LEGISLATIVE COUNCIL

Thursday 6 July 2000

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

WATER RESOURCES (WATER ALLOCATIONS) AMENDMENT BILL

The Hon. R.I. LUCAS (Treasurer): By leave, I move:

That the sitting of the Council be not suspended during the continuation of the conference on the bill.

Motion carried.

STANDING ORDERS SUSPENSION

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

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

Motion carried.

CASINO (MISCELLANEOUS) AMENDMENT BILL

In committee.

(Continued from 29 June. Page 1383.)

Clause 5.

The CHAIRMAN: Members would be aware of some new amendments that have been circulated by the Hon. Mr Xenophon, one of which affects clause 4. The committee has already dealt with that clause but it can be reconsidered, if that is the wish of the committee, at the end of the committee stage.

The Hon. NICK XENOPHON: I move:

Page 2, line 26 to page 3, line 13—Leave out proposed section 41A and insert:

41A. (1) It is a condition of the casino licence that the licensee must not make an interactive gambling game available pursuant to the licence.

(2) This section does not prevent the licensee from allowing another person, who is authorised by law to do so, to make an interactive gambling game available to persons present at the casino.

(3) In this section—

'interactive gambling game' means a game in which persons not present at the casino may participate by means of a computer, television receiver, telephone or other electronic device for communicating at a distance.

Since this matter was last before the committee, I wrote, as I undertook, to Sky City Limited to obtain its views as to the amendment bill in its original form and some further amendments that were circulated to members. The subsequent response was received only this morning and I understand that all members, bar one or two, have them. I thought it might be useful for members to go through some of the issues raised by Sky City Limited. I further undertook to contact authorities in the New South Wales casino with respect to some of the matters raised by members. For the next five minutes I will set out those issues for members.

I deal firstly with some of the matters raised by members in relation to the operation of the New South Wales Casino Control Act. My office spoke to Paul Arbuckle, the table games general manager, who discussed issues as to copies of rules of games being provided. I know that this does not relate to the clause that the committee is dealing with, but I thought it might be useful to outline broadly the queries of members and then to deal with the specific clauses.

Mr Arbuckle told my office that there are brochures at every counter and cash outlet that cover the rules of each game, how to play each game and how payouts are made. All the rules for each game are contained in the computer system, there is a terminal on every table and they can be called up by the dealer at any time. The signs to display change of minimum wager are in A5 size and an L-shaped freestanding sign details the change in the applicable time on an adjustable clock face. The sign is displayed about an hour before coming into operation. The New South Wales Casino Control Act refers to a half hour minimum period. Mr Arbuckle told my office that it was a rare occurrence in terms of games being changed in that manner, that it had not happened in the last 12 months, to his knowledge, and that the signs do not display the odds for a game.

In terms of intoxication, Mr Arbuckle said that the Sydney Star City Casino has a very strict policy on intoxication. People are removed by security if they show any signs of it. He said this is monitored by the control authority. All serving staff have the authority to stop supplying drinks to anyone they feel is intoxicated. Mr Arbuckle said that the New South Wales act prohibits the supply of complimentary or heavily subsidised drinks in the general gaming area. That seems to relate to section 76 and casino inducements.

In relation to Sky City Limited, I received two responses on behalf of Mr Evan Davies, the Managing Director. Some parts of his response of 5 July have been superseded, but Mr Davies indicated that there are provisions similar to those in clause 4 in the New Zealand Casino Control Act in terms of providing a summary of the rules, but his suggestion is that these rules be in a form that is approved by the commissioner or by the authority.

That is why I asked that clause 4 be reconsidered, so that these matters can be taken into account to take on board the concerns of Sky City Limited, which I do not think are unreasonable in the circumstances. On the issue of interactive gambling, Sky City said that it was not necessarily happy with the clause but that it purchased the Casino not expecting to receive an interactive gaming licence as part of the purchase. That is an important point that needs to be made. Mr Davies states:

As interactive gaming is a matter of particular public concern, we do not have a difficulty with an interactive gaming licence being granted only with the approval of both houses of parliament. Rather, our concern is that there be absolutely no suggestion that the rights provided to Adelaide Casino Pty Limited in its Approved Licensing Agreement are affected in any way; that is, if an interactive gaming licence is granted, it will be granted on the same terms to Adelaide Casino.

Further we wonder why the clause is specific to Adelaide Casino rather than applying to interactive gaming in South Australia generally. It seems to us that the issue is not where the activity is conducted from, but that it is carried on pursuant to a specific licence.

Mr Davies supports the view that the exact ambit of the clause be clarified, which I will deal with in terms of the amendments to clause 5. In response to Mr Davies' concern, section 8(1)(a) of the current Casino Act provides:

The licensee may operate the Casino in accordance with the conditions of the licence.

The current conditions of the Adelaide Casino licence do not allow for interactive gaming, so it is not as though we are prejudicing the Adelaide Casino with this clause, because it would be reasonable to assume, given current statutory provisions, that no other entity in South Australia can offer interactive games without specific legislative authority.

However, there is a question mark following questions raised by the Hon. Carmel Zollo last year to the Treasurer that, if the licensing agreement is amended, that could in some way provide for the Adelaide Casino to offer interactive games.

This particular provision makes absolutely clear that that cannot be the case in the absence of any specific statutory authority. My amendments to this bill clear up the concerns of members and, no doubt, this will be fleshed out during the committee stage. I refer briefly to the concerns of the Casino about clause 41A, as noted in a facsimile to me this morning. Mr Davies of Sky City Limited said:

> . . . we do not have a difficulty with an interactive gaming licence being granted only with the approval of both houses of parliament. However, the clause as now drafted prohibits the licensee from conducting interactive gaming at all. We do not see why it is necessary or desirable, as the previous proposal would have ensured that the conduct of interactive gaming at or from Adelaide Casino was fully considered by the South Australian parliament.
>
> Further, the clause as now drafted would appear to prevent Adelaide Casino from conducting an interactive gaming business in another jurisdiction if licensed to do so in that jurisdiction. Although we have no plans for Adelaide Casino to undertake such a business, nevertheless, the new clause constitutes an unreasonable fetter on Adelaide Casino's future business activities.
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> As noted in our previous letter, we believe the issue for parliament is to ensure that interactive gaming is not conducted by Adelaide in South Australia without a licence, and that that licence is not granted without the approval of parliament.

Following discussions, I sent both items of correspondence from Sky City Limited to parliamentary counsel this morning. Having discussed them with parliamentary counsel, I believe that my amendment makes very clear that the Casino cannot make an interactive game available pursuant to the licence as it stands, but under subclause (2) it does not prevent the licensee from allowing another person who is authorised by law to do so to make an interactive gambling game available to persons present at the Casino.

That deals with the question of the Treasurer in relation to Keno. Clearly, it was not intended to capture Keno games being played at the Casino if they are provided by the South Australian Lotteries Commission. I believe that deals with that in terms of plain language. The definition prepared by parliamentary counsel states that an interactive gambling game means a game in which persons not present at the Casino may participate by means of a computer, television receiver, telephone or other electronic device for communicating at a distance.

In other words, the Casino cannot offer games to be played outside the Casino without the approval of both houses of parliament. No doubt, there will be a number of questions in relation to this clause, but I believe that I have done the right thing in obtaining the feedback of the new owners of the Adelaide Casino, and I am grateful for their prompt response. I have taken on board the concerns of members in relation to the bill in its original form and believe that this wording, following extensive discussions with parliamentary counsel, would make clear that its ambit is confined to those new games that would operate outside the Casino.

If there were a variation of Keno being offered within the Casino or, arguably, other interactive games offered within the Casino to be played in the Casino, they would not be caught by this clause. It is not the intention of this clause to prohibit that type of conduct.

The Hon. A.J. REDFORD: For the benefit of members, I indicate at the outset that I want to talk—and I will be a few minutes—generally about my views in respect of internet and interactive gambling, in that I have not put on the public record in a debate the basis upon which I have come to my views on this issue. I must say that the recent revelations relating to gambling that have unfolded over the past weeks concerning the former captain of the South African cricket team, Hanse Cronje, and the ramifications that have rocked cricket to its very core are indicative of the thought process that has led me to my conclusion.

Gambling has brought new levels of money into sport, and we have seen through the Cronje incident its capacity to pollute the high principles associated with sporting contests. Gambling and substantial quantities of money have the capacity to affect the integrity and the very basis of sporting contests, or indeed the engagement of people in gambling generally. I believe that should give all policy makers, whether they be members of parliament, ministers of the Crown, bureaucrats, community leaders or industry participants, good reason to pause before continuing on the gambling roller-coaster. In that respect, I personally fully endorse and support the position taken by the commonwealth government in relation to this issue.

It is apparent that there has been a complete absence of general public debate on the issue of interactive gambling. To date, generally speaking, it has been confined to ministers of the Crown and senior public service officers. Indeed, it was only by accident that I discovered that a broadly agreed code facilitating interactive internet gambling was entered in 1996. Discussions that led to the 'broad agreement', I suspect, were somewhat underpinned by Treasury's natural tendency to look at income producing opportunities through taxation. In my view, there has been a complete absence of any public discussion or media scrutiny leading up to that board agreement entered into by those governments and, in particular, one might come to that conclusion when one considers, in my view, that it is in stark contrast to the public debate that took place in the lead up to the introduction of poker machines in South Australia.

Indeed, the criticism should not just be levelled at the policy makers and the ministers who entered into the agreement but also the media for their complete indifference to the issue, and indeed people such as I who did not take as much interest in it as perhaps we might have if we had been more diligent. All of us would have participated in or observed the extensive debate that took place leading up to the introduction of poker machines in South Australia. The debate took place over many years and culminated in the Gaming Machines Act 1992. The press extensively covered the issues and the debate. In parliament, the debate was closely followed by the media and the public.

One cannot say that the same level of scrutiny, public debate or analysis has taken place in relation to the issue of internet and interactive gambling, except perhaps over recent weeks. The fact that the passing of laws, the imposition of regulations or prohibition is difficult, in my view, should not obviate policy makers and, in particular, we in this place from the duty to consider issues and apply a moral perspective to any given issue.

On the issue of the debate that has taken place so far, I must say that I am concerned at the attitude of those who are already participating in the production and distribution of interactive gambling products to the public. Some of that activity has been documented by my colleague the Hon. Nick Xenophon. In South Australia and in other states, all gambling is prohibited unless otherwise approved. It is clear that a person in South Australia who gambles on the internet is

committing a criminal offence, unless it is a product provided by an already authorised body such as the Casino or the South Australian TAB. All those who assist in the provision of that run the risk of being accused of aiding and abetting an existing illegal practice.

Lest I be accused of overstating the position, the Lottery and Gaming Act provides for two years imprisonment for a person engaged in unlawful gaming, and section 50 of that act provides that all contracts or agreements by way of gaming or wagering are void. Further agreements in relation to the payment of debts incurred for gaming are deemed to have been made for an illegal consideration and therefore are void. Of course, I well understand the difficulties associated with the enforcement of that existing law and I do acknowledge that there are exceptions to those general propositions where they are provided by existing licensed facilities.

The Productivity Commission report on Australian gambling industries released late last year identified an explosion in the growth of gambling via the internet. Indeed, Centrebet now accepts one bet every minute on the net. One only has to turn on to any internet service provider site to quickly see the two products that are being promoted more than any other—gambling and pornography. The Productivity Commission report identified that, unlike poker machines, internet gamblers tend to be much younger than gamblers availing themselves of other sources, with 53 per cent of gamblers aged between 18 and 24—a new generation of gamblers. It is clear that the next generation of gamblers will avail themselves of the opportunities provided by the internet and the figures are alarming.

Other major findings of the Productivity Commission report include: first, that online gambling poses a significant new risk for problem gamblers and represents a quantum leap in accessibility of gambling; secondly, that there are grounds for regulating internet gambling; thirdly, prohibition of online gambling would reduce gambling problems associated with the internet; fourthly, tight regulation of licensed sites has the potential to meet most consumer concerns; and, fifthly, that there is great uncertainty about the magnitude of internet and interactive gambling.

The Productivity Commission report was followed by a report by the senate select committee entitled 'Netbets' and it made a number of recommendations which can be summarised as follows. First, that the federal, state and territory governments work together to develop uniform and strict regulatory controls on online gambling. Secondly, that governments contribute a fixed percentage of gambling revenue to a national education campaign and national rehabilitation fund. Thirdly, a code of conduct for advertising should be developed. Fourthly, that there are potential dangers to consumers. The report, which received extensive publicity, identified substantial risks associated with online gambling in association with organised crime and, in particular, money laundering. That is in addition to problems associated with more traditional forms of gambling.

At the risk of over simplifying the pro regulatory submission, their argument is that prohibition of interactive gambling is impossible and therefore governments should get on the interactive gambling train and obtain taxation revenue. Indeed, Professor Jan McMillen, Executive Director of AIGR stated:

> Prohibition is not a realistic option because, if we do not do it, there are already sites around the world that are doing it. Enforcement of illegal operators is impossible. . . It is really difficult because unless we get global enforcement on this issue we are never going to ban internet gambling. The providers will just move to a nice little liberal island somewhere, and the Australians will bet there.

One might say that the same argument could be applied to laws associated with money laundering and the drug trade. After all, enforcement of illegal drug producers in the same context that Professor McMillen was speaking of is also impossible. Indeed, the production of heroin in the Golden Triangle in South-East Asia and the production of cocaine in South America are largely underpinned by 'a nice little liberal island', whether it be through lack of laws or official blindness in those jurisdictions. However, that has not prevented policy makers in the past from promulgating a prohibitive model in the area of drugs.

We all know that, with the traditional gambling industry, there is at least some protection and the ability for some supervision by regulators and parliament. For example, under the Gaming Machines Act in South Australia there is a complex licensing system and a requirement by operators to refrain from certain conduct. For example, there are restrictions on the use of EFTPOS and ATM facilities, lending or credit, or on linked jackpots. There is protection for minors and consumers by way of probity requirements and a requirement by a licensee to prevent people from gambling if their welfare is seriously at risk as a result of excessive gambling.

All of these controls, in my view, are problematical when one comes to consider the issue of interactive gambling. As I have said, the strongest argument put by the pro regulators is that prohibition is an exercise in futility. In other words, that interactive gambling is impossible to stop and therefore we should permit it. I suspect, if one adopted the same argument in relation to homicide or stealing, there would be howls of derision. In other words, the argument would go that we should not prohibit murder because our laws relating to murder have failed to prevent homicides; we should not prohibit stealing because our stealing laws have failed to stop stealing; and we should not prohibit interactive gambling because it will not stop interactive gambling.

I have no doubt that, as mankind developed laws, structures and governments and enacted the first laws prohibiting murder, theft, rape or child sexual abuse, they were confronted with grave difficulties in enforcing those laws. However, that did not prevent them from taking the moral and, I believe, correct decision to prohibit all those activities and confront the difficulties of enforcing those laws with the means and skills they had available to them at the time they made those laws, and give encouragement for the development of better and more effective detection means.

I am reminded of the comments of Mr Toneguzzo, a spokesperson for the internet gaming industry: he told the Social Development Committee gambling inquiry on 10 September 1997:

> . . . there is an unquestionable need for regulatory requirements to be imposed upon gaming devices. I ask the committee to bear this in mind as we explore internet gaming because all these criteria have a potential to be defied. That is, the public has no assurance or guarantee that these technical requirements can be enforced on internet gaming.

The pro-regulators say that, in the absence of a permissive and regulatory scheme, gambling will take place and there will be little opportunity for policy makers and regulators to have any impact in that area of consumer protection and probity. In other words, if you cannot beat them, join them. They argue that a prohibitive model will mean that governments have little opportunity to secure revenue, that they will

not be able to protect problem gamblers and minors, and that consumers will be exposed to unscrupulous providers. They argue that it is only through a regulatory model that all these issues and concerns can be addressed.

In my view, the argument is both seductive and, at the same time, flawed. Each of the witnesses before the select committee on interactive gaming (the interim report of which was tabled in this place two weeks ago) who advocated a pro-regulatory model conceded that some difficulties in enforcing prohibition equally apply to a regulatory model. In that regard, I propose to refer to some of that evidence.

First, the Chief Executive Officer of a prominent internet service provider gave the following answer to a question I put:

> Q. If you did not like the regulatory regime to which you had submitted, you could simply change to avoid the regulatory regime. There might be consequences but technically the same issues apply; is that correct?
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> A. That is correct. Certainly, technology does not provide the means for enforcing the regulation. Using the technology to attempt to has two important negative effects. First, it impacts on the consumers in the jurisdiction, say, South Australia, because it will make the internet in South Australia slower inevitably. There is no technical way this can have zero impact. There will always be some impact of the checking phase, which I have said I do not consider to be in any way enforcing the regulations, but just making things more difficult.

In other words, the argument against prohibition from a technical perspective can equally be applied to a regulatory model. Let me give an example. Say an internet gambling operator is licensed in Queensland to provide a gambling service; he pays taxes at the same rate as operators of poker machines in hotels in Queensland; he contributes to a gambling fund; he submits to regulatory inspections to ensure probity and that it complies with rules regarding percentage returns to gamblers. At the same time, he engages and embarks on an extensive marketing campaign through all forms of media and its simple message is: 'Gamble with us. We are safe because we are backed by the Queensland government.' Obviously, the consumers would be assured by the backing of that regulatory regime, and it is a means by which that provider can extend his customer base. However, the evidence to the committee is clear that there is very little to be done to shift out of a regulatory jurisdiction to another jurisdiction.

It would not be without precedent for another cash-strapped government, say, the government of Tasmania, to offer that provider a lower tax regime and less consumer protection and less probity. Obviously, the internet provider would be attracted by such a proposition and the consumer, in the absence of a concerted public campaign by the Queensland government, would be unaware of those differences.

Given the media scrutiny to date, one could not pin one's hopes on the capacity to point out the difference in the regulatory regime so the regulator might shift to Tasmania. Alternatively, a gambling provider who has developed a sufficient market size may well email all his existing customers advising them of the fact that they are shifting to the Cook Islands, which might have no regulatory or taxation regime.

The message to the consumer would be to the effect that the Queensland government is proving so difficult that the provider is prepared to rely upon its good reputation and can promise, in the absence of taxes, a greater return to gamblers. It could factor in a small loss in market share that the business with the Queensland imprimatur might have provided. In other words, having developed the trust of the consumer, it can merely shift out of the jurisdiction into an unregulated environment. In that way, the only role that the Queensland government has played is aiding and abetting the start-up and marketing of a substantial internet gambling provider.

It is interesting to consider some of the evidence that we received—and I invite members to consider it. Some of the internet gambling proponents who submitted to the committee that it was extraordinarily difficult to prohibit gambling had a different attitude when one put questions to them about the availability of pornography, and in particular child pornography, on the internet. There seemed to be a greater resolve and a greater attempt on their part to embrace the possibilities of either prohibition or strict regulation.

Secondly, whether a gaming provider is operating outside a regulatory regime or is not complying with a regulatory regime can be equally difficult to enforce. Indeed, the following exchange took place between me and a major internet provider:

> Let us say that a licence is moved outside the jurisdiction: not only would a site lose the endorsement of the government but it would attract corrective advertising and bad publicity. We know the internet business well enough to say that in all of this—and you have alluded to it—confidence is paramount.

That was a statement, and my question was as follows:

> Q. I might say in your jurisdiction but, at the end of the day, if a government walked away from a casino I could say, 'I have confidence in the management of that casino because I have been a customer for many years.' It sends me information that all the Queensland government is really concerned about is a loss of revenue, a revenue which it is putting back into a pocket by way of winnings so that it can compete with others who are not paying tax. This is a customer driven decision. People will say, 'I can almost do the marketing campaign myself.' That is the problem I have with this regulatory model. Governments are setting themselves up for a fall down the track.

In response to that assertion, the witness said:

> . . . All we are trying to say is that we have more chance of succeeding with these people by keeping them within the jurisdiction than we have by driving them away. Ultimately, I think that the interests of our community are better served by a strong regulatory environment which develops reputations that carry on and drive a business rather than the alternative.

The key words in the response by the witness were that a strong regulatory environment develops reputations. However, it us unclear that a strong regulatory environment in a competitive world could deliver consumer protection or increase revenues to government. In addition, it is clear that in the delivery of many goods and services in the community the consumer, and in this case the gambler, is acutely price sensitive. There is no doubt that an internet gambling provider is competing not just with other Australian providers but also with international providers. Clearly, subject to their confidence concerning returns to the gamblers and the ability and speed with which the provider pays winnings, they will look for the best return. Thus, they will choose a lower taxation regime, whether they be in Australia or elsewhere.

The first point I made is that technology associated with the use of the internet is new. It is rapidly expanding and, in the minds of some, uncertain. That applies equally to the technology associated with delivery and control. Let us face it, the internet system is simply a delivery system of information and perhaps transactions; it is no more or no less than that. There is nothing magic about it.

The internet industry argues that it is technically impossible to prevent Australians availing themselves of internet gambling opportunities. However, if one returns to the murder argument, that should not deter policy makers from embracing a prohibitive model if that is the wish of their constituents. A recent example of that has been, as I said earlier, the federal government's intervention in relation to the provision of child pornography. In that case the service or product was so abhorrent to our policy makers that they moved to prevent its entry into Australia despite substantial industry criticism. Indeed, I would argue that the debate, at least in that area, provides a model for the debate that should take place in relation to interactive gambling.

I have no doubt that the existing laws which prohibit internet gambling in Australia are difficult to enforce. Fortunately, law enforcers do not have free and unfettered access to our bedrooms and our lounge rooms. That is as it should be, but it does provide some enforcement difficulties. However, that alone should not be the reason to reject prohibition. Apart from the technical response, there are two other means by which prohibition has been enforced or is considered to be enforced in that jurisdiction. First, there is the New Zealand model where substantial numbers of staff are engaged to surf the net to locate pornography sites and then report them to the appropriate authorities in the appropriate jurisdiction to ensure their closure. One might wonder what the member for Ridley would say about that.

That is a hit and miss technique but it is nevertheless a technique which is adopted in other areas, and I would submit that there is an option that it could be adopted in Australia. Secondly, all of those associated with the industry, including internet service providers, advertisers, and the like, must have drawn to their attention the existing laws prohibiting this sort of activity and be appropriately warned about the risk of prosecution for aiding and abetting. Any substantial Australian institution could avoid such a warning.

Indeed, US state attorneys-general have already successfully prosecuted offshore gambling providers under their existing laws. A third option is what I call the Kyl response. In the United States, Senator Kyl has proposed a bill which is currently being dealt with by congress in which banking transactions associated with gambling are voidable. That means that a gambler who loses can ask the bank to reverse the transaction. Whilst the banking industry is not particularly happy about that requirement, it is nevertheless an option, and another arm in the enforcement of a prohibitive model. I will not bore members with the attendant difficulties of that legislation; suffice to stay that it is a means that is seriously being considered by the United States Congress.

Whilst I believe that internet gambling should be prohibited, for obvious reasons, I think the most important issue that must be addressed immediately is to ensure that there is a public debate. In that respect I think the commonwealth has provided the Australian community with an opportunity to do so. In that respect any amendment that facilitates the commonwealth position is to be applauded.

Finally, when one looks at the Casino there is an analogy there that can be taken from my earlier contribution, and that is this: no-one knows what will happen to internet gaming over the next decade or two. For all we know the substantial part of the business of the South Australian Casino will not be from people attending across the road from here but will be generated from their internet gaming activity. At the end of the day, the decisions and the debate that we have both here and in the South Australian community here and now are important, because the real question is whether or not that is what our community would desire. It is my view, if I am any judge of the political wind, that the community is substantially disturbed by any extension or increase in gambling activities in South Australia.

Everybody here knows that I have a strong view about the poker machine industry, and now it is here I have been supportive of that industry. Everybody here knows that I am also supportive of the racing industry. So I do not come from a moral position of being opposed to gambling, per se. However, I do come from a position that if you are going to inflict this upon the public we have a strong responsibility to ensure that the public knows precisely what they are getting themselves in for. In that respect, I applaud the Hon. Nick Xenophon's efforts in bringing the issue of internet gaming—and indeed Senator Chapman's efforts—to the attention of the public. In this respect the moratorium and amendments moved by the Hon. Nick Xenophon deserve all the support that we can give in order to enable the public to consider and properly and fully debate the ramifications of this brave new world of interactive and internet gaming.

The Hon. P. HOLLOWAY: This clause involves a conscience vote for members of the opposition. The Hon. Angus Redford has just spoken at some length about the topic of internet and interactive gambling. I will leave my substantive comments on that until the select committee on that subject reports, hopefully when Parliament resumes in October. But I wish briefly to cover a couple of points that are relevant to the clause before us. Internet and interactive gambling is a large subject, as we have heard from the Hon. Angus Redford's debate, but it has become even more complex than otherwise might be the case because of the intervention of the commonwealth government in recent days. The commonwealth has stated that it will impose a moratorium, starting from 19 May this year, on any new forms of internet or interactive gambling.

I say 'internet or interactive gambling' with a query in my voice, because, as indicated by the Treasurer, I do not think anyone is exactly sure what the commonwealth has in mind. That is what makes any consideration of this subject somewhat more difficult than it otherwise might be. What that really means as far as my personal position on this bill is concerned is that it has to be very much an interim position. I have no problem with the requirement that the Casino should have parliamentary approval before it becomes further involved in interactive gambling. Indeed, given the commonwealth's stated intervention that I have just mentioned, were the Casino to move into that area of interactive gambling, it would be appear to me from what the commonwealth has said in its press releases that that would be against what the commonwealth plans to legislate. The commonwealth has said that it will legislate retrospectively back to 19 May this year, and therefore if the state were to authorise that we could very well be liable, if we in this state were to permit some extension into interactive gambling that the commonwealth does not wish to see.

So that is a problem that really hangs over the entire debate. As I said, I personally have no problem with the requirement that the Casino should have parliamentary approval, so I would be quite happy to support in principle the clause that the Hon. Nick Xenophon has proposed. Of course, there were some concerns that the clause as it was originally introduced by the Hon. Nick Xenophon would impose unreasonable conditions on the Casino. The Hon. Nick Xenophon has amended his original proposition, and we

only just received that before the debate began today. From a quick reading of it, it certainly appears to me to go a long way towards addressing the concerns. However, I note in the correspondence from the Casino that it is not entirely happy with it; but I guess it might not be entirely happy with any piece of legislation that imposed some restrictions. I guess we have to take that into account.

So in saying that I approve it in principle, and I am happy to support the clause, I do put a strong caveat over it, that should it emerge that there are particular operational problems, particularly with the definition of interactive gambling in the new amendment, obviously I would withdraw my support. If this clause is ultimately passed it may well be necessary to revisit that later. Certainly at this stage from a quick reading I would have to say that it certainly appears to have gone a long way to addressing those concerns.

The other caveat I would place on my support for this clause is that it should not be taken as an indication that I would ultimately ban all forms of internet or interactive gambling in this state. As I indicated earlier, I think much of that depends on what the commonwealth does. If the commonwealth continues with its bill to ban internet or interactive gambling throughout the country, I guess that is the end of the matter as far as this state is concerned.

However, when state and federal ministers met on this subject in 1996, the commonwealth regarded this matter as largely a state issue. In that situation my preferred position is some form of regulation of this type of gambling and, within that framework and depending on the conditions, I would see the Casino as being part of that regime. So, while I will support this amendment at this stage with the caveats I have given, it should not be taken that it is my final position in relation to possible internet or interactive gambling in this state if in the future it is to be state regulated.

The Hon. M.J. ELLIOTT: I suspect that subclause (2) of this amendment is now redundant. I was concerned earlier about the definition of interactive gambling in terms of whether or not it encompassed people in the Casino being involved in games outside or people outside being involved with games provided by the Casino. However, the definition of interactive gambling now makes it quite plain: it refers to people who are not present at the Casino. Since that is what this clause is all about—interactive gambling games; having made it plain that it relates only to persons not present at the Casino—it seems to me totally redundant to suggest that this does not prevent a licensee from allowing games being offered within the Casino.

In subclause (2), the Hon. Nick Xenophon tackles the issue one way, and in subclause (3) he tackles it in another way. However, I think that subclause (3), quite tidily, makes subclause (2) redundant. I want to get some understanding about whether we could be creating a problem. When he talks about being 'authorised by law', is he talking about being authorised by state law, federal law—or whatever? I can see the possibility that, at some time in the future, there might be a whole range of interactive games including video poker games available interactively—in fact I think they are available now. You can have banks of interactive gaming machines not covered by the Gaming Machines Act or necessarily by the Casino Act; but, if they are authorised by a law somewhere (and I am not quite sure what 'authorised by law' means in this circumstance), you might be opening a window that you did not intend to open.

The Hon. NICK XENOPHON: Subclause (2) essentially makes it clear that in the case of the Lotteries Commission (which will be defined as another person), which provides Keno games to the Adelaide Casino, it will not be caught by this provision. The intention of the clause is to prevent games played outside the Casino from being offered by the Casino. So, if interactive games are available in the Casino, they would need to be approved by the Gaming Supervisory Authority. It would need to go through an approval process, so we have that safeguard.

The intention of this clause, following concerns expressed by a number of honourable members, is to confine it so that it does not have any unintended consequence. The purpose of this clause is to ensure that, in the absence of the issue being fully debated in parliament as to whether we have prohibition or a regulatory regime with respect to interactive gambling, there cannot be an inadvertent granting of an interactive licence to the Adelaide Casino given that there is a question mark following concerns raised by the Hon. Carmel Zollo last year that the Adelaide Casino could obtain consent from the Gaming Supervisory Authority to offer interactive games.

That is a potential area of concern (loophole is perhaps too strong a word), and that is why this clause would effectively have to go back before the parliament. The earlier draft of the bill, as it was initially tabled, did speak in terms of a resolution passed by both houses of parliament. The advice I have is that that is superfluous in that, if there is a prohibition, it must go back before parliament for it to be resolved. If some members would feel more comfortable by having those words 'by resolution passed by both houses of parliament' I do not have any particular difficulties with that. However, my understanding is that that is superfluous. Following on from what the Hon. Paul Holloway said, I point out to honourable members that, if they support this clause, they are effectively supporting a moratorium on the Adelaide Casino offering interactive games in the absence of parliamentary approval.

The Hon. CAROLINE SCHAEFER: Because this is a conscience clause in this bill—all clauses are conscience clauses for this side of the chamber generally—I feel that I should put down my position on this. I spoke briefly when the standing committee handed down its report on interactive gambling. The view of the committee at the time—and, indeed, it is my own view—is that the introduction of internet gambling is a great threat to people who have a gambling problem. Although it is a relatively minor percentage of people who have an addictive gambling problem, they will be able to access internet gambling easily and it will, I believe, exacerbate their problem.

I attended a gambling conference in Sydney during the time the standing committee looked at gambling generally in this state. It was a three day conference specifically on interactive gambling. I was convinced by the technocrats who spoke to us at that time that whether we liked it or not there would be no effective way of preventing internet gambling—offshore, interstate or by some other means.

I am reminded of the words of the Hon. Trevor Crothers in a different context yesterday when he said that prohibition hardly ever, if ever, works. I think most of us could hark back to a time when there were no TAB facilities and no SKY channel in the local pub. However, there was a proliferation of SP bookmakers. We can go back to a time when it was not very difficult to find an illegal casino on a considerably smaller scale than the legal Casino we have now. I am not convinced that whatever this house or parliament votes will prevent internet gambling on whatever scale the populace chooses.

Having said that, I have no objections to the beginnings of internet gambling in what is our specified house of gambling in the state being slowed; and therefore I have no objection, at least initially, to the requirement that permission from both houses of parliament must be sought. I am reasonably happy with the amendment the Hon. Nick Xenophon has moved. Like the Hon. Paul Holloway, I would not begin to suggest that I would support the prohibition of internet gambling, but I think at this stage the introduction and licensing of internet gambling will probably be better served by having the scrutiny of the parliament, and particularly in the early stages. Therefore, I will support this amendment.

The Hon. CARMEL ZOLLO: I indicate my support for this clause and for the recently announced federal moratorium. Because of the federal regulation for on-line gambling—as recommended by the select committee—I guess we could be looking at either regimes. I raised the issue with the Treasurer early last year, with respect to the Adelaide Casino offering internet and interactive home gambling. I agree that parliament should have the ultimate say about that matter.

I believe that interactive on-line gambling, particularly in the form of virtual casinos, is the most insidious form of gambling of all. If someone is addicted to gambling, it is there in front of them 24 hours a day. When one accepts that one is an addict and obtains help with other types of gambling, there is always the issue of leaving one's home, explaining absences to family and so on. With this type of gambling, it is easier to continue hiding the problem. It would be fair to say that the proposed moratorium announced by the federal government in the last few months has not met with too much enthusiasm from state governments, other than those of New South Wales and Western Australia, which have enforced a moratorium. An article in yesterday's *Australian* stated:

> The Howard government will seek in the spring session of parliament to retrospectively ban internet gambling through a 12-month moratorium on licences.

The Hon. Paul Holloway has already made mention of that—from memory, he referred back to 19 May. I acknowledge that, unlike South Australia, not all states are happy. As I said, Tasmania's first cyber gambling site was launched on Tuesday. I note that some Liberals, including Tasmania's Senator Paul Calvert, have expressed concern about the legislation and may cross the floor if the commonwealth attempts to override the state. According to the article, Senator Paul Calvert said that 'the state will come first'.

I do not often agree with federal Liberal ministers but I suspect there might be just a bit of truth in the reported comment that the states 'seem more interested in preserving their gambling revenues than in addressing their social responsibilities'. In particular, I noted our Treasurer's comments to the announcement of the moratorium. He is reported in the *Australian* of 20 April as signalling that 'the South Australian government is intending to push ahead with licensing new internet gambling services despite its earlier promise not to do so until the completion of a select committee inquiry'.

I am not certain whether that will come to pass. Apparently, the committee's deliberations are taking too long. I agree with the Hon. Nick Xenophon that it is outrageous given that the Treasurer is the chair of the committee. Should we go down the path of regulation rather than prohibition, I agree that such regulation should be legislated at the federal level but it is also accepted that it is appropriate to legislate at the state level as well.

In my second reading contribution on the Casino (Miscellaneous) Amendment Bill, I noted the conclusion of the Senate Select Committee on Information Technologies of March 2000—'Netbets'. It is important to again stress the following sentence from the committee's report:

> A uniform model for regulation must apply across all Australian jurisdictions in order to ensure a high level standard of consumer protection in the provision of on-line gambling services.

I also noted the disturbing figure from the Productivity Commission report that more than half the number of gamblers who used the internet to gamble in 1998-99 were aged between 18 and 24 years: that figure included sports betting and on-line casinos. Again, I appreciate that this age group would feel more comfortable using this medium, but we should all be concerned that our young people are expending their income in such a fashion. The editorial in the *Australian* of 22-23 April stated:

> The internet industry's lobby group warned that any attempt to ban on-line gambling would entrench Australia's image as an old economy.

Whilst I do appreciate that internet gambling is a form of electronic commerce, I disagree with the following comments of the Executive Director of the Internet Industry Association, Peter Coroneos:

> If the government tried to enact policies that the technology world thought were completely antiquated, that also reflects on the economy.

If the industry is properly regulated, it is likely to attract more business, because people will have confidence in the product that is being offered.

We all know that the US has taken a hard line against online gambling, and that is to the advantage of the UK according to an article brought to my attention recently, which states:

> The UK has the opportunity to take the lead over the US on internet gambling, because of the hard line being taken by some American politicians. Senator John Kyl's Internet Gambling Prohibition Act was approved by the Senate last year and is currently being considered by the House of Representatives. The US government has already convicted people running internet gambling businesses under the Federal Wire Act of 1961.

It would be a hard decision should we go down that path. I acknowledge that the decision would have to be made federally as well. If that comes to pass and the economic prospects of this nation and this state are dependent on gambling on the net, then we are indeed in a sorry state.

The Hon. T.G. CAMERON: I note that we are dealing with clause 5 so, at the current rate of progress, we might finish this bill by the end of your term, Mr Xenophon. I will not delay proceedings. I support the clause. I take on board the comments made by some of the contributors in relation to the drafting of some clauses. The principal clause I support is that relating to the granting of an interactive gambling licence to the Casino, which can be effected only by resolution passed by both houses of parliament. I think that clause, on its own, would have the support of every member of this chamber.

The Hon. Nick Xenophon interjecting:

The Hon. T.G. CAMERON: It has just been explained to me by the Hon. Nick Xenophon that this clause will have to come back to parliament and, in any case, will have to be approved by both houses. I support that and I think the community in general would support it. There is a great deal

of concern in the community about gambling generally, but there is an even greater concern about the new world of cyberspace when it comes to internet and interactive gambling. I do not believe that parliament or society are ready for internet gambling. I note that a couple of members indicated that they will reserve their position on internet gambling. At this point I merely advise the chamber that I would need an extraordinary amount of convincing before voting for any proposition in this place that would allow the introduction of internet gambling to this state. Now that clause 1 has been deleted, I indicate that I will be supporting the measure.

The Hon. T.G. ROBERTS: If federalism ever had a challenge to bring about solutions to problems facing a nation of states, this is one that should have been picked up and solved at national level. States wrestling with communication issues, which are a federal responsibility, always approach problems in the wrong way. They almost end up like the rail gauges in the early part of the century. A million words have been spoken about the same subject in a myriad of places. Committees are sitting all over Australia examining the problem, and in most cases legislators throw their hands up and say, 'It is all too hard.'

A member in this chamber was elected on the single issue of gambling, and he has driven the agenda on internet and interactive gambling and other aspects of gambling. That has made us focus our attention on those aspects, but it does not make us the font of all knowledge, wisdom and power in dealing with the problem. The legislation that we introduce has to be flexible enough to fit into a national policy when the federal government picks up the cudgels and has the courage to deal with the issue. Banning anything in this state, if it does not get the agreement of all states, is useless. It is a waste of time, energy and effort.

Regulation is the only way that we can deal with this issue and it appears that whatever agreement we get here will probably come back before us at some later date if the state is disadvantaged by any of the legislation that we agree to here. The gambling industry is probably the most persuasive of all industries internationally in helping to change legislators' views and opinions, if not by persuasion, by corruption. In some of the Caribbean countries, those in the Western Pacific and other parts of the world, where revenue is very difficult to come by, tax havens and gambling havens are common.

We should have been looking at legislation in 1995 or 1996 to cover this issue at a federal level, and got all the states to an agreed position as to how it should be done. We all want to discourage the worst aspects of gambling and to allow the freedom of individuals to choose the gambling methods that they find appropriate themselves as a leisure activity rather than a fixation. The amendments before us, which provide for the interactive and internet gambling issue to be returned to both houses, permit that flexibility for further consideration by parliament if applications are made.

As with telephone betting, the Northern Territory, without any reference to any other state, although it sits around federal tables, introduced an open house network that attracted all other states to place their gambling dollars online via telephone into Darwin. That made all the other states look at ways in which they could halt the slide of their gambling dollar into other states. People have been advising legislators and lobby groups in Tasmania that that state should pick up the reins and lead the country in expanding and making more liberal the laws that govern a number of things, not just gambling. A halt has been put on it with the election of a Labor government in Tasmania, but I hope that the previous Liberal government, in coalition with Independents, would not have picked up some of the recommendations that were made to try to undermine some of the worst aspects of regulation that the mainland states were attempting to put in place.

With the passage of this bill, with the support of as many people as we can get in this chamber and in another place, the urgency has to be for the regulators and the legislators to get around a table at federal level to work out a plan that does not disadvantage states in relation to the distribution of the gambling dollar. We have already seen it in the racing industry, where South Australia used to be a leader in TAB outlets and the services it provided. When the technology was introduced, its application was ground breaking, yet now visitors to this state who look at our pub TABs and TAB lounges laugh. In fact, some of them walk out without placing a bet.

We need to keep up with best international practice in relation to the way in which people are attracted to gambling. We also need to make sure that the advertising and promotion of gambling is restricted to a point that is acceptable to the community, and we need to make sure that interactive gambling and electronic gambling facilities can be used only by those who make a conscious choice to switch on, log on and avail themselves of the facility. That is very difficult because, once the technology gets into one's lounge room or office, access is not restricted to the owner of that technology.

All sorts of problems need to be dealt with. Most of it relies on federal legislators coming to terms with it because of the way in which the technology is applied. The federal government has always insisted on taking control of communications as a federal lever, yet the states individually have to grapple to bring about a progressive position that protects gamblers from potential harm but allows for a healthy application of gambling choices. They are the general principles that I will use in relation to the forwarding of further clauses and I indicate that I support this amendment in relation to application.

I would like to add that moratoriums tend not to do anything because they put off the day of reckoning. In this case moratoriums can be disadvantageous because, while a moratorium is in place, the lobby groups that I mentioned earlier are still talking to the states with the weakest economies and with the most to offer. They do not have moratoriums. They do not stop their lobbying process, their telephone calls, their wining, dining and threatening, whatever methods they use.

The federal government's decision to impose a moratorium to permit space for further consideration is a double-edged sword. It allows further time to consider the issue but it also allows further time for those who want to bring about a solution, and it may not be a legislative solution but perhaps a political solution secured after applying the pressure of numbers and the offer of finance for campaigns or the removal of finance. We have to be careful about those things.

The Hon. R.I. LUCAS: Given that a number of members have made some substantive comments and some general comments on internet or interactive gambling, I intend to make some comments of a general nature in relation to my approach to this issue. As the Hon. Mr Holloway and others have indicated, I will leave my more substantive contribution to another occasion. Whether that happens to be with the tabling of the select committee report, which might be one opportunity, or, as the Hon. Terry Roberts indicated properly,

when this parliament sooner rather than later addresses the issue of our approach to internet or interactive gambling, remains to be seen.

I agree with the honourable member's comments that moratoria delay the inevitable. This is an important issue that has to be tackled one way or another and if, through federal or state moratoria, one continues to delay whilst inevitably the debate and dispute continues, we will in essence be swamped or overrun by the inevitable expansion of internet and interactive gambling options available to South Australians from other states and more particularly other parts of the world.

The opportunity to decide our preferred model one way or another will possibly have disappeared, so this is an issue that should be dealt with sooner rather than later. It has been hanging around for five or six years already, so it is not as if anyone could say that people are being rushed on the issue; this has been a matter of public controversy for many years already.

I think that the approach of both the current state government and the state government between 1993 and 1997 has been pretty cautious in relation to internet and interactive gambling. I do not think that anyone can sensibly criticise the state government of South Australia for rushing helter-skelter down the path of trying to introduce internet or interactive gambling. There were discussions between all the governments in 1996—that is how long ago these things started.

I was not involved at the time, but the Queensland Treasurer, David Hamill (for whom I have some personal regard in terms of his capacity and knowledge in this area), indicated that the approach in 1996 from the states and territories came about as a result of frustration at being unable to get anyone interested from the commonwealth government at the time; that this was an issue that should be addressed collaboratively between the federal government and the state and territory governments.

David Hamill and others were arguing that there was a recognition many years ago that this was an important issue. There was a recognition that it would be preferable if the federal government were prepared to take the lead and work with state and territory governments on some preferred model or option. Again according to David Hamill and others, there was studied indifference from commonwealth agencies and the government about the importance of this issue.

Frankly, if the latterday great interest of the commonwealth government on this issue had been expressed four years ago at the time of these initial discussions, as a national community we may have been in a much better position to cope with what is actually (rather than theoretically) occurring in our homes and our communities already in 2000. As a result of that, most state and territory governments, with the possible exception of Western Australia (I am not sure whether or not it was involved), worked together to try to develop a collaborative approach to internet or interactive gambling.

I am told that officers in all the states and territories worked for some considerable time trying to develop a particular model and, ultimately, there was public exposure of the work of those governments. Obviously, in and of itself that did not change any law or impose any particular model. It basically said that the states and territories had worked together and said, 'If you're going to have a regulatory model, here is the preferred regulatory framework that ought to be adopted.'

I think it might have been the Hon. Mr Elliott who said that in relation to the competitive positioning of poorer states like Tasmania, with their tax rates, etc., this issue was canvassed in 1996, and it would have been better to have been canvassed with the federal government. But it was seen that there may well be competitive bidding on the basis of tax rates, which we are now seeing, as a result of the failure of the collaborative model to work; that there might be competitive bidding on tax rates to try to attract more internet or interactive gambling providers to the various state jurisdictions.

At that stage, the view was that it would be sensible to agree on a common tax regime, and in theory, back in 1996 that was agreed. It was also agreed to try to stop what the Northern Territory and others are already doing: that the taxation revenue from those who punt on the internet or interactive games would return to the state of residence or origin.

Obviously, there are some problems with how you do that, but there was agreement on a proposed course of action to allow that money to come back to the state of origin rather than what is occurring at the moment in this uncoordinated mess that we have whereby the Northern Territory, through whatever they call Centrenet these days, is creaming large lumps of money from willing and ongoing participants betting on football results, racing, cricket, election results and a whole variety of things over the telephone or over the internet.

The structure and the model established in 1996, which has been criticised by some, was actually a way forward in terms of trying to manage it. I can understand the position of those who say, 'Let's ban it.' I do not agree with the position although I understand from whence they come, but the reality is that that clarion call from the prohibitionists will go on for years and years and we will continue to see an expansion of gambling options. As I said, whether it be from South Australian or Australian providers, it will be from international providers into South Australia.

My position has been and remains that we can close our eyes and hope that this terrible thing will go away or we can face reality: that, much as we might prefer this world that we inhabit in 2000 not to have some terrible things in it that impact on 1 or 2 per cent of our population, in some cases we cannot do too much about it and parliaments one way or another, ultimately, have to make a decision.

I am sure that even the prohibitionists would argue that they would prefer that, whether they lose or win, at least the parliament had the opportunity to debate the issue in a substantive way and make a decision one way or another. I certainly prefer that. If the prohibitionists win and can come up with some sort of model that they think might succeed, at least the parliament has had a chance to have a say and a vote on a substantive matter, rather than the finessing at the edges that we have had, sadly, for the past four or five years.

As I have said, I do not think that the South Australian government can be reasonably criticised on any grounds for rushing into this issue. I understand that there was broad agreement back in 1996 or 1997. I presume that in the last 12 months before the election the previous Treasurer and government decided that it was not an appropriate time to be racing into the parliament to debate this issue. But as Treasurer for the past two-odd years, even though I have a view to support on interactive gambling, I appreciate that within my party and within this parliament that view is not shared by all members. I have been party to delaying the

discussion of the bill in our party room for that matter in the first instance and then, ultimately, in the parliament: for some 15 or 18 months we have had a select committee of the Legislative Council, and I did say that my preferred course of action would be for us to have that report and to have the substantive debate in the parliament.

In relation to the Casino, I have also been through a casino sale process, where if I had (which I had the authority to do) authorised the capacity for an internet gaming licence, which would have been consistent with my own personal views, I am sure we would have achieved a higher value for the Casino on behalf of the taxpayers of South Australia. However, I took a view that my personal view was not necessarily reflective of the government's view ultimately, or indeed even the parliament's view, and that it was appropriate for us to have our substantive debate on internet interactive gambling before we headed down a particular path with the Casino in terms of internet or interactive gambling.

In our doing so, not only do the taxpayers of South Australia lose, as they have done already in terms of sale proceeds, but obviously our casino in South Australia has a competitive disadvantage with other casinos in Australia: that is, some casinos—not all of them—have the capacity to offer their services through the internet and will use that as a competitive advantage in the future.

On all those grounds, again I conclude my comments on this part of the issue by saying I do not think anyone can reasonably say that this government has gone helter-skelter down the path of trying to introduce internet or interactive gambling. We have been cautious; we have welcomed public debate; and we have been aware of the Productivity Commission report and other reports that have been looking at this. We have allowed them to report to ensure that the parliament and the community are properly informed about the issues both for and against internet and interactive gambling.

Some comments have been made by the Hon. Carmel Zollo and others and they reminded me that I had been hugely misrepresented at the time of the gaming ministers' conference in April and, as with many of these things, I let it go through to the keeper, but I suppose, at some stage, I should correct some of those incorrect media reports, because I know that friends of the Hon. Mr Xenophon took outrage at what purported to be my approach at the gaming ministers' conference. As I have said previously on a couple of occasions, I indicated at the gaming ministers' conference, when the prospect of this moratorium arose, that I could not put a position on behalf of the South Australian government or the South Australian parliament.

I explained that, from the Liberal government's viewpoint, this was a matter of conscience and that, whilst I could indicate my own personal view, I could not indicate a view of the state government or, indeed, the state parliament. Of course, the commonwealth ministers, the commonwealth government and other commentators immediately portrayed my personal view as an indication of the state government's, or indeed the state parliament's, view in South Australia. That was incorrect and, in my humble view, also improper, given the clear indication I gave at the conference of the context and nature of my views.

It would be fair to say that Senator Alston expressed some surprise at the notion. Given the recent experience of the commonwealth parliament, I am not surprised, but he expressed some surprise at the notion that a state government, a Liberal government, would have a conscience vote on an issue such as internet or interactive gambling. Members will recall that at the time there was some debate about the issue of having or not having conscience votes in the federal parliamentary party room and in the federal parliament. Some of the press reports which ensued were inaccurate, and I refer to two of them. A press report in the *Advertiser* of, I think, 20 April states:

> South Australian Treasurer Rob Lucas said the commonwealth's accusations were 'offensive'—

that is true—

> and claimed the moratorium could affect existing telephone betting services and potentially reduce the sale value of the TAB and Lotteries Commission.

I think that is the comment that Tim Costello and others expressed mock or real outrage at in the ensuing 24 or 48 hours. The impression gained from that is that the reason I gave as an individual for opposing the commonwealth's proposal was the impact on the sale value of the TAB and the Lotteries Commission. Let me say that that was the furthest thing from my mind. My views on internet and interactive gambling have been known for some time. My views on the futility of trying to stop what is inevitable have been known for some time.

It is true that I was asked by the *Advertiser* whether I believed that the commonwealth's actions might in some way impact on the sale value of the TAB and the Lotteries Commission. I said, 'You had better speak to Minister Armitage about this because he is the minister responsible. But, given what the other ministers are saying, if the commonwealth was to adopt a position in relation to interactive gambling which would prevent existing providers such as the TAB and the Lotteries Commission from either continuing with telephone betting or continuing to offer new services that use telephone betting, for example, then clearly that would impact on the sale value of the TAB and the Lotteries Commission.' I responded to a question from the journalist: I certainly did not list it as a reason why I had indicated my view. This article went on to say:

> He [the Treasurer] also signalled the South Australian government's intention to push ahead with licensing new internet gambling services despite its earlier promise not to do so until the completion of the select committee. . .

It then correctly quoted me and stated:

> 'That will be a decision ultimately for the cabinet,' he said, saying the committee's inquiry was 'dragging on' and stalling legislation which was ready to regulate internet gambling in South Australia.

I repeated the comments I have already indicated I think in response to a question from the Hon. Mr Xenophon in the parliament: that is, I had said for some time that the parliament ought to address this issue and I had thought we should address it after the select committee reported, but I had indicated in the parliament that I thought that, if this select committee continued to drag on, then the issue of voting on this legislation possibly should be considered by the parliament before the end of the select committee.

I flagged it as an option, but the option was that the parliament would vote on the potential options, not that the state government would press ahead with licensing new internet gambling services, despite its earlier promise not to do so. That was not correct and, whilst I acknowledge that the Hon. Carmel Zollo was not in a position to know anything different from the content of the *Advertiser* article, in now placing this on the record I do hope that the Hon. Ms Zollo, and indeed others, at least in future reference, will acknowledge my position, that is, that it is not an accurate reflection

of the state government's view but my own view on these issues.

The other point I make in relation to the moratorium issue is to reiterate the point that the Hon. Terry Roberts has made. It was intriguing at the gaming ministers' conference that the Western Australian minister—who happens to be a friend of my mine from education days(Hon. Norman Moore)—was proudly proclaiming that his government was the strongest in terms of its restrictions on gambling.

The Hon. Carmel Zollo interjecting:

The Hon. R.I. LUCAS: The strongest in its position in terms of a restriction on gambling, because there are no gaming machines there. As the Queensland Treasurer pointed out, there is a touch of hypocrisy in the approach of the Western Australian government in that its TAB has been given an interactive gambling licence. So, people in South Australia, Queensland and other states of Australia are having made available to them in their households Western Australian TAB internet gambling product, even though the TAB in some other states, like South Australia, are not providing that option.

So, there is certainly a strong view from some other Treasurers that it is terrific for the Western Australian government to now be supporting this moratorium because it gives them a competitive advantage with its TAB. Its TAB can continue to offer internet gambling service options to everybody else in Australia so they can gamble and the money can go to Western Australia, and of course they would be very happy to support a moratorium on other options for TABs. Whether or not the South Australian TAB is sold, there is no doubt that the South Australian TAB is under huge competitive pressure from other gambling providers.

As I said, it seems to me to be hugely inequitable that any moratorium, such as the one that is being envisaged by the commonwealth, would place some state TABs in a significant competitive disadvantage when compared to other TABs. The other government that offered support for the moratorium was the New South Wales government, and the minister there, Mr Richard Face, supported the moratorium proposal.

My recollection is that the New South Wales TAB is the biggest and most active of the TABs offering internet gambling options. So, what you have is, in New South Wales and Western Australia, the two governments that indicated some support for a moratorium, with their TABs, busily providing TAB services to other states and territories, at the expense of the other state and territory TABs, governments and taxpayers. Therefore, it does not surprise me that those two governments are prepared to support the moratorium in the way it is being framed. Where is the equity in relation to a moratorium that is being framed along those lines? Those who support the moratorium should do so in the full knowledge that it will place their own South Australian TAB at a significant competitive disadvantage when compared to, in particular, New South Wales and Western Australia.

In relation to the further amendment this morning, I have to say that, as the Hon. Terry Cameron has indicated, whilst I am not as pessimistic as he is—I am naturally more of an optimist than him—I think we will get through this bill before the year 2005, which is the end of the Hon. Mr Xenophon's parliamentary term, although, as I said by way of interjection, it may well be that this is designed to fill in the whole eight years.

The Hon. Nick Xenophon: Your interjection was, 'That's the plan'. That's what you said.

The Hon. R.I. LUCAS: That's right, yes.

The Hon. Nick Xenophon: That's what you said

The Hon. R.I. LUCAS: No; that's your plan.

The Hon. Nick Xenophon: No. That's what you said. You said, 'That's the plan'.

The Hon. R.I. LUCAS: Let me make it quite clear: I was not saying that it was my plan. What I said by way of interjection was that I suspect that it is the Hon. Mr Xenophon's plan, because, as you know, I have always worried what would happen if—

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: When confronted by someone who does not share his view, the Hon. Mr Elliott becomes mildly abusive. Yesterday we heard about a bird which could not fly.

The Hon. T.G. Roberts: The auk.

The R.I. LUCAS: Yes, the auk. I happened to listen to the Hon. Mr Elliott yesterday talking about the auk and a variety of other things. I think he would be the last to talk about prolixity and relevance in relation to—

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: My point is that I was referring not to my plan but to the Hon. Mr Xenophon's plan because, as he knows, I am very worried that if these bills are voted down at any stage he will have little to do in his remaining five years in the parliament. I saw the latest amendments from the honourable member this morning, and I am prepared to indicate my general position today. As we will clearly have to reconsider clause 4, from what the Hon. Mr Xenophon has said, and I think the definitional clause as well, at the end of the committee stage, I flag that I will take some legal advise on the Hon. Mr Xenophon's amendment and other advice as well. Whilst I have expressed a view in terms of voting on it today, being a cautious person I did not want to flag that I would like to take further advice in terms of the member's drafting.

The Hon. Nick Xenophon: You should have that advice by next week.

The Hon. R.I. LUCAS: I should have it by tomorrow, I hope. I am prepared to give an initial view today on the basis of what is there. It was only during the last debate with the Hon. Mr Cameron that I picked up that the Hon. Mr Xenophon had removed the words 'subject to a resolution of both houses of parliament'. Indeed, the letter he provided this morning from the Casino seems to indicate that it has seen a previous version of the amendments, because it states 'subject to a resolution of both houses of parliament'. Therefore, it could not have seen the final version of the amendments. Whilst I appreciate the fact that we have had comment from the Casino about a previous draft of the amendments, clearly it has not seen the final draft—

The Hon. Nick Xenophon: In relation to its letter of 6 July—this morning's letter—it is commenting on the draft that is in the same form that is before the committee now.

The Hon. R.I. LUCAS: To clarify that, the second letter we have from the Casino is on the basis of it having seen the current draft of the amendments.

The Hon. Nick Xenophon: Save for the words 'pursuant to the licence' at the end of clause 41A(1).

The Hon. R.I. LUCAS: I will leave a couple of questions with the Hon. Mr Xenophon now. He can perhaps clarify that. When I read the two letters I have been given from Sky City, it appeared to me that it was still referring to 'subject to a resolution of both houses of parliament'. Therefore, on that basis, even on both letters, I thought they were still referring to a previous draft of the amendments. If that is not the case,

the Hon. Mr Xenophon can clarify it. As I said, if my reading of its letters is correct, I would want to, first, take my own advice and, secondly, get its views as to whether it has any further concerns.

It would seem to be a simpler process for a resolution of both houses of parliament to authorise something, which is what the honourable member has indicated. I am assuming the alternative now, under the latest version of the amendments, is that someone will have to introduce legislation and that it will have to be passed by both houses of parliament. I have an open mind on that, but my preference would have been the way the honourable member had it up until this morning, which was 'subject to a resolution of both houses of parliament'.

The other issue that I raise and on which I will take further advice is that one of the letters from the Casino this morning raised this concern:

> As the clause is now drafted, it would appear to prevent the Adelaide Casino from conducting a gaming business in another jurisdiction if licensed to do so in that jurisdiction.

I wanted to take my own legal advice as to whether indeed that is the case. I would be interested at this stage to get an indication from the Hon. Mr Xenophon whether that is his intention and, secondly, if it is not his intention whether he thinks that is the practical effect of the amendments that we have before us.

The Hon. NICK XENOPHON: If I can deal with the Treasurer's queries in relation to the clauses that Sky City Limited had when it provided its responses of 5 and 6 July. In relation to the letter of 5 July, Sky City had the bill in its original form. With respect to its letter of 6 July, it had the amendments that were circulated to honourable members yesterday. In relation to the amendments that are currently before the committee with respect to this clause, the only difference with respect to subclause (1) are the words that have been added to that subclause 'pursuant to the licence'. So in substance it is essentially the same. I take the point made by the Treasurer and also by the Hon. Caroline Schaefer with respect to it being approved by resolution of both houses of parliament. That was in the original version.

The Hon. Caroline Schaefer interjecting:

The Hon. NICK XENOPHON: And the Hon. Terry Cameron was of that understanding until I pointed that out to him. I am quite relaxed about that clause remaining. My primary concern was to ensure that games such as keno that were offered within the Casino for players in the Casino were not inadvertently caught by this section. That certainly was not the intention. I believe that the definition of interactive gambling game clarifies that in quite absolute terms, because, effectively, it relates to persons not present at the Casino participating in games that the Casino may wish to offer in the absence of any licence. So I think that quite sensible concern of honourable members as to the definition of interactive gambling game has been sorted out in terms of the new definition.

As to whether honourable members are of the view, and in particular the Treasurer, that it ought to be by a resolution of both houses of parliament, that is something that I am quite relaxed about. I would prefer that it be done in a legislative form, but in the initial version of the bill that is what was drafted. However, I would not take any issue with any honourable member wishing to move an amendment to that. The Treasurer raised the question of whether the Casino would be precluded from offering interactive games outside the jurisdiction. Is that the question?

The Hon. R.I. Lucas: Its letter of 6 July raises this new issue (in clause 41(a)).

The Hon. NICK XENOPHON: I think the Treasurer is referring to the part of Sky City Limited's letter which states:

> Further, the clause as now drafted would appear to prevent Adelaide Casino from conducting an interactive gaming business in another jurisdiction if licensed to do so in that jurisdiction.

I think that is a very valid concern.

The Hon. R.I. Lucas interjecting:

The Hon. NICK XENOPHON: The dilemma that we have is that, if Adelaide Casino wants to offer a game in another jurisdiction, presumably it would be able to be licensed by that jurisdiction. For instance, if it wanted to offer a game in internet gambling in New Zealand it would need to get approval from New Zealand regulatory authorities. The difficulty as I see it is that if you allow the Adelaide Casino to obtain a licence to offer it outside the jurisdiction there is the question of the enforceability of that, in the sense that you have the Adelaide Casino brand and its reputation as a long-term provider of gambling products in this state. Once you allow Adelaide Casino to offer games in another jurisdiction there are a whole range of issues within South Australia as to the effectiveness of that. I am happy to get further advice on that.

The Hon. R.I. Lucas interjecting:

The Hon. NICK XENOPHON: The intent is to prevent South Australians from having access to internet and interactive gambling offered by the Casino taking place outside the Casino. That is my primary concern.

The Hon. Caroline Schaefer: How could that happen? Give me an example.

The Hon. NICK XENOPHON: In its current form the intention of this clause is to prevent South Australians having access to interactive gambling games at the Casino without a resolution of both houses of parliament—by virtue of the quirks of the licensing agreement. The Treasurer pointed out that he could have given them a licence in the sale process. He could have gone down that path. There is an argument in terms of the current licensing agreement, the current legislative regime, and the role of the Gaming Supervisory Authority. There is an argument that the Gaming Supervisory Authority could well facilitate an internet gambling licence without parliamentary approval. That is the primary aim of this clause. I am happy to take advice on the issue of jurisdiction, in terms of the specific concern raised by Adelaide Casino this morning.

The Hon. R.I. LUCAS: I am pleased that the honourable member will take some advice, and I will as well. I am not sure when the honourable member saw this, but I only saw this as we came into the council as being an issue from Sky City. If it is the intent to stop it from being able to conduct an interactive gaming business in New Zealand, or somewhere else—

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: I know, but its argument is: why should the South Australian parliament have to vote on whether it conducts a business in New Zealand?

The Hon. Nick Xenophon: Because there could be issues of liability attaching to that.

The Hon. R.I. LUCAS: The issue then is how does the parliament of South Australia purport to restrict the operations of a company, which is already operating internationally, from gaining licences in other jurisdictions? I am not a lawyer, the Hon. Mr Xenophon is, but I would like to talk to the Attorney and others as to the constitutional capacity for

us to do that. Maybe that is possible, I do not know. But this company, or companies related to it, obviously already runs casinos. I do not know whether it has internet gaming licences in other jurisdictions, but if it did we would have the issue of what would our legislation be saying? If, for example, these people sell out to somebody else who does own gaming licences in New Zealand or Vanuatu, or whatever else it happens to be—

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: Yes, interactive. The question is: what would the import of this law be saying to them in relation to their operations in other jurisdictions? Equally, what Sky City seems to be saying is that it understands our trying to stop people doing this in South Australia, but is it fair to stop it, as a company, or related companies perhaps, doing something in New Zealand? I think from its viewpoint it would appear to be saying no. I have not had a chance to have a discussion with it. But I think it is a reasonable question, and the Hon. Mr Xenophon is acknowledging that.

Subject to satisfying that particular issue and other advice, my inclination is to support this amendment, subject to taking advice and the resolution of both houses. That is my inclination, not because that is my personal preference but because in the end I think these decisions will need to be taken by this parliament on a substantive bill, and I will have my chance to argue and debate that at that time. Everything that I have done as Treasurer is consistent with the view of not issuing an internet or interactive gambling licence through the Casino until we have had the substantive debate.

So the practical impact is not much different from what we are actually trying to do; although I can understand that some members in this chamber would not trust the Treasurer to continue to adopt that particular position, and, in an excess of caution, they might want to tidy up any potential loopholes. For that reason, I am inclined to the view of supporting it, subject to trying to resolve this legal issue and any others that have not yet come to light.

The Hon. NICK XENOPHON: I appreciate the Treasurer's comments. I understand that the Treasurer will be getting advice from the Attorney in the near future. Is the Treasurer willing to have a short meeting with me on Monday or Tuesday next week to thrash out these issues so that, before this matter is debated again, we will have ample time to iron out any common concerns? I think he is indicating that he is happy to do that.

Progress reported; committee to sit again.

APPROPRIATION BILL

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

[Sitting suspended from 1.02 to 2.15 p.m.]

WATER RESOURCES (WATER ALLOCATIONS) AMENDMENT BILL

The Hon. R.I. LUCAS (Treasurer): I have to report that the managers for the two houses conferred together and it was agreed that we should recommend to our respective houses:

Nos 1 to 5: That the Legislative Council do not further insist on these amendments.

Nos 6 to 9: That the House of Assembly do not further insist on its disagreement thereto.

Consideration in committee of the recommendations of the conference.

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

That the recommendations of the conference be agreed to.

In formally moving these recommendations on behalf of the conference of managers, I thank members of the conference who met on three occasions in an endeavour to settle the differences between the two houses. I am authorised to make a statement in this chamber on behalf of the Minister for Water Resources and I understand that at the appropriate time the minister will make a similar statement in the House of Assembly. It is as follows. The minister acknowledges the bona fides of the Australian Democrats' amendments to the Water Resources (Water Allocations) Amendment Bill 2000. As the minister has stated in the House of Assembly, it is his intention to review the complex relationship between land and water use and consult with the stakeholders to develop legislative provisions to appropriately deal with this issue. The minister will then present amendments to cabinet and the Liberal Party room meeting during the spring parliamentary sittings for introduction into parliament.

As the Minister for Water Resources, the power that enables him to issue water licences is circumscribed under the Water Resources Act 1997. The minister believes that the complex interrelationship between the resource and land use is a consideration for which he has an arguable responsibility under the 'objects' of the act. He therefore proposes that, until the matter is considered by the parliament, he will ensure that, so far as possible within his legal powers, no transfers will be granted without a careful analysis of the consequences for the resource.

That statement was arrived at after considerable discussion among chamber representatives at the conference of managers. It is obviously not the preferred position of all members at the conference, but I understand it was a compromise entered into to enable the passage of the legislation. More importantly, it is a genuine endeavour by the minister to try to resolve the issues raised by the Hon. Mr Elliott. More importantly, legislation will be introduced in the spring parliamentary sitting which will allow this parliament to consider this issue further, whether it be through the amendments proposed by the Hon. Mr Elliott. Whilst acknowledging the issue that they tried to address, people did raise concerns in terms of some inadequacy regarding the proposed approach. I do not think anyone could come up with a better course of action during the conference time frame. It may well be that the passage of time will enable people to work together to come up with a better solution for what is acknowledged to be an issue that has to be resolved.

The Hon. M.J. ELLIOTT: As a member of that conference and as mover of the amendments—and, whilst they are not being insisted upon, at least the minister is conceding that they contain issues that need to be addressed—if I express some concern it is that these issues have not cropped up in just the last couple of weeks: they have been around for a considerable time. For the minister now to say that he needs another couple of months to work on the matter is disappointing, because three months ago I personally raised the issues with him, so he has had more time so far since I first raised the issues with him than he has allowed himself to tackle them before the spring session. The issue has been raised by many others over longer periods of time. It is an amazing experience to have a piece of legislation passed by the parliament with recognised inadequacies. I cannot remember

the last time we passed legislation whereby the movers have said, 'Yes, we know this has problems in it but we will fix them up later on.'

That is exactly what is being done in this case. There was never any attempt to tackle those issues prior to my moving the amendments, and even then the government's sole efforts went into putting the matter off. There was never any attempt to look at whether or not the amendments would work. Anybody who takes the time to read *Hansard* will find that there was no legitimate attempt to explore the issues or to see whether the amendments needed further amendment. People in the South-East would not be surprised: there has been procrastination on this issue for years.

This is not an issue which has just emerged in parliament with this legislation. It has been going on for years. People are now saying that we have to get it through straight away because people should not have to wait another couple of months. This government has made people wait for years, as minister after minister has bungled their way around this issue. I see the current minister as being sincere at this stage. It is interesting that there are members of his own party who are not at all worried by the inconsistencies. At least one member of this place has a view that, regardless of whether there have been water allocations, if every square centimetre of the South-East outside irrigated areas was covered in forest, that would be a terrific thing and we should not worry about the people who have made enormous investments.

We should not worry that, at this stage, three families have come from New Zealand with money in their pockets ready to put in major dairying operations in the South-East, and they are waiting. They must feel a great deal of uncertainty if they do not know whether the government will protect their investment. The dairy industry has been on hold in the South-East for years because of the bungling, and the failure to address this issue will continue to put a brake on it. That is not acceptable.

I must be thankful for small mercies because, although I did not have the numbers to get the amendments, at least we have a clear commitment from the minister, but the big question is whether or not his backbenchers will allow him to deliver.

The Hon. A.J. REDFORD: I will be brief in relation to the undertaking given by the Minister for Water Resources as part of this arrangement that came out of the deadlock conference and I will make a couple of comments about the Hon. Michael Elliott's contribution. My first point is that there is an element within this parliament and within the community that says that we must protect existing water users at all costs. In other words, if a person has a water licence, that must be protected, and those who do not have water licences will have to stand in the queue. The argument does have some attraction and needs to be applied fairly and across the board.

The Hon. Michael Elliott is now asserting that the forestry industry should in certain cases, if no water licence is attached to a piece of land, either buy a water licence or alternatively not proceed to develop that land under forest. That is a significant assertion and one which, in my view, has the capacity to stall significant investment in the South-East. One cannot help but notice that there has been phenomenal investment in the South-East by companies such as Auspine, CSR and Carter Holt Harvey and an enormous number of jobs result from investment in private forests in the South-East of South Australia.

Those investments are underpinned by significant investment in capital works in Mount Gambier and other places, including the paper mill at Snuggery near Millicent, and many hundreds of jobs are dependent upon a continuous supply of timber to these timber plants. Most of those plants have a limited life and my advice is that over the next 10 years CSR and more particularly Carter Holt Harvey will have some significant investment decisions to make. In making those investment decisions, they will determine whether that investment will take place in Victoria or South Australia.

As I understand, the rate of planting of forests in Victoria, particularly that of Pinus radiata, is outstripping the planting of timber in South Australia 2:1. Some people say that the principal reason for that is native vegetation and native vegetation issues. I do not necessarily accept that bald assertion but the fact is that they are planting forests at twice the rate in Victoria than they are in South Australia. If the honourable member's amendment is accepted unamended or without debate, there is a real risk that over the next decade we will lose many hundreds of jobs to Victoria, and that must be a matter that the minister takes into account in honouring the undertaking.

The Hon. M.J. Elliott interjecting:

The Hon. A.J. REDFORD: The honourable member interjects about the dairy industry. The fact is that the dairy industry is not as significant or anywhere near potentially as significant in terms of job losses or job creation as the timber and the forestry industry. CSR, Carter Holt Harvey, Auspine and others have many hundreds of millions of dollars of investment in the south-east and, if we propose a regime that discourages the planting of those forests in the south-east, as the honourable member's amendments did, in my view, then we will lose a significant portion of that industry.

The Hon. Michael Elliott comes in this place time after time, day after day, bill after bill and suggests that the government has failed to consult. If I have heard the honourable member say, 'The government has failed to consult' once, I have heard it a million times. I have analysed his contribution both at the second reading stage and at the committee stage of this bill, and in not one statement has he suggested that he has consulted any single person engaged in the timber industry.

He has failed to indicate to this parliament, of which he demands such high standards, that he has consulted with Auspine. He has failed to indicate whether he has consulted with Carter Holt Harvey. He has even, I suspect, failed to consult the CFMEU. I know that the Hon. Terry Roberts has a good relationship with the CFMEU and, over the next few months, as the minister works through this difficult issue, the CFMEU will be visiting the Hon. Terry Roberts and explaining to him the real danger of John Hill's short-sighted attempt to support the Hon. Michael Elliott's suggestion that we neuter the forestry industry and, in effect, stop the continued growth of plantations.

If the Hon. Michael Elliott did more than just take whistlestop tours of the south-east, he would understand that the single biggest issue for the timber industry in the south-east is its ability to have access to timber. In fact, given that the government is a significant owner of our timber resource, enormous pressure is put on the minister and his advisers and, indeed, on us as backbenchers—and I am sure that the Hon. Terry Roberts has had calls from various people—to increase timber allocations. So, anything that has the effect of

restricting or preventing the planting of timber and forests in the south-east must be rejected.

I hope that when the minister reads these contributions he will take that into account, first, in the promulgation of the policy and, secondly, in the selling of that policy, both in our party room and in the parliament. With those few words, I congratulate the deadlock conference. I must say that, since the movement of the Hon. Terry Cameron and the Hon. Trevor Crothers, I had almost forgotten how these conferences work, and almost forgotten to what extent the Hon. Michael Elliott becomes the font of all knowledge on every single issue and proceeds to lecture, particularly in relation to an utter and complete absence of any consultation with the single biggest industry in the south-east.

He might speak to a couple of mates in the dairy industry, but the fact is that the timber industry is the single biggest industry in the south-east, and he stands condemned for his failure to pick up the phone and ring one single person associated with that industry, to determine whether or not this silly amendment might have some impact on a great and vital industry.

The Hon. T.G. ROBERTS: The results of the deadlock conference are a compromise, as all deadlock conferences are. To hear the debate in here, it was almost as though this Chamber was in deadlock. The reason for a deadlock conference is for the lower and upper houses to try to reach a solution on problems on which we need to compromise or agree to disagree.

The government started off with the point that it was party policy that needed to be expanded and implemented through legislation and that it was difficult for the minister to give a guarantee on bringing the party policy back here so that the undertakings in the motion are able to be carried out. We know now that, certainly in another place, it is very difficult for party policy to be given any guarantees, whatever the drafting, and for it to reach a position that reflects what the party believes. It is then left to the parliament legislatively to protect the resource which we are trying to protect. We are also trying to make a resource available without wastage not only to those people who have existing rights but also to open up the excess water to the new kids on the block who want to increase their allocations from existing smaller use or who want major increases in their allocations.

A land rush has occurred in the South-East which should have been anticipated because of the contributions made in this chamber over a number of years. It should have also been anticipated because of the changes to the legislation in the Mount Lofty Ranges where the allocations for land use and the environmental protection being advocated could only lead one to believe that the next investment area would have been the South-East, but, unfortunately, we, or the government, were slow in picking up the investment strategies that were being announced and, unfortunately, when you try to intervene to unscramble an egg, no-one can be satisfied. That is the problem that the government has in trying to satisfy all the vested interests and the stakeholders in this area of the state.

The Hon. M.J. Elliott: We should have had a water plan years ago.

The Hon. T.G. ROBERTS: That is accurate and correct. We also should have had a land management plan integrated into a water management plan so that people knew exactly where we were going. As it is now, any minister has a difficult job in getting a compromise to suit a snapshot of the industries in the South-East. There are competing uses; and some lobbies are more powerful than others—

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: As the honourable member points out, certainly some people have made large investment decisions over a long period, and certainly the backbone of the early settlement of the South-East was the planting of pinus radiata in that area and the jobs that flowed from that. The dairy industry was also a large employer in that area and provided a lot of income to the state. Every maiden speech that has been made by the conservative members for Gordon, MacKillop and Mallee have talked about the importance of the area to the State's economy and the fact that even the political power that rests in the colleges in the South-East far outweighs the conservative power that lies in lots of other areas within the state.

Members would have thought that over that period some plans may have been pulled together at least to make it easier for us in taking a snapshot and trying to pull together a resolution on which we can all agree. The minister has given undertakings that we now have to see implemented. I would like to see those members who have an interest in the outcome involved in the process when it comes back into this chamber. All the vested interests need to be contacted to see what the implications of the application of this resolution will be so that we can reach a consensus which does not scare off investment, but which also protects the resource from over exploitation and that the quality and quantity of available water, including drinking water, is protected, so that the state benefits from the growth in the South-East through the new agricultural industries and horticultural industries and that people can have certainty—

The Hon. A.J. Redford: And the forestry industry.

The Hon. T.G. ROBERTS: —and the forestry industry—as to where they can spend their dollar. That needs to be done quickly. As all members have said, there is a rush for investment in the western districts of Victoria, and that is for a number of reasons. The fact is that it has come off a low base. Twenty years ago, if you had driven between Mount Gambier and Hamilton, you would have been lucky to see pine forests any deeper into Victoria than 20 kilometres, around Casterton. One can now drive much deeper into Victoria and see softwoods and blue gums. A lot of the native forests have been replaced with plantation forests, and this has caused a lot of heartburn in the area.

Care for the established industries needs to be taken into consideration. Kimberly-Clark has a vested interest in both water and timber. I know that it has plans for expansion, for a number five mill in the area, if it can get the allocation of timber and the volumes of water it requires—

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: —and power at the right price. It will continue to invest. It would be good politics for the government to have a minister or a member who has a lot of say inside the cabinet room allocated responsibility for the South-East. This member could take the information to the centre of power so that the issues could be described and legislative protection provided, and ultimately the outcomes achieved.

Motion carried.

TAB AND LOTTERIES COMMISSION

Petitions signed by 3 663 residents of South Australia concerning the Totalizator Agency Board and the Lotteries

Commission of South Australia, and praying that this Council will ensure that the Totalizator Agency Board and the Lotteries Commission of South Australia remain government owned, were presented by the Hons C.A. Pickles and Nick Xenophon.

Petitions received.

PAPER TABLED

The following paper was laid on the table:

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

Third Party Premiums Committee—Determinations.

QUESTION TIME

DOMICILIARY CARE

The Hon. CAROLYN PICKLES (Leader of the Opposition): I seek leave to make a brief explanation before asking the Minister for Disability Services and Minister for the Ageing a question about domiciliary care.

Leave granted.

The Hon. CAROLYN PICKLES: The opposition has been inundated by calls from frail aged and disabled people who say that they are confused and suffering anxiety when they have to return equipment and cancel services because of the introduction of charges for domiciliary care, cut to $50 for four weeks for non-concession holders, and $20 a month for concession holders. These charges include hire charges of up to $4 per week for walking frames, trolley tables, bed frames, wheelchairs and other special equipment. I must say that, with my new found knowledge at a personal level of needing to access at least crutches and a walking stick, I can really sympathise with the frail aged who need to have services.

The PRESIDENT: Order! The honourable Leader is putting in a lot of opinion.

The Hon. CAROLYN PICKLES: Yes, I am indeed.

The PRESIDENT: It is out of order.

The Hon. CAROLYN PICKLES: Fortunately I can afford to do so. These people cannot. Pensioners are saying that these new charges and the cost of the emergency services tax and new charges of up to $97.50 for dental treatment for pensioners have exceeded any benefits that they received to offset the introduction of the GST. My questions to the minister are:

1. Why did the government fail to consult with the community on the introduction of these charges?

2. What action will the minister take to ensure that disabled people are not forced to return equipment such as wheelchairs and walking frames because they cannot afford the government's new charges?

The Hon. R.D. LAWSON (Minister for Disability Services): The honourable member says that members of the community are confused and suffering from anxiety, and, if they are, it is because the Labor Party has chosen to commence an attack on the government by creating confusion where none exists. The fact is that a new contribution scheme has been introduced for domiciliary care services and equipment. It is a scheme that actually does address the needs of pensioners by providing that the maximum fee that any pensioner can be charged is $20 in a four week period, that is, $5 a week, irrespective of the number of services received during that week or the number of items of equipment used by the domiciliary care client during that period. The fee for non-pensioners is higher, up to $50 per four week period, namely, $12.50 a week. The fee has been deliberately set at a low level to accommodate the fact that many people are not in a position to make a substantial contribution to these services, which cost substantially more, of course, than the fees being charged.

The level of fees and the fees mechanism is generally consistent with that which was introduced by the Royal District Nursing Service in July 1999, and has been introduced into that service sensitively and without disruption. The purpose of introducing fees was to ensure that we have additional funds in the program to ensure that people who are not presently receiving services, or may be waiting for equipment, will receive it, and to expand the funds available to service equipment which is provided.

The Hon. T.G. Cameron: They are handing their equipment back.

The Hon. R.D. LAWSON: This government last year allocated an additional $2 million of funds to the equipment program scheme, to ensure that additional items of equipment would be provided to those people who need equipment, whether it be a sophisticated wheelchair for a person with multiple disabilities or other items such as walking frames, walking sticks, bath chairs, and the like, which is widely allocated by domiciliary care services to their clients. The Hon. Terry Cameron interjects: 'They are handing their equipment back,' and I have heard the claim that some people have called into the radio to say that they have a number of items of equipment—I have heard up to 10 items of equipment—that they are not prepared to pay for those items and that they are going to return them. One of the difficulties is when you have a free scheme and people are issued with items; when they no longer need them they may retain them. I have urged anybody who needs an item of equipment issued by Domiciliary Care to retain it and use it for the purpose for which it was issued.

One of the elements in this scheme (and it is a critical element) is this: no person who is assessed as needing equipment will be declined or refused equipment or a service on the grounds of inability to pay. They will be provided with the services irrespective of the fact that they cannot pay. There is a mechanism for fee waivers, and all users of Domiciliary Care have been sent a brochure together with a waiver form. The form clearly explains the eligibility criteria for a waiver. It is envisaged that there will be people who are paying other health care costs, transport and so on which will make it not possible for them to make this contribution.

I have mentioned to the Council previously that the commonwealth government decided in 1996 that it would assume that users of Home and Community Care services are making a contribution of up to 20 per cent of the total moneys in the program. Future commonwealth funding was predicated upon those contributions. A number of services have introduced fee regimes and now we, in the Domiciliary Care Service which is largely funded through Home and Community Care, are introducing a new fee for service. As I say, in introducing fees we have ensured that the fees are set at a modest level, that we do have a mechanism for waiver and that we have an underlying principle that any person who is unable to pay will receive equipment and services if they really need them.

The honourable member mentioned the GST and the emergency services levy in her question. One of the things Mike Rann has being saying in the press release he put out

today is that this is all to do with the GST. It has nothing to do with the GST. These fees do not attract any GST and there was no GST driver behind it. It has nothing to do with the emergency services levy. Mike Rann, in putting out press releases and making statements of that kind, is trying to create confusion and is creating anxiety in the community where no anxiety is required.

I have also directed that people have the month of July in which to lodge an initial application for a waiver. No fees will be charged at all during July. There will not be any fees in August either, because we will not be issuing the first accounts under this scheme until the beginning of October. Those accounts that will itemise the services and equipment are capped to $20 a month and will be for only one month and no longer.

The Hon. T.G. CAMERON: I have a supplementary question. How many people will be affected by the new fees, and how much money will the government save through its introduction over a full year?

The Hon. R.D. LAWSON: This is not a cost saving measure. All the money that is contributed into the Home and Community Care program is applied for the purpose of expanding services. It is not a government cut. It is no saving to the Department of Human Services or to Treasury. The explicit purpose of raising fees is to expand those services. Presently, Domiciliary Care Services is receiving fees already of about $250 000 a year. The precise amount to be raised this year will depend upon the number of waivers that are applied for, the circumstances of a particular purpose—

Members interjecting:

The PRESIDENT: Order! The honourable member has asked his supplementary question.

The Hon. T.G. Cameron: He won't answer it.

The PRESIDENT: That has nothing to do with you.

The Hon. R.D. LAWSON: There are about 8 000 clients of domiciliary care in the state. We simply do not know how many of those clients will apply for a waiver or will be in circumstances such that they will not be able to make a contribution. I expect that the level of the amount raised will be about $1.2 million.

The Hon. CARMEL ZOLLO: I have a supplementary question. Can the minister advise the Council what is the state government's financial contribution to the HACC scheme and what is the federal—

The PRESIDENT: I do not think that has any relevance to the answers given by the minister.

The Hon. CARMEL ZOLLO: It is the Home and Community Care Scheme, which is what Domiciliary Care is delivered under. What is the federal component under that scheme for this financial year?

The Hon. R.D. LAWSON: There is no fixed proportion such as 60-40 for commonwealth and state contributions under this program. In home and community care this year, $73.6 million will be applied, approximately 65 per cent of which is contributed by the commonwealth government and the balance by the state government.

CAMBRIDGE, Mr J.

The Hon. P. HOLLOWAY: I seek leave to make a brief explanation before asking the Treasurer, in his capacity as Minister for Industry and Trade, a question about the Chief Executive Officer of that department.

Leave granted.

The Hon. P. HOLLOWAY: During estimates committees, the opposition was—conveniently for the Treasurer—prevented from asking questions about the private business activities of Mr John Cambridge, CEO of the Department of Industry and Trade, because of a ruling that they were sub judice. That ruling related to a court case being mounted by Mr Cambridge that has to go before the court, and may never get to court.

In parliament last week, the Premier confirmed that he has asked the Attorney-General, on behalf of Mr Cambridge, to consider whether or not Mr Cambridge could be provided with state indemnity for this court case. Given that by now the minister would have had time to read and digest a good deal of information about the business activities of Mr Cambridge, I would like him to answer questions that are not sub judice but are essential to the transparency and accountability of the way government is run in this state.

I note that the convention of answering questions asked in estimates committees within two weeks has apparently not been upheld by this government. We would like the minister to provide answers concerning Mr Cambridge: we would be happy to receive them at any time. In the meantime, the opposition is at a lost to understand how it is that Mr Cambridge was able to conduct private business as a paid director of a Singapore-based company while he was the CEO of the Economic Development Authority and then CEO of the Office of Asia Business for almost 2½ years without there being a conflict of interest.

We are also at a lost to understand how Mr Cambridge managed to squeeze that private work into his ordinary working week and to take trips to Singapore (paid for privately, of course) while apparently not taking any leave from his job with the South Australian government during that period. I say 'apparently', because Mr Cambridge took more than three months' accumulated annual leave in May last year and that could have occurred only if he had not taken leave in the three years prior, unless he receives much more than the standard four weeks' annual leave. If he does, I would be anxious to know what his entitlements are. My questions are:

1. Did Mr Cambridge ask you, as his minister, about whether he could be provided with state-funded indemnity for his court case and, if so, what was your response?

2. Did Mr Cambridge inform you that he was approaching the Premier about the indemnity issue and, if so, what was your response?

3. Have you been informed or are you aware of any internal examination being carried out by a government agency into Mr Cambridge's near $250 000 worth of expenses over a two year period and/or issues associated with his private business activities?

4. Is an internal examination now being carried out within the department or by any other government agency into our state's 11 overseas trade offices and the parlous state of their financial arrangements?

The Hon. R.I. LUCAS (Treasurer): A number of the aspects of the honourable member's explanation are incorrect. The assertion as to what the Premier said in previous weeks in relation to the indemnity is an inaccurate, misleading representation of what the Premier said. I think the Attorney-General has responded to that—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: In his explanation, the honourable member made a series of claims that were wrong.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Well, I am saying that they were wrong. The honourable member sought leave to make an explanation prior to asking questions. In his explanation he made, deliberately or otherwise, a number of significant errors upon which he based his questions. It is appropriate to point out the errors in the claims that the Hon. Mr Holloway made. I will not be diverted by his making claims in his explanation which he knows to be wrong and then leaving them unrebutted.

The Attorney-General answered that question, either last week or the week before, and so, too, did the Premier in another place. The Premier read the file note or a note in correspondence in relation to that issue. I do not have the exact words that the Premier used, but obviously the Hon. Mr Holloway had them when he prepared the question, and it is mischievous at best for the member not to have included that in his question.

I was not approached for an indemnity. I will need to check the record. I certainly received no correspondence and I was not approached for funding. In relation to the other aspects of the honourable member's question, I will check those as well. The other aspect that is wrong in relation to the honourable member's question is where he indicated explicitly or implicitly that this was not a matter before the courts at the moment, and by snide inference that in some way I as minister had made this up. I will have the record checked, but I have been advised that this is an issue where documents have been lodged in the court. For the Hon. Mr Holloway in his snide way to make—

The Hon. P. Holloway: There are no writs issued.

The Hon. R.I. LUCAS: So you are saying it is not before the court, or it is?

The Hon. P. Holloway: Well, there are no writs issued.

The Hon. R.I. LUCAS: Is it before the court?

The Hon. P. Holloway: Well, not in terms of writs being issued, no.

The Hon. R.I. LUCAS: The Hon. Mr Holloway makes a snide inference that it is not before the court and he gets nailed on it where he has misled the Council in relation to that aspect of his explanation. He knows, and he is now backtracking very quickly, that documents have been lodged before the court in relation to this issue.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Well it is, because it has been ruled that way. The Hon. Mr Holloway does not make a judgment as to whether it is sub judice; the presiding officers do that. The Hon. Mr Holloway says that it is not sub judice. It has been ruled that way.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: If you disagree with the ruling, present some evidence and have your colleagues in another house disagree. The forums of the house are available. Your people have been looking at that for some time and have decided that they cannot sustain a challenge to that position. It is wrong for the Hon. Mr Holloway, by snide inference, to indicate in his explanation that this is an issue before the court, that in some way I manufactured that claim when, in fact, the Hon. Mr Holloway knows that that is not true. The reality in relation to the court case is that it is sub judice. If a person, any individual, believes that they have been seriously defamed in any way, they have a right—

The Hon. T.G. Cameron: Like Nick Xenophon, for example.

The Hon. R.I. LUCAS: Like Nick Xenophon, or, indeed, Ralph Clarke. Anybody who believes they have been seriously defamed has the right to take that matter up before a court and to try to prove their case. The conventions of the parliament say that, whilst they have that opportunity, members should not be able to get up in this Council or another chamber and continue the defamation under parliamentary privilege when there is a case which has been taken before the courts. If the Hon. Mr Holloway wants to defend that position, his standards frankly are lower than I thought they were. If someone believes they have been defamed, they have the right to take action. They also have the right not to have members stand up in this chamber and continue to make defamatory comments under parliamentary privilege so that they can continue those issues.

Let the man defend himself and, if he is not able to prove the case or if he is not able to win the case, then members can continue attacks on him in the parliament or publicly. Give him the chance to defend himself. He believes that they are defamatory. It is for him either to win or lose that case in a court of law as is his right. I defend his right to do that. At the end of that, the honourable member can take up his issues with me in this place or in the other house, but he cannot make his snide, sneering inferences that in some way this has been manufactured to prevent questioning.

GAMBLING LOBBY GROUP

The Hon. T.G. ROBERTS: I seek leave to give a brief explanation prior to asking the Treasurer a question on a national lobbying committee that has been set up in response to the expansion in gambling.

Leave granted.

The Hon. T.G. ROBERTS: In the *Age* yesterday, an article appeared under the heading, 'New group to push gaming'. The article originated in Canberra but it does not carry a by-line. It states:

> Gaming companies have joined forces to create a new national lobby group aiming to give the industry a voice in the growing debate over the spread of gambling in Australia. It is the first time hotels, casinos and poker machine operators have presented a united front and comes amid unprecedented community concern about problem gambling.

The article quotes the Chief Executive of the Australian Gaming Council (Vicki Flannery), who said that the group would develop a national, coordinated approach to promote responsible gambling and consult with the community, industry and government.

In a contribution earlier today on the casino bill, I suggested that all members recognise the dangers of a moratorium in relation to on-line and interactive gambling and that the state faces a loss in revenue if the TAB and Lotteries Commission lose valuable revenue sources to other states. The article quotes Ms Flannery as saying:

> The focus is to look at reducing the problems associated with problem gambling but at the same time ensuring for the vast majority of Australians gambling remains an enjoyable and accessible pastime. . . The group will be looking at promoting responsible gaming, and that's the best way to protect the interests of the gambling industry.

My questions are:

1. Is the Treasurer aware of the national lobby group that has been set up and, if so, what response has the state put in place?

2. What impact and direction does the Treasurer expect the national lobby group to take?

3. Does he think that the lobby direction could include an application statewide and nationally for on-line and interactive gambling licences?

The Hon. R.I. LUCAS (Treasurer): The frank answer to the question is that I do not have too much knowledge of the objectives other than what I have read in the Melbourne *Age* in the past couple of days. I have not had any direct conversations with the group. I may well have met some individuals from the group over the past two or three years but I am not immediately aware of that, either. It is an encouraging aspect to the whole debate because I have strongly supported the view that this is a matter of public importance, but it has been too much captured by a variety of groups with one particular point of view in relation to gambling or gaming.

It is important that there are equal and opposing forces on any debate and it is important that those who want to continue to defend the opportunity for 98 or 99 per cent of Australians who can happily and safely enjoy the recreation of gambling without causing distress to themselves, their family or their friends are able to do so. Given the way the debate has developed in the past three years, there is a danger that we might throw the baby out with the bath water or that the pendulum could swing too far in the other direction.

There needs to be a balance. There need to be well-resourced opposing forces in relation to this. Whilst I am sure the number of groups that will oppose the continued option of gambling will be much greater than those who support it—and I think that will always be the way, as there are just so many different groups that will oppose—there should at least be one articulate and presentable lobby available for those who want to get information from both sides of a gambling debate and want that information relatively quickly but also relatively accurately.

One of the concerns from some in gambling is that they do not want to be seen to be a public face defending gambling, because the forces lined up against it may well mean that they find themselves in a very difficult position in terms of their own circumstance or the circumstance of their business. For those reasons, the establishment of the body, at least on the surface, seems to be a step forward in terms of a balanced debate about gambling.

I can assure the Hon. Terry Roberts that, other than that, I know nothing more about them or what their policy positions are likely to be. I look forward with interest to receiving information on gambling, not only from those who oppose gambling as I continue to do but also from groups like this that are clearly designed to support the continued option of gambling in the community.

KOREAN TRADE OFFICE

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Treasurer (Hon. Robert Lucas) a question about a trade office in Korea.

Leave granted.

The Hon. L.H. DAVIS: On radio 5AN this morning, in a discussion between the presenter Ashley Walsh and the member for Hammond, reference was made to the possibility of the South Australian government establishing a trade office in Korea. Will the Treasurer advise the chamber about that possibility?

The Hon. A.J. Redford: And a small family business!

The Hon. R.I. LUCAS (Treasurer): Thank you for your assistance, the Hon. Mr Redford. I have been made aware of the comments made in the past 24 hours by the member for Hammond about this issue—

The Hon. R.R. Roberts interjecting:

The Hon. R.I. LUCAS: About this particular issue, anyway. Since his comments this morning on ABC radio, as the minister responsible for trade offices I have been approached as to my knowledge of this. I understand that a number of claims are whirring around the corridors of this place, as sometimes happens, and I suspect, knowing this place, that some of those may well take off and head in all sorts of different directions. So, I thank the honourable member for his question, because I can at least place on the public record the facts about this situation.

When I became Minister for Industry and Trade, I ended up with responsibility for the overseas trade offices and became aware that a trade office in Korea was still being considered. I took over in the ministry some time around January or February, in the middle of the budget bilateral period, which I was actually conducting wearing my other hat as Treasurer. The first bilateral had been conducted in December and the second ones were being conducted in February and March of this year.

As I said, as the Minister for Industry and Trade I became aware that a Korean trade office was still being considered. I understand that claims have been made in another place today that the possibility of a Korean trade office had been ruled out absolutely as of 12 months ago. I am not aware of that, but it is certainly not the case that it was not still being considered as of this year when I became minister. I took a very strong view for a number of reasons—and I will not go into all of them today—and made the decision not to provide funding for a Korean trade office in this year's budget, which was announced in May this year.

I note that the member for Hammond in his comments this morning made a number of other comments which have engendered some further questioning of me and my office. In terms of if we did set up a Korean trade office,the member for Hammond said:

> Well, I'd be very interested in the job of course, because I know I can do it probably as well as anybody. There aren't too many people who can. . . my wife and I can speak Korean as it were, and then go on with the job of helping people get into the culture of Korean commerce and make a success of it.

I can say that I am aware that Mr Lewis had approached at least three people—not me, I might indicate—about his desire to be appointed to the Korean trade office. Whilst Mr Lewis may have some talents in some areas—and obviously ducks spring readily to mind—I could not—

Members interjecting:

The PRESIDENT: Order!

The Hon. T. Crothers: Peking ducks or Korean ducks?

The Hon. R.I. LUCAS: The Hon. Mr Crothers wants to know whether they are Peking or Korean ducks: I am not sure. I suspect that, if the Hon. Mr Crothers wants an answer to that question, he should ask the member for Hammond: I must bow to his expertise in the area of ducks.

The Hon. Diana Laidlaw: You are saying he asked for this position.

The Hon. R.I. LUCAS: He did not speak to me, but I am aware that he had approached three people at least about being appointed to the position. As I said, whilst the member may have talents in some areas, I could not in all conscience support appointing Mr Lewis to represent our state in sensitive trade negotiations with Korea or, indeed, any other country. Whilst obviously that, ultimately, is not a decision

for me personally, I understand that, in recent weeks, Mr Lewis has become aware of not only my strong views in relation to this issue about not establishing a trade office in Korea but also my strong views in relation to his possible appointment to the position in a trade office in Korea.

LEGAL PROFESSION

The Hon. IAN GILFILLAN: I seek leave to make a brief explanation before asking the Attorney-General—

Members interjecting:

The PRESIDENT: Order! I cannot hear the Hon. Mr Gilfillan.

The Hon. IAN GILFILLAN: —a question about lawyers' disciplinary proceedings.

Leave granted.

The Hon. IAN GILFILLAN: The Legal Practitioners Conduct Board advises in its annual report that, although there are hundreds of complaints against lawyers each year, the vast majority of these complaints, 97 per cent, are not considered serious enough to be classed as 'professional misconduct'. This confirms that the vast majority of South Australian lawyers are ethical and conscientious. Yet apparently the alternative is also true: a minority of complaints against a minority of lawyers are quite serious.

My concern is what happens to lawyers in these circumstances. When a police officer, a teacher or any public sector worker is facing a serious misconduct charge, they may be stood down or suspended pending hearing of the charge. This is provided for by the Police Act, the Education Act and the Public Sector Management Act. When medical practitioners are the subject of a complaint, they may have their practice rights restricted by the medical board. This may occur even if no charge is laid before the Medical Practitioners Professional Conduct Tribunal.

However, lawyers, no matter how serious or numerous the complaints against them, face no such restraint. The lawyer may not be suspended by the Legal Practitioners Conduct Board. In fact, the board cannot even place any conditions on a lawyer's practising certificate unless the lawyer consents to such conditions. There can be no restrictions imposed on a lawyer's activities until after a formal charge has been laid and finally dealt with by the Legal Practitioners Disciplinary Tribunal.

What could be regarded as rogue lawyers therefore can easily delay the hearing of disciplinary charges against them by taking legal action against those who complain, seeking adjournments and/or refusing to enter conciliation processes. This means that proceedings before the tribunal can take a very long time to be heard. In May this year, the tribunal was hearing a charge of unprofessional conduct against a lawyer arising out of an incident in 1988. The lawyer was fined by a judge in 1997. Yet, in respect of his professional standing, the wheels of justice are still slowly grinding on: it has not been determined. I have been corresponding with the Attorney about this matter since January, but despite having received five letters from his office I have been unable to get answers to my initial questions, which are as follows:

1. What happened to the six lawyers who were facing serious misconduct charges in 1998-99?

2. The Legal Practitioners Conduct Board's annual report mentions a single lawyer who generated 27 complaints in that year. What happened to him or her, and why is that not reported?

3. Why does the report fail to mention any serious discipline taken against any lawyer in 1998-99?

4. Why do lawyers facing serious complaints, even multiple serious complaints, get legal protection that is not available to teachers, police officers, public sector workers or doctors?

5. While a suspect lawyer gets the benefit of the doubt and full natural justice over many years, why is there nothing equivalent to protect members of the public who may be dealing in all innocence with someone facing multiple misconduct charges?

The Hon. K.T. GRIFFIN (Attorney-General): The honourable member has been corresponding with my office, and I will now read the responses: I have at least two of them. I will take the remainder of the questions on notice and bring back replies. On 16 March I wrote to the Hon. Mr Gilfillan indicating that I had sought advice from the Legal Practitioners Conduct Board, which is the board and body principally responsible for dealing with complaints against lawyers.

It has to be remembered that not so long ago, I think last year, we amended the Legal Practitioners Conduct Act to ensure that there were additional grounds upon which disciplinary proceedings could be taken against members of the legal profession. Previously, unprofessional conduct was the primary basis upon which matters could be pursued against members of the legal profession. Now, as a result of the amendment, the less serious category of unsatisfactory conduct may be charged in relation to conduct by a legal practitioner. The powers of the Legal Practitioners Conduct Board are wide, and the provisions of the Legal Practitioners Conduct Tribunal, which is the superior body to the Legal Practitioners Conduct Board, are equally wide.

On 16 March I wrote to the Hon. Mr Gilfillan about repeat offenders and said:

> Practitioners who are guilty of misconduct can be dealt with under the Legal Practitioners Act either by the board itself or by the Legal Practitioners Disciplinary Tribunal. Part 6 of the act deals with the discipline of legal practitioners.
>
> If the board is satisfied that there is evidence of misconduct but that the misconduct is relatively minor, the board can, if the practitioner consents, determine not to lay charges but to proceed under section 77AB of the act. If the board does proceed under this section it can—
>
> (a) reprimand the practitioner; or
>
> (b) impose conditions on the practitioner's practising certificate relating to the practitioner's legal practice or requiring the completion of further education or training, or receiving counselling, of a type specified by the board; or
>
> (c) order that the practitioner make a payment or refrain from a specified act in connection with legal practice.
>
> If the misconduct is not relatively minor the board can lay a charge against the practitioner before the Legal Practitioners Disciplinary Tribunal. The tribunal's powers are substantially the same as the board's powers, except that the tribunal can, additionally:
>
> (a) make orders for the examination of the practitioner's files and records at intervals and for a period specified in the order; or
>
> (b) impose a fine of up to $10 000; or
>
> (c) suspend the practitioner's practising certificate; or
>
> (d) recommend that disciplinary proceedings be commenced against the practitioner in the Supreme Court.
>
> If disciplinary proceedings are instituted in the Supreme Court, the Supreme Court has very broad powers of discipline, including strike off or suspending the practitioner.
>
> There are very high standards of conduct placed on legal practitioners and those who repeatedly fail to reach those standards can expect the Supreme Court or the tribunal to give serious consideration to either revoking or suspending their rights of practice.

The Hon. Mr Gilfillan in his letter to which my letter responds also referred to the laying of charges in 23 cases

arising from 667 complaint files, and I said in my reply to him:

> The great majority of complaints which are made to the board involve conduct which is not sufficiently serious to justify the laying of a charge before the tribunal. The board is obliged to investigate complaints and has a discretion whether or not to lay a charge against a practitioner alleging unprofessional conduct. The act confers on the board broad powers of investigation into complaints against legal practitioners.
>
> In carrying out its functions, the board is exercising a discretion of a type which commonly vests in any investigative organisation. That discretion invariably involves an assessment of allegations and responses. If the board is satisfied that an allegation is unreliable or readily refuted, it may determine that it would be an inappropriate use of public resources to lay a charge. Under section 82 of the act any person who is aggrieved by the conduct of a practitioner may lay a charge before the tribunal.

I then went on to deal with the Legal Practitioners Disciplinary Tribunal, and then I briefly dealt with a matter raised by the Hon. Mr Gilfillan in his letter about a lawyer in respect of whom 27 complaints had been made, and I said:

> A single charge, particularising matters arising from the 27 complaints, was laid in the tribunal on 16 November 1999. There has already been one directions hearing and the matter has been further adjourned for another to take place. Because of the complexity of the matter it is expected that there will be some delays before it comes on for hearing.

There was subsequent correspondence, where the honourable member raised issues relating to the Legal Practitioners Conduct Board Annual Report. I responded on 11 May and said, among other things:

> I am advised by the Director of the Legal Practitioners Conduct Board that when the board makes a decision to lay a complaint against a practitioner the board's administration opens a tribunal file and closes all files that relate to the particulars of misconduct in the charge. If, for example, 10 complaints had been received about a practitioner, the board would open a file for each complaint as it is received. This may happen over a period of more than one year. If, after investigation of each of those complaints, the board is satisfied that it is appropriate to lay a charge, then each of those complaint files will be closed and a single tribunal file will be opened. When the charge is laid it will contain particulars which refer to all of those complaints (i.e. one tribunal file containing all 10 complaints).
>
> The six tribunal files you refer to were completed during the reporting period. You would appreciate that such matters, although commenced in one reporting period, may not be completed until a subsequent reporting period. The remaining nine files were still outstanding at the time of the reporting period, but will be recorded in the following period and they should therefore be reported in the annual report for 1999-2000.

These are two of the responses. I will take the remaining questions on notice and try to bring back a reply.

The Hon. IAN GILFILLAN: I have a supplementary question. Does the Attorney agree that, in relation to a lawyer who is under serious and probably numerous complaints, it is unreasonable that the board in fact cannot place any conditions on that lawyer's practising certificate unless the lawyer actually agrees?

The Hon. K.T. GRIFFIN: I will take that on notice. I am not going to deal with hypotheticals. It is important to note that if, for example, there are trust account difficulties, there is power under the act, and it is periodically exercised, for a spot audit to be undertaken or, if it is something more serious, a supervisor of the legal practice is put in place. I understand the point that the honourable member is making. I will endeavour to bring back a considered response.

SIGNIFICANT TREES

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning a question in relation to significant trees.

Leave granted.

The Hon. J.S.L. DAWKINS: Members of this Council would be aware of the recently proclaimed legislation on the protection of significant trees. That legislation included an option for councils to place interim controls on trees with a circumference between 1.5 and 2.49 metres and native South Australian species over 4 metres in height. Can the minister advise whether any local government bodies have taken up this option and, if that is the case, which councils have done so?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): This is an important issue. As all honourable members would recall, there was extraordinary cooperation by members across political parties and between the chambers to deal with the pressing issue of protection for significant trees. Legislation was introduced for the protection of trees 2.5 metres in circumference and then, through the debates in this parliament, it was determined that there would be some extra interim measures if councils applied to the minister. However, it was up to them to do so. I am pleased that councils have taken the initiative in this regard. I can advise that initially it was Mitcham and Burnside councils and their—

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: They are also the two councils most behind with their PARs so, anything we can do to help them, they grab at, I can tell you. The request of Mitcham and Burnside councils for the regulations was gazetted on 4 May 2000. Since then I have received applications from the Adelaide City Council and Prospect and Unley councils, and have approved them. They will be gazetted next Thursday 13 July.

Norwood, Payneham and St Peters councils have also written to me seeking these interim controls and I have agreed, subject to those councils confirming that they will make provision in their internal budget for the exercise of preparing a PAR over the 12 months from the day of the gazettal.

So, there is interim protection with respect to Mitcham and Burnside councils for the immediate time. From 13 July it will take effect in Adelaide, Prospect, and Unley councils and Norwood, Payneham and St Peters council whenever it confirms its internal budget arrangements. We would expect in each instance that the council would prepare a plan amendment report to their development plan to address this issue by identifying individual trees of 1.5 to 2.49 metres or varieties of native trees. However, if they do not do so within that one year period of interim control, then controls in terms of trees within those circumferences or native varieties will expire.

TRAIN TICKETS

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I seek leave to make a short ministerial statement regarding train tickets.

Leave granted.

The Hon. DIANA LAIDLAW: On Tuesday, in a supplementary question, the honourable Sandra Kanck asked about the specific instance of passengers at 8.10 a.m. passing

through the Adelaide Railway Station without their tickets being checked. I indicated at the time that nobody was just let through the flood gates. The people who were let through without tickets at that barrier passed because their tickets had been checked on the train as that train was coming through. The statement that I gave last Tuesday reflected government policy and the direction that TransAdelaide has adopted. However, I have to advise that in a most unusual set of circumstances an exception was made to that policy with the 8.10 a.m. train on Tuesday 4 July.

The Hon. A.J. Redford: That must be the one that Ron Williams was on.

The Hon. DIANA LAIDLAW: Yes, that is true. That morning three trains arrived at the Adelaide Railway Station at the same time. On the same morning, two passenger service assistants called in sick and, as a consequence, the barriers were attended by fewer staff than usual. No similar combination of circumstances or factors have arisen since then. I am advised that with all other trains the government policy adopted by TransAdelaide has applied; that is, all tickets are checked, and during morning peak hours 18 per cent to 20 per cent of tickets are checked by PSAs on board the trains. If tickets are checked on the trains, passengers pass through the barriers without their tickets being checked again, while all other passengers' tickets will be checked at the barriers. There is a statement here from the—

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: Mr President, should that interjection be a question?

The PRESIDENT: The minister is taking up question time. It is an interjection.

The Hon. DIANA LAIDLAW: Senior passenger service attendants have the authority to manage circumstances but, with the unusual circumstances that occurred with the arrival of the 8.10 a.m. train, I commend the PSAs for allowing passengers to pass through the barriers without checking their tickets—because of the number of passengers—to avoid causing delays. That set of circumstances has not occurred since then.

I also add that if trains arrive late—10 minutes or so—TransAdelaide has adopted a practice of allowing passengers to pass through barriers without having their tickets checked. I have acknowledged this practice before in this place—and publicly—whereby there are very difficult circumstances in terms of some trains running on time because of the loss of platforms at the Adelaide Railway Station associated with the extension to the Adelaide Convention Centre. It is anticipated that we will regain access to all nine platforms from November this year. However, it has been difficult to operate an on-time service with the building work in relation to the Adelaide Convention Centre. On a permanent basis until November, we have only seven platforms—off peak we generally have five platforms. It has been a testing time for everyone concerned. I wanted to explain to the Hon. Sandra Kanck, who raised the issue, that I was right in terms of the policy, but an unusual set of circumstances arose last Tuesday with the 8.10 a.m. train that had not arisen before nor since.

YOUTH PARLIAMENT

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Treasurer, representing the Minister for Youth, a question about the South Australian Youth Parliament.

Leave granted.

The Hon. T.G. CAMERON: It has been brought to my attention that there is a substantial cost of $150 to young South Australians wanting to participate in the 2000 Youth Parliament. The Youth Parliament is scheduled for the week 15 July to 21 July 2000. I am informed that during this week it is compulsory for participants to reside at Nunyara Conference Centre in Belair, and that this is where the majority of the cost is taken up. I have also been informed that no child minding facilities are available during that week for young parents. Many suggestions made in bills passed in previous youth parliaments have subsequently been taken on board by respective governments. It seems unfair that the youth parliament is restrictive, when many young people are crying out for members of parliament to hear their ideas and concerns. My questions to the Treasurer are:

1. Why does it cost $150 for young people of this state to air their views?

2. Why are the participants forced to reside at a conference centre when many of them have jobs, studies and families?

3. Why are there no organised child-minding facilities for young parents wishing to participate?

4. Would it be more beneficial to this state if the youth parliament was accessible to all types of young people who wish to have their say?

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

TELECOMMUNICATIONS INFRASTRUCTURE

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Minister for Administrative and Information Services a question on funding for a regional telecommunications infrastructure audit and analysis.

Leave granted.

The Hon. CARMEL ZOLLO: I reference the Regional Statement, budget paper 7, in particular the $200 000 required to conduct a detailed audit and analysis of telecommunications infrastructure in regional South Australia. I ask the minister whether the audit has been or will be put to tender and who, if anyone as yet, has been the successful tenderer. Will the minister provide details of the proposed audit, in particular which regions the audit will cover?

The Hon. R.D. LAWSON (Minister for Administrative and Information Services): The honourable member's question is within the portfolio responsibilities of the Minister for Information Economy, to whom I will refer it for a prompt response.

LE MANS CAR RACE

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Police, Correctional Services and Emergency Services, a question about the provision of emergency services for the Le Mans car race.

Leave granted.

The Hon. J.F. STEFANI: The government has announced the staging of the 24 hour Le Mans race in Adelaide from 29 to 31 December. As with any other motor race, emergency services personnel are expected to be in attendance to safeguard both competitors and spectators in the event of an accident or an emergency situation. My questions are:

1. Can the minister advise what provisions are expected to be made in relation to emergency services during the event?

2. What is the estimated cost of the provision of such services?

3. Who is responsible to pay the costs associated with the provision of emergency services?

The Hon. K.T. GRIFFIN (Attorney-General): I will refer the question to my colleague in another place and bring back a reply.

GAMING PATRONS

The Hon. NICK XENOPHON: My questions to the Treasurer are:

1. How many patrons have been barred from gaming venues pursuant to section 59 of the Gaming Machines Act?

2. What requirement is placed on venues by the Liquor and Gaming Commissioner to ensure that information about and forms for barring are easily provided to patrons at venues?

3. What requirement is placed on venues to notify the Liquor and Gaming Commissioner of a barring order being requested or made at a venue?

4. Is any requirement placed on venues by the commissioner or the industry for venues that have barred a player to notify venues in the vicinity of that barring?

The Hon. R.I. LUCAS (Treasurer): I will take the question on notice and bring back a reply.

NATIVE VEGETATION

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning, representing the Minister for Environment, a question in relation to native vegetation and assessment.

Leave granted.

The Hon. M.J. ELLIOTT: I have raised this matter on a few occasions. Due to lack of staff, the government appears to be outsourcing some assessment work. At the same time, in some cases it is requiring people who make application to have work done by the applicants themselves. I am told that in some cases people who work for the department also work privately. There has been enormous concern about the potential conflict of interest. Part of the excuse for this practice is that the department does not have enough money to carry out proper assessments. I guess that is a budgetary issue: not enough money is given to the department. There has been a suggestion for some time that a higher fee should be applied for applications—a certain amount per tree. What consideration has the government given to that and is it prepared to do so to resolve the conflict that is currently evolving?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I will refer the honourable member's question to the minister and bring back a reply.

BROKEN HILL PTY LTD

In reply to **Hon. IAN GILFILLAN** (4 May).

The Hon. R.I. LUCAS: The state government has not conducted an environmental and occupational health survey of the BHP Whyalla site.

The fact that parliament chose to give BHP immunity for certain forms of pollution under section 7 of the Broken Hill Proprietary Company's Steel Works Indenture Act 1958 (the '1958 Act') does not impose any liability on the State. There is no provision for transferring any liability which BHP would otherwise have to the state.

Section 7 of the 1958 Act provides BHP with immunity for discharging effluent into the sea, smoke, dust or gas into the atmosphere, or creating smoke, dust or gas at its works if either the discharge or the creation is necessary for the efficient operation of the steel works and is not due to negligence of BHP. BHP does not have immunity for contamination of the land. Moreover, there is no provision for transferring any liability in relation to site remediation to the State. Accordingly, the state has not estimated the cost of remediating the site.

It is not intended that the state government or BHP will provide any indemnities to third parties seeking to establish a new business on the land covered by the Broken Hill Proprietary Company's Indenture Act 1937 (the '1937 Act') and the 1958 Act. BHP is exposed to any liability for which it does not have immunity under section 7 of the 1958 Act. Once that immunity is removed under the new Act, the new owner of the steelworks will be exposed to the same regime of environmental law and have the same liability as any other land or business owner for the things it does in the future.

The indenture act does not affect the application of the Occupational Health and Safety Act to any new business which is set up on the BHP indentured land except in the unlikely event that the business is set up by BHP itself, in which case it may have the protection of section 7 of the 1958 Act until that section ceases to operate.

BHP has defined a process which they will use to assess requests for access to the port. This is intended not just for occasional requests for access, but for the systematic, regular and long term use of the port which any substantial new enterprise may need if it was to establish operations at Whyalla.

In any case third parties seeking access to the port still have legal rights under Part IIIA of the Trade Practices Act (1974) if they can show that:

- access would promote competition (or increased access) to the particular service or would promote competition in at least one other market (whether in Australia or not), other than the market for the service;
- it would be uneconomical for anyone to develop another facility to provide the service;
- the facility is of national significance, having regarding to:
- size;
- importance to constitutional trade or commerce;
- importance to the national economy;
- access can be provided without undue risk to human health and safety;
- access is not already the subject of an effective access regime;
- access would not be contrary to the public interest.

ADELAIDE, POPULATION GROWTH

In reply to **Hon. P. HOLLOWAY** (3 May).

The Hon. R.I. LUCAS:

1. According to the Australian Bureau of Statistics, the population of Adelaide increased by 0.5 per cent in the year to 30 June 1999, the second lowest of all capital cities behind Tasmania. This translates to an increase of 5 147 people in the year to 30 June 1999. Adelaide's population growth rate, however, is currently higher than it was during the early to mid-1990s.

There are many factors that influence population growth, including the level of interstate and overseas migration as well as the population structure. While the commonwealth government has responsibility for setting the level of overseas migration, the government of South Australia has become more proactive in seeking to improve South Australia's currently low share of overseas migration. Interstate migration losses from South Australia have abated in recent years and this is an encouraging trend. An increased share of overseas migration and lower net interstate outflow would lower the age structure, thereby tending to improve the contribution of natural increase.

The government's policy initiatives in migration attraction programs have included establishing Immigration SA, which involves the targeting of skilled migrants, as well as practical programs to assist migrants on arrival. The state government has also recently announced the 'Bring Them Back Home' initiative to increase South Australia's skilled workforce by attracting interstate migrants.

2. The State government does not have a specific target for population growth.

3. Not Applicable.

SBS REGIONAL SERVICES

In reply to **Hon. CARMEL ZOLLO** (12 April).

The Hon. R.I. LUCAS: The Premier and Minister for Multicultural Affairs has provided the following information:

SBS has developed a rollout schedule for the next three years which takes account of the relative populations of each transmission area, the infrastructure required, the ease of installation, and sharing of the implementation workload across different parts of Australia. Some of the nominated locations already have SBS transmission services provided by their communities on a self-help basis. The SBS will consider taking over the self-help equipment in these places and reimbursing the community groups, if the equipment provides suitable coverage at acceptable standards.

The first services of the SBS extensions are expected to commence by the middle of 2000. The rollout schedule shows that the rollout will reach the Renmark/Loxton area, with a population of 13, 016, in the second year of the program. It is expected that the construction work for the Loxton facility should be finished by mid 2002. Other sites in South Australia include South East (Mount Gambier), Naracoorte, Kingston SE/Robe and Port Lincoln. Construction work for all these locations should be finished at the same time as Renmark/Loxton, except Port Lincoln which should be finished one year earlier in mid 2001.

The priority given to the installation of sites has taken into account such factors as the population served, the work that must be undertaken, existing SBS services in the area and the availability of suitably qualified staff to perform the work. More accurate on-air dates will not be known until the finalisation of the tender process currently under way. Once known, these dates will be widely publicised.

At this stage there are no similarly fully funded plans for an expansion of SBS Radio. However, residents of the Riverland region could explore the option of providing SBS radio via the self-help scheme.

As stated in the question, the SBS self-help retransmission service at Renmark is still operating. However, this service is a low-powered UHF facility and was designed to serve only the residents of Renmark town. On the other hand the Renmark/Loxton ABC and commercial services currently operating transmit at very high power on VHF and were designed to provide coverage to the larger Riverland region. The fully funded SBS service, although highly likely to be operating on UHF, should provide a fairly equal coverage to these existing services. However, it should be noted that the problem of matching the existing ABC coverage in most of the 78 locations identified in the SBS analogue extension program will suffer the dilemma of comparing VHF propagation with UHF propagation. The intention to match existing ABC coverage, where possible, is for the normal planned possible reception boundaries, in accordance with the Australian Broadcasting Authority (ABA) planning guidelines.

Since January 2000, SBS has been in a position to provide funding assistance via the subsidy scheme for the provision of new self-help SBS radio or television services. This scheme works hand-in-glove with the self-help scheme. Basically, a progress association or council can apply to the ABA for a retransmission licence to re-broadcast an SBS radio or television service and to SBS for a subsidy. Once in possession of an appropriate licence, the licensee can begin the broadcasting service. Funding assistance is then available to eligible applicants for up to 50 of capital costs or $25 000 (whichever is the lesser). Two booklets which explain self-help and the SBS subsidy scheme in greater detail are available from SBS.

Under the TV Fund, the Department of Communications, Information Technology and the Arts (DCITA) also has a 'blackspot' project which will provide funding for poor television reception areas. The minister, Senator Alston, has approved the implementation program and guidelines for the project. An information kit compiled by the TV Fund Unit is expected to be circulated widely.

STUDENTS, DISABILITIES

In reply to **Hon M.J. ELLIOTT** (6 April).

The Hon. R.I. LUCAS: The Minister for Education and Children's Services has provided the following information:

1. The Full Service Schools program is a commonwealth program that targets students at risk of not completing Year 12 or making a successful transition from school to further education or employment. Funding for full service schools in South Australia was provided to groups of schools from areas predicted to have the greatest concentration of Youth Allowance students. Commonwealth funding was provided in stages, with the first payment provided in May 1999. Schools that are part of the program, including those in the North, have received 95 per cent of their funding. All South Australian schools which have been approved for payment have received the majority of their full service school funding.

2. The localised nature of the Full Service School program means that clusters of schools organise themselves in different ways. Some programs are administered by one school with programs made available to all schools in that cluster. Others have allocated the money to individual schools for particular projects.

3. Students with disabilities would be able to participate in the Full Service School programs where suitable programs are established. In addition, DETE funding is made available to schools to support students with moderate and severe disabilities. This funding is related to the degree of a student's disability and is used to assist the school in supporting individual students.

SCHOOL FEES

In reply to **Hon. CAROLYN PICKLES** (11 April).

The Hon. R.I. LUCAS: The Minister for Education and Children's Services has provided the following information:

1. It appears that some elements of the materials and services charge could be subject to the goods and services Tax (GST). This may include payment for certain goods and services sold to students and certain extra curricular activities. Although a ruling has not yet been given as to whether elements of this charge are taxable, on 3 May 2000 the Commonwealth Treasurer announced several measures which will be incorporated into the 'A New Tax System (Goods and Services Tax) Act 1999 (the GST Act)'. These measures include ensuring that the education provisions of the GST Act make the lease or hire of goods by pre-schools, primary schools and secondary schools to students GST-free, provided the school retains property of those goods.

I cannot be more definitive about the taxation treatment of other resources used by students in their normal schooling until a final ruling is released by the Australian Taxation Office (ATO). All state education sectors are anxiously awaiting this ruling and the ATO has been lobbied to release this ruling as a matter of urgency.

GST will only be payable on taxable supplies to students after 1 July 2000. Since most materials that may attract tax will be supplied prior to 1 July, it is considered that the amount of GST (if any) on supplies to students from this date will be minimal.

I would also like to bring to your attention, comments made by Mr Garry Le Duff, executive director, Independent Schools Board in the *Sunday Mail* on April 15 2000 where he states 'News reports have claimed or implied that private schools will benefit from GST concessions. This is nonsense. The fact is, all non-government and government schools will face the same up-front costs and on-going administrative costs to implement the new system and the GST'. He further states that tuition fees will be GST-free in both sectors. Other charges that involve the sale of goods and services to students will attract the GST in both sectors. Both sectors face the same uncertainty generated by the delay in the tax ruling on exemptions.

2. In relation to parents who have already paid their fees in a lump sum or on a term basis, where these parents were advised by the school that the fee was exclusive of GST, and that certain supplies may attract the GST, they may be billed for the additional cost of the GST. Again, this is dependent on what is taxable and the amount of tax the school is required to recoup. It is believed that the amount of GST per student (if any) will not be significant.

YOUTH AFFAIRS COUNCIL OF SOUTH AUSTRALIA

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

The Hon. R.I. LUCAS:

1. Future funding of YACSA was considered as part of the normal bilateral budget discussions in preparation for the 2000-01 State Budget. YACSA has been advised of this process on a number of occasions.

2. The funding negotiations were undertaken in the appropriate spirit that enabled the most suitable arrangements to be concluded.

3. The Minister for Youth has advised that there are two contracts for youth sector services currently, which run for three years. However, the funding for these was able to be met in total

from the 1998-99 budget and did not require a forward commitment of funds. Given the fee for service nature of the contracts, it is inappropriate that confidential contractual arrangements between the parties be disclosed.

PARTNERSHIPS 21

In reply to **Hon. M.J. ELLIOTT** (13 April).

The Hon. R.I. LUCAS: The Minister for Education and Children's Services has provided the following information:

There are clear accountability mechanisms in place to ensure that Partnerships 21 schools and pre-schools work towards improving learning outcomes for students with special needs.

On entering Partnerships 21, schools and pre-schools enter into a binding service agreement with the Chief Executive of the Department of Education, Training and Employment. That agreement includes a responsibility to allocate resources to improve the learning outcomes of targeted groups of students, including Aboriginal students, designated English as a Second Language (ESL) students and students with disabilities. They also agree to monitor, analyse and report on the performance of those students to the Department and their community in ways that are arguably more open and rigorous than schools not participating in Partnerships 21.

Additionally, a new index to allocate funding for all schools to address educational disadvantage associated with socio-economic status, is being developed. The application of this funding will carry accountability for schools to achieve improved outcomes for these students.

A significant part of a Partnerships 21 school's global budget is calculated to meet the needs of individual students. For example, for each student in years 3 to 5, a P21 school receives $2 635, with an additional $2 274 for each Aboriginal student (and a further allocation of $500 for each Aboriginal student if the school is a disadvantaged school). Similarly, additional per-capita amounts for students with disabilities range from $1100 to $6900 and between $700 to $5000 for ESL students. The students who therefore attract the most resources to a school are those from targeted groups and with special needs. Similarly, there is a differential allocation of resources through the Rural Index allocation in the global budget that compensates a country school for the distance from Adelaide.

The available resources are therefore equitably allocated and there is no need for individual students or schools to lobby for funds in competition with other students or schools.

Also, there is a commitment by schools to allocate resources to meet stated outcomes and with Partnerships 21, this can extend beyond the nominal allocation for these students. For example, Mansfield Park Primary School has been able to plan for nine additional hours of Aboriginal Education Worker time than it could have allocated before entering Partnerships 21.

Although the 'name' has gone, the recent internal restructure of the Department of Education, Training and Employment's confirmed its commitment to equity. For example, officers within the newly created Student and Professional Services advocate for students with disabilities and learning difficulties, and students with low socio-economic backgrounds. The Curriculum Policy Directorate has responsibility for groups of students experiencing educational disadvantage related to gender or socio-economic status and the Country Services Directorate has system responsibility for Aboriginal, and rural and isolated students.

ATCO

In reply to **Hon. P. HOLLOWAY** (5 April).

The Hon. R.I. LUCAS:

1. Has the Treasurer had discussions with ElectraNet about this issue as he promised he would on 28 March?

I refer the honourable member to my response to the questions he raised on 28 March 2000 in relation to this matter.

2. Does the Treasurer still maintain that ATCO requested taxpayer funded assistance other than fee-for-service or in kind support?

I refer the honourable member to my response to the questions he raised on 28 March 2000 in relation to this matter.

3. How much taxpayer funded support does the Treasurer maintain ATCO requested and to whom and when did ATCO make these requests?

I refer the honourable member to my response to the questions he raised on 28 March 2000 in relation to this matter.

4. Did the Treasurer or his electricity reform and sale unit issue any written or oral instruction to ElectraNet not to support the ATCO proposal, and will the Treasurer inform the Council of any such instructions?

No written or oral instructions were issued to ElectraNet SA not to support the ATCO augmentation proposal.

5. Will he, as I asked him last week, release all documents relating to the ATCO proposal?

I refer the honourable member to my response to the questions he raised on 28 March 2000 in relation to this matter.

ELECTRICITY TRANSMISSION

In reply to **Hon. P. HOLLOWAY** (28 March).

The Hon. R.I. LUCAS:

1. Will the Treasurer confirm that the government's preferred source of extra power, the National Power power station at Pelican Point, involves a cost to the taxpayer of $23.8 M?

No. It is not true that the cost to the taxpayer of the Pelican Point connection is $23.8 million.

Of the total $23.8 million of works being undertaken on electricity infrastructure in the western suburbs, $6.67 million is directly associated with the connection of the Pelican Point Power Station to the national electricity grid and this is being funded by National Power.

The allocation of costs between the power station connection and the electricity user is in accordance with the principles contained within the National Electricity Code. That is, no matter where a power station is constructed, or in which State, the same principles for connection costs apply.

Pelican Point, or any other power station or non-regulated interconnector project, obtains its return from energy market transactions. There are no guarantees of profits for these projects, unlike a regulated interconnector that will receive a guaranteed return on investment regardless of market impact. For example, the SNI (TransGrid's proposed NSW-SA interconnection) is estimated to increase Transmission Use of System (TUoS) charges to South Australian consumers by between $15 million and $20 million a year, every year for the life of the interconnect.

The total cost of the combined Pelican Point/LeFevre 275/66 kV substation augmentation project is $23.8 million. That is, the Pelican Point connection is a component of works also designed to improve the level of system security on the LeFevre Peninsula. The following is a breakdown of this amount.

With respect to the LeFevre 275/66kV substation approximately $5.65 million is associated with substation establishment, which is required to provide improved electricity supply to electricity consumers in the Adelaide Western Suburbs area.

With respect to the 275kV transmission line, the new substation is serviced by the 275 kV transmission lines that also provide a connection to the Pelican Point power station. The cost of transmission line works is approximately $7.05 million.

With respect to the Pelican Point switchyard, the 275 kV switching facility located at Pelican Point provides a connection to the LeFevre Substation as well as to the power station generators. As a result, the costs of this switching facility are shared between the Pelican Point Power Station and the electricity consumers. The cost of this switching facility is $11.1 million of which National Power will be directly responsible for around $6.67 million.

These are the estimates provided to the Public Works Committee in January 2000.

2. Will the Treasurer confirm that the joint venture referred to in the ATCO proposal involved only in-kind support from the government? What was the extent of this in-kind support requested?

The first point to repeat is that if ATCO was not requiring Government equity investment then ATCO could have proceeded with the project because the State Government has no power to stop the project.

I am advised that a number of options of the ATCO proposal were considered.

The October 1999 ElectraNet SA board papers indicated that ATCO offered ElectraNet SA the option of up to a 50 per cent equity in a possible joint venture. The papers do not refer to a request for in-kind support.

As previously advised, another option involved ElectraNet being able to delay any possible decision to take up an equity option in the project. Even under this option, the draft heads of agreement would require the Government to pay all of its pre-feasibility costs and any of the Government's prior sunk costs on technical work would not

be reimbursed and would be grossed up as an initial equity investment from the Government.

This agreement also makes it clear that ElectraNet would be severally liable for taxation costs.

Given the Labor Party's arguments on Government responsibility for connection assets for Pelican Point, it is interesting to note that ElectraNet would also be responsible for some connection assets in this project.

The Government no longer has any control over whether such projects proceed or not under the rules of the National Electricity Market (NEM). Consistent with the decision to sell the State's electricity assets, South Australian Government policy is for the private sector to bear all the financial risk of electricity projects in the NEM.

ATCO were advised by ElectraNet SA of its decision to decline the opportunity to be an equity partner in this project in late October 1999.

Contrary to claims made by Mr Holloway and others, ElectraNet SA has since continued to provide technical support to ATCO regarding the development of their proposal on a fee for service basis. (This is the same arrangement ElectraNet SA has entered into with other existing customers or potential proponents for connection to the SA transmission network).

It should be recognised that despite recent publicity to the contrary, the Government is not aware of any halt to this project, with ElectraNet SA continuing to provide technical support to ATCO on a fee for service basis, as agreed between ATCO and ElectraNet SA in December 1999.

It needs to be stated again that ATCO does not require any Government assistance to gain approval to undertake this project. Access arrangements approved under the National Electricity Code prevent a State Government halting such a project.

This project has reached the point where ATCO has now formally lodged a Connection Inquiry with ElectraNet SA. This is the first step in the National Market process for ElectraNet SA, as a Transmission Network Service Provider under the National Code, to establish a Connection Agreement with ATCO.

There is therefore no evidence that the South Australian Government stopped the ATCO proposal or has not provided the appropriate assistance under the National Code to allow ATCO to proceed with its proposal.

3. Will the Treasurer confirm that the ATCO proposal merely offered—but did not require—ElectraNet the option of purchasing up to 50 per cent equity in the line in a 'possible joint venture company"?

See answer to question 2.

4. Will the Treasurer release all documents including correspondence relating to the ATCO proposal?

The correspondence between ElectraNet SA and ATCO Power regarding the proposed hybrid interconnection proposal was subject to a confidentiality agreement between the two parties. It is considered that all ElectraNet SA documents relating to the ATCO proposal during the period of discussions are part of normal business operations and therefore remain commercial-in-confidence.

ELECTRONIC TRANSACTIONS BILL

The Hon. K.T. GRIFFIN (Minister for Consumer Affairs) obtained leave and introduced a bill for an act to facilitate electronic transactions and for other purposes. Read a first time.

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

That this bill be now read a second time.

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

Leave granted.

There can be little doubt that in recent times few technological developments have so affected the world of commerce as has the information-technology revolution. Each day the amount of business being conducted over the internet and by other electronic means grows. From humble beginnings just a few years ago, it is estimated that world wide, electronic or 'e'-commerce will account for about US$300 billion worth of business within the next few years. Some estimates predict global e-commerce will exceed US$1 trillion by 2003. In Australia alone e-commerce is expected to reach $1.3 billion in 2001.

These are truly staggering figures. Clearly the potential benefits to Australia are immense.

While e-commerce in Australia has already experienced significant growth, its development is being restrained by a lack of confidence in the legal framework applying to electronic transactions. It is with these concerns in mind that the *Electronic Transactions Bill 2000* has been developed.

The Bill is based on model legislation which either has been, or will be, enacted by all State and Territory Parliaments. The Commonwealth, which was involved in the development of this model legislation has already enacted its own Electronic Transactions Act. Both the model State and Territory Bill and the Commonwealth Act are based on provisions developed by the United Nations and which have been endorsed by a number of international jurisdictions. Electronic commerce is a global phenomenon. It therefore makes sense to standardise the rules applicable as far as possible, both nationally and internationally, just as rules for conventional international trade and commerce have been regularised.

The object of the Bill is to provide a regulatory framework that:

- recognises the importance of the information economy to the future economic and social prosperity of Australia;
- facilitates the use of electronic transactions and communications;
- promotes business and community confidence in the use of electronic transactions and communications, and
- enables business and the community to use electronic communications in their dealings with government.

The Bill is based on two fundamental principles, 'media neutrality' (or 'functional equivalence') and 'technology neutrality'. 'Media neutrality' means that, as a general proposition, transactions using paper documents should not, other than for sound policy reasons, be treated differently or have different legal effect for the purpose of satisfying legal requirements or exercising legal rights than transactions made by way of electronic communications. If two different communication media fulfil the same policy functions, then one form should not be advantaged or disadvantaged over the other.

'Technology neutrality' means that the law should remain neutral between different forms of technology and that it should not favour or discriminate between different forms of technology.

The Bill establishes the basic rule that, under the Law of South Australia, a transaction is not invalid merely because it took place by means of one or more electronic communications. It provides that, subject to certain minimum requirements concerning reliability and reasonableness, a requirement or permission imposed under a law of the State to give information in writing, to provide a signature, to produce a document, to record information or retain a document can be satisfied by means of an electronic communication. Importantly, the Bill makes it clear that the use of electronic transactions will require the prior consent of the parties. Consent may be inferred from prior conduct, or given subject to conditions.

The Bill also sets out a number of default rules for determining the time and place of the dispatch and receipt of electronic communications, provides for the attribution of an electronic communication; and provides for the making of regulations to exclude specified laws or transactions from the legislation.

In recognition of the impact of the legislation, the development of the Commonwealth Act, on which the Bill is based, followed an extensive period of public consultation. It is also the intention of this Government to ensure that business and the community be given the opportunity to consider this State's Bill. To this end I am introducing the Bill now with a view to reintroducing a Bill in the next session following further consultation and consideration during the intervening break.

I commend this Bill to the house

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

The measure will be brought into operation by proclamation.

Clause 3: Object

This clause sets out the object of the proposed Act, which is to provide a regulatory framework that—

(a) recognises the importance of the information economy to the future economic and social prosperity of Australia; and

(b) facilitates the use of electronic transactions; and

(c) promotes business and community confidence in the use of electronic transactions; and

(d) enables business and the community to use electronic communications in their dealings with government.

Clause 4: Simplified outline

This clause sets out a simplified outline of the proposed Act.

Clause 5: Interpretation

This clause defines certain words and expressions used in the proposed Act, of which the more significant are electronic communication, information, information system and transaction.

Clause 6: Crown to be bound

This clause provides that the proposed Act is to bind the Crown.

Clause 7: Validity of electronic transactions

This clause sets out a general rule to the effect that, for the purposes of a law of the State, a transaction is not invalid because it took place wholly or partly by means of one or more electronic communications. The general rule is expressed to be subject to other provisions of the proposed Act that deal with the validity of transactions. The regulations under the proposed Act are to be able to exclude the general rule in relation to specified transactions and specified laws of the State.

Clause 8: Writing

This clause provides that a person who, under a law of the State, is required or permitted to give information in writing may instead give that information by means of an electronic communication. Generally speaking, for information given by means of an electronic communication to be acceptable—

(a) it must be reasonable to expect that the information will continue to be accessible for future reference; and

(b) the recipient of the information must consent to being given information by means of an electronic communication.

Clause 9: Signatures

This clause provides that a person who, under a law of the State, is required to give a signature may instead use an alternative means of authenticating the person's identity in relation to an electronic communication of information. Generally speaking, for an alternative means of authentication to be acceptable—

(a) those means must identify the person and indicate the person's approval of the information being communicated; and

(b) those means must be as reliable as is appropriate for the purposes for which the information is communicated; and

(c) the recipient of the information must consent to the use of those means.

Clause 10: Production of document

This clause provides that a person who, under a law of the State, is required or permitted to produce a document in hard copy may instead produce the document in electronic form. Generally speaking, for an electronic document to be acceptable—

(a) the method of generating an electronic document must provide a reliable means of assuring that the integrity of the information contained in the document is maintained; and

(b) it must be reasonable to expect that the information contained in the electronic document will continue to be accessible for future reference; and

(c) the recipient of the document must consent to being given an electronic document.

Clause 11: Retention of information and documents

This clause provides that a person who, under a law of the State, is required to record information in writing, to retain a document in hard copy or to retain information the subject of an electronic communication, may record or retain the information in electronic form. Generally speaking, for an electronic form of recording or retaining information to be acceptable—

(a) it must be reasonable to expect that the information will continue to be accessible for future reference; and

(b) the method for storing the information must comply with any requirements of the regulations under the proposed Act as to the kind of data storage device on which the information is to be stored; and

(c) in the case of a document that is required to be retained—

(i) additional information as to the origin and destination of the communication, and as to the time that the electronic communication was sent and received, are to be retained; and

(ii) the method for retaining information must provide a reliable means of assuring that the integrity of the information is maintained.

Clause 12: Exemptions from this Division

This clause enables the regulations under the proposed Act to provide that the proposed Division, or a specified provision of the proposed Division, does not apply to a specified requirement, a specified permission or a specified law of the State.

Clause 13: Time and place of dispatch and receipt of electronic communications

This clause establishes default rules in relation to the time and place of dispatch and receipt of electronic communications. Generally speaking:

(a) an electronic communication is taken to have been dispatched by the person by whom it is originated when it first enters an information system outside the control of the originator; and

(b) an electronic communication is taken to have been received by the person to whom it is addressed when it enters an information system designated by the addressee for that purpose or (if no such system is designated) when it comes to the attention of the addressee; and

(c) an electronic communication is taken to have been dispatched at the place where the originator has its place of business and to have been received at the place where the addressee has its place of business.

The regulations under the proposed Act are to be able to exclude the proposed section in relation to specified electronic communications and specified laws of the State.

Clause 14: Attribution of electronic communications

This clause sets out the circumstances in which the person by whom an electronic communication purports to have been originated is bound by the communication. Generally speaking, the person is not bound by the communication unless the communication was sent by, or with the authority of, the person. The regulations under the proposed Act are to be able to exclude the proposed section in relation to specified electronic communications and specified laws of the State.

Clause 15: Regulations

This clause empowers the Governor to make regulations under the proposed Act.

The Hon. P. HOLLOWAY secured the adjournment of the debate.

LAND AGENTS (REGISTRATION) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Minister for Consumer Affairs) obtained leave and introduced a bill for an act to amend the Land Agents Act 1994. Read a first time.

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

That this bill be now read a second time.

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

Leave granted.

On 11 April 1995 the Council of Australian Governments entered into three intergovernmental agreements to facilitate the implementation of national competition policy objectives. One of these agreements was the Competition Principles Agreement. As part of its obligations under that Agreement, the Government gave an undertaking to review existing legislation that restricts competition. The Office of Consumer and Business Affairs has reviewed the *Land Agents Act 1994* ('the Act') as part of this process.

The guiding principle of competition policy is that legislation (including Acts, enactments, ordinances or regulations) should not restrict competition unless it can be demonstrated that—

- the benefits of the restriction to the community as a whole outweigh the costs; and
- the objectives of the legislation can only be achieved by restricting competition.

A Review Panel was formed to undertake this review, consisting of staff of the Office of Consumer and Business Affairs and an independent member.

Land agents and their sales representatives provide a range of services to both vendors and purchasers in relation to the sale of land and businesses and are involved directly in one of the most important and expensive transactions—the purchase of real estate or a business—that a consumer is likely to encounter.

Consumers are therefore placed at risk of significant financial loss if agents or sales representatives are incompetent, negligent or

dishonest. While complaints against land agents have been few in number, the extent of losses suffered by consumers as a result of the actions of agents or sales representatives is usually significant.

In accordance with competition policy principles, the Review Panel considered various less regulatory alternatives to the Act, including complete deregulation, self-regulation by industry bodies, co-regulation by industry bodies and government, a system of certification, and restriction of title legislation. It concluded that these alternatives are not viable for ensuring that the current level of consumer protection is maintained.

However, while the Review Panel has concluded that the retention of the Act can be justified, certain provisions of the Act cannot. The Act contains several provisions that restrict competition through the creation of structural restrictions on entry into the market.

Section 8(1)*(b)* of the Act provides that a person is not entitled to be registered as a land agent if they have ever been convicted of an offence of dishonesty. Similarly, under section 11 a land agent commits an offence if the land agent employs a sales representative who has been convicted of an offence of dishonesty. Further, a person commits an offence if that person is employed as, acts as, or holds him or herself out to be a sales representative and he or she has ever been convicted of an offence of dishonesty.

These provisions were found by the Review Panel to have a negative impact on competition through the creation of barriers to entry into the market, as they permanently preclude people from the industry, no matter what the severity of their offending or how long ago it occurred. While the Government is firmly of the view that probity requirements must remain in place in the legislation, it is acknowledged that 'an offence of dishonesty' has a broad meaning in law, and in certain cases acts to exclude people from operating in the market where the offence bears little relevance to the work of a land agent or sales representative. Such outcomes are contrary to competition policy principles and the proposed amendments in this Bill are intended to ameliorate the effects of provisions.

Clause 4 of the Bill provides that the present prohibition on convictions for offences of dishonesty is to be removed and replaced by criteria under which convictions for summary offences of dishonesty will preclude a person from obtaining or holding registration as a land agent for a period of ten years, while any convictions for the more serious class of indictable offences of dishonesty will result in permanent prohibition from registration.

Clause 5 of the Bill makes similar provision in relation to the employment of people as sales representatives and the entitlement of a person to act as a sales representative. Under clause 5, a person must not employ another as a sales representative if that other person has been convicted of an indictable offence of dishonesty at any time, or has within the period of 10 years preceding the employment been convicted of a summary offence of dishonesty. Further, a person must not act as a sales representative if they have been convicted of an indictable offence of dishonesty at any time, or have been convicted of a summary offence of dishonesty within the period of 10 years preceding their acting as a sales representative.

Clause 3 of the Bill is a minor housekeeping matter and contains a consequential amendment to the definition of 'legal practitioner' and provides that this term will have the same meaning as in the *Legal Practitioners Act 1981*. This will allow uniformity of regulation, following the amendment in 1998 of the definition of 'legal practitioner' in the *Legal Practitioners Act 1981* to include interstate legal practitioners and companies that hold practising certificates.

Since coming to office, one of the key objectives of this Government has been to undertake a comprehensive micro-economic reform program to ensure competitive market outcomes for both consumers and business. As a necessary part of this reform, it is sensible to amend legislation that imposes unnecessary and unjustifiable restriction on the market. Accordingly, the Government has accepted the conclusions and recommendations made in the Final Report of the Review Panel, and this Bill will allow the necessary amendments to be made to the *Land Agents Act 1994*.

I commend this Bill to the Honourable Members.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Amendment of s. 3—Interpretation

This clause amends the definition of 'legal practitioner' in section 3 of the principal Act. The term currently means a person admitted and enrolled as a practitioner of the Supreme Court of South Australia. This amendment extends the meaning to include companies that hold a practising certificate and interstate legal practitioners who practise in this State.

Clause 4: Amendment of s. 8—Entitlement to be registered

This clause amends section 8 of the principal Act, which deals with the entitlement to be registered as an agent under the Act. Currently a person is not entitled to be registered as an agent if he or she has been convicted of an offence of dishonesty. A body corporate is not entitled to be registered as an agent if any director of the body corporate has been convicted of an offence of dishonesty. This amendment in each case changes the restriction from not having been convicted of an offence of dishonesty to one of not having been convicted of an indictable offence of dishonesty or, during the 10 years preceding the application for registration, of a summary offence of dishonesty.

Clause 5: Amendment of s. 11—Entitlement to be sales representative

This clause amends section 11 of the principal Act, which deals with the entitlement of a person to be a sales representative. At present a person cannot be employed as or act as a sales representative if he or she has been convicted of an offence of dishonesty. This amendment changes the restriction to one preventing a person from being employed as or acting as a sales representative if he or she has been convicted of an indictable offence of dishonesty or, during the preceding 10 years, a summary offence of dishonesty.

The Hon. P. HOLLOWAY secured the adjournment of the debate.

HAIRDRESSERS (MISCELLANEOUS) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Minister for Consumer Affairs) obtained leave and introduced a bill for an act to amend the Hairdressers Act 1988. Read a first time.

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

That this bill be now read a second time.

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

Leave granted.

On 11 April 1995 the Council of Australian Governments entered into three intergovernmental agreements to facilitate the implementation of national competition policy objectives. One of these agreements was the Competition Principles Agreement. As part of its obligations under that agreement, the government gave an undertaking to review existing legislation that restricts competition. The Office of Consumer and Business Affairs has reviewed the *Hairdressers Act 1988* ("the Act") as part of this process.

The guiding principle of competition policy is that legislation (including Acts, enactments, ordinances or regulations) should not restrict competition unless it can be demonstrated that—

- the benefits of the restriction to the community as a whole outweigh the costs; and
- the objectives of the legislation can only be achieved by restricting competition.

A Review Panel consisting of staff of the Office of Consumer and Business Affairs was formed to undertake this review.

The *Hairdressers Act 1988* is a light handed regulatory scheme for the hairdressing industry in South Australia. It is a negative licensing scheme under which a person is not permitted to carry on the practice of hairdressing for fee or reward unless they hold appropriate qualifications. Practitioners are not required to lodge notification of qualifications with the Commissioner for Consumer Affairs, nor are they required to pay any licensing fees to the Commissioner. The Review Panel found that regulation of hairdressing services imposes costs on the community due to the reduction in levels of competition which regulation causes within the market.

However, in spite of these costs, the Review Panel concluded that at this point there is sufficient justification for the retention of regulation of this industry at the point of entry. The government supports this conclusion. Justification for regulation is founded on the potential risks to public health and safety inherent in hairdressing, the risk of substandard work being performed on consumers, and the risk consumers face of incurring significant transaction costs when seeking to enforce their legal rights in this market.

In accordance with competition policy principles, the Review Panel considered various less regulatory alternatives to the current legislative scheme, including complete deregulation by the repeal of the Act, self-regulation by industry bodies and co-regulation by industry bodies. It concluded that these alternatives would not ensure that consumer protection is maintained, and therefore that the Act should be retained.

However, the Review Panel concluded that the current definition of "hairdressing" is too broad and amounts to an unjustified restriction on competition, as it incorporates activities that either do not pose risks to consumers, or are not appropriately reserved solely to hairdressers. In particular, the "washing" of another's hair poses no identifiable risk to consumers that would warrant continued regulation, while the "massaging or other treatment of a person's scalp" are activities which are equally appropriately carried out by other occupations, such as massage therapists and trichologists. It should also be noted that under the current definition of hairdressing, nurses and other health care professionals who have occasion to wash patients' hair in the course of their duties are potentially in breach of the Act.

The bill therefore amends the current definition of "hairdressing" so that it does not encompass these two activities.

The Review Panel assessed the requirement to hold qualifications as presenting a significant barrier to entry in the legislation. The current competency requirements were examined in light of the identified objectives of the Act, and it was concluded that the present requirements are so onerous as to exceed those necessary to achieve the Act's objectives. Having such a high barrier to entry restricts the numbers of suppliers of hairdressing services in the market, which will result in higher prices to consumers, as well as less incentive for market incumbents to explore new, and potentially cheaper, methods of service delivery.

The bill therefore establishes a scheme whereby a person can apply to the Commissioner for Consumer Affairs to make a determination on whether that person has alternative qualifications, training or experience considered appropriate for the purpose of carrying on the practice of hairdressing. This will allow those who are not able to satisfy the qualification criteria set out in the regulations, but who are otherwise competent to carry on the practice of hairdressing without posing any risk to consumers, to legally provide their services to consumers in South Australia. An applicant has a right of appeal to the Administrative and Disciplinary Division of the District Court against a determination made by the Commissioner.

This scheme is similar to provisions included in the occupational licensing schemes within the Consumer Affairs portfolio, such as the *Building Work Contractors Act 1995* and the *Plumbers, Gasfitters and Electricians Act 1995*.

Since coming to office, one of the key objectives of this government has been to undertake a comprehensive micro-economic reform program to ensure competitive market outcomes for both consumers and business. As a necessary part of this reform, it is sensible to amend legislation that imposes unnecessary and unjustifiable restriction on the market. Accordingly, the government has accepted the conclusions and recommendations made in the Final Report of the Review Panel, and this bill will allow the necessary amendments to be made to the *Hairdressers Act 1988*.

I commend this bill to the honourable members.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal

Clause 3: Amendment of s. 4—Interpretation

The interpretation provision is to be amended by striking out the definitions of hairdressing and qualified person and substituting new definitions. The new definition of hairdressing no longer includes a reference to washing hair or massaging or other treatment of a person's scalp, but is restricted to cutting, colouring, setting, or permanent waving or other treatment of a person's hair. The new definition of qualified person includes those persons the Commissioner for Consumer Affairs determines to have appropriate qualifications, training or experience in addition to those persons who hold qualifications prescribed by regulation.

A definition of Commissioner as meaning the Commissioner for Consumer Affairs has also been inserted and the definition of unqualified person (which now has a corresponding meaning to qualified person), has been struck out. These amendments are of a drafting nature only.

Clause 4: Insertion of ss. 4A and 4B

4A. Recognition by Commissioner of a qualified person

New section 4A provides that a person may apply to the Commissioner for a determination that they have appropriate qualifications, training or experience to carry on the practice of hairdressing. In making a determination, the Commissioner may require supporting information or records from the applicant including verification by statutory declaration.

4B. Appeals

New section 4B provides that an applicant can appeal to the Administrative and Disciplinary Division of the District Court against a determination made by the Commissioner. The applicant has one month from the time in which the Commissioner provides the applicant with a written statement of the reasons for the determination in which to appeal.

The Hon. P. HOLLOWAY secured the adjournment of the debate.

CONVEYANCERS (REGISTRATION) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Minister for Consumer Affairs) obtained leave and introduced a bill for an act to amend the Conveyancers Act 1994 and to make a related amendment to the Land and Business (Sale and Conveyancing) Act 1994. Read a first time.

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

That this bill be now read a second time.

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

Leave granted.

On 11 April 1995 the Council of Australian Governments entered into three intergovernmental agreements to facilitate the implementation of national competition policy objectives. One of these agreements was the Competition Principles Agreement. As part of its obligations under that Agreement, the Government gave an undertaking to review existing legislation that restricts competition. The Office of Consumer and Business Affairs has reviewed the *Conveyancers Act 1994* ('the Act') as part of this process.

The guiding principle of competition policy is that legislation (including Acts, enactments, ordinances or regulations) should not restrict competition unless it can be demonstrated that—

- the benefits of the restriction to the community as a whole outweigh the costs; and
- the objectives of the legislation can only be achieved by restricting competition.

A Review Panel was formed to undertake this review, consisting of staff of the Office of Consumer and Business Affairs and an independent member.

The *Conveyancers Act 1994* forms an important part of the consumer protection regime put into place by this Government. It protects consumers from the risk of incompetent or dishonest conveyancers by imposing strict entry controls, mandating professional indemnity insurance, regulating and supervising the operation of trust accounts, and providing a mechanism for the removal of unsuitable persons from the market.

The Review Panel found that there are clear costs associated with restricting the provision of conveyancing services to registered conveyancers and legal practitioners. These costs arise from reduced competition in the market.

However, the Review Panel concluded that there is continuing justification for the continued regulation of conveyancers. Consumers are placed at risk of significant financial loss or disadvantage if conveyancers are incompetent, negligent or dishonest. While complaints against conveyancers have been few in number, the extent of losses suffered by consumers as a result of errors in the conveyancing of property is usually significant.

In accordance with competition policy principles, the Review Panel considered various less regulatory alternatives to the Act, including complete deregulation, self-regulation by industry bodies, co-regulation by industry bodies and government, a system of certification, and restriction of title legislation. It concluded that these alternatives are not viable for ensuring that the current level of consumer protection is maintained and that the Act should be retained.

However, while the Review Panel has concluded that the retention of the Act can be justified, certain provisions of the Act

cannot. The Act contains several provisions that restrict competition through the creation of structural restrictions on entry into the market.

Section 7(1)*(b)* of the Act provides that a person is not entitled to be registered as a conveyancer if they have ever been convicted of an offence of dishonesty. Section 7(2)*(b)*(i) is in similar terms and provides that a company is not entitled to be registered as a conveyancer if any director of the company has ever been convicted of an offence of dishonesty.

These provisions were found by the Review Panel to have a negative impact on competition through the creation of barriers to entry into the market, as they permanently preclude people from the industry, no matter what the severity of their offending or how long ago it occurred. While the Government is firmly of the view that probity requirements must remain in place in the legislation, it is acknowledged that 'an offence of dishonesty' has a broad meaning in law, and in certain cases acts to exclude people from operating in the market even where the offence bears little relevance to the work of a conveyancer. Such outcomes are contrary to competition policy principles and the proposed amendments in this Bill are intended to ameliorate the effects of the provisions.

Clause 4*(a)* of the Bill provides that the present prohibition on convictions for offences of dishonesty are to be removed and replaced by criteria under which convictions for summary offences of dishonesty will preclude a person from obtaining or holding registration as a conveyancer for a period of ten years, while any convictions for the more serious class of indictable offences of dishonesty will result in permanent prohibition from registration. Clause 4*(b)* is in similar terms and provides that a company whose director has a conviction for a summary offence of dishonesty will be precluded from obtaining or holding registration as a conveyancer for a period of ten years, while a conviction for the more serious class of indictable offences of dishonesty will continue to permanently prohibit that company from registration.

The Review also found that certain provisions of the Act relating to the regulation of incorporated conveyancers could not be justified under competition policy principles.

Section 7(3) of the Act prescribes a number of stipulations which must be contained in the memorandum and articles of association of an incorporated conveyancer, including a requirement that the sole object of the company must be to carry on business as a conveyancer, that the directors of the company must be natural persons who are themselves registered conveyancers and certain requirements in relation to the shares of the company and dealing in those shares.

Sections 10 and 11 of the Act provide that an incorporated conveyancer which does not conform with the stipulations in section 7(3) is guilty of an offence. Section 12 provides that an incorporated conveyancer must not carry on business as a conveyancer in partnership with anyone else without express approval of the Commissioner for Consumer Affairs.

The effect of sections 7(3), 10. 11 and 12 is that significant restrictions are placed on who can own and operate an incorporated conveyancer. These restrictions serve to inhibit the development of multi-disciplinary partnerships in this industry, which may offer economies of scale and flexibility of service provision for South Australian consumers.

Clause 4*(c)* of the Bill therefore provides for the repeal of section 7(3) from the Act, thereby removing the anti-competitive stipulations.

Clause 5 of the Bill provides for the repeal of sections 10, 11 and 12 and the replacement of these sections with a scheme of corporate governance for incorporated conveyancers.

Under the proposed new section 10, an incorporated conveyancer must ensure that the business is properly managed and supervised by a registered conveyancer who is a natural person. This is a similar scheme to that in place under the Land Agents Act 1994. The proposed new section 11 provides that a director of an incorporated conveyancer must not unduly influence a registered conveyancer employed by the company in relation to the performance of his or her duties.

Clause 6 of the Bill allows that failures to comply with this corporate governance scheme provide proper causes for disciplinary action.

Clause 3 of the Bill is a minor housekeeping matter and contains a consequential amendment to the definition of 'legal practitioner' and provides that this term will have the same meaning as in the *Legal Practitioners Act 1981*. This will allow uniformity of regulation, following the amendment in 1998 of the definition of 'legal practitioner' in the *Legal Practitioners Act 1981* to include interstate legal practitioners and companies that hold practising certificates.

Clause 7 of the Bill provides for a similar amendment to the *Land and Business (Sale and Conveyancing) Act 1994*.

Since coming to office, one of the key objectives of this Government has been to undertake a comprehensive micro-economic reform program to ensure competitive market outcomes for both consumers and business. As a necessary part of this reform, it is sensible to amend legislation that imposes unnecessary and unjustifiable restriction on the market. Accordingly, the Government has accepted the conclusions and recommendations made in the Final Report of the Review Panel, and this Bill will allow the necessary amendments to be made to the *Conveyancers Act 1994*.

I commend this bill to the honourable members.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Amendment of s. 3—Interpretation

This clause amends the definition of 'legal practitioner' in section 3 of the principal Act. The term currently means a person admitted and enrolled as a practitioner of the Supreme Court of South Australia. This amendment extends the meaning to include companies that hold a practising certificate and interstate legal practitioners who practise in this State. The amendment also removes the definitions of 'prescribed relative and 'spouse', which are no longer required in consequence of the repeal of section 7(3) of the principal Act by clause 4.

Clause 4: Amendment of s. 7—Entitlement to be registered

This clause amends section 7 of the principal Act, which deals with the entitlement to be registered as a conveyancer under the Act.

Currently a person is not entitled to be registered as a conveyancer if he or she has been convicted of an offence of dishonesty. A company is not entitled to be registered if any of its directions has been convicted of an offence of dishonesty. This amendment changes the restriction in each case to one of not having been convicted as an indictable offence of dishonesty or, during the 10 years preceding the application for registration, of a summary offence of dishonesty.

This clause also removes a number of other restrictions on the companies that are entitled to be registered as a conveyancer under the Act. A company is currently not entitled to be registered unless its memorandum and articles of association contain stipulations relating to the objects of the company, who can be a director of the company, who can own shares or exercise voting rights in the company and the disposal of shares in the company, amongst other things. This amendment repeals subsection (3) of section 7 to remove those restrictions.

Clause 5: Substitution of ss. 10 to 12

This clause repeals sections 10, 11 and 12 of the principal Act and substitutes new sections 10 and 11. Section 10 currently makes it an offence for a company registered as a conveyancer not to have in its memorandum and articles of association the stipulations (as to the objects of the company, share ownership, directors and so on) required by Part 2 (which includes section 7(3)) of the Act. Section 11 makes it an offence to alter the memorandum or articles of association of a company so that they cease to comply with the requirements of Part 2. Section 12 prohibits a company that is a registered conveyancer from carrying on business in partnership with another person without the prior approval of the Commissioner. The maximum penalty for each of these offences is a fine of $20 000.

This clause repeals those offences and substitutes two new offences. New section 10 requires a company that is a registered conveyancer to ensure that the company's business as a conveyancer is properly managed and supervised by a registered conveyancer who is a natural person. New section 11 provides that if a director or manager of a company that is a registered conveyancer gives directions that result in a registered conveyancer employed by the company acting unlawfully, improperly, negligently or unfairly in relation to the preparation of conveyancing instruments, the company and the director or manager are each guilty of an offence. The maximum penalty for a breach of new section 10 or 11 is a fine of $20 000.

Clause 6: Amendment of s. 45—Cause for disciplinary action

This clause amends section 45 of the principal Act, which sets out the circumstances in which there is proper cause for disciplinary action against a conveyancer. In addition to the existing grounds for disciplinary action, this amendment provides that there is proper cause for such action if—

(ca) in the case of a conveyancer who has been employed or engaged to manage and supervise the business of a company that is a registered conveyancer—the conveyancer or any other person has acted unlawfully, improperly, negligently or unfairly in the course of managing or supervising, or being employed or otherwise engaged in, that business; or

(cb) a director or manager of a company that is a registered conveyancer has been convicted of an offence against new section 11.

Clause 7: Related amendment of Land and Business (Sale and Conveyancing) Act 1994

This clause makes a related amendment to the definition of 'legal practitioner' in the *Land and Business (Sale and Conveyancing) Act 1994*. In section 3 of that Act a legal practitioner currently means a person admitted and enrolled as a practitioner of the Supreme Court of South Australia. This amendment extends that meaning to include companies that hold a practising certificate and interstate legal practitioners who practise in this State.

The Hon. P. HOLLOWAY secured the adjournment of the debate.

ELECTRICITY (PRICING ORDER AND CROSS-OWNERSHIP) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 29 June. Page 1392.)

The Hon. P. HOLLOWAY: Bills have come before this parliament before to address drafting errors in legislation or in proclamations and I am sure that such bills will come before us again. But never in the history of this state has any faulty document cost so much to prepare as this one. The electricity sale process that has been conducted by the government has been characterised by enormous consultancy costs. Nearly $90 million has so far been spent on consultants associated with the sale of our electricity assets.

The error that this bill seeks to correct is in the electricity pricing order, which is central to the whole sale process. It is the document by which the bidders for the electricity assets that have been put on a long-term lease by this government determine their income. One would think that the electricity pricing order would have been checked, double checked and triple checked by those very expensive consultants who prepared the document. As I said, it is central to the sale process.

The electricity pricing order was set in the sale legislation that we passed. It was set in legislation to be inviolate. It is like the Ten Commandments: it was not to be amended. The very reason that we have to bring this order before parliament to be corrected is because an error was made in it, but it was not meant to be corrected. It was meant to provide certainty to the bidders for our electricity asset. If ever there was a document that should not have had any errors in it, given that it came out of a $90 million consulting effort, it should have been this one. Sadly, that is not the case.

It is not just a case of there being one error in the document, because there are a number of them. Worse than that, this bill is about correcting yet another botch, another glitch, in a saga of errors in the ETSA sale process. The errors in this electricity pricing order are substantial indeed. The major error could have cost one of the electricity entities that has been leased on a long term basis from the state $20 million. Other mistakes could have cost $8 million to $10 million.

The Hon. T.G. Cameron: They are happy.

The Hon. P. HOLLOWAY: They will certainly be happy if the error is corrected, I guess. What else would they say? It is a bit like Mandy Rice-Davies in the Profumo royal commission saying, 'Well they would say that, wouldn't they, Mr Commissioner.'

The Hon. T.G. Cameron: Are you going to support it?

The Hon. P. HOLLOWAY: Yes, we will support it for reasons I will outline in moment, because it would be silly and detrimental to the state's interests not to do that, but this opportunity must be taken to point out that it is inexcusable that the errors occurred in the first place, particularly given that so much of taxpayers' money has been spent in the preparation of faulty documents. That is all the more so because the mistakes made in the document, contrary to what is being suggested, were not particularly complex. The major fault, this $20 million fault, was actually the omission of a CPI factor in one term. That is hardly the sort of error one would expect in a document of this nature and of this importance. If someone in a year 12 economics exam admitted this sort of thing, they would lose marks for it.

I will have more to say about the errors in the sale bill in a moment: I want to say a little more about this saga of errors that has been made in the ETSA sale process, because the Treasurer has form on this issue. It has been one botch after another from the day that the government first announced the electricity sale. It seems as though almost anything that the Olsen government has had to do with privatisation since it came into office has been mishandled.

We could go through the Modbury Hospital contract; the SA Water contract—remember all the botches there with the late lodgement of bids. In the EDS contract, certain undertakings were given and it was to and fro for years. Originally, this government was going to contract with IBM, if I recall correctly. There have been numerous mistakes. I have not gone into any detail about Modbury Hospital, but I think that all of us are aware of what a shemozzle that has been.

In fact, I think we could say that probably the only thing this government got right during the whole privatisation process was to take it out of the hands of the Minister for Government Enterprises, the Hon. Michael Armitage. Given the total mess that he has made of other privatisations, such as Modbury Hospital, the TAB sale, the Lotteries Commission and the ports sale, taking it out of his hands is about the only thing the government has got right in the past few years.

If we turn specifically to the sale of ETSA and the mistakes that have been made, it is important to recall what happened last year after the legislation had been passed and the bid process was under way. The Auditor-General of this state saw fit to release a supplementary report in relation to the sale process. Clearly, he was greatly distressed by many of the things he saw in the conduct of that process. Thankfully, because of the Auditor-General's intervention, a number of changes were made to the sale process that could well have saved this state from costly litigation and could have saved us from a number of other potential mistakes.

It is worth recording this, because on the issue of the privatisation process this government has form. One of the first issues that the Auditor-General drew attention to was the shemozzle we had with the appointment of the Probity Auditor; that in fact we did not have a Probity Auditor for some time, because no sooner had the bidding process started than the Probity Auditor who had been first appointed discovered he had a conflict of interest and had to resign. For several weeks we had a problem getting a replacement Probity Auditor.

Of course, we knew nothing about that. The Treasurer did not tell us that at the time. That only came out when the Auditor-General produced his report to this parliament, which

was tabled on 28 October last year. The Auditor-General expressed a number of other concerns in the report that he produced in October last year. In fact, something like 48 pages in this report list specific concerns.

So serious were the concerns expressed by the Auditor-General that he appeared before the Economic and Finance Committee. I would like to quote from the transcript of part of that evidence, because I believe that it is pertinent to the issues before us today. We can understand why we have reached the current position. The first point that the Auditor-General made in open session was the following:

> At the moment, the process is such that if as Auditor-General I identify a concern that I believe could be seriously prejudicial to the interests of the state, I need some mechanism to be able to communicate that and not be locked into some sort of conspiracy of silence which locks me into not being able to say anything.

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: He went on:

> . . . I have concerns about the adequacy of the process and that, if it were to continue down the road it is continuing now—

The Hon. T.G. Cameron: Megalomania's always hard to deal with.

The Hon. P. HOLLOWAY: —I think the outcome could be prejudicial to the interests of the state.

The Hon. T.G. Cameron: Recognise my interjection: I want to get that on the record!

The Hon. P. HOLLOWAY: I am very happy to have the Hon. Terry Cameron's interjection on the record.

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): The Hon. Mr Holloway ought to ignore the interjection.

The Hon. P. HOLLOWAY: I was intending to refer to his interjection in a moment, at a more appropriate time. First, I want to refer to these words of Mr MacPherson to the Economic and Finance Committee last year, as follows:

> . . . I have concerns about the adequacy of the process and that, if it were to continue down the road it is continuing now, I think the outcome could be prejudicial to the interests of the state.

He went on in an in camera session to elaborate on that. Subsequently, much of that information was publicly released. There is a significant point here, which goes to the Hon. Terry Cameron's interjection. Mr MacPherson said:

> I would have thought that, from the point of view of the interests of the state, it was critical to understand what were the business plans of a successful proponent or proponents in general. Without an understanding of the business plans of those proponents you could not make an assessment of how they will manage our electricity assets into the future, particularly when we are looking at a term of 25 years. . . There is a further issue. . . The way the control structure is being managed is through a series of committees. That very significantly dilutes the accountability of people who are advisers—people who are being paid very considerable sums of money to provide professional advice. By having that advice communicated through a committee-type structure it is virtually impossible to attribute accountability with respect to a particular course of action that might be taken. That may mean the government has no redress in the event that a course it takes turns out to be seriously flawed.

Then he was questioned about this by members of the committee, and my colleague Trish White asked:

> Are you saying that, because we have advice coming from a series of committees, if something goes wrong and bad advice is given by the advisers somewhere down the track, we may not be able to prove that they were responsible for bad advice and therefore they will not be liable? So, even though they are getting success fees, there is no counter to that, if we may not be able to trace accountability back to them if something goes wrong?

The Auditor-General replied:

> The lead advisers are the two merchant banks—that is, Morgan Stanley and Pacific Road—and there is a whole array of legal advisers, including Allen Allen and Hemsley and several others. We say that, if you are doing it on this distributive basis, there must be some capacity to know who is giving what advice, whether that advice was followed and, if that advice was flawed, there is some accountability for it.

That was on 10 November last, when the Auditor-General was clearly saying that, if something goes wrong in this, we are paying these people millions of dollars: $90 million so far, and there is more to come; we still have significant sales yet to go. There will be success fees and other fees on top of that. So, it is a considerable amount of money. What the Auditor-General was pointing out before the sale process was finalised was that we should get the processes such that everyone is accountable for which piece of advice they give so that, if something goes wrong, as we have now had in relation to this electricity pricing order, we can trace it back.

We can say that that mistake was made by so and so. I suspect that that is one of the reasons why at this time, when such a serious mistake has been made, the government is not taking action against those responsible for it. Basically, this structure has so diluted responsibility that it will not be able to lay the finger on where the mistake was made. If that piece of advice of the Auditor-General had been taken, perhaps there would have been some accountability in relation to this error.

In the past, the Treasurer has shown that he is quite happy to attack consultants under parliamentary privilege when it suited his purpose. The classic case is Danny Price, whom he has attacked on a number of occasions because he did the original report on the Riverlink project. The Treasurer even went to the point of bringing up some legal action and, under parliamentary privilege, repeated some of the allegations that have been made before the court. It is my understanding that that case was subsequently dropped. It was one of those cases one gets from time to time when partnerships dissolve, and legal action is sometimes used to resolve issues. They generally settle out of court, as I gather this one was. The point is, whatever might be said about Danny Price—and I have no particular reason to defend or attack Danny Price—I have never heard anyone suggest that there were material mistakes in the calculations that were made—

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: We will see. If there have been mistakes, let the Treasurer put them on the record. He has been prepared to malign individual consultants under parliamentary privilege. He has been prepared to attack—

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: The initial criticisms that this Treasurer made of Danny Price and London Economics and those involved with Riverlink were completely unprovoked.

The Hon. R.I. Lucas: They were in response.

The Hon. P. HOLLOWAY: They were completely unprovoked.

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: The Treasurer is quite entitled to dispute the views that might be put up by specific consultants, but to drag up some court case (which was a very spurious matter, anyway) to try to malign a particular consultant is rather reprehensible. What happens when a mistake which could cost one of the proponents $20 million has been made and which requires this parliament's intervention to correct? Incidentally, this government has claimed that this mistake is costless to consumers. When this opposition has asked questions in the past trying to get information from

government, it cannot get that information. There is no accountability from this government. This is the least accountable government this state has ever seen by a huge margin.

The Hon. T.G. Cameron: What about the last Bannon government?

The Hon. P. HOLLOWAY: The Bannon government during estimates committees had every minister present—13 of them all day. Answers were supplied to questions taken on notice within 12 days. All the forms and conventions of parliament for the past 100 years were observed. This government breaks them nearly every day.

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: The Hon. Terry Cameron, because he is in coalition with the Liberal government, gets the information. Look, Terry, you get all this information: they tell you these things. However, the point is that it is not you who represents the people of South Australia. You are just one of the members of this place: there is an opposition in this parliament, other members and the Democrats. If we are to have true democracy in this chamber, everyone has to be informed about these things, but the standards of this parliament are rotten—they are absolutely rotten—

The Hon. T.G. Cameron: I only get what I ask for.

The Hon. P. HOLLOWAY: That is true. Terry Cameron gets what he asks for—because they want his vote, they tell him anything he wants to know—

The Hon. T.G. Cameron: You've got to ask for it. You don't ask for it.

The Hon. P. HOLLOWAY: We asked for it during the estimates committees. We asked dozens of questions. Five months later the opposition was told, 'Look these questions are far too expensive to answer'. The point I return to is: how much has it cost the taxpayers over the past three months or four months since these errors were first discovered to fix up this mistake? How many hours have been spent by public servants and others, by Crown Law—

The Hon. Sandra Kanck interjecting:

The Hon. P. HOLLOWAY: Yes, you are. How much has it cost? If it cost $70 000 for the opposition to get one answer in relation to how many phones are used by public servants, how much would it have cost in time for public servants to repair this problem? It would be substantial. That is one point that I make along the way. Returning to the bill, four substantial mistakes were made in the pricing order, and I will go through each of those. During the committee stage of the bill, I will ask the Treasurer a number of questions about this matter, because it is important that we record how these mistakes were made, who made them, when they were made and what accountability the people of this state will get to ensure that they are not made again, and that those who made the mistakes are held responsible. However, they will be matters, which, amongst others, I will raise during the committee stage.

I refer to the Treasurer's second reading explanation. Of course, the bill is a very simple piece of legislation. It simply says that the electricity pricing order that was brought down on 11 October last year will be amended by an order that was gazetted last week. The bill simply gives the force of the law to that new gazetted notice with the corrections in it. It is a very simple piece of legislation, but the mistakes behind it are considerable. In his explanation the Treasurer says:

> Four material inconsistencies have recently been identified in the electricity pricing order. Three of these inconsistencies relate to the determination of the maximum revenue allowed to be earned by ElectraNet SA and ETSA Utilities and one relates to the regulation of public lighting tariffs.
>
> The first three inconsistencies—

they are called—

> are contained within complex mathematical formulae.

I must say, I have seen a lot more complex mathematical formula in my life than the particular one where the CPI factor was left out. The Treasurer continues:

> They are, in fact, unintended consequences of those formulae.

What the Treasurer really means is that they are elementary, basic errors. As I said before, errors that most students in a year 12 economics class would not make—and they do not get paid the salaries that the people responsible for these mistakes have been paid. Further, the Treasurer says:

> And it has been identified that they mean our electricity pricing order cannot deliver its intent.

That is, it is wrong. This is a $20 million document. That is what the Treasurer really meant. He then continues—and here is a quaint description—

> These changes are required to allow the electricity pricing order to deliver what was promised and what was intended.

In other words, the changes are to correct a big mistake, a basic and elementary mistake for which taxpayers have paid many millions of dollars. The Treasurer further says:

> We are only seeking to ensure that it operates as originally intended—no more, no less.

In other words, we are correcting a $20 million mistake. The Treasurer says:

> Also, a small number of inconsistencies of a minor or typographical nature have also been identified.

The major mistake related to the formula under which the returns are set for the electricity distribution company. The formula for the maximum revenue that that entity can earn was set under a particular formula. The CPI adjustment was simply left out of that formula. It would have meant that that company in the 2000-01 financial year would have been able to earn less than it otherwise would have been entitled to earn and, if that CPI adjustment had been included, it would have been able to earn about $20 million more. That is where the mistake was made.

We are told that this mistake would have been at the expense of the electricity retail company: in other words, while the electricity distributor would have had its income pegged by $20 million, that benefit would have gone to the retailing company AGL. That raises some interesting points, and I will pursue that matter further during the committee stage. In December last year both the electricity distribution company and the ETSA retail company were sold to CKI Hong Kong Electric. Subsequently, about a month later, the electricity retail business was sold for $175 million to AGL. The transaction to sell the electricity retail entity AGL took place after the government had itself sold or leased—it means much the same thing when one is talking about 200 years. The sale took place in December and the retail business was on-sold sometime later.

That raises the question as to what information was available to AGL at the time, given that the government itself was not involved in the sale. Or, perhaps the question that needs to be asked—and we will pursue it in committee—is: 'What was the role of the government when ETSA Power was on-sold to AGL?' We will pursue those matters during committee. The first mistake would have resulted in a

windfall gain to AGL at the expense of CKI Hong Kong Electric.

The second mistake concerned a correction factor. Again, it was a simple mathematical error. A formula was added for CPI indexation: it was expressed as 1 + i, where 'i' was supposed to be the relevant CPI index. Normally it would be about 2 per cent: one would expect it to be 0.02, so the correction factor would be multiplied by 1 plus 0.02 or 0.03, which means that it would be increased by 1.03. However, the CPI indexation was defined as a ratio of CPI indexes—that is the way it is normally done—and that ratio is greater than 1. So, if you add 1 to it, you are effectively doubling the factor that relates to indexation. That clearly was another basic mistake in the electricity pricing order.

A related mistake concerned the formula for fixing the income that could be earned by ElectraNet (the electricity transmission entity), which has not yet been sold. It is clear that, unless we correct the error—and that is the main reason why we need to pass the bill—the new owner of ElectraNet could have its income cut by some $8 million to $10 million. Undoubtedly, that would flow through to the price, and the taxpayers of the state would be worse off by that amount. Clearly, the state would be significantly disadvantaged unless that is corrected. I will ask the Treasurer some questions in committee as to the impact that error, in relation to ElectraNet, might have had on other electricity entities—if any. There were basically three mistakes and a wrong formula inserted. One would have thought that the checking process of such an important document would have uncovered them.

The fourth major error related to street lighting. There was a mistake in the definitions which, if not corrected, would have meant that it was possible for the electricity company to charge local government twice for the maintenance costs of street lighting. It has been put to us that that error could have been corrected, along with the K factor error that I mentioned earlier. It has been suggested that the Independent Industry Regulator might have been able to get around those errors through other means. The Independent Industry Regulator does have other powers of regulation and could have brought other controls to bear to offset those errors, had they gone through. I think the two significant errors that could not have been corrected are the ones that would have given the windfall gain to AGL at the expense of Hong Kong Electric, and that would have had an impact on the future sale price of ElectraNet.

One could argue that the arrangement between Hong Kong Electric and AGL was a commercial contract and that there were two parties to that contract. One could argue the caveat emptor defence (buyer beware)—that the companies knew what they were getting into and therefore it is not necessary for the state to correct it.

What is really at stake here is the state's reputation. Given that undertakings were made, even if the due diligence of the companies that were checking that error was not adequate, I guess it would leave a very bad taste in the mouth of at least one of those parties if it were to pay such a significant price as $20 million because of a mistake in the formula. I think, in terms of protecting this state's reputation, we need to correct that, if for no other reason.

In relation to the ElectraNet error, again the sale price of that entity could be affected to the state's detriment to the tune of $8 million to $10 million, and that is a very compelling reason for correcting the error. That is why we will be doing so later when we get the answers from the Treasurer that we would like.

The Hon. Angus Redford, when we first raised this matter in the parliament last week, by way of interjection said, 'We are all responsible for this error. In fact, parliament should have picked up these mistakes.' All that the legislation that went through did was enable the Treasurer to implement an electricity pricing order. The legislation said that the electricity pricing order was not to be altered once it was fixed, and that date was 11 October last year, when the electricity pricing order was fixed. There was no way that the parliament at the time when it passed the enabling legislation had available to it the electricity pricing order. I think it is nonsense to suggest that in some way this parliament should take collective responsibility for this mistake. Clearly, it was those who were responsible for drawing up the electricity pricing order.

The Treasurer ultimately signed off on that, and he has to take the final responsibility for it. Perhaps the sad thing is that, because of the deficiencies in the process which I mentioned earlier and which the Auditor-General had pointed out back in November last year, it is impossible, it appears, to identify accurately just who was responsible for those mistakes. One could only hope that, when ElectraNet is sold and that process is completed in a few months, this government will have corrected that fault and that the consultants will sign off on the work they do so that, if there are further mistakes, they can be held accountable for them.

As I indicated, there are a number of other questions we will be raising during the committee stage. At this stage, the opposition will support the passage of the legislation. It is in the state's interests that we correct it, but it is also in the state's interests that those responsible for this mistake should bear the cost and responsibility for it.

The Hon. SANDRA KANCK: I begin by making clear that, while the Democrats maintain their opposition to the sale of our electricity assets—

The Hon. T.G. Cameron: It's a lease.

The Hon. SANDRA KANCK: Sale, lease—everybody knows that there is no difference in reality. We do not have the luxury of opposing the bill. If we do not allow this bill through, South Australia will get a lower price for the transmission assets: clearly, the government is determined to go down its fire sale path, and we cannot afford to lower the price any further.

The Hon. T.G. Cameron: Is that a concession that you have already lowered the price?

The Hon. SANDRA KANCK: No.

Members interjecting:

The Hon. SANDRA KANCK: No, I have not—

The Hon. T.G. Cameron interjecting:

The PRESIDENT: Order, the Hon. Terry Cameron!

The Hon. SANDRA KANCK: No, I have not lowered the price. In fact, if you listened—

The Hon. T.G. Cameron interjecting:

The PRESIDENT: Order! The Hon. Terry Cameron will come to order.

The Hon. A.J. Redford interjecting:

The PRESIDENT: And the Hon. Angus Redford.

The Hon. SANDRA KANCK: If you had heard people with knowledge on this speak you would know that they have said that there is no way that you could say that the delay would make any difference to the price. The reason we are having a fire sale is the mentality of this government. I am concerned about a number of things about this sale process that I would like to revisit while we have the opportunity, and

one of those is the value for money for the consultants. I remind members that for $90 million for the consultants we have had here in South Australia we have currently got less than $4 billion return, and we might be scraping $5 billion when it is finished.

By comparison, in Victoria for a $93.7 million outlay they got back $21.7 billion. We have simply not got good value for money. That is very well demonstrated by the sale price we got for Synergen, which is basically just a gift to the private sector. The peak load power stations that make up Synergen—Dry Creek, Mintaro, Snuggery and Port Lincoln—generate power usually during the very hot days of summer or in emergency situations. For the rest of the year they are basically not operating and need very little maintenance. They take only minutes to start up and begin generating, and that can probably be done at a distance anyhow. So on most occasions they are generating at the current maximum permissible price of $5 000 per megawatt hour, which means that they almost have a licence to print money.

So it is interesting to reflect that for such a lucrative asset the government got just $39 million. When you compare that with the $11.8 million profit—not throughput, but profit—that Synergen made in the last financial year alone, you can see that, if we had kept that in our control, in four years we would have more than made up for the money that we have achieved on that price. With close to 90 per cent of our electricity assets sold, it is looking like the entire system will sell below $5 billion, which means that, because of the income stream that has been forgone by the state, effectively, South Australia will be behind on the deal from day one.

This situation has been exacerbated by the news just last week that the ACCC has issued a draft determination that permits the maximum price of electricity to be raised from the current $5 000 per megawatt hour to $20 000 per megawatt hour. Because we have a very tight supply and demand situation in South Australia, there is every likelihood that on occasions next summer we will hit that $20 000 pool price. That means that businesses that are buying electricity from the pool face the possibility of being very badly stung in the event of very high demand or the breakdown of one of the generators. Small consumers are temporarily protected from these sorts of prices, but when all consumers are contestable in a few years everyone will be vulnerable to those prices. The real winners from this decision will be National Power. That is the company that purchased Synergen for that very low price of $39 million.

The Hon. Nick Xenophon interjecting:

The Hon. SANDRA KANCK: Absolutely, and I was going to get on to that when we got to the cross-ownership provisions in fact. They are in a position, particularly with return on the assets from Synergen, to virtually quadruple their profits, and I think this casts further doubt on the advice that the state government has received from its advisers, because they must have known that this price increase was on the way. I certainly knew it was and in those circumstances I find it reprehensible that they recommended to the government that they accept a low price of $39 million.

In addressing the bill I want to talk particularly about the Electricity Pricing Order, or the EPO, and the cross-ownership provisions. I am concerned that the EPO will ultimately result in higher prices to the consumer as a result of regulatory gaming. I note in the Treasurer's explanation that he recognises that such gaming is occurring when he says that ETSA utilities:

> . . . may be able to offset some of this reduced revenue by 'gaming' the correction factors. . . so as to take advantage of the inconsistency in the calculation of the 'k' corrections factors and thereby earn more revenue than was intended by the electricity pricing order.

If they are able to make up revenue by this method someone must be paying for it, and obviously it must be the electricity consumer. Victoria had the same formulas with the same 'k' factors we now have, and I believe that, in fact, they may have been prepared by the same consultants that have done the work here for the government. The revenue obtained in this way in Victoria was so high that their independent regulator removed the 'k' factor, and revenue to Victorian distributors has been reduced by between 15.9 per cent and 20.6 per cent in the first year.

Our EPO has been set in place by the same closed government processes that were used in Victoria, so why are we following the path that Victoria trod, a path that clearly resulted in higher prices to consumers? Businesses in South Australia already believe they were sold a pup with the National Electricity Market which has not resulted in the lower prices they believed would follow. I wonder whether they are aware that this EPO could result in still higher prices.

While the retailers of electricity might be squeezed for a short period of time under this EPO, it appears that the prospect of regulatory gaming will expose consumers to higher prices over time. Annual correction factors have just been abandoned in Victoria, so I ask the Treasurer: to what extent does he believe that his amendments will remove the ability for regulatory gaming? I also understand that our EPO was initially examined by the ACCC and I would like to know, therefore, whether the government has discussed these variations to the EPO with the ACCC. If it has not, what guarantee does the government have that the ACCC will accept these amendments?

I responded to an interjection earlier from the Hon. Nick Xenophon about the market power that now exists in generation because of the sell-off of Synergen to National Power, and I have to observe that that sell-off has really made a mockery of national competition policy, and the required disaggregation of the electricity industry. National Power will be generating base load power via its Pelican Point power station and peak load power through Synergen during times of maximum demand. Back in 1996 when parliament debated the bills for both competition policy and the National Electricity Market we were told that we had no choice but to split up our one electricity utility into its component parts of generation, transmission, distribution and retail.

In the longer term the government argued that we had to split up the generation assets into three parts based on base load, medium load and peak load. The argument was that leaving the generation assets together would give too much market power to the one public owner. Well, hello? What happened when National Power took over Synergen? We were told then we could not receive our competition policy payments unless such a division occurred. So, how is it that this concentration of power was not okay when it was in public ownership and yet it is okay to begin reconcentrating that power under private ownership? How is it that the state was at risk of not being paid its competition policy payments from the federal government if we did not make this split at that time, yet the federal government and the ACCC will apparently not see fit to impose any sort of penalty for reaggregation of some aspects of generation?

This inconsistency, of course, reveals what was at the heart of all the pressures for state governments to become paid up members of the competition policy club and to split up their state-based electricity industries. Always and ultimately it was about creating the excuse to sell off publicly owned assets and to give more power to the private sector. I wonder why the cross-ownership provisions that we have in our electricity act do not apply in this case.

The word 'consultant' is interesting. I do not know how many people do their own typing in this place but often when you type the word consultant the 'l' and the 'u' are transposed and the word becomes 'conslutant'. I have a very dear friend who has just moved from the public to the private sector and he is honest enough to describe himself as a 'conslutant'. He says 'I am going off to 'conslut'.

Whether or not you see these people as being 'conslutants' or consultants there is no doubt that they have stuffed up. Thank goodness we had a competent public servant to find the mistake. Thank goodness that we still have diligent public servants. The mess that we will attempt to fix by this legislation is surely a salutary lesson to the government to not place all its faith in the private sector and consultants.

The Hon. NICK XENOPHON: I indicate at the outset that I support the second reading of this bill and, indeed, the expeditious passage of this bill given the issues at stake. I indicated privately to the Treasurer that, if I took a leaf out of his book earlier today and were as relevant now as he was with respect to the casino amendment bill, I could talk for a couple hours. However, I will not take a leaf out of his book in terms of prolixity, irrelevance and repetition and instead—

The Hon. A.J. Redford: Is this your long-winded way of saying that you'll be brief?

The Hon. NICK XENOPHON: Don't provoke me or we will be here all night; keep quiet! I endorse the thrust of what was said by the Hon. Paul Holloway and the Hon. Sandra Kanck, although I do not endorse the remarks with respect to the wordplay with 'consultants'. I do not think—

The Hon. Sandra Kanck: You obviously don't do your own typing.

The Hon. NICK XENOPHON: I am not dyslectic. In relation to the issues at stake, I indicate that I was going to move an amendment that would have required the Treasurer to do the following:

> Take all reasonable steps to pursue an action available at law against the independent contractors involved in the preparation of the electricity pricing order for loss resulting from errors contained in that order.

The amendment further states:

> For the purposes of any such action any exclusion or limitation (or purported exclusion or limitation) of liability of the independent contractors is taken to be, and to always have been, void.

I subsequently notified the Auditor-General with respect to that amendment and he responded following a select committee meeting earlier this week. He indicated to me that he thought the amendment was inappropriate in that it could have led to a considerable amount of litigation between the various parties and would have been counter productive. That certainly was not the intention. I think the Treasurer ought to be put on notice that I think many in the community find it unacceptable that this error was made. It has been made and has to be rectified but, in terms of the costs involved and in terms of the costs to the community and the state, these are issues which I believe are matters of public importance. I do not see any useful purpose in going through the particular errors made. They have been made and must be rectified expeditiously.

I think it is important, however, that once this piece of legislation is passed that the rest of the sale process proceed—notwithstanding my opposition to the privatisation process. In the absence of the people of South Australia having a direct say in this, I think it is important that we get on with it. I think it is also important that, once the sale process is over, and given the remarks of the opposition and the Treasurer, there ought to be a select committee to look into the electricity industry in the state and its competitive framework so that we can sort out where we stand on that, given the Business Council of Australia's recent report that indicates that South Australians have missed out on the benefits of a competitive market.

With respect to the comments made by the Hon. Sandra Kanck about National Power and its quite considerable market power as a result of its purchase of Synergen, I think taxpayers and other consumers of electricity in this state will regard Pelican Point as Albatross Point in years to come with respect to the price that consumers will be paying for electricity. It would be amusing if it were not so tragic in terms of the continual attacks on Danny Price who seems to have some svengali like influence over me—and it should be noted for the record that the Treasurer is smirking.

The Hon. R.I. Lucas: I'm smiling.

The Hon. R.R. Roberts: Snidely smirking!

The Hon. NICK XENOPHON: Snidely smirking, the Hon. Ron Roberts said. However, I think it is unfortunate that the Treasurer has used parliamentary privilege to undertake a number of quite vicious personal attacks on Danny Price. It seems that he is not prepared to say those things outside the Council, and I do not think you need speculate for too long as to why that is the case.

I think it is important that, at the end of this process, once these errors are sorted out and the government can proceed with the rest of the sale process, we do have an analysis, given the Treasurer's previous indication that he will not stand in the way of a select committee inquiry into the electricity industry and the competitive framework. These are issues that must be addressed, given the concerns expressed in the BCA report and by local businesses about the cost of power, especially for our manufacturing industries. If we do not get that competitive framework right, it will mean more and more jobs will leave the state and fewer and fewer manufacturing industries will want to set up in South Australia. If we do not get it right, the consequences for the future of jobs in this state could be quite disastrous. Under the circumstances, I support the expeditious passage of the bill.

The Hon. R.I. LUCAS (Treasurer): I thank honourable members for their contribution. I will endeavour to respond quickly to as many of the issues as I can, but we will obviously have the opportunity in the committee stage to address the other issues in detail. I will work backwards from the most recent issues that were raised. In respect of the Hon. Mr Xenophon's issues in relation to Mr Price, I indicate that in my 20 years in parliament most people would acknowledge that I am slow to stir in terms of responding. It is certainly not correct, as the Hon. Mr Holloway indicated, that my responses to Mr Price have been unprovoked. The responses I have made to and about Mr Price have been made in public forum and public session.

An honourable member interjecting:

The Hon. R.I. LUCAS: I have done it outside the chamber. The Hon. Mr Xenophon can advise Mr Price that I am happily and willingly on the public record in respect of my views about Mr Price, his accuracy and a number of other issues. I do not limit my comments about Mr Price to this chamber.

The Hon. A.J. Redford: It would be good if Mr Price were a plaintiff in court proceedings.

The Hon. R.I. LUCAS: Well, it would. I am slow to stir in relation to these issues but if provoked, as I have been by Mr Price over some considerable period of time, I made a judgment that Mr Price deserved to be responded to in kind, and that has occurred. If he is feeling the pressure and the heat, so be it. It is not of my choosing that I would limit any of my responses to Mr Price to the parliament—

The Hon. Nick Xenophon: Are you saying that he is a useless consultant?

The Hon. R.I. LUCAS: I do not know whether or not I have ever said he is useless. I just said that he has made significant errors in a number of areas, and that is where I disagree with the Hon. Mr Holloway. If I had a considerable period of time—and I will not take up the time today—I would be happy to refresh the Hon. Mr Holloway's memory in relation to some of the significant issues of error that Mr Price has made in terms of his advice. I am not going to be diverted by those issues.

The Hon. Sandra Kanck raised a series of issues. Speaking as kindly as I can about the Hon. Sandra Kanck, I found her logic as confused as ever in relation to this issue. I highlight one instance. She talked about the notion of National Power purchasing Synergen as being a re-aggregation of the electricity industry. I remind the honourable member that she originally held the view—as did her party—that we should not have split up Optima.

The Hon. Sandra Kanck: That was when it was in public ownership.

The Hon. R.I. LUCAS: The honourable member concedes that that was her view: that is, she wanted to keep a single aggregated Optima, a monopoly government electricity supply here in South Australia. The government has split Optima into three competing generators—Flinders, Optima and Synergen. We still have three disaggregated generators—Flinders, Optima and Synergen—amalgamated with a new private sector competitor in National Power. The honourable member said, 'Hello? What is happening in relation to disaggregation?' I might return the favour to the honourable member. If she compares her preferred policy, which is a monopoly generator in South Australia—

The Hon. Sandra Kanck: Publicly owned.

The Hon. R.I. LUCAS: It does not matter who owns it: it is still a monopoly.

The Hon. Sandra Kanck: It makes a whole lot of difference.

The Hon. R.I. LUCAS: It is still a monopoly generator with enormous market power.

The Hon. Sandra Kanck interjecting:

The Hon. R.I. LUCAS: Well, it is different power. If the state owns it, it is okay. If it is private sector owned, it is not okay. To think that one has a competitive market—

Members interjecting:

The PRESIDENT: Order, the Hon. Mr Redford—for the third time! There is only one member on his feet.

The Hon. R.I. LUCAS: To think that you could have a competitive market with a monopoly generator, as the Hon. Sandra Kanck has suggested, is delusional. No-one as an observer of the national electricity competitive market in South Australia could support a view that a monopoly-owned generator dominating the market in South Australia—as Optima would have done—with no significant competition could deliver benefits to consumers and customers here in South Australia. To continue—

An honourable member interjecting:

The Hon. R.I. LUCAS: The DCA does not support that view.

The Hon. P. Holloway: It says it is happening now.

The Hon. R.I. LUCAS: But it does not support the view that the solution is to go back to a monopoly generator.

The Hon. Sandra Kanck: That is the way we are heading now.

The Hon. R.I. LUCAS: We are not heading back that way. We disaggregated into three competing generators, and that is what we have.

The Hon. Sandra Kanck interjecting:

The Hon. R.I. LUCAS: There is no re-aggregation, because one has turned into three. I do not see how three staying at three is a re-aggregation. The honourable member perhaps does not do the numbers for the Australian Democrats. If we still have three and if we started off with one, how can the honourable member argue that it is a re-aggregation?

The Hon. T.G. Roberts: It is a miracle.

The Hon. R.I. LUCAS: The Hon. Terry Roberts says it is a miracle. The original structure that the government had for the private sector generation industry in South Australia was Flinders based on Port Augusta; Optima based on Torrens Island; and a new generator, which was to be a new base and intermediate load generator at Pelican Point, together with Synergen—together with the peaking plants. That was always the model. It was only when the legislation was delayed in the parliament that the government disaggregated the development opportunity and Synergen, and proceeded with the Pelican Point power station as a stand-alone development with Synergen to be sold separately.

The reason Synergen's price is relatively low is the increased competition the government has introduced to the electricity market in South Australia. Bidders looked at the future, not at the past, in relation to Synergen. National Power at Pelican Point has up to 800 megawatts capacity coming on stream; MurrayLink has up to 200-plus megawatts of power coming from the eastern states through the Riverland, with suggestions of either an ATCO-based augmentation to the Victorian interconnector or another TransEnergie interconnector through the South-East called Southern Link; Boral has an extra 80 megawatts of capacity in the South East; and people associated with the SAMAG development are talking about the potential for another generator associated with their development in the Mid North.

So bidders saw not the past but the future. If we had stayed in the position where we had locked out competition, as has been alleged by the government's opponents, Synergen would have been a gold mine for many years. As the Hon. Sandra Kanck has said, it made money in the first 12 months of this market. If we had kept the market as it was, Synergen would have continued to make money and we would have sold it for a lot more than approximately $39 million, depending on the quality of its assets and maintenance.

We did not get a lot more because no-one believes it will continue to make the money as it has in the present tight market. No-one believes the bidders—and these are the bidders putting their hands up—that electricity prices in South Australia will stay the same as in the first 12 months.

Why do they believe that? They believe that the government's attempts at competition will bear fruit in the coming years and we will see a lessening of the gap between electricity prices in South Australia and the Eastern states.

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: Time will tell exactly what it will be, but it will be much more than if we had adopted the monopoly government generated model. Certainly it would have been more if we had just relied on Riverlink, because Riverlink is only 200 megawatts of capacity. We are putting in almost 800 megawatts of capacity.

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: Well, I am just telling you. People who are bidding for our assets are telling us what the government's analysis demonstrates. They are putting their hands up to bid for our assets—the bidders for Synergen and, more particularly, the bidders for Optima. Bob Shapard from TXU is on public record as saying that the reason the price was not as high as it might have been 12 to 18 months ago is that the government has introduced more competition into the South Australian marketplace for the coming years.

Had we not done that—if we had not fast-tracked Pelican Point, and if we had not supported interconnection through the Riverland—the TXUs of this world and National Power would have paid much more for Optima and Synergen. That is where I have a strong policy disagreement with people like Danny Price and the New South Wales Labor government. They ran a malicious line amongst the media and members of parliament that the government was only interested in ratcheting up the value of its generators, and that is why it was trying to stop Riverlink.

What we cannot demonstrate through the statements, not from the government but from real people bidding for real assets and paying real money in terms of our generators, is that they agree with the government and not with Danny Price, they agree with the government and not the Labor Party, and they agree with the government and not the Hon. Mr Xenophon that the assets these days are worth less than they were 12 to 18 months ago and certainly less than if the government had adopted a strategy of locking out interconnection and competition through the introduction of significant competitors like National Power at Pelican Point.

Other claims that the Hon. Sandra Kanck made were again, frankly, bizarre and again inconsistent with many things she and her leader have said both to me and publicly in the past two years in relation to South Australia. Her criticisms about aggregation and reaggregation are certainly inconsistent with views she has expressed in the past. Her criticism about allowing National Power as a base load generator to take on a peaking capacity are entirely inconsistent with the views that her leader expressed publicly, which he has also expressed to me as well, that one of the problems with the way the government disaggregated was that in his view the government had a peaking generator in Synergen, we had a base generator at Flinders and an intermediate generator at Optima.

I do not remember whether the Democrat leader's preferred model was horizontal or vertical disaggregation, but he said that we should have slivers of all these in amongst the generators, that is, one generator should have base load, intermediate and peaking capacity. Through National Power buying the Synergen peaking capacity, we have exactly what the Democrats were asking for, yet now the Deputy Leader of the Democrats has attacked the government for allowing that policy option to be accepted.

The honourable member spoke about the $20 000 VOLL (volume of lost load) price, and the government and its advisers were well aware of that increase in price. It was public for many months prior to the sale. It was factored into the bidding strategies of all the generators but the bottom line is that, if the bidders believed that, because of a more competitive marketplace Synergen will not make as much money as it did in the last 12 months, it does not matter whether the price is $5 000 or $20 000 because in the end that is the huge risk issue for the owner of Synergen.

I do not know whether this figure is correct, and I will have it checked, but Synergen made $11 million or so in the last year. So for the honourable member to talk about assuming that it will continue to make $11.8 million per year from Synergen for each of the future years is delusional and bizarre. The market for Synergen is at its best when there is a tight supply demand capacity, which is what exists at the moment. As we have excess supply, Synergen will be used—

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: It was always intended to have National Power with a peaking capacity. One of the issues in relation to Synergen will be whether or not over the long term National Power spends the money on upgrading the peaking capacity in all the four sites for Synergen. It may well be that, with the capacity it has at Synergen, and with its combined cycle gas turbines, it will have the ability to provide peaking capacity, but it might be that it will not expend the considerable sums of money in maintenance.

The Hon. Sandra Kanck said that it does not cost much to maintain them. I ask the honourable member to put her hands in her own pockets and run one of these power stations for a while and work out how much it costs to replace a simple piece of equipment that is no longer made anywhere in the world. The only way to get it is to buy a plant in Germany for scrap and ship it to South Australia, which is what we had to do during the last summer to repair Dry Creek.

The Hon. Nick Xenophon: That is because all our manufacturing industry is dying.

The Hon. R.I. LUCAS: No, it is not that. There is just not the demand for those old-style generators that are 20 or 30 years old. The new combined cycle gas turbine plants are higher and more modern technology and it is to be hoped that our manufacturing industry is manufacturing new stuff rather than the technology that is 20 or 30 years out of date just to help supply scrap parts for the generators that Synergen is using. The plant at Port Lincoln was bought from Argentina or Chile as second-hand plant by ETSA a few years ago.

They are older style plants, and to say that they are relatively maintenance free is delusional. Given the way Synergen has to run, in essence it locks itself into contracts at a certain price, whatever that number happens to be (it might be $100 or $200), and if it has to generate power but it cannot generate the power when it has to, it has to pay $20 000 per megawatt hour to someone else to help meet their contract. While it can make a lot of money, it can also lose a lot of money if the plant is not operating. If the plant does not operate, Synergen can lose millions of dollars in an afternoon because it is a high risk operation. It can make a lot of money: it can lose a lot of money.

On one afternoon in February this year it made some money but, if one other of Synergen's plant had gone down, it would have lost millions of dollars in just one afternoon of trading because of its contract position in relation to providing power to a number of generators. The honourable member raised a whole series of other issues (for example, the

$90 million for consultants) that I do not have the time to respond to this afternoon.

The Hon. Mr Holloway will raise a number of his questions in committee and I have responded to his comments about Danny Price. All this was started by quite malicious attacks by Mr Price on the integrity of the South Australian government and me as the minister responsible. All the government has done is respond in kind, and Mr Price has not enjoyed that. If Mr Price does not like the heat, he can get out of the kitchen. In relation to the criticisms from the honourable member about the committee structure—

The Hon. R.R. Roberts interjecting:

The Hon. R.I. LUCAS: I am happy to repeat them outside. In relation to the honourable member's criticisms about the committee structure, as I explained to the honourable member in a recent discussion, in relation to this issue of the pricing order, unlike what the honourable member has indicated, there was clear responsibility. A committee was chaired by a consultant from a consultancy firm and each of the people on the committee had their responsibilities in relation to various aspects of the electricity pricing order. It is not true to say that the government is not aware of who was responsible for various parts of the electricity pricing order.

The Hon. P. Holloway: Who stuffed up then?

The Hon. R.I. LUCAS: In relation to the issue of accountability, the government is clear as to who it believes is accountable for the decisions that have been taken. The honourable member claimed that the government did not have a structure that double checked and triple checked the electricity pricing order. Again, that is not true, and we established the committee so a number of different people and a number of different groups could cast their eye over the same electricity pricing order or other documents to try to ensure that it is not just one person and one person's eyes or one company's eyes that go across all these critical documents. The internal structures have been established to try to ensure that there is double, triple and quadruple checking in relation to these issues, and that occurred in relation to this matter.

I know that we are talking about a range of other errors that have arisen, but the substantive debate today is about the $20 million CKI error. Members have acknowledged that a range of other errors have been identified at various stages, both before and afterwards, but the key error was committed by a committee, chaired by a particular person, a number of people cast their eye over it and, yes, they got it wrong and, yes, I accept responsibility because I signed off on it. However, the point that I have made publicly in response to the criticisms that a year 12 or a year 8 student could have made the mistake—at least it is moving up in terms of the degree of difficulty—

The Hon. R.R. Roberts interjecting:

The Hon. R.I. LUCAS: No, Mr Foley said it was a year 8 student; Mr Holloway said a year 12 student, so at least we are heading northwards. Not only did the people working for the government not pick it up when they should have, but all the lawyers, all the accountants and all the economists working for at least three or four bidders, working for two months full time in the data room, did not pick up exactly the same error. We are delighted that the government structure that established an Independent Regulator, a model that this government put in place as a checking and failsafe mechanism, did pick up the error. The government is pleased that the structure it set in place in terms of protecting the interests of consumers has been demonstrated to have worked. We hope it will work in many other ways, not just this way, but the structure was put in place by this government to ensure accuracy and protection for the consumers in South Australia.

Finally, I think the honourable member opened up with words to the effect of 'never has a mistake cost so much to everyone', although I cannot remember his exact words. It is not true to make those claims, because all the interested parties—AGL, CKI Hong Kong Electric and the government—have agreed what was represented to bidders and have agreed that all this is doing is ensuring that the original intentions of the representations to bidders are translated into the Electricity Pricing Order.

It is not true to say, as some were claiming last week, that this will cost taxpayers in the hundreds or millions of dollars. The mistake that has been made is something that should never have occurred, the government acknowledges that, but in the end we have a process before us that can correct it. I thank all members, irrespective of the other views they have expressed in revisiting the whole electricity issue in the past two years, for their indications that all members will be supporting the passage of the legislation.

Bill read a second time.

In committee.

Clause 1 passed.

Clause 2.

The Hon. P. HOLLOWAY: During his response the Treasurer indicated that he was confident that he knew who was responsible for the material error that has resulted in this legislation. In the interests of public accountability, why will he not say who was responsible?

The Hon. R.I. LUCAS: Because I am responsible for the error: I am the minister responsible. I signed the Electricity Pricing Order. The advice was provided by the committee that I described to the honourable member, it went via the Reform and Sales Unit and ultimately came to me. I had taken advice from a number of quarters, obviously, and I signed the Electricity Pricing Order. I am publicly accountable and have accepted the responsibility for the error that has been made.

From that viewpoint, the government is not shrinking from public accountability: it is my responsibility. I am on the public record. I am responding not only to the honourable member's questions today but also to any public criticism there might be on behalf of the government, for the error that has occurred.

The Hon. P. HOLLOWAY: Given that almost $100 million worth of taxpayers' money is going to consultants who were responsible for preparing the order, if the Treasurer will not name them what penalty will those consultants face as a result of making this error and putting the parliament through this process, and of costing considerable time and money in the correction of the error?

The Hon. R.I. LUCAS: We have had this question in question time. If the honourable member can actually demonstrate where the government has lost on behalf of the taxpayers any of the $4 000 million that we have banked to help repay the state debt and the considerable hundreds of millions of dollars we are still going to get from the remaining assets, or if he has some concern that through legal action or something the money will be lost, he can raise the issue.

The government has said that, if a situation arose whereby taxpayers were likely to have to foot the bill for any legal action, or something like that, which would cost taxpayers a chunk of that money that we have already banked, we reserved our position on what action we might take with

respect to our consultants. We have contracts with those consultants. The government has reserved its options should that eventuate. But we are talking hypothetically. AGL supports the legislation; CKI Hong Kong Electric supports the legislation; and the government supports the legislation. Frankly, I think the honourable member is barking up the wrong tree.

The Hon. P. HOLLOWAY: Is the Treasurer saying that the three-month process of correcting the order, of going through it and identifying whether there are more errors and of seeking legal advice has not cost taxpayers anything?

The Hon. R.I. LUCAS: I have said publicly and in this Chamber that there has already been a financial penalty incurred by the people responsible. I indicated when I first became aware of this that they had to go away and at their own expense, at their own cost, go back through the Electricity Pricing Order and ensure that, if this government had to go back into the Council and seek to correct this material $20 million CKI error, we did not have to face the situation in six or 12 months time or whenever another material error might be identified. From that viewpoint, the firms involved have already, at their own financial cost, had to undertake that work to ensure that we can reach this stage this afternoon.

The Hon. P. HOLLOWAY: Can the Treasurer give an assurance to the Council that none of those consultants who worked on correcting the Electricity Pricing Order will charge for any of that work?

The Hon. R.I. LUCAS: I can only give the assurance that I have just given: that is, that I issued a directive and it has been and will be carried out. Those particular consultants had to go back through the Electricity Pricing Order—and it is a considerable document, as the honourable member will know—and from the start to the finish again ensure that, if we were to come back to the parliament to correct the $20 million CKI error, we did not face the situation of further errors in the future. As the honourable member has noted, a series of other errors, typographical and otherwise, have now been tidied up in the order that we have before us at the moment.

The Hon. P. HOLLOWAY: In relation to the correction of the order, was crown law advice sought at any stage, and was advice sought from any other legal consultants in relation to the errors?

The Hon. R.I. LUCAS: I have ongoing discussions with my legal advisers, and I have already indicated publicly that I have outposted with me a crown law adviser who is available to provide advice on all and sundry issues in relation to these matters. The honourable member asked yesterday whether I would obtain the calculation of the time spent by public servants in the past few weeks working on this issue. If he wants to ask the question again, the answer is the same. I do not intend to go down the path of having public servants traipsing back over what work they have been doing and how many minutes they have spent on this issue or that over the past few months.

The Hon. T.G. CAMERON: I understand that the Treasurer had discussions with both Hong Kong Electric and AGL regarding this matter. I can recall reading somewhere that both those companies have accepted what has happened, have signed off and have agreed with the course of action the government is taking. Will the Treasurer confirm that?

The Hon. R.I. LUCAS: Certainly, those representing both me and the government did meet with AGL and ETSA Utilities (CKI Hong Kong Electric). As I think I have indicated, the intention of the government was that, having received approval from the government party room on the Tuesday morning, we would spend the next 48 hours meeting with the companies and, ideally, we would be in a position on the Thursday when we introduced the legislation to have agreement from all concerned. A premature release of the information meant that—

The Hon. T.G. Cameron: How did that come about?

The Hon. R.I. LUCAS: The government, amongst its ranks, must accept responsibility for that premature release.

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: I will make no further comment on recent events in that regard. However, the government was then left in a position where clearly it became a matter of public record before we had an opportunity to have a detailed discussion with AGL and CKI Hong Kong Electric. However, by Thursday afternoon—which was 48 hours later—both CKI Hong Kong Electric and AGL had issued public statements agreeing with the government's portrayal of the situation in relation to information given to bidders and supporting the broad import of the legislation, and that support has continued. AGL had indicated that what the government had said in terms of what bidders were told in terms of what they would earn from the electricity pricing order is entirely consistent with what we now see before us today, that is, with the errors corrected.

The Hon. T.G. Cameron: It has ended up with what it thought it would end up with.

The Hon. R.I. LUCAS: Exactly. CKI Hong Kong Electric also indicated that it will now end up with exactly what it thought it was going to get. Indeed, if I can speak frankly, the first both parties knew of the error was when they were advised—whenever it was—on Tuesday or Wednesday of last week. Whilst I accept the responsibility on behalf of the team that works for me—and I have defended and will continue to defend their capacity, integrity and ability to work and to produce good results for the government—the fact that we were the first to advise CKI Hong Kong Electric and AGL of the error that existed within the key documents to govern their earning capacity, the electricity pricing order, is an indication that, whilst people might portray this error as something that a year eight or, in Mr Holloway's case, a year 12 student could have worked out, clearly it was too much for the combined expertise of the best lawyers, accountants and economists not only on the government side but also on the side of the successful bidders and the unsuccessful bidders as well.

The Hon. NICK XENOPHON: Further to the Hon. Terry Cameron's question, members are aware of the statements made by Hong Kong Electric and AGL. Will the Treasurer indicate whether there have been any further exchanges of correspondence that would guarantee or ensure that there will not be any action whatsoever on the part of either AGL or Hong Kong Electric in relation to the rectification of this error? In other words, can the Treasurer guarantee in unequivocal terms that there will not be any come back against the state in relation to the rectification of this error?

The Hon. R.I. LUCAS: We will discuss part of the response to that when debating the amendment that has been circulated by me as a result of the issues that were raised by the Auditor-General in the intended to be confidential discussion with members of the select committee, that is, closing off any prospect of action. Can I say before we address that issue that I take AGL and CKI Hong Kong Electric at their word. They have indicated that they would not be taking legal action. The reason why we have crafted

the amendment as the Auditor-General has suggested is out of—in my words—an excess of caution, just in case AGL does not stick to what it has said publicly. Or he has raised the spectre, which we think is unlikely—and I will explain why later on—of an unsuccessful bidder wanting to take action. There is this further tightening of this legislation to rule out any liability.

To answer the member's question, I take AGL at its word and, to be frank, as the member knows, AGL is not backwards in coming forwards if it has a dispute with governments of any persuasion. As we have indicated, we are having a vigorous difference of opinion in front of the ACCC at the moment about vesting contracts with AGL. It is not a shrinking violet, if it believes that it wants to pursue a particular course of action, as is its commercial right—and I certainly defend that. I am not being critical of AGL's right to pursue its commercial interests even where we happen to disagree with its particular approach. We have been appreciative—and I say so on the record—of the comments that Mr Len Bleasel, the CEO of AGL, has made in relation to this issue. I believe we can take him at his word in terms of his assurances. They would have been enough for the government but, as I said, through what I think is an excess of caution, there is a further amendment that the Auditor-General has suggested we take Crown advice on. We will have an opportunity to consider that during the debate in the committee stage.

The Hon. P. HOLLOWAY: I want to speak on the same matter. I was going to ask a question very much along the lines of that asked by the Hon. Nick Xenophon and before that the Hon. Terry Cameron. If we look at the media release that AGL put out last Friday 29 June, the substance of it is contained in the following paragraph:

> AGL's Managing Director, Len Bleasel, said, 'The proposed amendments should remove potential uncertainties as to how the EPO would operate in the future. However, the formulas involved are very complex and AGL is reviewing the detail of the government's proposed changes to ensure the amendments do, in fact, deliver the correct outcomes. Once satisfied on that issue, the changes will have AGL's full support.'

That is a 99 per cent endorsement, but the question asked by the Hon. Nick Xenophon was fair enough. Has the Treasurer received any information after 29 June (when that press release was put out) that would indicate that AGL has completed its sums and is now happy with the matter?

The Hon. R.I. LUCAS: The government's understanding was in terms of the discussions: that was a public press statement. The government's understanding was that, if AGL had any particular concern, it would come back to the government with its concern: it has not done so. In terms of raising any concern with AGL, I think we can take Mr Bleasel and his senior executives at their word; that is, if they did have concerns, they would come back and highlight those concerns not only to the government, I suspect, but also to other members of parliament in terms of debate about this issue. In terms of the flow on question the Hon. Mr Xenophon has raised regarding the prospects of legal action, again the issue we will debate in a little while will, ultimately, resolve that one way or another.

The Hon. P. HOLLOWAY: I turn now to the question of time lines. Will the Treasurer outline when exactly the government advisers and the minister became aware of each of the problems and errors that have been identified in the electricity pricing order?

The Hon. R.I. LUCAS: I have placed this on the public record, but I am happy to do so again. The $20 million CKI error, I understand in broad terms was raised by Mr Rajav from the Independent Regulator's Office by way of a query sometime in mid to late March of this year. He raised that with one of the consultants working for the government. I think the consultant's response initially was one of not agreeing, but nevertheless going away and thinking about it.

Evidently, there was some further discussion, I think according to Lew Owens, by way of public statement through the early part of April—I think Lew Owens has quoted a date or something, that finally there was an agreement around about the end of the first week of April. Around about then there seemed to be agreement between Mr Rajav and the consultant working on behalf of the government that there was a problem that needed to be addressed. The reform and sales unit was advised just prior to Easter, which was about the middle of April. I think Easter fell on 18 April or 19 April and that led through to ANZAC day, which was 25 April. As I advised the honourable member the other day, I was not contactable for those six days or so during that period, and I was advised soon after Easter.

The first notation from me was on 5 May on a document which I believe was dated 4 May. If any of these dates are wrong, I can correct the record later; I am going on memory. I think that 4 May would have been a Thursday, which was the date of the document; and I noted it on 5 May. I am almost positive that I would have discussed it with my electricity group on the Tuesday. We have a meeting every Tuesday morning, generally at 7 a.m. or 7.30 a.m.

I am almost positive that a draft paper was circulated to me on the Monday evening, 1 May. I suspect that I would have read it very late, after my elder son's birthday party. I suspect that I would have seen the first detailed paper probably late on the Monday evening (1 May) and then discussed it on Tuesday; and I would have seen a formalised paper on the Thursday and signed it probably in the early hours of Friday morning, 5 May. So, some time in and around that period.

The reform and sales unit was advised immediately prior to Easter. It worked on it through the Easter break, taking initial advice, I suspect (without putting words into its mouth), and hoping that it was not true, and working its way through the process. I was advised immediately after Easter, in and around the time period that I have highlighted. I then ordered that a variety of things be done—checking the EPO (which I explained earlier in committee); and checking what representations we had made to various bidders. Later, I sought legal advice as to what our various options might be. We then come through to the end of June, which is when I first raised the issue with the Premier and took the matter to cabinet, then to the party room, and then to the parliament.

The Hon. P. HOLLOWAY: The Treasurer has indicated the timetable as to how he addressed the major error. Were all the problems we are now correcting in the electricity pricing order discovered through the Independent Industry Regulator?

The Hon. R.I. LUCAS: I apologise; the honourable member did ask a series of questions. Although I should not say what I said to the select committee—the honourable member is aware of that—it is consistent with what I said in closing the second reading: that is, that that is the history of the significant error. However, there are a number of other errors that we are correcting today, and some were identified before and some afterwards.

My understanding is that Mr Rajav identified only the CKI error. If the advice is any different to that, I will correct the public record. My understanding is that the key error—and that is the one we are really talking about; the rest are subsidiary to the main purpose of the legislation and I do not seek to downplay its significance—was identified by Mr Rajav from the Independent Regulators Office.

The Hon. P. HOLLOWAY: In relation to the ElectraNet sale, what impact would the non-passage of the bill have on any of the other electricity entities? In relation to the AGL and CKI Hong Kong Electric arrangements, we are told that the error that was made in relation to CKI's income would have been a windfall boost for AGL—in other words, a loss for one was a gain for the other. Regarding the similar error that has been made in relation to ElectraNet, does that have an offsetting impact on any other electricity entity?

The Hon. R.I. LUCAS: I can give a partial response: I might need to take further advice on it. If, based on further advice, it is any different, I will place that further advice on the public record. The ballpark figure we talked about earlier of $20 million is the impact on CKI. The potential impact on AGL, depending on a number of variables, could be between $20 million and up into the high $20 millions. Part of that, as I understand it, is as a result of potential impacts in relation to ElectraNet.

As I said, if this is an incorrect understanding I will correct the record. The estimate (and they are estimates because it depends on a number of variables) was that the potential impact on AGL was higher than the potential impact on CKI Hong Kong Electric, that it was about $20 million for CKI Hong Kong Electric and in the $20 millions for AGL, and that it could be, on some guesstimates, in the low $20 millions or the high $20 millions.

In relation to the first part of the honourable member's question—what is the impact on the ElectraNet sale—again, that is a bit hard to definitely say. The ballpark figure that we have used as to the potential impact—and I think the member said $8 million to $10 million—is a cost of around $10 million. That is how much the revenue and doing the direct calculation might impact on the bid price.

It then depends on what the bidders factor into it. Do they put a multiplier on that for whatever reason? Ultimately that is a judgment call for the bidders to make. I think we can safely say that it is a minimum. Whether it is marginally higher than that, I suspect that only a bidding process could tell you. It certainly would not be significantly higher than the ballpark figure stated by the honourable member. I think that is the import of the first part of the honourable member's question.

The Hon. P. HOLLOWAY: Whereas with AGL and CKI the error for one affected the other—we are told that the error in the income for the distributors affected the income that the retailer would get; in other words, CKI's loss would have been AGL's gain—in relation to the way the formula is tied for ElectraNet, does it have an impact on any other entity?

The Hon. R.I. LUCAS: As I said, let me take that on notice. Before the legislation gets down to the other house, if there is anything further I can add to the honourable member's question, through my minister down there, I will place something on the record.

The Hon. SANDRA KANCK: In my second reading contribution I asked questions to which the Treasurer did not respond, so I will need to restate and explain them where necessary. In regard to the K factor, I have observed that the independent regulator in Victoria has removed it. The figure that I have is that the revenue drop for the distributors as a consequence of removing the K factor was between 15.9 per cent and 20.6 per cent, which was money that was previously being borne by the electricity consumers. In the light of what has happened in Victoria and the evidence in that state that it was costing the consumers more, why are we going down the same path Victoria previously went down?

The Hon. R.I. LUCAS: Let me respond gently first and more severely secondly. First, the government last year put together an Electricity Pricing Order which included all of these issues in terms of the revenue that the companies could earn. So people have actually paid $3.5 billion for these assets for a certain income stream for five years. What the honourable member is saying is that six months later a regulator in Victoria has now come down with a different decision based on the first five years experience in Victoria and said, 'We will now reduce the income stream for these particular assets.' Obviously, six months into a pricing order we cannot make those changes, willy-nilly. There will be the capacity at the end of the five-year period for the regulator in South Australia to look at the South Australian circumstance, which is different from Victoria, and say, 'Okay, what's the appropriate revenue stream to ensure quality of supply, maintenance of the assets, a reasonable income for the earner and a reasonable price for the customers in South Australia?' That is the difficult task that Lew Owens has.

The issue that the honourable member raises cuts across one of the major arguments that the honourable member has, and that the Labor Party has had, about the reasons for keeping the assets in public hands. That argument was again repeated by the member today, albeit referring to Synergen. The argument is that we are earning, say, $300 million a year from these assets and they are risk free. The member has often said, and so has her leader, that we are risk free in terms of the amount of money we earn from ETSA Utilities and from Electranet because they are regulated assets. But the honourable member has just highlighted why we are not risk free. As soon as you establish an independent regulator it is no longer a government controlled monopoly able to set the prices at whatever level the treasurer and the government of the day want, and it can put in some independence and check what consumers are charged for electricity.

This is what this government has put in place, and so no longer do governments, whether Labor or Liberal, have the capacity to say, 'We will charge this amount for electricity and will have $300 million a year continuing to come into the budget.' That is exactly the regulatory risk argument that we explained to the honourable member in the period leading up to June of 1998, which the member rejected when she said, 'These are risk free, or very, very low risk assets. We will continue to earn the $300 million a year from the budget.' Again, the member said today that, when one looks at the revenue we are currently earning from the assets, as soon as we finish these privatisations, sale and/or leases of the assets, we will be behind right from the word go.

The member is again using this argument that we used to get $300 million and that we will now be getting less than that into the budget. The member cannot rationally argue both sides of this case; and that is to say that the customers are paying too much for electricity so why are we not taking the 'k' factor out at this stage and having a 20 per cent reduction in the income that the distributors earn? If you take 20 per cent out of what the distributors earn, and if they happen to stay in government ownership, you would have 20 per cent less money, at least, coming into the budget; and 20 per cent

on whatever the number that they were putting into the budget, $180 million, is up to $40 million a year coming out of this revenue stream, which the member was arguing was a risk free, ongoing benefit to the budget.

So, as I said, I answered the first part of the honourable member's comments in a gentle fashion; but in relation to the second part of the question it is just increasingly impossible to continue to argue rationally the case that the honourable member is seeking to argue that we are actually losing money by the sale of this and, at the same time, arguing that we should take out the 'k' factor and ensure that the distribution assets earn a lot less money.

The Hon. SANDRA KANCK: The Treasurer obviously gets great joy out of being paternalistic, and also obviously gets great joy out of misrepresenting people. Back on 25 June 1998 this is what I had to say about regulatory risk. This was the document that I issued at the time of my press conference:

> The risk to future dividends from transmission and distribution is a regulatory risk; that is, that the regulator may reduce the income ETSA currently receives from its poles and wires business. The amount of revenue ETSA receives will depend upon the valuation of the poles and wires business and rate of return deemed appropriate by national and state regulators.

Therefore, it is very clear, contrary to what the Treasurer has just mouthed off about, that I said from the outset that there was a regulatory risk there. I did not say, however, that it would be unprofitable, and clearly there is still profit to be made, because it is regulated. And neither did I ask in my question why we are not altering the 'k' factor at this point. I asked why we had set off down that road. Why when we put this EPO together did we choose to go down that particular path using the 'k' factor?

The Hon. R.I. LUCAS: I will not delay these proceedings. I do not have all the honourable member's statements from 1998 with me, but we have another week of parliament and I am sure my colleague the Hon. Mr Davis will assist me in this task. I can assure the member that she made many statements through 1998 which indicated that there was low risk in relation to—

The Hon. Sandra Kanck interjecting:

The Hon. R.I. LUCAS: I will find more than half a sentence, and I will be happy to remind the honourable member of her comments next week during the time for questions. In relation to the honourable member's question, the reason for the 'k' factor is to try to ensure that the utilities company does not have the capacity to gain from over or under estimating demand during the regulatory period. It is called a 'k' correction factor to try to ensure that there is a self-correcting mechanism within the formula whereby, if they do over or under estimate they come back to what should have been the case if they had been 100 per cent accurate in terms of estimating the demand. So the 'k' correction factor is from the government's view a necessary part of the equation. I will be happy to take some further advice in relation to exactly what the office of the Regulator-General in Victoria has done in relation to 'k' correction factors.

But in relation to the issue of why we went down the path of using 'k' correction factors, that is the reason. There is an important policy reason why one would do so. In relation to why the government, in the use of 'k' correction factors, and other factors, generated a certain level of income, very largely we were driven by what was occurring in other states with their electricity pricing orders. As I said, it was only some six months after the government had decided on our Electricity Pricing Order that the office of the Regulator-General brought down a draft decision in relation to the pricing order for Victoria. Clearly, our regulator, when he sets and resets our pricing order in South Australia, will take that into account in one respect but, more importantly, will have to take into account the local circumstances which apply to our local market here in South Australia

The Hon. SANDRA KANCK: In the light of the fact that correction factors have been abandoned in Victoria, does the Treasurer think that the amendments that we have before us will remove the ability for regulatory gaming?

The Hon. R.I. LUCAS: That is really, in the end, a challenge for the Independent Regulator in terms of how he manages and controls the electricity pricing order. My advice is that we have done all we can to reduce the prospects of the possibility of gaming under the electricity pricing order. In terms of what we can do, we think we have done as much as we can. What we are about to do here will help fix some of the potential gaming prospects, but we cannot guarantee absolutely that there will not be gaming. Whatever the electricity pricing order, companies will see how they can work within that pricing order to their commercial advantage: that is what we call gaming. That is just the commercial reality of the situation. Whatever rule you bring down, you cannot prevent them from trying to work through it. What you can do, and what we have sought to do, is significantly to reduce the prospects of their doing so.

The Hon. SANDRA KANCK: The other question that remains outstanding from my second reading contribution was whether or not these new arrangements have been run past the ACCC?

The Hon. R.I. Lucas: Are you referring to cross ownership?

The Hon. SANDRA KANCK: No, the variations to the EPO.

The Hon. R.I. LUCAS: It is not a role for the ACCC or, indeed, for us to run the electricity pricing order past the ACCC. It does have responsibilities in a number of areas but they do not extend to, in essence, approving the electricity pricing order for the various jurisdictions. I would be very surprised if it did not, off its own bat, have a weather eye on the situation. It is not a requirement or a role for it to be approving or otherwise the electricity pricing order in the various states.

The Hon. CARMEL ZOLLO: I admit that I have not read the electricity pricing order document from last year, but I ask whether the forecast average distribution revenue factors in the GST?

The Hon. R.I. LUCAS: I am told the answer is 'Yes.'

The Hon. NICK XENOPHON: The Treasurer has admitted responsibility for the error but it is also clear that the Treasurer has relied, in good faith, on the advice of experts to deal with the issue of the electricity pricing order, and we are here now because an error has been made, notwithstanding that there is no question that the Treasurer acted in good faith with respect to the advice he received from those experts. I presume the Treasurer concedes that errors have been made by some by independent contractors. I think the honourable member agrees that errors have been made. He has also indicated, as a consequence of those errors being discovered, that a considerable number of hours of public servants' time has been involved in attempting to rectify those errors. Also, the time spent on this matter in this chamber, and a whole range of resources, have been expended in rectifying these errors.

I acknowledge the advice of the Auditor-General—when I asked parliamentary counsel to draft a clause allowing for compensation to be sought—that it would open up a Pandora's box and that litigation could well be counterproductive. Notwithstanding that errors have been made and that the Treasurer acted in good faith on the advice of acknowledged experts in the field, will the government go back to the consultants and say, 'You have caused us considerable embarrassment and pain'? These things have happened—for whatever reason—but it was understood that they would undertake the work with the due care and skill expected when engaging an expert.

Will the government go back to those experts and say, 'We would like a voluntary reduction in your fees to reflect that the government has been put to expense in relation to those errors?' Will the government at least make an effort, by way of an agreement with the consultants (I am not talking about litigation), stating that, in the circumstances, some reduction in their fees would not be unreasonable? In other words, will the government make an effort to obtain, by way of agreement, some reduction in fees?

The Hon. R.I. LUCAS: I am not in a position this afternoon to respond too much to the honourable member's question. All I can say is that I am having discussions at the moment in relation to some aspects of what the honourable member has raised. We have contractual arrangements with consultants. All I can say at this stage is that I am having some discussions and, at a later stage, I may well be in a position to say something. As we sit here this afternoon, I am not in a position to say much more than that.

The Hon. NICK XENOPHON: I appreciate the Treasurer's response. Does that mean that he is not prepared to go down the path of seeking some reduction of fees by way of a mutual agreement between the parties? Again, I am not talking about being embroiled in litigation. Will he at least make that effort, on behalf of taxpayers and the government who have been caused a degree of embarrassment? What has happened is not their fault—in a direct sense—because they have relied on the advice of experts.

The Hon. R.I. LUCAS: I really cannot add much more. The honourable member has rephrased the question again. As I have said, I am having some discussions in relation to aspects of the matter that the honourable member has raised. However, I am not in a position this afternoon to say anything more than I have already said. The honourable member can ask me the question in six different ways but I am not in a position at the moment to say anything more than I have already indicated. The honourable member will have another opportunity next week during question time should he choose to do so. At the moment, I am not in a position to say anything more than I have said in response to the honourable member's two questions.

The Hon. NICK XENOPHON: Is the Treasurer saying that he is refusing to answer whether he is ruling in or out the government approaching the consultants to seek some sort of reduction in their consultancy fees?

The Hon. R.I. LUCAS: I have indicated that we have contractual arrangements in relation to fees. Therefore, we are required to pay fees in accordance with a certain formula. All I am prepared to say is that I will not respond to the forensic cross-examination of the Hon. Nick Xenophon. All I am prepared to say in relation to the cost issue that he has raised—not in relation to other aspects of the phrasing of his question—is that I am having discussions at the moment and I am not in a position to say anything more than I have said.

The Hon. NICK XENOPHON: One of the contractual conditions indicates that the consultants are required, with due care and skill, to give advice to the government on a whole range of issues and, implied in that, the electricity privacy order. In other words, that they will do their job with a reasonable level of care and skill. There could well be an argument that that level of care and skill, in this instance, for whatever reason, was not fulfilled.

The Hon. R.I. LUCAS: We signed contracts that said that they could do anything that they wanted to! Speaking seriously, the government signed contracts with our consultants and advisers, which obviously contain clauses along the lines that the honourable member has mentioned. As the honourable member would know from his legal background, all professional contracts signed on behalf of accountants, lawyers, economists and others would have similar clauses in them in relation to the provision of services provided for the fees paid. The answer to the honourable member's question is 'Yes'. Similar provisions and clauses were in our contracts.

The Hon. P. HOLLOWAY: I return to an earlier answer that the Treasurer gave. He said that he was first notified on 1 May this year about the substantial error in the electricity pricing order. I think he said he first notified the Premier a week or so ago. That is something like a month and a half later. During that time, the ElectraNet sale process was under way. An early timetable for the sale of ElectraNet indicated that they would issue an IM, whatever that is; presumably, it is some sort of information memorandum. That would be issued on 19 May. The deadline for indicative bids was 23 June, around about the time that the Treasurer was, according to his earlier answer, letting the Premier know of this problem. My question is: why did the Treasurer take so long before he let the Premier and cabinet know of this error?

The Hon. R.I. LUCAS: I have responded to this and am happy to do so again. I took the judgment, as with many issues in relation to this, that if I could handle it administratively and resolve it—as I have with many other issues—without the need for legislative action or cabinet decision, I would do so. I have explained what I did in the period between early May and mid to late June: there was a considerable amount of work that I had to undertake and that people had to undertake on my behalf. Eventually, it became clear to me that there was only one proper course of action. There was an option for the government to sit pat and do nothing, but it was my judgment in the end that there was only one proper course of action. It was at that stage that I advised the Premier of the need to go to cabinet. At that stage, the Premier was advised.

The Hon. P. HOLLOWAY: Given that the ElectraNet sale was proceeding, is the Treasurer seriously suggesting that he was contemplating going ahead with a process that would have cost the state, according to his earlier answer, about $10 million?

The Hon. R.I. LUCAS: I am sorry I did not respond to that part of the honourable member's question. The ElectraNet sale was not proceeding. I had put the ElectraNet sale on hold until this and other issues had been resolved. The formal start of the process from the government's viewpoint is when I sign an acceptance of expressions of interest from interested bidders or I say to them, 'No, we will not accept your expression of interest.' At that stage they are able to receive information memoranda and other information from the government about the ElectraNet sale. That part of the

process—the dropping of the flag and the starting of the sale or lease process—did not occur until last week.

The Hon. P. HOLLOWAY: As I said, the initial timetable for the sale of ElectraNet indicated that the information memoranda were to be issued on Friday 19 May. Presumably, the Treasurer must have altered that timetable very early in the piece. Is he suggesting that this was done without notifying cabinet or the Premier?

The Hon. R.I. LUCAS: I am not only suggesting it: I have already said it and stated publicly that I have the authority, and did so on a number of occasions with the previous sales and leases. I got an original timetable for the processes but, if there were issues that I needed to resolve, I was in a position to put back by days or weeks, if I needed to, the various parts of the timetable. I had done that on a number of previous occasions with the other sales or leases. I had done the same thing in relation to ElectraNet, and I had the authority to do so.

The Hon. P. HOLLOWAY: My final question is: the Treasurer has on a number of occasions blamed delays for reduction in the prices received for the electricity assets. Given that the ElectraNet sale has been delayed by some weeks, what impact does he expect that will have on the price we receive for ElectraNet?

The Hon. R.I. LUCAS: Probably insignificant compared to the cost of the delay from 1998 when the Labor Party delayed the sale of these electricity assets or the long-term lease.

Clause passed.

Clause 3 passed.

New clause 4.

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

After clause 3—Insert new clause as follows:

Exclusion of Crown liability in relation to electricity pricing order

4.(1) No liability (including contractual liability) is incurred by the Crown in connection with the variation of the electricity pricing order notified in the *Gazette* on 11 October 1999 at page 1 471.

(2) In this section—

'Crown' includes a Minister of the Crown, an instrumentality of the Crown or an officer or employee of the Crown or an instrumentality of the Crown, but does not include a contractor, or an officer or employee of a contractor, engaged by the Crown.

We have canvassed this amendment, at least in part, in answer to earlier questions from the Hon. Mr Xenophon. This issue was raised by the Auditor-General in the intended to be confidential session of the select committee. The Auditor-General basically said, 'Look, perhaps you should just take further Crown Law advice in relation to this issue.' It is the government's view, and the view of our advisers, that the structure of the bill that we have before us, together with the assurances that have been given, is sufficient to handle all the known risks in relation to this issue.

The Auditor-General has raised this issue and we acknowledge that. We acknowledge also that the Labor Party has indicated that if the government did not move an amendment the Labor Party would. In light of that we have decided to therefore craft an amendment which meets the questions raised by the Auditor-General and which, we hope, also meets the concerns the Labor Party might have in relation to this issue. We think it is an extra safety net. It is there to cover the circumstance, obviously, if AGL, contrary to what it has said publicly, did decide to take some legal action. It is also designed to not allow unsuccessful bidders, for whatever reason—and it is hard to work out why they might—to take action.

It is hard to work out why an unsuccessful bidder would take action because it would be in their interests, if they had identified the error during the bidding process, to have obviously identified it to the government advisers. Clearly, the most valuable part of the assets that were being leased were the utilities business, and that was where the negative impact, the $20 million, was going to be felt. If you were someone working for one of the unsuccessful bidders, you were bidding for ETSA Utilities and you found a potential error that might cost your employer $20 million you would have obviously highlighted the issue.

We think it is entirely remote that an unsuccessful bidder might try to manufacture circumstances for action. This particular drafting, we are advised, will certainly ensure that whatever remote prospect there is will not be able to be taken up.

The Hon. P. HOLLOWAY: The opposition supports the amendment. In fairness to the Auditor-General, I think he indicated that the chances of litigation on this matter were not high but, being the prudent man that he is, he suggested that we should dot every i and cross every t. Of course, that is why we have this bill before us today: not all the i's were dotted and not all the t's were crossed in the electricity pricing order. In relation to the chance of an unsuccessful bidder making a claim, it is worth putting on record what the Auditor-General said in his appearance before the Economic and Finance Committee on 10 November last year. He referred to the federal civil aviation contract which, from memory, I think was awarded to Thomson CSF, but later Hughes Aircraft sued in relation to that contract. Mr MacPherson said:

> The Treasurer has said that he is going to put these contracts into the public domain [he is talking about the electricity contracts]. Every other bidder will then have the opportunity to see what was offered and what is being contracted for and then they will be able to say, 'Well, look, when you look at what they have done in the sense of awarding the contract to A, on the basis that it was the best price—', and this is the Treasurer's objective; he wants the best price and an equitable and fair process. They say, 'Well, hang on, that is not the best price because in that price are all these discounted risk factors which were not in ours and ours was at a better price.' The Hughes case was on exactly that footing.

There are precedents where legal action has been taken, and the Auditor-General was aware of those. Even though I readily concede that the Hughes case is not identical to what might happen here, it is close enough to say there have been cases within this country, and it is prudent that we should take the course of action recommended by the Auditor-General.

The Hon. NICK XENOPHON: I support this new clause. Whilst at this stage it seems that the prospects of litigation are remote—and let us hope it stays that way—it is a prudent clause to include. I have one query on the clause, and unfortunately I have not had an opportunity to get feedback from Parliamentary Counsel. The wording of the clause is in the terms that no liability is incurred by the Crown in connection with the variation of the electricity pricing order. Is it possible that the wording variation of the electricity pricing order may not encompass those circumstances where an argument is put that the liability does arise not from the variation of the pricing order but from changing contractual relationships or representations made between the parties? Perhaps I am not expressing that as articulately as I would like. In other words, there could be circumstances

where the argument is made that this liability arises not from a variation in the pricing order but from something that is ancillary to that. There could be an argument that this clause, while it appears to be quite comprehensive, may not cover all circumstances. Is the advice of the Treasurer that this clause is comprehensive enough to cover all contingencies?

The Hon. R.I. LUCAS: The strong legal advice I have is that this is comprehensive enough. We have had a number of versions of this about which we sought Crown Law advice and over which my learned colleague the Attorney-General pored for a few hours. That combination of legal advice is as comprehensive as we believe we can go. The use of the phrase 'including contractual liability', or whatever that phrase is, added even further strength to the provision and would in part cover some of the issues that the honourable member raises.

New clause inserted.

Title passed.

Bill read a third time and passed.

WATER RESOURCES (WATER ALLOCATIONS) AMENDMENT BILL

The House of Assembly agreed to the recommendations of the conference.

HISTORY TRUST OF SOUTH AUSTRALIA (OLD PARLIAMENT HOUSE) AMENDMENT BILL

The House of Assembly agreed to the bill without any amendment.

RACING (CONTROLLING AUTHORITIES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 5 July. Page 1491.)

The Hon. R.R. ROBERTS: I rise to conclude my remarks with respect to this bill. I understand that the Hon. Mike Elliott wants to put a series of questions to the government in areas that concern him, and that has necessitated my concluding today. It was not my intention to do so because, as I indicated last night when we last visited this issue, I know that prominent people in the racing industry are seeking legal advice, and I understand that advice will be available tomorrow. It was my original intention to delay the conclusion of my remarks until Tuesday, view the advice that is given by Queen's Counsel to racing industry enthusiasts, and table it. I will now use another mechanism so that, if necessary, one of my colleagues will table that information.

Since I last spoke on this measure, I have received correspondence from the Gawler & Barossa Jockey Club, and I understand that it might have been circulated more widely than my office. I think it is a fair indication of the thoughts of the grassroots people in the racing industry. Whilst this is particularly pertinent to the galloping industry, this is a fair, potted view of industry participants, at least those in country areas, and I suspect across the full spectrum of the racing industry. I will quote part of the letter for the record, as follows:

> The Gawler & Barossa Jockey Club would like to make clear its current position on the corporatisation bill and comment on areas that concern it. Throughout, the club has consistently voiced its opposition to the current form of the corporatised body, and the lack of a suitable forum for it and other clubs to have a direct input into the formulation of the constitution.

Clearly, that is a reinforcement of the claims made by Michael Wright in another place that the grassroots people have not been listened to throughout the so-called consultation period on these matters. The letter continues:

> We would also ask why is the bill being rushed through parliament before income streams from the soon to be sold TAB have been guaranteed to individual clubs. Also, what portions of capital funds from the sale have been calculated for individual clubs?
>
> It is still not too late to let the club chairmen and secretaries sit down as a group, go through the constitution and, where they have concerns, suggest changes they would like to see made. A consensus can be found and any agreed changes made. These people are the ones at the 'coalface' and have the greatest understanding of the problems faced. Then after this process, the clubs should be polled seeking their support.

It goes on to outline areas of concern, and they relate specifically to dates for racing, the fact that they have no consultation in that process and the devastating effect that poor decision making in that area would have on country racing in particular. This industry is at the crossroads. Never before has it been faced with a proposition so dramatic or one that flies so much in the face of the history of the industry and why it has been run this way for almost its entirety in Australia.

South Australians in particular have shown that they want the government involved in gambling activity in South Australia. We spoke last night about the Lotteries Commission and the people's insistence and the people's confirmation by a 66⅔ vote referendum that, when it came to lotteries and gambling, they wanted the government to run it and the state to benefit from it. There is another very important reason because, wherever you get activities where betting takes place, at least at one time in its history someone will try to fix it so they get an unfair advantage. The public have always had the confidence that at the end of the day they had the watchdog and resources of the government to ensure fair play takes place and that there are proper rules for the conduct of the industry.

At a meeting at Globe Derby Park last Monday week the minister was there and he suggested—and I understand he has done this in a number of forums—that the racing industry ought to take on a national focus, that we ought to be uniform. Then in the very next breath he proposes this new management structure, which flies in the face of everything that every other state is doing. No other state is talking about taking away the government scrutiny and safety net from the industry. They are not suggesting taking out the government. What other states are doing to restructure their industries is within the recognised forums and under the purview of government and the resources available to the government.

This industry is in crisis—there is no question about that—and I have spoken about the reasons for it. A number of commentators when talking about this bill and the companion bills with respect to the Lotteries Commission and the disposal of the TAB have said that we should not mix them up together. Two bills are about an income stream and one is about a management process. I have indicated what I believe to be the flaw in the management process. It has been suggested on a number of occasions—one as late as about an hour and a half a hour ago—that the industry is now trying to manage the Titanic. It is worse than that: the Titanic has hit the iceberg and is taking on water and now the minister comes up with a proposal that says, 'Let's gather together the passengers and see whether we can get them to take over the

ownership of the Titanic.' We do not know whether it will float or whether it can be rescued, but we have an idea that it may be possible. If I were one of those passengers I certainly would not put up my hand, and I would not expect the racing industry to do that, either.

What is being proposed was discussed only by the government appointed chairmen of the committees. I admit that I am not familiar with the activities of Mr Birchall from the racing industry, but I am aware of the activities and the opinions held by significant sections of the greyhound and harness racing industries with respect to their chairmen. I have no personal truck with either of them. I have met Mr McEwen on one occasion. I cannot recall ever meeting Mr Inns, although I know something of his history with Tourism SA, where he was unceremoniously dumped by this government. I understand that he went on to work for Stillwell Speakman and was invited to give a critique to the government and the greyhound racing industry on the future of greyhound racing. He wrote an extensive report and proposed a whole range of propositions.

On the strength of that report he was appointed as the chairperson of greyhound racing by the former minister, Graham Ingerson. I had the unfortunate experience of attending a country clubs meeting at Port Pirie about 18 months ago and, whilst the report on which Mr Graham Inns was appointed chair had a whole range of actions, in fact almost none of the recommendations in the Stillwell Speakman report had been implemented and country clubs in particular had a unanimous vote of the persons present at that time in respect of a motion of no-confidence in their chair. That may or may not have been well founded, but that is the fact of the matter.

With respect to the chairman of harness racing in South Australia, as recently as a fortnight ago a significant player in the industry, at a meeting of the Globe Derby harness racing club, moved a motion of no confidence in its chairman. There is a total lack of confidence in the industry and nobody knows where they are going.

To put it in racing parlance, we are being asked to go to the track and line up. We do not know the rules of racing, because we do not know the full implications of the TAB and its distribution; we do not know the conditions of the track, because they have not been outlined and nobody has had the opportunity to go over all the rules and be consulted; and we cannot even see the form guide, the scoping study, which as I said last night was completed in May 1998 and has only ever been viewed by the chairman's group and not by the minister's appointed representatives in the three codes.

But it is worse than that: we are also asked to take a punt. We do not know who the new bookmaker will be or whether it will even be in the same state. We do not even know whether we can go into an office or whether it will be by a phone bet. We have taken away the stewards in this exercise, and the government is stepping back. I put it to you, Mr President, that if this was at a race meeting they would turn the horses away, conduct a proper inquiry and then reschedule the race.

It is my proposition to this Council that that is what we ought to do. We should accede to the very reasonable request by the racing industry of South Australia and hold the corporatisation bill—and there are good grounds for that, given that the minister has now withdrawn the Lotteries bill and the TAB bill—to allow a proper inquiry and proper consultation, not just with two or three chairmen talking to the minister's office but all those ministerially appointed people on the boards of harness racing, greyhounds and gallopers. They ought to get together and, if the minister wants that scoping study kept confidential, all he has to do is say to these competent people whom he appointed, 'This must be kept confidential until such time as we get a consensus.' That is the fair and equitable thing to do. We are going into a parliamentary break of some three months, and it puts the pressure on the industry to negotiate properly and fairly with a view to getting a good result for the people of South Australia and for the racing industry.

I conclude by saying that the real victim in this process may well be the South Australian product in the racing industry, and this has been enunciated by the minister and others in government about the TAB and its operations. They want to sell it, and it is very likely that the buyers will be from interstate. The truth of the matter is that they do not need to have a race meeting every day in South Australia to run a successful TAB. As a participant in the industry, I am appalled that on a Saturday night, when our principal harness racing track is operating, it does not even make Sky. If you put that into perspective and say that the TAB will be sold interstate, you see that it will have a dramatic effect on those people who work in TABs.

I suspect that many of the stand-alone TABs as we know them will be closed down and we will rely on a PubTAB situation. All the PubTABs really need is an event on TV for people to bet on, but what will happen will be detrimental to the harness rating industry, the greyhound racing industry and the galloping industry, not only in the area of the race itself but in the breeding and employment opportunities that go with that. We could end up as being the only one with this independent structure that the minister has proposed and the only one on the outer. We could end up a basket case with the owners and trainers racing for peanuts. We could lose all those employment opportunities and their effect on the economies in country South Australia because of the diverse nature of the industry about which we are talking, and its impact on the employment situation and entertainment value right throughout South Australia.

I again put to this council that the sensible thing to do is to give that window of opportunity to the industry to sort out itself in a cooperative and fair way. I want them to be fair dinkum when they negotiate. I want the negotiations completed when we come back on 3 October so that we can come in here with a sensible proposition which is the result of proper consultation and which offers security and a future for the racing and gambling industries in South Australia. Also, it gives those people in the industry an opportunity to fairly assess and determine the effect of the proposed changes to the TAB. It may be that in three months they will agree with every part of these propositions, but that cannot occur if we pass this bill in the next couple of days or before the session gets up. I appeal to the Council on behalf of interested people in the racing industry to adjourn this bill until we come back on 3 October.

The Hon. K.T. GRIFFIN: Mr President, I draw your attention to the state of the Council.

A quorum having been formed:

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

That standing orders be so far suspended as to enable the sitting of the Council to extend beyond 6.30 p.m.

Motion carried.

The Hon. M.J. ELLIOTT: My contribution will be brief and somewhat akin to the controlled substances second reading speech I gave in that I am not committing support to the bill at this stage, although I am prepared to support the second reading—and I will differentiate between the two. There is one major issue within the legislation, that is, that all the racing bodies will be corporatised; they all will be registered with corporate affairs; and each of the three codes will be totally self-governing.

As one person commented to me, that is not much different from what we see with football and a whole range of other sporting pursuits. It is a reasonable question to ask why the government should have the level of control that it exercises from time to time in racing which it does not exercise in other areas. For instance, football is also becoming an increasingly big business in every sense of the word. Although governments cannot help themselves—

The Hon. T.G. Cameron interjecting:

The Hon. M.J. ELLIOTT: Yes, that is right. It would be fair to say at this stage that I am leaning towards supporting the legislation and the concept that these bodies should be corporatised and totally self-managed and, from that point, they will be capable of amending the rules according to the way in which they see they should be run, as happens with so many other bodies in our community. The other issue aside from corporatisation relates to gambling. I will touch on a theme that I have touched on a few times in this place; that is, as the government seeks to withdraw itself from the control of racing, RIDA not only had responsibility for oversight of each of the racing codes but it also had responsibility for bookmakers, and with the abolition of RIDA a question arose as to who would take responsibility. What the government is doing in this legislation is handing the regulation of bookmakers over to the Liquor and Gaming Commissioner.

For a long time I have certainly been an advocate of the notion that all gambling codes, whether it be associated with gaming machines, horse racing, lotteries, or whatever, should have some overarching regulatory body. I suppose the government would argue that, in a sense, it is moving towards that. However, all it is doing is asking the commissioner to take responsibility for oversight of the bookies, but it is not in any way changing the role that the commissioner plays, nor recognising that it is probably a role that should be held by a person alone.

The Hon. Nick Xenophon interjecting:

The Hon. M.J. ELLIOTT: That is right. The government has started to move in the direction of having a person or body overseeing a little more gambling than was previously the case—and, indeed, that might be a good thing—but, while the responsibility has expanded, the role has not. I believe that the question of roles is as important as responsibility. One thing that I would seek from the government while we are moving through this debate is some sort of undertaking or understanding about what it intends to do about gambling regulation while all this change is occurring. In the spring session we are expecting to see legislation in relation to the TAB and lotteries.

The Hon. Nick Xenophon: It has shown no commitment to gambling law reform.

The Hon. M.J. ELLIOTT: No, but the government has made some noises that it is giving it some consideration in response to the Hon. Nick Xenophon's private member's bill. One of the government members—

The Hon. T.G. Cameron: They will be out of office by the time we get to the end of the bill!

The Hon. M.J. ELLIOTT: Particularly if we spend—

Members interjecting:

The Hon. M.J. ELLIOTT: The government has made some vague noises that it is concerned with these issues and will do something about it. Frankly, this bill provides the opportunity for the government to put on the record what it will do about it and perhaps give us some sort of a time frame. Whilst it might not spell out the actual detail of the final result, I would at least like to see some understanding of how it will go about trying to resolve this issue of gambling regulation.

The Hon. T.G. Cameron interjecting:

The Hon. M.J. ELLIOTT: I simply say at this stage that I support the second reading. Beyond that, I have not decided what I will do.

The Hon. T.G. Cameron interjecting:

The Hon. M.J. ELLIOTT: That's all right. It is time that the government stopped skirting around this issue of gambling regulation and got serious. I am sick of seeing the Premier wringing his hands and saying that there should be a limit on gaming machines. How many years ago did he say that? I think it was two years ago.

The Hon. Nick Xenophon: Enough is enough.

The Hon. M.J. ELLIOTT: Yes, enough is enough.

The Hon. Nick Xenophon: It was June 1997. Since then we have had an extra 2 000 poker machines.

The Hon. M.J. ELLIOTT: Yes. That is an indication of the earnest belief and commitment of the Premier regarding this matter. I want to see from the government a firmer commitment than a wringing of hands and 'Ain't it awful?' during the close of the second reading debate on this bill.

The Hon. T. Crothers interjecting:

The Hon. M.J. ELLIOTT: Well, it could get harder. I return to the corporatisation issues. As I have said, I am persuaded by the arguments towards corporatisation. I acknowledge that I have received quite a few pieces of correspondence from concerned people, but on the basis of discussions that I have had with a wide range of people I believe that a clear majority of people who are operating in these various codes support corporatisation.

At this stage, I suggest that—recognising that, at most, there is a week remaining in the life of this current parliament—the focus should be clearly on identifying weaknesses within this legislation and any amendments which may improve it, as distinct from the issue of whether or not we will move to corporatisation. Unless I have a road to Damascus type experience on this issue over the next week, I think we are just looking at amendments to the operation of this legislation rather than the defeat of it.

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

ADJOURNMENT

At 6.38 p.m. the Council adjourned until Tuesday 11 July at 2.15 p.m.