LEGISLATIVE COUNCIL

Thursday 9 November 2000

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

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.

SHOP TRADING HOURS (GLENELG TOURIST PRECINCT) AMENDMENT BILL

The Hon. R.D. LAWSON (Minister for Disability Services) obtained leave and introduced a bill for an act to amend the Shop Trading Hours Act 1977. Read a first time.

The Hon. R.D. LAWSON: 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.

The *Shop Trading Hours (Glenelg Tourist Precinct) Amendment Bill 2000* is a bill to amend the *Shop Trading Hours Act 1977* (the principal Act). The amendments will have the effect of providing extended shopping hour arrangements to non-exempt shops in an area currently designated as the District Centre Zone in Glenelg and designated, for the purposes of this bill, as the Glenelg Tourist Precinct.

In June 2000, the City of Holdfast Bay wrote to the Minister for Workplace Relations proposing the establishment of a tourist precinct in Glenelg within which all shops could trade on Sundays to cater for the special needs of the area. The Deputy Chief Executive of the Department of Administrative and Information Services, Ms Anne Howe, coordinated the development of an Issues Paper on the matter. That Issues Paper strongly supported the amendments reflected in the bill before the House today.

Some of the comments from the Issues Paper supporting the establishment of extended trading hours in the Glenelg Tourist Precinct Zone include the following:

- Both the City of Holdfast Bay and the South Australian Tourism Commission (SATC) argued that Glenelg is 'a unique tourism precinct in SA and is second only to the City of Adelaide in its importance as a Tourist destination in this State".
- SATC identifies Adelaide and Glenelg as the highest profile tourism destinations in metropolitan South Australia based on the availability of accommodation and occupancy rates. SATC indicates that Glenelg has a high percentage of international visitors staying within the vicinity.
- Adelaide has some 3240 tourist beds available, with Glenelg providing 702 beds, or 1434, if the adjacent West Beach Caravan Park and the Marineland Holiday Village accommodation are taken into account. The next highest concentrations of tourist accommodation in the metropolitan area are North Adelaide and Glen Osmond Road, which provide 503 and 379 beds, respectively.
- The City of Holdfast Bay submission quotes a variety of statistics supporting the special nature of the Glenelg Tourist Precinct, including—
  - estimated visitor numbers of 3 million per annum with approximately 50 000 visiting Glenelg each weekend; and
  - high levels of interstate and international tourist visits; and
  - 285 businesses operate in the Jetty Road Glenelg Tourist Precinct of which only 56 do not trade on Sundays; and
  - 400 000 people were attracted to events in the area in 1999-2000; and
  - a total of 1 500 accommodation rooms are available in the Glenelg/West Beach area; and
  - 3 additional major tourism related developments are planned for the Glenelg area, in addition to other major developments which have already been established, including the Grand Hotel and Holdfast Shores.

The following parties were consulted during the preparation and after the release of the Issues Paper:

- The City of Holdfast Bay
- The Retail Trade Advisory Committee
- The Newsagents Association of South Australia
- The Furniture Retailers Council of South Australia
- Coles Supermarkets Australia Pty Ltd
- The Australian Retailers Association—South Australia
- The State Retailers Association of South Australia
- The Motor Trade Association of South Australia
- Waimea Pty Ltd (Trading as Cheap as Chips)
- The Corporation of the City of Adelaide
- Westfield Shopping Centre Management
- The Reject Shop, Glenelg.

The proposed amendments to the Act would introduce the same shopping hours to non exempt shops in the Glenelg Tourist Precinct as applies to the Central Shopping District in the City of Adelaide. That is, non-exempted shops under the Act (those with a floor space over 200 square metres) are permitted to trade—

- until 9.00 pm on every weekday; and
- until 5.00 pm on a Saturday; and
- from 11.00 am until 5.00 pm on a Sunday.

The Glenelg Tourist Precinct, as displayed in the map to be inserted into the principal Act by the amending bill, comprises some 285 businesses that currently pay a separate rate to Council for the promotion and development of the precinct. This precinct is also zoned under the *Development Act 1993* as the District Centre Zone and encompasses the central/core-shopping district including and surrounding Jetty Road, Glenelg.

This bill recognises Glenelg as a unique metropolitan tourist destination in South Australia. The amendments to the Act will ensure tourists are properly catered for in terms of their shopping needs and desires and that the economy of Glenelg and the overall tourist industry in South Australia continues to grow and remain vibrant.

I commend the bill to the House.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Amendment of s. 4—Interpretation

This clause inserts a definition of Glenelg Tourist Precinct into section 4 of the principal Act. Glenelg Tourist Precinct means that part of the State delineated and marked *Glenelg Tourist Precinct* in the plan in Schedule 1A (to be inserted by clause 7 of the bill).

The other amendments to section 4 of the principal Act are consequential. For example, the definition of Metropolitan Shopping District will, after the passage of the bill, mean that part of the metropolitan area (as defined) that does not include the Central Shopping District or the Glenelg Tourist Precinct and the definition of shopping district will include the Glenelg Tourist Precinct.

Clause 4: Amendment of s. 11—Proclaimed Shopping Districts

Clause 5: Amendment of s. 13—Hours during which shops may be open

Clause 6: Amendment of s. 13A—Restrictions relating to Sunday Trading

The amendments proposed in each of these clauses are consequential on the decision to change the trading hours for shops in the Glenelg Tourist Precinct (as defined) to match the trading hours of shops in the Central Shopping District.

Clause 7: Insertion of new Schedule

SCHEDULE 1A: Plan of Glenelg Tourist Precinct

New Schedule 1A contains a plan of the Glenelg Tourist Precinct.

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

PROSTITUTION (REGULATION) BILL

Adjourned debate on second reading.

(Continued from 8 November. Page 360.)

The Hon. R.I. LUCAS (Treasurer): I noted with interest the comments of my colleague the Hon. Mr Davis last evening that, in his 20 or so years in this place, he did not believe that he had spoken on prostitution. I must admit that, whilst I did not have the time last night to check the parliamentary record for my 18 or so years as to whether I had or not, my recollection is that I probably have. If I spoke previously, I am sure that I would have said the same thing.

We all acknowledge that this is a conscience vote, and let me at the outset indicate that I respect the views of all members in this chamber, even though their views may well be significantly different from my own.

The Hon. T.G. Cameron: You wouldn't think so at times.

The Hon. R.I. LUCAS: We are talking about the Prostitution (Regulation) Bill and a conscience vote.

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: On all other subjects I will reserve judgment and base any comment on the merit of the case. Let me say again that I do respect the views of other members and, so far, I think that this debate has largely been handled by most members in that vein, whereby people have been prepared to acknowledge the varying views of members of this chamber on this issue.

On most pieces of legislation, and at least in part in relation to this one, I come from the premise that in a controversial area such as this I do not need to be convinced that there are problems with the existing system, because I acknowledge that there are. I certainly do not accept any criticism there might be of the view that I and others might put that, because we might in the end not support this or similar proposals, we therefore are arguing that the current situation is ideal or even acceptable.

That is not the proposition I come from, and I will comment later. I certainly accept that the situation at the moment is not ideal, is not appropriate, that change of some nature is certainly required, and I am prepared to indicate some areas, at least, where I would be interested to see further change in the law. But to contemplate my position on this bill I, as an individual member, need to be convinced that what is being proposed will lead to an improvement in the situation in South Australia and meet some of the claimed advantages or benefits that the proponents for change to the law have indicated.

I will consistently refuse to use the phrase 'prostitution reform', if I can. I think that that is capturing the ground for those who want to see change to prostitution law seen as a good thing. I see it as 'prostitution change', change to the prostitution law, and that is the way that I will characterise it.

My general position is that I have not been convinced. If I was to be making this judgment solely on the issue of the merits of the case, I have not been convinced that the proponents for change have made a case, at least from my viewpoint, convincing enough to support change. However, as I have indicated, I am sure, on previous occasions, this is not just an issue of the merit or the logic of the case. I do freely acknowledge that in relation to prostitution I have an objection on moral grounds to the change in prostitution law that we are being asked to support. I believe that prostitution is exploitative of women in particular, although, of course, anyone else who is involved in prostitution is exploitative of those particular individuals as well. I have to say and freely acknowledge that we all have our own biases that we are bringing to this debate. I freely acknowledge that my conservative, working class, Catholic upbringing is probably and has been a key determinant in my own views about exploitation of women and also my views in relation to prostitution.

I acknowledge that other members in this chamber have a different bias. They have not been exposed to the same influences perhaps that I and others might have been and therefore, of course, bring their own perspective to the debate. As I said at the outset, I respect and do not criticise their particular perspective that they bring to the debate. As I said, and I do not say it often, on this issue I do have a moral objection to the whole issue of prostitution and prostitution law change, and it is a particular bias that I bring to this matter.

I also have to say that, again, given that background and bias that I do have, and I know that in logical debate it should not be an overriding consideration, I do also put the hat on as a parent in relation to this debate, and I could not in my own mind give moral legitimacy to a change in prostitution law which ultimately might see a daughter of my own, or indeed a son of my own, legally engaged in a new business or industry such as a brothel as a result of a particular vote that I might have had in the parliament.

Again, I acknowledge that that is a bias that I bring to the debate. It is my own perspective but, whilst I understand and will have this debate further on if the bill reaches the committee stage, there is the issue that prostitution exists and brothels exist. Nothing that can be done will actually stop that. I acknowledge that, but it is an issue for me as to whether I as a member will give some moral legitimacy to the continued presence of prostitution and, for some of the reasons I have explained, I cannot bring myself to give that moral legitimacy through support for this particular prostitution law change.

A colleague earlier in the week indicated that the Hon. Mr Redford had in a very kind and gentle way during the internet gaming contribution he made some weeks ago invited me to make some comment on my views on prostitution vis-a-vis my view on internet gambling. Whilst I was not in the chamber to listen to the honourable member's very eloquent presentation of his views on internet gambling, I am happy to briefly put on the record that I see no inconsistency at all with my own view on internet gambling and my own view on prostitution. From my viewpoint there is a threshold question in terms of attitude to these issues.

In relation to issues like prostitution, murder and hard drugs, which were among a number of other issues that the Hon. Mr Redford referred to in his internet and gambling speech, they are issues upon which I take a moral position that I believe they are morally wrong. Murder, use of hard drugs and prostitution are issues upon which I take a view that they are morally wrong. The view that I have, which may be different from other members—although I suspect it is not different from the Hon. Mr Redford's, even though we have a different view on internet gambling—is that I do not have a view that it is morally wrong to gamble. That has probably been self-evident over my 18 years in this parliament where on most issues in relation to expansion of gambling opportunities I have been a supporter of virtually all of those extensions of gambling options.

I do not take a view that gambling is morally wrong. I do take a view that murder or the use of hard drugs or prostitution is morally wrong, and it is therefore for me a threshold question in terms of forming my own view in relation to a conscience vote. Again, I hasten to indicate that I do not seek

to impose my view on other members of this chamber, but, equally, as a member of this—

The Hon. M.J. Elliott: What about members of the public—because that's what we are talking about?

The Hon. R.I. LUCAS: The Hon. Mr Elliott again seeks to criticise members who have a different view to his.

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: No, it's not, because that was the nature of your comments last night, that in some way someone with different views to yours on this issue is seeking to impose their view on members of the public. That is what we are actually elected to do. We are elected to this chamber for a period of eight years to listen to the arguments, and in this case in relation to prostitution reform on a conscience vote express our own personal conscience on that issue. If that in some way influences the law then, yes, it does mean that our views carry greater weight ultimately than the views of some people out in the community. But that is the case with all issues. Yes, we do impose a view, but it is not wrong for us to take a view and have that view reflected in the law.

I have consistently taken the view on a number of issues that, just because a majority of people in the community—and privatisation is the most recent debate—have a view, democracy does not mean that the majority view out in the community means that we as members of parliament have to vote in accordance with the majority view. If that were the case I would have to vote for capital punishment, because 70 per cent of people in the community want capital punishment in one form or another, and I have a moral objection to capital punishment. I also strongly oppose any notion that representative democracy is such that I have to as a member of parliament vote in accordance with the mob.

I have over 18 years on a number of issues not voted in accordance with the mob, or the majority wishes—on the Casino establishment, gaming machines, reform in relation to cannabis law, electoral issues, and reform in relation to homosexual law. In all cases in my judgment they were issues and votes that I have taken which were not supported by a majority of the community. But in the end, on the basis of my own judgment, I supported change in those areas. I do not believe that it ought to be the subject of critical comment that I am seeking to impose a view on either the public or, indeed, other members.

I acknowledge, as I have said at the outset, and I say again, that this is my particular view on this issue. I do not seek to impose my view on other members of parliament who have a completely different bias which they bring to this debate and perspective, and I acknowledge and I respect their view. I want to respond to the gentle invitation from my colleague, the Hon. Mr Redford, that, in some way, there is some inconsistency in the position I might adopt on issues such as prostitution, murder or hard drugs as opposed to internet gambling.

In my humble judgment, this bill is a dog's breakfast. As one or two honourable members have indicated, and without wishing to be too critical, I think the view of many members in the other place was that they were just keen to get the debate over and done with, vote one way or another on one of the five bills before them, and get it out of the House. Indeed, many have privately said for some time, 'You can sort this out in the Legislative Council.'

The Hon. Nick Xenophon: They have admitted that it is a mess.

The Hon. R.I. LUCAS: I think any rational thinking member of the lower house would have to concede that it is a dog's breakfast and a mess, and it is now being left to the members of the Legislative Council—should they support a change to the prostitution law—to try to make some sense of the bill.

As one example, I am advised that there is an amendment in the bill which was opposed by key speakers from the government and the opposition in favour of the legislation, but they inadvertently voted in favour of the amendment they spoke against in the debate. So we have as part of the bill amendments opposed by the majority of government and opposition members but, through the processes of the House of Assembly, they were inadvertently supported by the members and remain part of—

The Hon. P. Holloway: They are pretty sharp in the House of Assembly!

The Hon. R.I. LUCAS: I do not want to reflect on my lower house colleagues but, to put it kindly, we are the subject of much criticism in this chamber in relation to our procedures and processes and how we consider legislation. However, the dog's breakfast of a bill that we have before us does not show the House of Assembly processes in this debate in a very favourable light at all.

I am also advised that significant amendments were made to the bill that were not consistent with other amendments moved, so there are crucial inconsistencies and anomalies in the legislation. Given the mess we have before us, and should this bill proceed beyond the second reading stage, I intend to make some comments later in my contribution. However, I am not sure what processes this parliament might have to engage in to try to settle this issue. A conference of managers of the two houses, if the bill reaches that stage, will involve a conscience vote, particularly for legislation as vexing and controversial as this. I admit that we confront the same position in relation to gaming machine reform—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: We have not even got to a conference of managers on that legislation. We have two bills before us that will really test the processes of the parliament in resolving potential conflicts between the houses; that is one of the challenges that potentially awaits us with both pieces of legislation.

I am indebted to my colleagues, the Hon. Robert Lawson and the Hon. Trevor Griffin, who are much better versed in the law in relation to prostitution—or in any part of the law—than I am. Their contributions very succinctly outlined the legal position in relation to prostitution. I do not intend to repeat it other than to refer to the Hon. Robert Lawson's contribution and his quote from Justice Bollen, as follows:

> Prostitution is not an offence in itself; keeping a brothel is. So is living wholly or in part on the earnings of prostitution. Receiving money which happens to be paid over in a brothel for the purposes of prostitution is an offence.

I think the Hon. Robert Lawson quoted that as a lay person's summary of the law as it relates to prostitution. In the contributions in both the Assembly and in the Council there have been much more eloquent and longer dissertations on what prostitution law actually covers, but I think that quote from Bollen does succinctly—to me, anyway—summarise for a lay person the law as it relates to prostitution.

As I have said, I believe very strongly that the law we have is not ideal and does require change and, whilst I do not support the change we have before us, I indicate—as other members have indicated—that the proposed change in the law which treats customers, who are generally male, in the same

fashion as service providers, who are generally female, is a change I would be prepared to contemplate.

A number of people have made the criticism that there is potential for change in the law in that area. Former colleagues have raised this issue in the past. If there is further change in this area, I am prepared to look at that. I had the rare privilege of acting as the Attorney-General when the most recent prostitution case was either not proceeded with or thrown out—I cannot remember which—in the Supreme Court.

The Hon. K.T. Griffin: It met with difficulties.

The Hon. R.I. LUCAS: I happened to be the acting Attorney when that case 'met with difficulties', to use the Attorney's phrase. So, I was briefed on all the problems that the police were finding in respect of implementing the existing law. I take a different view from that of the Hon. Sandra Kanck when she said during her contribution last night that the police did have the required powers to manage prostitution if that was the view of the majority of the community and members of parliament. Certainly, on the briefings that I have had, based on the current law that is not the case.

Regarding powers for searching brothels and being able to detain people whilst searches are undertaken and evidence collected, in a good number of areas, the briefings that I have had from both the police and staff working for the Attorney-General indicate to me that others have a view like mine that the current law is not ideal and that, clearly, it needs to be changed. Regarding the proposed changes in this area, I understand that some, although not all, of the provisions that the police seek are potentially picked up in some of the bills that have been moved in the House of Assembly. I do not necessarily agree with all the provisions that the police seek, but I would be prepared to enter into debate on a bill if it arrived in this chamber.

A number of other members—in greater detail than I have been able or intend to—have looked at the situation as it occurs in other states. I acknowledge that those who support prostitution change here believe—I am sure honestly—that what they seek to do here is better than what has occurred in other states. If I was a supporter of prostitution change, I would have to try to argue that case, because I do not think there is any doubt that the evidence of people looking at what has occurred in terms of legalisation, decriminalisation or prostitution law change in other states indicates that they would be very hard pressed to be able to mount a case that all the claims that were made about prostitution law change in those states have been achieved.

Certainly, regarding the Victorian case, where I have had the most information provided to me, it would be very hard pressed for anyone to be able to mount a case that the claims that were made prior to prostitution law change in Victoria have been met. I think it is also very hard to argue that the situation in relation to the law in Victoria is any clearer or better than in relation to the prostitution industry and that, for those who work in it or purchase services from it, it is any better as a result of the changes that were implemented in the early to mid-1990s.

I note an investigative report in the *Herald Sun* in January this year which indicates that up to 20 000 men a week have been estimated to visit the 84 legalised brothels in Victoria and that twice as many are thought to use the services of escort agencies, illegal brothels and street workers. One of the claims for legalisation of the prostitution industry in Victoria was that too many people were using the services of illegal prostitution service providers in Victoria. The report in the *Herald Sun* this year estimates—and I freely acknowledge that, in this area, I do not think anyone is able to say with their hand on their heart that they know exactly the number of people who use the services of illegal brothels and other areas; so, clearly, they are always estimates—that twice as many are thought to be using services of illegal brothels, street workers and escort agencies. That report—and, again, I will not go into the detail of it—provides a lot more graphic detail of issues in relation to the Victorian industry.

I think the Hon. Mr Davis quoted a number of statements from the *Melbourne Age* Insight articles and others on a three month investigation of the prostitution industry in Victoria. Again, without my quoting those reports, they were broadly consistent with the view that many of the claims that have been made by proponents of prostitution law change in Victoria have not been proven to be correct and that the illegal industry and the street working industry continue to flourish and thrive for a whole variety of different reasons. Of course, that was one of the principal reasons for the prostitution law change move in Victoria.

I am not in a position to be able to confirm some purported information that has been given to me. This view comes supposedly from a person who has some influence on the Hon. Mr Xenophon in terms of his views in a number of areas, but I suspect that the sensible thing would be for the honourable member to have a discussion with the Reverend Tim Costello. It has been reported to me, but I cannot confirm it—I hasten to say (the Hon. Mr Xenophon is here now) that I am not putting words into the Reverend Mr Costello's mouth, because I have not heard them myself—that he said at a recent meeting in Victoria that, originally, he had been a supporter of prostitution law change in Victoria, but, in the words reported to me, that he said that it had not worked.

The Hon. Diana Laidlaw: He said that the Victorian model had not worked. We all agree with that.

The Hon. R.I. LUCAS: All I can talk about is what the Reverend Mr Costello has said. As I said, the Hon. Mr Xenophon has some regard for the views of the Reverend Mr Costello.

The Hon. Diana Laidlaw interjecting:

The Hon. R.I. LUCAS: I acknowledge that.

Members interjecting:

The PRESIDENT: Order!

The Hon. Diana Laidlaw: You don't want to acknowledge my interjection because you don't want it on the record.

The PRESIDENT: Order!

The Hon. T.G. Cameron: This is appalling hypocrisy on your part.

The PRESIDENT: Order! The honourable Treasurer.

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order!

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order! The Minister for Transport can wrap up this debate, so she will have plenty of chances to comment while on her feet.

The Hon. R.I. LUCAS: As I said, I am sure that the Hon. Mr Xenophon will not rely on my comments in regard to this. He ought to speak to the horse's mouth and get the Reverend Mr Costello's views. One of the interesting things as I read through the debate on this issue in the Legislative Council is that those who support the proposed change generally seem to have very few interjections recorded in *Hansard*. Those who have a different view, when one reads the *Hansard*—

The Hon. Diana Laidlaw: No-one criticised the Attorney when he gave an unbiased perspective of Victorian law.

The Hon. T.G. Cameron interjecting:

The PRESIDENT: Order! Have members finished interjecting?

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order!

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: I am being sorely provoked, but I will not respond to some of the comments that are being made. I am an individual member in this chamber entitled to a conscience vote on an issue, and I will not be deterred by those who have a view different from my own—a view which, as I said at the outset, I respect. I will not be deterred by people who have a view different from my own. I have indicated that I do not seek to impose—

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: Well, nor should you be. I said at the outset that I do not seek to impose my view on other members of parliament, but I am entitled to stand up in this chamber and put my own conscience view on this issue without being attacked and told that in some way my view is not a view which I am entitled genuinely to take, and a view I am entitled to take in relation to the evidence before me. I do not intend—

The Hon. Diana Laidlaw interjecting:

The Hon. R.I. LUCAS: I do not intend to have a public disagreement with one of my own colleagues. I do not mind engaging in public difference of opinion with the opposition or others, but I do not intend to engage in a public disagreement with one of my own colleagues on this issue or, indeed, on anything else.

I said earlier, for those members who may have missed it, that I acknowledge that the proponents of change in South Australia believe that their proposed law is better than the law in Victoria and in other states. It is not correct for anyone to suggest that I have indicated that this legislation is the same as Victoria's. I said at the outset that the proponents of this change believe, I am sure genuinely and honestly, that their change is better than Victoria's or the other states. From my viewpoint, the proponents of change in Victoria and in the other states believed that what they were doing, genuinely and honestly, was going to resolve the problems that existed in those states.

What I am indicating, based on the information before me, is that there are many people who, now having seen what has occurred in those states, do not believe that the proposed benefits of prostitution change in those states have been achieved. I think that that is a valid position for any individual member in this chamber to take. I refer to the *Age* of February last year, as follows:

> An *Age* Insight investigation revealed yesterday that the number of illegal brothels had trebled in the past 12 months and now outnumbered legal premises. Police said growth was out of control with more than 100 illegal parlours operating across Melbourne.

I also refer to the editorial in the *Sydney Morning Herald* of August 1999 about prostitution law change in New South Wales, as follows:

> Since the state government effectively legalised brothels in 1995, the number of establishments operating in Sydney has more than tripled to somewhere between 400 and 500. Many of these are unapproved businesses and fly by night operations. . . Unsurprisingly, criminal elements retain a disturbing presence in the industry.

Again, I indicate that, while the law change in both New South Wales and Victoria was different, the commentary from some, as a result of looking back on the law change in those areas, would continue to argue the case that the proposed benefits have not been achieved in both those states in relation to prostitution law change.

In the debate in this chamber and in the other chamber, if one wants to get into the detail of the bill, a number of interesting questions have been raised by members in this chamber and the other chamber in relation to WorkCover issues, occupational health and safety issues, the notions of the education and training system as it might apply to what would be an industry with new moral legitimacy, and also traineeships and apprenticeships; indeed, the whole notion of how the education and training system and various government requirements in the education and training area would mesh with this new industry.

The Hon. Ron Roberts raised some interesting questions, to which the Hon. Sandra Kanck endeavoured to provide some responses in relation to employment contracts, the power of the individual and the right to refuse duty. Should prostitution law change pass both houses of parliament, and while I know the proponents of change are dismissive of a number of these questions, ultimately in my judgment they will be important questions which will raise—I believe, anyway—considerable debate in the community as one works through the new law.

The Hon. Ron Roberts referred to the right of a woman to say no or to refuse duty, and I think the Hon. Sandra Kanck addressed that issue in her contribution. I am not sure whether the Hon. Ron Roberts canvassed all the questions that potentially need to be raised. There is also the issue of the types of sexual services that an individual employee might or might not be required to provide. It might not be an issue, as some members have canvassed, of someone's being forced to work in the industry. On my understanding, that is correct. However, the issue is, having agreed to work in the industry and to work as a sex worker or a prostitute, what is the power between employer and employee in relation to the types of services, in this case sexual services, which have to be provided to the customers of this industry? As I said, I think in a number of those areas—and I do not intend to go into any detail on that aspect of the bill during the second reading—it is obviously an issue which will have to be debated during the committee stage (if it gets to committee stage) or at a later stage.

On my understanding, and as a result of my advice, the bill has a regime which applies a different planning arrangement for what are known as small brothels or home brothels where one or two prostitutes work out of a home. My understanding, and, again, and I am happy to be corrected—but two lawyers have advised me that this is the case, if that helps—is that home brothels can be located in any residential area, next door to any house under the proposed arrangements. I am also advised that some of the Victorian research suggests that there are some 1 200 registered one woman sex businesses in that state. I think other members have quoted the number of legal brothels as being 50 or 80 (I cannot remember the number) which is, in quantum, a relatively small number, but there are some 1 200 registered one woman sex businesses in Victoria.

While I have a moral objection to brothels and to prostitution and have argued that I do not believe the proponents of prostitution law change, from my viewpoint anyway, have made the case for that change, I also have a huge concern—I

think it is a concern that would be shared by many people—that we might see, with the moral legitimacy of small or home-based brothels, a significant expansion in the number of home-based brothels in suburbs next door to households and residences.

I acknowledge that in part that exists at the moment but not with the moral legitimacy of the parliament's giving its nod to prostitution law change and to the operation of brothels in residential areas. If my understanding is correct, I believe that this will be a huge issue for residents and for the people of South Australia living in their family home. There is the prospect that we might see, as has occurred in Victoria, a huge expansion in the number of home-based brothels in residential areas. I have also been advised and had the issue confirmed by staff working for the Minister for Transport—and I thank her for the assistance of her staff—that, in relation to big brothels (as opposed to small brothels), you will still have the situation—whilst it has been intended to try to keep brothels in industrial areas—where a good number of areas of South Australia will have an industrial area on one side of the street and a residential area on the other side of the street, and the current and proposed law that we have before us will allow a legal brothel to be established right across the road from a family home in a residential area.

That is and will be a huge issue for many families in South Australia if they become aware of the notion that legal brothels will legally be able to be opened in an area directly across the road from their family home. This area of location of brothels in residential areas, of course, reminds many of us with a long memory of the activities of Mr Michael Atkinson, the member for Spence, on a previous occasion when the parliament endeavoured to address prostitution law change. On that occasion, Mr Michael Atkinson circulated in the western suburbs—and I must admit I have kept a copy somewhere but I was not able to find it for today's debate—some particularly inflammatory material directed at a colleague of mine, the Hon. Bernice Pfitzner.

Again, whilst I did not share Bernice's views in these areas, I respected Bernice's very strongly held views in relation to the prostitution law change. Mr Michael Atkinson circulated in large parts of the western suburbs material that said, 'The Liberal Party wants to have brothels either next door to your house, next door to your family home or in the western suburbs where you live but it does not want to have brothels in other parts of Adelaide.' It was an extraordinarily effective piece of political campaigning by Michael Atkinson to terrify the residents of his suburbs. Certainly, that is the view that he took because I remember having discussions with him.

He was chortling at the political advantage that he had gathered for the Labor Party against the Liberal Party by using this campaigning technique that the Liberal Party, through Bernice Pfitzner, wanted to have brothels in residential areas in the western suburbs. Given the precedent established by Michael Atkinson and given the strongly held views on this subject, it is an extraordinarily courageous position that has been adopted by Robyn Geraghty, Chris Hanna, Gay Thompson, Jennifer Rankine, Stephanie Key, John Hill, Pat Conlon, Vini Ciccarello, and Frances Bedford because they have been strong supporters of prostitution law change. Indeed, the vote in the House of Assembly lists them as supporters of prostitution law change.

As I have just said, it does indicate that this bill that has been supported by those members will allow small brothels in all residential areas. As I said, some 1 200 one woman sex businesses have been registered in Victoria. It will also allow legal brothels in industrial areas and directly across the road from family homes in residential precincts. This is a very strongly held position. I have seen in this area, and I think also previously in the past, inflammatory material on the issue of abortion law reform which, frankly, was at the outer edges of what would normally be seen as normal campaigning.

I remember doorknocking in areas of Makin when various groups campaigned against Peter Duncan. There are clearly those in the community who have strongly held views and, as I said, Michael Atkinson, with his vicious attack on Bernice Pfitzner of the Liberal Party, clearly established the role model, I guess, in relation to this area. As an observer—not as someone who, like Michael Atkinson, sees himself as a key number cruncher and campaign director of what goes on within the Labor Party—I am not in a position, obviously, to have that same degree of influence that Michael Atkinson might, but I will be an interested observer of what might eventuate over the coming months.

The final comment I make relates to the parliamentary process on which we are about to embark. For the reasons I have outlined, I do not intend to support the second reading. However, it is my judgment that the vote on the second reading is likely to come down, probably, to perhaps one vote, and it may well be the vote of the Hon. Mr Xenophon.

The Hon. Nick Xenophon: Or the Hon. Mr Angus Redford.

The Hon. R.I. LUCAS: It is possible.

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: In relation to the second reading, those who count the numbers more assiduously than I do have informed me—

The Hon. T.G. Cameron: Are you supporting the second reading?

The Hon. R.I. LUCAS: No, I am not. The Hon. Sandra Kanck was quoted in the media yesterday as indicating that there were three members upon whose vote the second reading would be determined. The reporter then went on to name three particular members. Obviously, there will be a very close vote in relation to the second reading. My view is that there is a prospect that this bill will get through the second reading by just the one vote. However, I believe that if that is the case, which I think is possible, that is not necessarily, as has been indicated by a number of members, the position that might eventuate in relation to the third reading.

In terms of the weeks that we have left to try to debate this legislation, clearly, if it gets through the second reading, how we might progress the committee stage is an issue that will need to be considered by all members. We already have some significant amendments being moved by the Hon. Diana Laidlaw and the Hon. Carolyn Pickles. The Hon. Michael Elliott indicated last evening that he was contemplating amendments. As one member in this chamber, I indicate that I think that it would be useful, in the interests of those who want to see the debate concluded one way or another, sooner rather than later, that those members who are contemplating further amendments to the bill we have before us circulate their amendments to all members as soon as possible so that it might be easier for all members to try to sort out their position on a number of these issues. I refer to the dilemmas we had with the casino legislation, which was relatively modest in terms of the number of pages of debate. When you have a conscience vote on an issue like gaming, or casinos,

or prostitution, every member has to establish his or her view on every amendment.

It is extraordinarily hard for whoever is in charge of the bill to manage that process—the Hon. Nick Xenophon in relation to the casino bill and my colleague, the Minister for Transport, in relation to this issue. So, if it is possible, I ask members who are contemplating further amendments to show some consideration. As I have said, I pay credit to the Minister for Transport and the Leader of the Opposition, because they have had their amendments on file for at least a week or so, enabling us to try to form a view on them. Depending on what happens when we vote on the second reading, there might be others, including the Hon. Mr Elliott, who have amendments in mind and, if so, I hope they can get them in as soon as possible. And again, with respect to the casino debate, it might be sensible for those who do have amendments to sit down with the minister in charge of the bill—the Minister for Transport—to try to get some sort of sense as to how we might progress the issue through the committee stage.

I believe that it will take an extraordinarily long period for this chamber to consider all the amendments that I understand might be on the way, or are already here. There is a commitment from all of us, I believe, to try to get this completed before we finish the session at the end of this year. To do so I think we need to try to work together in the interests of how we process the debate, even if, ultimately, we take strongly held different positions on the individual amendments.

Finally, as I said at the outset, if this bill gets to a conference of managers, I am not sure that we will be able to complete the process before Christmas. It may well be that we have to work through a process between this session and the next one whereby the conference of managers works its way through the different opinions that the majority of the two houses of parliament may or may not have established. That is for further down the track. It may or may not get to the stage where we have to contemplate that.

The Hon. T.G. CAMERON secured the adjournment of the debate.

SHOP THEFT (ALTERNATIVE ENFORCEMENT) BILL

Adjourned debate on second reading.
(Continued from 25 October. Page 236.)

The Hon. IAN GILFILLAN: In our view, this bill is a positive step and we support its general thrust. The bill seeks to set up an alternative procedure for dealing with shop theft cases where the retail value of the goods stolen is less than $150. This would apply only when the accused admits to being guilty and the victim agrees to the alternative procedure. If one or both of these conditions do not occur, then the current method of prosecution applies.

In the case of theft of an item worth less than $30, the accused person is given an infringement notice by the attending police officer and will need to admit to the offence, apologise to the victim and return the goods or pay the retail value. The option is also open to the accused to do this within 48 hours of receiving the infringement notice.

In the case of the theft of an item worth between $30 and $150 a similar arrangement exists, except that the accused must wait the 48 hours to consider his position. In addition, if the accused chooses to admit to the offence, return the item and offer an apology, he must also complete community service equalling one hour for every $5 value of goods stolen. This gives an effective minimum of six hours and a maximum of 30 hours of community service.

I read with interest the comments made by other members in regard to this bill, and I support the questions raised by the Hon. Carolyn Pickles and will be keen to hear the Attorney's response to those as he sums up the debate. In addition to this, I take this opportunity to raise concerns brought to my attention by a letter that I received from the Para Districts Community Legal Service Incorporated. It, too, expresses general support for the bill. However, it raises concern about the limited time in which an alleged offender can find legal advice, and states:

> We disagree with the proposed 48 hour time limit, on the basis that it is insufficient time in which to obtain proper or adequate legal advice from either a Legal Services Commission office or from a community legal service.

I must say that 48 hours does seem like a very short period of time for anyone to obtain proper legal advice. It is important that persons finding themselves in the position of having been issued with such infringement notices be well informed about their rights. I would like to hear the view of the Attorney on the possibility of extending this period and what actions will be taken to ensure that accused persons in this situation will be aware of their rights and the consequences of the decisions in this regard.

The Para Districts Community Legal Service Incorporated has raised another point. In the case where the goods stolen are damaged and, therefore, under the bill the accused would have to pay the retail value of the goods, this would disadvantage those on lower incomes who may be unable to do so. I ask the Attorney to consider these matters and I suggest that more clarification is needed in regard to the procedure of paying for damaged goods.

However, it is important that the emphasis is moving away from shoplifting to shop theft. It has been for generations regarded as a lesser offence, in fact, almost a sport in previous decades, and I think that we have now shifted the emphasis substantially. This is a proper course in which we are going to encourage the reporting and following through of what in relative terms are minor, albeit serious, offences. Shop owners previously felt it a deterrent to get caught up in quite an involved business hardly worth the trouble to apprehend or to cover goods of limited value. We support the second reading of the bill.

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

CASINO (MISCELLANEOUS) AMENDMENT BILL

In committee.
(Continued from 26 October. Page 258.)

Clause 5.

The Hon. P. HOLLOWAY: The clause before us at the moment would make it a condition of the Casino licence that no gaming machine within the Casino should be capable of being operated by a means other than the insertion of a coin. In other words, this clause, if carried, would exclude the use of note changing machines and any other form of card being used to operate gaming machines within the Casino.

There was a rather interesting debate last week when the Treasurer referred to some of the most recent research that

has been done in relation to smart cards. He referred to an article stating that currently in New South Wales trials are being undertaken that have the objective of trying to use the information given by a smart card to provide harm minimisation in the use of gaming machines. I think that the Hon. Nick Xenophon in his reply conceded that in the future some benefit could come out of that but that we are not at that position yet.

When this clause was first considered by the Labor caucus over 12 months ago now, I think, we supported it in principle because we are opposed particularly to the use of credit in the operation of gaming machines. Right from the day when the Gaming Machines Bill was first introduced in the early 1990s, we have opposed people being able to use credit to gamble on those machines, which is why we support the spirit of this amendment.

The Treasurer has now raised the issue of whether or not the so-called smart cards may have some benefit in terms of harm minimisation. I would like to take that issue back to our caucus to see whether, if there is benefit to be gained from that, there might be some benefit in permitting some trial in those matters.

I have not yet had to canvass that matter with the caucus. Certainly our position of 12 months ago was that we would support the Hon. Nick Xenophon's motion, but given the points that the Treasurer has made, and given that the Hon. Nick Xenophon has at least conceded that there may in the future be some benefit, that is an issue that I would like to give some further consideration to with my colleagues. If we have to vote on the clause now, then, consistent with the position we took 12 months ago, we would support the motion in its current form, and we may well do that after consideration. Given that these matters have been canvassed in the current debate, and given the time that has elapsed, I am certainly prepared to take the arguments away and discuss them with my colleague as to whether there is any need to revisit our position. That outlines what the position of the opposition is at this stage.

The Hon. M.J. ELLIOTT: On behalf of the Democrats, I support this clause. I have argued for some time that, while I opposed initially the introduction of gaming machines, so long as they are with us, we do have the capacity to limit their capacity to do harm, that we can limit the harm done by them by variation in the games and in the way they operate, in a whole range of ways. That is what this clause does. I think it does ensure that the person is actively going to feed in coins which they have in their possession. Whilst there may be some talk about some smartcards that may at some time in the future be able to do certain things, when they actually have those things we can come back and debate that. But to not support the clause on the suggestion that there might be a smartcard in the future that might minimise harm is neglecting the other risks in terms of the use of notes, the use of credit cards, and other things, potentially I suppose, in gaming machines. So I support this clause on the basis that so long as we have gaming machines there are some things we can do which are harm minimisation approaches, and I see this clause fitting into that category.

The Hon. NICK XENOPHON: I understand that the opposition will be reconsidering its initial support for the clause that a gaming machine cannot be operated by means other than the insertion of a coin. I urge the opposition, and indeed all members, to continue to support this clause. The Treasurer did raise the possibility of smartcards in the future being used to reduce the harm associated with gambling. Some cards that have been trialled initially have been trialled by the industry. If you are going to go down the path of having a smartcard system to be used for the purpose of operating gaming machines, what sort of system would be effective? We do not know yet, because the technology is still emerging and it is still, in a sense, in the early discussion stages. If you give it to the control of the industry then I cannot see how it would be effective because the bottom line is that this industry relies so much on hooked gamblers.

The Productivity Commission made it clear in a survey that it carried out that, with respect to poker machine losses, 42.3 per cent of poker machine losses came from problem gamblers. In other words, a significant bottom line for this industry comes off the backs of the vulnerable and the addicted. If a smartcard system was in place, in tandem with coins being used, I cannot see how that could possibly reduce levels of problem gambling because, if there was a smartcard with exclusion mechanisms, as soon as the card stopped you from using the machine you would go and get some coins and put them into the machine.

If, however, it was almost a licence to gamble system, which is the sort of thing that has been suggested by some state-based regulators—and I know that the Liquor and Gaming Commissioner, Bill Pryor, has spoken about the general principles involved—that could well be effective, but that would have to be something that is regulated by statutory authority, with strict controls in place, self-exclusion mechanisms, and no other mechanisms for a machine to be played. In that way it could, arguably, be effective.

But rather than be diverted by the Treasurer's comments on this, and it is a fertile area for debate, in terms of this clause before the committee, I urge honourable members to support it, in the absence of overwhelming evidence that there is a smartcard system that is ready to be put in place by state-based regulators that would clearly, demonstrably, reduce levels of problem gambling. So until we have that overwhelmingly clear evidence I urge honourable members to support this clause that would apply both to the Casino and to hotels and clubs that have poker machines, whereby you can operate machines only by means of coins, until we have very clear evidence to the contrary that there is another system in place that could reduce harm.

The Hon. T.G. CAMERON: I wish to make a few comments in relation to proposed section 41B and to put some questions to the Hon. Nick Xenophon. I note that most of the debate that has taken place in relation to section 41B has been about the introduction of smartcards, and I guess the Hon. Nick Xenophon may be prepared to concede that, whether we like it or not, we are moving down the path of becoming a cashless society. One wonders whether or not we will reach a point at some stage where something like 90 to 95 per cent of our commercial money transactions take place via a credit card or a smartcard, or some other card like that, and people will use cash only for small expenditure items. So, at the end of the day I am not sure whether we are going to be able to stand in front of progress and continue to see our society act as a cash society. However, on balance, taking into account that there is work done on developing some kind of a smartcard, I think perhaps we could wait. But I want to come to the last line of section 41B, where it provides:

> . . . that is capable of being operated by means other than the insertion of a coin.

I want to canvass the question of coins versus notes. I am sure the Hon. Nick Xenophon is well aware of the fact that it is

only a few short years since money transactions were conducted with $1 and $2 notes.

The Hon. Nick Xenophon interjecting:

The Hon. T.G. CAMERON: Yes, and 1¢ and 2¢ coins were deleted, and if you can find anything that a 5¢ coin buys these days please tell me; I have a great big jar full of them at home. Nobody wants them.

The Hon. M.J. Elliott: You get 1¢ and 2¢ poker machines now.

The Hon. T.G. CAMERON: Yes you can, but have you seen anybody playing those machines 1¢ at a time?

The Hon. M.J. Elliott interjecting:

The Hon. T.G. CAMERON: I haven't either, and I do spend a bit of time observing what people do in these establishments.

The Hon. M.J. Elliott: They are the biggest problem makers, their 1¢ and 2¢ machines.

The Hon. T.G. CAMERON: Well, they are. The psychology of how they get people in with these 1¢ and 2¢ machines is quite intriguing—but that is not the debate on this particular clause. So I do foreshadow that I do not think it is going to be very long before we reach a situation where we have $5 coins.

The Hon. M.J. Elliott interjecting:

The Hon. T.G. CAMERON: Well, I note that all the machines, from memory, are operated on the basis of $1 coins, notwithstanding that we now have $2 coins, so I guess a question to the Hon. Nick Xenophon would be: if the federal government moves to $5 and $10 coins, which I expect, would he have an objection to those coins being used in lieu of $1 coins? If that is the case I would be very interested in what the rationale is behind that argument. As I understand it, the machines currently operate on the basis of you going and getting your $1 coins, and it does not take a person too long to go through those, so I think the rationale is that if we force people to go back to a machine which changes them—I do not know how long it is since you have been to the Casino, but they have these money changing stations—

The Hon. Nick Xenophon interjecting:

The Hon. T.G. CAMERON: Well, the offer has been open for a long while. I will take you up on your offer for dinner one night and we'll have it at the Casino.

The Hon. Nick Xenophon interjecting:

The Hon. T.G. CAMERON: No?

The Hon. Nick Xenophon interjecting:

The Hon. T.G. CAMERON: Just to visit? Do you have some objection to partaking of drink and food at the Casino?

The Hon. Nick Xenophon interjecting:

The Hon. T.G. CAMERON: Does that mean we can't go to a hotel either? I feel a little uncomfortable about forcing people to go back to a machine or a teller to change their notes. I understand the concerns about smart cards and I am very interested to hear the Hon. Nick Xenophon's comments in relation to his concerns about these machines being operated by notes rather than coins.

The Hon. NICK XENOPHON: The honourable member has raised a number of very good points. The intention of the clause is to minimise the harm associated with the use of the machines, particularly if the machines are altered to accept notes. In New South Wales and Victoria, the machines accept $50 and $100 notes and the evidence from gambling counsellors, and in a paper presented at a gambling conference several years ago, is that the turnover of machines increases significantly once notes are accepted, because it makes it so much easier to gamble.

I have referred extensively to work carried out by Barry Tolchard, who works at the anxiety disorders unit at Flinders Medical Centre (the only specialist inpatient place for treatment in South Australia for gambling addiction), and Dr Paul DeFabbro of the Department of Psychology at the University of Adelaide and the Flinders University regarding the issue of smart cards, and by extension you could refer to the issue of notes, because it is easier to lose money more quickly.

I think the suggestion of a $5 coin is a good one, and I will consult with the Hon. Terry Cameron and foreshadow an amendment to include reference to a coin no greater than $1. The intention of the legislation is to not facilitate rapid losses and, perhaps if I included 1¢ or 2¢ coins, it might make life easier.

The Hon. T.G. Cameron interjecting:

The Hon. NICK XENOPHON: Only 1¢ or 2¢—if you can find them. The Treasurer is smiling. That might have a drastic impact on the revenue base because I think the 1¢ and 2¢ coins have already dried up. I think the suggestion is a good one and, of course, who knows what the Reserve Bank will do if ever it decides what sort of coins we should have. If a $10 coin was in circulation it would, in some respects, defeat the purpose of this bill.

The Hon. T.G. Cameron: They will change the machines so that they accept $10 coins.

The Hon. NICK XENOPHON: That is right. The Hon. Terry Cameron has made a very good point and I will foreshadow an amendment that it be no greater than a $1 coin in relation to what we have now. From the industry's point of view—

An honourable member interjecting:

The Hon. NICK XENOPHON: Given what the Hon. Terry Cameron says—as he has said to me privately—this is what happens with this type of bill, and I understand that. To make it absolutely clear, if the honourable member has a concern about that—

An honourable member interjecting:

The Hon. NICK XENOPHON: The intention is to ensure that the status quo remains—that no denomination higher than a $1 coin can be used when operating the machines. If the Hon. Terry Cameron wants to move an amendment for a 5¢ coin so that he can make use of all the 5¢ coins in his jar, I would be more than happy to support it. Realistically, there is some support in this chamber for the status quo to remain and not to allow venues to alter poker machines to make them more addictive and with a much more rapid rate of losses.

The Hon. T.G. CAMERON: If I heard him correctly, in his contribution the Hon. Nick Xenophon mentioned that in some other states a $50 note can be used in the machines. He made mention that he had looked at studies that indicated that the turnover of each machine increased significantly when compared with a coin-operated machine. I am interested in looking at that information because, if those studies indicate that allowing the machines to be operated by notes significantly increases their turnover, that is of real concern to me.

I indicate my tentative support for new section 41B. However, will the Hon. Nick Xenophon allow me to look at the studies which show that turnover does increase significantly if machines are switched from coin operated to note operated?

The Hon. NICK XENOPHON: The study to which I referred was presented as a paper at the National Association of Gambling Studies conference (NAGS) in November 1997. It was presented by Mr John Haw and he indicated from the studies he had done—they were reported in the media—that the turnover increased on average 64 per cent with a note-taking machine.

When I saw Mr Haw at a gambling conference a couple of years later, I asked him for a copy of his paper. He said that he could not provide it to me because he was working at, I think, Tattersall's and he was now doing a bit of research for the industry. So, I am happy to track down this gentleman and perhaps the honourable member can speak to him. This 64 per cent increase was reported in the media at the time. It was a pretty interesting paper. He was not being judgmental in any way; he was just saying that, to maximise turnover, note-taking machines can make a big difference.

The Hon. T.G. CAMERON: I thank the Hon. Nick Xenophon for his answers, and I will await that study. The intention of new section 41B, to limit machines so that they can take only coins, has as its objective to decrease the turnover of the machines. My question may be dealt with somewhere else in the bill, but I guess the honourable member's intention is to limit the turnover of the machines. What concerns me about some of these machines is that a 10¢ or a 20¢ machine does not take just a 10¢ or a 20¢ bet; people can actually gamble $9, and I understand that the maximum bet is $18. Is that correct?

The Hon. Nick Xenophon interjecting:

The Hon. T.G. CAMERON: Yes. The machines also have double-up facilities. I must confess to being a little shocked when I saw someone at the Belair Hotel playing a machine recently. They were betting extraordinary sums of money every time they pressed the button. They were putting through hundreds and hundreds of dollars every 10 minutes. On one occasion, the person won 2 000 credits. On my calculation, that was $200. They were offered the double-up option, and they doubled up three times before they lost. So, they were gambling hundreds and hundreds of dollars every time they pressed the button.

I think this is a bit of a concern. I am concerned about these machines. You can sit there for 20 minutes playing a machine, finally crack a jackpot of $35, and you are offered a double-up. Many people go for the double-up because they are losing, and that further compounds and exacerbates their losses.

Is there anything in the honourable member's bill that places a limit on the quantum that can be bet on a machine or the compounding effect on a machine? In other words, I think a limit should be placed on the maximum amount that you can bet each time you press the button. I am concerned about the double-up option that is available. A limit should be placed on it.

The Hon. NICK XENOPHON: In response to the Hon. Terry Cameron's question, this bill does not deal with that. This is a minimalist approach, because the Gambling Industry Regulation Bill, which has been in this chamber for quite a while and which is going through this place at a pace like swimming through quicksand—

The Hon. T.G. Cameron interjecting:

The Hon. NICK XENOPHON: I do not want to comment on that, but I think the Hon. Terry Cameron knows the history of private members' bills in the Council and the other house.

The Hon. M.J. Elliott: You are doing better than most.

The Hon. NICK XENOPHON: I was not complaining.

The Hon. T.G. Cameron interjecting:

The Hon. NICK XENOPHON: Well, that is right, but there are limits in terms of the amount that can be lost on machines. That is dealt with in the Gambling Industry Regulation Bill. Regarding the point made by the Hon. Terry Cameron, when this parliament decided in May 1992 to allow the introduction of poker machines in the context of the public debate, the Marketing Development Manager of Aristocrat Leisure Industries (the biggest manufacturer of gaming machines in this country) came to Adelaide and said that playing machines is not gambling but a form of entertainment and that—and I quote him directly because this has been tattooed on my memory—

The Hon. T.G. Cameron interjecting:

The Hon. NICK XENOPHON: Yes. I do not think that the ALP has—

The Hon. T.G. Cameron interjecting:

The Hon. NICK XENOPHON: Yes, but the Marketing Development Manager of Aristocrat said, 'It will take you a month of Sundays to lose $100 on one of these things.' We know that that is an absolute lie, because you can lose $700 or more in an hour on these machines, assuming average rates of return on play, which is not necessarily the case.

An honourable member interjecting:

The Hon. NICK XENOPHON: That is the average, assuming average rates of return, and you can quite easily lose thousands of dollars in the course of an hour if you are playing double-up and maximum bets.

The Hon. M.J. ELLIOTT: This is about trying to help people to control impulses that they cannot control. The very act of having to go somewhere else to change a note—

The Hon. T.G. Cameron interjecting:

The Hon. M.J. ELLIOTT: Yes. You cannot control all impulses. The ideal situation for gaming machine operators is for a gambler to hook his net account up to the gaming machine and then be offered a series of choices quickly to which he will say, 'Yes, I'll go for it'. That is the way gaming machines work. The fact that under this amendment you are required to use a coin at least creates a small chance that, if a person has used up their current supply of money and they want to continue playing, they will have to go and get another set of coins. So, it gives a person half a chance of not being impulsive.

The Hon. Nick Xenophon referred to many provisions in the other bill. We need all sorts of circuit-breakers and requirements so that when you have a big win you are not offered double or nothing. The machines should spit out the money and then you should have to physically put it back in if you want to continue gambling. There are many things that we can do about these games. Companies employ teams of psychologists to work out how best to get into the minds of these people who cannot control their impulses.

The Hon. T.G. Cameron interjecting:

The Hon. M.J. ELLIOTT: That is right. Theoretically, you can vote only once, but unfortunately with poker machines—

The Hon. T.G. Cameron interjecting:

The Hon. M.J. ELLIOTT: Well, Queensland is different. In relation to gaming machines, the psychologists have done a brilliant job. The very success of the 1¢ and 2¢ machines illustrates that. I am astonished that people who support gaming machines are not prepared to acknowledge that things have been done, that there has been further modification of gaming machines (even while they have been in this state) to

make them more addictive than when they first arrived. There does not seem to be a commitment to say, 'Okay, they are a form of entertainment and, yes, they can create jobs, but there are things we can do to allow those two things to happen and also enable us to minimise the harm.'

I am astonished that there has been virtually no support from the people who support gaming machines at least to acknowledge that harm does occur and to engage in genuine harm minimisation strategies other than a token gamblers' fund. I use the word 'token', because nothing else has been done or attempted by the proponents of gaming machines.

The Hon. T.G. CAMERON: I want to pursue the line that the Hon. Mike Elliott just raised, because I think we are getting close to the nub of the problem in respect of some of the more insidious aspects of gaming. There is no doubt that we need to take positive action to try to help those people who cannot control their impulses and who suffer some kind of addiction to poker machines. The Hon. Nick Xenophon and the Hon. Mike Elliott will find me an ally in the pursuit of that. However, I make the observation that, notwithstanding that fact, some hoteliers have acted dreadfully irresponsibly in relation to problem gamblers and have exacerbated some of the misery that is out there in the community.

An honourable member interjecting:

The Hon. T.G. CAMERON: Well, the Hon. Mike Elliott interjects. There is some evidence to suggest that hoteliers, publicans and the managers of hotels were well aware that some people were basically just piddling their money down the drain and did nothing whatsoever to stop it.

The Hon. Nick Xenophon interjecting:

The Hon. T.G. CAMERON: In fact, as the Hon. Nick Xenophon interjects, it was through the provision of liquor and food and what I call social comfort. In other words, some of these people who have these problems do have social problems relating to others, and I have seen instances where hoteliers have met that need: they were not extending the hand of friendship to these people but they merely wanted to keep them in the establishment. In our pursuit of that goal I do not think we should overlook the fact that, just as with drinking and various other pleasures of the human race, the overwhelming majority do act responsibly and we need to be careful, as we introduce measures to try to limit the impact of gaming on addicted gamblers, that we do not impinge on some of the civil liberties or rights of responsible gamblers who have a bit of a flutter and enjoy it. We must ensure that we balance their interests against the need to do something about addictive gaming.

The Hon. Nick Xenophon interjecting:

The Hon. T.G. CAMERON: Well, the Hon. Nick Xenophon interjects. I do not see that as a denial of civil liberties but, with some of the things that we are considering on the other bill, we need to ensure that we balance the two. We have a responsibility, even if you were elected under a 'no pokies' banner, to ensure that whatever changes we introduce to this industry we do not take away the rights and enjoyment that some people derive from it. I indicate my support for new section 41B.

The Hon. CARMEL ZOLLO: I ask the Hon. Nick Xenophon to elaborate more on the trial in New South Wales in relation to smart cards—whether a certain group of people are being trialled, how extensively and is it still possible for those machines which accept smart cards to accept coins as well. That seems to be a very important question.

The Hon. NICK XENOPHON: The IT section in the *Australian* of Tuesday 24 October 2000 (page 41) under the heading 'Cards may cut pokie problems' states:

> Gaming club patrons will soon be using smart cards instead of spare change to play the pokies, if a trial in Sydney is successful. The NSW Liquor Administration Board has given local company eBet the green light for live trials of its magnetic stripe, cashless gaming cards at three Sydney venues. Similar approval for a smart card solution is expected shortly.

It goes on to quote Mr Cullen, the managing director of eBet. The articles continues:

> 'The card enables people to set up an account, which they put cash into. Then they use that to move money from one machine to another,' he said. 'They put their card in, it opens the account, loads the money, they pull the card out and move onto the next machine. Wins would be progressively credited to the gamer's account as they played the machines,' he said. 'Aside from being a convenient way for gamers to move between machines, the cashless system could limit spending by problem gamblers,' Mr Cullen said.

That article indicates that some technology is in place. I am somewhat sceptical about this scheme for a number of reasons. First, it is generated by the industry and I think the industry has a commercial interest in maximising its revenue; and we now know from the Productivity Commission that a very significant proportion of poker machine revenue (42.3 per cent) comes from problem gamblers.

The other aspect where I see a fundamental flaw with the trial—but the trial is still worth looking at—is that, if you are a problem gambler and there are only three venues where the machines are operated only by cards—and I do not believe that is the case, but I will check that and get back to the Hon. Carmel Zollo—if you have a problem, you can go to a club or a pub down the road. It does not deal with the issue. But the sorts of issues that have been canvassed by the Liquor and Gaming Commissioner, Mr Pryor—and I must emphasise that he was not necessarily saying this was his view but he was talking about the new technologies—and the sort of system he was envisaging, on the basis of the information given to him and as a result of his research, was that the only way the machines would be operated would be by cards in a particular state, for instance.

So if you are a problem gambler and the machine shuts you down because you have been barred or exceeded your credit limit or a member of your family has said it has caused hardship and, therefore, you have been banned, then you cannot go to another venue to put in coins or get another card. It would be almost a licence to gamble. Some are saying that that sort of system, as distinct from an industry based system, could have significant potential in reducing levels of problem gambling.

The Hon. CAROLINE SCHAEFER: At this stage I am inclined to support this clause. As some members will recall, the prohibition of gaming machines which operated on anything other than coins was one of the recommendations in the Social Development Committee's report on gambling. Although it was a unanimous report, there were some issues with which, I am sure as individuals, we did not necessarily agree. However, we saw that issue as a method of slowing people's ability to spend large amounts of money on a gaming machine in one hit. I am swayed by the Treasurer's argument about smart cards and certainly, if they were to come into being, I would be swayed in favour of facilitating them. Having been in the casinos in both Sydney and Melbourne and having watched with some horror people feed $100 notes into gaming machines knowing full well none of it would ever come back out again, I am inclined towards

machines in which one has to waste one's money somewhat more slowly.

The Hon. NICK XENOPHON: Following discussions with the Treasurer and the Hon. Paul Holloway, my understanding is that we are not voting on this clause until next week.

The CHAIRMAN: The advice is that, if you are not going to vote on it once you have finished the debate, we need to report progress.

The Hon. R.I. LUCAS: Having had a discussion with the Hon. Mr Xenophon, and in the interests of not delaying the committee on a procedural issue now, whilst I have moved the amendment I am happy to see it defeated on the voices.

The Hon. Diana Laidlaw interjecting:

The Hon. R.I. LUCAS: No, I am not allowed to withdraw it. In any event, that does not help. I can withdraw it, but that does not help to resolve this problem. The amendment will be defeated on the voices and this part of the clause will be passed on the voices. The Hon. Mr Xenophon has flagged already that he will look at an amendment to this clause, and the Labor Party has indicated that it wants to reconsider this aspect. The Hon. Mr Xenophon has therefore indicated privately that he will recommit the clause and we will all have the opportunity to revisit our positions when next we sit. I am happy not to cause any grief. I certainly would not want to be accused of delaying consideration. It is my first contribution in almost an hour.

The CHAIRMAN: The Treasurer can decide not to go on with his amendment, or he can test it with a vote.

The Hon. R.I. LUCAS: If that assists, I seek leave to withdraw my amendment.

Leave granted; amendment withdrawn.

Clause as amended passed.

Clause 6.

The Hon. NICK XENOPHON: At this stage, I propose to confine my remarks to the clause, which seeks to amend section 42 of the principal act by inserting a new section 42A, which relates to intoxication at the Casino. This clause is based on the New South Wales Casino Control Act, which has had a similar section in place since the inception of the act in 1992. This clause is based on section 163 of the Casino Control Act, which provides:

> (1) A Casino operator must not:
> (a) permit intoxication within the gaming area of the casino, or
> (b) permit any indecent, violent or quarrelsome conduct within the gaming area of the casino, or
> (c) permit an intoxicated person to gamble in the casino.
> Maximum penalty: 100 penalty units.
> (2) A member of the staff of a casino must not:
> (a) sell or supply liquor to an intoxicated person who is in the gaming area of the casino, or
> (b) permit an intoxicated person to gamble in the casino.
> Maximum penalty: 20 penalty units.
> (3) If a person within the gaming area of a casino is intoxicated, the casino operator is taken to have permitted intoxication within the gaming area unless it is proved that the casino operator took all reasonable steps to prevent intoxication within the gaming area.

There is a public policy consideration in this instance. Clearly, under the terms of any liquor licence, intoxicated persons should not be served, but there is an added onus if a person is gambling. There is clear evidence from research that has been carried out on the effects on gambling as a result of prior alcohol consumption. I refer to a paper prepared by Andrew Kyngdon and Professor Mark Dickerson, from the Department of Psychology and Australian Institute for Gambling Research, University of Western Sydney Macarthur. This study was compiled two to three years ago. Professor Dickerson, it should be noted, has undertaken research work for the gambling industry.

I understand that he has undertaken a number of research projects for Tattersalls. He cannot, under any stretch of the imagination, be accused of being anti-gambling in his approach. In his study, Professor Dickerson states:

> Subjects either received a prior alcohol intake of three standard drinks (beer or wine) or an equivalent volume of an equivalent non-alcoholic beverage. The alcohol group persisted for twice as many gaming trials as the placebo group with significantly more players who had consumed alcohol losing all their original cash stake (50 per cent compared with 15 per cent of the placebo group).

In his conclusion, Professor Dickerson states:

> The consumption of alcohol appeared to eliminate the strong associations found in the placebo group between individual difference measures and persistence.

I am happy to provide this comprehensive study to members. It is one study that has seen the light of day. Effectively, it says that in terms of gambling if the consumption of alcohol is involved it can loosen the purse strings; it can lead to increased levels of problem gambling. From the many problem gamblers I have seen it quite frequently is the case that a person frequenting a venue is intoxicated sometimes due to the venue providing free drinks, or a ready supply of drinks, and significant losses have ensued. The study simply says that there should be a greater standard of care by a casino venue to ensure that alcohol is not served to excess to someone who is gambling, particularly in the case of an intoxicated person.

I urge members to support this clause. Recently I saw a gentlemen who lost about $10 000 at the Adelaide Casino. He alleges that during the course of the evening he had had quite a lot to drink and that it was served by the Casino staff. That matter has been reported to the Liquor and Gaming Commissioner and it will be investigated. This issue does concern me. I believe that it means that a responsible provider of gambling services would be on notice to be particularly wary of supplying alcohol, not only to a person who is intoxicated but also to prevent that person from gambling, because there is a flaw in the current legislation in that regard.

The Hon. T.G. CAMERON: I would be interested to have a look at the study that the Hon. Nick Xenophon has, and I have raised with him a concern about the quantum in relation to the maximum penalty, which I understand he will look at. In coming to the clause, I do not pretend to be a lawyer and I would like some clarification in relation to the terminology used in lines 3 and 4. The clause provides:

> . . . unless it is proved that the licensee took all reasonable steps to prevent supply of liquor to intoxicated persons in the Casino and to prevent gambling by intoxicated persons in the Casino.

I am not sure whether the word 'and' brings those two together so that, in order to get a penalty against someone, they would need not to have taken reasonable steps to prevent the supply of liquor, but they could not be prosecuted for that unless at the same time they prevented intoxicated persons from gambling in the Casino. Will the honourable member clarify that for me?

The Hon. NICK XENOPHON: I understand that the Attorney may be commenting on this clause later. The intention of the clause is to put an onus on the Casino operator to take all reasonable steps to prevent the supply of liquor to an intoxicated person and to prevent gambling, so the two are linked. There is already legislation in the Liquor

Licensing Act that states that you cannot sell or supply liquor to intoxicated persons where there is a maximum penalty of $20 000.

That begs the question of why there is a maximum penalty of $10 000 here. I assumed that the two were the same, but the Hon. Terry Cameron pointed that out to me privately and I appreciate that. There already is an offence for supplying an intoxicated person, and the idea is to tie the two together so that, if you are intoxicated, you should not be allowed to gamble in the Casino, because they ought to know that it would be, from a general point of view, a policy point of view, not desirable to have an intoxicated person gambling, given the quite devastating consequences that can have.

I have seen it on many occasions with people who have spoken to me, who have lost enormous amounts of money because they have been intoxicated, sometimes due to venues actively encouraging that.

Progress reported; committee to sit again.

[Sitting suspended from 1 to 2.15 p.m.]

PROSTITUTION

Petitions signed by 802 residents of South Australia concerning prostitution and praying that this Council will strengthen the present law and ban all prostitution-related advertising to enable police to suppress the prostitution trade more effectively, were presented by the Hons L.H. Davis, R.R. Roberts, Caroline Schaefer and N. Xenophon.

Petitions received.

SHOP TRADING HOURS

A petition signed by 331 residents of South Australia concerning deregulation of shop trading hours in the Renmark Paringa District Council area and praying that this Council will urge the Minister for Government Enterprises to reject any application from Renmark Paringa District Council for the abolition of the proclaimed shopping district in Renmark Paringa District Council area was presented by the Hon. Ian Gilfillan.

Petition received.

RADIOACTIVE WASTE

A petition signed by 170 residents of South Australia concerning the transport and storage of radioactive waste in South Australia and praying that this Council will do all in its power to ensure that South Australia does not become the dumping ground for Australia's or the world's nuclear waste was presented by the Hon. Ian Gilfillan.

Petition received.

PAPERS TABLED

The following papers were laid on the table:

By the President—

Auditor-General's Report pursuant to section 41A of the Public Finance and Audit Act 1987—Summary of Pelican Point Power Station Project document

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

Reports, 1999-2000—
- Department for Environment and Heritage
- Department for Transport, Urban Planning and the Arts.

QUESTION TIME

GOODS AND SERVICES TAX

The Hon. P. HOLLOWAY: I seek leave to make a brief explanation before asking the Treasurer a question on the GST.

Leave granted.

The Hon. P. HOLLOWAY: The deadline for lodgment of the first year's GST return by small business is 11 November. The Australian Taxation Office has extended this to 30 November in the case of tax agent clients only. The National Tax and Accountants Association has estimated that as many as 400 000 small businesses nationally will fail to lodge their business activity statement by 11 November. The Institute of Chartered Accountants has stated that small businesses will face a 30 per cent to 50 per cent increase in fees and further stated:

> The complexity of the tax is multiplied by a factor of four.

Will the Treasurer provide extra resources through the Business Centre or some other agency to advise and help South Australian small businesses to address the cash flow problems and higher costs arising from the introduction of the GST?

The Hon. R.I. LUCAS (Treasurer): I suspect that the answer will probably be 'No.' As the honourable member would know, the GST is being implemented by the federal government, and it provided considerable resources both before the introduction of the GST and in recent weeks.

I have seen and heard a significant number of television and radio advertisements highlighting services to assist small businesses with the GST being provided by the federal government from its extremely large resources. I believe the field is being covered by the federal government—as it should be. At the margin, the Business Centre might be able to assist, but we do not see ourselves establishing and replicating the delivery mechanisms that the commonwealth government has established to ensure that small businesses have as much information as they need to help them to comply with the new legislation.

MOUNT SCHANK MEAT PROCESSING PLANT

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation prior to asking the Treasurer a question about the Mount Schank meat processing plant.

Leave granted.

The Hon. T.G. ROBERTS: The meat processing plant in Mount Schank near Mount Gambier has been lying idle for some considerable time. It has had a very chequered history while it has been operating and, certainly, the labour relations questions that have hung over that plant for some time have been the subject of my questioning in this place in relation to improving some of the management skills and the labour relations on that site in an endeavour to make it an efficient and effective meat processing plant in the South-East. It seems the plant is still being bedevilled by management difficulties. The plant is one that could be brought on-stream to make jobs available in that area.

I understand that the government has had some negotiations with some of the players in the field. I have a lot of sympathy with the officials who have been negotiating with these people because they are very difficult to deal with and

are will-o'-the-wisp types, if you get what I mean, when it comes to signing on dotted lines and making commitments.

Will the government undertake an update and an assessment on what is required to enable the Mount Schank site to be available and suitable for use as a meat processing plant if the current owners or managers are not prepared to do that.

The Hon. R.I. LUCAS (Treasurer): I need to take advice to see what, if any, information I can provide. I am happy to seek that advice from my officers. The Hon. Terry Roberts in his inimitable way has aptly summarised the situation. I will not add to the comments that he has made other than to say that this morning my attention was drawn to a headline in the *Border Watch* and radio stories that were running late yesterday afternoon about some quite extraordinary claims being made by Mr Aziz, in particular, about hardworking officers within the Department of Industry and Trade who, in my judgement, have been doing all they can in regard to taxpayer-funded assistance, which in my judgment should not be provided unless we believe there is a potentially viable operation there. All they have been trying to do is, as I said, seek that information, and they have been running into some problems in terms of getting all the information that they require.

As I have said in the *Border Watch*, I am not prepared to approve taxpayer funded assistance for a project such as this until I am convinced that it is in the interests of South Australia that assistance be provided. To that end, I am told that we have requested significant financial information to consider the potential viability of the project, and that all that information has not been provided. It is true to say that some information has been provided, but a number of the questions that have been put to the proponents have not been answered, and if they are not going to be answered I do not intend to provide or authorise taxpayer funded assistance for this project.

I want publicly in the parliament to defend the work of the officers who have been involved, and I reject the allegation that scare campaigns have been mounted by officers of the Department of Industry and Trade to scare away potential investors, which is one of the claims that have been made as well as a few more colourful claims that did not see the light of day in the *Border Watch*.

The Hon. L.H. Davis: Why not?

The Hon. R.I. LUCAS: I am not sure, but they did not see the light of day. Perhaps wiser heads prevailed in terms of the legal position of some of the claims that have been made. Regarding the honourable member's question, I am not sure to what extent we can provide information to him, but I will inquire of departmental officers to see whether there is some information that can be provided to him. If there is, I am happy to do so.

RURAL COUNSELLING PROGRAM

The Hon. CARMEL ZOLLO:I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Primary Industries and Resources, a question about the future funding of the rural counselling program.

Leave granted.

The Hon. CARMEL ZOLLO: Like several other members, I have received correspondence from Mr Rudi Cinc, the President of the South Australian Association of Rural Counselling Services Inc., regarding the status of the future funding of the Australian Rural Counselling Program, which is due to end on 30 June 2001. The rural counselling program, which was introduced in the 1980s to provide financial counselling to farm families and rural businesses during periods of crisis, has been operating Australia-wide for some 15 years.

During this time, thousands of families have been assisted throughout Australia, and services have been extended beyond crisis counselling to provide a viable network of support for rural communities and farm families. The program is jointly funded with the commonwealth providing 50 per cent, the state government 20 per cent and the balance coming from local communities.

I am informed that, under the terms of the contracts and deeds of agreement between the various services and the commonwealth, funding for the program ceases on 30 June next year. A federal departmental assessment of the program (which commenced last financial year) which may terminate or reduce funding is still in progress. This delay has meant that funding has not been secured to continue the program.

The uncertainty has forced some counsellors to leave the program to seek more secure employment, adding to the anxiety facing rural communities. I understand that in South Australia there are 11 full-time and two part-time counsellors in the program. Given the difficulties faced in rural and regional South Australia, it is clear that this program is needed. My questions are:

1. Is the minister aware of the progress of this assessment?
2. Has the minister contacted the Federal Minister for Regional Services (Hon. Ian Macdonald) to ensure the continuation of funding for the program in South Australia?
3. Will the minister give a commitment to support this program and the efforts of the association to maintain its funding?

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

DOYLE, Mr M.

The Hon. L.H. DAVIS: I seek leave to make an explanation before asking the Treasurer and Leader of the Government a question about Mr Mick Doyle.

Leave granted.

The Hon. A.J. Redford interjecting:

The Hon. L.H. DAVIS: Mr Mick Doyle. On 26 October 2000 in this place the Hon. Carolyn Pickles in her Address in Reply speech made what I consider to be some rather interesting remarks about Mr Dean Pryor, the Director of Superannuation Policy with the Department of Treasury and Finance. She made particular reference to a question which I had asked in the Council on 25 October. The Hon. Carolyn Pickles said:

> Yesterday in this place the Hon. Mr Davis. . . in his usual coward's castle manner, sought to impugn the reputation of Mr Mick Doyle, the Secretary of the United Firefighters Union of South Australia.

The Hon. Carolyn Pickles had obviously provided Mr Doyle with a copy of the question and the answer in this place. She then reported that in a memo Mr Mick Doyle states:

> I note with interest comments made by [the] Treasurer [the Hon.] Mr Lucas in the Legislative Council yesterday. [The Treasurer] puts a very interesting spin on my ability to restrict access of Treasury officials to the [South Australian] Metropolitan Fire Service Superannuation Fund's actuary.

Mr Doyle made a series of allegations against Mr Dean Pryor, the Director of Superannuation Policy. He claimed that Mr Pryor had been granted a private meeting with the Metropolitan Fire Service Superannuation Fund's actuary. In the memo to Ms Pickles (which she quoted) it was claimed that Mr Pryor was unable to provide the information sought by the trustees; that the one page summary handed to trustee representatives by Mr Pryor proved to be irrelevant and incorrectly costed; it talked further about the inappropriate proposal promoted by Mr Pryor on behalf of the Treasurer; that Mr Pryor did not pursue any questions with the actuary beyond the advice offered to him; and that his proposal was unrealistic in the extreme.

I read that in *Hansard* with some interest, because I have had, as members would know, a longstanding interest in public sector superannuation and on more than one occasion—on many occasions—I have consulted with Mr Dean Pryor. I can say with some confidence that members on both sides of the chamber—perhaps with the Hon. Carolyn Pickles excepted—have a great respect for Mr Dean Pryor. Not only is he regarded as a superannuation expert by members in the public sector generally but also his views are widely sought interstate. He has a national reputation when it comes to public sector superannuation.

I was rather surprised to read those what I would regard as inflammatory remarks by Mr Mick Doyle which had been taken on unquestionably by the Hon. Carolyn Pickles who, as Leader of the Opposition in this place, was reflecting, presumably, the opposition's view on this matter. Of course, as someone pointed out in interjection—I think it might have been a Labor member—it should not be forgotten that Mr Mick Doyle is President of the Labor Party and might have some close factional ties with the Hon. Carolyn Pickles. So, I am grateful to the Labor bench for reminding me of that fact which had escaped my attention. I proceed immediately to my questions, because I do not want to be diverted: my questions are:

1. Is the Treasurer aware of what expertise, if any, Mr Doyle may have in respect of the subject of superannuation?

2. Has the Treasurer had an opportunity to establish the veracity of Mr Doyle's claims?

3. Are Mr Doyle's claims about Mr Pryor accurate?

The Hon. T.G. Roberts interjecting:

The Hon. R.I. LUCAS (Treasurer): If the Hon. Mr Roberts is referring to the interjection about Mr Doyle's being the President of the Labor Party, I am sure that is accurate; everyone would attest to that. I was intrigued in some respects at the use by the Leader of the Opposition of the device of reading out in the parliament what was, in essence, a vicious, cowardly and unwarranted attack on a senior public servant who is unable to defend himself in this chamber, particularly as, at that time, the Leader of the Opposition was being critical of the government for using coward's castle, or the parliament, to trade verbal blows with Mick Doyle.

Whatever views of difference on this issue I might have with Mr Mick Doyle, he is big enough and ugly enough—if I can use a colloquial expression—to look after himself. He would say that I am big enough and ugly enough to look after myself also. We have exchanged verbal blows on radio and in public forums on a number of occasions. He has the capacity, as the President of the Labor Party, or as the leader of the Fire Fighters Union, to gather public media and comment whenever he wishes as, indeed, I do.

When this debate began it did not mention senior officers within the public sector: it was only when the Hon. Carolyn Pickles brought back to the parliament, obviously in collaboration with Mr Doyle, this intemperate, unwarranted and cowardly attack on Mr Dean Pryor that Mr Dean Pryor's name was, I believe, most unfortunately involved in this whole issue. I join with my colleague the Hon. Legh Davis and place on the public record that the government and I, in representing the government, have absolute faith and confidence in the work that Mr Dean Pryor undertakes in his area of expertise, superannuation policy.

As the Hon. Mr Davis has indicated, Mr Pryor's views are sought and respected not only within South Australia but across Australia in relation to superannuation issues. I am very surprised that the Leader of the Opposition in South Australia would—with the agreement, I assume, of her party—be a party to this unwarranted attack on Mr Pryor. Whilst I want to respond to other comments, I would hope that, if Mr Doyle is not prepared to apologise, the Leader of the Opposition (Hon. Carolyn Pickles), upon her return from ill-health, will have the integrity to stand up in this chamber and apologise to Mr Pryor for being party to an unwarranted attack upon his professional integrity and his capacity to provide free, impartial and independent advice in relation to the issue of superannuation policy.

I know that many members in this chamber have had personal dealings with Mr Pryor over 20 years. I would be very surprised if any of those members with whom Mr Pryor has dealt would have anything other than a most favourable impression of his professional integrity and his knowledge of this area of superannuation policy.

The Hon. T.G. Cameron: You can see Labor's outrage at your attacks on their leader!

The Hon. R.I. LUCAS: Yes. There has been a lot of spirited defence of the Leader of the Opposition and her position and, indeed, Mr Doyle's position. The first point that needs to be made is that, clearly, Mr Doyle does not understand the difference between an accumulation superannuation scheme and a defined benefits superannuation scheme. In an accumulation scheme the benefits are not guaranteed but the contribution made by the employer is guaranteed and stays as an entitlement of the employee. In the defined benefits schemes, such as the fire service scheme, the benefits to the members are guaranteed and the employer is required to contribute only at an actuarially determined level to ensure payment of the guaranteed benefits.

The bottom line in this particular scheme is that the benefits to the members are guaranteed, they are defined, and all that is required is for the employer to provide enough money, together with the earnings in the scheme and the employee contribution, to deliver those defined benefits. Over and above that, a surplus means that the employer has contributed too much money (more than is required) to deliver the defined benefits as agreed between the employer and the employee.

Therefore, it is completely the prerogative of the employer to reduce their contribution and, frankly, also for the employees in the future to take back their share of any surplus. That has been the government's position: that any surplus in the scheme identified by the actuary ought to be shared fairly between the employer and the employee. The government has been willing to participate in discussions with the union leadership and the trustees on ways of using any additional employee surplus that might be there to provide additional employee benefits to the scheme.

There are many intemperate and inaccurate claims made by Mr Doyle and the Leader of the Opposition in their statement, but I want to address two or three of those that I have been advised are grossly inaccurate. I had originally claimed that there had been a refusal of permission for the actuary to discuss the issue with superannuation experts in Treasury and Finance. Mr Doyle and the honourable leader claimed that that was not true, that in fact Mr Pryor had had a private meeting with the fund's actuary in July 2000.

I am told that the Chairman of Trustees, unknown to Mr Doyle, had given approval for Mr Pryor to meet with the fund's actuary in late July. When Mr Doyle found out about that, he took umbrage at the fact that the chairman had given permission for Mr Pryor to meet with the actuary, stating in no uncertain terms that Treasury and Finance officials were not to be given access to the fund's actuary.

Mr Doyle made quite clear that the Chairman of Trustees had been wrong in allowing Mr Pryor to talk to the fund's actuary, and that under no condition was Mr Pryor to be allowed access to the fund's actuary. For the life of me, I cannot understand why Mr Doyle would want to prevent Mr Pryor from meeting with the fund's actuary to try to explore ways of improving the fire service scheme, for firefighters to improve their benefits, which was the purpose that the government was prepared to discuss.

Later, Mr Doyle said that Mr Pryor had failed to meet an agreed deadline, claiming that he had difficulty within his own department in putting together the relevant information sought by the trustees. I have been advised that the reason why Mr Pryor was unable to meet the agreed deadline was that at the meeting held the week before that, Mr Doyle had told Mr Pryor that he could not use the scheme database, he could not discuss the matter with the fund's actuary in order to cost the option under consideration by the working party.

The reason why he could not meet the deadline was that Mr Doyle had forbidden him from consulting with the actuary and also had prevented him from gaining access to the scheme's database so that he could actually do the calculations to see what the impact of the changes to the superannuation scheme might be. Mr Pryor has indicated to me that this meant that he, together with other officers, would have to build models and develop assumed rather than factual databases on which possible costing programs could be run in relation to potential changes to the firefighters' superannuation scheme.

I am told that Treasury even offered to pay for the actuary's expenses in undertaking costing of models, but Mr Doyle still refused to allow the fund's actuary to have discussions and work with government officers on analysing the model on the actual membership database.

The Hon. L.H. Davis: You're going to have to send this article out to the firefighters of South Australia.

The Hon. R.I. LUCAS: I think the firefighters will be very interested to know that the government, through its senior officer, was prepared to work with the trustees to look at how we might be able to improve the firefighters' scheme for the benefit of firefighters but that Mr Doyle has single-handedly prevented access of the senior officer in Treasury to meet with the actuary and to gain access to the information upon which potential benefits to firefighters might have been provided.

The Hon. Carolyn Pickles went on to say that it turned out that advice offered by the fund's actuary on that occasion 'sounded the death knell to an inappropriate proposal promoted by Mr Pryor on behalf of the Treasurer.' Mr Pryor makes the point to me that he was not putting a proposal on behalf of the Treasurer at that stage. At the first meeting of the working party, all members had been invited to put forward ideas and options that might lead to resolution and he had made some suggestions about a particular option that might be considered, about sharing the potential surplus to the benefit of the firefighters. He had indicated specifically that these views should not necessarily be taken to be the views of the Treasurer or the government at that stage.

Without going into the detail of that scheme, Mr Pryor outlined a scheme whereby, as has occurred in many public sector schemes, and frankly also in the members of parliament scheme, the proposal was that the existing scheme might continue, with the protection of those who were already in it, and that some other scheme for new firefighters might be established with a different range of benefits, and obviously costs, in relation to that new scheme. That option has already been implemented in a number of other public sector schemes not only here but in other states as well, and it was that particular scheme that Mr Doyle said he refused to even consider because he did not want to have two separate schemes.

There are many other claims made by Mr Doyle and the Leader of the Opposition in that unwarranted attack on Mr Pryor which were wrong, but given that it is question time I do not intend to go through all that detail. However, I did want to place on the public record again the rejection of the claims made by Mr Doyle and the Leader of the Opposition, and I again call on the Leader of the Opposition and Mr Doyle to apologise to Mr Pryor for their unwarranted and intemperate attack upon his professional integrity.

RETIREMENT VILLAGES

The Hon. IAN GILFILLAN: The use of ministerial statements would allow a little bit more of question time to be used for questions.

The PRESIDENT: Order!

The Hon. IAN GILFILLAN: I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning, representing the Minister for Local Government, a question about retirement villages.

Members interjecting:

The PRESIDENT: Order!

Leave granted.

The Hon. IAN GILFILLAN: Last year I was pleased to take up in state parliament concerns which had been expressed by residents of South Australian retirement villages about the way they had been treated by local councils. Many retirement village residents had told me that they are discriminated against in respect of council rates. They are forced to pay twice for construction and maintenance of infrastructure such as paving, footpaths, drainage, etc. They pay once to the administering authority of the village and a second time to the local council in the form of rates.

This matter was raised last year during debate on the Local Government Bill 1999. An amendment was sought to the bill and ultimately became part of section 171. The relevant parts read as follows:

> (1) A council must for each financial year, in conjunction with the declaration of rates . . . prepare and adopt a rating policy.
> (2) The policy must—[among other things]
> (d) address the following: . . .
> (vi) Issues of equity arising from circumstances where ratepayers provide or maintain infrastructure that might otherwise be provided or maintained by the council;

During debate on this clause the government refused to support inclusion of the extra words 'with particular reference to retirement villages' which I had moved. That is because the government promised to support another amendment to a related bill, the Statutes Repeal and Amendment (Local Government) Bill. Under the other, related amendment, councils were to be obliged to prepare and publish a report on how they had dealt with applications for rate rebates from retirement villages under this section.

The minister, in this place, assured us on 29 July that this related amendment would 'address the very concerns about retirement villages and other things expressed by the Hon. Mr Gilfillan. The issue is addressed but in another and, we believe, better way.'

However this has not occurred as promised. The Statutes Repeal and Amendment (Local Government) Bill lapsed at the end of the autumn session this year and has not been restored to the *Notice Paper* in the other place. Therefore, there is no requirement for councils to report how they have handled these issues of equity.

I received a letter on this subject recently by the outgoing president of the SA Retirement Villages Residents Association, Brian Mitchell, who advises as follows:

> To the best of our knowledge, not one village that has applied under the terms of the amendments has received a favourable response. Several have been rejected without a satisfactory explanation while others have given up in frustration. . . . Onkaparinga Council engaged consultants who conducted a thorough review of their rating policy. . .

The report states in part:

> It is clear there is some validity in the view taken by retirement village residents and representatives that the provision of roads, paths, draining, etc. within villages by their management (and the funding by residents paid to the managers) does save the council concerned funds.

Mr Mitchell continues:

> In the instance of Onkaparinga Council, they have now referred this to the Local Government Management Group, and with council advising that they are not obliged to act on any recommendation from this body. . . Overall, one gains the impression of some rebate claims are being treated as of no consequence and dismissed out of hand, while other councils go through the motion of consulting, then refer the problem to the Financial Management Group for further delay and eventual rejection.

It would seem from this correspondence that councils are ignoring the spirit of this section of the Local Government Act, so I ask the minister, and also with reference to her counterpart in the other place: does she agree that councils have been aided in side-stepping the spirit of the act by the fact that, contrary to the assurances of the minister in the chamber on 29 July 1999, they are not required to report to parliament on how they have handled these issues equitably? Does the minister agree that the government has once again let down retirement village residents in South Australia?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): No to the second question; but I will find the reasons why the measure has not been introduced and I have not been able to deliver on the undertaking I gave to the honourable member in this place.

GAMBLING, PROBLEM

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for Human Services, a question in relation to community education campaigns on problem gambling.

Leave granted.

The Hon. NICK XENOPHON: Yesterday I attended the launch by the Minister for Human Services, Hon. Dean Brown, of a $200 000 community education campaign on problem gambling. The minister said in a media release for the launch:

> The campaign aims to increase awareness within the general community about problem gambling and the early warning signs, as well as increased awareness by problem gamblers and those directly affected by their actions, about where to seek help for problem gambling.

I further understand that the advertising campaign will run over a period of three months until the end of February and that it includes a television advertising campaign. My questions to the minister are:

1. Will the government follow up the advertising campaign with an assessment of its effectiveness, for instance by surveying the degree of public awareness of the campaign?

2. Will the minister's department, either directly or through the Gamblers Rehabilitation Fund, monitor any increase in calls and clients to the Breakeven service providers for the period prior to the campaign, during the campaign, and subsequent to the campaign?

3. Will the minister monitor the adequacy of resources for gambling counselling services through Breakeven if there is indeed an increase in demand for counselling services as a result of increased awareness of this service through the advertising campaign?

4. What cooperation exists between Breakeven service providers and the department to collate and share information for research, public dissemination and harm reduction purposes?

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

MAPICS

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Minister for Administrative and Information Services a question on the Parliamentary Information and Communication Service, also known as the MAPICS project.

Leave granted.

The Hon. CARMEL ZOLLO: I note members' concern in light of the virus attack that recently disabled the South Australian parliamentary network for several days. It has highlighted to all members the need for a secure, reliable computer and communications network. Cyber attacks are an increasingly serious reality in the IT age and can inflict vast losses of time, data, resources and money for the victims of such attacks. At the very least 'cyber terrorism' is a source of great frustration.

In recent months there have been several 'denial of service' attacks on electronic commerce companies such as eBay and Yahoo! Last month there was a serious infiltration into the Microsoft network by hackers. According to security experts quoted in the media, this definitely was a concern, and it has been described as information warfare. Professor Bill Caelli, head of the School of Data Communications at the Queensland University of Technology has stated:

> The loss or potential loss of a company. . . when you set it against the national interest also takes on a new national security perspective.

Mark MacPherson, manager of the AusCert security specialist group, observed:

> Firewalls and passwords are not enough to protect a corporate network.

I understand that the primary security protections employed by the parliamentary network are similar to those described by Mr MacPherson. My questions are:

1. Is the minister confident that the security measures are the best available, and is he confident that the system will be able to detect and prevent such attacks on the system?

2. Will the minister give an undertaking that members' data and information stored on the parliamentary network system are private and safe from corruption from such hackers and 'denial of service' attempts, and that there would be no loss of data in the event of such an attack?

3. What contingent plans exist to ensure that the computer network and/or access to data and email are available to members in the event that the network is damaged by a cyber attack?

4. Does PICS have a program in place which reviews and upgrades the security system to ensure it is up to date, whilst providing efficient access for authorised users? If so, will the minister advise the appropriate details without compromising security protocols?

The Hon. R.D. LAWSON (Minister for Administrative and Information Services): As noted by the honourable member, IT systems are open to cyber attack and to various forms of corruption from external sources such as viruses, and the parliamentary network recently experienced such an attack. The parliamentary network has been established and connects not only various offices within parliament but also the electorate offices of all members of the House of Assembly. A battery of servers has been installed in the basement of Parliament House, and the infrastructure is now fully established and operational.

Security of data on the network has been a prime consideration from the very beginning. At the conclusion of the initial installation stage, a security review was undertaken by independent consultants. System Services Pty Ltd was selected to undertake that review, and I expect to have a report from the consultant very shortly. However, I have been briefed by the department with an advance copy of the executive summary of the report, and honourable members will be pleased to know that the broad conclusion of the review is as follows:

> . . . the technical controls implemented to provide security for the parliamentary network are excellent. However, these technical controls have meant that the network is complex and difficult to maintain.

I think that provides some explanation for some of the difficulties we have had in installing the network; for example, in order to maintain maximum security—and given that security has always been a major consideration—it has meant that the network is more complex than would otherwise be the case. I have not yet seen the report but I have been informed that the recommendations will include a number of technical improvements to optimise the current infrastructure and a number of management recommendations to ensure that the network best meets user needs.

Honourable members have made clear to me and my predecessor, as well as the MAPICS team, that the security of their electronic mail and its integrity is of high importance, but it is one of the highest risk issues facing the network. There are a number of ways in which security can be further enhanced but, I am told, it does increase the complexity for users, and this is a network used by people with a very wide range of IT skills.

I have to report that many members have difficulty using the system. A number of them forget their password from time to time and do not read their email, but there are many who do and who conscientiously seek to use the network but the complexities are such that they experience difficulty.

One of the important elements in the ongoing maintenance and support of the network is to provide members and other users with continued support and training. Passwords have posed difficulties for many members in the security of our network. They do not like having to renew their passwords or change them after a particular time, which of course is one of the measures that is used to maintain the integrity of the network.

The Hon. Diana Laidlaw interjecting:

The Hon. R.D. LAWSON: Indeed. Many members of parliament are not used to doing what everyone else has to do and do not like being told what to do. The honourable member asks whether I am prepared to give an undertaking—

The PRESIDENT: Order! There is a loud conversation taking place. I ask the Hon. Angus Redford to sit down if he wishes to talk to another member.

The Hon. R.D. LAWSON: The honourable member asks for an undertaking from me that all information is protected 100 per cent. I cannot give an undertaking of that kind, nor can anyone honestly give an undertaking that any information system devised by humans is absolutely foolproof. All I can say is that we have taken every step to ensure the integrity of our parliamentary network and to ensure that that security cannot be compromised.

Furthermore, I can undertake that we will continue to seek to ensure that all the latest developments are incorporated so as to minimise the risk, albeit slight, of compromise. I urge members not to use the network for the purpose of storing or transmitting information which they simply would not want to fall into other hands. There are other means of maintaining confidential information, and they should not use this network unless they are prepared to take the risk, albeit small, that in some way the information might fall into the wrong hands.

After I receive the report to which I have referred, I will advise the members' forum which has been constituted in relation to the network of the plans, and I will let the honourable member know as well and provide her with additional answers to such of her questions as I have not addressed in this answer.

LAW, Ms S.

The Hon. P. HOLLOWAY: My question is directed to the Minister for Transport. Is the minister satisfied that there is no conflict between the role of Ms Susan Law as chair of the TransAdelaide Board and her position as CEO of the Adelaide City Council? Does the minister accept—

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: —that there is a widely held perception in regional and metropolitan city councils—

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order! The minister can answer the question in a moment.

The Hon. P. HOLLOWAY: —that Ms Law's position at TransAdelaide could be seen to favourably advantage the

Adelaide City Council in relation to the provision of public transport services?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): This question, I think word for word and comma for comma, was asked by Stephanie Key, the member for Hanson—

The Hon. P. Holloway interjecting:

The Hon. DIANA LAIDLAW: Not to me. It was asked of the Hon. Dorothy Kotz, the Minister for Local Government. It is interesting how old, stale and bereft of ideas the opposition is that it has to, word for word, comma for comma, regurgitate the same question here. The answer to the question is that there is no conflict of interest. The honourable member is stretching this far in trying to develop conflict of interest issues, and on this occasion he seeks to bring Ms Law into the matter.

Ms Law is highly intelligent, extraordinarily able and will be an absolute asset to the Adelaide City Council, as she has proven to be as a board member of TransAdelaide and now Chair. I can only see that, with her local government experience, there is an advantage in terms of the provision of public transport services across the metropolitan area, and council should take heart that it has a champion of local government at the head of the TransAdelaide Board rather than seeking to make life difficult for Ms Law, as some Labor Party councillors from the Charles Sturt council have been trying to do by feeding the Labor Party questions on this matter. They have no foundation, and the dirt that the Labor Party is seeking to portray in terms of Ms Law will also be seen to have no foundation.

QUESTIONS, REPLIES

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Attorney-General questions regarding speed cameras.

Leave granted.

The Hon. T.G. CAMERON: In May this year, I asked the Attorney-General a series of questions regarding how many motorists were caught speeding in South Australia between 1 January 2000 and 31 March 2000. That question was ignored by the Attorney-General. To date I have not received an answer nor any explanation. The questions were lodged again in October. It has come to my attention that the information is with the government in relation to how many motorists were caught speeding in South Australia between 1 January 2000 and 31 March 2000 and, furthermore, the government has the information for the next quarter. Yet here we are halfway through November and questions that I have put to the government for the first quarter of the year have not been answered. Quite frankly, it is just not good enough.

The government is choosing to ignore questions placed on notice that it does not like. If it cannot get away with completely ignoring them, it systematically delays answering the questions for as long as it can. The government has been doing this with speed camera questions for some 18 months. I know it does not like some of the publicity that has surrounded speed cameras, but that is no excuse for wilfully and deliberately withholding information from a member of this parliament in the way in which it does. It would not be so bad if it was just devious and deceitful delay in answering questions, but it has got even worse than that.

The Hon. K.T. Griffin interjecting:

The Hon. T.G. CAMERON: You can take a point of order if you like, I do not care.

The Hon. K.T. Griffin interjecting:

The Hon. T.G. CAMERON: Well, take the point of order: you do not take it up with me.

The PRESIDENT: The Hon. Terry Cameron should proceed with his explanation.

The Hon. T.G. CAMERON: As far as I am concerned, the situation is even worse than that. Despite questions being placed on notice and, at times, inquiries being made as to when answers will be provided, the government thinks it is being half smart by leaking the answers to the *Advertiser* before it provides answers to questions asked by members of this parliament.

The Hon. K.T. Griffin interjecting:

The Hon. T.G. CAMERON: Yes, I have evidence of that.

The Hon. K.T. Griffin: In your case?

The Hon. T.G. CAMERON: Yes, I have. Confirmed. A reporter from the *Advertiser*. The government, rather than provide the answers to the questions so that we have an opportunity to look at and analyse them—and perhaps issue a press release—surreptitiously supplies information to the media and the answers to my questions appear as an article in the newspaper. The tactics there are quite clear to see. It is all very well for the Attorney-General to be telephoning my office, seeking my cooperation, asking me whether I can come into the chamber and speak on his bills, and whether he can give my staff briefings—

The PRESIDENT: The Hon. Mr Cameron will not debate. This is an explanation before asking a question.

The Hon. T.G. CAMERON: My question is fairly simple: when will my question be answered?

The Hon. K.T. GRIFFIN (Attorney-General): I take some personal exception to the allegations that I—

The Hon. T.G. Cameron: I did not say you. I said the government.

The Hon. K.T. GRIFFIN: It was implied that I was, because the question—

The Hon. T.G. Cameron interjecting:

The Hon. K.T. GRIFFIN: The honourable member's questions are asked through me and I apologise if there has been unusual delay in answering them. The usual process when questions are put on notice is that they go through my office. If they are questions about traffic infringement notices or speed camera notices, they go to the police. They come back. They are then put into a form where they are then signed off by both the Minister for Police, who has the primary responsibility, and then by me, as the Minister for Justice. They then go to the cabinet office and are then signed off formally in a cabinet framework.

My recollection is that all the questions without notice are answered relatively promptly. I will check anyway because we do keep a record of the questions we have not answered but, if there are any questions about which the honourable member is particularly concerned, where they have been asked in the chamber without notice, I am certainly happy to follow them up. In terms of the questions on notice I will, by next week, identify what is the difficulty with delay and I will bring back an answer in respect of those questions.

I know that only a few days ago—I think it must have been on the weekend—I signed off for cabinet approval answers to two or three questions about speed cameras. I must confess that I have not had a chance to check them in the last day or so to see whether they are the questions causing concern to the honourable member. I will do the best I can to ensure that the answers are available more quickly

and bring back those questions that are still outstanding, and I will try to do that by next week. It will depend on where they are in the system but I will get someone to chase it up. That is the best I can do and I offer to do that for the honourable member, at the same time indicating my apologies for any unreasonable delay in responding to questions.

I do not have a particular sensitivity about any of the questions that are being asked, whether they refer to speed cameras or traffic infringement notices. It is material that will be on the public record and the facts stand for themselves. You cannot distort the facts; there is no point in even trying, because they will speak for themselves. From my point of view, there is nothing deliberate in not dealing with these issues quickly. I will see where they all are, check the records and obtain a response, and I will endeavour to have that response by early next week.

HIV PROGRAMS

In reply to **Hon. SANDRA KANCK** (4 October).

The Hon. DIANA LAIDLAW: The Minister for Human Services has provided the following information:

1. The rate of HIV infection in South Australia remains low and stable at around 27 new diagnoses each calendar year. There has been no appreciable change in the new HIV infection rate for South Australia over the past 7 years.

2. There has been no increase in the HIV infection rate in South Australia in the past 12 months. In the twelve-month period ending 30 September 2000, 25 people were diagnosed with HIV infection in South Australia, compared with 29 new diagnoses in the same period ending 30 September 1999.

3. Through the Department of Human Services, the government funds a range of HIV prevention programs. A number of these include young gay men in their target populations. Programs conducted by the AIDS Council of South Australia, the HIV Care and Prevention General Practice Program, and the COPE Multicultural Communicable Diseases Project fall into this category.

An especially important program funded by the government is the Child and Youth Health 'Inside Out Project' which specifically targets young gay men under the age of 25. The purpose of the Inside Out Project is to provide HIV prevention and health promotion services for young gay men. For the 2000-2001 financial year, this Project has received a 19 per cent increase in its funding allocation, indicating the importance the government places on HIV prevention in this population. This significant increase will allow this very successful project to meet increased demand for its services.

4. The situation in New South Wales and Victoria described by the honourable member is of concern. The Department of Human Services has analysed reports on the increases in diagnosed cases of HIV in these States and is closely monitoring the situation in South Australia. At this stage there is no indication of a need to increase either the number of programs or the overall funding available. What is required is that HIV education and prevention programs continually evolve and change in response to the evolving and changing nature of the HIV epidemic in South Australia.

The government is not complacent about South Australia's low and stable rate of HIV infection and continues to fund a responsive approach to HIV prevention based on local epidemiology and local social research. Overall, gay men in South Australia are maintaining a culture of safer sex practices. Several programs funded by the Department of Human Services assist South Australian gay men to continue to maintain this culture. One of these programs, the HIV Care and Prevention General Practice Program, reported significant success in these efforts at the Australian Society for HIV Medicine Conference in Melbourne in October 2000.

The government is committed to maintaining a strategic response to HIV prevention in South Australia and the long-term goal of eliminating the transmission of HIV.

ALCOHOL, WARNING LABELS

In reply to **Hon. T.G. ROBERTS** (5 October).

The Hon. DIANA LAIDLAW: The Minister for Human Services has provided the following information:

1. South Australia's strategy on dealing with alcohol use and abuse is based upon the principles enshrined in the National Drug Strategic Framework (NDSF). The draft National Alcohol Action Plan, developed under the NDSF, is prepared by the National Expert Advisory Committee on Alcohol, with input from the Intergovernmental Committee on Drugs. The action plan provides nationally agreed direction for minimising the consequences of alcohol-related harm, and represents the collaborative effort of all States and Territories.

The draft National Alcohol Action Plan identifies eleven key strategy areas as being most likely to be effective in reducing alcohol-related harm. Key Strategy Area 2 is entitled 'Protecting Those at Higher Risk'. It acknowledges the need to reduce the excessive consumption of alcohol by women who are or may become pregnant, and also the need for increased awareness of the risk to the foetus of hazardous alcohol use.

Given this level of activity by states and territories through the national drug strategic framework, it is not proposed to conduct a further enquiry at this time.

2. The Department of Human Services has been examining the issue of foetal alcohol syndrome, and has convened a task force. Topics to be examined by the task force include:

- the current state of knowledge and availability of evidence-based information;
- appropriate health promotion approaches to alcohol in pregnancy; and
- raising awareness of foetal alcohol syndrome among relevant professional groups.

The task force held its inaugural meeting on 24 October 2000. Following the completion of the task force's work, the Minister for Human Services may consider raising the issue of foetal alcohol syndrome for national discussion.

QUESTIONS, REPLIES

The Hon. IAN GILFILLAN: I seek leave to make a brief explanation before asking the Treasurer (as leader of the government in this place) a question about delay in answers to questions.

Leave granted.

The Hon. IAN GILFILLAN: In some ways, it was rather fortuitous that my previous question laid the groundwork. The *Advertiser* of 4 April this year published an article entitled, 'We are accountable, says Olsen.' The article began as follows:

> Premier John Olsen has described his government as 'open and accountable.' He has described claims of holding back information and using loopholes to avoid releasing information as 'blatant political grandstanding'.

The article was accompanied by a chart showing how few parliamentary questions asked of ministers had been answered within a reasonable time frame—or answered at all. The Hon. Diana Laidlaw and the honourable Treasurer fared reasonably well by comparison. In terms of questions answered and response times, Ministers Armitage and Brown were at the bottom of the list.

In view of the Premier's promise that his government is open and accountable, I looked back today to the questions without notice that had been asked by the Australian Democrats over a 12 month period. I selected questions asked between May 1999 and May 2000, which means that they were asked between six and 18 months ago, and I have extracted from the list a few examples of questions that, to this date, remain unanswered.

I hope that the Attorney has a chance to take note of this, because he did appear to expect prompt response to questions. From that point of view, I commend his approach. The following questions have been ignored by the government for six to 18 months:

- 3 May 2000 from me, expiation of parking offences.
- 3 May 2000 from Mike Elliott, environmental impact studies on the Port Stanvac oil spill.

- 19 November 1999 from Mike Elliott, the national parks agenda.
- 19 November 1999 from Mike Elliott, the use of private consultants on native vegetation clearance.
- 16 November 1999 from me, taxpayers' money committed to out-of-court settlements.
- 20 October 1999 from Mike Elliott, the possibility of schools opting out of Partnerships 21.
- 4 August 1999 from Sandra Kanck, oil filters going to landfill instead of being recycled.
- 3 August 1999 from Mike Elliott, the impact of planning and development on Adelaide's water quality.
- 27 July 1999 from Mike Elliott, the Boral Linwood quarry at Marino.
- 3 June 1999 from Sandra Kanck, the lack of filtered water at Houghton and Inglewood.
- 3 June 1999 from Mike Elliott, employment resumes and personal privacy.

I do hope that the Treasurer, behind his paper, is taking note of what was only part of a very long litany of non-answered questions by a government that actually portrays itself as being open and accountable and only too eager to answer questions. My questions to the Treasurer, therefore, are:

1. When can we expect answers to each of the questions referred to above and why has the information sought in each of these cases been withheld for six to 18 months?

2. Is it in each case the result of tardiness, obstinacy or a policy of official secrecy?

3. Whichever is the official excuse in each case, how can the government still maintain its claim to be open and accountable?

The Hon. R.I. LUCAS (Treasurer): I thank the honourable member for his question. I will refer it to the appropriate minister and bring back a reply as speedily as I can.

GOVERNMENT MEDIA UNIT

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Treasurer (representing the Premier) a question about the government's media unit.

Leave granted.

The Hon. NICK XENOPHON: At the Adelaide Central Mission yesterday, at the launch of the government's community education campaign on problem gambling, some of the service providers I spoke to expressed disappointment at a relative lack of media interest in the event, given the magnitude of the campaign on problem gambling and its use of television advertisements for the first time.

I subsequently obtained a copy of the media release of the minister (the Hon. Dean Brown) from the ministerial web site. Given the size, expense and professionalism of the government's media unit, my questions are as follows:

1. When was the media release in question sent out to media outlets? Was it only a few minutes before the launch?

2. Given that the launch was planned a number of weeks earlier, what is the policy of the media unit in relation to giving advance notice of such events to the media?

3. How much public money was spent on the government's media unit in the last financial year?

The Hon. R.I. LUCAS (Treasurer): I am happy to refer the question, but I can make some general comment and I can speak on behalf of my ministerial colleagues. Ministers are responsible for the publicity and media events that they are involved with. There is a government media unit, and each minister has a nominated media officer who works within the media unit. The media officer does all the liaison, assists with the preparation of media releases and obviously assists the minister in terms of the media launch.

Knowing the Minister for Human Services' capacity and skill with the media, I am sure he would intimately involve himself with every element and detail of a particular media event. Each minister has responsibility for their particular media event, in collaboration with their nominated media person who is part of the media unit. In relation to this particular event, I do not know the details, but I am happy to take up the issues. It is important that the honourable member understands how the media unit generally operates and the important role that the minister takes in all of these things. The minister must approve the media statement. Obviously the media statement cannot be released without the minister's approval in relation to whatever the particular issue might be.

If it is an event and not just a media statement—and I understand that that was the case yesterday—the minister obviously has to approve the set up of that particular media event as well. In terms of what time the press release goes out, that is not normally an issue controlled by the minister. It is normally done through the media unit. I am not sure how much notice was given, and I will have to follow up that issue with the minister and with the Premier, who has the nominal responsibility for the media unit.

ELECTRICITY, PRIVATISATION

In reply to **Hon. R.R. ROBERTS** (25 March 1999).

The Hon. R.I. LUCAS: The honourable member can be assured that the government and the electricity entities were doing everything possible to ensure strategies were in place to minimise the potential risk of these entities operating in the National Electricity Market (NEM). This was an important aspect of the restructuring of the businesses that took place in October 1998. In addition to organisational measures, a key measure was the establishment of vesting contracts that enable an orderly progress to full deregulation, contracts that expire at the end of 2002.

Notwithstanding this, as demonstrated by the New South Wales experience where a generator has lost many millions of dollars trading in the NEM, the national market is a very risky environment. Contrary to the implication of the question, the South Australian government has naturally acted responsibly to minimise the risk to South Australians.

Fortunately, following the passage of the privatisation legislation in June 1999 these risk mitigation measures will not need to be tested at the risk of tax payers' funds for any significant length of time. Privatisation is the best way to deal with these risks allowing the private sector, which is best placed to deal with such risks, to own and operate the entities. Together with addressing risk, the privatisation process has also enabled a major reduction in State Debt, from which South Australians will also enjoy significant benefit.

MURRAY RIVER

In reply to **Hon. IAN GILFILLAN** (31 May).

The Hon. R.I. LUCAS: The Deputy Premier, Minister for Primary Industries, Natural Resources and Regional Development has provided the following information:

1. The government's strategy for establishing salt-tolerant sustainable agriculture in South Australia is to be at the forefront of knowledge on options for the productive use and rehabilitation of saline land and water, and where feasible, to foster and accelerate the adoption of these technologies.

An example of our efforts to date in implementation is the joint public-private funded program 'Salt to Success', which seeks to improve the utilisation of drained salt-affected land in the Upper South-East. The program focuses on retaining and improving remnant vegetation, agroforestry and salt tolerant pastures.

The government is also supporting a bid for a new cooperative research centre for the plant based management of dryland salinity. The CRC will have a major focus across southern Australia on new and improved pasture and woody perennial plants for salt affected areas. The government will also investigate the feasibility of forming

a biosaline agriculture Centre based at the Waite Institute. This would pull together local scientists with expertise in plant science, soil science, groundwater hydrology and economics to develop better ways to utilise salt affected resources.

However, it must be clearly recognised that the government's primary goal for salinity management is to 'reverse the trend' of rising salinity and thus prevent any further expansion in the area of salt affected land and salinisation of our water resources.

2. The government does not envisage a regulatory or compulsory strategy of taking large tracts of land out of production under its salinity management policies.

Importantly, in the case of salt affected land the aim is to get it back into production through the adoption of productive farming systems based on salt-tolerant or salt-avoiding plants.

In the case of land which is not affected by dryland salinity, but which is currently contributing significant recharge to groundwater and thus may be a cause of dryland salinity in low lying parts of catchments, the salinisation of water resources, and damage to environmental assets, the government will work with the affected communities to identify long-term alternative, higher-water-use, land management practices. Examples would include farm forestry, low rainfall plantation forestry, alley farming, lucerne and opportunity cropping. Importantly these alternatives must be financially attractive to landholders, either via the market or by subsidy, to facilitate their widespread adoption for recharge control.

The Draft SA River Murray Salinity Strategy (August 2000) proposes strategic revegetation initiatives in the 20 km strip along the River Murray to aid in the prevention of highly saline groundwater discharges into the river. Partnerships will be sought with land managers to achieve the desired changes in land use.

The Strategy also proposes that 'all land managers will be accountable for the impacts of their future land management practices on salinity in the River Murray Valley'. If adopted this would restrict landholders from changing to land use practices that worsen the salinity problem.

3. Research, development and extension activities continue to seek to improve the water use efficiency of annual crops and pastures for both increased yield and salinity management benefits. Primary Industries and Resources SA's program '1 000 000 Hectares' (funded by the Grains Research and Development Corporation) specifically tackles this issue in the cereal zone.

PIRSA also undertakes research and extension towards the introduction of deep-rooted perennial plants into annual cropping systems. Examples include alley farming with traditional crops interspersed with rows of oil mallees or fodder shrubs, farm forestry and phase farming with lucerne.

The CRC for Plant Based Management of Dryland Salinity will have a strong focus on developing new, profitable perennial systems for salinity management. These will be based on woody perennials for oils, wood, charcoal and food production and herbaceous perennials for fodder. The CRC will also address the long term possibility of perennial grain crops.

4. The national discussion paper published by AFFA (Dec 99) Managing Natural Resources for a Sustainable Future recognises that fundamental changes in land use will be required to sustain the long term productive capacity of many regions. These changes may include an emphasis on forestry, grazing perennial pastures, changed and innovative new production systems, revegetation, salt-tolerant plants and engineering solutions such as drainage. It further notes the importance of empowering regional communities so that can make their own informed choices on the most appropriate land uses to maximise their own social, economic and environmental goals.

South Australian policies of research and development and community support are clearly consistent with the national agenda.

5. The government has committed to 'reversing the trend' of rising salinity in SA. Given the current state of play, containing salinity to the current area of affected land and the current damage to water and environmental resources is a substantial challenge that will require considerable new investment in infrastructure and land use change.

Even so, without a complete return to unproductive native vegetation, it is unlikely that groundwater balance could be fully restored in any area of South Australia, and in which case rural populations and rural economies would be equally impacted from the production income forgone.

More realistically, the government is striving to assist communities to identify and practice the optimum level of salinity management to maximise the social, economic and environmental benefits for their situation – the notion of the 'Triple Bottom Line'. This will likely entail a higher level of prevention, but also a recognition that without complete revegetation that there is a need to live with a certain amount of salinity. Chosen solutions are likely to differ from catchment to catchment depending the hydrological processes at play and the value of the assets at risk to salinity.

The Coorong and Districts Local Action Plan is a nationally recognised example of community best practice in salinity management. Through a private-public partnership of shared investment from the National Heritage Trust, State Government, River Murray Water Catchment Management Board and landholders, the Plan aims to achieve a 50% reduction in recharge in the District. This will be sufficient to halt the further spread of salinity in the District and reduce its flooding and waterlogging problems. The recharge reduction target is being achieved through a focus on perennial plants including the retention of native vegetation, revegetation and dryland lucerne. Incentives are paid to landholders according to the net private cost and the public benefit that accrues from their on-ground works. This has seen a rapid uptake of the desired land use changes.

The NHT funded, 'Catchments Back in Balance' Program delivered by PIRSA is providing the technical expertise to assist other catchment groups to develop and implement similar plans. Ideally in the foreseeable future, all parts of South Australia will be covered by a technically feasible and economically plausible salinity management plan.

ADELAIDE CASINO

In reply to **Hon. NICK XENOPHON** (2 May).

The Hon. R.I. LUCAS: The Liquor and Gaming Commissioner has consulted the Adelaide Casino and the government Casino Inspectorate and both have advised that to the best of their knowledge Mr Van Duong has not visited the Adelaide Casino as a premium player nor has he received any complimentaries.

There is no formal protocol or procedures for exchange of information of suspect transactions between the Adelaide Casino and its regulatory authorities with South Australia Police (SAPOL). The Adelaide Casino is required to report certain transactions to the Australian Transaction reports and Analysis Centre (AUSTRAC). Since July 1997, 4 201 matters have been reported to AUSTRAC. A formalised memorandum of Understanding exists between SAPOL and AUSTRAC.

The New South Wales Police Commissioner has not advised the South Australian Commissioner of Police or the Liquor and Gaming Commissioner of Mr Van Duong's exclusion from the Sydney Casino. No formal system exists for cross-jurisdictional recognition of Casino Exclusions. A proposed national draft protocol for casino exclusions is being developed for consideration at the next Australasian Police Ministers Conference.

AUSTRAC is the primary agency responsible for overseeing financial transactions within the Adelaide Casino.

ELECTRICITY, PRIVATISATION

In reply to **Hon. P HOLLOWAY** (30 March).

The Hon. R.I. LUCAS: The Electricity Distribution Business Sale Agreement and the Electricity Retail Business Sale Agreement ('the agreements') were executed on 12 December 1999. These agreements effected the disposal of the businesses of ETSA Power and ETSA Utilities and financial completion occurred on 28 January 2000.

Pursuant to these agreements, the purchaser/lessor assumed the trading risks of the two businesses from execution date, including any cash flows (whether positive or negative) generated by the businesses in the period between execution and completion. Therefore, the State was only entitled to distributions from ETSA Utilities and ETSA Power that were relevant to the trading period up to 12 December 1999.

Income Tax equivalent payments made by businesses in this period were as follows:

ETSA Power—$5.5 million
ETSA Utilities—$33.6 million.

Dividends paid by businesses in this period were as follows:

ETSA Power – Nil
ETSA Utilities—$8.6 million.

It should be noted that the dividends paid by ETSA Utilities represent the final portion of the dividend declared for the financial year ended 30 June 1999 and a portion of the income tax equivalent payments also relate to the financial year ended 30 June 1999.

With respect to dividends resulting from profits generated in the five and a half months ending 12 December 1999, there were none paid by either business to the State. In order to fund any dividends, the entities would have had to borrow funds from their existing facilities with SAFA. Pursuant to the agreements, any debt held by the entities with SAFA was an 'excluded liability' and retained by the State (if the decision had been made to dispose of the entities with the debt included, the purchase price obtained would have been reduced by an equivalent amount).

Therefore, in the event a dividend was paid by either business, the level of debt to be assumed by the State would have been greater and the net result to the State would have been identical.

HERBIE'S TRAVEL

In reply to **Hon. P. HOLLOWAY** (13 July).

The Hon. R.I. LUCAS:

1. Herbie's Travel is a Bangkok based Travel Agent, which is used by SA's Singapore Trade Representative for arranging travel in Asia. The Singapore representative advised that Herbies was selected on the basis of being very price competitive.

2. Herbie's Travel was reimbursed for the cost of travel arrangements associated with two visits to Thailand by Mr Cambridge. The South Australian Government was encouraging a significant potential investment into the defence industry in South Australia at that time. The first visit was linked to a trade mission to Dubai, led by Mr Cambridge. Mr Cambridge took the opportunity to have discussions in Thailand with the potential investors prior to arriving in Dubai. The second visit was organised as Mr Cambridge was returning from Europe; he undertook some follow up activity in Thailand with the potential investors.

3. Mr Cambridge paid the accounts while he was in Thailand on both occasions as the accommodation, some meals and transfer were pre booked by Herbie's Travel. The costs incurred were attributed to the then Office of State Development as this was a specific investment opportunity requiring direct involvement from the Office of State Development.

GAMING MACHINES

In reply to **Hon. NICK XENOPHON** (1 June).

The Hon. R.I. LUCAS:

> As of today's date, how many gaming machines have been approved in non-live venues and, of those licences, when were the approvals granted for those machines and what conditions have been imposed by the commissioner?

The response is detailed in attachment 1.

> As of today's date, how many gaming machines have been approved in non-live venues but not installed, when were the approvals granted for those and what conditions have been imposed by the commissioner in that case?

The response is detailed in attachment 2.

> In respect of the 725 machines referred to in the Treasurer's detailed response of 9 February 1999, have any—and which—of those machines not been installed and, if so, why were such machine licences not revoked.

The response is detailed in attachment 3.

> With respect to the notices of revocation and conditions referred to in the Treasurer's response of 9 February 1999, will the Treasurer undertake to release the documents referred to in that answer?

The Liquor and Gaming Commissioner submits that it is inappropriate to release details of individual disciplinary action which is still in the process of being determined. However, the commissioner has provided copies of standards notices to licensees, please see attachment 4.

Non-Live Venues as at 1 June 2000

Licence No			Grant		
50100842	H	Heritage Hotel	40	6/03/00	Condition to install by 30/6/00
50101199	H	Cumberland Arms Hotel	15	29/10/99	Notice of Revocation
50102048	H	Hahndorf Inn	20	5/12/95	Licence Surrenderred 14/6/00
50102810	H	Jolly Miller Hotel	20	9/02/00	Machines installed on 6/6/00
50103248	H	Maid & Magpie Hotel	40	17/12/98	Condition to install by 30/6/00
50103337	H	Maylands Hotel	40	27/04/00	
50104260	H	East End Exchange	3	10/09/99	Notice of Revocation - must
50104600	H	Royal Hotel - Kent Town	12	19/01/00	Condition to install by 30/6/00
50104692	H	Royal Mail Hotel	20	21/03/00	Condition to install by 1/10/00
50105680	H	Western Hotel - Port Augusta	40	2/02/98	Notice of revocation - must
50106929	H	Bull And Bear Ale House	10	8/10/99	Notice of revocation - must
51201497	S	Cheltenham Park	40	3/09/98	Condition to install by
51201560	S	Morphetville Racecourse	40	8/12/94	Notice of Revocation - post-
51202079	S	South Australian Harness Racing Club	40	10/05/00	Condition to install by
No of Venues	14	Total Machines	380		

Live Venues which have not installed full quota of approved GMS as at 1 June 2000

Licence No	Type	Venue Name	Approved	Live	Not Installed	Grant Date of Last Increase	
50900284	C	Mannum Club	40	18	22	20-Dec-1999	Install by 30/6/00 condition
50900446	C	Para Hills Community Club	40	31	9	28-May-1999	Install by 20/6/00 condition
50902838	C	Marion Bowling Club	10	8	2	8-Apr-1997	Disciplinary Action
50903737	C	Roxby Downs Club	26	10	16	7-Feb-2000	Install by 30/6/000 condition
50904319	C	Port Augusta Sporting & Social Club	20	15	5	20-Apr-1998	Disciplinary action

Live Venues which have not installed full quota of approved GMS as at 1 June 2000

Venues	5	Total Machines	136	82	54		
50100038	H	Aldgate Pump Hotel	40	24	16	16-May-2000	Install by 20/12/00 condition
50100054	H	Alford Hotel	4	3	1	3-Feb-2000	Being installed on 22/6/00
50100070	H	Alma Hotel - Norwood	40	22	18	12-Jun-1998	Being addressed at transfer hearing
50100088	H	Alma Hotel - Willunga	12	10	2	15-Aug-1996	Install by 6/09/2000 letter
50100208	H	Barmera Hotel Motel	40	37	3	5-Feb-1999	Install by 31/7/00 condition
50100444	H	Bordertown Hotel	30	27	3	5-Dec-1997	Disciplinary Action
50100478	H	Brecknock Hotel	10	7	3	6-Oct-1998	Disciplinary Action
50100533	H	Britannia Tavern	20	18	2	15-Sep-1999	Disciplinary Action
50100575	H	Brompton Park Hotel	8	3	5	29-Mar-2000	Install by 1/7/00 condition
50100672	H	Old Bush Inn - Willunga	18	10	8	9-Feb-2000	Install by 30/10/00 condition
50100745	H	Central Hotel - Port Pirie	40	38	2	11-Oct-1994	Lost to Y2k in Apr. Receiver
50100761	H	Charleston Hotel	5	4	1	14-Jul-1998	Lost to Y2K in Feb00
50100915	H	Commercial Hotel - Mt	40	38	2	18-Feb-1999	Install by 31/7/00 condition
50101068	H	Crafers Inn	10	9	1	10-Jan-2000	Being installed on 2/6/00
50101440	H	Eudunda Motel Hotel	4	3	1	2-Mar-1995	Lost to Y2K in Apr00
50101610	H	Streaky Bay Community	30	23	7	27-Apr-1998	Being installed on 14/6/00
50101660	H	Franklin Harbour Hotel	12	10	2	27-Nov-1997	App to decrease
50102014	H	Gumeracha Hotel	6	5	1	8-Aug-1997	Being installed 21/6/00
50102145	H	Henley Hotel	40	32	8	3-Mar-2000	Install by 30/9/00 condition
50102218	H	Hope Inn Hotel	32	11	21	11-Feb-1997	App to vary layout
50102462	H	Hotel Franklin	10	9	1	14-Dec-1999	Only recently went live
50102501	H	Hampstead Hotel	39	27	12	25-May-1998	Install by 14/9/00
50102640	H	Hotel Seaton	40	38	2	11-Jul-1994	Disciplinary Action - Doing Reno-
50102739	H	Hyde Park Tavern	40	10	30	8-Mar-1999	Install by 31/10/00 condition
50102894	H	Keith Hotel	27	21	6	6-Aug-1997	Machines ordered
50102909	H	Kensington Hotel	40	37	3	12-Nov-1999	Completeing renovations
50102959	H	Kincraig Hotel - Naracoorte	40	37	3	18-Jan-1996	Being installed 6/6/00
50102975	H	Kingsford Hotel - Gawler	40	20	20	3-Nov-1999	Install by 31/1/01 condition
50103010	H	Lady Daly Hotel	10	5	5	2-Jul-1996	Disciplinary Action
50103078	H	Leigh Creek Hotel	15	14	1	10-May-1999	Machine installed on 2/6/00
50103159	H	Lord Melbourne Hotel	31	20	11	2-Mar-1994	Disciplinary Action
50103183	H	Lucindale Hotel	6	4	2	27-Aug-1997	Being Installed 20/6/00
50103206	H	Lyndoch Hotel	10	8	2	16-Apr-1998	Being installed 15/6/00
50103214	H	Macclesfield Hotel	12	6	6	7-Mar-2000	Install by 13/9/00 condition
50103345	H	Meadows Hotel	15	10	5	8-Sep-1999	Being installed 20/6/00
50103353	H	Melville Hotel	32	24	8	21-Sep-1998	Disciplinary Action
50103426	H	Minnipa Hotel	9	8	1	23-Jun-1999	Being Installed on 13/6/00
50103638	H	Newmarket Hotel - Port	22	16	6	20-Jan-2000	Being installed 26/6/00
50103654	H	Old Noarlunga Hotel	11	10	1	2-May-1997	Disciplinary Action
50103701	H	Northern Tavern	40	38	2	23-Dec-1993	Machines changed over. 40 in-
50103858	H	Osmonds Hotel Norwood	40	20	20	23-Jul-1999	Install by 30/6/00 condition
50103955	H	Paringa Hotel	30	27	3	20-Jan-2000	Install by 30/6/00 condition
50103963	H	Park Hotel - Mt Gambier	40	31	9	24-Apr-1997	Being installed 15/6/00
50104202	H	Pretoria Hotel	40	10	30	27-Sep-1999	Install by 30/11/00 condition
50104480	H	Riverside Hotel - Tailem	20	8	12	13-Jan-2000	Install by 30/9/00 condition
50104498	H	Riverton Hotel	9	4	5	6-Feb-1998	Being installed 14/6/00
50104668	H	Portside Tavern - Port Pirie	40	38	2	28-Mar-1996	Lost to Y2K in Apr00. Receiver
50104799	H	Semaphore Hotel	40	21	19	24-May-1999	Install by 16/8/00 letter
50104812	H	Seven Stars Hotel	18	12	6	26-Feb-1998	Lost to Y2K
50104919	H	South Australian Hotel	10	9	1	27-Apr-1999	further app to increase pending
50104943	H	South End Hotel	40	6	34	19-Jan-2000	Install by 30/6/00 condition
50105070	H	Players Hotel	40	34	6	5-Jan-2000	Licensee applied to decrease

Live Venues which have not installed full quota of approved GMS as at 1 June 2000

50105088	H	Sundowner Motel Hotel -	40	39	1	2-Feb-2000	Being installed 14/6/00
50105119	H	Swan Reach Hotel	25	22	3	28-Sep-1998	Being addressed at transfer hearing
50105151	H	Taminga Hotel	20	19	1	17-Aug-1999	Lost to Y2K in Mar00
50105208	H	Terminus Hotel - Balaklava	9	7	2	27-Jul-1998	Disciplinary action
50105224	H	Terminus Hotel -	12	8	4	10-Apr-2000	Install by 31/7/00 condition
50105355	H	Torrens Arms Hotel	40	37	3	10-Sep-1999	App to vary layout
50105402	H	Travellers Rest Hotel -	12	11	1	14-Apr-2000	Install by 15/6/00 condition
50105444	H	Two Wells Hotel	20	12	8	29-Oct-1999	Being installed 23/6/00
50105478	H	Valley Hotel - Tanunda	10	8	2	9-Jan-1996	Disciplinary Action
50105656	H	Wellington Hotel	8	6	2	1-Aug-1994	Lost to Y2K in Mar00
50105711	H	Wheatsheaf Hotel - North	10	7	3	17-Jan-1996	Disciplinary Action
50105923	H	Wudinna Hotel	10	9	1	7-Feb-2000	Went live 31/5/00. problem with 1
50105949	H	Yankalilla Hotel	40	12	28	28-Jan-2000	Install by 30/6/00 condition
50105981	H	Yunta Hotel	6	3	3	7-Jan-1997	Venue being sold up by creditors
50106644	H	Coromandel Valley Duck	21	17	4	30-Jun-1998	Install by 31/5/00 condition
50106783	H	Roxby Downs Tavern	40	36	4	14-Mar-2000	Being installed 23/6/00
50107103	H	Blacksmiths Inn	10	5	5	3-Dec-1997	Being installed 15/6/00
50107349	H	Big River Tavern - Berri	40	30	10	27-Oct-1998	Install by 30/9/00
50107771	H	Grand Tasman Hotel - Pt	40	36	4	27-Apr-1998	2 being installed 21/6/00
50107810	H	Normanville Hotel	26	15	11	21-Nov-1997	further app to increase pending
50108125	H	Port Dock Brewery Hotel	40	25	15	7-Sep-1999	Install by 30/6/00 condition
Venues	73	Total Machines	1776	1280	496		
51201413	S	Football Park	40	39	1	7-Feb-1994	Install by 31/12/00 condition
51202508	S	Ozone Hotel Motel	31	25	6	18-Aug-1997	Disciplinary action
51203342	S	Barossa Brauhaus	40	15	25	11-Apr-2000	Install by 30/11/00 condition
51203677	S	St Pauls Reception & Func-	16	12	4	1-Jun-1995	Lost to Y2K in Feb00
51203685	S	Glendambo Hotel Motel	6	5	1	26-Jun-1997	Lost to Y2K in Apr00
51203936	S	Goolwa Hotel	40	25	15	24-Jun-1998	App lodged to vary layout
51204330	S	Rosemont Hotel	40	39	1	31-Mar-1999	Being installed 9/6/00
Venues	7	Total Machines	213	160	53		

Total No of Venues:	85
Total Machines Approved:	2125
Total Machines Live:	1522
Total Machines Not Installed:	603

Machines were deapproved due to non-compliance with Y2K. Venue was required to remove machines.

Venue being monitored for orders for new machines. State Supply Board not accepting orders until after 30 June 2000 due to GST changeover.

Of the 725 gaming machines that were approved but not on line as 30 September 1998 the following machines have not been in-

Licence No	Type	Venue Name	Appr No at 28/9/98	Live at 28/9/98	Live at 1/6/00	Not Installed	Grant Date of Last Increase
50902838	C	Marion Bowling Club	10	8	8	2	8-Apr-1997
50904319	C	Port Augusta Sporting & Social Club	20	15	15	5	20-Apr-1998
Venues	2	Total Machines	30	23	23	7	
50100070	H	Alma Hotel - Norwood	40	24	22	18	12-Jun-1998
50100088	H	Alma Hotel - Willunga	12	10	10	2	15-Aug-1996
50100444	H	Bordertown Hotel	30	27	27	3	5-Dec-1997
50101610	H	Streaky Bay Community Hotel	30	20	23	7	12-Apr-1998

50101660	H	Franklin Harbour Hotel	12	9	10	2	27-Nov-1997
50102218	H	Hope Inn Hotel	32	11	11	21	11-Feb-1997
50102501	H	Hampstead Hotel	39	27	27	12	25-May-1998
50102640	H	Hotel Seaton	40	38	38	2	11-Jul-1994
50102739	H	Hyde Park Tavern	13	10	10	3	21-Sep-1994
50102894	H	Keith Hotel	27	19	21	6	6-Aug-1997
50103010	H	Lady Daly Hotel	10	5	5	5	2-Jul-1996
50103159	H	Lord Melbourne Hotel	31	20	20	11	2-Mar-1994
50103183	H	Lucindale Hotel	6	4	4	2	27-Aug-1997
50103353	H	Melville Hotel	32	24	24	8	24-Jun-1998
50103654	H	Old Noarlunga Hotel	11	10	10	1	2-May-1997
50103963	H	Park Hotel - Mt Gambier	40	27	31	9	24-Apr-1997
50104498	H	Riverton Hotel	9	4	4	5	16-Feb-1998
50105478	H	Valley Hotel - Tanunda	10	8	8	2	9-Jan-1996
50105711	H	Wheatsheaf Hotel - North Shields	10	7	7	3	17-Jan-1996
50105981	H	Yunta Hotel	6	4	3	3	7-Jan-1997
50106034	H	WA / SA Border Village Hotel Motel	10	6	0	10	1-Apr-1996
50106644	H	Coromandel Valley Duck Inn	21	19	17	4	30-Jun-1998
50106783	H	Roxby Downs Tavern	40	25	36	4	4-Mar-1998
50107103	H	Blacksmiths Inn	10	6	5	5	3-Dec-1997
50107771	H	Grand Tasman Hotel - Pt Lincoln	40	30	36	4	20-Apr-1998
Venues	25	Total Machines	561	394	409	152	
51102473	S	Football Park	40	39	39	1	27-Apr-1994
51105413	S	Normanville Hotel	26	15	15	11	21-Nov-1997
51105633	S	Goolwa Hotel	40	25	25	15	22-Jun-1998
51105900	S	Ozone Hotel Motel - Kingscote	31	25	25	6	18-Aug-1997
Venues	4	Total Machines	137	104	104	33	
Total No of Venues:			31				
Total Machines Approved:			728				
Total Machines Live:			521				
Total Machines Not Installed:			192				

DRUG ASSESSMENT AND AID PANEL

The Hon. K.T. GRIFFIN (Attorney-General): I seek leave to table an interim report to the Drug and Alcohol Services Council of South Australia, entitled An Evaluation of DAP (The Drug Assessment and Aid Panel), dated March 2000.

Leave granted.

The Hon. K.T. GRIFFIN: I seek leave to move a motion without notice.

Leave granted.

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

That the interim report to the Drug and Alcohol Services Council of South Australia, An Evaluation of DAP (the Drug Assessment and Aid Panel), dated March 2000, be published.

Motion carried.

ADDRESS IN REPLY

Adjourned debate on the question:

That the Address in Reply, as read, be adopted.

(Continued to from 8 November. Page 349.)

The Hon. NICK XENOPHON: At the outset, I congratulate the Governor for his speech, and I thank him and Lady Neal for the contribution they have made to the South Australian community. I too join with other members in mourning the passing of former Governor Sir Mark Oliphant and former Premier David Tonkin. I knew the Hon. David Tonkin when I was a young lad. He was a thoroughly decent man. Some members on this side of the Council said that his government was most underrated, and I think history has shown that to be the case in terms of his achievements and his quiet level of competence. I think that all South Australians should appreciate the magnitude of his contribution to the South Australian community.

Over the next few minutes I would like to reflect on some of the aspects raised in the Governor's speech and, in particular, the agenda that the government set out to have a balance between economic gain and social justice, and to provide conditions for long-term security and certainty for South Australians. These are indeed laudable aims and no-one in this parliament, or I think in this state, would take issue with those. But I think it is appropriate to reflect on two specific issues that I have an interest in, and I refer to the whole issue of the electricity debate and the government's policy towards gambling.

On the issue of gambling, we know from the Productivity Commission's report on Australia's gambling industries that gambling taxation is a very regressive form of taxation. This

government is collecting something like $1 million a day in gambling taxes, the lion's share of that from poker machines. Gambling taxes are regressive taxes. They are taxes that most deeply affect the poor, the vulnerable, and small businesses in this state and, in terms of social justice, it seems there is nothing more unjust than having a government rely so heavily on gambling taxes—something like one in every seven state tax dollars—when there is a very significant social and economic downside.

We know now from the Productivity Commission's report that for every problem gambler there are some five to 10 persons affected by a problem gambler, and on a national level that means that, in addition to the 290 000 problem gamblers, we have something like 10 per cent of the population of Australia and, by extension, South Australia, who are in some ways worse off because of the gambling bug.

It is disappointing that there is nothing on the government's agenda, in a substantive sense, to deal with problem gambling, to deal with the impact of gambling on the community, and that is something that I think is a very significant policy failure on the part of the government but, to be fair to the government, it does not appear to be a priority of the opposition, either, in terms of dealing with issues of gambling addiction and the heavy dependency of the state on gambling taxes and, further, in dealing with the issues of the now uniquely powerful economic force that the hotel industry is in this state because of gaming machine licences.

There are something like 120 hotels in the state where there is a net gaming revenue in excess of $1 million. There is something like 10 hotels where the net gaming revenue, the actual losses on poker machines, are between $3.75 million and $5 million, and, whilst the venue may take in only a bit over half of that, that still makes them a very powerful force in the local communities, a powerful force against substantive change in respect of gambling law reform.

The Governor also makes mention of a number of initiatives of the government, and events, and one of them was the inaugural International Rose Festival, held recently. Notwithstanding my differences with the Hon. Legh Davis, he does deserve credit for bringing back the idea, pushing for an International Rose Festival. It was a great success, and I would like to congratulate the Hon. Legh Davis for his efforts in that regard, because, clearly, he had a significant role in bringing a very successful event to this state. Again, it is an instance of the benefits of members travelling for purposes to the benefit of the state.

In terms of other policies, the government announced a number of weeks ago its Information Economy 2002 Policy, launched by the Minister for Information Economy, Hon. Michael Armitage. Unfortunately, a very good statement was overshadowed by, some would say, a quite asinine approach in having a suggestion that there be two virtual MPs elected, via the internet, from those who have left South Australia. It really was an extraordinarily jarring faux pas, in a sense, on the part of the minister and the government to actually go along with this half-baked, ill-considered policy measure that really subjected the government to, I think, deserved ridicule. But, unfortunately, it subsumed some of the very good parts of the government's policy. I called the idea not a dot com idea but a dotty dot com idea, in terms of—

The Hon. R.D. Lawson interjecting:

The Hon. NICK XENOPHON: Did the Hon. Robert Lawson say 'Hear, hear!'?

The Hon. R.D. Lawson: Brilliant, I said.

The Hon. NICK XENOPHON: He said it was brilliant. I think it was brilliantly stupid as a proposal and in terms of the way it would be implemented. We need to remember that over 200 years ago the Boston Tea Party took place on the eve of the American Revolution, and that was all about the catchcry 'No taxation without representation'. And here we have 200-plus years later a government policy that was 'representation without taxation', and I think many in the community would say that it really was a dotty, half-baked idea. But to be fair to the minister I would like to quote from an editorial from the *Weekend Australian* of 19-20 August, headed 'Olsen builds bridges over digital divide', acknowledging obviously the involvement of the Premier in this, as follows:

> The South Australian Government's Information Technology 2002 policy aims to make the state an e-commerce leader, if it is not one already. Its focus on improving information technology skills and widening internet usage can only help its citizens and help the economy. Some initiatives entrench private practice or follow the trend towards making the Public Service more net savvy. South Australians will be offered a free email address.

It then goes on to say:

> But the key factor is that the Olsen government is staking the state's development on the future, not the past.

I think that that editorial in the *Weekend Australian* indicates that, apart from that glaringly stupid policy in relation to virtual electorates, it really was a very good document and ought to be debated further. However, I know that there are some in the information technology field who are very frustrated at the lack of broadband access in this state, in terms of high speed net access. I know one person in the information technology field, Daniel McCaffrey, who edits a New Zealand publication, *High Tech* magazine, from his home in Adelaide, and how frustrated he has been in getting high tech internet access. Unfortunately, Mr McCaffrey, who is an absolute wizard in information technology issues and who has a lot to offer this state, will be moving with his family shortly to Victoria to take up a position as editor of the new, to be launched, Australian edition of *High Tech* magazine. I wonder whether he would have moved to Victoria had there been that high speed access that we desperately need in this state to be an information technology leader.

I would also like to refer to the issue of the standing of politicians in the community. That is something that has been the subject of considerable debate in recent times, particularly with the Peter Reith telecard affair, and the general standing of politicians in the community. An article in the *Sydney Morning Herald* of 13 October by Lord Nolan, a member of the House of Lords, headed 'There will always be ministerial dragons to slay', talking about ministerial accountability, makes reference to the Committee on Standards in Public Life, which was set up in October 1994 by the then Prime Minister John Major. He was chairman of that for three years, and I quote from Lord Nolan:

> The gravity of the crisis of confidence was vividly illustrated by opinion polls. With the proposition 'Most members of parliament make a lot of money by using public office improperly,' 64 per cent of those polled agreed, and only 22 per cent disagreed. And 87 per cent thought that most MPs will tell lies if they feel the truth will hurt them politically.

Lord Nolan goes on to say:

> Why are our politicians as such, and irrespective of real flaws and abuses in the system, so widely regarded as dishonest and untruthful? The first reason, to my mind, is because that is how they so often describe each other, especially at election times. It is hardly

surprising if the public tends to the same view thinking that, after all, the politicians themselves ought to know.

Lord Nolan also says:

> We get the media we choose to support and encourage. It would be easy to add that we get the politicians we deserve, but in very many cases I think that they are better than we deserve, considering how badly we often treat them.

Lord Nolan makes a very good point when he says that the public standing of politicians is often very low but I believe it is unjustified given the fact that most members of this Council and the other place are here to do the right thing and to make a difference for the betterment of the state.

Sometimes I think that we are our own worst enemies and that there is something to be said for having an assessment of the way we conduct business and how often we sit as a parliament, because the number of sitting days—45 days or so a year—is inadequate and it is not something that this government ought to be blamed for specifically. It seems to be a systemic problem given that previous Labor administrations have sat for a similar number of days each year.

Before I discuss the issue of electricity policy in the context of economic development, I refer to an article by the new Anglican Archbishop of Melbourne, Peter Watson, in the opinion piece in the *Age* of 13 October this year. Titled 'Do not be cowered into silence' it states:

> Many Australians of all ages continue to be thoughtfully engaged by social and political issues.

He is referring to the debate about S11 and the protests at the Crown Casino. He continues:

> We live in the Age of the Expert, but it is a mixed blessing. While the wise person admits and acknowledges the complexity of life in the modern world, and is happy to say when his or her knowledge is exhausted, it is too easy to be deflected from having an opinion by the 'experts'. . . The implication is that only the experts are qualified to offer an opinion, or raise a voice in protest.
>
> But there is something here at which we must all rebel, and we do so at the level of commonsense and experience.

He continues:

> I am not a specialist physician or surgeon; indeed, I understand very little of the detail of human physiology, or the processes of disease. Yet I know when something is wrong with me, I know when things are 'not quite right'. I have experienced this even when I have been smilingly told not to worry, with the implication that I don't understand. But I have known that all was not well.

He goes on:

> I cannot grasp every detail and subtlety about the workings of economies and governments, and I have been (and no doubt will be) rebuked for making 'uninformed comment'. But I am still a consumer, and they want my money; I am still enrolled as a voter, and they want my vote. So I—and you—must not be cowed into silence by the weight of expert opinion, especially when we sense that things are 'not quite right'.
>
> I do not celebrate ignorance and make it a virtue, but I do insist on the right to ask the questions.

I think we can all take heart from Archbishop Watson's statement in relation to an active citizenry and citizens being involved in public debates, asking the questions and seeking to be informed about issues of public importance. Archbishop Watson discusses the issue of mutuality, when he says:

> Mutuality for christians has traditionally meant giving freely to others, especially those more needy, and not counting the cost. As a society we must be careful not to lay down mean-spirited or unrealistic conditions for every act of kindness and generosity towards those who have fallen on hard times.

He goes on to say:

> We long for political leadership that will look beyond the opinion polls and the ballot box, and courageously seek the common good. The fact that it has so conspicuously fallen out of currency in our public discourses says much about creeping secularism in Australia today.

Archbishop Watson concludes with some quite inspirational words when he says:

> But we are not a selfish people. The same idealism, service, care and love for others shown by Australian icons such as 'Weary' Dunlop, Fred Hollows and Eddie Mabo are part of the Australian soul and identify.

The government has made clear in its agenda for this parliamentary session that economic development is a very important feature of its policy. We have seen recently that the South Australian government has managed to secure an Email plant to South Australia, which I am sure all South Australians would rather see here than in Victoria. There are some legitimate questions to be raised about the cost of government assistance. There is a bidding war between the states, so this is not a specific criticism of the South Australian government as such. There seems to have been a bidding war in recent years to buy jobs in various states and we do not know to what extent there is an economic benefit because there does not appear to be any form of independent analysis of that, and there is a degree of secrecy because of the competing commercial interests of the various states. That is an area of real concern.

It would be useful to reflect on a keynote address made yesterday at Business Vision 2010 by Professor Richard Blandy of the University of South Australia and Flinders University. I commend his speech to honourable members in terms of the history of South Australian development. Professor Blandy acknowledges Chris Overland of SA Business Vision 2010 for his notes on Australian history from which much of the historical content of the address was drawn. I do not propose to reflect on that in any great detail, but it reflects quite deeply on South Australia's formative years and the way South Australia was a different state in relation to its establishment compared with other states. It is a very useful speech in that regard. Professor Blandy says:

> The problems facing South Australia (as many other places today) derive at least in part from the absence of a powerful utopian vision, like the vision on which the state was founded. Pessimism and anxiety about the future is the result. People can't see where the state is going, or even where it is trying to go, and they become discouraged by this 'defuturising' of their existence.

He goes on to say:

> SA Business Vision 2010 has a fundamentally—

The Hon. L.H. Davis: Did he speak about Food for the Future?

The Hon. NICK XENOPHON: He talked about quite a range of issues—

The Hon. L.H. Davis: Food and wine is a distinct vision that is very successful.

The Hon. NICK XENOPHON: The Hon. Legh Davis talks about food for the future, and I agree with him. As I said earlier, I think the government's policies on information technology are visionary and lead the country, and I want to give credit to policies that deserve congratulations and ought to be supported in a bipartisan sense. Professor Blandy continues:

> SA Business Vision 2010 has a fundamentally important leadership role to play in awakening our social awareness of a desirable future, credibly connected to our past, that has the potential to make South Australians feel and act more positively. Further, by focusing on the longer term, on intergenerational change, even, SA Business Vision 2010 can give the long-term future a weight in state political considerations which it otherwise is unlikely to command.

As part of this vision, Professor Blandy raises the issue of accountability and he quotes from an article which appeared in the journal of the Chinese Academy of Social Sciences, discussing the reasons for the failure of strong central planning and a powerful communist dictatorship to deliver fast economic growth in China, which stated:

> The reason, the author, Xu Dixit, argued, was that under these conditions 'the people lose enthusiasm'. Or, as the saying used to be in other places under strong central planning and communist dictatorship: 'We pretend to work and they pretend to pay us'.
>
> One thing we know for certain about government—the less answerable it becomes to the people, the parliament and the media, the less confidence and trust people will have in it, and the less able it will be to bring to bring about good outcomes for the community. As Lao Tsu, the famous Chinese general and philosopher said many centuries ago: 'When the best leader's work is done, the people say, we did it ourselves': and 'To lead the people walk behind them.'—

Members interjecting:

The PRESIDENT: I would be grateful if the two honourable members did not conduct their conversation standing in my line of sight of the Hon. Mr Xenophon.

The Hon. NICK XENOPHON: Professor Blandy continues:

> An increase in the enthusiasm of the people, brought on by more answerability of the government to them and more transparency in what the government does is likely to lead to an increase in the people's productiveness. If a 10 per cent increase in the enthusiasm of the people of South Australia were to lead to a 10 per cent increase in their productiveness, the whole of the ground lost by the South Australian economy within the national economy over the last decade would be recaptured.

Professor Blandy talks about the system of democracy and makes a comment that I hope resonates with all members of parliament, when he says:

> To be a member of parliament should be one of the most significant and satisfying roles that any member of the community could reasonably aspire to.

However, he goes on to say that there are many people who do not want to get involved in politics because there is so much an element of playing the man—or playing the woman—that people become dismayed and disheartened by what they see and harbour even greater suspicions about what they cannot see. This state of affairs is completely at odds with the emphasis, in our early history, on the quality and significance of our democratic institutions.

The reforms suggested by Professor Blandy include greater powers for the parliament to interrogate ministers and their staff, longer question times, stricter control over the quality of debate by the Speaker and the President, more sitting days for parliament, more opportunity for non-government members to introduce legislation to parliament, and more independence for public servants in providing policy advice to the government and more opportunity for public servants to air policy options contrary to those of the government of the day without compromising their careers.

I understand that public servants are in a very difficult position under any government in relation to airing their views and they are in a position where they cannot defend themselves. In relation to what the Treasurer said during question time today, I do have sympathy in relation to the attack on Mr Dean Pryor. It is very difficult if there is an attack on or criticism of a public servant in their ability to defend themselves. That is not intended to criticise those members who have raised that issue.

I refer to the issue of the electricity debate in the context of delivering benefits to consumers in South Australia, given the importance of electricity pricing to consumers in this state, particularly in terms of our manufacturing industry, because this government has made an enormous effort to ensure that this state has an important role to play with respect to the manufacturing industry. This is at odds with policies on the part of this government which I believe have pushed up the price of electricity in this state needlessly and kept us at a competitive disadvantage.

The quality of the public debate has not been helped by a number of quite vicious ad hominem attacks by the government (in particular, by the Treasurer) on individuals who have been critical of government policy. I refer particularly to an attack which the Treasurer undertook (under privilege) against Mr Danny Price of Frontier Economics (formerly of London Economics) on 30 March this year. At that time, the Treasurer made a number of allegations about Mr Danny Price (under privilege) referring to a court case brought by London Economics against Mr Price. I will quote from this document in fairness to the Treasurer so that it is not taken out of context. The innuendo was that, in some way, Mr Price was not ethical in his dealings and underhanded in the way that he left London Economics.

The Treasurer quoted from an interim judgment of Judge Finkelstein. As the Hon. Paul Holloway commented previously, that was an interlocutory judgment with respect to an application for pre-action interrogatories of Mr Price and others formerly involved with London Economics. It was not a substantive decision; it was basically a decision made on affidavit evidence from London Economics without Mr Price having the opportunity to give evidence in his defence. The Treasurer quoted from Judge Finkelstein, who stated:

> It is clear in my opinion that London Economics appears to have a good cause of action against certain of its former employees. For reasons which are no doubt apparent, those actions may lie against Mr Price and Mr Steinke as well as the company Frontier Economics. The possible causes of action would include a claim for breach of copyright if the allegedly stolen material has been reproduced. In this regard it is reasonable to infer that much of the material that 'has gone missing' is the subject of copyright and that the ownership of that copyright is with London Economics. The potential claims also include actions in detinue and breach of fiduciary duty against former employees.

It goes on to say that the Treasurer continued to attack Mr Danny Price, basically alleging that he had destroyed documents and the like.

I put on the record what I understand occurred in relation to Frontier Economics so that members who may have heard what I consider to be an unwarranted and intemperate attack on the professional integrity of Mr Price can make up their own mind after hearing some of the facts. First, some time last year, the owners of London Economics, Mr Nick Morris and Mr John Kaye, wanted to sell London Economics including the offices in London, Melbourne and Boston. The board of London Economics, of which Mr Price was a member, agreed to consider offers. Ultimately, the board decided that none of the bids were commercially attractive. This decision was apparently unacceptable to the owners. Subsequently, after the board had agreed that none of the offers were acceptable, Mr Morris telephoned Mr Price to inform him that he and John Kaye had agreed to sell the company without the approval of the board and without consulting any staff.

To ensure that they could gain board approval, they terminated the appointment of three board members, including the chairman. Mr Price considered that that was not the right and ethical thing to do, and he informed Mr Morris that he would not be continuing his employment with the

company and formally notified them of his resignation as a director and employee of the company. However, he was urged by Mr Morris to stay on as interim manager until a replacement could be found. He agreed to do so, so that he would not disrupt the operations of London Economics. Mr Price kept the office of London Economics running. He and other employees were owed something like $200 000 in wages which London Economics has not paid as the company has now been liquidated, as I understand it.

Soon after Mr Price left London Economics he, along with two other former employees, were served a notice to appear before the Federal Court. Essentially, it was an application to the court to allow London Economics to go on a court sanctioned fishing expedition in terms of interrogating Mr Price. The notice was served on him late one Friday to appear before the court on the following Wednesday. In their application to the court, London Economics accused Mr Price of a number of things. The most upsetting for Mr Price was that he had stolen their intellectual property and destroyed all of their electronic and hard copies of reports and data collected over the course of his employment with London Economics. That is something that the Treasurer makes much of in his vicious personal attack on Mr Price.

Mr Price tells me that he instructed lawyers to refute the claims and to explain why London Economics' claims were baseless. He says that London Economics rejected the offer to meet with him to allow him to respond to their claims in person. In the event, Judge Finkelstein initially ruled that the claims seemed sufficiently strong on the surface without considering their substance or putting them to the test by cross-examining the various parties involved or those parties being cross-examined by the lawyers for the other side.

Judge Finkelstein awarded 75 per cent of London Economics' costs against Mr Price, which he subsequently paid. Following the order that was made by Judge Finkelstein, Mr Price prepared an affidavit describing the data that was removed from London Economics and the reasons why. Regarding the deletion of documents, he explained that deleting confidential data at London Economics, as would be the case with other consultancies, was a normal part of completing projects at London Economics if it was required by contract or where its inadvertent release would be detrimental to their clients, and particularly when the data would never be used again. In other words, it was a normal part of their contractual responsibility to their clients—and I am sure that would be the case with other consultants as well.

In the course of working at London Economics in Australia, he estimated that no more than 5 to 10 per cent of information of the kind described above was destroyed over the six years and hundreds of projects. London Economics produced a large list of computer files in its application which it said were destroyed over a couple of days before Mr Price left the company but which its computer expert subsequently recovered because they were there on the system all along.

The fact is that these files were on Mr Price's laptop, and they were transferred to the server just before he left. In other words, he was doing the right thing. It is noteworthy that London Economics does not claim that the computer files that they listed did not exist on the London Economics server, only that a copy of them was deleted in the days leading up to his departure. Unfortunately, that distinction was not seen by his honour given the limited information provided to him. So, those allegations were baseless. It is unfortunate that there has been this sort of attack to try to denigrate an individual rather than looking at the substance of issues of public policy concern.

I refer to an article of 25 October in the London *Daily Telegraph* headed 'Economics consultancy may close' by Ann Segall, Economics Correspondent. The opening paragraph states:

> An 18 month saga of management in-fighting, mass defections and intense competition have brought London Economics, a once thriving economics consultancy, to its knees. Closure is now being considered by its mainly French shareholders, who are expected to announce their decision at the end of this week or early next.

The article goes on to say that, among those who left London Economics to join Frontier Economics (as did Mr Price), were Sarah Hogg, a former adviser to John Major, the former Prime Minister of the United Kingdom. Another key defector was Bill Robinson, previously an adviser to Norman Lamont, another senior cabinet minister in the Major and Thatcher administrations—hardly red rag socialists in terms of the sorts of people involved in Frontier Economics. So, I think we need to put those remarks in context. I hope the Treasurer will reconsider and retract his remarks and apologise to Mr Price for what was said.

In relation to electricity pricing, the Treasurer wrote to me and provided a response to a question I raised in the Legislative Council on 5 July in respect of electricity interconnection. I asked the Treasurer: will the Government provide details of any economic modelling on the comparative impact of a regulated interconnector between New South Wales and South Australia in respect of the difference it would have on electricity prices for South Australian consumers? I will seek to table this document so it is on the record in due course, but the Treasurer says:

> Analysis undertaken by ERSU and its advisers indicates that South Australian consumers would face increased transmission use of the system (TUoS) charges of $15 million to $20 million per year. If a regulated interconnector, for example, TransGrid SNI was built between New South Wales and South Australia, an increase in the TUoS charges payable by South Australian consumers is the only certainty involved in the analysis of regulated interconnectors. There will no increase in TUoS charges paid by South Australian consumers should an entrepreneurial interconnector, for example, MurrayLink be built.

That deserves a substantive response. I think that this reveals the extent of the so-called economic modelling on the issue. I believe that this government has not done any economic modelling since it argues that, because the size of the transfer capacity of the two projects is similar, it can simply assume they will have similar effects on the market. That ignores the reality under the NEMMCO and NECA rules that there is a substantial difference—a very fundamental difference—between a regulated and an unregulated interconnector and the impact it could have on the market. It really is a ridiculous claim, because there is such a significant and fundamental difference between regulated and unregulated interconnectors and the way in which they operate commercially.

For example, a regulated interconnector is required to be operated all the time to its full capacity unless there is a technical reason that it cannot be operated, such as when equipment is being maintained. For this privilege, customers pay a charge, regulated by the ACCC, but for only as long as they believe the investment is beneficial for customers. By contrast, MurrayLink makes money by buying from a low price market (New South Wales) and selling into a high price market (South Australia). However, in the context of the national electricity market, the more that MurrayLink sells into the high price South Australian market, the more the

South Australian pool price will fall, and this will undermine the returns to MurrayLink.

This means that MurrayLink will only open up its interconnector enough so as not to undermine the high South Australian price, otherwise it will threaten the very basis of its income. Given that there are many times of the day in South Australia where a fully operational MurrayLink SNI interconnector would give rise to vigorous competition between South Australian generators and the South Australian pool would duly fall, it would be expected that MurrayLink would restrict the availability of its capacity at these times, preferring instead to sell a smaller amount of electricity at a much higher price. Another issue was raised by the Treasurer and, in fairness to him, he states:

> It is extremely difficult to predict what future electricity prices will be and, as such, the IRSR rebate comes with considerable risk. For example, in July and August last year, the average monthly price differential between South Australia and the eastern states was between $27 per megawatt hour and $32 per megawatt hour. Yet this year the same price differential has been between just $3.50 per megawatt hour and $15 per megawatt hour. This has resulted in significantly less IRSR accumulating on the existing interconnector than forecast.

Let us look at that claim and, if I am wrong, I am more than happy for the Treasurer to correct me. Reading the Electricity Supply Association's newsletter, which regularly reports price outcomes across the NEM, I note that the 6 November 2000 copy, No. 140, reports that in the 12 months up to 6 November 2000 the average South Australia pool price was $69.96 per megawatt hour while the corresponding Victorian price was $37.96 per megawatt hour; in New South Wales it was $37.39 per megawatt hour; and in Queensland it was $53.80. This means that over a year—which is much more representative than the Treasurer's highly selective use of two months—the price differential between New South Wales and South Australia was over $30 per megawatt hour!

The Hon. L.H. Davis: Are you going to tell us how wrong you were about the interconnector into New South Wales?

The Hon. NICK XENOPHON: It is a pity that the Hon. Legh Davis is not listening as to the price differential between South Australia, New South Wales and Victoria.

The Hon. L.H. Davis interjecting:

The Hon. NICK XENOPHON: I am grateful that the Hon. Legh Davis is participating in the debate. In terms of the price differential, the market has spoken. This is a government which relies on markets. It is not unreasonable for it to rely on markets, particularly in the context of a national electricity market. The market has spoken and the market has shouted down the government's approach to electricity supply and pricing in this state. We are paying more than any other state in the grid and we are paying a significant margin over New South Wales and Victoria. The whole idea of a national grid was to ensure that the market—

The Hon. M.J. Elliott interjecting:

The Hon. NICK XENOPHON: The Hon. Mike Elliott says, 'Wait until summer comes: the price will go through the roof.' At the moment prices are pegged at a maximum of $5 000 per megawatt hour. I understand that it is common knowledge in the industry that they are now pushing to increase that to $20 000 per megawatt hour.

The Hon. M.J. Elliott interjecting:

The Hon. NICK XENOPHON: And in terms of the market rules, given the structure of our market and the lack of sufficient interconnection between the other states, particularly regulated interconnection, and the fundamental difference between that and an unregulated interconnector, we will be paying much too high a price. I saw an article in the *Herald Sun* only a few days ago that indicated that City Power was to drop the price of power to its something like 220 000 consumers by up to 9 per cent—I think 6 per cent on average.

There is no indication that we will be having those sorts of price differentials in South Australia. That is an area of significant concern. If this government is serious about developing economic growth in the state and developing our manufacturing industry, it will not be able to do it with its current policies with respect to interconnection and the structure of the market. All members in the chamber want to see a thriving, prosperous manufacturing industry in the state that employs more South Australians, but I cannot see how this government will be doing it in the context of its current policies.

Now that the privatisation process has been completed, I look forward to the government engaging in a constructive debate. Let us hope that the government will participate constructively in the context of this debate, and I look forward to an apology from the Treasurer to Mr Danny Price, given his quite vicious, intemperate and unwarranted personal attacks on him; and given the information presented in terms of how those of London Economics, who previously ran that company and who made allegations about Mr Price, have failed to pay the employees in Australia $200 000 in unpaid wages. That is not exactly a shining example of a responsible corporate citizen. That seems to me to be a very shonky practice, indeed.

An honourable member interjecting:

The Hon. NICK XENOPHON: It is $200 000 in wages for the employees of London Economics. Mr Nick Morris has now been involved in setting up another company, shortly after London Economics folded, and he has called it London Economics Australia. If that is not a corporate sleight of hand, then I do not know what is. I sincerely look forward to a constructive debate on the issue of electricity in this state, as on other issues, in particular in relation to gambling law reform, if this government is sincerely concerned about issues of social equity and justice.

The Hon. M.J. ELLIOTT secured the adjournment of the debate.

MARITIME SERVICES (ACCESS) BILL

Second reading.

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

This bill is one of three covering the Ports Corp divestment process and seeks to provide a framework for future third party access to certain port facilities that are currently owned and controlled by Ports Corp.

The bill will govern the commercial terms and conditions upon which the new port operator will be regulated and required to provide access by third parties to maritime services at proclaimed ports.

It is worth reiterating that an access regime is a legal avenue which allows a business or individuals to use services provided through infrastructure where that infrastructure is not economically feasible to reproduce, or where the regime is required to permit effective competition in other markets.

The commercial advice to the Government in preparing the structure for the Ports Corp divestment is that it certainly would not be economically feasible to duplicate the channels at any port.

This is the same conclusion that was reached for the Victorian ports privatisation process where an access regime has been in place for around three years.

An access regime assists not only the future owner or lessee of a business in providing certainty prior to divestment, but is also central to fostering competition by providing the basis on which that competition can occur where a monopoly may otherwise continue, or occur later.

In our public consultation process we also picked up a lot of concern about whether open commercial access to the ports would continue. This bill will in fact ensure that it does.

Furthermore a State-based access regime already applies to the Bulk Handling Facilities that were previously owned by Ports Corp and which are now owned by SACBH. This regime will be retained and incorporated into the expanded arrangements.

To ensure this existing regime is effective it is necessary to connect the port channels to the bulk loaders by including the relevant berths in the access regime.

The objectives to be achieved under this access regime are therefore considered to be:

(a) To provide access to maritime services on fair and commercial terms;
(b) To facilitate competitive markets in the provision of maritime services;
(c) To protect the interests of users of essential maritime services by ensuring that regulated prices are fair and reasonable for the industry concerned;
(d) To ensure disputes about access are dealt with efficiently.

It is not proposed to regulate facilities that are currently used by a single entity under an existing agreement where there is little prospect of, or need for, competition.

The Port of Klein Point which is used only by ABC as a source of limestone for its cement making operation in Port Adelaide is an example, along with other berths in Port Adelaide which are the subject of current single user agreements such as the Sea-Land container terminal and Penrice berth, and in Regional ports the Pasminco berth at Port Pirie. It is not intended to provide third party access to these particular berths through the access regime, but other berths in most ports (including Port Pirie) will be subject to the third party access regime.

It is proposed to seek National Competition Council certification of the third party access regime prior to divestment pursuant to Part IIIA of the Trade Practices Act 1974 as an "effective" State based access regime. Once certified, it is proposed that regulation will be undertaken by the South Australian Independent Industry Regulator (SAIIR).

The access regime will be in two tiers comprising essential maritime services in conjunction with prescribed prices, and other maritime services for which less formal arrangements will apply eg excluding prescribed prices.

In addition to the existing arrangements for Bulk Handling Facilities the new access regime will cover essential maritime services at six ports (excluding Klein Point), being the provision of:

(a) channels
(b) common user berths
(c) berths adjacent to Bulk Handling Facilities.

Ceiling prices will be set initially by the Minister in a Pricing Order which will be based on Ports Corp existing price structure. The proposed levels of the initial ceiling prices are currently being developed but would be based on a normal "CPI minus X" factor which will be of great interest to certain port customers.

Common user berths will be those that exist on commencement of this measure and the SAIIR will be empowered to issue exemptions to take into account changing circumstances on the relative need and ongoing mix of single user and common user berths.

The initial Ministerial pricing determination will be in operation for a period of three years at which point the SAIIR will review the pricing determination to assess its continued applicability. The review will take into account, among other things, any countervailing competitive forces that may have emerged during the period. The review may result in a continuation of the regime, a narrowing or even removal of the pricing determination. It is to be noted that, as a result of a review by the Office of the Regulator General in Victoria, the pricing determination in that State has been relaxed for certain ports.

The access regime provided for in the bill must also be the subject of a review by the SAIIR at the end of a three year period. The SAIIR must prepare a report, containing his or her recommendations as to whether the access regime should continue for a further three year period or not, and forward that report to the Minister for tabling in both Houses of Parliament and publishing in the *Gazette*. If it is the recommendation of the SAIIR that the access regime should continue in operation, the access regime will be continued for a further three year period by regulation.

Flexibility will exist for the SAIIR to approve the prescribed prices being adjusted to take account of subsequent augmentation to essential maritime services such as deepening of a channel.

The less formal arrangements will apply to the Bulk Handling Facilities and the provision of pilotage and storage services where a State based dispute resolution process will be administered by the SAIIR comprising conciliation, and if necessary, arbitration, with appropriate appeal mechanisms.

Thus the whole regime will be administered independently by the SAIIR and with the essential maritime services proposed to be certified by the NCC.

I commend this bill to honourable members in conjunction with the other two bills.

Explanation of Clauses

PART 1

PRELIMINARY

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Objects

This clause sets out the objects of the measure as follows:

- to provide access to maritime services on fair commercial terms; and
- to facilitate competitive markets in the provision of maritime services; and
- to protect the interests of users of essential maritime services by ensuring that regulated prices are fair and reasonable having regard to the level of competition in, and efficiency of, the regulated industry; and
- to ensure that disputes about access are subject to an appropriate dispute resolution process.

Clause 4: Interpretation

This clause sets out definitions for the purposes of the measure.

Clause 5: Proclaimed ports

This clause sets out a process for determining the ports that are to be subject to the measure.

A proclamation is required to declare the relevant ports and to define the boundaries of a proclaimed port.

The ports that may be brought within the measure are those listed in the clause (Port Adelaide, Port Giles, Wallaroo, Port Pirie, Port Lincoln and Thevenard) and any others listed in regulations (which are, of course, subject to disallowance).

PART 2

REGULATION OF MARITIME INDUSTRIES

DIVISION 1—ESSENTIAL MARITIME INDUSTRIES

Clause 6: Certain maritime industries to be regulated industries

This clause applies the *Independent Industry Regulator Act 1999* to essential maritime industries.

An essential maritime industry is an industry of providing an essential maritime service or essential maritime services. An essential maritime service is a maritime service consisting of—

- providing or allowing for access of vessels to a proclaimed port; or
- providing port facilities for loading or unloading vessels at a proclaimed port; or
- providing berths for vessels at a proclaimed port;

The application of that Act is varied by providing that the first pricing determination for the industry is to be made by the Minister rather than by the Industry Regulator.

Clause 7: Review to be conducted by Industry Regulator

The Industry Regulator is required, within 3 years, to conduct a review of essential maritime industries to determine whether essential maritime services should continue to be subject to price regulation and, if so, the appropriate form of the regulation. The Regulator is required to seek submissions and to report to the Minister.

DIVISION 2—PILOTAGE

Clause 8: Obligation to maintain a current schedule of pilotage charges

The operator of pilotage services in a proclaimed port is required to maintain and make available a schedule of charges. Notice of proposed changes to charges must be given to the Industry Regulator.

DIVISION 3—GENERAL FUNCTIONS OF INDUSTRY REGULATOR
IN RELATION TO MARITIME INDUSTRIES

Clause 9: General functions of Industry Regulator

The Industry Regulator is required to keep the regulation of maritime industries under review with a view to determining whether regulation (or further regulation) is required under the *Independent Industry Regulator Act 1999*.

This clause gives the Regulator an additional power to develop and issue standards to be complied with in the provision of a maritime service. The standards are not mandatory unless promulgated as regulations.

PART 3
ACCESS TO MARITIME SERVICES AT PROCLAIMED PORTS

DIVISION 1—REGULATED PORT OPERATORS

Clause 10: Regulated port operators

The application of the access regime set out in this Part is to be determined by proclamation. The Part applies to businesses in proclaimed ports providing maritime services declared by proclamation to be regulated services.

DIVISION 2—BASIS OF ACCESS

Clause 11: Access on fair commercial terms

A regulated operator must provide regulated services on terms agreed between the operator and the customer or, if they do not agree, on fair commercial terms determined by arbitration under the measure.

DIVISION 3—NEGOTIATION OF ACCESS

Clause 12: Preliminary information to assist proponent to formulate proposal

This clause enables a person who intends to ask a regulated operator to provide a regulated service to obtain information about—
- the extent to which the regulated operator's port facilities subject to the access regime are currently being utilised; and
- technical requirements that have to be complied with by persons for whom the operator provides regulated services; and
- the rules with which the intending proponent would be required to comply; and
- the price of regulated services provided by the operator (being information required to be provided under guidelines issued by the Industry Regulator).

Clause 13: Proposal for access

This clause governs the making of a written proposal for access to a regulated maritime service. It is made clear that the proposal may extend to the modification of port facilities on land occupied by the operator for the purpose of providing the relevant service or the establishment of additional port facilities on land occupied by the operator for the purpose of providing the relevant service.

The operator is required to give notice of such a proposal to the Industry Regulator and any person whose rights would be affected by implementation of the proposal. The operator is also required to give a preliminary response to the proponent within one month.

Clause 14: Duty to negotiate in good faith

The operator and affected third parties who give notice of an interest to the proponent or the operator are required to negotiate in good faith with the proponent.

Clause 15: Existence of dispute

If agreement is not reached within 30 days, a dispute exists and any party may refer the dispute to the Industry Regulator.

DIVISION 4—CONCILIATION

Clause 16: Settlement of dispute by conciliation

The Industry Regulator is required to attempt to resolve a dispute by conciliation unless of the opinion that the subject-matter of the dispute is trivial, misconceived or lacking in substance or the parties have not negotiated in good faith.

Clause 17: Voluntary and compulsory conferences

The Industry Regulator is empowered to call conferences of the parties to explore the possibility of resolving the dispute by agreement.

DIVISION 5—REFERENCE OF DISPUTE TO ARBITRATION

Clause 18: Power to refer dispute to arbitration

The Industry Regulator may refer a dispute to arbitration if conciliation is not successful, but need not do so if of the opinion that the subject-matter of the dispute is trivial, misconceived or lacking in substance or the parties have not negotiated in good faith or for other good reason.

Clause 19: Application of Commercial Arbitration Act 1986

The above Act applies to the extent that it may do so consistently with the measure.

DIVISION 6—PARTIES AND REPRESENTATION

Clause 20: Parties to the arbitration

The arbitrator may join a person as a party if the person's interests may be materially affected by the outcome of the arbitration.

Clause 21: Representation

Representation by a lawyer is allowed and the arbitrator may allow representation by some other person.

Clause 22: Industry Regulator's right to participate

The Industry Regulator may participate in an arbitration, including by calling evidence or making submissions.

DIVISION 7—CONDUCT OF ARBITRATION

Clause 23: Arbitrator's duty to act expeditiously

The arbitrator is required to proceed with the arbitration as quickly as the proper investigation of the dispute, and the proper consideration of all matters relevant to the fair determination of the dispute, allow.

Clause 24: Hearings to be in private

Arbitration proceedings are required to be conducted in private unless all parties agree to have the proceedings conducted in public.

An arbitrator is authorised to give public notice of the outcome of an arbitration if the arbitrator considers it to be in the public interest to do so.

Clause 25: Procedure on arbitration

The method of obtaining information is left to the arbitrator. Written submissions or oral presentations may be required.

Clause 26: Procedural powers of arbitrator

This clause gives the arbitrator various powers of a procedural nature and allows the arbitrator to engage a lawyer to provide advice on the conduct of the arbitration and to assist the arbitrator in drafting the award.

Clause 27: Power to obtain information and documents

The clause provides the arbitrator with powers to require a person to provide a written statement or to appear as a witness.

Clause 28: Confidentiality of information

If a person requests information or the contents of documents to be kept confidential, the arbitrator may impose binding conditions to that end.

Clause 29: Proponent's right to terminate arbitration before an award is made

The proponent may terminate an arbitration before an award is made.

Clause 30: Arbitrator's power to terminate arbitration

The arbitrator may terminate an arbitration (after notifying the Industry Regulator) if satisfied—
- the subject matter of the dispute is trivial, misconceived or lacking in substance; or
- the proponent has not engaged in negotiations in good faith; or
- the terms and conditions on which the maritime service is to be provided should continue to be governed by an existing contract or award.

DIVISION 8—AWARDS

Clause 31: Formal requirements related to awards

The arbitrator is required to give a copy of an award to the Industry Regulator and to the parties. The award must include reasons and specify the period for which it is to remain in force.

Clause 32: Principles to be taken into account by the arbitrator

The arbitrator should take into account the following principles:
- the operator's legitimate business interest and investment in the port or port facilities; and
- the costs to the operator of providing the service (including the costs of any necessary modification to, or extension of, a port facility) but not costs associated with losses arising from increased competition in upstream or downstream markets; and
- the economic value to the operator of any additional investment that the proponent or the operator has agreed to undertake; and
- the interests of all persons holding contracts for use of any relevant port facility; and
- firm and binding contractual obligations of the operator or other persons (or both) already using any relevant port facility; and
- the operational and technical requirements necessary for the safe and reliable provision of the service; and
- the economically efficient operation of any relevant port facility; and
- the benefit to the public from having competitive markets.

Clause 33: Incidental legal effect of awards

An award may vary the rights of other customers of the operator, but only if—
- those customers will continue to be able to meet their reasonably anticipated requirements measured at the time when the dispute was notified to the Industry Regulator; and
- the terms of the award provide appropriate compensation for loss or damage (if any) suffered by those customers as a result of the variation of their rights.

An award may require the operator to extend, or permit the extension of, the port facilities under the operator's control, but only if—
- the extension is technically and economically feasible and consistent with the safe and reliable operation of the facilities; and
- the operator's legitimate business interests in the port facilities are protected; and
- the terms on which the service is to be provided to the proponent take into account the costs and the economic benefits to the parties of the extension.

Clause 34: Consent awards
The arbitrator may make an award in terms proposed by the parties if satisfied that the award is appropriate in the circumstances.

Clause 35: Proponent's option to withdraw from award
A proponent has 7 days (or such longer period as the Industry Regulator allows) to elect not to be bound by an award.

If a proponent elects not to be bound, the proponent is precluded from making another proposal related to the same matter for 2 years unless the operator agrees or the Industry Regulator authorises a further proposal within that period.

Clause 36: Termination or variation of award
An award may be terminated or varied by agreement between all parties to the award. If there has been a material change in circumstances and the parties cannot agree on termination or variation, the dispute may be subject to arbitration under the Part.

DIVISION 9—ENFORCEMENT OF AWARD

Clause 37: Contractual remedies
An award is enforceable as if it were a contract between the parties to the award.

Clause 38: Injunctive remedies
The Supreme Court may, on the application of the Industry Regulator or a person with a proper interest, grant an injunction restraining a person from contravening an award or requiring a person to comply with an award.

Clause 39: Compensation
If a person contravenes an award, the Supreme Court may, on application by the Industry Regulator or an interested person, order compensation of persons who have suffered loss or damage as a result of the contravention.

The order may be made against a person who aided, abetted, counselled or procured the contravention, or induced the contravention through threats or promises or in some other way, or was knowingly concerned in, or a party to, the contravention, or conspired with others to contravene the award.

DIVISION 10—APPEALS AND COSTS

Clause 40: Appeal from award on question of law
An appeal lies to the Supreme Court from an award, or a decision not to make an award, on a question of law. An award may not be challenged in any other way.

Clause 41: Costs
The costs of an arbitration are to be borne by the parties in proportions decided by the arbitrator, and in the absence of a decision by the arbitrator, in equal proportions. However, if a proponent terminates an arbitration or elects not to be bound by an award, the proponent must bear the costs in their entirety.

DIVISION 11—SEGREGATION OF ACCOUNTS

Clause 42: Accounts and records relating to the provision of regulated services
A regulated operator is required to keep separate accounts relating to the provision of regulated services for each port.

DIVISION 12—EXPIRY OF THIS PART

Clause 43: Review and expiry of this Part
This clause requires the application of the Part to be reviewed by the Industry Regulator before the end of 3 years after its commencement. The Part will expire at the end of that period unless the Industry Regulator recommends to the Minister that it should continue in operation for a further three year period and a regulation is made to that effect. While the Part continues in operation, provision is made for further similar review processes.

PART 4
MISCELLANEOUS

Clause 44: Hindering access
This clause makes it an offence to prevent or hinder a person who is entitled to a maritime service from access to that service.

Clause 45: Variation or revocation of proclamations
This clause enables proclamations (other than a commencement proclamation) under the measure to be varied or revoked.

Clause 46: Transitional provision
This clause includes a transitional arrangement in relation to agreements and awards in force under the *South Australian Ports (Bulk Handling Facilities) Act 1996.*

Clause 47: Regulations
This clause provides general regulation making power.

SCHEDULE

Amendment of South Australian Ports (Bulk Handling Facilities) Act 1996
This Schedule makes consequential amendments to the Act providing for the removal of the access regime to this measure.

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

HARBORS AND NAVIGATION (CONTROL OF HARBORS) AMENDMENT BILL

Second reading.

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

This is the third of three bills associated with the divestment of the SA Ports Corporation. The purpose of this bill is to amend the *Harbors and Navigation Act 1993* to allow the lessee of the Ports Corp assets to operate the divested ports whilst also securing the ongoing safety of South Australia's marine waters.

The bill proposes a number of changes to the Act which are designed to recognise and give effect to the different operational and regulatory responsibilities of the port lessee and the government. In brief, the lessee has operational responsible for directing vessel activity and securing maritime safety within leased ports, including the maintenance of channel/berth depths and navigational aids. The government will continue to have responsibility for all regulatory functions under the Act, including the monitoring of marine safety in all waters of the State, including within ports, and the issuing of all licences and certificates to vessel owners or operators.

A key element of the bill is the introduction of Port Operating Agreements (POAs) as the instrument which details the duties and responsibilities of the lessee for securing safety within a port operated by the lessee. A POA will be an agreement under the Harbors and Navigation Act between the Minister for Transport and Urban Planning and the port lessee. A separate POA will exist for each leased port, allowing for the unique characteristics and needs of each port to be accommodated. However, it is envisaged that all POAs will cover matters such as:
- The maintenance of port waters to a navigable standard and the provision of appropriate navigational aids;
- The lessee's responsibility for directing vessel movement and related activities in accordance with agreed port rules;
- A requirement for the lessee to have contingency plans for dealing with emergencies in the port;
- A requirement for the lessee to provide access to the port and port facilities for commercial fishing vessels and to enter into and maintain agreements with the Royal Australian Navy regarding access to port facilities by naval vessels;
- Provision of information about the port, for example channel depths and navigational charts;
- Payment of an annual fee to cover the costs of supervising the lessee's operation of the port.

POAs will be tabled in Parliament, in conjunction with the Lease Agreement envisaged by the South Australian Ports (Disposal of Maritime Assets) Bill 2000.

The bill further secures port safety by enabling the Minister to take action should the lessee fail to fulfil the duties and responsibilities set out in a POA. The bill allows for the action taken by the

Minister to differ according to the significance of the lessee's breach, from a warning through to the termination of the POA. The POA would only be terminated in the event of a major default by the lessee, or a continued failure by the lessee to rectify a problem. In such a circumstance, the Minister can either operate the port at the lessee's cost or appoint another party to operate the port.

The bill also includes a provision to amend section 20 of the Harbors and Navigation Act to clarify that any subjacent land leased or licensed to the lessee of the port will not be rateable by local councils. Subjacent land is defined in the Act as land underlying navigable waters. In the case of the ports being divested this will include subjacent land associated with channels and wharves/jetties which are over water. The lessee will not have exclusive possession or use of these areas, making it inappropriate for rates to be levied. Land above the high water mark will be rateable in accordance with normal practice.

Although it is intended that the government will continue to be responsible for regulatory functions under the Act, a number of provisions require alteration to recognise the lessee's role in operating certain ports. For example, the issuing of licenses for aquatic activities under section 26 or the creation of restricted areas under section 27 will be amended to ensure that the lessee's concurrence is obtained before action is taken which affects one of the lessee's ports. Similarly, while the Minister's ability to issue directions in the event of a maritime emergency is preserved in section 67, provision is made for the impact on the lessee of any interruption in port operations to be recognised.

I commend this bill to honourable members.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Amendment of s. 4—Interpretation

New definitions of port, port management officer and port operator are inserted into the principal Act.

Ports are to be constituted by the regulations but must comprise or include the whole or some of the land and waters constituting a harbor.

The port operator is the person authorised by the port operating agreement to operate the port or, if there is no such person, the Minister.

A port management officer is a person appointed as such under the measure or an authorised person.

Clause 4: Amendment of s. 12—Appointment of authorised persons

Section 12 is amended to enable the CEO to appoint, with the agreement of a port operator, an officer or employee of the operator to be an authorised person in relation to the relevant port. This takes the place of a provision relating to appointments made with the concurrence of the Corporation.

Clause 5: Amendment of s. 15—Property of Crown

Section 15(3) of the principal Act excludes certain land from vesting in the Minister under the section.

Paragraph (a) refers to land transferred by the Minister to the Commonwealth, a council or into private ownership. The amendment removes the reference to transfer by the Minister so that the paragraph applies generally to all transfers.

Paragraph (ba) refers to land subsequently vested in the Corporation. The amendment removes this paragraph as it will be otiose after divestiture.

Clause 6: Amendment of s. 18A—By-laws

Section 18A provides for the making of by-laws by councils in relation to harbors or adjacent or subjacent land with the approval of the Minister.

The amendment ensures that the approval of the port operator is required in the case of a port.

Clause 7: Amendment of s. 20—Rateability of land

The amendment ensures that subjacent land in a port is not subject to council rates.

Clause 8: Amendment of s. 21—Liability for damage

The amendment removes a reference to the Corporation that will not be required after divestiture.

Clause 9: Amendment of s. 22—Control of navigational aids

The amendment provides for delegation to a port operator of control over navigational aids within ports.

New subsection (3) creates a statutory easement for existing navigational aids not located on land owned by the Minister.

New subsection (4) creates a statutory easement conferring rights of access where reasonably necessary for the purpose of operating, maintaining, repairing, replacing or removing a navigational aid on adjacent land or waters.

Clause 10: Amendment of s. 25—Clearance of wrecks etc.

New subsection (1a) empowers a port operator to require the owner of a wreck within the port to remove the wreck. New subsection (2a) empowers a port operator to require a person who deposits any substance or thing within a port so as to obstruct navigation, or to pollute waters to remove the substance or thing or to mitigate the consequences of pollution.

Clause 11: Substitution of s. 26—Licences for aquatic activities

The new section provides that the CEO may only grant a licence for aquatic activities within a port with the consent of the port operator (although that consent is not to be unreasonably withheld).

The amendments also introduce an expiation fee for the offence of intruding into waters when a licensee has the exclusive right to use the waters under a licence.

Clause 12: Amendment of s. 27—Restricted areas

The amendment requires the consent of the port operator before a regulation is made under section 27 in relation to waters within a port.

The provision enabling costs to be recovered where a council requests the making of a regulation under section 27 is extended to private port operators.

Clause 13: Substitution of ss. 28 to 32 and headings

These sections are substituted by a new Part as follows:

PART 5

HARBORS AND PORTS

DIVISION 1—CONTROL AND MANAGEMENT OF HARBORS AND PORTS

28. Control and management of harbors

This section provides that subject to this Part, the Minister has the control and management of all harbors in the State.

28A. Power to assign control and management of ports

This section provides for conferral on another (the proprietor) of the right to carry on the business of operating a particular port under a port operating agreement. If the proprietor chooses to have the Minister continue to have the control and management of the port or the proprietor has committed a serious breach of a port operating agreement and the Minister has cancelled or refused to renew the agreement on that ground, the Minister will control and manage the port but at the expense of the proprietor.

28B. Port operating agreements

This clause sets out various matters that may be included in a port operating agreement. The agreement—

- may require the port operator to have appropriate resources (including appropriate contingency plans and trained staff and equipment to carry the plans into action) to deal with emergencies; and
- may require the port operator—
  - to maintain the waters of the port to a specified navigable standard; and
  - to provide or maintain (or provide and maintain) navigational aids; and
  - to direct and control vessel movement in port waters; and
- may require the port operator to enter into and maintain in operation an agreement with the Royal Australian Navy about access to the port and port facilities by naval vessels; and
- may require the port operator to provide access to the port and port facilities for commercial fishing vessels on specified terms and conditions; and
- may require the port operator to maintain and make available navigational charts and other information relating to the port; and
- may regulate the performance of statutory powers by the port operator; and
- may provide for the payment of an annual fee to the Minister (fixed by the Minister having regard to the cost of providing government supervision of the activities conducted under the agreement); and
- may deal with any other matter relevant to the control and management of the port.

28C. General responsibility of port operator

This section places obligations on the port operator relating to the safe operation of the port and the management of the port in a way that avoids unfair discrimination against or in favour of any particular user of the port or port facilities.

28D. Variation of port operating agreement

This clause provides for variation by agreement.

28E. Agreements to be tabled in Parliament
A port operating agreement and any agreement varying a port operating agreement are required to be laid before both Houses of Parliament.

28F. Power to deal with non-compliance
The Minister is empowered to reprimand or fine a port operator or cancel a port operating agreement for non-compliance with the agreement or this Act. The port operator must be given a reasonable opportunity to make written submissions. An appeal is provided to the Court of Marine Enquiry. A port operating agreement may contain provisions governing the exercise of the Minister's disciplinary powers.

28G. Power to appoint manager
28H. Powers of the manager
These sections provide for the appointment and powers of an official manager where a port operator is seriously in breach of its obligations under a port operating agreement or a port operating agreement is cancelled or expires without renewal.

DIVISION 2—PORT MANAGEMENT OFFICERS

29. Port management officers
A port operator is empowered to appoint port management officers with powers set out in this Part.

DIVISION 2A—OPERATIONAL POWERS

29A. Interpretation
Authorised officer is defined for the purposes of this Division to mean a port management officer in relation to a port and an authorised person in relation to a harbor that is not a port or a part of a harbor that is not within a port.

29B. Power of direction
An authorised officer may give a direction (orally, by signal, radio communication, or in any other appropriate manner) to a person in charge, or apparently in charge, of a vessel in or in the vicinity of a port. Under subsection (2) a direction may, for example—

- require that vessels proceed to load or unload in a particular order; or
- require that a vessel be moored or anchored in a particular position; or
- require that a vessel be secured in a particular way; or
- require that a vessel be moved from a particular area or position; or
- require the production of documents relating to the navigation, operation, pilotage, use or loading of the vessel.

It is an offence not to comply with a direction. (cf section 32 of the current Act)

29C. Power to board vessel
This section gives an authorised officer power to board and inspect vessels. (cf section 32 of the current Act)

DIVISION 3—HARBOR IMPROVEMENT WORK

30. Dredging or other similar work
This section provides for dredging and other work carried out by the Minister or port operator. Contributions towards the cost of the work may be recovered from the owners of wharves who benefit from the work. (cf section 29 of the current Act)

30A. Development of harbors and maritime facilities
This section provides for development or other improvements to a harbor or port by the Minister or port operator. (cf section 30 of the current Act)

The section also obliges the port operator to establish and maintain facilities and equipment for the safety of life and property in the port as required under a port operating agreement and to establish and maintain other facilities and equipment for the safety of life and property.

30B. Application of Development Act 1993
This section makes it clear that the Development Act applies to development under this Division.

DIVISION 4—HARBOR CHARGES etc.

31. Power to fix charges
This provision provides for charges to be fixed by the Minister for facilities or services provided by the Minister or for entry of vessels into waters under the Minister's control and management, subject to any relevant law or determination. (cf section 31 of the current Act)

31A. Power to waive or reduce charges
This section enables the Minister to waive or reduce a charge or extend the time for payment of a charge.

31B. Charges in respect of goods
31C. Charges in respect of vessels
31D. Power to prevent use of harbor or port facilities

These sections provide various powers to the Minister relating to the recovery of charges, similar to those currently contained in section 31.

Clause 14: Substitution of heading to Division 5 of Part 5
Division 5 is converted into a new Part dealing with Pilotage.

Clause 15: Amendment of s. 33—Licensing of pilots
Clause 16: Amendment of s. 34—Pilotage exemption certificate
Clause 17: Amendment of s. 35—Compulsory pilotage
These are consequential amendments.

Clause 18: Substitution of s. 67—Minister's power to act in an emergency
The power of the Minister to act in an emergency is replaced to ensure that directions may be given to any person as necessary. The new section contemplates a port operating agreement containing provisions governing the exercise of the Minister's powers in relation to a port.

Clause 19: Amendment of s. 80—Review of administrative decisions
Section 80 is amended to make a decision of the Minister to insist on the inclusion of a particular provision or particular provisions in a port operating agreement, or not to renew a port operating agreement, subject to review.

Clause 20: Amendment of s. 83—Regattas, etc.
The amendment provides that an exemption cannot be granted under section 83 by the CEO in respect of an activity that is to take place within a port unless the port operator has first been consulted.

Clause 21: Amendment of s. 89—Officers' liability
Section 89 is amended to ensure that liability for the actions of officers or employees of a port operator attaches to the port operator.

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

BARLEY MARKETING (MISCELLANEOUS) AMENDMENT BILL

Second reading.

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

This Bill to amend the *Barley Marketing Act 1993* has one purpose—to extend the single desk export powers of ABB Grain Export Ltd.

The *Barley Marketing Act* currently confers on ABB Grain Export Ltd the single desk export desk marketing arrangements until 30 June 2001. The amendments to the Act contained in this Bill propose to allow ABB Grain Export Ltd to continue with those arrangements indefinitely, with no sunset clause included. There is an understanding that the legislation may be reviewed pending the outcome of the Federal review of wheat marketing arrangements and changes to grain marketing arrangements in New South Wales.

The current Act is a joint proposal between the Victorian and South Australian Governments that effected changes to marketing arrangements for barley. It is, however, unlikely that Victoria will extend the 'life' of the Victorian Act and so, in the future, the legislative scheme for marketing barley will be contained only in the South Australian Act.

Cabinet approved the drafting of amendments to the *Barley Marketing Act* on 4 September 2000 to extend the single desk export powers of ABB Grain Export Ltd.

The Government consulted with the South Australian Farmers Federation Grains Council which strongly supported the decision to extend the single desk export powers of ABB Grain Export Ltd.

A survey conducted by a research company indicated that 90 per cent of barley producers were in favour of maintaining the present system.

A number of reports found that the Japanese Food Authority (JFA) prefers to deal with statutory marketing authorities (even though it does not deal exclusively with such authorities but also with international grain traders). JFA has demonstrated that its prime concern is surety of supply, rather than price. The premium paid to all suppliers, irrespective of whether they are a statutory marketing authority or not, is in return for surety of supply.

The position of the South Australian Government has been that support for single desk powers is likely to continue in this State until it can be demonstrated clearly that it is not in the best interests of the South Australian community to continue with such an arrangement.

From a competition policy viewpoint, there is a recognition the government can intervene in markets to take into account—

- the social effects of change
- regional issues
- the environment
- equity
- unemployment.

In the case of barley, there will be some economic impact as a result of the probable loss of the Victorian legislation, with some loss of business by ABB Grain Export Ltd to Victorian competitors.

As a consequence, South Australia needs to legislate to protect the single desk, at least in South Australia. The single desk scheme will be reviewed in 2 years by the Minister and a report of the review will be laid before both Houses of Parliament.

I commend the Bill to the House.

Explanation of Clauses

Currently, South Australia and Victoria have a joint marketing scheme for marketing barley grown in those two States. It is intended that, from now on, South Australia will pursue the marketing scheme for barley grown in South Australia without reference to a joint scheme with Victoria.

Clause 1: Short title

This clause is formal.

Clause 2: Amendment of s. 3—Interpretation

As Victoria will not be part of the joint scheme from now on, the definitions of Victorian Act and Victorian Minister are no longer required and are, therefore, to be repealed. Subsection (2) of section 3 of the principal Act is also to be repealed as the work done by that subsection has now been exhausted.

Clause 3: Repeal of ss. 5 to 7

Sections 5 to 7 of the principal Act are to be repealed and a new section 5 is to be substituted.

Section 5 currently provides that Part 4 of the Act (the marketing scheme) applies to barley harvested in the season commencing on 1 July 1993 and each of the next 7 seasons but does not apply to barley grown in a later season. It is no longer the intention to provide for the 'sunsetting' of the marketing scheme and so this section is to be repealed. However, it is proposed (in new section 5) that the operation of the marketing scheme will be reviewed.

5. Review of operation of Part 4

New section 5 provides that the Minister must, at the end of 2 years from the commencement of this new section, review the operation of Part 4. A report on the review must be prepared and laid before both Houses of Parliament.

Current section 6 declares that it is the intention that—

- Victoria and South Australia implement a joint scheme for the marketing of barley grown in both of those States; and
- that Victorian and South Australian legislation providing for the joint scheme not be amended except on the joint recommendation of the relevant Victorian and South Australian Ministers.

This provision is to be repealed as a consequence of the decision that there will no longer be a joint scheme.

Section 7 currently provides that the Minister may delegate a power under the principal Act other than a power that is to be jointly exercised with the Victorian Minister. The repeal of this provision is consequential on the policy decision to continue with the marketing scheme alone.

Clause 4: Insertion of new section

73. Annual report

New section 73 is a revised version of current section 83 (*see clause 6*). It has been revised to remove the reference to the Victorian Minister and appropriately relocated to Part 10 of the principal Act. It provides that ABB Grain Ltd must give to the Minister a copy of its annual report under the Corporations Law, together with such information about the operations of ABB Grain Ltd and ABB Grain Export Ltd as the Minister requires.

Clause 5: Amendment of s. 74—Regulations

The amendment removes the reference to the Victorian Minister and also contains a minor 'housekeeping' amendment.

Clause 6: Repeal of s. 83

Current section 83 is to be repealed as a consequence of the insertion of new section 73 (*see clause 4*).

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

SOUTH AUSTRALIAN PORTS (DISPOSAL OF MARITIME ASSETS) BILL

Second reading.

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

Legislation is being introduced to assist with the divestment of Ports Corp on the brink of a new era in freight transport in order to:

- Encourage economic development through expanded freight service business and investment opportunities;
- Encourage improved services for exporters and importers through reduced fragmentation of the supply chain towards the concept of "total supply chain management";
- Enable resources tied up in Ports Corp to be put to other Government uses such as debt retirement or provision of other Government services; and
- Remove risks to Government from competition in ports business and from the potential for significant lost business opportunities that would in any case be inappropriate for the Government to pursue.

These collective objectives provide the framework for the assessment of bidders in the divestment process in order to ensure that we achieve the best overall value for the future of our State.

The Ports Corp divestment is to be supported by three pieces of facilitative legislation in order to protect the State interest in ports development, to protect port access for communities and customers, to protect staff in the transition process, and for the future, to foster competition in the provision of port services in the overall transport chain, while also ensuring that marine safety control remains with the State.

The State will retain ownership of all land above the high water mark that is included in the divestment, as well as navigation aids, channels and breakwaters within the defined port boundaries.

Multiple use of the port waters by recreational and other craft as occurs now will continue but under more formal arrangements, and conditional recreational, and commercial fishing vessel access to commercial port facilities will also continue as previously announced on 7 January this year.

The package consists of this Bill, the Maritime Service (Access) Bill and the Harbors and Navigation (Control of Harbors) Amendment Bill.

This Bill seeks to ensure the protection of various State, community and customer interests, as well as staff in the transition process, while divesting Ports Corp to take advantage of wider skill and innovation opportunities in the overall transport sector.

The acquirer of the Ports Corp business will gain a freely assignable interest in the above high watermark land to be divested, based on a 99 year lease, subject to both specified cross-ownership restrictions related to container handling services as well as formal performance monitoring arrangements, and a range of lease conditions. These lease conditions will require the lessee to give a significant period of notice in the potential event of any intended port closure by the lessee, or in relation to potential closure of any part of a port. In these circumstances this will enable the State to negotiate an appropriate outcome for the relevant community and customers, including a first right of repurchase in the event of port closure. There will also be a requirement for the lessee to periodically submit a Strategic Development Plan to keep the State informed on the lessee's strategies to develop the ports.

In addition an initial accountability provision is incorporated whereby a report on the probity of processes leading up to the sale/lease agreement will be laid before both Houses of Parliament.

Apart from navigation aids, channels and breakwaters which are excluded from the divestment, all Ports Corp assets on the land above the high water mark will be sold, as well as wharves that protrude over the subjacent land, along with the business incorporating existing contracts and leases with third parties.

The lessee will be able to invest in any port infrastructure on the leased land and over the water, as well as in any deepening of channels or the building of new breakwaters considered by the lessee

to be commercially necessary for the expansion of trade. Such investments will be treated as capital improvements under the lease and will be subject to normal private sector statutory approval processes.

Proceeds of the sale/lease agreement following divestment will be applied to the cost of restructuring and disposal of maritime assets, to port and port related support infrastructure development, and to debt retirement.

A major feature of the legislation is the staff transition arrangements including the detailed employee protection covering superannuation incorporated in this Bill along with the provision for other conditions of transfer in a Memorandum of Understanding (MoU) with the relevant Unions. These other conditions have been negotiated by the Government with the Maritime Union of Australia and the Australian Maritime Officers Union and the agreed MoU provides significant protection including:

- All employees to be "made available" to the lessee for a notional period from the date of divestment;
- At the expiration of the "made available" period employees in positions required by the lessee will transfer to the lessee in conjunction with receipt of an incentive payment based on an agreed schedule;
- Surplus employees will be offered redeployment within Government or a Targeted Voluntary Separation Package (TVSP);
- A guaranteed period of employment of two years with the lessee;
- Same terms and conditions of employment;
- Continuity of service; and
- Transfer to an industry based superannuation scheme on the basis of no disadvantage as provided for in this Bill.

Recreational Access Agreements which are being negotiated between Ports Corp and relevant Local Councils prior to divestment, are provided for in this Bill.

In order to achieve certainty for the community and a future lessee regarding port expansion, waterfront and adjacent areas considered necessary for this purpose are incorporated in this Bill for most port locations in the State. A planning review is already on public consultation for Port Giles which is expected to result in appropriate zoning. The zoning proposals in this Bill for Port Adelaide cover additional areas at Le Fevre Peninsula and Inner Harbor East beyond the existing Ports Corp ownership boundaries where it is considered critical for international trade and State economic development that provision should be made for port or port related industry. Zoning proposals are shown on plans as well as associated Development Plan text changes in a Schedule to this Bill.

In the interests of accountability and clarity, it is important to refer to proposed amendments to the Development Plan at some length:

In general the changes are proposed to:

- define, where necessary, the nature of activities envisaged within a port;
- ensure the relevant Council and State Development Plans accommodate such development; and
- provide that, in those instances where envisaged port and port related uses are proposed, no decision of the relevant authority is subject to appeal by a third party following any consultation.

In the case of Regional Ports, the proposed amendments also include the addition of the words 'port' and 'port activities' in general principles of development control and objectives to provide an acknowledgment by the Development Plan that ports are envisaged uses in certain localities/zones. However no changes are proposed to any existing zone boundary or any maps for these ports. The text relating to some zones has been modified, where necessary, to identify where port operations are occurring at present and to support their ongoing existence.

Where the structure of a Council Development Plan permits, a Public Notification provision has been added to provide for Category 2 notification for port activities. This category requires that adjoining owners be consulted when development is proposed but does not allow for any appeal by third parties (including adjoining owners) against a decision of the relevant authority. Existing zone provisions and the Regulations under the Development Act already provide for this in some zones/circumstances. In the case of Port Adelaide, whilst the amount of land dedicated to the Industry (Port) zone (previously zoned Industry (Port), Industry (Port) Deferred and MFP) is expanded, a reduced range of activities have been designated Category 1 following discussions with officers of the Port Adelaide Enfield Council. Category 1 requires no consultation with adjoining owners, a situation already existing under the present Industry (Port) zoning for most uses. Accordingly, virtually all forms of development under the expanded Industry (Port) zone require the consent of the Council.

Proposed amendments for the Port of Adelaide include:

- the deletion of the Industry (Port) Deferred zone and the incorporation of that land into the Industry (Port) zone on the western portion of the Le Fevre Peninsula;
- the addition of more detailed Industry (Port) zone provisions to protect the port land (and its water frontage) from inappropriate development and to facilitate the establishment of industries which benefit from a 'near port' location on the inland portion of the zone;
- the inclusion of the Heritage listed Pilot Station at Outer Harbor in the Industry (Port) zone (previously zoned MOSS (Buffer) with no use 'rights') to better facilitate its appropriate restoration and subsequent use;
- the extension of the MOSS (Buffer) zone currently in use as a golf course to encapsulate land previously zoned Industry (Port) Deferred;
- the rezoning to conservation and buffer zones of the MFP zoned land at Mutton Cove on Le Fevre Peninsula and where it adjoins industrial areas along the Peninsula (including the contraction of the General Industry (2) zone which presently dissects Mutton Cove and the minor realignment of a zone boundary to accord with a title boundary);
- the rezoning of the balance of the northern MPF zone on Le Fevre Peninsula to Industry (Port) with the inclusion of a provision which precludes its development until such time as an open space corridor is defined linking the proposed conservation zone at Mutton Cove with the proposed buffer zone to the east; and
- to the north of Inner Harbor east, the rezoning of portion of the MFP zone to Industry (Port) with the inclusion of a provision which increases the amount of land considered appropriate for industries which do not require a water front location.

In the interests of public accountability this Bill also contains a Schedule showing that land which is to be leased as part of the divestment process. This area is generally less, (across all ports particularly Port Pirie, Thevenard, Wallaroo and for the Port of Adelaide), than the Ports Corp total land holdings at those locations. The division of land to incorporate the reduced land requirement is also part of this Bill.

The reduction in the amount of land to be leased should not be seen as inconsistent with a greater zoning provision for port and/or port related industry. The reduction is a result of advice as part of the divestment preparation process that the lessee should only be allocated land sufficient for reasonable expansion in the foreseeable future and which is suitable for port activities. For example, land being used for recreational purposes or required as buffer zones has been excluded. The wider zoning particularly in Port Adelaide is associated with the divestment objective of fostering increased competition that may see other port service providers building new shipping facilities at appropriate locations along the Port River in future, independently from the future lessee of Ports Corp. In addition the proposals in this Bill keep these areas away from and suitably buffered from residential and other development proposals which would be in conflict with future port development. These areas on Le Fevre Peninsula and at Gillman are currently vacant and remote from most existing development. The zoning and Development Plan proposals incorporate considerable flexibility for accommodating varying proportions of port and port related development which reflect the State's economic development interest in promoting and protecting trade through this State's ports.

Finally the Bill provides for the repeal of the Ports Corporation Act after a relatively short but successful period of management by the Ports Corp Board since 1995 for which the Board is commended. A legislative review of the Ports Corp Act has not been necessary under the Competition Principles Agreement, and the overall review of the Ports Corp divestment structure incorporating an associated Access Bill and a Safety Bill, in conjunction with the ongoing arrangements flowing from these three Bills will constitute and consummate the results of the overall competition review process.

I commend the bill to members in conjunction with the other two bills.

Explanation of Clauses
PART 1
PRELIMINARY

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Interpretation

This clause contains definitions for the purposes of the measure.

Clause 4: Certain maritime assets to be treated as personal property

This clause enables the Minister to determine that specified maritime assets or maritime assets of a specified class are to be regarded as personalty. Consequently, a transfer of title to land on which such an asset is situated does not operate to transfer the asset.

A maritime asset is—

- a port that was, at the commencement of the measure, vested in the South Australian Ports Corporation (the Corporation); or
- any asset vested in the Corporation associated with the operation of such a port;
- any asset transferred to a State-owned company or other authorised transferee by a transfer order under the measure;
- any other asset of the Corporation or the Crown that is, by direction of the Minister, to be regarded as a maritime asset.

Clause 5: Territorial application of Act

This clause provides for extra-territorial application of the measure.

PART 2
DISPOSAL OF MARITIME ASSETS

Clause 6: Transfer of maritime assets to State-owned company with a view to sale of shares in the company

This clause enables the Minister to make a transfer order to—

- transfer a maritime asset to an authorised transferee; or
- transfer a maritime asset acquired by an authorised transferee under a transfer order to the Corporation or another authorised transferee.

An authorised transferee is a State-owned company, a Minister, agency or instrumentality of the Crown.

Clause 7: Disposal of maritime assets and liabilities

This clause provides for the Minister to enter a sale/lease agreement with a purchaser to—

- transfer to the purchaser maritime assets or liabilities (or both);
- grant to the purchaser a lease, easement or other rights in respect of maritime assets;
- transfer to the purchaser shares in a State-owned company.

The clause expressly contemplates the agreement imposing on the purchaser a liability to indemnify the Corporation or the Crown against specified liabilities or liabilities of a specified class.

Clause 8: Terms of certain sale/lease agreements

This clause sets out terms that must or should be included in a lease of maritime assets.

The lessee must be required to give at least 12 months notice of the intended closure of a port or any part of it.

The terms that should be included (and for which an explanation must be given to Parliament if not included) are those under which—

- the lessee is required periodically to submit a Strategic Development Plan giving specified details of how the lessee plans to develop the South Australian assets involved in the lessee's business; and
- the risk of non-payment of rent (including amounts to be paid on the exercise of a right or option to renew or extend the lease) is addressed at the commencement of the lease by the provision of adequate security or other means; and
- the lessor accepts no liability for, and provides no warranty or indemnity relating to, the lessee's use of the asset in trade or business; and
- the lessee is to indemnify the lessor for any liability of the lessor to a third party arising from the lessee's use or possession of the asset; and
- the lessee is required to have adequate insurance against risks arising from the use or possession of the asset; and
- the lessee is required to ensure compliance with all regulatory requirements applicable to the use or possession of the asset; and
- the lessor is entitled to terminate the lease for—
  - non-payment of rent; or
  - any other serious breach that remains unremedied after the lessor has given notice of the breach and allowed a reasonable opportunity for it to be remedied; and
- the lessor has a right or option, at the expiration or earlier termination of the lease, to acquire assets that form part of the business involving the asset at a reasonable market value (including, where the leased asset is land, improvements to the land).

A sale/lease agreement may provide for the payment of civil penalties for breach.

The clause also contemplates a proclamation exempting (to the extent specified in the proclamation) the lessor from civil or criminal liabilities as owner or lessor.

Clause 9: Orders, agreements etc. to be laid before Parliament

Copies of transfer orders and sale/lease agreements are required to be laid before both Houses of Parliament.

The Minister is also required to have a report on the probity of the processes leading up to the making of a sale/lease agreement prepared by an independent person engaged for the purpose and cause the report to be laid before both Houses of Parliament as soon as practicable after the making of the sale/lease agreement.

Clause 10: Division of land and related changes to the Development Plan

This clause provides for applications for divisions of land as indicated in the plans contained in Schedule 1. It also provides for division of other land by application by the Minister to the Registrar-General (outside of the usual division of land provisions under the *Development Act 1993*).

The clause also provides for amendment of the Development Plan as set out in Schedule 2.

Clause 11: Government guarantee

This clause makes it clear that existing government guarantees do not continue to apply post sale/lease.

Clause 12: Application of proceeds of sale/lease agreement

This clause sets out that the proceeds may be applied in—

- defraying the cost of restructuring and disposal of maritime assets and the necessary preparatory work;
- work to deepen, extend or clear a harbor or port or other work to develop or improve such a harbor or port;
- improving services and facilities related to a port or infrastructure associated with a port;
- retiring State debt.

PART 3
STAFF

Clause 13: Transfer of staff

The Minister may issue an employee transfer order to—

- transfer employees of the Corporation to positions in the Department for Administrative and Information Services (DAIS); or
- transfer employees who have been transferred to the positions in DAIS to employment by a purchaser under a sale/lease agreement or a company related to the purchaser.

Clause 14: Employee transfer orders

This clause requires employee transfer orders to be consistent with the memorandum of understanding between the Government and the Maritime Union of Australia and the Australian Maritime Officers Union about the rights of employees in the event of their transfer to private employment under the measure.

The clause contemplates an order containing terms and conditions that, on the transfer of an employee to private employment, take effect as terms and conditions of the employee's contract of employment.

The Minister is required to make a lump sum payment to an employee transferred to private employment under an order, in accordance with the memorandum of understanding.

PART 4
DISSOLUTION OF THE CORPORATION

Clause 15: Dissolution of the Corporation

The Minister may assume control of the Corporation at any time after the transfer of assets from the Corporation commences.

The functions of the Corporation are then reduced to functions appropriate for the transitional period before sale.

Clause 16: Repeal of the South Australian Ports Corporation Act 1994

This clause provides for repeal of the Act on a date fixed by proclamation.

PART 5
RECREATIONAL ACCESS TO PORTS

Clause 17: Recreational access agreements

The purchaser is to be required by the sale/lease agreement to enter into recreational access agreements with the relevant councils governing access by the public to land and facilities to which the sale/lease agreement relates. The agreements will bind occupiers on an on-going basis.

Clause 18: Enforcement of recreational access agreements
The council for the area or an occupier may apply to the Supreme Court for an order for the enforcement of a recreational access agreement.

PART 6
STATUTORY EASEMENT

Clause 19: Statutory easement
A statutory easement is created in respect of certain port infrastructure (fixtures at a port comprising a pipeline, conveyor belt or crane or any plant or equipment associated with the operation of a pipeline, conveyor belt or crane) that is, at the commencement of the clause, situated on, above or under Corporation land.

PART 7
THE PORT ADELAIDE CONTAINER TERMINAL MONITORING PANEL

Clause 20: Port Adelaide Container Terminal Monitoring Panel
This clause establishes the panel.
Clause 21: Membership of panel
This clause determines the membership of the panel and provides for appointment by the Minister.
Clause 22: Procedure of the panel
This clause sets out the procedures of the panel, including quorum, and the voting rights of members.
Clause 23: Performance objectives and criteria
This clause requires the panel to establish performance objectives and performance criteria for the Port Adelaide container terminal.
Clause 24: Obligation to report
This clause requires the operator of the Port Adelaide container terminal to report to the panel on a quarterly basis about compliance with the performance objectives and performance criteria.
Clause 25: Notice of breach
Under this clause the panel may issue notices of non-performance. If it does so in relation to two successive quarters, the operator's rights to possession and control of the Port Adelaide container terminal are liable to termination.

PART 8
LIMITATION ON CROSS OWNERSHIP

Clause 26: Limitation on cross-ownership
This clause is designed to prevent a person simultaneously having an interest in the container terminal at Port Adelaide (delineated in Schedule 1) and a major container terminal at the Ports of Melbourne or Fremantle.

PART 9
MISCELLANEOUS

Clause 27: Provision of capital to State-owned company
This clause provides for appropriation of amounts necessary for subscription to a State-owned company.
Clause 28: State-owned company to be instrumentality of the Crown
This clause provides for a State-owned company to be an instrumentality of the Crown until it ceases to be State-owned.
Clause 29: Contract or arrangement between Corporation and State-owned company
This clause enables the Corporation to enter into a contract or arrangement with a State-owned company under which the State-owned company may make use of the services of employees or the facilities of the Corporation.
Clause 30: Amount payable by State-owned company in lieu of tax
A State-owned company is required to pay to the Consolidated Account an amount equal to its presumptive liability to income tax.
Clause 31: Validation of certain contracts etc.
This clause validates any contract, lease or licence purportedly made by the Corporation which would, but for this section, be invalid because it was made without the Minister's approval.
Clause 32: Interaction between this Act and other Acts
A transaction under this Act is not to be considered subject to the *Land and Business (Sale and Conveyancing) Act 1994*, the *Retail and Commercial Leases Act 1995* or Part 4 of the *Development Act 1993*.
Clause 33: Effect of things done or allowed under this Act
This clause ensures that a transaction may be entered into under the measure without fear of breaching another law or giving rise to damages etc.
Clause 34: Stamp duty
This clause exempts transfer orders and sale/lease agreements from stamp duty.
Clause 35: Land tax
This clause ensures that subjacent land (land that lies below the water in a harbor or port) will not be liable to land tax.
Clause 36: Registration of transfer of land
This clause provides for registration of transfers of land under the measure.
Clause 37: Non-application of Parliamentary Committees Act 1991
This clause provides that if land is leased to a purchaser under a sale/lease agreement, no work carried out by the purchaser in relation to that land is to be considered a public work for the purposes of the *Parliamentary Committees Act 1991* unless the cost of the work exceeds $4 million and the whole or part of the cost is to be met from money provided or to be provided by Parliament or a State instrumentality.
Clause 38: Regulations
This clause provides general regulation making power.

SCHEDULE 1
Division of Land

This Schedule set out divisions of land within Outer Harbor, Pelican Point, Osborne, Inner Harbor West, Inner Harbor East, Port Pirie, Port Giles, Port Lincoln and Thevenard in respect of which an application for division of land will be made and new certificates of title are to be issued.

SCHEDULE 2
Amendments to Development Plan

This Schedule sets out various amendments to the Development Plan effected by the measure.

SCHEDULE 3
Superannuation Benefits for Transferred Employees

Clause 1: Interpretation
This clause contains definitions for the purposes of the Schedule.
Clause 2: Triple S Scheme
This clause applies to employees who were, when transferred to private employment under the measure, contributors to the Triple S Scheme.

If the employee has not reached 55 years, the employee is entitled to—
- the balance of the employee's contribution account (which may be taken immediately, preserved in the Triple S scheme, or rolled over into a regulated superannuation scheme);
- the balance of the employer account (which may be preserved in the Triple S scheme or rolled over to a regulated superannuation scheme as a preserved amount);
- the balance of any rollover account (which (subject to SIS requirements) may be taken immediately, preserved in the Triple S scheme, or rolled over into a regulated superannuation scheme).

If the employee has reached 55 years, the employee is entitled to—
- the balance of the employee's contribution account (which may be taken immediately or rolled over into a regulated superannuation scheme);
- the balance of the employer account (which may be taken immediately or rolled over into a regulated superannuation scheme);
- the balance of any rollover account (which (subject to SIS requirements) may be taken immediately, preserved in the Triple S scheme, or rolled over into a regulated superannuation scheme).

Clause 3: New scheme contributors
This clause applies to employees who were, when transferred to private employment under the measure, new scheme contributors.

If the employee has not reached 55 years, the employee may elect—
- to preserve his or her accrued superannuation benefits;
- to take immediately or roll over into a regulated superannuation scheme the aggregate of
  - the balance of the employee's contribution account; and
  - the lesser of—
    - twice the balance of the employee's contribution account; or
    - twice the amount that would have been the balance of the contribution account if the employee had contributed to the scheme at the employee's standard contribution rate throughout the period of the employee's membership of the scheme;
  - an amount determined in accordance with section 28(5)(b)(ii)(B) of the *Superannuation Act 1988*,

and if the employee was a member of the PSESS scheme, the amount standing to the employee's account under section 32A(6) of the *Superannuation Act 1988* is to be added to the amount preserved, rolled over or taken in cash under paragraph *(a)*, *(b)* or *(c)*.

If the employee has reached 55 years, the employee may elect—

- to preserve his or her accrued superannuation benefits;
- to take immediately or roll over into a regulated superannuation scheme an amount determined under section 27 of the *Superannuation Act 1988* as if the employee had retired from employment on the relevant day,

and if the employee was a member of the PSESS scheme, the amount standing to the employee's account under section 32A(6) of the *Superannuation Act 1988* is to be added to the amount preserved, taken or rolled over under paragraph *(a)* or *(b)*.

If a transferred employee fails to make an election under this clause within one month after transfer, the employee will be taken to have elected to preserve his or her accrued superannuation benefits.

Clause 4: Old scheme contributors

This clause applies to employees who were, when transferred to private employment under the measure, old scheme contributors.

If the employee has not reached 55 years, the employee may elect—

- to preserve his or her accrued superannuation benefits;
- to take immediately or roll over into a regulated superannuation scheme the aggregate of the balance of the employee's contribution account and the lesser of—
  - 2.5 times the balance of the employee's contribution account; or
  - 2.5 times the amount that would have been the balance of the contribution account if the employee had contributed to the scheme at the employee's standard contribution rate throughout the period of the employee's membership of the scheme.

If the employee has reached 55 years, the employee may elect—

- to preserve his or her accrued superannuation benefits;
- to take immediately or roll over into a regulated superannuation scheme an amount equivalent to the commuted value of the pension to which the employee would have been entitled if he or she had retired from employment on the relevant day and had elected to commute 100% of the pension.

If a transferred employee fails to make an election under this clause within one month after transfer, the employee will be taken to have elected to preserve his or her accrued superannuation benefits.

Clause 5: Special provision for certain old scheme contributors

The Treasurer is required to obtain an actuarial report in respect of an old scheme contributor who remains a contributor and who elected to preserve superannuation benefits and must pay a lump sum (if any) determined in accordance with the actuarial report to an account in the name of the employee in a regulated superannuation scheme nominated by the employee.

Clause 6: Provisions as to preservation apply despite the fact that the transferred employee may be over 55

This clause makes it clear that benefits may be preserved even though the employee may be over 55.

Clause 7: Modifications to Superannuation Act 1988 to continue in operation

This clause is of a transitional nature and ensures that the modifications to the *Superannuation Act* made under section 5 of that Act in relation to employees of the Corporation continue to apply.

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

RACING (TRANSITIONAL PROVISIONS) AMENDMENT BILL

Second reading

The Hon. K.T. GRIFFIN (Attorney-General): On behalf of my colleague the Minister for Transport, 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.

The *Racing (Controlling Authorities) Amendment Act 2000* came into operation on 1 October 2000. Functions previously assigned to the Racing Industry Development Authority (RIDA) were reassigned by that Act to the Gaming Supervisory Authority (GSA) and the Liquor and Gaming Commissioner.

In accordance with Rules under Part 4 of the Racing Act bookmakers have lodged bonds with RIDA and its predecessors, the Bookmakers Licensing Board and the Betting Control Board.

This Bill overcomes a transitional problem with the bonds. It is necessary for the GSA to be a party to the bonds if they are to remain effective. The amendment achieves that result and avoids the alternative of requiring the lodging of new bonds.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

This clause provides for the amendment to commence on the day on which the *Racing (Controlling Authorities) Amendment Act* came into operation (1 October 2000).

Clause 3: Amendment of s. 50—Transitional provisions—RIDA

A new subsection is added to the transitional provisions included in the *Racing (Controlling Authorities) Amendment Act* relating to RIDA. The new subsection provides that bonds lodged under the rules relating to bookmakers will be taken to have been lodged with the Gaming Supervisory Authority.

The Hon. T.G. ROBERTS secured the adjournment of the debate.

LEGAL PRACTITIONERS (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 5 October. Page 53.)

The Hon. IAN GILFILLAN: The Democrats support the second reading. The bill deals with two issues: first, it will allow an unqualified person, as defined by the act, to reproduce and complete pro-forma documents, such as loan agreements and mortgages. In this case the person will be able to alter only the standard variables in the document, these being names, addresses, amount of loan, amount and interval of repayments and interest rate. The second matter revolves around confidentiality of information derived from examining a legal practitioner's accounts and records. The bill seeks to amend the act to allow the Law Society to disclose this information to the regulatory authority in another state.

Currently, this can be done only if the regulatory authority requires the information in connection with a disciplinary action, that is, contemplated or has been taken, against a legal practitioner. The increased ability to share information proposed by the bill will mean that, where the society believes that the regulatory authority in another jurisdiction should be alerted to concerns that arise as a result of the inspection of a legal practitioner's record, they may forward that information without needing a formal request. With that very brief summary, I indicate that the Democrats support the second reading of the bill.

The Hon. T.G. ROBERTS secured the adjournment of the debate.

SHOP THEFT (ALTERNATIVE ENFORCEMENT) BILL

Adjourned debate on second reading.

(Continued from 25 October. Page 236.)

The Hon. K.T. GRIFFIN (Attorney-General): I thank members for their support for the bill. It is gratifying to see

steady progress in an innovative measure which has taken time but which is the result of collaboration between partners in government and private enterprise attempting to devise a better way of dealing with a problem that affects them both in a serious way. I particularly acknowledge the Hon. Terry Cameron for his unstinting support for the bill. The Leader of the Opposition has also supported the bill and I am grateful for that support. She has asked a number of questions and I will now address those.

The first question was whether a police record check by a prospective employer would result in the disclosure of the notice. The answer is no. Clause 17 of the bill creates a quite serious offence (a maximum penalty of a $10 000 fine) for breaking the confidentiality of the records kept by the Police Commissioner except where the section authorises their release. A police record check by an employer is not one of those authorised releases. In addition, clause 15 provides that the record of the issuance of the notice cannot be used in evidence in any legal proceedings at all except with the consent of the person to whom the notice was issued.

The second question was more of a comment to the effect that young offenders are not involved directly in this scheme—that is true. It is also true, as the honourable member has pointed out, that the scheme proposed in the bill is very much modelled on that enacted in the Young Offenders Act. It follows that the flexibility of the current legislative regime dealing with minor offences alleged to have been committed by young people is sufficient to show the kinds of appropriate disposition that this bill proposes for adults. If it turns out that the adult scheme is the success that we all hope it to be, it may then be appropriate to look at applying all of these detailed provisions to those young people accused of shop theft.

The leader commented that the scheme is very victim orientated because it requires the victim to consent before the process is put in train—that is true. At this stage, though, I think that caution is the better part of valour. A government does not want to enforce or impose an innovative and untried scheme upon industry which may be unwilling participants in a particular case. What we hope and expect is that the merits of dealing with minor shop theft in this way, instead of in the traditional way, will become so apparent to shopkeepers and retailers that the consent of the victim will become a rare issue.

That may take time and patience. At this stage, however, it is worth pointing out that, rather than saying that the scheme is victim oriented, it is more true to say that the scheme is consent oriented. That is to say, the consent of the defendant, the police and the victim are all required before the scheme comes into operation. I am convinced that, once the scheme gradually comes into effective operation, the retail sector will see its clear advantages over the traditional court-based system in such minor cases, which have already been outlined to members.

The honourable leader commented that the scheme requires the victim to make up his or her mind then and there about whether he or she consents to the application of the diversion scheme to the particular case and that this may be unfair, given that the victim may be suffering some distress. There is, of course, some truth in that.

In drafting the bill, some thought was given to providing a method by which it might be possible for a victim to change his or her mind one way or the other after the initial decision. In the end, the attempt was abandoned because any possible solution was, in its procedural interaction with the rest of the steps that had to be followed in the scheme, far too complicated, and also because on balance it was decided that shopkeepers and retailers should have in place, after some time has passed and the nature of the scheme becomes known and disseminated throughout the sector, a standard policy about how they will deal with such matters.

Indeed, I would use this opportunity to encourage the sector to contemplate doing just that, if and when the bill is passed. I am certain that the Retail Industry Crime Prevention Committee, whose contribution to the formulation of the bill I gratefully acknowledge, will be instrumental in that process. I also want to thank the Hon. Mr Gilfillan for his indications of support for the bill. He referred particularly to a letter from the Para Districts Community Legal Service Incorporated, which raised a number of issues, and it would be appropriate for me to read the reply that I made to Mr Aberdeen of that legal service. It best explains the response to the issues that he has raised. I thanked him for his letter and then I said:

> I regret, however, that while I understand your concerns, I cannot accede to them. I can quite see your difficulty in relation to the 48 hour time period. However, the merits of the proposal depend on other policy considerations as well. One of the most important of these, in relation to its acceptability by all stakeholders, is the need to keep the procedures simple, straightforward and timely.
>
> If it does not have these characteristics, it will not be a true alternative to the current (unsatisfactory) system and will not attract support from key stakeholders. While the scheme was devised containing an element of delay so that sober and detached reflection could take place and, if possible, legal advice taken, the fact is that the prompt (almost) 'on the spot' nature of the scheme is one of its greatest drawing cards with the retail trade sector, whose cooperation is essential if any truly alternative scheme is to have the faintest chance of success.
>
> I am of the opinion that legal aid and community services, who have consistently advocated a non-judicial diversion scheme for small amount shop stealers for many years, should embrace the chance of a truly just alternative system with benefits for the disadvantaged and adjust their services accordingly.
>
> So far as your comments about those who have been breached by Centrelink and have no income are concerned, what you say is of course true. However, I do not see what the alternative might be. In fact, the first draft of the bill, which was sent out with the discussion paper, excluded from the 'on the spot' part of the scheme those who could not return the item in merchantable form.
>
> As a result of representations, this was altered so that there was the possibility of applying the scheme to those who could not return the item in merchantable form but could pay for it. If the person has no income and is unable to pay for the altered item, the only result is that this alternative scheme does not apply. Such a person is no worse off than he or she is now.
>
> I cannot see that this is an unjust result. It merely represents the limits of what it is possible to do within the parameters of this kind of alternative. I hope that this innovative scheme can be given a chance to see what can be done. I would welcome your continuing feedback on how it is working in practice.
>
> No other jurisdiction has tried something like this. I will be keeping a close and interested eye on the results of implementation should it, as expected, pass the parliament.

Bill read a second time.

In committee.

Clause 1.

The Hon. CARMEL ZOLLO: I would like to thank the Attorney-General for responding to the concerns raised by the opposition leader, the Hon. Carolyn Pickles. I am not certain whether he responded to concerns in relation to records kept by the commissioner.

The Hon. K.T. Griffin: Yes.

The Hon. CARMEL ZOLLO: Specifically, the opposition wanted to know, in the keeping of records by the commissioner, the manner in which those records are then disclosed by him. It is my understanding that they are to be

kept for five years by the commissioner and then not disclosed as part of a normal police clearance request.

The Hon. K.T. Griffin: That is correct.

The Hon. CARMEL ZOLLO: Unless there is clearly a pattern of the person being a serial offender; is that correct?

The Hon. K.T. GRIFFIN: I did actually provide some information, and for the benefit of the honourable member I will relay that again. The first question that the Leader of the Opposition asked was whether a police record check by a prospective employer would result in the disclosure of the notice, and my answer to that was no. Clause 17 deals with confidentiality issues, and there is quite a serious offence of breaking the confidentiality of the records kept by the Police Commissioner, except where the section authorises their release.

The maximum penalty is $10 000. The police record check by an employer is not one of the authorised releases. Clause 15 provides that the record of the issuance of the notice cannot be used in evidence in legal proceedings except with the consent of the person to whom the notice was issued.

If one looks at that, it says specifically that, subject to subsection (2), the fact that a person who was issued with a shop theft infringement notice admitted committing the offence the subject of the notice by or for the purposes of effectively consenting to being dealt with under this act, may not be adduced in evidence or cited or referred to in any proceedings other than by or with the consent of the person.

There are two exceptions: the first is disciplinary proceedings against a police officer relating to conduct in connection with the shop theft infringement notice or issue of the notice; and the other is in relation to clause 12, which relates to breach of an undertaking, which is specified in the notice. I think that deals with the issues raised.

The Hon. IAN GILFILLAN: I would like to ask the Attorney—and it is not related to any particular clause—whether he has given any thought to the part of the week to which the 48 hour time frame would apply? The time frame of 48 hours (and a couple of other points) was the cause of some concern to the Para Districts Community Legal Service Inc. Has he considered whether it would be considerably more restrictive in terms of seeking legal counsel or advice if it were to happen over a weekend?

The Hon. K.T. GRIFFIN: The advisory committee, my officers and others considered that and they took the view that it was inappropriate to be endeavouring to build into it the holiday situation, or the weekend situation, on the basis that a great deal of minor shop theft appears to occur over weekends, so that ultimately most of these matters would be dealt with on the Monday or Tuesday. The community legal centres and legal aid, when we bring this into operation, ought to gear their advisory services to the fact that there is a time frame of just 48 hours. It is a real dilemma as to knowing how long it should be because, the longer one leaves this, the more remote it becomes from the offence, and the less effective it is likely to be in dealing with the offence. It is quite a significant alternative. So, on balance, we decided that we would leave it at the 48-hour time frame.

The Hon. IAN GILFILLAN: Would the Attorney consider reviewing that time frame because it may, by experience, be shown to be unworkable in certain circumstances, certainly not over the ordinary weekend but when that weekend is linked with a public holiday or a special occasion, such as Easter or Christmas? The legislation as I see it just fixes an arbitrary 48 hours, without any flexibility. That does concern me a bit. I do accept that there is a lot to commend the idea that it be dealt with expeditiously so that the whole system is given the best chance to succeed—so I am not attacking it. But the 48 hours time frame is included specifically for the purpose of consideration, and not all 48 hour periods are the same in offering the alleged offender an opportunity to use the time.

The Hon. K.T. GRIFFIN: I am prepared to give consideration to it. I presume that the request is related to monitoring how it actually works in practice?

The Hon. IAN GILFILLAN: I think that is the case, unless you were to consider that it be a working day. But I think you have considered that already—that it be 48 hours of working days?

The Hon. K.T. GRIFFIN: I take that on notice. I am certainly prepared to consider it. Before the bill passes in another place, I will ensure that there is proper consideration. I will communicate the result of my consideration.

Clause passed.

Remaining clauses (2 to 18), schedules and title passed.

Bill read a third time and passed.

CONVEYANCERS (REGISTRATION) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 7 November. Page 295.)

The Hon. K.T. GRIFFIN (Attorney-General): I thank honourable members for their expressions of support for the second reading of this bill. The Hons Mr Gilfillan, Mr Cameron and Mr Holloway made several comments in relation to the bill and I will address each of those comments in turn. The Hon. Mr Gilfillan asked what consumer protections exist in respect of a conflict of interest for a conveyancer acting for both parties to a transaction, and whether indeed a conveyancer can act for both parties to a transaction. Section 30 of the Land and Business (Sale and Conveyancing) Act 1994 contains a clear prohibition on a conveyancer acting for two parties to the same transaction. That section provides:

> Except as authorised under the regulations, a conveyancer must not act for both the transferor and transferee, or the grantor and grantee, of property or rights under a transaction.

Part 3 of the Land and Business (Sale and Conveyancing) Regulations 1995 contains the authorisations mentioned in section 30. These authorisations are of very limited nature, and permit a conveyancer to act for both parties in only seven instances:

1. If the parties are related by blood, adoption or marriage;
2. If the parties are putative spouses;
3. If the parties are related bodies corporate for the purpose of the Corporations Law;
4. If the parties are a proprietary company and a person who is a shareholder or director of that company;
5. If the parties are registered as the proprietors of the relevant land as tenants in common or joint tenants with one another;
6. If the parties carry on business in partnership with each other;
7. If the conveyancer has obtained from both parties a written acknowledgment or general authority in the prescribed form.

However, it is also provided that a conveyancer must not act for both parties to a transaction if the conveyancer is

subject to a conflict of interest in relation to the transaction. Further, if a conveyancer is acting for both parties in one of the situations just discussed, then he or she must immediately cease to act and notify both parties in writing if a conflict of interest arises.

The term 'conflict of interest' is defined for the purpose of Part 3 to mean instances where:

· The duties owed by the conveyancer to one party to the transaction conflict with the duties owed by the conveyancer to the other party to the transaction (for example, if the conveyancer is obliged, in fulfilling his or her duty to one party, to withhold information or advice from the other party that, by reason of the conveyancer's duty to that other party, he or she should not withhold); or

· The conveyancer has a personal or pecuniary interest in the transaction arising otherwise than from the conveyancer's services as a conveyancer in respect of the transaction.

The provisions of the Land and Business (Sale and Conveyancing) Act 1994 also provide protection against conflicts of interest in an area where the government agrees conflicts could arise; that is, when land agents might own a conveyancing practice. Section 28 provides that a land agent or a person in a prescribed relationship to a land agent cannot prepare conveyancing instruments. Those who are in prescribed relationships include employees of land agents and employees of bodies corporate controlled by a land agent or of which a land agent is a director.

Therefore, section 28 would operate to prevent a land agent's incorporated conveyancing firm from performing any conveyancing work in relation to each and every transaction with which the land agent was involved. This is a blanket prohibition, with no exceptions. While there is no absolute prohibition on land agents owning conveyancing practices, there is nonetheless a practical prohibition arising from the operation of section 28.

The bill also provides further consumer protection against the risk of conflict of interest. Clause 5 of the bill imposes a requirement that a company conveyancer's business must be properly managed and supervised by a natural person who is a registered conveyancer himself or herself, and that it is an offence for a director or manager of an incorporated conveyancing practice to direct or incite any person employed by the company to act unlawfully, improperly, negligently or unfairly in relation to the conveyancer's business.

This protection is best illustrated by way of example. If a financial institution has an interest in its client obtaining credit to purchase a property, the relevant interest being the income generated by the interest margin and fees; if the financial institution owns a conveyancing practice and refers the client to that practice regarding the purchase, there may be a conflict between the interests of the institution and the duty of the conveyancing practice to inform the client in question of all relevant matters. For instance, if there were matters that the conveyancer became aware of which would affect the client's decision to proceed with the transaction, it may be that the institution would direct the conveyancer not to disclose the information so as to preserve its income.

However, that direction would clearly be a prohibited improper direction and therefore an offence under proposed new section 11. Further, clause 6 of the bill provides that, where a conviction is recorded for an improper direction offence, this is, of itself, a proper ground for disciplinary action to be taken against the conveyancer. In the event that proper grounds for disciplinary action are made out, one of the penalties that may be imposed by the court is the cancellation of the conveyancer's registration.

The Hon. Mr Gilfillan has asked whether I share the concerns of the Australian Institute of Conveyancers that the potential for conflicts of interest will be exacerbated by having conveyancing firms owned by lawyers or financial institutions. In light of the explanation that I have just provided, I do not share those concerns. Conflicts of interest are appropriately dealt with by the combined provisions of the Land and Business (Sale and Conveyancing) Act 1994 and this bill.

The Hon. Mr Gilfillan also indicated that the Democrats will be moving to remove from the Conveyancers Act 1994 the Commissioner for Consumer Affairs' discretionary power under section 7(1)(a)(ii) to accept appropriate alternative qualifications for registration purposes. The removal of the commissioner's power would have a severe negative impact on the registration scheme under the act.

Whilst listing the required qualifications in the regulations is an attractive option for precisely the reasons outlined by the Hon. Mr Gilfillan, in some instances this is simply not possible. Not all people wanting to carry on business as a conveyancer in this state will have obtained their qualifications locally. There will be applicants who have obtained competency interstate and who are not able to take advantage of mutual recognition legislation for one reason or another; there will be those who have gained sufficient competency through years of experience in the relevant field; and there will even be those who have obtained competency overseas.

In each of these circumstances, the qualifications held by the applicants will not be set out in the regulations, and the applicant will therefore be unable to obtain registration under the suggested amendment. Giving the Commissioner for Consumer Affairs the power to accept alternative qualifications allows those people, who are otherwise competent to perform the relevant work without risk to the community, the chance to offer their services to the market. This is entirely consistent with National Competition Policy Principles, which form the basis for this amendment bill.

In the absence of such a discretionary power, all possible combinations and permutations of qualifications worldwide would have to be listed in the regulations. Alternatively, we would have the economically and socially unacceptable position whereby those who are already competent would have to do a course of training or pay for recognition of prior learning in order to practise their trade. In either case, a misallocation of resources will occur, and the community will suffer through money being diverted away from other areas where it might more productively be spent. It cannot be argued that the community would benefit in any way from the resource misallocation that would be created by the proposed amendment.

I also point out that, with the continued development of nationally approved competencies under the Australian Qualifications Framework, it is intended that the qualifications listed in the regulations will no longer be provider specific but, rather, will specify units of competency which will be acceptable however gained. Once this has occurred, there will be less need for the commissioner to exercise his discretionary powers. Indeed, it is very likely that they will be exercised only in the cases I have mentioned. However, as the honourable member has identified, there will always be hard cases. It is precisely these hard cases that are best addressed by providing for a discretionary power. The

government therefore maintains that the retention of this power in the Conveyancers Act 1994 serves a useful purpose.

The Hon. Mr Cameron noted that the bill aims to draw a distinction for registration purposes between summary and indictable offences of dishonesty. This is quite correct. However, he went on to say that the bill prescribes stipulations that must be included in the memorandum and articles of an incorporated association and stipulates who can own or operate an incorporated conveyancer. With respect, those observations are not correct. The bill, in fact, removes these stipulations from the Conveyancers Act 1994 and replaces them with a scheme whereby anyone can own an incorporated conveyancing practice. In doing so, it also provides for a scheme of corporate governance aimed at maintaining standards and eliminating the potential for conflicts of interest to arise. As I have already dealt with this matter, I will not repeat my explanation of the effect of those provisions.

The Hon. Mr Cameron also raised the issue of membership of the review panel that conducted the review of this act. The review panel did include several people who are legal practitioners, but they were not appointed to the review panel to represent the interests of the legal profession in any way. Rather, those people were appointed to the review panel to contribute expertise in the areas of legislative review generally and to advise on the operation of legislation generally.

Contrary to the Hon. Mr Cameron's assertions, it would not have been possible to conduct an independent review with members of the review panel representing vested interests. The government did however obtain a great deal of relevant input from industry bodies, including the Australian Institute of Conveyancers, the Real Estate Institute of South Australia and the Law Society, through a consultative review process. An issues paper was released for industry comment in March 1999 and, as a result of submissions received, a draft report was subsequently released for further industry comment. The issues addressed in this bill were addressed in the consultation papers, and it cannot be said that there was not considerable consultation in relation to them.

A related issue raised by the Hon. Mr Cameron is that the questions posed by the review panel were leading and did not properly address the practical application of the potential implementation of the review panel's recommendations. There are several heads upon which I would counter this assertion.

First, the review panel made it clear in the report that submissions were sought on the issues raised and any other issues which those making submissions felt were relevant. Submissions generally did not take advantage of this invitation. Secondly, I query whether anyone would rationally provide a submission to a legislative review process in the belief that the whole exercise was simply an academic exercise and never intended to be implemented.

Thirdly, the review was required to, and did, take into account the effect that implementation of its recommendations would have on South Australian consumers. Indeed, this is one of the explicit requirements of the Competition Principles Agreement. The Hon. Mr Cameron also queried why this area has been treated as a priority for National Competition Policy. The short answer is that this is not being treated as a priority. Legislative reviews are required to be conducted, with associated reforms implemented, by 30 June 2002. The South Australian government is committed to reviewing 178 pieces of legislation. This bill reflects the findings of one of these reviews. It has not been given any greater priority than other reviews; it simply happens to have been completed before some other reviews. It is expected that other bills will be introduced shortly to implement National Competition Policy reforms in various areas.

Finally, the Hon. Mr Cameron remarked that this bill is 'giving solicitors the right to do conveyancing'. This is not correct, as the bill does no such thing. Conveyancing is merely a subset of legal practice, which was opened up to competition in this state many years ago. In fact, I think South Australia was the only state for many years which allowed conveyancers not legally trained to undertake conveyancing work and, generally speaking, they did a very substantial part of that. The Australian Institute of Conveyancers has itself acknowledged that conveyancers in this state are the product of competition. I simply point out that any solicitor admitted to practice in this state is entitled to perform conveyancing work already by virtue of his or her admission. This bill changes nothing in that regard.

The Hon. Mr Cameron raised a number of other matters relating to the Land Agents (Registration) Amendment Bill 2000 rather than to this bill, and I will deal with those issues in the context of that debate. The Hon. Mr Holloway has indicated that the opposition intends to oppose clauses 5 and 6 of this bill. Again, the concern expressed here is the potential for conflicts of interest to arise through the removal of ownership restrictions from incorporated conveyancing firms and an unwarranted claim that this will return to pre 1973 conditions.

At the heart of these concerns appears to be the issue of land agents owning incorporated conveyancing firms and in that way directing conveyancing work to their companies. As I have said, such behaviour is prohibited already under section 28 of the Land and Business (Sale and Conveyancing) Act 1994. Even if a land agent owned a conveyancing firm, that firm could not perform any conveyancing work in relation to any transaction with which the land agent had been involved as an agent. There is nothing in this bill which derogates from that prohibition.

The Hon. Mr Holloway is wrong when he says that 'it will not require a land agent to give improper directions to a conveyancer for the conveyancer to work in the best interests of the directors of his or her employee to the detriment of the other party to the transaction where the conveyancing company is working for both parties'. First, any direction favouring the owner's or director's interests will be improper. Second, as I have already discussed, there are very strict prohibitions on when a conveyancer can act for both parties where conflicts of interest arise. Removing ownership restrictions does not mean that any legislative protections are being abandoned. In fact, the provisions of this bill will strengthen existing protections against conflicts of interest.

It is telling that no-one has been able to point to any reason for retention of ownership restrictions that is not addressed under the current or proposed legislation. Further, no-one has been able to point to any benefits accruing to the community as a whole by the retention of the restrictions that would outweigh the potential benefits arising from allowing increased capital flows into the industry. Benefits such as increased capital flows will be significant, particularly in rural areas, where it may provide encouragement for new conveyancing practices to be set up providing greater choice for consumers.

The Hon. Mr Holloway also made comments relating to the Land Agents (Registration) Amendment Bill 2000 and, again, as I have said in relation to the comments made by the

Hon. Mr Cameron, I will deal with those in the context of the debate on that bill. I thank members for their indication of support for the second reading of this bill.

Bill read a second time.

NUCLEAR WASTE STORAGE FACILITY (PROHIBITION No. 2) BILL

Adjourned debate on second reading.

(Continued from 7 November. Page 302.)

The Hon. CAROLINE SCHAEFER: It is important that I put on the record that I have a view which appears to be contrary to that of both major parties and, indeed, to most of the people of this state with regard to nuclear waste storage. I can count and I certainly will not be making a large fuss about this, but I do believe it is important to express the fact that we produce nuclear waste in Australia and, therefore, we have a moral duty to dispose of it in a practical fashion. We live in a country which is politically and geologically one of the most stable in the world. Instead of taking a selfish and a 'not in my backyard' attitude, I believe that our governments' moneys and taxpayers' moneys would be better and more morally spent on methods of safe nuclear waste storage, taking on our responsibilities as citizens of Australia and possibly the wider world.

I will certainly not be supporting an amendment which asks for a referendum on this issue because, again, I believe that governments have a moral duty to govern and, therefore, we need to make some rules and stick to them. As I say, I recognise that my views are contra to those of my own party and, indeed, the opposition, but I believe that it is important that they be expressed. I personally know a number of the station owners in the areas that appear to be favoured sites for low level and medium level nuclear waste. Certainly, I have great sympathy for them. I would not particularly want a waste dump of any description, be it nuclear or any other, in my backyard either, but I believe it is the position of the Legislative Council to look at that which is best for the whole of the state. As I have previously said, it is important that I express those views on the record.

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

ELECTRICAL PRODUCTS BILL

Adjourned debate on second reading.

(Continued from 7 November. Page 305.)

The Hon. P. HOLLOWAY: The opposition will support the second reading of this bill. It has been thoroughly debated in another place by my colleagues the Deputy Leader of the Opposition (Annette Hurley) and the member for Kaurna, who is also the shadow minister for the environment (John Hill). They have made comprehensive contributions to the debate and, therefore, I will not spend a great deal of time on my contribution today.

This bill replaces an act of the same name that was introduced in 1988. This bill sets requirements for the labelling of electrical products along with associated administration and enforcement provisions. Perhaps the most important aspect of this new bill is that it enables minimum energy performance standards to be set in South Australia. It is my understanding that these standards have been agreed to by the ministerial council (ANZMEC) as part of the response to the Kyoto protocol. I understand that we are actually one of the last states to bring in legislation to bring about those new minimum energy performance standards, so we are certainly happy to see this bill not just passed but quickly brought into effect.

It would be fair to say that there are much bigger issues in relation to the Kyoto protocol and related issues, such as climate change, greenhouse gas trading, etc. However, we should note that this is a small but nonetheless significant step in terms of reducing greenhouse gas emissions. The bill provides that a standard may be declared to be a safety or performance standard or an energy performance standard. This would mean that any trader would not be permitted to sell an electrical product to which such a standard applies unless it is appropriately labelled to show that the product has complied with the set standard.

Many of the provisions of the Electrical Products Bill are similar to the existing act, but I note that the drafting of this bill has been significantly improved in a number of aspects. In addition, these new provisions that relate to the minimum performance standards have also been introduced. One significant reason for introducing the bill is that, when the original act was introduced in 1988, the Electricity Trust of South Australia (ETSA) was originally responsible for the testing, labelling and prohibition from sale of electrical products. That was a function originally exercised by ETSA but, of course, following the restructuring of ETSA and the breaking up of that body into a number of different entities in 1995 those functions were transferred to the minister.

These powers will now be transferred to the Technical Regulator which, we believe, is appropriate given the significant changes that have been made to the electricity industry over the past five years or so. Another feature of this bill is that there are powers to prohibit the sale or use of unsafe electrical products. It is possible that those may conflict with mutual recognition principles. The bill includes appropriate exemption from the Mutual Recognition Act. Again, the opposition supports that. That means that we can ensure that, if officials are notified that an electrical product should be withdrawn from the market because it is unsafe, the authorities can act promptly without having to worry about whether or not they have breached mutual recognition principles. We recognise the need for that provision.

We also note that the bill includes changes to the regulation making powers which now allow for expiation fees of up to $315. The original act provided only for summary offences under the act. I also note that extra penalties are provided in the bill for continuing offences. Again, we believe that this new scheme of penalties should improve the situation in respect of the administration of the bill by providing the authorities with other options. Another improvement we note in the bill is that annual reporting by the Technical Regulator is now required. I understand that, in his report, the Technical Regulator has, in effect, covered these matters, but certainly the opposition is very pleased.

I have been highly critical of the government's lack of accountability so, to be fair to it, on one of the rare occasions when this government is providing for additional accountability I should note that it is in the legislation, and I do so with pleasure. The opposition has conferred with the electrical trades union on this matter and it has no problem with the changes. The opposition supports the bill, which basically seeks to protect consumers buying electrical products which do not meet adequate standards and which also seeks to introduce minimum energy performance

standards in accordance with the Kyoto protocol. We support the second reading.

The Hon. T.G. CAMERON: The bill replaces the Electrical Products Act 1988. It is designed to conform with decisions made by the Australian and New Zealand Minerals and Energy Council and the Kyoto protocol on greenhouse gas emission targets. The bill provides for the proclamation of a standard (or part of a standard) to be declared a safety and performance standard or an energy performance standard. This prohibits a trader from selling an electrical product that has not been labelled, indicating that it complies with the performance standards for certain products unless they are labelled with their energy efficiency compliance (this is largely the same as the previous Electrical Products Act).

The bill also prohibits a trader from selling an electrical product that has not been registered to comply with the standards. It provides for offences of unauthorised labelling or misleading a customer in respect of compliance with this act or regulations. It allows the Technical Regulator to prohibit the sale and/or use of an electrical product that is or may be unsafe. Traders then have an obligation when products are returned to them to make those products safe or refund the purchase price. The bill intends to promote greater administrative efficiencies and to make it closer to the Electricity Act 1996.

It seeks to move several administrative powers from the minister to the Technical Regulator that were formerly exercised by ETSA. These include the authorisation of labelling of electrical products, the prohibition of the sale or use of unsafe products and testing arrangements. The bill also clarifies the power of persons authorised by the Technical Regulator and the power of delegation by the Technical Regulator. It also allows persons to be exempted by the act for specific provisions of the act. The bill brings the Electrical Products Act into line with recent Australian and world developments in energy efficiency and safety standards, as well as clarifying and streamlining administrative procedures. South Australia First supports the bill.

The Hon. A.J. REDFORD secured the adjournment of the debate.

STATUTES AMENDMENT (FEDERAL COURTS-STATE JURISDICTION) BILL

The Hon. T.G. CAMERON: The High Court decision re Wakim: Ex parte McNally ruled that chapter 3 of the Australian Constitution does not permit the exercise of state jurisdiction by federal courts. Cross-vesting arrangements were therefore invalidated in so far as they confer state jurisdiction on federal courts. Those arrangements deal with the administration and enforcement of such schemes as the agricultural and veterinary chemicals agreements, competition policy reform, gas pipeline access, the NCA and the monitoring of price exploitation associated with the commonwealth's GST; and a different cross-vesting scheme under the corporations legislation.

The state parliament passed the Federal Courts (State Jurisdiction) Amendment Act in 1999 in response to the Wakim judgment. This legislation confirmed the enforceability of judgments and rulings of federal courts declared invalid by the High Court judgment; facilitated the transfer of matters from federal courts to the state courts; and confirmed that the Supreme Court has the jurisdiction to hear matters under the relevant legislation.

The federal parliament enacted the Jurisdiction of Courts Legislation Amendment Act 1999 (often referred to as the JOCLA Act), which removed invalid provisions from relevant commonwealth legislation and enabled the Federal Court to continue to review federal departmental decisions made under state legislation. The bill complements the JOCLA Act, amending the Agricultural and Veterinary Chemicals (SA) Act 1994; the Competition Policy Reform (SA) Act 1996; the Corporations (SA) Act 1990; the Gas Pipelines Access (SA) Act 1997; the Jurisdiction of Courts (Cross-Vesting) Act 1987; the National Crime Authority (State Provisions) Act 1984; and the New Tax System Price Exploitation Code (SA) Act of 1999.

In each of these acts this bill removes provisions that confer state jurisdiction on federal courts (state matters under the agreements have been heard in the state Supreme Court since the passage of the Federal Courts (State Jurisdiction) Act); repeals the provisions purporting to apply commonwealth administrative legislation as a law of the state; and brings the cross-vesting legislation into line with the revision of the schemes under the JOCLA Act.

Additionally, the JOCLA Act restricted the rights of defendants in criminal matters to demand judicial review of the actions and decisions of commonwealth officers conducting prosecutions in state courts, which were often used to delay proceedings unfairly, resulting in additional costs to taxpayers. My understanding of this bill is that it complements those provisions in state law.

As I understand it, the amendments proposed by this bill are virtually the same as other legislation that has been enacted or is proposed in other state parliaments. It complements the JOCLA Act. SA First supports this bill.

The Hon. K.T. GRIFFIN (Attorney-General): I thank members for their indications of support for this bill. The Hon. Ian Gilfillan has asked me to clarify whether there is a retrospective element to any of the proposed amendments in the bill as they affect any criminal offences under the Corporations (South Australia) Act 1990. The amendments to which the honourable member refers are those which confer jurisdiction on the Supreme Court of this state in respect of matters in which a person seeks a writ of mandamus or prohibition or an injunction against an officer of the commonwealth.

The commonwealth's Jurisdiction of Courts Legislation Amendment Act (or, as it is described, the JOCLA Act), which commenced earlier this year, contained a number of amendments aimed at restricting the rights of criminal defendants in prosecutions brought by the commonwealth in state courts to challenge in the Federal Court decisions of commonwealth officers to prosecute, and other decisions in the criminal justice process.

These collateral criminal challenges were used by well-funded criminal defendants to delay and frustrate their prosecutions. Amendments to the commonwealth's judiciary and corporations acts contained in the JOCLA Act remove the rights of criminal defendants to take actions seeking writs or an injunction against an officer of the commonwealth in the Federal Court. Instead, defendants must now bring such actions in the state Supreme Court in which the prosecution or appeal relating to the criminal offence is being heard.

Amendments to the Corporations (South Australia) Act to which the honourable member refers do no more than vest the

state Supreme Court with the jurisdiction to hear such matters. They are consequential upon the commonwealth amendments and do not affect any substantive rights defendants to commonwealth prosecutions may have.

Furthermore, the Supreme Court is given jurisdiction only in relation to decisions made on or after the commencement of the arrangements. I trust that that allays the honourable member's concerns.

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

RETAIL AND COMMERCIAL LEASES (GST) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 8 November. Page 360.)

The Hon. T.G. CAMERON: My contribution will be brief. This bill is incidental and minor and seeks to clarify the GST on retail and commercial leases. The bill makes incidental amendments to the Retail and Commercial Leases Act to ensure that the GST is cost neutral to businesses, and to validate agreements on leases that may have been inoperative due to the provisions of the Retail and Commercial Leases Act.

The GST legislation allows parties to negotiate the effect of GST on contract price or rent. However, section 22 of the Retail and Commercial Leases Act prohibits more than one increase by a landlord in 12 months, and this has a consequential effect of making some GST clauses inoperative and may cause the lease to lose its GST. The bill validates the agreements for recovery of GST.

It clarifies that GST is not turnover, as this would violate the principle that GST should not be charged on GST; clarifies that GST can be passed on from the landlord to the tenant; specifies that GST can be calculated according to the value of supply in a lease; and addresses other similar anomalies. SA First supports this bill.

The Hon. K.T. GRIFFIN (Attorney-General): I thank honourable members for their indications of support for the bill. The Hon. Mr Gilfillan raised three issues. The honourable member notes that the bill is directed at leases entered into prior to the introduction of, or assent to, the commonwealth's GST legislation (being 2 December 1998 and 8 July 1999 respectively) where the leases provide for recovery of GST liabilities from the tenants. I understand that discrete GST recovery clauses have been inserted into new leases, as well as existing leases, to encourage useability of the new tax system in terms of transparency in passing on GST liabilities to the purchaser of the services, and in terms of ease of calculation of input tax credits.

Many businesses have chosen to identify the GST component of the cost of goods or services when it may be rolled up into the total price and represented as 'inclusive of GST'—either way is sufficient. However, when the honourable member states that a GST recovery clause is an imposition on the tenant, he overlooks the fact that commercial tenants may claim GST paid on business inputs back from the Australian Taxation Office.

The bill will not entrench GST recovery clauses in the legislation: such clauses are still for the parties to negotiate. This bill merely allows leases which already contain them to operate effectively. Validating existing GST recovery clauses in leases should not result in market pressure on other small retailers to agree to such measures. GST is already being remitted by landlords and whether or how it is recovered from tenants is a matter for the parties.

As to the calculation of turnover, I understand that the current reference to the 'net amount' paid or payable as tax is of imprecise meaning. A net amount is that remaining after all necessary deductions are made, such as taxes themselves. And while the prevailing view is that the present section is wide enough to ensure that GST payable on goods or services supplied by the tenant is excluded from the calculation of turnover, a minority contend that it does not because of the reference to imposition at the point of retail sale or hire, whereas GST liabilities are incurred on a taxable supply.

A supply of goods is considered to be made when the goods are physically removed from the supplier's possession or when they are made available to the recipient. For example, GST liabilities on a lay-by arrangement usually arise when the goods are finally paid for, not at the time of payment of the first instalment. The bill will clarify the imprecision and ensure that tenants' turnovers exclude GST, which will be ultimately reflected in reduced rentals.

Some leases contain outgoings clauses that allow landlords to recover their tax liabilities from their tenants. It is said that passing GST on under outgoings clauses is another indication that the arrangements will not be cost-neutral. Again, GST liabilities on all outgoings may be claimed as an input tax credit from the Australian Taxation Office because they are inputs into the business and not supplies made.

The timing of the payment of outgoings is left to the terms of the lease. Some leases require payment as and when the liabilities fall due on the landlord, and some require payment of estimates in advance. The honourable member flags cash flows as a potential problem which is exacerbated when GST is not collected on goods sold. Whether or not that is done is a commercial decision to be made by the retailer, and it should be remembered that they have the benefit of GST collected on supplies made before being remitted to the ATO—for one month in the case of businesses with a turnover greater than $20 million or for three months otherwise.

The Hon. Carmel Zollo asked what has happened in other jurisdictions. The commercial tenancies legislation in New South Wales and Queensland is similar to that in this state and both have been amended to allow the GST to be validly passed on. Amendments were not required in Victoria as, for example, they allow for more than one rent review in 12 months. The Retail Leases Act 1994 in New South Wales was amended in June this year to allow recovery of GST without infringing the prohibition on only one rent review in a 12 month period where there is a GST recovery clause in the lease. That act has also been amended to exclude GST from the definition of turnover and to allow GST to be passed on as an outgoing. I understand that the amendments have been well received.

A raft of changes to the Retail Shop Leases Act 1994 in Queensland came into effect in July this year, including amendments to allow GST to be passed on, without infringing the prohibition on only one rent review in a 12 month period. The Queensland act also excludes GST from the calculation of turnover, so that rents based on it will not infringe the principle of no GST on GST. In respect of the other jurisdictions, since the honourable member raised the issue yesterday, we have not been able to get responses quickly enough from those jurisdictions. But if we have the responses by the

time we deal with the committee stage I will be happy to provide them at that stage of the consideration of the bill.

The Council divided on the second reading:

AYES (13)

Cameron, T. G.	Dawkins, J. S. L.
Griffin, K. T. (teller)	Holloway, P.
Laidlaw, D. V.	Lawson, R. D.
Lucas, R. I.	Redford, A. J.
Roberts, T. G.	Schaefer, C. V.
Stefani, J. F.	Xenophon, N.
Zollo, C.	

NOES (3)

Elliott, M. J.	Gilfillan, I. (teller)
Kanck, S. M.	

Majority of 10 for the Ayes.

Second reading thus carried.

OCCUPATIONAL HEALTH, SAFETY AND WELFARE (PENALTIES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 8 November. Page 362.)

The Hon. R.D. LAWSON (Minister for Workplace Relations): I thank honourable members for their expressions of support for this measure. The Hon. Nick Xenophon in his contribution asked why the government had not moved more quickly to deal with the issue of penalties, given that it had notice for a number of months in relation to the proposed amendments. I think it lies ill in the mouth of the honourable member to suggest that the government has been delaying this matter. On a previous occasion when this measure was before the Council the honourable member did introduce a number of amendments in relation to which, when the matter reached the committee stage, the government indicated strong opposition to them. In brief, they were: first, the capacity for the court to award compensation under this mechanism and, secondly, the capacity of third parties—in his original bill predominantly unions—to undertake the prosecution of offenders.

The Hon. Nick Xenophon interjecting:

The Hon. R.D. LAWSON: The Hon. Mr Xenophon says not primarily unions, but the practical effect of the amendments that he previously proposed was that industrial associations were likely to be the most obvious parties to bring those prosecutions. I have indicated that the government believes that the inspectorate and the minister should remain the party responsible for bringing prosecutions.

The Hon. Nick Xenophon interjecting:

The Hon. R.D. LAWSON: I will get on to the number of prosecutions shortly. But I think it is worth bearing in mind that the penalties and prosecutions is but one element in occ. health and safety. It is only one element. It is an important element, but there are other principles to be applied, other courses to be followed. A good description of the philosophy which should guide us in these matters is contained in a publication of the Tasmanian Workplace Standards Authority, where it speaks to the fact that the prevention strategy that it adopts—and we have a similar prevention ideal here:

> . . . favours persuasion over deterrence. It utilises a graduated enforcement response, and prosecution is a last resort. Enforcement must be thought of as a graduated series of options starting with verbal persuasion, written instructions, improvement notices, prohibition notices, and only relatively rarely requiring prosecution. A prosecution is an important element to gain cultural change so long as it is seen to be fair and predictable and it does not undermine the rapport that is built up between industry and the inspectorate.

I think that is a wise principle and one which should guide the Council in its consideration. The Hon. Nick Xenophon has said that some employers treat this regime with contempt and disdain. If that is the case, let the honourable member name those he can demonstrate on reasonable evidence treat this legislation with disdain, because the government certainly treats it seriously.

The government seeks to ensure that this measure is enforced. The inspectorate has been strengthened, and the number of prosecutions—to which I will refer when I discuss the Hon. Michael Elliott's contribution shortly—and the type of prosecutions as well as the number of investigations that are ongoing, together with the number of prohibition notices issued, indicate that we have an active inspectorate. Contrary to the assertions of some honourable members opposite, we do not treat this issue lightly and we are introducing this measure to enhance the penalties.

It is worth noting that this bill was the result of a consultative process in which both employee and employer interests were represented; employers and employees came up with a regime that was acceptable to the government. They did not seek to superimpose or to muddy the waters with the sort of measures that the Hon. Nick Xenophon (and all credit to him as an energetic plaintiff's lawyer)would seek to inject. We seek to use this as an—

The Hon. Nick Xenophon: What is the inference with that statement?

The Hon. R.D. LAWSON: The inference is that there is a lawyers' feast in the amendments proposed by the honourable member, and I believe this mechanism would be a backdoor method to gain access to common law damages.

The Hon. Nick Xenophon interjecting:

The Hon. R.D. LAWSON: The Hon. Nick Xenophon acknowledges as much in his interjection when he says, 'What is wrong with that?

Members interjecting:

The Hon. R.D. LAWSON: I would not describe them as nefarious activities. Lawyers are entitled to pursue their client's interests as best they can. However, in this state we have a workers compensation scheme that is second to none in relation to the benefits it offers to workers. The government does not think it is appropriate to undermine the integrity of that system by a side wind of the occupational health and safety legislation which has a discrete purpose. We have an inspectorate which is appointed for the purpose of educating and encouraging compliance, and one of those measures is the ultimate measure of prosecution. That is why the bipartite committees suggested that we increase these penalties.

In his contribution, the Hon. Terry Roberts noted the fact that the penalty on an employee for not taking appropriate steps to safeguard his or her own health or safety had increased from $1 000 to $5 000 (a five-fold increase) which, in percentage terms, is the highest of any of the increases. Once again, that was a measure agreed to by the bipartisan employee/employer group which came up with the suggestions for fines.

Under occupational health and safety legislation, the circumstances in which an employee is fined are very rare and it would have to be a very serious offence for any magistrate to impose a penalty of that kind. However, there may well be cases when employees act without due regard to

their own safety and, more particularly, without due regard to their fellow workers' safety, and there may be occasions when a substantial fine of $5 000 is warranted. As I have said, the justification for that increase was that the bipartite committee agreed to it.

The Hon. T.G. Roberts interjecting:

The Hon. R.D. LAWSON: The honourable member mentions bullying. In recent times bullying has been recognised as a significant issue in the workplace. I welcome the fact that those involved in industrial relations generally are now seeking to address bullying in a far more proactive way than has previously been the case. Of course, the first part of that process is to recognise that the problem exists and that it should be stigmatised as bullying and not some other form of a less maligned activity. Workplace services and the commission in this state are sympathetic to those who are pushing for measures against bullying.

For the interest of honourable members, the internet address of the workplace services web site is www.eric.sa.gov.au, which provides a list of the prosecutions, convictions and penalties from 1996 through to June 2000. One will see that, during that time, there have been a number of prosecutions, a number of serious offences, and a number of significant fines imposed. I commend this to members, particularly the Hon. Michael Elliott who, in his second reading contribution, asked for this detail.

It is interesting to see that the average fine over recent years has increased. In 1989, it was $3 600; in 2000, it has been as high as $32 000 as an average; last year, it was $9000; but in the previous two years it was over $20 000. These are significant fines. Especially in the past couple of years, there has been a substantial increase in the number of improvement notices.

I also indicate that a substantial number of investigations are being undertaken. These are complex investigations which often take some time to conclude. We now have a more sophisticated approach to prosecution, one which involves not only workplace services but also Crown Law authorities, to ensure that our inspectorate is appropriately trained in how to gather the necessary evidence to ensure that a prosecution can be successfully concluded.

It is all very well to say that employers are thumbing their noses at this legislation and treating it with disdain, as the Hon. Nick Xenophon says, but this is a case in which it is necessary to prove beyond a reasonable doubt. The elements of these offences are quite complex, and it is no easy matter to secure a conviction in this arena.

The Hon. Nick Xenophon interjecting:

The Hon. R.D. LAWSON: The honourable member suggests that we are frightened of private prosecutions. I am not frightened of private prosecutions. The government simply does not believe that private prosecutions are appropriate in this area. We are enforcing a public duty to comply with the law. One should not put employee and employer into a hostile environment and make the employee undertake the responsibility of taking on his or her employer. That is a job for the inspectorate and the government. If the government and the inspectorate do not discharge that duty, they can be criticised in this place and elsewhere. They can make the request—

The Hon. T.G. Cameron interjecting:

The Hon. R.D. LAWSON: I have never received a request to undertake a particular prosecution against a particular employer, and I doubt whether my predecessors have. If I did receive such a request from any worker, I would investigate it and see why something was not being done. I believe these are public duties that ought to be enforced publicly. They are not private obligations that people should undertake with the possibility of victimisation and all the rest that comes with it.

The Hon. M.J. Elliott: Look at the record first.

The Hon. R.D. LAWSON: The Hon. Michael Elliott says, 'Look at the record.' I ask him to provide me with the record. When has the inspectorate been requested to undertake a prosecution and when has it unreasonably refused to do so?

The Hon. T.G. Cameron interjecting:

The Hon. R.D. LAWSON: The Hon. Terry Cameron relates an incident which I think raises some interesting possibilities. The fact is that, on that occasion, the government, presumably for some reason which it regarded as appropriate and for which it was open to criticism, took no action. One bad example does not provide justification for undermining what is good public policy, namely, that the right to prosecute, to institute proceedings and proceed with a prosecution, is a public duty and obligation which ought to be left in public hands and undertaken by persons who are accountable to this parliament for their actions and can be questioned on their actions in this parliament.

There were a number of other questions asked. The Hon. Michael Elliott asked me some other questions. He said that he would seek that information before the third reading of the bill. I will obtain that information. I thank members for their expressions of support for the bill, but I have indicated in advance that some of the amendments that have been foreshadowed will not be supported.

Bill read a second time.

In committee.

Clauses 1 and 2 passed.

Progress reported; committee to sit again.

CONSTRUCTION INDUSTRY TRAINING FUND (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 8 November. Page 351.)

The Hon. T.G. CAMERON: From my understanding, this bill has multi-partisan support in the lower house. The bill seeks to improve some operational aspects of managing the construction industry training fund. It is also my understanding from various contacts that I have had with industry that the bill is widely supported by industry. The main provisions of the bill are that it will provide greater clarity for industry about how the levy will be applied and better direction for the fund. It amends definitions under the act to refer to more recent legislation and to remove the reference in the definition of 'project owner' to 'building or construction work carried out by or on behalf of a government authority' and to include a person who carries out substantially all the work on a project.

The bill also provides for the minister to act if the industry associations recognised fail to make a nomination for a vacancy on the construction industry training board. It moves the regulations at estimated value of the building or construction work into the act as a schedule. It raises the levy threshold from $5 000 to $15 000 (which is long overdue) from certain government work. This removes the administrative burden on low value project builders to maximise the total expenditure available for training. It also eliminates

government exemption because the majority of government building work is now contracted out.

The board will now be able to allow a project owner or class of owners to allow the levy to be paid in instalments. There are also consequential amendments. It amends the powers of entry and inspection so that a person may not be excused from providing an answer or document because of self-incrimination—and I would like some clarification on that issue from the Attorney-General when he completes the second reading. However, if they object to it, it may not be accepted in criminal proceedings except perjury information records or misleading statements.

There is to be another review of the act before January 2003, and there are also some amendments to schedules, etc. The bill does have the support, as I understand it, of all parties in both houses. Further, I understand that both Queensland and the ACT (which has based its model on South Australia's arrangements) have introduced a training levy. SA First supports the bill.

The Hon. J.S.L. DAWKINS secured the adjournment of the debate.

CASINO (MISCELLANEOUS) AMENDMENT BILL

In committee (resumed on motion).

(Continued from page 377.)

Clause 6.

The Hon. K.T. GRIFFIN: I wanted to put on the record some observations about the issue of intoxication in respect of this clause. Then we can pursue the issue at a later stage, but if I put it on the record now everyone knows where I am coming from and what my policy arguments are in relation to the issue. Proposed section 42A would reverse the onus of proof for the offence of permitting an intoxicated person to gamble in the Casino. The prosecution would only need to prove that the person was intoxicated and gambled in the Casino. The licensee would then have to overcome a statutory presumption of permission by proving that he or she took all reasonable steps to prevent the supply of liquor to intoxicated persons in the Casino and prevent gambling by intoxicated persons in the Casino.

A number of points may be made. The defence is one of system. It does not concern itself with the steps that were taken in relation to the particular person who is proven to have gambled while intoxicated. Proof that the licensee may have taken all reasonable steps to stop that person from gambling will not suffice. For example, even if the licensee identified the particular person as intoxicated and refused to serve him or her, asked him or her to leave, or even attempted to eject him or her, it will not make out the defence. Likewise, it is no defence to establish that the person became intoxicated at another venue. It is necessary to go further and establish that all reasonable steps were taken to prevent the supply of liquor to intoxicated patrons and gambling by intoxicated patrons in general. Further, the defence requires that all reasonable steps be taken. In effect, the licensee must guarantee that no intoxicated person will gamble in the Casino other than in quite extraordinary and unforeseeable circumstances.

This is obviously difficult in practice. The state of sobriety or otherwise of each patron must be assessed before he or she has been in the Casino long enough to place a bet. This is true whether or not the patron seeks to purchase liquor. Because the patron may already be intoxicated before arriving at the Casino, it is necessary to have a system whereby each comes under some form of scrutiny which will sufficiently assess sobriety more or less on arrival. Anyone who is identified as intoxicated would then have to be the subject of more intense scrutiny to see that he or she did not gamble. It would be possible to eject that person at once on discovering his or her intoxication, although if he or she had no intention of gambling or purchasing liquor, for example, because the person had come in simply for a meal, this is harsh. Further, it would be necessary to supplement this with continuing scrutiny of initially sober patrons for liquor consumption, much as liquor licensees must do now. This would perhaps include scrutiny of diners who have been served alcohol with a meal at the Casino and were proceeding to use gambling facilities. Further, the offence is not directly related to harm though, no doubt, this is relevant to penalty. An offence is committed regardless of the size or number of bets placed by the person, for example, buying a $2 lottery ticket (if such is sold there) or spending 20¢ on a poker machine would render the licensee liable.

The provision would place a heavy burden on the Casino licensee. It may not go far towards combating addiction to poker machines (if this is the concern) because the evidence does not suggest that this addiction is related to intoxication, that is, many problem users remain sober. Since the holder of the Casino licence will very probably have one or more liquor licences as well, it is already under a duty not to serve liquor to intoxicated patrons under section 108 of the Liquor Licensing Act. It is also bound by the code of practice which requires proper steps to be taken to protect the safety and welfare of patrons. There is also a power to bar problem gamblers under section 44 of the Casino Act, and under the Liquor Licensing Act and the Casino Act a power to refuse entry to or eject an intoxicated patron and to bar a person whose welfare is at risk in whatever way from alcohol consumption and gambling. A problem gambler could elect to bar himself or herself from the Casino or could be barred by any properly interested person under section 45 of the Casino Act. The exercise of these powers in good faith and with reasonable diligence ought to be enough to protect these people.

It is suggested that this clause imposes an unfair burden on the Casino licensee. There is already sufficient legislative provision to deal with this situation. Alternatively, if not, and if there is to be a code of practice as the bill also proposes, this would be a more appropriate way of addressing this issue than by criminal sanction.

Progress reported; committee to sit again.

ADJOURNMENT

At 6.05 p.m. the Council adjourned until Tuesday 14 November at 2.15 p.m.