation is precisely the same.

While the Hon. Robert Lucas is quite right, I would not seek to cause any further disadvantage for refugees attempting to settle in this country, let alone in South Australia. I think, equally, we have to take account of people who are struggling in the private rental market, and of sole parents who are trying to establish a secure home for themselves and their children. So we might talk about this amendment potentially causing an unintended consequence for some first home buyers in this state—some might be couples and some might be families—but the reality is that that same situation is already faced by people here. I am not terribly good at maths but I can do the numbers, so I will not take up any more of the committee's time except to say that we might want to look at this a bit further down the track when we consider issues around poverty.

Amendment negatived; clause passed.

Clauses 8 to 10 passed.

Clause 11.

The Hon. R.I. LUCAS: I thank officers and the government for providing my office with some answers to questions, but there are a few others I want to place on the record. Can the minister indicate approximately how many successful penalties have been imposed under the current

penalty provisions of the first home owner grant legislation in South Australia?

The Hon. P. HOLLOWAY: We do not have an exact figure with us. It is about 20 to 30, I think, but that would not be under the current provision that we are amending: it would be under another subsection of the same section. That would relate to where the conditions that are set out for the grant have not been met. They are largely under that provision.

The Hon. R.I. LUCAS: Can I clarify that answer? Under the dishonesty section of the First Home Owner Grant Act as it exists at the moment, is the minister indicating that there have been no convictions or penalties?

The Hon. P. HOLLOWAY: I am advised that there have been no penalties under section 39(2) of the current act, which is the subsection that relates to the result of an applicant's dishonesty. I guess we can check on the number of penalties imposed under section 39(3) while the bill is between the houses.

The Hon. R.I. LUCAS: Perhaps I have an old copy of the act. In the act that I have, the dishonesty provisions are in section 38, and section 39 prescribes the power to require repayment and impose penalties.

The Hon. P. HOLLOWAY: Section 38 is the offence provision but section 39(2) is the penalty provision. Section 38 requires a person to be taken to court and section 39 allows the Commissioner to apply a penalty, so it is really under section 39 where the Commissioner applies a penalty; in particular, under section 39(3) where the penalties have been applied but none under section 39(2).

The Hon. R.I. LUCAS: I am still lost. Section 38 has three parts. Subsection (1) provides that a person must not dishonestly make a false or misleading statement, etc., and there is a penalty there. Section 38(2) states that a person must not make a misleading statement in or in connection with an application. That is obviously a lower penalty. Section 38(3) is the defence provision. There appear to be two specific offences potentially committed by applicants. Section 39 provides the power to require repayment and impose penalty. Section 39(2), to which the minister has referred, provides:

If as a result of an applicant's dishonesty an amount is paid by way of a first home owner grant, the Commissioner may, by the notice in which repayment is required or a separate notice, impose a penalty not exceeding the amount. . .

That appears to be saying that, if you breach section 38(1), that is, as a result of your dishonesty you get money, the Commissioner can require you to repay it and impose a penalty as well. That would appear to be referring to the section 38(1) offence, which is the dishonesty offence. If my reading of the act is correct, I want to clarify my question. When the minister says that virtually no people have been convicted and penalised under the dishonesty provision, I am referring to section 38(1) as opposed to section 38(2) of the act. Can the minister clarify that issue?

The Hon. P. HOLLOWAY: My advice is that under section 38(1), where matters are taken to court, there have been three prosecutions and five people convicted. Obviously in some cases they were joint convictions. So three prosecutions, five convictions under section 38(1).

The Hon. R.I. LUCAS: Have there been more under section 38(2)?

The Hon. P. HOLLOWAY: The five convictions were under section 38. We are not sure whether they were under subsection (1) or subsection (2). We would have to clarify

that. Perhaps we can correspond with the honourable member about that. There have been five convictions under section 38.

The Hon. R.I. LUCAS: If I understand what the government is suggesting by way of amendment, section 38(1) is unchanged and section 38(2) is being changed by making the offence the giving of a false and misleading statement, rather than just a misleading statement. As a flow-on of that, section 39 is amended so that 39(2), which is the provision the minister was talking about earlier, the capacity for penalties, is not being referred back to just the section 38(1) offence; instead of an applicant's dishonesty, it concerns the offences under section 38(2) and also section 38(1) in relation to false and misleading statements. Is that correct?

The Hon. P. HOLLOWAY: It is my advice that section 39 stands apart from section 38. The amendment of section 39 will enable the Commissioner to apply a penalty where someone has made a misleading statement on their form. Presumably, if that person wished to challenge it, they could take it to court, but this enables the Commissioner to apply a penalty. To get back to the honourable member's earlier question, the change to section 38(2) is simply to bring the wording into line with the wording proposed for section 39(2).

The Hon. R.I. LUCAS: The section 39 provision is in relation to the Commissioner's power for penalties. The section 38 provision would require the Commissioner (or whatever the government process) to institute court proceedings either under section 38(1) or section 38(2). Could I have that clarified?

The Hon. P. HOLLOWAY: Yes, that is my advice.

The Hon. R.I. LUCAS: I take it that the Commissioner could also choose to move on both fronts at the same time in relation to one particular offence; that is, court proceedings could be instituted under section 38(1) and penalties could be imposed under section 39 as well.

The Hon. P. HOLLOWAY: That may be technically possible but I am advised that it would not be used; that is, section 38 would be used only for the more serious offences. For the less serious offences, the Commissioner would be likely to use section 39, but I suppose technically it could be both. However, I think it would be highly unlikely that the Commissioner would take that course.

The Hon. R.I. LUCAS: I thank the minister for that. I can certainly understand that in relation to section 38(1), which includes the dishonest provision and has a maximum penalty of imprisonment for two years, but section 38(2) is the offence of false or misleading statement which has a maximum penalty of \$2 500. What the minister is indicating is that, even in relation to someone who has made a false or misleading statement, the Commissioner would choose to either prosecute under section 38(2) or impose penalties under section 39, but he is highly unlikely to do both.

The Hon. P. HOLLOWAY: Yes, that is my advice; that is the situation.

The Hon. R.I. LUCAS: Can the minister confirm what is the set of circumstances where an applicant makes a mistake; that is, it is a misleading statement—it may well be false—but it was an error? Can the minister outline what the processes are for someone who has genuinely made a mistake to convince the Commissioner of that?

The Hon. P. HOLLOWAY: My advice is that the amendments are to give the Commissioner a flexibility so, if he is satisfied that it was a genuine mistake and there was no

intention to mislead, he would have the flexibility not to impose a penalty.

Clause passed.

Remaining clauses (12 and 13), schedule and title passed.

Bill reported without amendment; committee's report adopted.

Bill read a third time and passed.

GAMING MACHINES (MISCELLANEOUS) AMENDMENT BILL

In committee.

(Continued from 22 November. Page 586.)

Clause 10 passed.

Clause 11.

The Hon. R.I. LUCAS: This clause is really a continuation of the discussion that the Hon. Rob Lawson, the Hon. Kate Reynolds and other members raised last night in relation to Club One. I am wondering whether, as a result of the many hours that have elapsed since last night's proceedings, the government was in a position to consult the Commissioner so that it can put on the record some answers from the Commissioner to some of the questions asked by a number of members. In particular, I sought a comment from the Commissioner about the proposed powers of the act under this bill. I asked whether or not the Commissioner will have the power to provide oversight of the fees paid to directors, the chief executive officer and, in particular, the amount of money paid in the major management fee consultancy arrangement into which the Club One body might enter.

The Hon. T.G. ROBERTS: I have some responses to those issues, and some amendments are now being searched for. As indicated in the chamber yesterday, the government has today clarified with the Liquor and Gambling Commissioner his powers and role in approving the proposed holder of the special club licence. The Commissioner has advised that there is no specific power for him to approve the costs of management consultants, etc., in approving Club One's licence. To do this he would have to rely on other more general provisions of approval of persons and the general provision enabling him to apply conditions on a licensee as provided for in new section 24A(4).

There is a clear desire to ensure that Club One operates as it is intended, that is, to provide funds to the club and community sector, and that it is appropriately accountable through approval and reporting processes. The government has previously indicated its desire for strong regulatory and approval controls. To ensure that this occurs and to clarify any uncertainty over the relevant powers and requirements of the Commissioner in this regard, the government has tabled amendments which do the following:

1. provide that the Commissioner must approve contracts or arrangements under which management services are to be provided, senior management are to be remunerated or profits are to be shared with other licensees in relation to the business conducted under the special club licence; and

2. require the holder of the special club licence (that is, Club One) to provide an annual report on its annual revenue and distribution of funds to community, sport and recreation groups. This report would be provided to the minister and required to be tabled in parliament.

The Hon. KATE REYNOLDS: Did the minister say that he would be circulating the amendments or that he had circulated the amendments?

The Hon. T.G. ROBERTS: They will be circulated.

The Hon. R.I. LUCAS: Clearly, it would be useful if the minister could provide a copy of the advice that he has just received to members in the chamber. I am sure that the Hon. Kate Reynolds, the Hon. Mr Xenophon, other members and I would be interested. The minister has just read it onto the record. Also, what clauses are to be amended when we see the amendments?

The Hon. T.G. ROBERTS: This amendment will be moved to clause 11, but there are amendments to clauses 4, 11, 13 and 22.

The Hon. R.I. LUCAS: I think that we have a process issue here. Clearly, members will want the opportunity to consider the amendments. There are a couple of options: one would be to report progress and the other to have a general discussion now with an agreement from all that we recommit in relation to these provisions. It is a judgment call for all members. I am personally relaxed about having a general discussion now and then a commitment to recommit before we formally vote on the provisions. I would be interested, once members have had a quick chance to look at the amendments, to know whether or not there would be any problem with that notion of being able to proceed and recommit.

If we continue a general discussion for a brief period we can make that judgment. I am not sure of the minister's intention at the outset. I think that it would be particularly unreasonable to vote on this amendment immediately with members not having had a chance to look at it. I had a brief discussion with parliamentary counsel last night about drafting a potential amendment. My immediate feedback to parliamentary counsel was that I thought that it was going a little further, certainly, than I was intending. The issues that I raised in my second contribution did principally relate to the issues of the major management fee contract and the remuneration for directors and the chief executive.

The original drafting I have seen talked about all consultants and contractors, so it would potentially pick up engineering contractors, legal advisers or accounting advisers and a range of other things which might be of a relatively modest size and proportion, whereas the key issue I had concern about was the significant management contract that might be entered into. I would be interested to hear from the minister as to how he envisages us proceeding. I have indicated my initial preference, anyway.

The ACTING CHAIRMAN (Hon. R.K. Sneath): Clauses 4 and 11 have not been the subject of amendment and therefore can be reconsidered before we report, rather than being recommitted.

The Hon. A.J. REDFORD: I would be interested to hear from the minister what level of discussion the government has had with Clubs SA and Sport SA in relation to the wording of this amendment.

The Hon. T.G. ROBERTS: I have been advised that there has been general telephone discussion and that they are happy with the way in which the amendments have been drafted.

The Hon. R.I. Lucas: Is that just Clubs SA or does it also include Sport SA?

The Hon. T.G. ROBERTS: It is just Clubs SA.

The Hon. A.J. REDFORD: Speaking for myself, I would be loath to proceed further until that has been nailed down. Dealing with bills gets quite messy when we go through them and we come back and recommit, particularly when you look at issues that affect Club One that come later in this bill. That

is my view. I do not understand the effect of amendment No. 1, which is an amendment to clause 4. With your indulgence, Mr Acting Chairman, I know we are not dealing with clause 4, but I assume that it does have some impact on the amendment the government is intending to move in relation to clause 11. That is my first point. My second point is that it imposes on the special club licence (which is, under the current definition, Club One) a condition requiring the holder of a licence to submit for the Commissioner's approval contracts or arrangements under which management services are to be provided. Officers and employees engaged in senior management positions are to be remunerated.

My understanding is that this would create a different regulatory environment than that which currently prevails in relation to other clubs. I use the example of the Port Adelaide Football Club: yesterday I asked a question about the details of the arrangements which had been approved by the Commissioner. Proposed clause 4B then goes on to provide that the holder of the licence is to provide a report to the minister on the conduct of its financial affairs. There is no requirement in that context for the Port Adelaide Football Club to do that; there may be no need for that, and I am not saying that there should be. However, there seem to be some differences between how Club One would operate and the arrangements such as those which currently prevail at Port Adelaide. That is the second query I have in relation to these amendments.

Thirdly, given that this is a package, I would be most interested to hear the explanation in relation to proposed clause 13A. I ask those questions, not indicating one way or the other whether I am happy with the arrangements. I suspect I am slightly different from the Hon. Rob Lucas. I think that, whilst they might go a long way, they are probably required to ensure that we do not get some of the excesses we see in the Sydney-based leagues clubs.

The ACTING CHAIRMAN: Will the minister advise the committee whether the amendment to clause 4 will have any effect on clause 11?

The Hon. T.G. ROBERTS: I think the best way to proceed, given that we have two different problems—one being the explanation of the clauses—is for each member of the committee to interpret them as we go. That may be possible. However, in relation to the second problem of being in contact with the clubs and other stakeholders, I do not think we can accommodate that without each explanation being clearly known and discussed. We are in a bit of a bind. If contact with the stakeholders is required, perhaps we can get clarity on the explanation of the amendments, if that is the way the committee wants to proceed, or perhaps we can move onto other clauses that are not affected by the time needed for that consultation.

The Hon. NICK XENOPHON: On the face of it, the amendments the government has just tabled appear to be an improvement and answer some of the concerns expressed by the Hon. Mr Lucas and others. I have come at this from a different perspective, and this afternoon I obtained some further information from the Office of the Liquor and Gambling Commissioner. I am very grateful for its assistance, and I have enough copies for all those members who are interested. It sets out the average NGR per gaming machine per year. Also, I received information as to the number of venues in each area, grouped for non-profit and for-profit venues. I am happy to provide members with a copy of that.

In terms of the concept of Club One, I think this may be the only time in the past seven years that the Hon. Caroline

Schaefer and I have seen eye to eye on an issue in relation to gambling and the need for the Club One concept at all, particularly as clubs have been exempted from the reduction process. I have real reservations about the whole Club One concept, given that it has been exempted in the first place. The information from the Office of the Liquor and Gambling Commissioner makes it quite clear that the more machines per venue the higher the NGR. I do not wish to support the Club One concept because, if clubs are effectively quasi hotels, that goes against the grain of the small community club with its machines that are doing a much lower NGR than a quasi hotel. The fact that they can operate within a hotel or as a hotel further strengthens my reservations. That is my position. I am happy to provide those statistics to members.

The Hon. T.G. ROBERTS: The only reply I can give is that they would not be quasi hotels: they would be hotels.

The Hon. R.I. LUCAS: As one individual I am happy to proceed. The point I made earlier (for the benefit of my colleague the Hon. Angus Redford) was that the draft amendment I saw last night went further than I thought. This amendment is much closer to what I think is a reasonable approach, but I would like to look at it and, as some of my colleagues have indicated, take the opportunity to hear from Club SA, and anyone else, as to whether they support this amendment.

Speaking individually, I do not have a problem with proceeding with the debate in the committee stage, but we should not vote on this amendment until we reconsider, rather than remit, this clause, so that members are not required to vote on this at the moment. We are aware that it is likely to be moved. Clearly, the government is likely to support it and, on the surface, I am likely to support it; and some other members may support it, as well. So, we are aware of that and it would be left until there was a chance for members to properly consider it and consult. We can continue. I know that my colleague has further questions on this clause. I think we can continue with the committee stage and consider other issues, bearing in mind that we will reconsider this clause and, potentially, have this amendment included in it.

The Hon. T.G. ROBERTS: That seems to be a fair way to proceed. We will answer any questions that those who have an interest in the bill want to ask. We can move on to clause 12, once we make the clarifications and the consultation takes place. I will circulate the explanations to each member. If members want to ask questions now, I will get my officers to provide an explanation.

The Hon. A.J. REDFORD: What is the purpose of the government's proposed amendment to clause 4?

The Hon. T.G. ROBERTS: It is a technical amendment that is unrelated to Club One. Section 14A of the act will no longer be superseded as envisaged by this amendment, as the five year licence provision was unsuccessful. Section 14A will now simply be deleted by proclamation with the commencement of clause 7 of the bill. This amends the bill to reflect the process that will now occur.

The Hon. A.J. REDFORD: In relation to the proposed amendment to delete clause 22, is that also relevant to clause 11; and, if so, how?

The Hon. T.G. ROBERTS: No.

The Hon. A.J. REDFORD: What does it do?

The Hon. T.G. ROBERTS: Again, this is a technical amendment. The amendment to section 14A is no longer required as section 14A will be deleted in full by the commencement of clause 7 of the bill. Previously, clause 22 was required to enable the devolution of rights provision in

clause 23 to commence the five year licence renewal provision. That is no longer necessary as the five year renewal provision no longer exists in the bill.

The Hon. A.J. REDFORD: The second issue is that there is a requirement to table in parliament a report by the holder of a licence—the licence holder in this case being Club One—on the conduct of its financial affairs, including the distribution of funds among community, sporting and recreational groups. Will there be any requirement in relation to any other club which is the holder of a gaming machine entitlement or licence? If not, why not?

The Hon. T.G. ROBERTS: There will be no other requirement for any other body because this is a special licence for Club One.

The Hon. A.J. REDFORD: What is the rationale behind the distinction?

The Hon. T.G. ROBERTS: It is a special privilege for Club One granted by the parliament.

The Hon. A.J. REDFORD: Section 24A(2) requires Club One to have three people with particular qualifications on its board of management. I note that no other requirement is made in terms of the board. Firstly, can I assume that Club One is to be incorporated under the Associations Incorporation Act? Secondly, other than that requirement, do I assume that it is a matter for Club One and its membership to determine the size of the board and what other members or qualifications it will require in terms of its board of management?

The Hon. T.G. ROBERTS: The answers are yes and yes. The second one needs some explanation. The charter that Club One will operate under will allow that flexibility, and also, a draft charter for Club One will be a guide on how it conducts its business.

The Hon. A.J. REDFORD: Am I also to assume that the Commissioner's power to approve persons in authority, which I assume would include members of the board, would apply in so far as Club One is concerned?

The Hon. T.G. ROBERTS: Yes.

The Hon. NICK XENOPHON: Further to the line of the Hon. Mr Redford's questioning, if an agreement goes outside the guidelines, will that trigger further inquiries or a more rigorous approach by the Commissioner with respect to any agreement that deviates from the standard guidelines?

The Hon. T.G. ROBERTS: Yes.

The Hon. NICK XENOPHON: Once an agreement has been approved by the Commissioner, what is the position with respect to public access of that? I am aware of the provisions with respect to reporting, but will the actual agreement be in a form that is accessible to members of the public and, in particular, club members to peruse?

The Hon. T.G. ROBERTS: No; it may be commercially sensitive, so it may not be readily accessible.

The Hon. Nick XENOPHON: Which parts? Remuneration?

The Hon. T.G. ROBERTS: Which parts of the document? It could be remuneration.

The Hon. Nick XENOPHON: What about profit-sharing?

The Hon. T.G. ROBERTS: It could be profit-sharing.

The Hon. A.J. REDFORD: The proposed amendment provides that a special club licence is subject to further conditions. Subclause (c) provides that other conditions are determined by the Commissioner and are specified in the licence. What does the government have in mind in relation to that provision?

The Hon. T.G. ROBERTS: I understand that it would be approving similar standards as already apply in the Gaming Machines Act, and they will be standard approvals.

The Hon. A.J. REDFORD: What are we specifically talking about? Is it that we do not know yet or is it something that might generally be applied?

The Hon. T.G. ROBERTS: Some of the standard approvals would be conditions of the premises and those sorts of things—standard approvals under the current act.

The Hon. A.J. REDFORD: Finally, in relation to the amendments that have just been filed, can the minister indicate whether amendment No. 3, which is proposed to amend section 68 regarding profit-sharing, is contingent upon the success of these proposed amendments to clause 11? If so, how?

The Hon. T.G. ROBERTS: They are related but not contingent.

The Hon. A.J. Redford: How are they related?

The Hon. T.G. ROBERTS: This amends the profit sharing offence provisions in the act by clarifying that the Commissioner can approve these arrangements and to enable the distribution of funds to Club One or to be shared between parties when the entitlements in a gaming venue are held by more than one party. Also, in practical terms, it is necessary to allow the Commissioner to approve that Club One can receive a share of revenues when Club One entitlements are operated in a venue of another licensee, and also that non-profit associations can share proceeds when they amalgamate their gaming operations in the premises of one of the parties. With the potential complexity of various arrangements, it is appropriate to leave these approvals to the Commissioner.

The Hon. A.J. REDFORD: I do not have any more questions, but is the minister proposing to not move these amendments at this stage so that we would proceed and revisit this later?

The CHAIRMAN: The procedure will be that when we get to almost the reporting stage, because there has been no amendment to this clause, it will be reconsidered at that stage.

The Hon. R.I. LUCAS: On the issue of section 68(2) of the act, the current drafting says that 'Subsection (1) does not apply in relation to', etc., and then it says 'or to any other person approved by the Commissioner'. If I have read the amendment that has been circulated correctly, it appears that the words 'or to any other person approved by the Commissioner' have been deleted. Could the minister indicate why those words have been removed from section 68(2) in particular?

The Hon. T.G. ROBERTS: I am informed that it has been broadened and the emphasis has been placed on the agreement.

The Hon. R.I. LUCAS: So, is the minister arguing that, under proposed section 68(2)(b) where it talks about an agreement or arrangement on terms approved by the Commissioner, that now incorporates any other person approved by the Commissioner under the existing act but also incorporates other options as well as what was envisaged by the act previously?

The Hon. T.G. ROBERTS: Yes.

The Hon. R.I. LUCAS: One of the issues I raised last night was whether or not the Commissioner had the power under the current act, or proposed changes, to give the tick of approval, if I can put it that way, to the tendering process for what will be the critical management services contract. If we are talking about four or five Club One venues with 40 machines churning out a couple of million dollars of NGR

a year, that is a very significant potential contract, if one accepts the proponents of Club One's estimations of how successful it might be. So, the management services contract (which I understand is to be, as I said last night, on advice, one particular person or company as opposed to, say, four or five) is significant and, certainly speaking as one member, I would want to be assured that there is an appropriate process with appropriate probity principles being followed by the Club One board in terms of ensuring a fair, open and transparent process of selection of the successful management services operator. With that background, does the Commissioner believe that he has the power under the current act, or the proposed changes, to give a tick of approval to that process? If so, can the minister indicate under what provision the Commissioner has that power?

The Hon. T.G. ROBERTS: The honourable member has hit the nail on the head. Subsection (4)(a) gives the Commissioner the power, and I understand the Commissioner is happy with the drafting. That gives him the power for approvals, probity and those sorts of questions.

The Hon. KATE REYNOLDS: Pursuing that line of thought a little bit further, I understand that subsection (4)(a) gives that power, but I am interested in a summary about the criteria that the Commissioner might use to determine whether or not he (or she, in time) should approve such contracts. In particular, I am interested in the contracts.

The Hon. T.G. ROBERTS: It is quite possible that conditions will be placed upon contractor selection so that before you get to the starting line there may be conditions that rule some in and some out. There will be the probity process of a fit and proper person—man or woman. There would also need to be proof of technical ability to carry out the role and function of what is required and there would be some form of professional probity in relation to the qualifications and experience of people to be able to carry out that role and function.

The Hon. R.I. LUCAS: I thank the minister for his answer to the earlier question about oversight of the tendering process. It may not be possible today, but I am sure that we will still be debating this tomorrow, so the minister may be able to respond to my next point. I am interested as to whether or not, under the powers in new section 24A(4), if they remain in the legislation and if the bill passes the parliament, the Commissioner would envisage the use of a probity auditor in relation to providing probity oversight of the tendering processes of the management services contract. I am not talking here specifically about the probity issues as they relate to board members, officers and employees, which is part of the given process the Commissioner has to adopt, and I do not seek an immediate response. The minister may take that on notice.

The Hon. T.G. ROBERTS: I have been advised that the Commissioner would make up his own mind as to what services he availed himself of to make a determination. It may include a probity audit and it may not. It depends on what the Commissioner believes is required to carry out his responsibilities.

The Hon. A.J. REDFORD: Mr Chairman, as to the voting on this clause, unamended—we are revisiting the government's amendments later—I assume that this next vote is on the issue of whether or not Club One is to be established. Is that the case?

The CHAIRMAN: The question that I will be putting is that clause 11 as printed stand as part of the bill. That is in respect of new section 24A, special club licences.

The Hon. A.J. Redford: If you don't want Club One, you vote no.

The Hon. R.I. LUCAS: I agree with that. Some of us are sympathetic to Club One but would like to see some restrictions placed on its operations, and this amendment is probably sufficient for me to say that I am happy with Club One and I am prepared to support it. At this stage I would be cautioning members treating this is a test case for or against Club One. My suggestion would be to proceed on the basis that this is not the test vote on Club One, that when we come back to it, we vote on this, and this either goes in or comes out of it—

The Hon. A.J. Redford interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Redford can put a different point of view.

The Hon. A.J. Redford interjecting:

The Hon. R.I. LUCAS: If it gets up to the relationships one, I think we will be worried. My suggestion to the committee is that we do not treat this clause as the test vote at this stage. When we revisit it, we either incorporate the amendments or we do not, and then when we vote on clause 11 at that stage those who want to rid the bill of Club One could do so knowing that it has either been amended or not.

The CHAIRMAN: This allows members to consider the rest of the bill and then consider their position in respect of Club One.

Clause passed.

Clause 12.

The Hon. NICK XENOPHON: Amendment No. 7, draft 1, is consequential to a previous amendment that was defeated, so it will not be proceeded with. I move my next amendment, as follows:

Page 7, line 11—

New section 27A(1)(a)(i)—delete '20' and substitute '17'

I regard this as a test clause. Last night in the course of the debate with respect to the Hon. Angus Redford's amendment on clause 9, it was debated that, if we did not have transferability, what would take out the requisite number of 3 000 machines, the target that has been set by the government, the target set by the Independent Gambling Authority? After my office worked on these figures—and we do not quite have the resources of Treasury—

The Hon. R.I. Lucas: Thank God!

The Hon. NICK XENOPHON: In order to achieve the figure without a transferability model the following would have to occur: instead of 40 machines going down to 32, that number would go down to 29; and, instead of 28 machines going down to 20, that would go down to 17 in respect of the hotel machines. Our best endeavours of trying to calculate that gave us the sum total of 3 013 machines. There is a debate about the whole issue of transferability. I believe that the figures provided during the course of the second reading debate, the government's response and the whole issue of intensity of playing of machines—that is, the smaller the venue, the smaller the turnover per machine—are relevant matters. It would be a simpler system than a transferability system. It would mean smaller venues. So, we will deal with the issue of access within venues.

When the Hon. Mr Holloway provided a response on 10 November in answer to my request for details of venue categories, he said that, for one to 10 gaming machines, the net gaming revenue per machine was \$13 952; for 11 to 20 gaming machines, \$19 320; for 21 to 28 gaming machines,

\$23 075; for 29 to 35 gaming machines, \$29 804; and for 36 to 40 gaming machines, \$61 940. This is about making the venue smaller and reducing the access at a per venue site. Some of the figures which I obtained from the Office of the Liquor and Gambling Commissioner earlier today and which I have provided to members who have wanted a copy generally (not always) indicate that there seems to be a strong correlation between a higher turnover in for-profit venues in the hotel sector rather than in non-profit venues.

In essence, if members support this amendment effectively they are saying no to transferability and the whole system of transferability, but it would still achieve the proposed reduction of 3 000 machines at a lower base. On the basis of the figures from the Office of the Liquor and Gambling Commissioner and the research undertaken by the Productivity Commission which found that the smaller venues had a smaller turnover per machine and a smaller loss per machine, I believe this is a better option than the transferability option.

The Hon. R.I. LUCAS: What consultation has the member had with anyone in the industry in relation to this particular proposal and the implications of the proposal?

The Hon. NICK XENOPHON: The debate last night and the very helpful questions from the Hon. Mr Lucas alerted me to the fact that it would not achieve the reduction of 3 000. Between midnight and lunchtime, it was a question of trying to work out the figures. I acknowledge that I have not consulted with the hotel industry, but I do know that in the consultation with the hotel industry Mr Ron Cunningham has written to all members, and I have spoken to Mr Cunningham. He was mentioned in Leanne Craig's article in today's *Advertiser* and, in a sense, also referred to in the editorial. The whole issue of the cap is separate but, in respect of the issue of—

The Hon. R.I. Lucas: A very strong editorial.

The Hon. NICK XENOPHON: It was a very strong editorial, and I am sure the Hon. Mr Lucas is pleased that his amendment has been endorsed by *The Advertiser* editorial. This is about the whole issue of transferability. To me it is the second best option. In terms of consultation, I am more than happy to speak to John Lewis from the AHA—I have a feeling that he would be close by. I would not be surprised if the industry did not support this at all, given that it has been lobbying heavily for transferability as a model. I believe that, on the basis of the figures from the Office of the Liquor and Gambling Commissioner and the research that the Productivity Commission has done, this is a preferred model.

The Hon. A.J. REDFORD: I move:

Page 7, lines 10 to 33—

New section 27A(1)(a) to (c)—delete paragraphs (a), (b) and (c) and substitute:

- (a) in the case of a licensee that is a non-profit association—
 - (i) if the Commissioner has approved the operation of 32 gaming machines or less under the licence, the Commissioner is to issue to the licensee a number of gaming machine entitlements equivalent to the number approved by the Commissioner; and
 - (ii) if the Commissioner has approved the operation of more than 32 gaming machines under the licence, the Commissioner is to issue to the licensee 32 gaming machine entitlements; and
- (b) in the case of a licensee that is not a non-profit association—
 - (i) if the Commissioner has approved the operation of 20 gaming machines or less under the licence, the Commissioner is to issue to the licensee a number of gaming machine entitlements equivalent to the number approved by the Commissioner; and
 - (ii) if the Commissioner has approved the operation of more than 20 but not more than 28 gaming machines

- (iii) under the licence, the Commissioner is to issue 20 gaming machine entitlements to the licensee; and
- if the Commissioner has approved the operation of more than 28 gaming machines under the licence, the Commissioner is to issue to the licensee a number of gaming machine entitlements calculated by subtracting eight from the approved number.

Unlike the Hon. Nick Xenophon's amendment, this is an issue that has been out for quite some time. My amendment seeks to apply a level playing field; that is, that clubs have the same maximum number of machines as do hotels. It restores the bill back to what it would have been if the other place had not moved amendments. I know the Hon. Nick Xenophon is opposed to this amendment and that he does not believe in it. However, it seems to me that the Hon. Nick Xenophon, instead of moving amendments and adjusting figures from 20 to 17, 8 to 11 and the like, would achieve just the same outcome by making everyone equal in this whole scheme of things. The debate has been done pretty extensively in the lower house; it is pretty clear. I do not propose to justify it any more than that, bearing in mind I have to leave the chamber for about 10 minutes.

The Hon. NICK XENOPHON: Referring to what the Hon. Mr Redford has said, the figures from the Liquor and Gambling Commission indicate that the not-for-profit machines are not played as intensively and do not have the same degree of turnover as do machines in the private for-profit sector. As a general rule, if you concentrate on the hotel sector based on these figures, that would take out machines with higher net gaming revenue than those machines in the club sector.

The Hon. R.I. LUCAS: What was the precise calculation the Hon. Mr Xenophon and his staff came to in relation to his package of amendments in terms of the total reduction?

The Hon. NICK XENOPHON: I am advised that the figure is 3 013.

The Hon. R.I. Lucas interjecting:

The Hon. NICK XENOPHON: That is just what my office calculated.

The Hon. P. HOLLOWAY: I indicate that I am opposed to the amendment moved by the Hon.—

Members interjecting:

The Hon. P. HOLLOWAY: That is right: we are opposing everyone. I want to make the general comment that, whatever one thinks of the IGA, and so on, this whole package of measures has been the result of extensive consultations with government through the IGA and industry over nearly three years. What has emerged is a measure that has taken into consideration the workability of the proposal as a consequence of those lengthy discussions with the industry, stakeholders and other people affected by it.

There is the danger that if we start tinkering around with the mechanism now it flies in the face of all those efforts that have been undertaken over a long period of time to try to get something that will achieve the objectives of the Independent Gambling Authority, and that is why I would urge the committee to stick with the proposals as they appear in the bill. At least they are the result of significant effort, work and consultation between industry and the government to try to get something that will work; and that is why I would ask the committee not to support these amendments.

The Hon. T.J. STEPHENS: I will not be supporting either of the amendments. I agree with the Leader of the Government. This measure was thrashed out in the lower house over many hours and, to the best of my knowledge, the

industry groups (both the Australian Hotels Association and clubs) will be pleased if we do not tamper with this bill too much. I will not be supporting the amendments—and quite likely I will not be supporting most of the others.

The Hon. R.I. LUCAS: I am not supporting the amendments, either, but I think that this is an appropriate clause to acknowledge the work done by my colleague the Hon. Mr Stephens in relation to the whole clubs' issue. The honourable member initially raised the issue—if I can use the phrase—of the special treatment for clubs as opposed to hotels. I know that the issue was taken up by another member in the House of Assembly and, given that the bill was debated in the House of Assembly first, the bill has arrived in this place in this form. I acknowledge the work done by my colleague the Hon. Mr Stephens in working with the clubs industry and, consistent with that, he has indicated his opposition to the further amendments to these provisions.

Also, some of the comments I made in last night's debate with respect to the amendments of the Hon. Mr Redford are applicable to this debate and, in particular, the Hon. Mr Xenophon's amendments because, as I would interpret them, the Hon. Mr Xenophon's amendments are another go at the vote we had last night in relation to the Hon. Mr Redford's amendments, which were—

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: I am not saying that it is inappropriate: I am just saying that it is another go. If I could characterise them, the Hon. Mr Redford's amendments were coming from a proposal that he had of no transferability and a reduction of 1 900 or so machines. The Hon. Mr Xenophon is saying, 'I cannot afford to support 1 900 machines. That is fewer than the Premier.' The honourable member is coming from a position of no transferability and 3 013 machines. My views and most of last night's debate in defeating the Hon. Mr Redford's amendments are the same in relation to the Hon. Mr Xenophon's amendments.

My views are similar to the Hon. Mr Redford's amendments, that is, I am not supporting the proposition before us. I do see them as being linked to the whole question of transferability. I am supporting a system of transferability that is different to the system that is in the bill at the moment. I am supporting the Premier's original position (the IGA's position), which a number of people seem to have moved away from. As the Premier indicated, the IGA is the expert in this area. It has indicated that this is the way that it will operate, and we will get to debate that in a moment.

However, in my view they are linked. If you are supporting a system of transferability, whether it is the \$50 000 cap (which seems to be the flavour of the month at the moment) or you support an open market system (as was originally envisaged), nevertheless you are supporting some system of transferability. For those reasons, I oppose both the Hon. Mr Xenophon's and the Hon. Mr Redford's amendments to this provision.

The Hon. KATE REYNOLDS: I think that the only people who are experts in electronic gaming machines and issues related to them are those with gambling problems, and the number of amendments and the contortions we are all going through highlight that. I do not support transferability. To be quite honest, I am not sure whether, ultimately, the amendments put up by the Hon. Nick Xenophon are better than those of the Hon. Angus Redford. However, I indicate that I will be supporting the amendments put up by the Hon. Nick Xenophon. Unless someone can enlighten me that any other amendment will make an improvement, I cannot see

that I have a lot of choice. I still think the whole thing is a dog's breakfast. If we continue down this track, I still do not know how I will vote at the end of this debate, because things are moving so significantly as the bill transforms into goodness knows what.

The Hon. CAROLINE SCHAEFER: I rise to indicate that I will not be supporting either of the amendments. I admit that I am and have been attracted to non-transferability. It seems to me that, if reducing the number of machines is what this is about, it would have been fairer to apply the pain neatly and swiftly across the board. I am still not sure whether or not in the end I will vote for transferability. Having said that, I am and have always been at a loss to know why 3 000 is some sort of magic number—and not 3 013 or 2 500, or 2 750—that will suddenly cure what I see is the problem. As I have always said, the problem is compulsive addictive behaviour, which this government has failed to address at any stage.

The Hon. NICK XENOPHON: The following might be of assistance to the Hon. Caroline Schaefer in relation to her question. In terms of the Independent Gambling Authority's report, there was some discussion about recommending a higher number of machines to be reduced. Along with Mr John Lewis of the Australian Hotels Association, I attended the presentation and the subsequent media conference held at the Independent Gambling Authority's offices last December. My recollection is that the presiding member of the authority, Mr Howells, made some—

The Hon. D.W. Ridgway: The Victorian barrister.

The Hon. NICK XENOPHON: Yes. I have been reminded by the Hon. Mr Ridgway that he is a Victorian barrister. I think he is the best known Victorian barrister in the state. He made some suggestion that this and other measures would bring the problem gambling rate down by about 0.2 per cent; that is, instead of, say, 2 per cent of the population being affected by poker machines, it would bring it down to 10 per cent of that figure. As I understand it, the intention—

The Hon. T.J. Stephens interjecting:

The Hon. NICK XENOPHON: No; as in 0.2 of 2 per cent; in other words, it would mean a 10 per cent reduction in current levels of problem gambling. As I recollect, that was the figure that was being bandied about by the Independent Gambling Authority. It said that its package would achieve that. I am just relaying my understanding of what was said at that public presentation.

An honourable member interjecting:

The Hon. NICK XENOPHON: Yes; that is my recollection of what occurred that day.

The Hon. R.I. LUCAS: I suspect we are getting to the stage of voting. As the Hon. Mr Redford is absent, it is not common procedure, but I want to get an indication on his behalf as to whether or not we should divide on his amendment. I am getting shakes of the head from honourable members. I put on the record that, having informally canvassed members of the committee, it looks like the Hon. Mr Redford's amendment is unlikely to be successful. The Hon. Mr Xenophon has advised me—

The Hon. Nick Xenophon: Do you want to do a poll?

The Hon. R.I. LUCAS: No; within two kilometres? The Hon. Mr Xenophon has indicated that he will not divide on his amendment. I indicate, on behalf of the Hon. Mr Redford, even though he is unavoidably absent, that I will not divide or ask someone else to divide on his amendment on his

behalf, on the basis that I understand there is not the support for his amendment, anyway.

The Hon. Mr Xenophon's amendment negated.

The Hon. CAROLINE SCHAEFER: While we are attempting to sort out this issue, I will ask a technical, or possibly pedantic, question. Why in this section are clubs and others referred to as non-profit associations? Why are they not referred to as not-for-profit associations? I thought a non-profit was actually a loss.

The Hon. P. HOLLOWAY: The definition of non-profit association is in clause 5(3) of the bill. Non-profit association means incorporated association or some other kind of body corporate whereby the Commissioner is satisfied that profits cannot be returned to members or shareholders. The term is actually defined in clause 5(3), which we have dealt with. I take the point the honourable member is making that not-for-profit, arguably, gives a more accurate picture about what it is, but this is the term parliamentary counsel has used. Since it is defined in that clause, the definition is there in the bill. Whether it should be called not-for-profit and whether that, in laymen's terms, more accurately describes it, is a reasonable point.

The Hon. CAROLINE SCHAEFER: Showing my true colours, I would like an assurance on the record that this applies also to community hotels.

The Hon. P. HOLLOWAY: Yes, that is the case.

The Hon. R.I. LUCAS: In the interests of not stalling the debate and perhaps pushing it gently forward in the absence of my colleague who is not too far away, as I understand it, I will not formally move the amendment—because I understand there might be some notion I ought to vote for it if there is a division, and at this stage I do not intend to support it. However, I understand that what this amendment is about—so we can at least promote discussion and debate about it—is that the Hon. Mr Redford last evening indicated that he had a view that there should not be, in essence, just a Club One privilege; that is, there should be the capacity for other organisations or arrangements to be entered into. I will use a shorthand phrase—although he does not use it—that we could have a Club Two, Club Three, or whatever else it might happen to be. He might have used the phrase or the descriptor last night about a monopoly with Club One. I stand corrected if it was not him, but someone certainly used that description.

My understanding, based on a quick discussion with parliamentary counsel, is that this would be the test clause for the Hon. Mr Redford in relation to the notion of whether we should make provision in the legislation for other arrangements and other organisations that might want to get together; and I think he did refer to clubs in the country that wanted to get together under some arrangement to share machines. It is not his phrase, but I describe it as either a Club Two, Club Three or Club Four arrangement. I think the issue the minister will need to address, in outlining the government's position or the minister's position on this issue, is the restriction on this scheme of arrangement as opposed to the Club One arrangement. Club One has to go through a series of issues in relation to special licences. We are now putting in further restrictions, as well. The minister might like to share with the committee and members his views on the amendment that my colleague will move formally when he returns to the chamber shortly.

The CHAIRMAN: I point out to the committee that the Hon. Mr Lucas was not talking about an amendment that was not moved. Indeed, he is talking about clause 12 and making some general observations about what may or may not be in

the clause; and I think the minister is about to do the same thing.

The Hon. P. HOLLOWAY: Yes. In the hypothetical event that the honourable member returns and moves an amendment, I can say that the government would not support such a proposition. The Hon. Angus Redford is seeking to further assist clubs to transfer machines. The bill already provides for non-profit associations to transfer gaming machine entitlements to each other, with the approval of the Commissioner, for the purpose of merging or amalgamating gaming machine operations for the benefit of both parties. I think we discussed that last night when I was handling the debate from the point of view of the government. We discussed clauses 8 and 15 or 27—or all three.

The provisions in the bill were to enable genuine amalgamation of the gaming operations of clubs, so that we can get this rationalisation of venues and machines—which is what the bill is all about; that is, to try to reduce the number of machines and venues and strengthen those that remain.

The proposed amendment appears to seek to broaden that power to enable clubs to transfer machines between clubs for any reason. It also appears to enable clubs with more than one site—for example, the South Australian Jockey Club—to transfer machines between its own sites. This ability to transfer machines between co-owned sites is not afforded to hotels that could otherwise restructure their operations. It provides a benefit to large multiple-site operators. Should that proposition be put to the committee, essentially, it is for that reason that the government would not support it.

The Hon. R.I. LUCAS: I will move the amendment on behalf of my colleague, the Hon. Mr Redford. I sense around the chamber that there is not going to be a division and, therefore, I will not be caught in the difficult circumstances of having to vote for something that I do not believe in, although that would not be the first time, having been a minister for eight years. On behalf of the Hon. Mr Redford, I move:

Page 8, line 9—

New section 27B(1)(b)—delete "under an arrangement approved by the Commissioner" and substitute:
or another non-profit association under an arrangement (not involving the payment of consideration) approved by the Commissioner

I have explained the reasons for which the Hon. Mr Redford is moving this amendment. I am sure that I have inadequately presented his argument. However, if he feels that he can do a better job, and perhaps get the numbers, he can have another go at it, but, from the shakes of the head around the chamber, I suspect that there is not much support for the concept on both sides. I will not prolong the debate any further.

Amendment negated.

The Hon. A.J. REDFORD: I move:

Page 8, line 35—

New section 27B(1)(f)—delete paragraph (f)

I am proposing to get rid of the concept of transferability within this legislative framework. Much of what I am about to say was said yesterday, so I will be brief and not attempt to traverse what I said yesterday. What we have here in terms of transferability is, first, overly complex; secondly, in my view, it is a market which will not work with or without the Hon. Rob Lucas' amendments; and, thirdly, by enshrining a property right, it will ensure that parliament is considerably restricted in making any policy decisions in the future.

The position that I put yesterday was that everyone should operate on a level playing field. This transferability of machines will create an environment where some publicans will be able to secure, albeit at a considerable price, a greater number of machines than their immediate competitors. The great thing about poker machines in this state, and the regime that we brought in, was that, first, there was a maximum of 40 machines, which I think was the lowest maximum in Australia and, secondly, everyone operated from the same playing field. This transferability will change that whole environment and will enable some of the wealthier operators to secure a competitive advantage over and above those less able to afford to buy machines. Some may say that that is tough, but we live in a commercial environment. Quite a number of poker machine proprietors have bought into the industry recently, and I suspect that their capital position is not as good as those who got into the industry at an earlier stage.

The Australian Hotels Association has written to all of us, I think, in relation to its views on transferability. I assume it has done so in response to the article and editorial published in today's paper in which the newspaper criticised the market, particularly the \$50 000 cap in the legislation before this parliament. It then seeks to advance reasons why the market, if I can use that term advisedly, set out in the legislation that has come to this place is good, and I think I should make some comment about it.

First, it says that the AHA is of the view that fixed price trading is a good system. It goes on and says that it rejected an online auction system with no price cap because machine entitlements would go to the highest bidder. I can put the contrary argument: that under this system (the one envisaged by this legislation) it is likely that because they do not go to the highest bidder they will not be released into the market. That is the first point.

It also points out that large metropolitan gaming venues would have a distinct advantage in the absence of this \$50 000 limit, and I agree with that. It goes on and puts the point of view that not to have a \$50 000 cap would create an enormous wedge in the hotel industry of the haves and the have nots, and again I agree. To remove this \$50 000 cap will create a wedge of haves and have nots, so they came up with this scheme of a \$50 000 cap. I have not seen any correspondence or even one letter from any hotelier that says that \$50 000, if they happen to be selling, is a fair price.

So, we have three alternatives: no transferability; transferability with a \$50 000 cap (which, in effect, means that we have created this gaming machine entitlement but we have created a market that simply will not work, and that is the position of the Hon. Rob Lucas, and I agree with him on that); or we have no cap at all, and then we create an industry of haves and have nots. So, I earnestly encourage this place to consider that the best way out of these problems, and the structure that would create the least amount of problems and give parliament the most amount of flexibility into the future, would be to have no transferability at all so we do not have the situation of haves and have nots.

The hotels association in its letter talks, quite appropriately, about wanting a system that is fairer for all hotels. Again, my amendment answers that particular criticism, whereas the amendment proposed by the Hon. Rob Lucas, or the bill as it is currently before us, does not create fairness. In terms of the bill currently before us, it is not fair to those proprietors who might want to sell their gaming machine entitlement at a fair and reasonable price. In terms of the Hon. Rob Lucas's

amendment, it is not fair because only the rich will be able to afford it and we will create an environment of haves and have nots. With those comments—and, indeed, I would ask members to keep in mind the comments I made last night—I urge members to support this amendment.

The Hon. NICK XENOPHON: I have a lot of sympathy for the Hon. Mr Redford's amendment and, when I spoke earlier in relation to the amendments, I moved to bring down the number of machines to 17 instead of 20, and instead of eight machines being removed 11 should be removed from the larger venues. The idea was that that would allow for a reduction of 3 013 machines rather than I think the 2 100 envisaged by this clause without transferability. So, my position is that I would obviously rather see 3 000 machines going than 2 100 machines.

With respect to the whole issue of transferability, I have reservations but, given that I was underwhelmed by support with respect to those amendments (although I am grateful for the Hon. Kate Reynolds' support with respect to that amendment), I am now placed in the very difficult position of looking at the whole issue of transferability, which I see as a second best option. Saying 'second best' is perhaps overstating it—it is not my preferred position. In the absence of this committee's supporting an overall larger reduction in the number of machines so that we have smaller venues rather than what is envisaged in the bill in its current form, I am in the difficult position of having to oppose the Hon. Mr Redford's amendment.

If his amendment succeeds and we go back to the drawing board with respect to ensuring that a greater number of machines are taken out so that we do get to the target of 3 000, so be it, but I can indicate that, if we do have a system of transferability, I will support the Hon. Mr Lucas's amendment to ensure that it is opened out in the market. I refer to some of the concerns of one particular hotelier who reflects the views of others in relation to that. My dilemma is that I think this is an amendment that has merit but, in the absence of this place supporting a greater reduction in the number of machines in the absence of transferability, I cannot support it.

The Hon. A.J. REDFORD: I am grateful for the Hon. Nick Xenophon's comments but let me put this on the record so that everyone understands where the honourable member is coming from. If we create a gaming machine entitlement then we put a value on gaming machine entitlements. We will be morally bound if we make any changes in the number of machines in the future to provide compensation. We will be morally bound to do that. The Hon. Nick Xenophon, who is not the smartest politician I have ever met because he never seems to be able to get the numbers, needs to understand that some people in this parliament might disagree with the number of machines, might have a view about the reduction of machines, but they will never shift on the concept of properly compensating people for the loss of machines.

If we take the figure that the government is suggesting, \$50 000 per machine, we are not talking about an insignificant sum of money. If we take into account that the Independent Gambling Authority says that these 3 000 machines are not likely to be enough and there should be a further 3 000 machines, what the Hon. Nick Xenophon needs to understand is that, if he ever comes back in here again and says that the Independent Gambling Authority wants a further 3 000 machines because what we have done has had a marginal effect on problem gambling, he had better come up with a

way of finding \$150 million, and that would be about half what I think it is worth—about \$300 million—to get back to what the Victorian barrister thinks is an appropriate number of machines.

The Hon. Nick Xenophon may well be successful in the media, but he has to understand that, by taking this position, he is hoisting himself by his own petard and he need not come in here ever again and say, 'I want to reduce the number of machines,' without coming up with some scheme to compensate. I am talking about something in between \$150 million, based on the government valuation of these things, or my estimate, and I think the government has got it half right, of about \$300 million. Unless or until he does that, from this day on he has no credibility.

The Hon. Mr Xenophon might think he is going to get support from some of my colleagues in another place, who generally are sympathetic with his viewpoint. The member for Bright is one member I can think of who is generally sympathetic. He is also sympathetic about proper compensation for property rights. I am saying to the Hon. Nick Xenophon that he must not turn around and say to the member for Bright, 'I want you to support me for a further cut in machines,' without coming up with some scheme to find between \$150 million and \$300 million. That is the decision that we are voting on at this point.

The Hon. NICK XENOPHON: There is a constitutional obligation under the state constitution, under state laws, with respect to the whole issue of compensation to this industry. This is an industry that is in the business of gambling and it will be put on notice that future parliaments can take further steps if there is another report of the Independent Gambling Authority. I imagine that this issue will not be revisited for at least two or three years, given the assessment process that has been envisaged by the authority and the government to monitor what the impact of this and other measures will be. The issue of smart card technology will be considered in part later on.

To me this is an alternative option. It is not my first preference by any means but I think it is important to at least have a target to reduce machines, take into account that this is quite different from the commonwealth parliament, commonwealth law, in terms of property rights, and go from there. We know that the industry has put up an enormous fight and it does have obvious and very strong commercial interests, and that is why it has opposed this reduction and has fought very hard for its amendments. In terms of this model, it is not my preferred choice and my challenge to members is to support a greater reduction in the number of machines per venue, and that was not done in this chamber.

The Hon. R.I. LUCAS: We are in this dilemma where we have the Hon. Mr Xenophon and others heading in directions that he might not otherwise have contemplated some time ago, because of a decision that we took three, four or five years ago, whenever it was that we first debated this. At that time, a number of us put this position to the chamber, that as soon as we go down the path of putting freezes and caps on gaming machines in South Australia, we create a right—the Hon. Mr Redford talks about a property right—or a value in the hotels and businesses that have them, we protect the first movers and those currently in the industry—and I make no criticism of those people because they happen to be there—and we lock out those who want to come into the industry.

We have spent the last four years talking about this, and those of us who remain in this chamber for however many

years will come back time and time again and talk about freezes, caps and transferability because parliament has taken this decision, which was wrong in the first place, in relation to capping the number of gaming machines. It was wrong because there was pressure from the Hon. Mr Xenophon and others in relation to this whole notion of—

The Hon. A.J. Redford: Kevin Foley.

The Hon. R.I. LUCAS: The Hon. Kevin Foley said he would never support caps, and I will not quote all of those in recent times who have also supported freezes and caps. In my humble view we made the wrong decision in the first place and we are living to regret that wrong decision, so people such as the Hon. Mr Xenophon and others find themselves in positions that they would never have contemplated. It is not just the Hon. Mr Xenophon. A number of us find ourselves in positions that we would not have contemplated because of the decision we took so many years ago, and we are now having to live with the end result of that decision.

We look at issues where we have someone such as the IGA arguing about 10 per cent of 2 per cent. With the greatest respect to the Victorian barrister and his advisers, the degree of precision in relation to this 1 per cent or 2 per cent is not sufficiently accurate to be able to make judgments about 10 per cent of 2 per cent, or whatever it might happen to be. They are the best judgments and best guesses of people, but people start to pretend (if I can use that word) that they know the degree of specificity and knowledge in terms of what the impact of some of these decisions will be when they just would not know. They are deluding themselves, the community and us in relation to this whole debate.

Not a skerrick of evidence has been produced by the Hon. Mr Xenophon (and I put the challenge to him in the second reading debate) or, indeed, anyone else in relation to the essential part of this bill; that is, if we reduce the number of machines by 3 000 (from 15 000 to 12 000), we will see a significant reduction in problem gambling. We have two fall-back positions now. Some of the supporters of the legislation say that this is part of a package. In the Hon. Mr Xenophon's choice of words now, he is not saying 'significant'; he is using the word 'marginal'—there will be a marginal impact. I can tell members how big marginal is—it is very marginal.

It means a significant increase in revenue. It means a 5 per cent increase (of that order) in NGR for this year and the next year. As I understand it, in the first quarter of this year, the industry was bubbling along at a rate of double figures or above, which confirms the views that the Hon. Mr Redford and I have consistently had; that is, Treasury, the industry and everyone have underestimated the capacity of the industry and the capacity of those who take a punt within the industry to keep on generating revenue. As I said, in my view, we are in this position now in relation to transferability as a result of the mess that was first created a number of years ago. At the end of all of this, having moved amendments, some of us, as I indicated in my second reading contribution, will strenuously oppose this bill at the third reading.

I hope that, at the end of the committee stage, a number of members will look at the mess that has evolved through the committee stage of this bill and will look at what it looks like at the end of the third reading and say, 'Enough is enough. Let us say to the Premier and others that this bill is not worth salvaging. It is a waste of space and time. It will not achieve the things that the proponents claim it will achieve.' Even the Hon. Mr Xenophon is indicating now that it will have a marginal effect. This provision in relation to transferability

is an essential part of this whole debate. In large part, as my colleague the Hon. Mr Redford indicated last night, whilst it was not formally part of the votes last night, some of us certainly voted and spoke last night and this afternoon in relation to the Hon. Mr Xenophon's amendments on the issue of transferability.

In my view, I have already voted de facto on the issue of transferability—that is, I am supporting a particular model of transferability—and I will move further amendments regarding that in a minute. My position was clear last night de facto through the amendment moved by the Hon. Mr Redford. It was clear again today de facto through the amendment the Hon. Mr Xenophon moved for his 3013 reduction amendment—13 better than the Premier's wildest expectations—and now as we move to the first formal amendment from the Hon. Mr Redford I indicate my opposition to it, but overall within the context of my strenuous opposition to the whole mess that this parliament is creating for itself in relation to not only this legislation but also the whole notion of caps, freezing and creating rights for those who currently have them within the industry and locking out others who are not in the industry at the moment.

The Hon. NICK XENOPHON: I have a different perspective on the mess which has been created. The mess was created by the introduction of poker machines in the first place and the fact that there are approximately 23 000 problem gamblers in this state, each of them affecting, on average, the lives of seven others. That is my primary concern. My challenge to the Hon. Mr Lucas and others is: what does he say will reduce problem gambling significantly? The Hon. Mr Lucas was in government when poker machines were first introduced in 1994, and his government continued to fund the Gamblers' Rehabilitation Fund. The challenge is: what do we do to alleviate the suffering, the pain and the hurt caused to so many thousands of South Australians because of an addiction to poker machines?

My perspective is different from the Hon. Mr Lucas'. I acknowledge that it is a very difficult position when you are looking at this sort of legislation. My challenge to all members—and I do not mean this in an adversarial sense—is that we need to do all that we can to ameliorate the harm caused. I see this as a positive step. I have never said that this would reduce problem gambling significantly but only marginally. I think the Hon. Angus Redford in his second reading contribution gave a very fair summary of my position, and I am grateful for that. The mistake was the introduction of poker machines. How do you unravel it? At least this is an attempt to deal with it in terms of unravelling a situation that has left an awful legacy for many thousands of South Australians.

The Hon. CAROLINE SCHAEFER: I have said for some time that non-transferability has some appeal to me, in that a significant number of regional hoteliers in particular believe that, if there was a percentage cut across the board so that each of the hotels suffered equal pain, they would be left in a much better position than they are under the sliding scale system that we have. Currently we talk about losing eight machines if you have 40 machines, but my understanding is that if you have, I think 29 or 30 machines (whichever), you will also lose eight. They believe that, in a number of cases, they have been dealt with unfairly.

There is a significant number of them, as always happens in a case such as this. They come to me and tell me that they have not been properly consulted, etc. However, the latest urgent communication from the AHA says that, in the past

12 months, there have been over 200 face-to-face meetings, including regional meetings, meetings of the AHA Council, various subcommittees, as well as hundreds of letters, faxes and updates to the members on this issue. Again, I have some sympathy with the AHA executive in that case because, I think, all of us have been in the position where we believe we have consulted to the absolute best of our ability—and to the point of exhaustion—only to find that a group of people have not been consulted.

The other reason I have been attracted to non-transferability for some time is that, as I have said all along, this piece of legislation is a con by the Labor government and, in particular, the Premier. It is a con because it says that it will fix problem gambling while at the same time making absolutely no allowance for the loss of revenue to the government. It seems to me that it will not fix problem gambling. It will not even reduce the amount of revenue. If we had non-transferability, at least it would call the bluff of the Premier, and he would have to stand up and acknowledge that he, too, had to lose some revenue.

The Hon. Angus Redford has changed my mind as he has argued his case. The honourable member said that if we go down the path of transferability we finally and absolutely do create a property right, and we make it much more difficult for governments into the future to tamper with this legislation. In the 11 years that I have been in this place we have spent more time on this issue and euthanasia than any other two pieces of legislation; and if by making these machines transferable and therefore creating a property right it will mean that governments in the future are forced to butt out of this industry and let it work itself in some sort of commercial fashion, I am all for it.

The Hon. KATE REYNOLDS: I am not sure that this will be the last comment I make, but I have to say that I have been amused by the Hon. Caroline Schaefer's comments about the Hon. Angus Redford's argument persuading her to change her mind, which, I think, has persuaded me to change my mind and support the Hon. Angus Redford's amendments. I guess that is an indication of how convoluted all this debate is becoming. I am sympathetic to the view that we must have government maintaining some ability to intervene in issues such as this. I would be very loath to support a position that meant that governments can butt out and not be accountable for the impact of the electronic gaming industry. However, I reserve the right to make another comment in case I change my mind again.

The Hon. CARMEL ZOLLO: I am disappointed by the waffle of some members opposite.

Members interjecting:

The Hon. CARMEL ZOLLO: Really, property rights will be created only if we as a government, in consultation with the industry, allow them to be created. We are debating this issue because this industry is not like any other industry. It is the gambling industry and we, as a government, should be looking at protecting people; and regulating the industry—it is a source of revenue for the government. I commend the industry and the clubs on their consultation with the government.

The Hon. A.J. REDFORD: The honourable member has finally come out of the closet.

The Hon. Carmel Zollo: Don't get personal.

The Hon. A.J. REDFORD: The honourable member said 'we as a government'. We have watched consistently members opposite claim that they have a conscience vote, and the Hon. Carmel Zollo has let the cat out of the bag. There is

no conscience vote with the Labor Party on this issue. We know it and it is about time that *The Advertiser* acknowledged that there is a government position. The government whip has let the cat out of the bag. There is a government position. The honourable member said 'we as a government' three times. It ought to be on the record that members opposite should not pretend that they are operating on the basis of a conscience vote. The government whip let the cat out of the bag in her last contribution.

The Hon. CARMEL ZOLLO: I meant we as parliament collectively, because we are debating this as a parliament collectively and we have been since I have been in this place.

The Hon. J.S.L. DAWKINS: I think that the comments of some of my colleagues, particularly the Hon. Caroline Schaefer and the Hon. Kate Reynolds, reflect how I feel. I think that I have changed my mind on a number of occasions. The word 'convoluted' was used, I think, by the Hon. Kate Reynolds. All this debate is doing is making my determination stronger to vote against this bill. However, at this point, I indicate that I will support the Hon. Angus Redford.

The Hon. T.J. STEPHENS: I have already made a contribution on other amendments. I am supporting the industry view. I will not be supporting this amendment.

The Hon. D.W. RIDGWAY: Up to this point I have made very little contribution during committee, but I think that it is appropriate to reiterate what a number of members have said. We have dealt with this mess a number of times since this parliament introduced gaming machine legislation in terms of freezes and caps. We are attempting to deal with the problem. It is all about a Premier and his spin and the headlines that he is trying to grab. Everyone has lost sight of the 23 000 problem gamblers about whom the Hon. Nick Xenophon talks. We have lost sight of those people.

Like all my colleagues, I have changed my mind backwards and forwards. There are a number of issues. If we support the Hon. Angus Redford's amendments it gives us a chance to revisit this, and possibly we need to do that. As I said in my second reading contribution, I am very attracted to the IGA's exploring the smart card technology. The 23 000 problem gamblers are the people who do have a problem. They cannot gamble responsibly. The rest of us apparently can. My view is that we should not have a cap or a freeze but that we should protect those 23 000 people who have a problem. I indicate that I will be supporting the amendments of the Hon. Angus Redford.

The Hon. T.G. ROBERTS: I do not think that we should take a vote until after dinner. We are getting very convoluted when we have social capital talking about sharing pain amongst the shareholders of the machines.

Progress reported; committee to sit again.

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

The Hon. T.G. ROBERTS: I thought I would let the dinner break be the period for consolidating individual views on the other side of the chamber and perhaps on this side of the chamber as well. I am not quite sure what we have finished up with in terms of the Hon. Mr Redford's position. I guess the best thing I can do is to state the case on behalf of the government, and we will see how it goes.

The IGA rationale and the recommendations are structured to reduce accessibility of gaming venues; that is, to reduce the number of machines and the number of venues. Tradability of gaming machines and the ability to return to 40 machines are integral to the objective of reducing gaming machine

accessibility, since its principal purpose is to enable venues to trade out of the gaming machine business, thus reducing the number of venues. Without the ability to return to 40 machines, first, there will be no significant reduction in access to gaming, as is proposed; and, secondly, the removal of the trade system will mean that small, less profitable operators will not be provided with a significant opportunity to exit the industry for a financial gain.

It should be noted that the trading system does not strictly create the value in gaming machine entitlements: the value is already implicit in the value of the venues. The trading system makes the value of entitlements realisable separate from the gaming venue itself. Tradability of gaming machine entitlements also acts to assist venues to establish greenfield gaming sites. Tradability and the ability to return to 40 machines is integral to the reduction in accessibility to achieve an impact on problem gambling. The cap of 40 machines and tradability should remain. Without transferability, the 3 000 machine reduction cannot be achieved.

The Hon. R.D. LAWSON: Perhaps I should indicate my position in relation to the proposal to delete from new section 27B the right of the holder of an entitlement to sell one or more entitlements—the transferability or tradability. I have previously indicated that I support a freeze on poker machines; that is something I have always supported. I think there are enough machines in South Australia to adequately cater for the gaming needs of South Australians. However, I do believe that, if there is a capped system, there must be free tradability within that system to ensure that demand can be met in those places where the demand is greatest. So, I will be supporting the retention of the IGA's proposal and the government bill to allow entitlements to be traded.

I also indicate that, in accordance with the same philosophy, I do not support the capping of \$50 000 as the price for the sale of entitlements. If there is to be free tradability of these entitlements, I believe there should be a free market in them and there should be no artificial cap imposed.

The Hon. J.M.A. LENSINK: I, too, want to put my position on this amendment on the record. In relation to a number of these amendments, as stated by a number of speakers before the dinner break, it is a very convoluted process. I think that it is a reflection of how South Australia has historically dealt with this type of legislation. In some ways, while some of our positions on these things might seem peculiar, it is because we are trying to patch over different areas which we think deserve the highest priority. As I said in my second reading contribution, my concern is for problem gamblers, and the big fear I have with tradability is that in smaller venues, where research shows there are fewer problems, those machines are more likely to be transferred to areas where people do have problems; that is, the northern, southern and north-eastern suburbs. Because my priority is for problem gamblers, I will be supporting the Hon. Angus Redford's amendment.

The Hon. SANDRA KANCK: When I first became aware of the tradability option in this bill a couple of months ago, I became concerned. I remember dealing with the issue of taxis in 1994 with the passenger transport bill. I fear that what we are doing is creating something similar to the taxi plate system. It will create a marketability and tradability that will escalate the value of these machines in such a way that parliament will never be able to control it.

In 1994, when we dealt with the passenger transport legislation, I attempted to amend the bill regarding taxis. The reaction that came at that time was very interesting: the taxi

industry does not want this; therefore it will not happen. If the government is serious about bringing poker machines under control, tradability, on the basis of the experience we have seen with taxi plates will not bring that about. It will put it out of the control of government. I really question what the government is doing with this bill because, again, this is one of these clauses that is really at the heart of what this bill is about.

The Hon. A.J. REDFORD: It has been quite interesting to observe, during the course of debate over the years, that the Hon. Rob Lucas has always been opposed to a cap and the Hon. Robert Lawson was one of the first in our party room to lead the charge for a cap, and they have come to a landing: we are going to have a cap, we are going to have transferability and there will be no cap. It is interesting to observe the different directions upon which they have come to a landing on this particular topic. I would like to ask a question of the Hon. Nick Xenophon. Does he think that taking 3 000 machines out of the system will make any difference? If so, what does he think the difference will be as a consequence of this legislation?

The Hon. NICK XENOPHON: I thought I answered that in my second reading contribution and during the course of the committee stage. The alternative is to keep the same number of machines in the system—

The Hon. A.J. Redford: The alternative is 2 200 versus 3 000.

The Hon. NICK XENOPHON: I was elected on a platform of getting rid of poker machines. If it is a choice—and it is a difficult choice, given the differences between the transferability clause and simply having an across the board reduction, which is what my preference has been—I have to support, on balance, a reduction of 3 000 machines. In respect of taxi plates, my understanding is that there is a clear distinction between the two. Unlike the taxi system, this regime—which is my second choice, not my first choice by any means—involves a surrender of the machines when they go into the pool. There is a distinction between the two. Obviously, if it means fewer venues or venues with fewer machines or a combination of both, that will be preferable in terms of achieving a marginal reduction, but at least it is a step in that direction rather than keeping the status quo with respect to the same number of machines and venues. I am not happy about this provision.

The Hon. A.J. Redford: You are locking in the parliament, and it's your vote that counts on this.

The Hon. NICK XENOPHON: Parliaments cannot be locked in. I think we had that debate about the 10 year clause. Successive parliaments cannot lock themselves in, short of its being a constitutional amendment. That is my clear understanding of it. This is like Hobson's choice. It is a difficult choice. The preference is that there would be an across the board reduction of machines so there were significantly smaller venues overall, but that is not the will of this parliament. This is a fallback position in which I do not take much joy. I cannot put it any more bluntly than that.

The Hon. A.J. REDFORD: The Hon. Nick Xenophon is the most extraordinary politician. He has had the media at his feet since the day he came in here; he has had an absolutely perfect run and he has never got anything through this parliament. Now he will vote in relation to this clause so that it will absolutely guarantee that he will go down as the greatest lame duck politician this state has ever seen. He will lock in this parliament—

An honourable member: That is a big call.

The Hon. A.J. REDFORD: It is a big call. I have done a bit of observation, and that is my very clear judgment about what the Hon. Nick Xenophon is proceeding to do here. Let me put it into the context of a couple of figures. He is saying that with this clause, if he allows transferability, we are now going to put a value on poker machines as a parliament. If you value them at \$50 000, it would make the total number of poker machines in this state worth something in the order of \$650 million; and if you value them at about \$100 000, which is what I suspect the market will buy and sell them for, it would make them worth about \$1.3 billion. That will be the Hon. Nick Xenophon's legacy as a consequence of this vote. He will then go out and argue about problem gamblers and, sure, he will get lots of publicity and, sure, it will be sexy; but, suddenly he is putting this whole thing into context with the way he is going to vote on this.

It is no different to a \$2 billion wheat industry and contrasting that with 150 000 obese people that we might have in this community. He is putting a value on this industry and the machines. The Hon. Nick Xenophon will do this, because the votes are that close, and, in contrast, he will lock in the parliament so that we never get rid of another poker machine. The Hon. Nick Xenophon can screw his face up, but the fact is that we play real politik in this place. The fact of the matter is, if he supports—

The Hon. R.K. Sneath interjecting:

The Hon. A.J. REDFORD: Apart from the Hon. Nick Xenophon. If he supports this, and he goes out and gets tomorrow's headline, every other headline he gets from here on, in terms of a reduction in the number of poker machines, will be a fraud. He should know that, as a lawyer who defends people's property rights, you cannot take away people's rights without compensation. Yet, he will be voting to confer a property right on these poker machine proprietors. From this day forward, once he moves over and parks himself into the position where he creates that property right, every time he opens his mouth, if he is true to his conscience, he has to explain where the compensation will come from.

If these machines are worth \$100 000 a pop, he has to understand that if his ultimate policy in this state is to get rid of these machines—I do not agree with that policy, but if that is his policy—he has to come up with \$1.3 billion. Given his performance as a politician over the past seven or eight years as the only politician in this chamber yet to get a piece of legislation through, how on earth is he actually going to achieve a bit of legislation and at the same time come up with \$1.3 billion? I find his position on this point utterly naive and hypocritical and an absolute failure in terms of what his total objective is—

The Hon. NICK XENOPHON: I rise on a point of order. I do not think that being hypocritical is parliamentary. I am happy to take the criticism, but that is just not on, Mr Chairman.

The CHAIRMAN: The word hypocritical is used on a number of occasions. If you are saying that it is offensive to you, it is not unparliamentary. The word hypocritical is not unparliamentary. Are you requesting that the word hypocritical be withdrawn?

The Hon. NICK XENOPHON: I will respond appropriately, Mr Chairman.

The CHAIRMAN: I think that is probably wise.

The Hon. A.J. REDFORD: Unlike previous occasions, if I have offended the honourable member by telling him the truth, I make no apology. He is being absolutely hypocritical in relation to what he is doing here. He is sitting there saying,

'I am going to create this property right. I am going to create this new value in the South Australian community worth in the order of \$1.3 billion.' Then he is going to have the gall, because I know what he will do, to come back here and demand a further reduction in the number of poker machines. That is the greatest act of hypocrisy that I have seen since I have been elected as a member of parliament.

The Hon. NICK XENOPHON: First, let us correct a few matters of fact. The Hon. Mr Redford may not remember amendments that brought about asbestos victims in this state no longer having to face deathbed hearings as a result of—

The Hon. A.J. Redford: That was the Hon. Ron Roberts' bill.

The Hon. NICK XENOPHON: That is not the case. I think that you may recollect, Mr Chairman, that that was a bill that I introduced in this place, and I am very grateful for your support and that of others. That bill passed through both houses in 2001. Also, the former minister for local government supported a bill with amendments with respect to the Local Government Act, which actually gave communities a greater right of consultation with respect to changes in the basis of rating, and that went through both houses reasonably quickly, as I recollect. In relation to a whole range of amendments to legislation, honourable members know that over the years a number of amendments that I have moved have been supported. I am not sure what the Hon. Mr Redford is getting at, but I know that it is something that he has said on a number of occasions.

The Hon. A.J. Redford interjecting:

The Hon. NICK XENOPHON: If that is the premise—that I am not getting legislation through—I would have thought that the test is whether you are willing to give it a go and put your heart and soul into fighting for something. I would like to think that I have given it a pretty good go over the years, and that is what it is about. In relation to the whole issue of the choices here, I do not accept the property rights argument. This is an industry that has been put on notice by virtue of this legislation. Let us go back a step in relation to the underlying premise. The argument is that the hotel industry assigns a value to machines in a sense by virtue of the fact that they are operating.

In the first instance, this bill seeks to cull the number of machines under certain circumstances for certain venues with a certain number of machines. Some would say that that takes away those machines from an industry that has already paid for them in terms of the cost of capital equipment. A whole range of other amendments was rejected in the other place with respect to a five year renewability clause, and also the 10 year clause for certainty for the industry. Obviously they are matters that concern me, but the core issue—

The Hon. A.J. Redford interjecting:

The Hon. NICK XENOPHON: Mr Chairman, I listened to the Hon. Angus Redford with respect and in silence—

The CHAIRMAN: I think that is a reasonable point.

The Hon. NICK XENOPHON: —and I will continue to do so. This is a difficult issue. For many years there has been no movement in the number of poker machines in this state—they have been increasing, and even after the freeze was imposed there was an increase because licences were pending, because that is the way the legislation went through. It was certainly not a satisfactory state of affairs.

The challenge is to tackle problem gambling head on. I pay tribute to the Hon. Angus Redford for raising the issue of smart cards, and there is an amendment with respect to that, because if you accept that smart cards have the potential

to reduce problem gambling that clearly will have an impact on the revenue of hotels. To the Hon. Mr Redford's credit, that is something he has not shied away from in terms of the issue of smart cards. I hope I that am not misrepresenting his position, and certainly I do not wish to do that but, with respect to the issue of smart cards, we know from the Productivity Commission that a significant proportion of revenue from poker machines is derived from problem gamblers—the figure is 42.3 per cent, and the University of Western Sydney says it is closer to 50 per cent in more recent studies. It is much lower than, say, lotteries at 5.7 per cent.

So, if you accept that smart cards will significantly reduce problem gambling, that will have arguably a greater economic impact on the hotel industry than this particular cut. But I do not see the Hon. Angus Redford shying away from that, and I give him credit for it because he is at least willing to investigate it or ask the Independent Gambling Authority to investigate it with a view to significantly reducing problem gambling. And, again, if I have misrepresented his position I am sure we will hear from the Hon. Mr Redford.

This is a difficult situation. In some respects this is about trying to unscramble the egg in terms of the poker machines in the community. My preferred position is that we just have an across-the-board cut in the number of machines to reach the target of 3 000 and, because the will of this place is clearly very much against that, I am trying to do the best I can with a compromise position. I am not by any means entirely happy with it, but there does not appear to be any alternative to reach that target. I think it is important to maintain that target. I thought 3 000 was too low. I would have preferred, at first instance, for the Independent Gambling Authority's musings about a figure of, I think, 33 per cent to be the preferred approach. However, I am trying to do the best I can with a piece of legislation that I agree is far from perfect. It is certainly an imperfect piece of legislation, but it is about trying to do the best you can with what you have been dealt in terms of the legislative framework. This is not something that gives me much joy, but the alternative is to keep those machines in circulation, and that is something that I do not want.

The Hon. J.F. STEFANI: I wish to make a few comments about this matter. I need to go back to the introduction of poker machines, and honourable members would well know that I was against the introduction of poker machines to start with. Having said that, I think that a lot of legitimate businesses have been able to establish a business operation by borrowing money and buying poker machines. I know of no other industry that has been subjected to changes in legislation that have caused such an extensive reassessment—and, in fact, I would think, distress. I remind honourable members that the first thing we did was increase the rate of tax on some of the businesses. The next thing that this place did was—

The Hon. A.J. Redford interjecting:

The Hon. J.F. STEFANI: Well, there are no other businesses that operate under the same rules that we have established for this particular industry. I have a great deal of sympathy as a businessman when people legitimately establish a business and then have the government of the day—with the support of the parliament, obviously, because the majority of legislation is passed by the majority of people in a parliament, otherwise it does not get through—subject them to that sort of process by increased taxes. Then we limited the business operation by transferring their legitimate business from Whyalla to Adelaide.

An honourable member: Angle Vale.

The Hon. J.F. STEFANI: Yes, Angle Vale. So we said, 'No, you cannot do that. It does not matter that you spent \$200 000 or \$300 000 in planning approvals and whatever else. It is too late: we will make it retrospective and you have done your dough. See you later.' As I say, I know of no other business that cannot go from point A to point B and re-establish their business, and we the parliament have chosen to interfere with that legitimate operation. I find that fairly difficult to come to terms with. But, nonetheless, the numbers in this place and the other place were in the majority so we have done that.

We then said, 'We are going to confiscate eight machines—and more—without compensating you'. The Hon. Angus Redford made reference to property rights. This place ought to have some respect for property rights because, if legitimate businesses have an asset that they have acquired by paying money for it and they have worked to establish that business by operating that asset, this place has no right to say, 'We will confiscate those machines without giving you any money.' However, that is exactly what we are doing.

We are happy to stand here, holier-than-thou people of principle, and adopt an attitude that says that, because the Labor government has made a cosmetic promise that we will reduce problem gambling, we will pass legislation to confiscate people's property. I find that pretty difficult to come to terms with. If someone came to my place and said, 'I want your motor car,' and I had paid for it, I think they would have a big problem. That is what we are doing, and we are quite happy to do that. We are all going down that path because the cosmetic promise is that we will reduce problem gambling, despite the fact that the Treasurer has said we will get more money from the reduced number of machines circulating and there is a risk four years from now that we might get less.

What else have we done? We are going to make two sets of rules. The clubs will not be touched, and the Hon. Angus Redford is a champion of the clubs, saying, 'Don't touch them, let them be, let them have their 40 machines.' However, when it comes to the hotels, they need to forgo their machines without compensation, and we then impose on them some other restriction in regard to tradability. The facts are that, if the hotel industry has seen fit to put a value of \$50 000 on a machine so it is able to replenish what we have taken away without compensation, quite frankly, that is their business. If we respect that operation, as a free country we ought to say that parliament has the business of making laws and business people should be able to operate their business on the basis that they see fit. As long as they operate within the law, I do not think there is a problem.

At the end of the day, if the industry sees fit to say, 'For us to be able to replenish a number of assets that have been confiscated, we are prepared to pay \$50 000,' so be it. The fact is that the businesses that lose eight machines are not going to get eight all in one block. They will have to wait their turn so everyone gets one around the trading table, so to speak—

The Hon. A.J. Redford: They won't get them for nothing.

The Hon. J.F. STEFANI: No, they won't get one for nothing. Once that first round of requests for one is satisfied, if there are others coming into the pool, they will buy them. If there are no others coming into the pool, there will not be any machines for sale. That is a simple fact of life. We cannot control that. I do not think any person in this place would

argue that we can control market forces outside this place where businesses and other operations are functioning in a marketplace, are endeavouring to make a dollar, to employ people, to pay taxes, to top up the government budget by \$380 million a year—without doing a skerrick, the government collects that.

I have very strong sympathy for people who have operated legally from day one, yet this place has set up hurdles for them and, each time they have jumped one, we ask them to jump a higher one or we create a loophole the size of the eye of a needle for them get through. Quite frankly, that is not what the parliament is about. We ought to think about the way that we are operating in terms of laws that are not consistent, in my view. I know that the numbers may not be there but, if I had my way, it would be an equal number of confiscations—and I stick to that word, because it is—clubs or otherwise, they would all be treated the same, and, if they want to sell them, it is their business.

The Hon. A.J. REDFORD: I will make one response to the Hon. Julian Stefani. I agree with everything he said. I moved so that it was a level playing field, but it was the Hon. Julian Stefani and others who did not support that amendment.

The Hon. J.F. Stefani: You said 32.

The Hon. A.J. REDFORD: No, I moved that it be an equal cut across the board, but the Hon. Julian Stefani did not vote with me. I looked at the Hon. Nick Xenophon when the Hon. Mr Stefani was making the first half of his speech. All I can say to the Hon. Nick Xenophon is that the voice of the future was here tonight, and the Hon. Mr Stefani has been a passionate opponent of poker machines. At every step of the way, he has been a strong supporter of the Hon. Nick Xenophon, but he gave a passionate speech tonight about supporting property rights, the property rights that the Hon. Nick Xenophon is about to vote for and establish.

All I can say to the Hon. Nick Xenophon is that—the media only listen to him every fortnight, we put up with it every day—he needs to understand that what he heard from the Hon. Julian Stefani is the voice of the future so far as his agenda is concerned. By voting to establish a property right, that is the voice that he is going to get from people such as the member for Bright and former premier Dean Brown, who has been a passionate opponent of poker machines. He is going to find the rest of his career in parliament very lonely because he will not be able to attract the support—

Members interjecting:

The Hon. A.J. REDFORD: He says it is lonely now, but I have news for him: it will get worse! By establishing a property right in poker machines, he is saying to those people who might well be anti-poker machines, 'However, I have this other principle, and that is the principle of supporting the right of those who have private property to be properly compensated if it is taken from them.' I want the Hon. Nick Xenophon to understand that, when we vote in a few minutes, that is what he is voting for, so that when he comes in he does not complain when we all ignore him.

I have covered what the Hon. Julian Stefani said about 35 machines. I wanted 35 machines, but it was as a result of the absence of support from people such as the Hon. Julian Stefani that we did not get a level playing field—and I accept that decision and I am not reflecting on a vote of this place.

Finally, the Hon. Julian Stefani talked about forgoing machines without compensation. I will answer him in this sense. I am told by a large number of people in the industry, all of whom I respect, that reducing the number to

32 machines will not make a big difference to their business. I am told that they will manage to maintain a reasonable turnover in that competitive environment. I am also told by the Hon. Kevin Foley (and who in this chamber would doubt his word?) that he will increase his revenue take under this current regime by 5 per cent. I am told by the Hon. Rob Lucas (whom I do believe) that the revenue at the moment is going gang busters. In that context, we are really not taking many things away from the hoteliers.

At the end of the day, I agree with the Hon. Rob Lucas: it was the freeze that caused the problem. I have stood here and said that the dumbest thing I have ever done in politics was to move to create the freeze, and I regret having made that decision and I apologise because it is as a result of that decision that we are now dealing with this silly little mess which we have now. I notice the Hon. Paul Holloway nodding his head—and I will apologise to him personally in the bar afterwards. However, now we have this abortion of a piece of legislation and the Hon. Nick Xenophon will make it worse—and he will make himself absolutely irrelevant in terms of any outcome for the rest of his political career, however long that might be. Quite frankly, he is putting himself into a position where he will become a political commentator, rather than someone who will achieve political outcomes.

The Hon. NICK XENOPHON: I quite enjoyed doing a stint on 5DN as a talkback host a few weeks ago. I reject that we would create property rights here. I said before that it is distinguishable from the taxi industry. We are talking about an industry where it has been acknowledged from day one that there was a risk of harm; and many South Australians did not realise how much harm would be created from the widespread introduction of poker machines. I congratulate the former premier Mr Olsen for at least acknowledging that so stridently and forcefully in 1997. We know that there is an enormous level of harm. This is attempting to grapple with a serious situation. Tackling machine numbers is but one element of it. I will be coming to the parliament with a whole range of other elements.

I think that the Hon. Angus Redford has encouraged me and given me renewed vigour to bring in more private member's bills which will look at the issues of ATMs and coin machines. So, if they have not been dealt with in this bill, we will just keep dealing with them. The honourable member has rekindled an even greater degree of passion in me to tackle this—I did not think it was possible.

The Hon. A.J. Redford interjecting:

The Hon. NICK XENOPHON: Mr Chairman, I listened to the Hon. Mr Redford in silence. In fact, the Hon. Mr Redford said that I said, 'It's a lonely place now.' I did not say anything. I began to move my lips but, for once, the Hon. Mr Redford read my mind. It generally feels pretty lonely here, anyway. I reject the Hon. Mr Redford's overblown views on this. Let us deal with this. This is by no means a perfect piece of legislation; it is by no means delivering the grand slam in dealing with problem gambling, as members of the government have said, but at least it is a step in the right direction.

The Hon. J.F. STEFANI: I will not prolong the debate much more, but I need to say a couple of things. I am glad that the Hon. Angus Redford did admit that, when he was championing the rights of a cap, he created—

The Hon. A.J. Redford interjecting:

The Hon. J.F. STEFANI: Yes, you did.

The Hon. A.J. Redford: No, I did not; that is not true.

The Hon. J.F. STEFANI: Well, you did. The honourable member strongly championed the cause of putting a cap on poker machines—he was doing the bidding of the former premier. We created what we have today. A price is created once something becomes restricted and controlled. I am glad that the AHA has had the commonsense to say, 'Look, if we are to trade machines, let us put a cap on it, otherwise it could be \$100 000, \$200 000, or anything.' At least the industry has been saying, 'We will put a cap on each machine, otherwise the smaller hotels will not be able to even look at them, let alone think of buying them.' They have had the commonsense to set what I consider to be probably a generous base, but nonetheless—

The Hon. A.J. Redford interjecting:

The Hon. J.F. STEFANI: It does not buy a Holden, actually. However, it is a reasonable base from which to attract people to sell so that they have a top up. The Hon. Angus Redford just said that Treasury and the operators of hotels are saying that they will get the same revenue with 32 machines. What makes the honourable member think that they will spend \$100 000 to get two more machines when they will receive the same revenue as before? That defeats his logic. They will say, 'Thirty-two is fine. We will not spend another \$100 000 because we are getting the same revenue, if not more', and so they will stay with 32 machines. The simple fact is that market force will dictate the operations. Will the minister advise whether the \$50 000 will be a fixed price and, if so, for how long?

The Hon. T.G. ROBERTS: It is fixed in this legislation; who knows what will happen later?

The Hon. J.F. STEFANI: Ad infinitum?

The Hon. T.G. ROBERTS: I would hope not. The industry needs stability. Assessments will be made by brokers and hoteliers when they buy into hotels about what value they put on the value of a venue. They will do their own figures. There is already operating an official marketplace now that looks at the value of a hotel in an area, and the leasehold or freehold price becomes something that is worked out by people in the industry.

The Hon. J.F. STEFANI: I think the minister misunderstood my question. My question was: when you trade a machine, will the fixed price of \$50 000 be the price that is held for 10 or 20 years?

The Hon. T.G. ROBERTS: No, I did not misunderstand the question. The honourable member may have misunderstood my answer. The value of the poker machine is fixed by legislation (as we are doing now) at \$50 000. If another parliament decides to change the value, it will change. It could remain fixed for ever.

The Hon. KATE REYNOLDS: The Hon. Michelle Lensink raised an issue previously which, I think, I raised in my second reading contribution or in debate on one of the earlier amendments, namely, the opportunity provided by transferability to move machines into communities that already suffer from significant issues with problem gambling. I put on the record that I do not see my role as protecting the hotel industry or the club sector. My role is to try to deal with the issues of problem gambling through the mechanism of this somewhat convoluted—I think is the word of the moment—piece of proposed legislation. I am interested in the government's views about how tradability would impact on those communities that are already very vulnerable, given that it means that machines could be brought into areas; and I think that the Hon. Michelle Lensink named the southern region of Adelaide and the northern and north-eastern

suburbs. How would the issue of tradability impact on those communities? The other way of asking that question is: how is the government planning to protect those communities from what some people would call further exploitation?

The Hon. T.G. ROBERTS: Initially they will lose machines and, at a later date, they may trade back, but in the initial stages machines will be taken out of the vulnerable areas.

The Hon. KATE REYNOLDS: For approximately how long does the government think those areas might have a reduced number before machines are traded back?

The Hon. T.G. ROBERTS: The marketplace will determine that. Some people might make some bad investments and get them back quickly and not get the returns they require but, in general terms, it is those same people who make assessments on how well a hotel is doing in a region or area. The people in the industry will determine that question.

The committee divided on the amendment:

AYES (6)

Dawkins, J. S. L.	Kanck, S. M.
Lensink, J. M. A.	Redford, A. J. (teller)
Reynolds, K.	Ridgway, D. W.

NOES (11)

Evans, A. L.	Gazzola, J.
Holloway, P.	Lucas, R. I.
Roberts, T. G. (teller)	Schaefer, C. V.
Sneath, R. K.	Stefani, J. F.
Stephens, T. J.	Xenophon, N.
Zollo, C.	

PAIR(S)

Cameron, T. G.	Lawson, R. D.
Gilfillan, I.	Gago, G. E.

Majority of 5 for the noes.

Amendment thus negated.

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

Page 8, lines 40 to 44—

New section 27B(2)(a) and (b)—delete paragraphs (a) and (b) and substitute:

- (a) the holder of gaming machine entitlements may offer them for sale; and
- (b) intending purchasers may tender for the purchase of gaming machine entitlements.

One cannot predict these things, but this debate should be shorter than the last one, because many of the issues have been canvassed in the wide-ranging last debate we had. The intention of this amendment is to introduce the trading system as the Independent Gambling Authority recommended. That was the Premier's position in many radio interviews, when he waxed lyrical about the Independent Gambling Authority. In his words, the IGA was 'the expert in this area'. He said that he was not an expert and that he was going to support lock, stock and barrel the recommendations of the Independent Gambling Authority. However, with the passage of time and the loss of support on a couple of key votes in the House of Assembly, he, too, changed his position on a number of key aspects of the original recommendations. This was also a change of heart for the Premier from his original position.

This clearly is an important issue. We have established now, by way of the last vote, parliamentary support in this chamber for a system of transferability. We now have to make up our mind about what will be the shape and nature of that system of transferability. The model currently in the bill has been arrived at by further negotiation and discussion with the industry and government negotiators and others, and it places a cap of \$50 000 on the value of the machines.

My amendment is simply to indicate that, if we are going to have a system of transferability, it ought to have the market value for the transferability of the machines. We can approach this from many different perspectives. I will not quote at length the correspondence the Hon. Mr Xenophon circulated to members. I understand that he will refer to a hotelier in the country who has attracted some recent publicity in relation to the model of transferability that is currently in the government bill.

I know that the views the hotelier expressed have been expressed to me by a number of other hoteliers within the industry. The AHA, as the professional association, has conducted comprehensive consultation but, inevitably, there are conflicting views and perspectives within that association. There are some who, as a result of those conflicting views, subscribe to conspiracy theories about the final policy positions that have been arrived at. I do not want or intend to enter that aspect of the debate. I want to acknowledge that, clearly, there will be differing views within the hotel industry on this issue. What we have seen in the media in the past 24 hours, and by lobbying over recent days and weeks, is an indication that, as one would expect, there is rarely ever 100 per cent unanimity within an industry group on something as controversial as this issue.

I have taken the trouble, with the assistance of the AHA and my regional visits in the past six months, to speak with the AHA councillors; I am not sure whether they are branch councillors or coordinators, but whatever their title happens to be. I thank the AHA for assisting me with that. I have taken the opportunity to speak with them and to get from them the result of their discussion with proprietors in their particular area. On my visits to regional areas in recent months, I have had the opportunity to speak with a small group of members of the AHA. I do not pretend to have had the capacity to speak to as many as the AHA has spoken to. Therefore, I do not pretend that the people to whom I have spoken are more representative of the hotel sector than the views the AHA officially represents on behalf of its sector. But I think they have a view, with which I agree, that ought to be aired in this parliament, and members will have the opportunity, for a number of reasons, to make a judgment as to whether they want to support the views they put.

They had an expectation, as a result of the recommendations, the early discussions and the early drafting, that there would be a market value placed on the machines they would sell into a pool. They had an expectation, therefore, of what they might receive from a trading system. There will be different views within this chamber as to whether or not that is fair in relation to what that market might have been. That market value, as has been indicated, may be up to or around \$100 000, as opposed to the \$50 000 that is put in the cap in this bill. Advice from the AHA indicates that in other states it certainly varies, but there have been a number of examples where values just under or just over \$100 000 have been achieved in those areas. Certainly, a number of hoteliers had a view they would sell X number of machines at \$100 000 or so. They were factoring that into their calculations in terms of what their behaviour might be as a result of the legislation, only to have that changed, as I said, by the deal that has been negotiated.

There are conspiracy theorists within the hotel industry, and I will not be a party to that. But those who look at this from a different perspective than I, as I suspect the Hon. Mr Xenophon and others do, are coming from the perspective of what may or may not work in relation to

encouraging people to sell up their machines into a pool to be aggregated into a bigger site or sites elsewhere. Commonsense tells you that there will be a lot more people selling at \$100 000 than there will be selling at \$50 000. I defy anyone to argue with the logic of that. There will be more sellers at \$100 000 or \$80 000 or \$90 000 than there will be at \$50 000, particularly if one listens to the discounting calculations that the sellers go through anyway: 'Well, we will only get three for four so, therefore, we are really only getting \$37 500 instead of \$50 000 for our machines anyway.'

There is no doubt that there are a number of potential sellers who will not sell at \$50 000 or, as they would portray it, \$37 500 for their machines. They will not sell into the pool at that rate. They will make the judgment to continue or they will sell fewer into the pool. It is certainly my view that, if we leave this system as it is, we will not get within a bull's roar of 3 000 within any time frame of the Hon. Mr Xenophon's inhabiting this establishment, whether that be 18 months or 9½ years. No-one has been able to present to me evidence to the contrary from the industry, the government or anywhere that says that they have undertaken market research and can provide evidence that a trading system at \$50 000 will generate the number of machines required, in terms of sellers, to achieve what is being talked about.

I had a phone call this morning from someone whose establishment has just under 20 machines. They said that they will not be selling. They were not going to sell all their machines but, rather, sell a reasonable proportion of their number into the market, keep a smaller proportion and operate those, and change the nature of their establishment. They have indicated to me that they will not sell at the price that is in the bill.

Of course, one can respond to that by saying, 'They would say that, wouldn't they, because they obviously want to see what is the highest value possible in terms of negotiation through the market.' I accept that, and that is a reasonable position for them to adopt. However, I come back to the position, which I think is a commonsense position: can anyone argue that there will be more sellers in the market at \$50 000 than there will be at the fair market value of \$100 000? That is a challenge that I leave for anyone who wants to support the \$50 000 to argue that position to the committee.

The Hon. Mr Xenophon and others come from a different perspective. Unlike me, because I want to see more gaming machines in South Australia, they want to see fewer gaming machines in South Australia. They will essentially be following the argument of the Independent Gambling Authority in its original form. Their argument was that they wanted to reduce the number of venues and the number of machines and that, by reducing the number of machines, you reduce accessibility to sites and machines. By getting them into bigger venues, you are able to provide better counselling, oversight and all of those sorts of services in those sorts of locations. I am not saying that I subscribe to that view, but that is the view of those who support the reduction of 3 000. It is all predicated on being able to encourage those smaller sites with six, 10 and 15 machines, or whatever, to sell all of their machines and to close down their site as a gaming establishment and sell them into the market. You have to put on your business hat in relation this. It has to be attractive enough for them to sell into the pool to get all their machines out of that site if you are going to achieve what the IGA was arguing along with those who want to see this reduction of 3 000 machines.

As I said, that is a perspective of those who come at it from a different way than my viewpoint. I come from a simpler viewpoint in relation to this; namely that, as I outlined before the dinner break, one of the problems we created in this whole mess that we now have before us was the original decision in relation to caps and freezes in South Australia. Again, we are contemplating going into exactly the same set of circumstances. This evening we have had members apologising for their previous positions in relation to caps, because of the problems that they created. A number of people have indicated a realisation that the positions adopted by this place in the past on things like freezes and caps are bad public policy and have resulted in the mess that we have. Yet, here we are on the threshold of contemplating exactly the same thing again.

The Hon. Mr Stefani asked a very good question: how long is the \$50 000 there? The legislation states that it is \$50 000, and it stays there until a majority of members in both houses of parliament can change that value; so, over the passage of time, that \$50 000 will be steadily eroded. It will mean that, at varying stages, people will have to come back and put other values on the machine and make judgments at another stage about what value we think is reasonable in terms of tradability in relation to gaming machines. It is a simple view of mine that, if we are going to have a transferability and trading system, let the market set the price so that it can go up or down. I think that the hotel industry has indicated, as I indicated before, that in some cases it is up to about \$100 000, but I think that in some parts of Queensland—and I stand to be corrected on this—it is significantly less than \$50 000. The market has set the price in relation to the value of the machines in that section of the market.

The advice I have is that, at the moment, it is unlikely to be under \$50 000 and is more likely to be significantly over \$50 000. Nevertheless, under the amendment that I am urging members to support, at least a value will be established by the marketplace, rather than by a majority of members in this place and in another place sticking their finger in their mouth, holding it up to the wind and saying, '\$50 000 seems like a good number; why don't we let that be the value of the gaming machines in South Australia?' Nobody has given us any evidence as to why \$50 000 is an appropriate value other than the industry and government negotiators collectively having stuck their fingers in their mouths, held them collectively to the breeze, and said, '\$50 000 seems to be a good price for gaming machines. Why don't we put that value in the legislation?' For those reasons I urge support for the amendment.

The Hon. P. HOLLOWAY: I oppose the amendment moved by the Leader of the Opposition. The Independent Gambling Authority did not specify any type of trading system—that is true. The initial discussions and the proposal for the operation of the gaming machine entitlement trading market focused on an open market auction approach and, under that scheme, an online bidding system was being considered. That was a result of discussions between the government and the industry, and I remind the committee that these have gone over some two or three years if you go right back to the establishment of the IGA; a lengthy amount of work has been done on this.

The \$50 000 fixed price trading system is now proposed, and I argue that it would provide certainty for all parties in making business decisions as well as equitable access to entitlements, not just access for big licensees. I think that is

really the main flaw in the Leader of the Opposition's proposal; if this and the other amendments that the Leader of the Opposition is moving were to be carried, of course, the larger establishments could immediately get back to the 40 machines. Other establishments would not be able to do so. Under the rotation system which is proposed here, all those venues seeking to increase their numbers would have the opportunity of getting a machine. I think that equitable access is a very important argument in favour of the fixed price trading system.

Finally, I suggest that the \$50 000 market does bring some simplicity to the trading process. This is important, particularly during the period of industry adjustment. The price of \$50 000, as the Leader of the Opposition mentioned, came from discussions between the industry and the government, and it is believed to be (and I believe it to be) an appropriate balance between the need to establish an incentive for venues to sell gaming machine entitlements—that is, to reduce the number of venues—and also the desire to maintain a reasonable price to ensure more equitable access for all venues wishing to purchase entitlements.

Whether the \$50 000 fixed price rather than an open auction will discourage individual venues selling machine entitlements is a matter for individual venues. Selling venues would obviously prefer greater amounts of money, but it is necessary to establish a balance for all parties, and obviously the figure that is chosen will result in some level of equilibrium and, if it has been selected correctly, that number will be 3 000, or hopefully close to it.

It is true that at the margin some venues may be more inclined to hold the machines rather than sell them at \$50 000, but that would be true at any price. At any particular price that is set, some venues will prefer to hold rather than sell. Obviously the selling price will be different for individual venues. It should also be remembered that the right to operate machines is not tradable at all at the moment, and the current right to operate machines was granted at no cost.

The Leader of the Opposition (and I think the Hon. Angus Redford also) spoke about the history of this measure, and I agree with much of what he says. However, I think it is important to point out in relation to this debate that the value of entitlements is really created by the parliament's restriction on supply through the freeze on gaming machines. The reason a price is now being put on gaming machines is that parliament restricts supply, and the value that is created as a result of that does not belong to any party.

The final point I make in opposing the amendment of the Leader of the Opposition is that the \$50 000 fixed price model has the agreement—by and large, the broad agreement—of both the industry and the welfare sector. The Leader of the Opposition referred to some comments made by a particular hotelier in the media this morning. I am sure all members have received a letter from the Australian Hotels Association which points out how there has been unprecedented consultation with all members of the Australian Hotels Association throughout the past 12 months in relation to this issue.

As the leader himself pointed out, there will always be somebody who is dissatisfied with any particular outcome, but I think everyone in this committee should recognise that there has been an enormous amount of discussion within the industry in relation to coming up with the particular proposal before us. It may not be perfect and time will tell whether it has been pitched to get the right balance and the right level of 3 000 but, given the amount of effort that has been put into

developing this proposal, I, for one, have some confidence that if it is not right on the mark it will not be too far away from it.

The fix priced system, in my view, has the overwhelming advantage of equity of access, which the tender system proposed by the Leader of the Opposition does not have. For that reason, in particular, I urge members of the committee to oppose the amendment moved by the Leader of the Opposition and to stay with the fixed price system.

The Hon. R.I. LUCAS: What is the advice to the government, and can the minister guarantee that with the system that he proposes the 3 000 machines will be cleared in 12 months?

The Hon. P. HOLLOWAY: Of course you cannot guarantee that. No-one can give a guarantee what will happen tomorrow.

The Hon. R.I. LUCAS: Is it likely? What is your advice?

The Hon. P. HOLLOWAY: As I indicated, obviously this figure has been pitched as a result of discussions and has been aimed at achieving the sort of outcome that the government would like to see. I guess the outcome will depend on a lot of factors. Some hoteliers obviously might sit on their machines for some time to see what happens. I think that is inevitable in any system such as this.

The Hon. R.I. LUCAS: What advice do you have?

The Hon. P. HOLLOWAY: I will seek advice but, before I do, I make the comment that, with any new system such as this, it is a new and untried system—as, indeed, a tender system as proposed by the Leader of the Opposition would be. Obviously, it will take some time for people to have confidence in the system, and I suspect that, when this thing is finally in place and if the \$50 000 is fixed in legislation and people have confidence, people will be going away and seriously thinking about it, doing their sums and making their decision. But I will find out whether there has been advice given.

As I indicated, it is obviously difficult to predict and there is obviously no time frame and time will tell. As I indicated during my address, under the proposed system there will be immediately a significant reduction in the number of machines. The system as it is set up will give the opportunity to provide a greater reduction over and above the initial reduction.

The Hon. R.I. LUCAS: As the minister representing the government in this chamber, is the Hon. Mr Holloway confident that, if he cannot give the guarantee within 12 months, within three years the government's target of 3 000 will be achieved by the system that he is proposing?

The Hon. P. HOLLOWAY: There are no certainties in life; one cannot predict. As I said earlier, given the extensive discussion within the industry and the amount of thought that has gone into this, one can have some confidence that it is pitched to achieve the right outcome.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Time will tell.

The Hon. J.F. STEFANI: Has the government considered the effects of the amendments that were passed in the lower house in relation to clubs, particularly as the clubs are now not required to forfeit their machines, in achieving the 3 000 target that was mooted by the government when the legislation was introduced into parliament? My feeling is that that will affect the attrition number of machines that will be achieved. Has the government addressed its mind to this particular issue, given that the legislation was amended in the lower house?

The Hon. P. HOLLOWAY: I take the point raised by the Hon. Julian Stefani. When the majority of members in the House of Assembly took the decision they did to exclude clubs, that obviously changed the equation or the timing in relation to the achievement of this goal. That was the decision that was democratically taken by members in the other house and I, for one, accept that decision. We have already had the debate in relation to that here. Some of my ministerial colleagues strongly believe that the clubs should be treated no differently from the hotels. Other members of both sides of politics believe that clubs should be treated differently because of their not-for-profit nature. That was the decision that was democratically taken by the House of Assembly. Of course it means that it will take longer to achieve the goal because the clubs are taken out of the equation.

The Hon. T.J. STEPHENS: I will state my position early. It concerns me that I am supporting the Leader of the Government and voting against my leader, for whom I have huge respect. This will rarely happen throughout this bill because I think that we are together on about almost everything else.

The Hon. P. Holloway: If it is any help, that will make me feel comfortable too.

The Hon. T.J. STEPHENS: The Leader of the Government says that will make him comfortable and I am happy about that, as well. I have been lobbied extensively by hoteliers with operations of many different sizes. Overwhelmingly they are in favour of this \$50 000 price tag. The Leader of the Government used a pretty nice phrase, 'equity of access', and that makes me feel reasonably comfortable in not supporting the Hon. Rob Lucas's amendment.

A notion that the Hon. Caroline Schaefer spoke to me about is her concern that, if it is open slather, small country hotels may well be encouraged to sell their machines and bail out, quite possibly depriving a small community of something that I believe is absolutely essential, and that is to have their own local. I have spoken on that thought in this place before. With those few words, I make my position clear. I will not be supporting the Hon. Robert Lucas and, although it makes me very nervous, I am with the Hon. Paul Holloway on this one.

The Hon. NICK XENOPHON: Several days ago I was contacted by Ron Cunningham, who is the proprietor of the Austral Inn at Quorn. He has a hotel with 15 poker machines. It was not a slick lobbying effort; he just set out his concerns to me and other members, and I think the Hon. Mr Lucas was one of them.

The Hon. P. Holloway: He was on the radio this morning, wasn't he?

The Hon. NICK XENOPHON: That's right, on the Leon Byner program. He was concerned about what capping the value of machines at \$50 000 per machine would mean, stating:

In the main the AHA has negotiated a good deal with the lower house to protect our industry. However, it would appear they have lobbied for these amendments to favour the bigger players in the AHA and have not considered the smaller or country operators. The primary concern is the capping of the price of a machine at \$50 000 where in other states the transfer of poker machine licences has reached as high as \$275 000 and as low as \$100 000 per machine.

In terms of what the Hon. Mr Lucas said, those figures would have been under \$100 000 in Queensland or other jurisdictions. Mr Cunningham went on to say:

When questioned how the figure of \$50 000 was established by the AHA executive, they claimed it was established on a fair three-year buyback period. The AHA have also claimed that this figure of

\$50 000 has been agreed upon by all their members yet there has been no communication from the AHA on this particular subject.

Then Mr Cunningham discusses his various concerns and he praises his organisation, saying what they have done in part has been tremendous. However, their responsibility should not lie solely with their executive members; all members must be considered in all situations examined, including the state government.

He goes on to say that he wanted a solution that was fair and equitable to all concerned parties in both the long and short term. Mr Cunningham then wrote an open letter to all members of the Legislative Council (which was circulated yesterday) in which he reiterated those concerns, essentially saying that, by having this price cap, it would provide no incentive for smaller hoteliers to sell out, saying that it is an artificially suppressed price of \$50 000. I do not like the transferability model, but that is the model with which we are dealing, and if we are dealing with this model, notwithstanding my diametrically opposed views to the Hon. Mr Lucas on poker machines, what he says is fair. If we have to deal with the model for reducing machine numbers, it is important that we have a model which maximises the speed in which those machine numbers are reduced.

It is simple arithmetic. If it is on the open market, in all likelihood it would be higher than \$50 000 and, on that basis, it will accelerate the reduction of machines in the community. For that reason, I support the Hon. Mr Lucas' amendment. I think that members need to take heed of the very well-considered and thoughtful approach of Mr Cunningham of the Austral Inn at Quorn. I met with Mr Cunningham today. Mr Cunningham was receiving quite a few phone calls from other small country hoteliers as a result of the article in today's *Advertiser* indicating their support. It would be fair to say that quite a number of small hoteliers would share his concerns that the \$50 000 cap is not fair. From my point of view, in terms of accelerating the reduction of machine numbers, I support the Hon. Mr Lucas' amendment.

The Hon. J.F. STEFANI: I cannot support the amendment of the Leader of the Opposition. I will briefly state the reasons. If we have an open market, as Mr Cunningham suggested, we would have machine licences costing up to \$275 000 each. I can understand his argument—I am sure he would be selling the whole lot. At \$275 000 a piece, he would be retiring on about \$4 million (or thereabouts). He would have to pay capital gains tax of course—he has forgotten about that—but, at the end of day, he would still be a very rich person. He could close his pub at Quorn and go on holidays for the rest of his life. The reality is that I think he is speaking from a position of a vested interest.

Members interjecting:

The ACTING CHAIRMAN (Hon. J.S.L. Dawkins): Order! The Hon. Julian Stefani has the call.

The Hon. J.F. STEFANI: We would all like to have the opportunity to sell our house, boat, car, pub or poker machines at a premium. The reality is that the AHA has established what I consider to be a reasonable price in the circumstances and machines can be traded into the pool at \$50 000 a piece. The person who is selling it will lose one machine, so effectively it is \$37 000 odd, then that particular entity has to pay capital gains tax on that money in terms of the written down book value on what they sold them for and, at the end of the day, no-one is getting ripped off. It is a sensible way of allowing people who are losing money by holding six or 10 machines (as many clubs are) to get out of

their predicament and get some money in return. Non-profit organisations will probably not pay capital gains tax—although I do not know about that as I am not a tax expert, so I will not give tax advice on that matter.

At the end of day, we have a system which allows a reasonable trading process and which does not put inflated prices on a poker machine so that they become too expensive for the smaller operator who wants to buy some machines (which they had to forfeit) to enable them to continue to operate a profitable venture. We are not judges. The industry has agreed on a figure which it considers to be reasonable. Not everyone will be happy about that because the world is not perfect—100 per cent of the people are not happy 100 per cent of the time. We have to take the view that the majority of people who have been involved in this process have done their homework. They have come to a figure which they consider to be reasonable. I believe that the parliament has an obligation to allow them to get on with it.

The Hon. KATE REYNOLDS: Like the Hon. Nick Xenophon, it is not often that I find myself in agreement with the Hon. Rob Lucas, but on this occasion I am. I agree that, as much as any of us can predict it, opening it up is likely to induce more people to sell, and I think that is a good thing. I was very uncomfortable with the figure of \$50 000. It has been put to me by a number of people that it is a form of corporate welfare (and maybe that term is too strong). I indicate that I will be supporting the amendment of the Hon. Rob Lucas.

The Hon. CAROLINE SCHAEFER: I am probably going to have nightmares tonight because my experience in here is that, if you vote against the Hon. Rob Lucas, later down the track you are inevitably proven to be wrong. I am always reluctant to interfere with market prices, but I will vote against the Hon. Rob Lucas. I think that one of the things that has been forgotten in this argument with respect to small proprietors is that, unless a cap is put on the price, the only possible way for those who want to buy back into the industry and restock the number of machines is to have a cap on the price paid.

One of the early concerns when this bill was introduced was that—to coin the phrase so ably used by the Hon. Mr Foley—the pokie barons would be able to buy straight back in and the little guys would be left out. The system that has evolved—as complicated as it is—of pooling and allowing each person in turn to buy a machine means (it seems to me, anyway) that the bigger proprietors will not have the same advantage as they would have had under a free market system, and that is the reason why I will be supporting the cap.

One other aspect that needs to be remembered is that the initial cost to people with gaming machines is the cost of setting up their businesses and premises in order to house gaming machines. As I understand it, there was no initial price to purchase those machines, although I do understand that the rental on them is quite high. Those proprietors who choose to sell out of very small hotels in towns where there may already be three or four hotels will get for themselves in the vicinity of \$250 000 if they sell five machines; and \$250 000 for a lot of those very small proprietors is a lot of money if they decide to go down the track of getting out of machines altogether. I have discussed over a long period of time with a number of hoteliers and others that, if we have to go down this rather stupid track (and I reiterate that I will be joining my leader to vote very strongly against the third reading of this bill), it seems to me that the only equitable

way to allow all hoteliers a chance to get back into the business is to have a cap on the price, and I will be supporting that, albeit that I will probably have to close my eyes to cross the floor!

The Hon. J.F. STEFANI: I want to put on the record that members have spoken about transferability of machines. People who read *Hansard* may come to some misunderstanding that we are talking about a machine going from a venue into a trading pool and that machine being allocated to another venue. That is not the case. We are talking about the licence attached to the machine. For the public record, in my contribution when I spoke about machines I was referring to the licence that is attached to the machine.

The Hon. D.W. RIDGWAY: I will not be supporting the amendment of the Hon. Rob Lucas because I, too, have a concern about country hotels. I grew up and lived in the country all my life, and I see hotels as an important part of the community and the social fabric of country South Australia. Also, I do not want to support the amendment of the Hon. Rob Lucas because, as I think the leader rightly pointed out (and he was unable to give us a figure), this will not reduce poker machines by 3 000. In fact, no-one can tell us how many it will reduce them by and over what period of time. I have said a number of times that all this bill is about is a media spin and a headline for the Premier, and I will not support the amendment of the Hon. Rob Lucas.

The Hon. J.M.A. LENSINK: Far be it from me ever to vote against market forces but, on this occasion, it is an accepted principle that, with respect to gaming machines, the government does have a stronger role than normal. I have some concerns that, if we allow the market to decide, we will see some amazingly rampant prices placed on gaming machines. Again, my concern is about movement of machines to the areas of greatest demand and therefore the ability to place them in the areas of greatest demand. I will not be supporting this amendment.

The committee divided on the amendment:

AYES (7)

Gilfillan, I.	Kanck, S. M.
Lawson, R. D.	Lucas, R. I. (teller)
Redford, A. J.	Reynolds, K. J.
Xenophon, N.	

NOES (12)

Evans, A. L.	Gago, G. E.
Gazzola, J.	Holloway, P. (teller)
Lensink, J. M. A.	Ridgway, D. W.
Roberts, T. G.	Schaefer, C. V.
Sneath, R. K.	Stefani, J. F.
Stephens, T. J.	Zollo, C.

PAIR

Cameron, T. G.	Dawkins, J. S. L.
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Majority of 5 for the noes.

Amendment thus negatived.

The Hon. NICK XENOPHON: I move:

Page 8, after line 44—

New section 27B—after subsection (2) insert:

- (2a) An intending purchaser is not eligible to participate in the approved trading system unless the commissioner is satisfied—
- (a) that the intending purchaser has adopted, or will adopt, appropriate strategies for reducing problem gambling and promoting responsible gambling; and
 - (v) that the licensed business will not have an adverse social or economic impact on the local community and, in particular, will not contribute to the incidence of problem gambling in the local community.

Now that the numbers are clearly in favour of a transferability system as a method of reducing machines, this amendment seeks to ensure that there is a condition on those participating in the transferability process that the purchaser has made arrangements to implement problem gambling strategies and their conduct will not have an adverse social and economic impact on the local community. I indicate that I will not be seeking to divide on this amendment. The amendment seeks to provide a mechanism to ensure that, in the case of any transfer, various tests are there to ensure that the venue that is topping up its machines is doing the right thing and at least trying to implement responsible gambling practices. So, in a sense, as we have gone down the path of transferability, the intention of this amendment is to put an onus in the transfer process to address issues involving problem gambling.

The Hon. P. HOLLOWAY: I indicate that I will oppose this amendment. It introduces two elements where approval is required prior to being permitted to participate in the trading system. The first relates to the requirement to adopt responsible gambling strategies. I point out to the committee that all parties are already required to comply with a responsible gambling code of practice. If the parties are not meeting these requirements, they will be subject to disciplinary proceedings by the Commissioner. Therefore, I suggest that there is nothing to be gained in this proposed additional administrative process. The second additional element seeks to introduce the strict social impact test, which we discussed in relation to the test for new licences. This was another amendment moved by the Hon. Nick Xenophon, but it was defeated.

It is appropriate that the social issues be considered when granting a new gaming machine licence; that is, increasing access to gaming venues in an area. There is no logic in applying the same test to the acquiring of entitlements in the trading system, and it would create an unnecessary administrative process. There is also significant doubt that the licensees could meet this test. At best, the trading process would be substantially slowed, but it is more likely that this amendment would effectively stop trading in machines entirely, and that may be why the Hon. Nick Xenophon has moved it.

The Hon. KATE REYNOLDS: Will the minister advise why it is likely that this amendment would stop trading altogether? If the minister is confident that the licensing regime and so on are providing sufficient evidence that there is no negative social impact and so on, why would it stop trading altogether?

The Hon. P. HOLLOWAY: The Hon. Nick Xenophon's amendment provides that the Commissioner has to be satisfied before trading can go ahead and that 'the licensed business will not have a adverse social or economic impact on the local community and, in particular, will not contribute to the incidence of problem gambling in the local community.' In relation to 'an adverse social or economic impact on the local community,' it is inevitable that people will go to the Commissioner and complain that that is exactly what will happen, rightly or wrongly. I suggest that that is why the process would inevitably be bogged down. If the Commissioner has required that that test be met, obviously there will be those who will argue that the approval should not be given.

The Hon. NICK XENOPHON: I respond to the minister's remarks in relation to the first part of the amendment about adopting strategies for promoting responsible gambling. My view is that it is important to have an extra

check and balance. We have seen recently that clause 2B of the responsible gambling code of practice, with respect to intervention strategies, is an important part of dealing with problem gambling. We know that the AHA, through Rhonda Turley, the responsible gambling officer—and I am certainly not being critical of her—has sent a memo to members saying, 'We are concerned we are not complying with this.' I would have thought that having an extra mechanism in place to ensure compliance is a better approach than the current regime that does not appear to be working in terms of ensuring compliance with the current codes. Notwithstanding that, I do not intend to divide on this amendment—there are others on which I wish to divide—and I will accept the will of the committee.

Amendment negatived.

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

Page 9, line 23—

New section 27B(3)(f)—delete 'one-third' and substitute: one-fifth.

This is a relatively simple amendment which amends new section 27B(3)(f) which currently provides:

a provision for the payment of a commission (not exceeding one-third of the purchase price) to the crown on sale of a gaming machine entitlement under the approved trading system;

I am suggesting that we reduce that one-third to one-fifth. It seems an extraordinarily high commission to be paid to the government for nothing. The government already takes a healthy share of the profitability of the gaming machine industry, as various members have said during the second reading debate and the committee stage. I do not currently have the figures with me, but I think the budget estimates certainly forecast significant increases in the tens of millions of dollars over the forward estimates in gambling revenue, in particular gaming revenue, over the coming years. I do not think there is any justification that I have seen to support the contention that the commission ought to be one-third of the purchase price.

In the example the Hon. Mr Stefani was talking about earlier, if someone is selling five machines—although Mr Stefani needs to bear in mind people have to give up one for every four, or whatever it is, so it is probably seven or whatever that number happens to be—for \$250 000, I am assuming the government is saying that one-third, say, \$83 000, ought to be received by Treasury. If that is what this is intending, as Arthur would say in *Minder*, it is a nice little earner.

The Hon. Kate Reynolds: It would have been better under your amendment.

The Hon. R.I. LUCAS: Exactly! That is why I am reducing the commission. The proposal is that it be reduced to one-fifth, which I think is still an extraordinarily large commission. The only argument I have heard is that the government believes, and I assume the industry believes, as well—I assume this is a negotiated position, although I do not know that—that it must be very large to encourage people to sell the machines before the commission comes in; so that they will be part of this initial trading pool. I would think that if you are saying, 'We will take \$50 000 out of your \$250 000,' that would be more than enough of a scare anyway, as opposed to saying, 'I will rip \$83 000 out of your intended receipts.'

It is a further example of the difficulty of the system that the government—and now the parliament—is supporting in relation to this. The minister was unable to indicate that in any way he was able to say on behalf of the government they

were confident that, even within the three years, the government would meet the 3 000 reduction target. My advice, from those who suggest a view in this particular area, is that it will not happen in terms of getting the 3 000 machines. The Premier knows that the 3 000 machines will not be achieved, and the government advisers know that the 3 000 machines will not be achieved, but no-one wants to talk about it. Certainly, no-one wants to put anything on the record in relation to people's views as to the likelihood of this being achieved. Certainly, I think this whole arrangement is fraught with difficulty.

I think it is a relatively simple amendment. It is a question of whether one believes that the commission should be as high as one-third or whether, indeed, it should be a lower level. Frankly, I think it should be lower again than one-fifth, but given there is not much being done, other than charging a commission on the sale arrangements, it is an endeavour to reduce it reasonably significantly without taking it away completely.

The Hon. P. HOLLOWAY: The government will oppose the amendment. First, I should point out that the proposed 33 per cent commission will apply only to the sale of gaming machines by hotels after the 3 000 machine reduction has been achieved.

The Hon. R.I. Lucas: It might never come in.

The Hon. P. HOLLOWAY: That is possible, yes, but it is important that we have this to ensure our chances of getting the 3 000 machines are much better. After the 3 000 reduction, hotels will no longer be required to relinquish one entitlement for every three or part thereof sold. The requirement to relinquish one entitlement for every three acts as an effective commission on sellers of entitlements of 25 per cent.

The Hon. R.I. Lucas: Why 33?

The Hon. P. HOLLOWAY: Without a commission above that value (that is, above the 25 per cent) to apply once the relinquishment was completed, venues would simply hold their entitlement until the 3 000 had been achieved. Of course, this would be self-defeating. All venues would wait and no trading would occur, and the 3 000 reduction and the reduction in venue numbers would not be achieved. That is why the government argues that it is important that we have something above the 25 per cent level and that we have a commission above that level to ensure that there is no disincentive to hold on to machines and, in other words, not achieve the reduction by 3 000.

The 33 per cent commission acts to provide a financial incentive for venues to trade in the initial round of sales. The proposed 20 per cent commission would not achieve this; in fact, it could undermine the entire trading process. I hope that it is taken into consideration that the government has also committed to paying the revenue raised from the commission into the Gamblers Rehabilitation Fund, so it is not a question of whether people are concerned about the level of the commission.

The Hon. Caroline Schaefer: Is that all the revenue?

The Hon. P. HOLLOWAY: Yes; all the revenue from the commission will go into the Gamblers Rehabilitation Fund.

The Hon. J.F. STEFANI: Can the minister advise whether, on top of the provision of a 30 per cent commission, the government is going to charge stamp duty? Can he confirm that that will be the case?

The Hon. P. HOLLOWAY: The preliminary advice from Revenue SA is that stamp duty will be applicable.

The Hon. NICK XENOPHON: I cannot support this amendment for the reasons set out by the government in terms of the way that the \$50 000 cap is now in place. Unfortunately, it would actually mean that, by reducing the commission from one-third to 20 per cent, there would be a disincentive for people to trade their machines; in fact, it would be worth their while to wait even longer. I understand the intent of the Hon. Mr Lucas' amendment; and it certainly would have been much easier to support had there been an open market system. Again, it is an unsatisfactory fallback, but, given the trading system that has been enshrined in this state, supporting the Hon. Mr Lucas' amendment would actually lead to an even greater delay although, if the Hon. Mr Lucas' earlier amendment had got up, it would have clearly led to an acceleration in machines going out of the system.

The Hon. T.J. STEPHENS: I rise to support the Hon. Rob Lucas' amendment, and I hope that all is forgiven for my lack of support for the last one. I agree with the Hon. Rob Lucas that a 20 per cent commission or tax is probably outrageous in itself and, given that we have limited what a seller could achieve—and I was quite happy to limit it—I think that to reduce the tax payable would be some small compensation.

The Hon. J.S.L. DAWKINS: I indicate my support for the Hon. Rob Lucas on this occasion. I was acting in the chair on the last vote, and I indicate that I was not going to support my leader on that occasion; however, on this occasion, I will do so.

The Hon. R.I. LUCAS: I think it was a very good question from the Hon. Mr Stefani. Can the minister, with the wise advice of Treasury, indicate what is the stamp duty rate that would be applicable to the sales, if we are talking about half a million dollars worth of machines?

The Hon. P. HOLLOWAY: It is a conveyance duty rate which is a sliding scale.

The Hon. R.I. Lucas: Can you refresh our memories of what the sliding scale is?

The Hon. P. HOLLOWAY: We can look it up in the act during a break. Let us have the vote on it, and then I will answer it after we have a short break.

The Hon. J.F. STEFANI: Just on that question, could the minister advise the parliament whether the stamp duty arrangements on the sale of machines will be graduated, as it applies to real estate? I think that that is important.

The Hon. P. HOLLOWAY: It would be the same.

The Hon. J.F. STEFANI: I indicate that I certainly will support the Leader of the Opposition's amendment. I think that this government is about to take more money from this industry without any reason whatsoever, and I think it is a shame.

The committee divided on the amendment:

AYES (9)

Dawkins, J. S. L.	Lawson, R. D.
Lensink, J. M. A.	Lucas, R. I. (teller)
Redford, A. J.	Ridgway, D. W.
Schaefer, C. V.	Stefani, J. F.
Stephens, T. J.	

NOES (11)

Evans, A. L.	Gago, G. E.
Gazzola, J.	Gilfillan, I.
Holloway, P. (teller)	Kanck, S. M.
Reynolds, K.	Roberts, T. G.
Sneath, R. K.	Xenophon, N.
Zollo, C.	

Majority of 2 for the noes.
Amendment thus negatived.

[Sitting suspended from 9.58 to 10.20 p.m.]

The Hon. R.I. LUCAS: I am indebted to the government's advisers in relation to the stamp duty issue that the Hon. Mr Stefani raised prior to the adjournment. If one looks at a conveyance of 10 machines at \$500 000, in future the commission will be one-third of that, which is \$166 666.67, or something like that, and the stamp duty rate is 5.5 per cent, plus \$21 330. If we add the \$21 000 to the \$166 000, we are talking about almost \$190 000 out of the \$500 000 that the government will take by way of commission and stamp duty on that conveyance.

In speaking broadly to this provision, the amendment having been unsuccessful, I noted the government's commitment that all the money from the commission would go into the Gamblers Rehabilitation Fund. When I asked whereabouts in the bill that could be found, the answer was, 'Keep looking, it is not actually in the bill.' It is a cast iron government commitment. Mr Chairman, you will forgive my cynicism, but I did ask whether or not the Treasurer, Kevin Foley, was prepared to put it in writing, so it would have similar force and effect as the commitment that the Hon. Mr Foley gave to the Australian Hotels Association prior to the election, namely, that he would not increase taxes on the gaming industry for the next four years. That was after he and the party accepted \$100 000 plus in donations from the hotel industry—

The Hon. Nick Xenophon: \$125 000.

The Hon. R.I. LUCAS: It was \$125 000? I am indebted to the Hon. Mr Xenophon. His sources in relation to this are impeccable. I am sure it was in bold ink that he signed that commitment, having received \$125 000 in donations. It will not surprise you, Mr Chairman, that I am not necessarily convinced when the Treasurer and Premier give a commitment that it will go into the Gamblers Rehabilitation Fund that we should necessarily believe them, particularly when the Treasurer is oft quoted as saying that he has the moral fibre to break his promises.

The Hon. P. Holloway: Oft quoted by you.

The Hon. R.I. LUCAS: Well, it is a wonderful quote. I am sure it will be used in the odd leaflet or two to remind people. The Treasurer is often quoted as saying that he has the moral fibre to break his promises and that Rob Kerin does not have the moral fibre to break his promises.

I have asked parliamentary counsel to draft an amendment to put in legislation the commitment that the government allegedly has given in relation to the commission being paid into the Gamblers Rehabilitation Fund. We still have a number of amendments on this clause. I am not sure exactly where parliamentary counsel will suggest it goes. If we are not in a position to do it this evening, as we may not be, I flag that, when we revisit clauses at the end of the committee stage, I will be seeking agreement from the committee to move that amendment.

The Hon. NICK XENOPHON: I move:

Page 11—

Lines 13 to 15—

New section 27C(5)(c)—delete paragraph (c)

After line 15—

New section 27C—after subsection (5) insert:

- (6) The regulations may establish principles to be applied by the Commissioner in approving, or refusing to approve,

the allocation of gaming machine entitlements to premises.

(7) The principles may—

(a) restrict or prohibit the introduction of gaming machines, or more gaming machines, into a particular region or locality or into licensed premises of a particular class; or

(b) restrict or prohibit the allocation of gaming machine entitlements formerly relating to licensed premises of a particular class to licensed premises of a different class; or

(c) impose any other restriction or prohibition relating to the class of licensed premises to which the entitlements formerly related or for which the allocation is sought; or

(d) provide for exceptions to restrictions or prohibitions.

(8) For the purposes of subsection (7) a class of licensed premises may be defined by reference to—

(a) the region or locality within which the premises are situated; or

(b) the regions or locality within which the premises are situated and some other factor (such as the class or liquor licence applying to the premises); or

(c) any other factor or combination of factors.

These amendments are linked as they relate to regional caps. I will treat this as a test clause on the whole issue of what has been described as the regional caps amendment. The first amendment seeks to delete paragraph (c) of new section 27C(5). As I understand it, the member for Morialta in another place moved that the initial clause in the government bill be removed. I am seeking to reinstate what has been described as the regional caps clause in this bill.

In the course of my second reading contribution, I referred extensively to Mr Michael O'Neil, the Director of the SA Centre for Economic Studies and his concerns that there be a management of machine numbers, taking into account the concerns of the Provincial Cities Association in the very comprehensive report which he prepared for it in August 2001. In his very comprehensive report, Mr O'Neil was concerned that there was a disproportionate number of machines in provincial cities such as Port Augusta, with approximately 31 machines per 1 000 compared to a statewide average of significantly less than that. This is a test clause in respect of a commitment to ensure that the Commissioner has a discretion to look at poker machine numbers in regional centres, taking into account the concerns expressed by the Independent Gambling Authority, which, in turn, relied very heavily on the findings of the SA Centre for Economic Studies and its report for the Provincial Cities Association.

My second amendment gives a greater degree of discretion to the Commissioner to implement the concerns of those regional communities about the much higher concentrations of poker machines in their area. Whilst it is not a prescriptive clause and it is identical to the government's bill, it gives the discretion to the Commissioner to at least deal with this issue of having a greater degree of flexibility in respect of provincial areas and regional communities in this state in terms of the allocation of poker machines.

The Hon. CARMEL ZOLLO: As indicated in my second reading contribution, I support the reinstatement of this paragraph, which is amendment No. 9—

The Hon. Nick Xenophon: Amendment No. 10 is the reinstatement.

The Hon. CARMEL ZOLLO: Amendment No. 10 is the reinstatement; okay. I outlined the reasons in my second reading contribution, but it was mainly for the reason that, as the Hon. Nick Xenophon has said, we have such a disproport-

tionate number of machines per capita in regional South Australia compared to metropolitan Adelaide.

The Hon. G.E. GAGO: I also support this amendment. A range of studies have shown a link between the density of gambling machines and problem gambling, and although there is considerable debate about some of that evidence, nevertheless I think a link has been established. There is definitely a concern about the concentration of machines in some regional areas, so I think these regions will benefit from this cap.

The Hon. J.F. STEFANI: By way of observation, I have a list of the poker machines that have been installed in the country. I note with some interest that 4 522 machines are installed in country locations. The reality is that only a couple of hundred locations (that is a guess at the moment) have 40 machines. We might have 19 machines in Balhannah, eight at Dublin, six at Lameroo and six at Pinnaroo but, quite frankly, I do not understand the connection the Hon. Nick Xenophon is trying to draw.

Surely, the honourable member would not expect the people in Pinnaroo to drive 50 or 100 kilometres down the road. The reason we have a disproportionate number of machines is that there will be a hotel in a town that will require 20 machines. That was the initial thought of that particular hotelier, and he has made a commitment and spent the money. It has nothing to do with the fact that those machines are being used excessively to earn a disproportionate amount of gambling dollars.

In fact, I would say that country people are probably very concerned about how they spend their money. They would probably not put a lot of money into the machines that are located within the local hotel. I do not understand the logic and the connection that is being drawn about the excessive number of machines. Sure, there might be a lot of machines, but they are located in different places. They are dispersed over a rather large radius and in different towns. I just do not understand what the honourable member is driving at.

The Hon. NICK XENOPHON: As I have indicated, in 2001 the SA Centre for Economic Studies conducted a comprehensive study on the impact of poker machines for the Provincial Cities Association. Concerns were expressed that in an area such as Port Augusta there was a much higher concentration of machines per 1 000 people than, for instance, in the metropolitan area; and there was a concern that this would mean more machines in more venues. Submissions were made by the SA Centre for Economic Studies to the Independent Gambling Authority's inquiry into gaming machine numbers.

This amendment seeks to provide some discretion and flexibility with respect to concerns about areas where there is a much larger concentration of poker machines; and particularly for a provincial city to have guidelines that would take into account the special circumstances of an area with respect to the allocation of machines. It is not prescriptive, but the amendment acknowledges the concerns of the provincial cities and the SA Centre for Economic Studies and its very comprehensive research on this. I have an enormous amount of respect for Mr Mike O'Neill, Director of the SA Centre for Economic Studies.

It is at least another mechanism to take into account some of the issues that I hear about from gambling counselors—and, indeed, the Provincial Cities Association—with respect to the impact of poker machines in their particular area, and Port Augusta seems to be a prime example of that impact.

The Hon. KATE REYNOLDS: I indicated in my second reading contribution that we would be supporting this amendment or an amendment in this form. I am not sure whether we had it at the time I spoke. However, I am certainly persuaded by the evidence of the South Australian Centre for Economic Studies and also the arguments put to me by representatives of the welfare sector who were, of course, very concerned about the effects of problem gambling caused by the disproportionate placement of machines in regional areas. We will be supporting the amendment.

The Hon. J.M.A. LENSINK: I will not be supporting this amendment. I, too, have read the report from the SA Centre for Economic Studies, and I also have a great deal of respect for its Director (Mr Michael O'Neill) and his work. However, the bill before us has exempted clubs and, I think, in the context of the historical evolution of gaming machine roll-out in this state, we need to look at certain situations such as, for instance, Mount Gambier. If some sort of cap were instituted in Mount Gambier, it would disproportionately disadvantage some of the hotels in an unfair manner.

The very fact that we have exempted clubs, I think, impacts on this quite significantly. I think that we have a dog's breakfast (or a cat's breakfast with which I am more familiar in the morning), and it is not pretty. For that reason I will not support the amendment.

The Hon. R.I. LUCAS: I was going to say that I could not support it because the Hon. Gail Gago is supporting it, but I would not be so ungallant as to suggest that. I think that the Hon. Michelle Lensink has made one of the key points in relation to this issue. The area of Mount Gambier is a very good example. The RSL club in that town is one of the more successful clubs in terms of generating revenue through its machines if one talks about success in terms of generating revenue. A number of members in this chamber—the Hon. Mr Redford, the Hon. Terry Roberts and the Hon. David Ridgway—would have some knowledge of the Lower South-East and, in particular, Mount Gambier. They know how successful the RSL Club has been in comparison to many other clubs not only in regional South Australia but also in metropolitan Adelaide in terms of gaming machines.

So, the point made by the Hon. Michelle Lensink is an important one, and I think it is the issue that drove the changes made in the House of Assembly. When changes were made in relation to clubs, a number of members were convinced to support the removal of regional caps. If I can speak frankly, I suspect that some in the hotel industry, whilst they might not say so publicly, may well in their private moments concede that the clubs amendments were part and parcel of the reason why regional caps were defeated in the House of Assembly. Whilst they are obviously not publicly supporting the position on behalf of the clubs, in their most private thoughts, they may well concede that the two were inextricably linked in terms of the thought and voting processes of House of Assembly members. As I have said on a number of occasions, I come to this whole debate from a difference process. I am not supporting freezes and caps in aggregate in the state, so I am unlikely to support them in regions or parts of the state. For that reason alone, I would not support the cap, anyway.

The Hon. T.J. STEPHENS: Like the Hon. Rob Lucas, I will not be supporting this amendment. I believe that country people deserve facilities as good as those enjoyed by we city people.

The Hon. A.J. Redford: You're a country boy.

The Hon. T.J. STEPHENS: At heart, I am. I am concerned that this amendment could well jeopardise future redevelopment and upgrading of premises and facilities for country people. As I have said, country people deserve facilities as good as those enjoyed by city people. I have travelled interstate, and in Western Australia there are no poker machines in clubs and hotels, and the standard of hotels is generally pretty ordinary and clubs are on their knees. I would hate to see us pass this amendment—

The Hon. R.K. Sneath interjecting:

The Hon. T.J. STEPHENS: Certainly. I cannot support this amendment; I am concerned that future investment in country towns would be diminished.

The Hon. R.K. SNEATH: I do not support the amendment, either. However, I almost changed my mind after the Hon. Mr Lucas's long-winded contribution. Most of it has been said; I cannot support the amendment.

The Hon. J.F. STEFANI: For the record, I have again done a quick tally of the number of poker machines in country for-profit hotels. There are 251 locations with 4 522 poker machines, and that is an average of about 14 machines per location. Of course, we know that the will of the parliament in the lower house has destined that the not-for-profit organisations will also be exempt from the cull. That tells me that there are 34 locations with about 596 machines. Again, that does not rate as a very high number of machines. Whilst I take the point that there might be one or two locations with more than 40 machines, that is the nature of the town and the nature of the business. Some hoteliers in Port Augusta have made a decision to install machines and, as a consequence, there are a greater number in that town. I just cannot see the connection the Hon. Nick Xenophon is trying to make.

The Hon. T.G. ROBERTS: I have to put the government's position. The people's house has spoken and has removed this measure from the bill. I am putting it back in, and I am supporting the proposition. The original bill provided that regulations can apply restrictions to the transfer of entitlements to geographical areas, licence types or a combination of these. The government has indicated that the provision for restrictions would be used to implement caps on the number of gaming machines in provincial cities. The current density of gaming machines is 20.6 machines per 1 000 adults in provincial cities, compared with 13.3 per 1 000 adults statewide.

The Provincial Cities Association called for a reduction on machines in regional areas, and the IGA recommended that the bill include powers to apply restrictions and that provincial cities caps was an appropriate initial use of this power. Consistent with that view, it was proposed to apply regional caps to the state's provincial cities so that the gaming machine entitlements would not be able to be transferred into those local government areas until the density of gaming machines per 1 000 adults falls below 11, the state average following the reduction of machine numbers. Venues in the cities would remain able to sell machine entitlements if they wished. The specific regions and the cap arrangements would be set by regulation.

It is noted that the Riverland cities do not want caps in their region, and the Provincial Cities Association has acknowledged that the Riverland is different, given its not-for-profit community hotels. There are provisions for caps and regional restrictions in New South Wales, Queensland and Victoria. The amendment would assist in reducing the over-supply of machines in provincial cities. As a result of

my own general knowledge with clubs versus hotels in the South-East, I know that many hotels in country areas throughout South Australia cannot afford to have the maximum number of machines.

The Hon. R.I. Lucas interjecting:

The Hon. T.G. ROBERTS: I am not sure, but I do not think any would have 40. There may be some, but I am just talking generally throughout the state. There is only one club of which I am aware in the South-East that would have 40 machines. I am not sure whether it is a major issue in relation to how the market actually works, but I do know that people will travel for an evening out. One of the reasons why I voted for poker machines coming into South Australia was that people used to travel to Victoria, across the border for a night of entertainment on the poker machines when Victoria brought them in.

The Hon. R.I. Lucas interjecting:

The Hon. T.G. ROBERTS: I used to go to the Barn, but that is not across the border. People will travel, and I think market forces will apply to some extent within regional areas. The figures do tell a story in relation to the number of machines per adult. I will be supporting the reintroduction of the clause.

The committee divided on the amendments:

AYES (7)

Evans, A. L.	Gago, G. E.
Gilfillan, I.	Reynolds, K. J.
Roberts, T. G.	Xenophon, N. (teller)
Zollo, C.	

NOES (13)

Dawkins, J. S. L.	Gazzola J. M.
Holloway, P.	Kanck, S. M.
Lawson, R. D.	Lensink, J. M. A.
Lucas, R. I. (teller)	Redford, A. J.
Ridgway, D. W.	Schaefer, C. V.
Sneath, R. K.	Stefani, J. F.
Stephens, T. J.	

Majority of 6 for the noes.

Amendments thus negated.

The Hon. NICK XENOPHON: I move:

Page 11, lines 32 to 36—

New section 27E—delete the section.

This amendment seeks to delete the so-called 10 year certainty clause that was moved and passed in the other place. There are real issues here about whether this is valid in any event and whether this parliament can bind any future parliaments. I strongly oppose this clause. I know that, as a result of my discussions with Mark Henley from Wesley Uniting Care in his key role with the Heads of Christian Churches Gambling Task Force, he would like some certainty with respect to problem gamblers. He would like us to reduce the level of problem gambling in the community and for us to have some certainty about reducing the harm caused by poker machines that has been caused over the past 10 years.

The whole concept of certainty for an industry that has made so much revenue off the backs of vulnerable and addicted individuals is an absurdity. This ought to be opposed. It is important not to give even a signal to the industry that future parliaments will be bound. We need to see what the impact will be on problem gambling with various measures that are being considered now and in the future. The whole concept of certainty for an industry where its product—that is, the poker machine product—is causing

so much harm to so many seems to be something that this place ought to reject.

The Hon. CARMEL ZOLLO: As I indicated in my second reading contribution, I support the reinstatement of this clause. I believe that it goes to the heart of this legislation. As this clause now stands, it removes the capacity for parliament to respond to the intention of this legislation—that is, to respond to problem gambling.

The Hon. A.J. REDFORD: I have mixed views about this. I remember standing up here on one of the rare occasions that I agreed with the Hon. Nick Xenophon where we were talking about passing a bill that we should not eat dogs and cats, which was one of the more useless—

An honourable member interjecting:

The Hon. A.J. REDFORD: Yes; the Atkinson bill, which was based on a fib. On that occasion we let the legislation go through. As a Legislative Council we did not cover ourselves in glory on that particular day when we let the legislation go through based on the Attorney-General's fibs.

The Hon. T.G. Roberts: Have you broken the law since it has been proclaimed?

The Hon. A.J. REDFORD: That is a matter between me and my pets. That is not something that I would disclose in a forum such as this. It is interesting that the Hon. Nick Xenophon wants to get rid of a 10-year certainty clause when, not half an hour ago, he voted for non-transferability which is the equivalent of a 1000-year certainty clause. In reality we have as much certainty about poker machine numbers as you could ever possibly deliver by ensuring that we now have a regime of transferability.

The Hon. Nick Xenophon's historic vote this evening, where he participated in the creation of an industry with a value of between about \$1 billion and \$2 billion, certainly transcends this puff clause. I can understand the hotel industry saying, 'We want certainty.' I can understand the hotel industry saying—and this is the way it has been expressed to me—that it needs to be able to go to its financiers and say that the insertion of this clause provides a degree of certainty. Commerce must have changed a bit since I was elected to parliament, because I never struck any dumb bank managers who would fall for a trick like this. On balance, as a matter of principle, I cannot sit here and participate in a process which is basically a con. We all know that parliament can change a law any time it sees fit. It has not been incorporated into the Constitution Act. It has not been required to have any special majority of either house or both houses of parliament. This clause does not have any special characteristic.

The Hon. Sandra Kanck: But bank managers don't know that, do they?

The Hon. A.J. REDFORD: I have to say that I have never struck bank managers who are that stupid. Maybe the hotel industry has, but I do not think that they are that dumb. I do not think that, as an industry, they are that dumb. In some respects, the only fear I have is that a new participant in the industry might actually read this and be fooled by a clause such as this. I think that, on any principle, it would be a gross act of hypocrisy for parliament to pass a law which it knows is a con, then stand up here next week and pass laws on consumer protection or the criminal law, or pass or make statements about moral or other sorts of conduct of the community.

I can understand the hotel industry saying, 'We want this for certainty', but even the hotel industry knows and understands, and I see this when I put the issue to it, because the

industry says, 'We know that the parliament could change this next year.' If they know that, I can assure them that the banking industry will know that as well. I am just not sure what this is all about, other than a couple of lower house members with some fine margins trying to keep a few people on side. I think that, as a matter of principle, we should not be supporting something that simply has no validity. I look forward to the government standing up and explaining with a straight face how it can possibly defend provisions such as this.

Another provision similar to this is about guaranteeing a tax level, and I will be asking questions about how the Legislative Council can guarantee taxation provisions, that is, that we will not interfere with a taxing regime into the future. I wonder what impact our constitutional limitations have in relation to clauses such as that. It is a silly clause that does nothing. I understand that the hotel industry is in a state of shell shock with the constant change that it has inflicted upon it, although I think that the Hon. Nick Xenophon's historical vote tonight will improve its lot. I can understand that position. I also do not believe that, as a matter of principle, either house of parliament should be passing laws which are absolutely meaningless and which could be overturned by parliament next week, notwithstanding this particular provision.

The Hon. P. HOLLOWAY: I intend to oppose the amendment. I think what the Hon. Angus Redford said is essentially true, that is, that a parliament cannot bind parliaments in the future. Nevertheless, I think the provision as it came to us from the House of Assembly is worth supporting. The reason that this bill has come about is as a result of decisions taken in the past to introduce, first, the freeze and then the IGA and so on. I am quite happy to oppose this amendment and stick with the original provision, and I do not want to touch this issue again for 10 years: I am happy to make that commitment.

I think we will find that, having passed it, it will be a lot easier for me in the future, and I think other members, to stick to that position. I would say that if we vote for this I give an undertaking, certainly for as long as I am here, that we will stick to it. As far as I am concerned I am happy to support this. I think there have been too many changes in relation to this and I am certainly happy to say that, as far as I am concerned, I will not touch it again for 10 years. Of course, if the numbers change in the parliament, that can change but, as far as I am concerned, I will oppose the amendment and support the original provision, even if it can be changed by a future government.

The Hon. SANDRA KANCK: I oppose this amendment. I have previously drawn into this debate the car analogy. If you look at the numbers of people killed and injured on our roads every year, you would think that we would close down the car manufacturing industry. Certainly it is an industry that does not have bills directed at it once every three months, as happens with the gaming machine industry, and I just do not understand the inconsistency. I do not see any real validity in having this issue come back to parliament month in and month out. Frankly, I am quite tired of dealing with it. I think we have dealt with such bills every year for the past five or six years and we just do not seem to know when to let up on it. I think it is time to do so, and the bill as it currently stands with the 10 years is far preferable to the amendment.

The Hon. R.I. LUCAS: This amendment reminds me, for those of us who are parents, of the infant security blanket. It does not provide any security at all but the infant believes that

it does. With the greatest respect to my friends in the hotels association, this is the hotels association's equivalent of the infant security blanket. It provides no protection at all. They probably even acknowledge that, but they really want to hold on to it. It gives them something to do with their hands at the time they are talking to the government if they can hold onto this particular provision. The Leader of the Government, on behalf of government members, stood up in this place and said—

The Hon. P. Holloway: On behalf of myself.

The Hon. R.I. LUCAS: On his own behalf, okay. He said, with his hand on his heart, that if he gave this commitment he, as a representative of the government, could be trusted. We have already discussed in this place—

The Hon. P. Holloway: It has always been a conscience vote.

The Hon. R.I. LUCAS: But we have already discussed in this place the worth of the government's representatives in relation to this debate. I will not refer in detail again to the letter from the now Deputy Premier to the hotel industry promising no increase in gaming machine tax rates for the next four years. As I said at an early stage of this debate, the position of this government and its leaders has been well and truly summarised by the Deputy Premier when he stood in the house and said that he had the moral fibre on behalf of the government to break its promises. This is exactly the same position.

These two amendments are what the Deputy Premier and some other representatives of the government have put to the hotel industry and said, 'You can trust us. We will move these particular amendments and give you a degree of certainty in relation to these issues for the next 10 years.' But these are the people who looked the very same people in the hotel industry in the eye prior to the election campaign and signed letters of commitment, took money by way of political donations for political parties and then, within months, looked them in the eye and said, 'We have the moral fibre to break our promises.' On that basis how can anyone trust a representative of this government in relation to this issue?

With the greatest respect to my colleague the Hon. Angus Redford, while I agree with much of what he said when he said that he did not know too many stupid bank managers, I immediately thought of a couple of names—Marcus Clark, Nick Leeson, and a few people associated with the NAB in recent times.

The Hon. A.J. Redford: I never met them.

The Hon. R.I. LUCAS: No, you might not have met them but I think a number of people within the industry would know them very well. So, there are some silly bank managers out there and maybe they will be consoled by the amendment that has been moved and probably will be supported in this chamber as well.

The final point I want to make in relation to this highlights the hypocrisy of this bill, as I indicated on a number of occasions. I take members back to the original argument in the IGA report, and I think the Hon. Mr Xenophon said that originally it was looking at a reduction of 5 000 machines, or 30 per cent.

The Hon. Nick Xenophon: It considered it.

The Hon. R.I. LUCAS: It considered it and settled on 3 000 machines but, in essence (and I am summarising this), it said, 'We will have a go at this and see how it goes, and if it has not worked we will go back again and have another go.' That is the Hon. Mr Xenophon's position, as I understand it,

and the position of a number of others who support a reduction in gaming machines.

The IGA has laid down a process that says, 'We thought we should have gone further, but we will do this, we will see how it goes, we will suck it and see, and then we will have another go if it has not been successful in reducing problem gambling.' That is the whole premise of those who are supporting this stupid piece of legislation. Even the most fervent opponent of poker machines in South Australia, the Hon. Mr Xenophon, has had to concede on the record that this, at best, will have a marginal impact on the extent of problem gambling in South Australia. That is his position, and I suspect that most of the others who have a similar view to the Hon. Mr Xenophon will have the same position. They will be arguing once again for a further reduction in the number of machines. The Premier has indicated publicly that he will see how the reduction in gaming machines goes, and, if it does not work, he will have to look at it again afterwards.

The Hon. A.J. Redford interjecting:

The Hon. R.I. LUCAS: Well, all of us personally, and to lobby fervently on behalf of the legislation. We are still all waiting. That was the original position in relation to this. The whole structure of this debate, initiated by the IGA and the government in bringing forward this legislation to reduce the number of gaming machines, is all about looking at this reduction and then further reductions. Now we have a 10-year provision in the legislation expressing parliament's intention to make no further reductions in numbers before 30 June 2014. The Hon. Mr Holloway has said that he supports the 3 000 reduction but that now is the time to give certainty. The Hon. Sandra Kanck did the same thing, I think, with respect to her position on the legislation.

My position is that, like the infant security blanket, and as with our kids, whilst it was not much use arguing with the infant if he or she was convinced the security blanket would be of some benefit to them, if it gave them peace of mind and kept them quiet for a while, we let them have the security blanket. I am not going to oppose this provision, so I will not be supporting the amendment to delete the new section.

The Hon. P. HOLLOWAY: I wish to make one point.

The Hon. A.J. Redford: Is this a moral fibre debate?

The Hon. P. HOLLOWAY: I do have the right to do so, Hon. Mr Redford. In an earlier contribution this evening, the Hon. Robert Lucas announced that he would move an amendment to place in legislation a commitment that was given by the government earlier. That was to commit the excess revenue to the Gamblers Rehabilitation Fund. He was doing that because a pledge that is placed in legislation is clearly more difficult to break. It could be broken by any future government by removing that provision, but if the intent is placed in legislation it is more difficult to break.

I do not accept the premise that something that is put in legislation has no value. I believe that it does. Whereas I conceded that a future government, if it had the numbers, could do so, the point is that it would be much harder for any future government to do so because it has to change the legislation. It has to remove the provision. It will always be much more difficult to break. Experience in politics shows that, if it were not in legislation in the first place. For that reason I will be opposing the amendment. Whereas I concede that a future government could change it, I believe it would be much more difficult for it to do so.

The Hon. J.F. STEFANI: All of us have been in this place long enough to understand the cast iron commitments that are often given during debate and recorded in *Hansard*.

My experience of those commitments has been very disappointing. However, I have some respect for and support the notion that, if the parliament through a democratic process and a majority of members supports the measure, there will be no change in the number of poker machines. If it is enshrined in legislation, I believe that it carries a greater commitment. Whilst I respect the comments made by the Leader of the Opposition in relation to the changes that may occur in the future, it is more difficult to change legislation once parliament has decided on a particular provision.

A number of sunset clauses have been enshrined in legislation in the past. To my knowledge, having been here since 1988, I do not remember that those sunset clauses were preceded by changes in legislation mooted in the parliament. Whilst there is some possibility that the law can be changed as a result of circumstances that may arise, again it will need to be by the majority of members in this parliament. When I have gone, other people may feel and vote differently on an issue of conscience. That possibility remains but nonetheless we are proceeding with a law that is supported by the majority of members, that is enshrined in statute and that hopefully will give some certainty of operation to an industry, which as I mentioned earlier, has endured some considerable interference by the parliament and by the government of the day in relation to its agenda concerning poker machines.

I will support the position as it stands, namely, that if it is the will of the chamber tonight, parliament will not deal with this legislation—certainly in the time that I will be here until March 2006—and hopefully other members will respect the sunset clause which states 30 June 2014.

The Hon. T.J. STEPHENS: It will come as no surprise to members that I will not be supporting the amendment. In my short time in this parliament, I have seen members of the hotel industry pushed from pillar to post and spending a fair amount of their time concerned about what this parliament will do to their business. I would like to give them as much comfort as we possibly can so that they can return to running their legitimate businesses, feeding their families and ensuring that they can pay their employees. With those few words, I declare my position.

The Hon. J.S.L. DAWKINS: I echo the remarks of my colleague the Hon. Terry Stephens. I have been in this place for seven years and I think that, on average, I have participated in some form of debate in relation to poker machines once a year. The people who operate the venues in which these gaming machines are operated, as my colleague the Hon. Mr Stephens said, are legitimate business people. We have heard arguments about the fact that the 10-year provision could be overturned, and I recognise that. However, the reality is that, if it is there, it has to be overturned to be changed. I would hope that that will not be the case. I really do think we need to give this industry the best level of certainty that we possibly can.

The Hon. KATE REYNOLDS: I begin my remarks by putting on the record a very quiet interjection which the Hon. Ian Gilfillan just made in relation to the Hon. John Dawkins' comments about having been here for seven years and returning to this debate year after year. As the Hon. Ian Gilfillan quietly interjected, 'That is because poker machines keep destroying people's lives.' Whether or not we like it, this debate will return. It might not be in relation to the number of electronic gaming machines, but I do not think we will get out of it as easily as some members think. I would love it if we could, but I do not think we will. I also put on the record that I agree with nearly all the Hon. Angus

Redford's comments about the clause proposed by the government being a farce.

I have been here for less than two years and I would like to think that I could have confidence in a statement that says, 'It is parliament's intention', but in that short time I have already learnt that parliament's intention can be interpreted and reinterpreted in so many ways that I do not think this statement is worth anything. The fact is that electronic gaming machines were introduced into South Australia (I note with opposition from the Democrats) for economic benefit. We have heard much about the fact that the introduction was allowed to save the hotel industry. They were introduced for economic benefit, not social benefit, so the operators (whether they be hotels, clubs, or even the casino) will do what they have to do to maximise profit—and we know that this means having as many machines as possible.

If we accept that there is a correlation between the number of poker machines and the incidence of problem gambling, as the government would have us do in seeking our support for this bill, then perhaps the parliament should be looking at a completely different form of reduction. I also put on the record that I am still waiting for the Premier to make personal contact with and lobby me for my support for this bill—he knows my number, and there are still a few hours left! It has been suggested to me that, instead of looking at reducing the number of poker machines through some fairly blunt instruments which we have spent hours debating, we should reduce the number of machines by perhaps even halving the rate of tax applied to electronic gaming machines.

If indications to me from club and hotel operators are reflective of a broader view, then operators would require fewer machines to achieve the same income per machine and there would be a stampede to get rid of the blasted things. Of course, I do not expect any treasurer of any political colour to embrace this idea, because we all know that governments around the country are as addicted to electronic gaming machines as are the tens of thousands of problem gamblers. However, on the off chance that a future treasurer might support a reduction in that tax rate, which I believe would reduce the number of electronic gaming machines, I will support the amendment. It is important that we support every attempt to ensure that this government and future governments cannot pretend that there is nothing more that they can do to address the problems, which undeniably are caused by electronic gaming machines.

The Hon. D.W. RIDGWAY: I indicate that I will not be supporting the amendment. I recognise that the industry needs some certainty and, as my colleague the Hon. Terry Stephens said, they are legitimate business people with families and employees. As a parent of three children, I know how distressed they become when they lose their security blanket—I do not want to cause the industry any further distress.

The Hon. NICK XENOPHON: The Hon. Kate Reynolds summed up the debate pretty well in terms of dealing with this issue. I am also very grateful for the quiet but very powerful interjection of the Hon. Ian Gilfillan that we come back to this because it destroys people's lives. The Hon. Julian Stefani makes the point that this industry has had considerable interference. Well, the tens of thousands of South Australians who have in some way been affected by poker machines have had considerable interference in their lives. The Hon. Terry Stephens says that the industry has been pushed from pillar to post and that it is a question of feeding families.

When one talks to welfare agencies one sees first-hand instances where some children miss out on meals as a result of their parents' poker machine addiction, and I believe that must be the absolute priority. As far as security blankets are concerned, most children happily give up their security blankets at the age of three or four, not at the age of 10. I urge members to support this amendment and, in any event, it will be my view and the view of others that this clause could always be revisited by another parliament with other members.

The committee divided on the amendment:

AYES (6)

Evans, A. L.	Gilfillan, I.
Redford, A. J.	Reynolds, K. J.
Xenophon, N. (teller)	Zollo, C.

NOES (14)

Dawkins, J. S. L.	Gago, G. E.
Gazzola, J.	Holloway, P. (teller)
Kanck, S. M.	Lawson, R. D.
Lensink, J. M. A.	Lucas, R. I.
Ridgway, D. W.	Roberts, T. G.
Schaefer, C. V.	Sneath, R. K.
Stefani, J. F.	Stephens, T. J.

Majority of 8 for the noes.

Amendment thus negated; clause passed.

Clauses 13 and 14 passed.

Clause 15.

The Hon. A.J. REDFORD: I move:

Delete the clause.

I do not know of any other industry sector tax in any other jurisdiction that has managed to claim a legislative moratorium. If the minister can convince me, or give me some examples or some principles where this has happened in other legislation, I might consider not proceeding with this

amendment. I would be grateful if the minister would advise whether there is any precedence for this.

The Hon. T.G. ROBERTS: The casino and the TAB have fixed taxation, but no other taxes are like it.

The Hon. A.J. Redford: To the minister's and the government's knowledge is there any provision in any other legislation—federal or state, or anywhere in the world—that is equivalent to this?

The Hon. T.G. ROBERTS: Not in legislation.

The Hon. A.J. REDFORD: I believe that is a no. My next question is: has the government taken any advice about the effect of sections 60 to 63 of the Constitution Act in so far as the right of the Legislative Council to make legislation concerning taxation issues and the level of taxation?

The Hon. T.G. ROBERTS: No specific advice has been taken, but it has come from the other house and it is in the bill.

The Hon. A.J. REDFORD: That was not the question. The question is: has the government considered the impact of sections 60 to 63 on this particular clause?

The Hon. T.G. ROBERTS: No; I have said that consideration has not been given to it.

The Hon. A.J. REDFORD: Can the government give me some indication as to what impact sections 60 to 63 of the Constitution Act has on a provision such as this?

The Hon. T.G. ROBERTS: We have not made any study of the constitution. It might be a good time to report progress. Before we resume the debate tomorrow, perhaps some consideration can be given to the Constitution Act in relation to taxation and the role of the council.

Progress reported; committee to sit again.

ADJOURNMENT

At 11.40 p.m. the council adjourned until Wednesday 24 November at 2.15 p.m.