# LEGISLATIVE COUNCIL

**Thursday 30 November 2000**

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

## SITTINGS AND BUSINESS

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

## NATIVE TITLE (SOUTH AUSTRALIA) (VALIDATION AND CONFIRMATION) AMENDMENT BILL

In committee.

(Continued from 28 November. Page 654.)

Clause 1.

**The Hon. CAROLINE SCHAEFER:** This bill has been on the *Notice Paper* for so long that I cannot remember whether or not I originally made a second reading speech. Today I want to talk from a personal rather than a legal perspective, which is very much what we have heard from all sides so far. Because it is not the habit of any of us, I do not expect that anyone will actually listen to what I have to say, but I will feel better if I say it anyway. First of all I need to say that I grew up with Aborigines, who lived and worked on our property. I went to school with Aborigines, and my father still speaks two or three dialects. Sadly, I do not. He was very involved with the Maralinga land rights legislation and has been noted for his work in that area. So, I do not come only from the perspective of a white landholder.

I acknowledge at the outset that the Aborigines were indeed the first custodians of the land and that I respect their desire to celebrate their culture and history. I also recognise their desire to have access to the lands necessary to do so. I have remarked to a few of my friends that I think I understand better than ever before, now that I have left the area that I grew up in, their need to be tied to an area. Probably like many of them, I voluntarily left the area I come from and did not realise quite how strong those ties would be until I did so. Again, I would like to speak from that personal level.

However, I also acknowledge that there are other custodians of the land, and they are the people who live and work in and on that land now. It is very much my understanding of the Aboriginal culture that they were not owners of the land: they were custodians of the land in much the same way as are perpetual lease holders of the land. They were part of the land, not owners or possessors of the land. I would also like to commend the efforts of the Attorney and his department in bringing together the Aboriginal Legal Rights Movement, the Farmers Federation, the mining industry and other key stakeholders to sit down, talk about and consult broadly on the setting up of indigenous land use agreements. I believe that they will be and are a way for forward for us all. I do not know how much understanding many people have of the ILUAs, but I believe that, with goodwill on all sides, they will inevitably solve much of the misunderstanding that is out there in the broader community on all sides.

This bill does not extinguish native title in relation to pastoral leases, and it does not take away any of the rights that are in current law. It merely verifies what has been agreed after the Wik and Mabo findings. It attempts to clear up some of the misunderstandings of not only what native title is but also people' eligibility under native title. It is consistent with legislation in all other states other than Tasmania—and I think we would all agree that the Tasmanians' history of their treatment of the Aborigines leaves something to be desired. The bill will validate acts over lands from 1 January 1994 to 23 December 1996 and, most importantly, it will confirm that perpetual and other miscellaneous leases extinguish native title. That is consistent with common law principles. It will provide certainty and consistency for the landholders who are there now.

I understand that there is a great deal of misunderstanding of what native title actually is, but I would like members for a minute to put themselves in the shoes of a farmer, who may be a second, third or even fourth generation farmer, who is working the land and worried about his debts, a locust plague and various other things, and who receives in the post a 10 page document, which is a claim over his property.

There are some 26 claims over properties in South Australia at the moment. I understand that they are ambit claims, but it is very difficult for a farmer to understand that. I am familiar with the Barngala claim, which is over 103 780 square kilometres of land, and the Gawler Ranges claim, which is over 34 060 square kilometres of land. We are not talking about insignificant amounts of land.

The cost of freeholding is a minimum of $1 500 per title and, particularly in marginal areas, there are very few viable farms on one title. It would be more common for a farm to be over at least 10 titles. We are talking here of a minimum of $15 000 to transfer quite legally to freehold, which would then extinguish native title. About 1 700 titles, or 7 per cent of the land mass of South Australia, are affected. These people have understood that, under the law, native title was extinguished. They have saved that $15 000, bought some fuel with it or done something like that, and now notices have been served upon them. I would like to read some of the claims contained in these notices and perhaps then members will appreciate why people panic when they are issued with a native title claim. One claim reads as follows:

Registered native title rights and interests:

The following Native Title Rights & Interests were entered on register on 07/07/2000:

The native title rights and interests claimed are the rights and interests of common law holders of native title derived from and exercisable by reason of the existence of native title, in particular:

That would go down fairly well with the average farmer anyway. Then it goes on to say:

(a) the right to possess, occupy, use and enjoy the area;
(b) the right to make decisions about the use and enjoyment of the area;
(c) the right to access the area;
(d) the right to control the access of others to the area;
(e) the right to use and enjoy resources of the area;
(f) the right to control the use and enjoyment of others of resources of the area;
(g) the right to trade in resources of the area;
(h) the right to receive a portion of any resource taken by others from the area;
(i) the right to maintain and protect places of importance under traditional laws, customs and practices in the area;

I am sure no-one would quarrel with the last condition (i). Certainly no-one of goodwill would quarrel with it. However, with the claimed right to receive a portion of any resource

taken, I hope that members can understand some of the panic that derives from the uncertainty of having nothing within the laws of this state. The list of rights and interests continues with the right to carry out and maintain burials of deceased members of the claim group, and again I do not believe that anyone or any agency would disagree with that, other than perhaps the South Australian planning laws. The final right and interest is the right to control—which is a very strong word—maintain, protect and prevent the dissemination and misuse of cultural knowledge associated with the area. In many cases the people who are making these claims would have to ask the people who currently occupy the land where the areas of cultural significance are, because many of them have not lived there for generations.

Again, for the sake of reconciliation, for the sake of understanding, I appeal to members most sincerely to pass this bill because, without it, there is no certainty, there is fear, and there is no way forward. A lot of people would be sitting here thinking, 'Well, so what, we are talking about farming country.' I would like members to apply the principles that I have just read out to their own backyard. In case members think that I am exaggerating, I point out that claims have been put over residential areas in the Riverland.

The formal objective of the Aboriginal Reconciliation Council is to have a united Australia with justice and equity for all and respect for the land and Aboriginal values. I do not believe there can be reconciliation unless all parties are considered and unless we look genuinely for a way forward and a way of making certain of who has what rights. I believe that this bill goes a long way towards that, in conjunction with indigenous land use agreements. I would again plead sincerely that members consider this with some common sense rather than emotion.

Clause passed.

Progress reported; committee to sit again.

## RACING (PROPRIETARY BUSINESS LICENSING) BILL

Adjourned debate on second reading.

(Continued from 29 November. Page 702.)

**The Hon. L.H. DAVIS:** This bill is something in which I do not have a great deal of interest personally, but as legislators we have an obligation to review the legislation and to make a judgment on it. I have followed what I would describe as the magical mystery tour of TeleTrak over recent years. I have in my file a yellowing copy of the *Australian Financial Review* dated 9 October 1997, wherein it was announced that the proprietary racing group TeleTrak would need $40 million to establish its first two sites, bringing thousands of jobs and a population boom to regional South Australia.

That was the claim of the Marketing Director of TeleTrak, John Hodgman, in a report that had been undertaken by the National Institute of Economic and Industry Research, which said that the initial Waikerie site (which is of course about 180 kilometres north-east of Adelaide) would increase the town's population by 127 per cent, while generating 1 000 jobs in three years. These are very big claims.

The TeleTrak group claimed that there would eventually be six tracks located in country south-east, generating direct expenditure of $750 million a year within 10 years. The report undertaken by the National Institute of Economic and Industry Research claimed that 87 per cent of these outlays would come from overseas and from states outside the TeleTrak operation. Mr Hodgman, who is nothing if not an optimist, has claimed that the TeleTrak group planned a float on the stock market to generate the necessary start-up funds.

He was outlining the TeleTrak proposal which, as members would know, would be a 2000 metre all-weather straight track to stage televised races at night over a four year period. Presumably, those races would be over varying distances, perhaps from 900 metres through to 2000 metres. Not only would there be sprint events but also middle and longer distance racing for the horses. Initially, it was established for gallopers, that is, for horse racing rather than for either of the other two codes, trotting and greyhound racing.

Mr Hodgman was quoted in the *Australian Financial Review* of October 1997 as saying:

> It sounds like Christmas, it sounds like fantasy, I know. . . But it simply is the case and we've got a commissioned report that says so.

He then went on to say that TeleTrak had given up waiting for an SA government response to its proposals for Waikerie. He stated that an amending planning application had been lodged with the Waikerie council and, if approval was granted, the site would be operating by the end of next year. That was on 9 October 1997. I have another memory of an earlier claim by TeleTrak, which was not in 1997 but in the *Weekend Australian* of 26 and 27 February 2000, where the heading was 'TeleTrak to take a punt on an ASX listing.' That article states:

> The much delayed internet-dedicated TeleTrak racing project hopes to float at least one offshoot on the ASX this year. It plans to list its greyhound and harness racing arm if it gets the South Australian government's approval next month. TeleTrak has been trying to get its proposal for spectatorless, straight-line racing off the ground for five years.

That is the length of time that has elapsed since the TeleTrak idea was first floated publicly. The article goes on to say that regulators and some in the established racing industry have opposed it, and it notes that the government was intending to introduce a proprietary racing act that would lead to TeleTrak building three sites. As far as I am concerned, you do not really need legislation to operate TeleTrak, and that point has been well established.

I know that the Hon. Terry Roberts in his very thoughtful contribution made that same point: that it almost seems at times that the TeleTrak principals have been hiding behind the fact that they need government legislation to make their dream come true. I reject that proposition. That article of February 2000, nine months ago, stated:

> Work has already started at Waikerie in the north of the state and other sites are earmarked at Port Augusta and Millicent. The tracks will be 2 000 metres long, 90 metres wide, and will be available for thoroughbred, greyhound and harness racing.

I drove past the site at Waikerie with my colleague the Hon. John Dawkins when we were in the Riverland with the Statutory Authorities Review Committee investigating soil boards and animal and plant control boards. The only evidence that I saw of any activity at the site was a sign on the fence, which said that this was indeed the venue for the proposed TeleTrak. I understand that since that time, which was only three months ago, they have now started earth-works.

Mr Hodgman said in February that TeleTrak would list its greyhound and harness racing operations on the Australian Stock Exchange before the end of the year. We now have one

month to the end of the year. I follow these things relatively closely and I am not aware of any proposal to list TeleTrak on the stock exchange. I do not know whether any other members have heard of that proposal: I certainly have not. That raises the concern that I have had that there has been a lot of galloping around this subject by the principals.

They got out of the barriers pretty quickly, although it was five years ago, but they have not gone very far down the track. As someone who has a background in finance and economic matters, I think that members are entitled to become somewhat sceptical if a range of proposals is made that vary from time to time and nothing happens. I think it is human nature to become suspicious of a chain of events such as we have seen with TeleTrak. Mr Hodgman said:

> . . . TeleTrak would list its greyhound and harness racing operations on the ASX before the end of the year.

That is a pretty definite statement, but it has not happened. He further stated:

> The thoroughbred track will take longer to complete and a separate company will be floated for that part of the venture.

So, he is talking about two companies: one for greyhound and harness racing operations and one for the thoroughbred operations, the gallopers. I continue to quote from the *Weekend Australian*:

> Mr Hodgman would not comment on how much money would be raised, but each track will cost about $20 million to build.

That is not fairyland: that is reality; and that is what we deal with this in this chamber. The article continues:

> He has previously been reported as saying the company would need to raise $80 million.

Again, that is a variation of what we have been told. The article goes on:

> It is likely TeleTrak would own about 50 per cent of the ASX-listed companies. However, potential investors would need patience, as the company is not projected to turn a profit until its fourth year of operation.

The article, by Michael McGuire, states that TeleTrak's grand plan is to build 10 courses, spread across Australia, South Africa and New Zealand, and that races would be run every night of the year, at every track, and be shown live on the internet.

Let me stop and talk about this. The Hon. Caroline Schaefer, whose family has had more than a passing interest in country racing, the Hon. Bob Sneath who is not unacquainted with racing, the Hon. Ron Roberts who races trotters with some success, the Hon. Terry Roberts and I all have a working knowledge of the industry. I do not claim to know as much as the other honourable gentlemen whom I have mentioned—

**The Hon. J.S.L. Dawkins:** Or Caroline.

**The Hon. L.H. DAVIS:** —or, most importantly, my colleague the Hon. Caroline Schaefer, but I do know that horses need to rest between races. We do not get much of a rest in the Legislative Council, but horses need to rest between races. Recently, a horse backed up within two days of a race meeting in Victoria, but that is most unusual. During the spring carnival, it is not uncommon for a horse to race on the Saturday and then on the Tuesday. However, when we are talking about racing every night, it is quite clear that an enormous pool of horses will be needed and, if we are talking about eight to 10 races a night with an average of, say, eight horses in each race, we are talking about 80 horses a night. I am talking about thoroughbred racing, but the same would be true, I suspect, of trotting and greyhound racing. If we have 80 horses a night, every night, that means there will be 560 horses going around. If one takes into account allowances for injuries and the fact that horses need to be spelled—

**The Hon. J.S.L. Dawkins:** A bit of interchange.

**The Hon. L.H. DAVIS:** —that remark might also be appropriate for politicians—one will need an enormous pool of horses. As I sat here listening to the Hon. Terry Roberts' contribution, I did a rough sum which suggests that you would need a pool of about 500 horses if you were going to race every night. The Hon. Bob Sneath might reflect on that. If you pick up on the assumptions that I have made—10 races every night with eight horses per race, 80 times seven is 560—you will need an enormous pool of horses. Who is going to own those horses and who is going to support them? What is the answer to that? I do not know.

That leads me to my next point. I would have thought that anyone with a serious proposal such as TeleTrak claims to have would have put forward a portfolio presentation to the members of parliament who have to make a judgment on this issue, but I have not received one shred of information from TeleTrak in recent days. I have had a three page letter from a new company of which I had not heard before and which is associated with TeleTrak. I return to the article, which states:

> Races would be run every night of the year, at every track, and shown live on the internet. TeleTrak intends to sell the rights to the races to existing operators such as the various state TASs and their overseas counterparts. Mr Hodgman said falling crowd numbers showed that traditional racing was dying and a move to spectatorless racing aimed at people at home was a logical move.

Of course, members would understand that that already occurs. If you have Foxtel, you have access, if you wish, to races every night of the week.

**The Hon. Caroline Schaefer:** Twenty-four hours a day.

**The Hon. L.H. DAVIS:** Twenty-four hours a day. You can learn the names of many towns in Australia that you have never heard of before.

**The Hon. T.G. Roberts:** Your geography has improved a bit.

**The Hon. L.H. DAVIS:** My geography has improved somewhat when, deep into the night after a satisfying night in the Legislative Council, I have gone home and turned on the weather channel and occasionally—

**The Hon. Diana Laidlaw:** You're not watching the baseball then?

**The Hon. L.H. DAVIS:** And I watch sport. The Hon. Robert Lucas and I often while away the small hours watching sport. However, occasionally I turn to, I think, channel 23 and you learn that the track at Donald is particularly attractive. Of course, there are races held occasionally at Strathalbyn. There are an enormous number of races. I am talking about all three codes: greyhounds, harness racing and gallopers or thoroughbred racing. So, that is all very well catered for.

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

**The Hon. L.H. DAVIS:** I learnt early in my career that they do not pay up on the replays. You might still be trying. The Irish in you might suggest that you still have that hope. Whether or not you have an interest in those three codes, the presentation on Foxtel is extraordinarily professional. Not only is there a wealth of information for people about those three codes, with interviews, but the commentators are extraordinarily good. In fact, I think in recent times they have been covering New Zealand racing as well. That presentation

suggests that the market is already there for people who want to pursue an interest in those codes from home.

The TeleTrak proprietors would argue, of course, that they are offering the ability to bet on the internet for these three codes. The fact is that internet betting already exists. One of the curious features of the debate about the merits or demerits of internet gambling is that it is a reality: you can bet on the TAB through the internet. The New South Wales TAB has a particularly sophisticated system. I would imagine that many punters use the fluctuations from the television screen together with the fluctuations on their computer to make a judgment. If they are very keen punters, they may well decide to back a horse in New South Wales through the internet because the odds are better than the pooled price which is on offer in Adelaide or Melbourne. So, there is already the opportunity for people who want to bet at home to do it on the internet or, alternatively, through a telephone account, which is perhaps the more common way of betting from home. Mr Hodgman went on to say:

> The existing racing industry has spent too much time trying to attract people back to racing. When you look at it overall, it's a lost cause.

The article concludes:

> TeleTrak has run into fierce opposition to its plans from the racing industry which has threatened to ban any jockeys, trainers and owners who become involved. However, Mr Hodgman said only 20 per cent of jockeys and trainers could earn a full-time living out of racing and he would target the other 80 per cent. He also said TeleTrak would subsidise owners in the first few years to ensure adequate horse numbers.

So that is the answer to the question I raised earlier: how do you attract 500 horses to the Waikerie district, and how do you support them? According to Mr Hodgman, the answer is that TeleTrak would subsidise owners in the first few years to ensure adequate horse numbers.

That raises another issue: why do owners have racehorses? Of course, some have a genuine love of horses. Some owners and trainers will not bet on their horses; they just love racing and breeding horses. I understand that, but for most people who perhaps are not well off, they hope to get a financial return. Although I understand that only one in 20 horses bred for that purpose actually makes the track, there is always that tantalising prospect that you will breed or buy a horse that will win stake money for you so that it will at least pay its way. That is the aim of every horse owner.

*The Hon. Caroline Schaefer interjecting:*

**The Hon. L.H. DAVIS:** The Hon. Caroline Schaefer ruefully nods her head. I suspect that she might well have fallen short of that target in years gone by. What does TeleTrak offer? Will it offer prize money commensurate with what is available on the country or metropolitan racetracks of South Australia? We just do not know. That, of course, is another unsatisfactory aspect of it.

Mr Hodgman claims that the owners will be subsidised by TeleTrak. This really is a magical mystery tour for me. I am not ashamed to say that I do not understand exactly what is happening here. The Hon. Terry Roberts talked about the shifting sand that has surrounded this proposal. Nevertheless, I support the bill with some reservations.

*An honourable member interjecting:*

**The Hon. L.H. DAVIS:** I say that because I come from the firm understanding that if TeleTrak rolls over the government will not owe anyone a cent. That is my understanding of the proposition, that TeleTrak is a private sector operation—

*The Hon. Carmel Zollo interjecting:*

**The Hon. L.H. DAVIS:** That's right, but it is for the councils to make that decision. Councils are a third level of government. They are capable of making commercial decisions and if they make a wrong decision, like the Port Adelaide council did with the flower farm, the ratepayers have to wear it. I believe that the state government has made it quite clear that this is not part of its agenda, that this is not our idea. The bill simply establishes a framework that will enable proprietary racing to exist. If the bill is defeated, proprietary racing could proceed in an unregistered and unregulated form, as my colleague the Hon. John Dawkins has said, but one suspects that it may be better to have the legislation in place.

I strongly support the traditional racing industry. It has been through some tough times, as we all know. Hopefully the reform that has recently been put in place will see better days ahead for it. As I said at the outset, this measure is not something that is of high order importance. However, with this legislation in place TeleTrak will have no room left to move in arguing that the government has delayed the establishment of proprietary racing in South Australia.

**The Hon. R.K. SNEATH:** I agree with the Hon. Legh Davis's comments about the lack of information that members have received from the people who will most benefit from proprietary racing. It is a funny way of convincing people that it will be good for both the Riverland and the South-East, or Port Augusta for that matter.

I also agree with the Hon. Legh Davis as far as the horses are concerned. I imagine that this will cause a boom in breeding the type of horses that run short distances and so forth, but the number of horses that will be required is the interesting question. Today at Cranbourne there are 120 thoroughbreds going around at just one race meeting, and there are probably three or four race meetings being held in Victoria just today.

Since I was six years old, when I was introduced to thoroughbred racing by my grandfather, I have had an interest in thoroughbred racing. At Kingston in the South-East, where my grandfather had a property, there were always half a dozen thoroughbreds running amongst the sheep. There were always five pretty slow ones and at times we were lucky enough—

**The Hon. J.S.L. Dawkins:** Sheep?

**The Hon. R.K. SNEATH:** I think the thoroughbreds couldn't beat the sheep. There were usually five thoroughbreds like that, but at odd times we did manage to get a good one. Since those days I have maintained my interest in thoroughbred racing and I regularly attend race meetings in Adelaide and in the bush. Whilst I do not have an interest in a thoroughbred, my brother and sons have an interest in some handy gallopers.

South Australia is currently losing out to country and city Victorians, especially as far as prize money goes. The introduction of proprietary racing will have a further effect in this area in relation to country and metropolitan racing. The thoroughbred racing industry in South Australia has been a magnificent employer of large numbers of people over many years. The racetrack has been a meeting place for all walks of life—a place where paupers, kings and queens go. It has been a place of great stories and of great characters. I see proprietary racing as having none of these qualities—none whatsoever. For a start, nobody goes to them.

The concept of proprietary racing seems to be like diving into a swimming pool on a hot day while wearing a wetsuit.

I am not convinced that there will be a lot of jobs under proprietary racing, and I am not convinced that it will be a 'you beaut' addition to either the Riverland or the South-East. I am not convinced that we need another form of gambling, but I am convinced that it would do harm to all those existing codes of racing in South Australia today.

Given the lack of information supplied by those who will benefit the most by the introduction of proprietary racing, given the effect that it will have on the thoroughbred industry and other forms of racing in South Australia and given that I do not think that people need another form of gambling, if this legislation is passed I am convinced that the government will go down in history as the government for gambling. Therefore, in its current form, I cannot support the introduction of proprietary racing.

**The Hon. IAN GILFILLAN** secured the adjournment of the debate.

## CONSTRUCTION INDUSTRY TRAINING FUND (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 9 November. Page 415.)

**The Hon. T.G. ROBERTS:** I indicate the opposition's support for the bill. This is a similar bill to the long service leave legislation that we handled last night, although it addresses other matters. It recognises the particular difficulties the industry has, that it is based on economic cycles of boom and bust, and it tries to achieve some uniformity. The long service leave legislation has been put together to bring some uniformity to the industry in relation to long service leave for those people who have a transient work life and are not connected to a single employer. This bill attempts to recognise that fact in relation to putting together training programs and drawing employers together with a common cause and a common program so that a levy can be imposed and an outcome can be achieved from the spending of those funds.

The industry is certainly in need of a uniform approach to training. In a lot of cases, the criticism of many employers in the construction industry is that the burden for training falls on too few players. The larger organisations which dominate the industry tend to be the ones whose doors are knocked on when governments or unions determine that industry training funds, superannuation funds, or long service leave funds, or whatever, are set up and that not everyone is making a fair and reasonable contribution.

This bill brings together all the stakeholders and puts together an industry training program that, hopefully, will allow the industry the maturing process of a program that will attract people and keep them in the industry for most of their working lives.

In this day and age with the introduction of technology into most industries most people will be trained and retrained some three or four times in their working lives and their working lives will be shorter than previously in history. Training has become a lifetime program to try to keep abreast with changes within particular industries in order to maximise skills and skills development to become an attractive player in the field so as to maintain an employment base for as long as possible in the lead up to retirement.

Prior to the act being drawn up to try to keep some uniformity across the board in a number of areas, the construction industry was very fragmented. The general rule of thumb was that, if a company did not have the skills, it poached skilled players from other companies. Companies head hunted the skills they required without taking any responsibility for training programs. This bill will change that: the responsibility will be across the board through a lot of players and will spread the responsibility and the load a little more evenly. The problem in relation to training that the building industry has had over a number of years will be accommodated with this bill.

A problem which is starting to appear is that outsourcing has become a form of transfer of responsibility not only in industry training but in a lot of areas of skills training such as occupational health and safety. The responsibility for quality of work is being transferred through a chain of command and outsourcing is the key feature of the new era into which we are moving. I do not see that form of approach as having any particular benefits. Apprenticeships are diminishing and we are now seeing in relation to training programs for young people—not only in the construction industry but a whole range of industries where the current training program regimes for the existing work force are being exploited to a point where companies are prepared across the board to pay a premium for skills that already currently exist—that companies are not prepared to take the step to employ young people and take responsibility for training and training programs.

So, the intention of a lot of industries and companies is to throw that responsibility back onto the government. Therefore, tertiary institutions and TAFEs take up that role and the responsibility for skills development becomes the individuals' responsibility through their lifetime rather than any responsibility the industries might take on. This bill will correct that situation because it recognises that training is the responsibility of the industry. I guess the next step will be for the industry, and those in the industry, to recognise their responsibility to bring new tradespeople—new people with skills—into the industry and training young people so that they have the confidence and abilities to work safely and to protect not only themselves but also others around them. Also, they must have the necessary skills to ensure the quality of the end products they turn out, whether it is in the housing or construction industry.

I have a letter from the Construction Industry Training Board, which indicates support for the bill, as follows:

Dear Mr Roberts, I am writing to you with regard to the Construction Industry Training Fund (Miscellaneous) Amendment Bill which recently progressed through the House of Assembly and I understand will soon be considered by the Legislative Council.

The Construction Industry Training Board (CITB), which was established by the CITF Act 1993, has now been in operation for over seven years, and the outcomes from our operation for both the South Australian building and construction industry and the wider community have been quite material and very positive.

Our 1999-2000 Annual Report, which was recently tabled in the SA Parliament, clearly demonstrates the achievements of the CITB with over 850 young South Australian apprentices and trainees and over 15 000 persons employed in the industry having received CITB funding assistance during the period of the report.

The CITB has also now initiated the Doorways2Construction Program. This program has seen the introduction into SA secondary schools of a sustainable, industry-led VET in Schools program focused on encouraging young people to pursue careers in the building and construction industry. After its launch this year, the program is set next year to balloon in numbers.

The effect of the provisions proposed in the CITF (Misc.) Amendment Bill are principally administrative in nature. The industry, with this in mind, is keen to ensure that all members of the Legislative Council are appropriately informed as to the CITB such

to provide for the smooth passage of the bill through the Council. It is in this endeavour that I write.

I would like to offer you an opportunity to meet with me to discuss the CITB and the amendment bill. I am conscious of the pressures that exist on your time and would ensure that either myself and/or our CEO, Mr Doug Strain, are available to discuss these matters at any time or location you may require. Alternatively, you may also like to take a few moments to visit our website at www.citb.org.au.

If you would like to avail yourself of this offer, may I respectfully request you contact Doug Strain. . .

That shows that the industry is keeping up with its responsibilities in relation to training. It also shows that it is making the best use of technology to advertise its presence. It looks as if the construction and housing industry at least will be well-served by a good relationship between progressive employers and progressive unions working together to bring about the best possible outcomes (and incomes for those that work in it as well).

I commend the bill. I hope that other industries with similar difficulties as the construction industry training fund looks at this as a model of how to maintain a skill-base, particularly in relation to the introduction of young people into industry and the encouragement that is given at school level for young people to enter those industries. Whether it is a group training scheme with release programs or whether it is apprenticeships to individual employers, at the end of the day it does not really matter as long as the skills level is maintained. This is certainly a step in the right direction in that it provides for skills development and benefits such as long service leave, annual leave and sick leave, which must be maintained if the industry is to attract young people.

In conclusion, I point out that there does not appear to be a lot of encouragement for young women to enter the building construction industry. My observation of late (and I have not worked in the building construction industry for some considerable time) is that it appears that a lot of the work being done now and the forms it is taking could lend itself to more young women being trained and encouraged to enter the building construction training programs and eventually the industry as the forms of labour which were arduous and, in a lot of cases, dangerous and dirty no longer exist. Of course, there are sections of the industry where that is the case but I am sure that, if a greater effort was made to attract young women into the industry, many more would look at is as an alternative career choice.

**The Hon. M.J. ELLIOTT:** I rise on behalf of the Democrats to support the second reading of the bill. The construction industry, historically, has always been boom and bust. There have been a number of changes in the industry, including governments playing less of a role in terms of building houses and the virtual demise of the Housing Trust and a number of other government bodies which were always important trainers of skilled trades people. Industry practice has also changed.

With the adoption of just-in-time principles, contracting out and so on, there would be a lot less continuity available in terms of potential training for new people coming into the industry if it was not for this training fund. We would be in a disastrous position in this state now in relation to tradespeople without the existence of this fund. I have heard nothing but good reports coming to me personally about the fund and how it is operated. It is seen as a major success, so I unreservedly, on behalf of the Democrats, support this bill, which does have broad support in the industry.

**The Hon. A.J. REDFORD:** In supporting the second reading of this bill, I note that the act was promulgated in the dying days of the Arnold government. My understanding is that it was passed by the then ALP caucus by one vote, so it was hardly a ringing endorsement on the part of the Labor Party back in 1993. And it was left to the first minister whom this government put in charge of this area to commence the operation of the scheme—although it would be churlish of me not to acknowledge that there was some preliminary work and some introduction and implementation that took place under the previous Labor government.

Not counting Mr Gregory MP the former member for Florey who kicked it off, on my recollection, we have now had some six ministers in six years who have overseen the administration of this act. I might be a little wrong and there might be one less or one more, but it is about six ministers. In any event, this bill comes out of a legislatively prescribed review of the act, firstly, by Coopers and Lybrand consultants in November 1997 and, secondly, by the Construction Industry Training Fund Working Party in September 1999.

Over the period of time that the Construction Industry Training Board has been in existence there have been a number of changes. Firstly, there was the short lived stewardship of the first CEO, and I had cause to ask questions about the operation of the Construction Industry Training Board way back in 1994. Since then the CEO has been Mr Doug Strain, and I do not think any criticism could be levelled at him in the way he has administered his duties and functions under the act.

Nevertheless, the training board has undergone some changes in policy in terms of how it delivers its training product to the construction industry. At the outset, my understanding was that the Construction Industry Training Board actually delivered training—set up courses and engaged people to provide training directly to industry. I understand that has since changed somewhat in the sense that it now engages third parties, whether these be TAFE colleges, other training institutions or other private sector training operatives, to deliver training to the industry, and it monitors those contracts and outcomes.

Another issue that the Construction Industry Training Board has had to manage over the past seven years has been the collection of levies and the process it has to go through to accumulate the necessary funds to enable it to fulfil its statutory obligations. I know that all members would remember the time when it was first introduced and some of the difficulties the board had in collecting the levies. More than a little attention was applied to ensure that all people who were caught legislatively within this framework paid an appropriate levy in accordance with the legislation. That proved a difficult management exercise, and in that respect Mr Dick McKay, the chair of the board, and Mr Doug Strain deserve all credit for smoothly introducing what some might describe (particularly if you use the broad definition that the Labor Party uses when it talks about the emergency services levy) as a new tax. Cooperation with local government—

*The Hon. R.R. Roberts interjecting:*

**The Hon. A.J. REDFORD:** The Hon. Ron Roberts whispers to me that it is a levy. It is in the eye of the beholder. In the eye of the Hon. Ron Roberts one minute it is a levy and the next minute it is a tax. I suspect that his very close friends in the CFMEU—which had a lot to do with the management of this—probably colours the description that he applies in relation to the amounts of money that are paid. The board and Mr Strain deserve commendation in smoothly

bringing into existence a scheme which works by and large and which has not generally managed to find itself on the front pages of our newspapers or into the first half dozen questions of any question time as something which the opposition might see as an important issue.

It is pleasing to see that this bill proposes to lift the threshold by which the levy should be payable, quite pragmatically, on the basis that the cost of collecting the levy is prohibitive in relation to very small developments. They picked a figure; personally I would have liked it to be a bit higher, but at least the principle is now enshrined and, when we revisit the appropriate level of building work that should attract this levy, we can apply that principle and make adjustments in a way I would like to see them—which is higher—at some stage in the future.

**The Hon. T.G. Roberts:** The levy or the threshold?

**The Hon. A.J. REDFORD:** The threshold. I am not into increasing levies, and I hope the honourable member is not hinting at some surprising release of a new ALP policy. There is a fairly vacant lot when we talk about policy drift from the other side of the chamber. That is what I wanted to say about this area in general terms.

Some of us have received correspondence that questions a number of aspects associated with the implementation of this fund and this scheme. That is to be welcomed and encouraged because, in real terms, the Construction Industry Training Board is a monopoly. It operates in a very similar way as WorkCover with respect to industry—and particularly this industry—in that it is compulsory, one body administers it, and an outcome is sought to be achieved in so far as this industry is concerned. I could be throwing a bone to the Labor Party in terms of policy development when I indicate that I am not sure why, if this scheme is so wonderful for the building industry, it does not apply to other industries.

**The Hon. T.G. Roberts:** There was a national scheme.

**The Hon. A.J. REDFORD:** Yes; it was a scheme that was introduced by the Hawke government. That government played around with it for three years, assessed it objectively and then ditched it. It ditched it quickly, for a number of reasons, not the least of which was that a real and proper evaluation of outcomes found it to be questionable. I remember filling out tax returns myself; I think there was a 1 or 2 per cent levy on your income if a business did not spend a certain amount on training.

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

**The Hon. A.J. REDFORD:** The honourable member makes precisely the point I was leading to. I am grateful the honourable member points that out, because that is exactly what was happening: they were off to the Gold Coast. I did not intend to mention this, but he draws me into the issue, and it would be remiss of me if I did not raise some concerns.

**The Hon. R.R. Roberts:** Interjections are out of order.

**The Hon. A.J. REDFORD:** Only yours, Ron.

**The Hon. T.G. Roberts:** No more; all interjections are out of order.

**The Hon. A.J. REDFORD:** No, not when I am led into something like this. Interestingly, I have had delivered to me a copy of a document issued by the Housing Industry Association. John Gaffney, Director SA, talks about the delivery of a training package way back in May 1997, which coincidentally predates the Coopers and Lybrand evaluation of this bill. I will read it for the benefit of members, because it is interesting. There is a big logo at the top, with 'Gold Coast' in big letters and Ausbuild 97 beneath it. In big, black letters it states: 'Conrad Jupiters, Gold Coast, 16 to 19 May.' The honourable member giggles, but I was not going to raise this until he mentioned it.

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

**The Hon. A.J. REDFORD:** You've drawn it out of me, reluctantly. To leave it up in the air would be unfair to those avid readers of *Hansard*. This is obviously addressed to people within the industry. It states:

> I am delighted to advise that we have recently received advice from the Construction Industry Training Board (CITB) that funding support is available for eligible persons employed in the South Australian building and construction industry to attend the HIA's convention Ausbuild 97 at Conrad Jupiters on the Gold Coast from 16 to 19 May 1997.

There is all sorts of information about registration fees and so on. The interesting part is that the CITB provided two delegates with a $600 rebate to enable people in the construction industry, particularly those who were members of the HIA, to attend Conrad Jupiters—

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

**The Hon. A.J. REDFORD:** The honourable member interjects and says,'Why shouldn't they? They were workers'. When that was drawn to my attention it reminded me of the sort of things that were taking place in the former scheme promulgated by the Hawke Keating government, which that government evaluated and jettisoned very quickly and quietly. I did not hear about it until I filled out my following year's tax return. One might argue that 1997 is pretty old; it has changed. I see the honourable member nodding. I just happen to have another document, headed 'Ausbuild Brisbane 2000', which again is issued by the HIA. It must like Queensland, because it is in Brisbane.

That document says that eligible workers within the South Australian building industry are able to receive $100 per day construction industry training rebate for Ausbuild 2000. Participants who attend all training sessions will be eligible for a rebate of $230. There is a reference to an enclosed training rebate form for $230 to be completed prior to 31 August 2000.

It is interesting to note that the theme for the conference, which is so generously supported by the Construction Industry Training Board, is Cairns 2001 'Business with pleasure'. I have been to Cairns a number of times because I have a small interest in a very small property up there, but I have never been to Cairns without some degree of pleasure and I am sure that those who make contributions would be pleased that people are having pleasurable training experiences in far away places like Brisbane, Cairns and the Gold Coast. The scope is unlimited.

**The Hon. T.G. Roberts:** You won't be expecting an invitation now?

**The Hon. A.J. REDFORD:** Why would I get an invitation? I am not in the construction industry. I have provided builders with advice from time to time and I have been involved in building disputes as a lawyer but I would be surprised, even with the long bow that can be drawn in this sort of area, that I would qualify or be eligible for an invitation to a conference up on the Gold Coast. I know that members opposite are diligent in ensuring that we use our travel allowances appropriately, and only two or three weeks ago I was flattered to have a series of questions asked in the lower house about the use of my travel allowance overseas. I would have been happy to answer those questions if anyone had rung me directly, but they chose to ask the President what I do and do not do with my travel allowance. I suppose that I could go up there but it is not something that particularly

interests me. I suspect that it has more to do with the construction industry. The honourable member opposite mischievously distracts me and leads me onto tangents, and I should endeavour to ignore him.

**The Hon. T.G. Roberts:** I heard that you helped someone build a pergola once, that's all.

**The Hon. A.J. REDFORD:** I am not sure whether it is still standing and that is probably why I need the training. Perhaps that is what the honourable member is suggesting. When one is confronted with that sort of information, one needs to look at these things more closely, and I embarked upon what I would call a lone consultation program, armed with the Coopers and Lybrand report and the working party report of September 1999. One of the people with whom I consulted just happened to be Mr Bob Day of Homestead Homes, who over the years has shown intensive interest in this area.

During the course of our consultation, Mr Day acknowledged that there might be a need for training. He is not as enamoured about training as some others, but he accepts the reality. He said that, if he has to put up with this, we need to ensure that there are proper outcomes that can be easily compared and easily assessed, and that the consumer ought to drive the training outcomes. In terms of training, one might say that the consumer is the person who builds the house or wants the building. On the other hand, if one applies one's limited understanding of trade practices law in determining what the market might be in this case, it is more likely that the market in this area would be the industry itself. The industry is the most appropriate body to determine what is good training, what is bad training, what is a good training outcome and what is a bad training outcome.

It might be that the best training outcomes are achieved at Jupiters Casino or in Cairns. Provided it is transparent, in my view that is a matter that the industry itself should determine. In any event, Mr Day wrote to me and indicated that there ought to be some sort of competitive pressure in relation to the delivery of a training outcome. He suggested that we should allow people essentially to opt out of the system, provided they achieve certain standards and that the decision is made by the minister as opposed to the board and that the key issue is the training outcome.

He wrote to me and I looked at the Training Fund Act, I looked at the Coopers and Lybrand report and I looked at the working party report, and we had some discussions about an appropriate response. Following that discussion, I referred myself back to other issues where we have monopolies providing a service in this state, and one institution, which I know that the Hon. Terry Roberts is extraordinarily familiar with, is the WorkCover board and the WorkCover arrangement. One of the great salvations of WorkCover in this state is the ability of the WorkCover board to enable exempt employers to provide their statutory responsibilities to injured workers. I considered that and thought to myself that we could adopt something similar in this area, and it might well be the panacea to the issues quite correctly and quite appropriately raised by Mr Day of Homestead Homes.

One of the issues with WorkCover that has always intrigued me is that it is a monopoly and it is not subject to any competitive pressures when one looks at the face of it. When one looks at WorkCover issues, we are always faced with overseas and interstate comparisons. It is always hard to ensure that we are measuring the performance of WorkCover on the same basis. Importantly, when one looks at the performance of WorkCover, we can compare the performance of exempt employers in terms of their statutory obligations to the performance of WorkCover itself.

In some respects, whilst WorkCover might on the face of it appear to be a monopoly, it is in reality, to some extent and to some degree, the subject of competitive pressure in relation to the way in which exempt employers deliver their statutory responsibilities. At the same time it enables us as members of parliament and ministers who have responsibility to make comparisons to see whether WorkCover is performing as well as it could. It might be suggested that is problematical because those who manage to achieve exempt status tend to fall into certain limited categories.

WorkCover does not have any option to refuse insurance, whereas exempt employers have greater autonomy and, in some respects, have greater advantages simply because of that. Needless to say, it does provide some ability to ensure that WorkCover, notwithstanding the fact that it is a monopoly, is performing adequately and appropriately. In any event, having thought that the WorkCover system might be appropriate, I went back and looked at the Coopers & Lybrand report and the working party report.

The Coopers & Lybrand report made a number of assertions and noted a number of things, including:

- (a) potential conflicts of interest at board level due to stakeholders 'wearing many hats';
- (b) a lack of measurable training outcomes;
- (c) a limited degree of user choice in the current system; and
- (d) the potential conflict of training providers selecting tenders;

That review made a series of recommendations, which included:

- (a) the removal of potential conflicts of interest in the CITB decision making process;
- (b) increased use choice in choosing training;
- (c) greater incentive for self help; and
- (d) encouraging industry to meet its own training needs rather than reliance on the industry levy with a long-term objective of decreasing the need for the levy.

When one looks at that series of recommendations from Coopers & Lybrand, one might question the limited steps that we are taking in this legislation towards achieving the outcomes so clearly identified in that report. There was not a lot of action between the tabling of the Coopers & Lybrand report and a legislative response on the part of the government and this parliament.

The minister—and it was now in the hands of Minister Brindal—quite rightly thought that, before he took any action or did anything in response to the Coopers & Lybrand report, he ought to promulgate a second report, so he engaged a body called the Construction Industry Training Fund Working Party to review the act and the recommendations made by Coopers & Lybrand.

The working party established by the minister included someone from the Office of Vocational Education and Training; a member from the Department of the Premier and Cabinet; an officer who was engaged in microeconomic reform from the Department of the Premier and Cabinet; a manager of manufacturing policy in the Department of Industry and Trade; a senior solicitor from the Crown Solicitor's Office; a project officer from the economics branch of the Department of Treasury and Finance; and a special projects officer from the Office of Vocational Education and Training from DETE.

From looking at the group of people who comprise this working party, without in any way directly criticising the minister, one thing that attracts my attention is the complete absence of any direct participants in the construction industry or in the specific construction training industry. Nevertheless, it made some recommendations. Page 8 of the report deals specifically with the issue of exemptions from the levy for training and, in a very general sense, looks at what might or might not be appropriate in those circumstances.

The interesting thing in relation to the exemptions from levies for training is that they received a number of submissions from bodies, including the Construction Industry Forum and the Master Plumbers Association of South Australia. The Construction Industry Forum is a body made up of industry-wide representatives including master plumbers, various employee associations and building design professionals and has, in a general sense, some responsibility to advise the government in relation to the operation of the building industry itself.

It would appear that both the master plumbers and this forum would be opposed to any exemptions from training, and the reasons why they oppose them fall into a couple of categories. They believe that exemptions from the levy for training, on the basis that you provide your own level of training, might well be the subject of rorting; that it would be difficult to reach consensus on criteria and difficult to administer; that any rebate would go only to the contractor as opposed to the subcontractors who might be opting out and providing their own training; and that host employers of trainers do not pay the levy.

With the greatest of respect to those submissions, each of those criticisms could be levelled at the WorkCover exemption system. The reality is that, if they were levelled at the WorkCover exemption system, there would be a complete absence of evidence to suggest that that in fact has occurred. The WorkCover exemption system works because the WorkCover board is diligent in supervising its performance and, on a regular basis, if the exempt employers fall behind in their statutory obligations, warns them and ultimately has the sanction to take away their exempt status.

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

**The Hon. A.J. REDFORD:** The honourable member interjects. In terms of WorkCover, the employee benefits is another issue, and that is a matter that parliament deals with as opposed to the way in which the act is administered by exempt employees. I do not think that the criticism can be levelled in any sense at the way in which it is administered.

The criticism, from the honourable member's perspective, given his former life, might well be delivered at the fact that substantial benefits, most of which were taken away from workers under the previous (Labor) government, including common law rights, were removed by this parliament, as opposed to anything to do with exempt status. In any event, you do not see the sorts of concerns expressed by those groups to the working party concerning exemptions transpire or exist in relation to WorkCover.

WorkCover deals with a far broader set of circumstances and a far bigger range of industries. It deals with contractors and sub-contractors and employer/employee relationships. It deals with some quite broad and complex legal arrangements between employers and employees and, with the greatest respect to the Construction Industry Training Board, it also has to deliver a far more complex range of outcomes in terms of occupational health and safety and rehabilitation.

So, with the greatest of respect, I think that the model that WorkCover has in terms of exempt employers is a good one, one which ought to be given serious consideration in relation to the delivery of training in South Australia, because we run the risk in a monopolistic situation of delivering the sort of training outcome that we experienced in the community under the Hawke-Keating taxation system, which they quickly and readily dropped—quite rightly too, I might add.

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

**The Hon. A.J. REDFORD:** No, for the same reasons. There was no competitive edge in that. It was not outcome oriented; it was expenditure oriented. It is one thing for a monopoly to determine precisely what that outcome might be. You might actually choose an outcome that fits your own low expectations or, alternatively, provide a competitive environment and look for better results on each occasion. That is what competition is all about. That is one of the great benefits that competition in the marketplace delivers to us as citizens in this great country of ours.

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

**The Hon. A.J. REDFORD:** That is a very pertinent interjection. I think that is where the objection comes from. There ought to be trade union representatives on this. I know that the CFMEU does not have the clout of the AWU and cannot find spots in here. However, it is an employment program for some people in the CFMEU.

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

**The Hon. A.J. REDFORD:** He wouldn't get into our party, with the greatest respect. The Labor Party does dish up a few surprises. Perhaps Ben Carslake remains ever optimistic about—

**The Hon. T.G. Roberts:** A good member but in the wrong party.

**The Hon. A.J. REDFORD:** I will leave that to the honourable member's judgment. In any event, that can hardly be said to be a pertinent issue. This is not something that any management structure ought to determine—who is represented on which particular body. We ought to be keenly focused on the training outcome. Whether a better training outcome can be delivered, because you have a trade union representative on a body, should be a matter for the marketplace or the customer to determine—in this case, the industry. On an appropriate analysis in a competitive environment, it might well be smart in terms of delivering an outcome to put a former trade union official on a board because they are uniquely able to determine what would be a good training outcome and the best way to deliver that outcome because of their experience within the workplace and the trade union movement.

If I can be less churlish than I was a little earlier, I think there is merit in that. There have been a number of extraordinarily successful trade unions. One example of which I am aware—and the Hon. Bob Sneath would agree with me wholeheartedly—is that the contribution made by John Lesses on the ETSA board was extraordinary. It rounded him off and prepared him uniquely for his recent elevation. We can all be confident that he will perform his role admirably.

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

**The Hon. A.J. REDFORD:** If Mick gets a job on a board and has to run something, it might round him off as well.

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

**The Hon. A.J. REDFORD:** That might be an opportunity for him. One might say that someone who has managed an extraordinarily small union dealing with putting out fires may not be uniquely qualified in terms of training outcomes for

the construction industry. That is another point that I wish to make. It should be market driven not 'Gee, Mick Doyle missed out on being an industrial commissioner, so we'll stick him on the construction industry training board.' That is the evil of having this sort of monopolistic style of operation and at the same time the perception—I will not say that it is so in this case—that there might be an opportunity of jobs for the boys. The honourable member's interjection discloses another question.

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

**The Hon. A.J. REDFORD:** The honourable member interjects that the difference between Bob Day and Mick Doyle is that Bob is in the industry, Mick is not; Bob pays the levy, Mick does not; Bob has to deliver an outcome in the construction industry, Mick does not. There are some pretty significant differences in the Bob and Mick scenario about which the honourable member interjected. I would have to say if I was to look at it objectively—and I see the honourable member is nodding—that Bob Day probably has more experience, more knowledge and more at stake, and he is closer to the consumer in the scenario that he pictured than someone like Mick Doyle, who, potentially, if you have an overloading of union appointments and too much political interference, acknowledging all the skills that Mick might possess in relation to putting out fires and painting fire trucks, can do that.

So, I am grateful for the Hon. Bob Sneath's interjection, because it highlights some of the risks associated with the sort of structure that we have. I am a pragmatic man. I know that if we went to change the board and its structure so that it was more outcome oriented, members opposite would not support it because, as I said, there are some people who aspire to these boards from their side of politics. I am not naive enough not to understand that it is in the Labor Party's interests in the forlorn hope that members occupy this side of the chamber to want to have these positions available to satisfy an ever-increasing demand for some of their supporters who at some stage had some part to play in getting them into this place.

In any event, if you look at a number of criteria in relation to establishing an exempt type system of the sort that we know and love in the WorkCover system, you will see that some issues might arise, but some benefits might also arise. The problem with the current system—and it is argued that you can do it under the existing legislation and regulation making powers—is that the Construction Industry Training Board—and it is arguable that it can do this on its own motion—is hardly likely to do that. It is hardly likely to say to an employer, 'Don't pay the levy because we think you're going to deliver a better training outcome by retaining those funds' or 'We acknowledge that you are spending an equivalent sum of money or indeed more money on a training outcome and therefore we want to reward you for that.' No bureaucracy in the living memory of anyone in this place or historically operates in that fashion. It is just not the way they do things. I think we need to acknowledge that human experience.

The other point—and I invite members to look at clause 2D of schedule 1 of the act—is that it has been suggested that there is a mechanism by which exemptions can be granted. The reality is that not one exemption has ever been granted, which is to suggest that not one training initiative by the industry since 1993 is worthy of exempt status. That is notwithstanding all the criticisms set out in the Coopers and Lybrand report and the Construction Industry Training Fund Act review. That, I would have to suggest, defies commonsense.

Another issue is who should make the decision if you allow this exempt status. There are a number of options. First, you can give it to a court, but I do not have a great deal of confidence in courts in this situation; they can be silly. Secondly, you can give it to the minister, and there is a suggestion that the minister might be politically motivated. I am realistic enough to acknowledge that, while we are in government, members opposite would never give the minister that power. What you can do is adopt the WorkCover system, which, as I said earlier, works so well. You can allow the board itself to make a decision with an appeal process to the minister, and that, as I said, works.

Another suggestion has been that we follow the Western Australian approach, which I must say has only been recently introduced, and it is probably too early to tell whether or not exemptions will be given, and if they are—and there have not been any to date, I might add—whether that will improve the training outcome. It might be suggested by some—and it has been suggested to me directly—that we wait a little while and see how the Western Australian experiment (if I can call it that) works and revisit the issue down the track. I am realistic enough to know in relation to my proposed amendments that that is probably what will happen, because I can count.

The other issue that was raised was why should some industries be exempt while the non-exempt industries carry the administrative burden. The way the WorkCover legislation covers that is that there is a levy set on exempt employers to cover the administrative burden. In the seven years I have been a member of parliament I have not heard any criticism in relation to the process that leads to the striking of that levy for exempt employers or the extent of the levy itself.

Again, the WorkCover system comes out with a tick. It seems that if we look at the WorkCover situation and compare it, we can see that it can provide a model which would deliver potentially a better training outcome and, at the same time, enable us, as policy makers, and indeed those who sit on the Construction Industry Training Board itself, some degree of comparison in respect of their performance. Once employers start to deliver and look at different options in terms of training, it may deliver a change in attitude, generally speaking, in the minds of employers in the industry itself.

The Hon. Terry Roberts interjected very early in my contribution and said that this ought to be extended to other industries. It may well facilitate the extension of similar training schemes and thereby similar training outcomes to other industries, whether it be primary industry or various other industries that—

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

**The Hon. A.J. REDFORD:** If you are in a market, a competitive environment, I do not care who you put on the board, because ultimately the market will say that you put the best people on the board. I acknowledge that there are trade union officials who have a lot to contribute in some of these areas, and particularly in relation to training, and that they may well be more knowledgeable, given their training, background and experience, than a lot of people in the private sector who have run businesses or I suspect those 'professionals' who are employed in the traditional institutions of government, such as universities and TAFEs.

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

**The Hon. A.J. REDFORD:** The honourable member has thrown me a question that I cannot answer. I do not know, but

I am sure the minister will be able to answer that during the committee stage.

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

**The Hon. A.J. REDFORD:** I don't know.

*Members interjecting:*

**The Hon. A.J. REDFORD:** I just don't know. All I can say is that this body has been in existence for some considerable time. I think the Coopers and Lybrand report identified some very important issues. At the end of the day the single biggest issue is that it must be outcome oriented, and as it is currently structured the defining of an outcome is questionable, and the delivery and valuation of an outcome is questionable.

I say with the greatest of respect to those people who are charged with the current administration that the best way to deliver outcomes is by establishing some form of competitive pressure and picking the best people to deliver those outcomes. For those people in the system who are disgruntled, provided that their outcomes are similar, you give them an opportunity to opt out and to provide their own training.

I cannot see, as we commence our journey into the twenty-first century, having gone through all the pain of philosophical disputes of the 1960s and 1970s, and having the warm embrace of competition policy by Bob Hawke and Paul Keating, why we cannot simply apply that to this case. One of the issues that the working party looked at was competition policy. I invite members to look at the Coopers and Lybrand report which, if one looks at this review, sets out on page 53 its recommendations concerning competition.

With the greatest of respect to the working party, it does conclude that there is a net benefit to the community. However, I must say that I do not understand, when one reads the report, how it reached that conclusion. Obviously that will lead inevitably to any competition policy review saying that the net benefit to the community outweighs the need for some competitive pressure. I must say with the greatest respect to the working party that I would like to see some analysis as to why it came to that conclusion.

I am sure that members who avidly read the bills file on our desks have noted that I have filed an amendment to the bill. I urge members to give it serious consideration—there is experience, as I said, with the WorkCover bill—and then we can speedily pass the bill and ensure a better training outcome for South Australians involved in this industry.

**The Hon. R.R. ROBERTS** secured the adjournment of the debate.

*[Sitting suspended from 12.58 to 2.15 p.m.]*

### PROSTITUTION

Petitions signed by 753 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 T.G. Cameron, J.S.L. Dawkins, M. Elliott, P. Holloway, A.J. Redford, Caroline Schaefer and Carmel Zollo.

Petitions received.

### PARKLANDS

A petition signed by 8 residents of South Australia concerning the City of Adelaide (Adelaide Parklands) Amendment Bill, and praying that this Council will protect the parklands by stopping the erection of buildings and other structures on the parklands by rejecting the City of Adelaide (Adelaide Parklands) Amendment Bill, was presented by the Hon. Ian Gilfillan.

Petition received.

## QUESTION TIME

### TRANSPORT, PUBLIC

**The Hon. CAROLYN PICKLES (Leader of the Opposition):** I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning a question about public transport.

Leave granted.

**The Hon. CAROLYN PICKLES:** I refer the Minister for Transport and Urban Planning to an answer to a question she gave on 15 November regarding the impact of fuel increases on fares. When asked by my colleague the Hon. Paul Holloway whether the minister would say what implications the increases in fuel prices are likely to have on fares for public transport, the minister responded:

> The answer is self-evident. If the price of fuel has gone up, so have the operating costs of the contractors.

My questions to the minister are:

1. Have the private operators made submissions to the PTB for a fare increase?

2. Will the minister advise whether public transport fees will increase and, if so, when and by how much?

**The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning):** With respect, the cost of public transport has never been related to the cost of the fare structure, and that is why public transport is subsidised so heavily in this state as a community service obligation. I recall that when the Hon. Paul Holloway asked the question of me a couple of weeks ago I indicated that there had been discussion or application—I am not too sure what term I used—or submission from at least one, if not all, of the service providers to the PTB. That matter is being considered by the government. One of the issues that the government will take into account is that we are only five months into the financial year. The Passenger Transport Board has an allocation for contract payments for the full financial year, so these issues can be addressed at this time. Any passing on of increased fuel prices at this time makes the assumption that fuel prices will stay at the same level for the full financial year, and I do not think anybody can foresee that.

I am not in any hurry to progress the applications or submissions regarding higher fuel prices, knowing that the money is there at the time to meet the contract payments. The matter could be considered later in the financial year, when we have seen the full impact of fuel prices increases and, we hope, the community at large, including public bus operators, experience a decrease in fuel prices. At this stage, certainly the contract payments are taking account of increased prices, but we must look at the full year impact of the price of fuel. We will therefore address this issue later in the financial year.

*Members interjecting:*

**The Hon. DIANA LAIDLAW:** No; the petrol price could go down.

**CAMBRIDGE, Mr JOHN**

**The Hon. P. HOLLOWAY:** I seek leave to make a brief explanation before asking the Treasurer a question about comments made by the Chief Executive Officer of his department.

Leave granted.

**The Hon. P. HOLLOWAY:** In a media report on 18 November Mr John Cambridge, head of the Department of Industry and Trade, is quoted as having made statements that attacked the South Australian business community, the Department of Treasury and Finance and by implication his own minister the Hon. Rob Lucas, who holds the portfolios of Industry and Trade and Treasury.

**The Hon. L.H. Davis:** What date was that?

**The Hon. P. HOLLOWAY:** It was 18 November. Mr Cambridge said that too many South Australian companies treated industry assistance like 'the industrial dole'. He said:

> I do not like these companies that come back two and three times to feed at the trough and then say that they are doyens of the market.

Mr Cambridge also attacked Treasury colleagues, describing them as 'troglodytes' and 'outstandingly stupid'. Not content with attacking the business community and his own minister, Mr Cambridge also made an unprecedented attack on the parliament's Economic and Finance Committee, describing its report into industry assistance as 'a disgrace to the state, totally flawed and a travesty of our parliamentary system'.

*Members interjecting:*

**The Hon. P. HOLLOWAY:** I should accept those interjections from the Hon. Legh Davis because they indicate that he supports the comments made by Mr Cambridge.

**The PRESIDENT:** Order!

**The Hon. P. HOLLOWAY:** I hope that is recorded in *Hansard*.

**The PRESIDENT:** Order! The honourable member has sought leave to make an explanation. I ask him to go on with his explanation. Members should cease interjecting.

**The Hon. P. HOLLOWAY:** The Treasurer was reported in the media on 21 November as having reprimanded Mr Cambridge for his attacks, but he then described them as 'not a hanging offence'. If these remarks by a senior public servant, supposedly responsible for our economic development, are not a hanging offence, one wonders what is for this minister. My questions are:

1. Does the Treasurer have full and complete confidence in John Cambridge in his role as Chief Executive Officer of the Department of Industry and Trade and does he believe Mr Cambridge enjoys the confidence of South Australia's business community following his attacks on South Australian companies and the state's Treasury?

2. What are the names of the local South Australian companies that the Chief Executive Officer of the Department of Industry and Trade (John Cambridge) claims to be on the industrial dole, and did any of these companies receive industry assistance packages against the advice of Mr Cambridge or his departmental officers?

3. Given that he has reprimanded his industry and trade chief for stating that the report into industry assistance by the Economic and Finance Committee was 'a disgrace to the state, totally flawed and a travesty of our parliamentary system', which of the report's recommendations does the government now intend to implement?

4. What was the nature of the reprimand reported to have been delivered by the Treasurer to Mr Cambridge?

5. Did that reprimand have any greater currency than the reprimand delivered by the Premier to Mr Cambridge last year for failing to declare his directorship with a private Australian-based company as required under the Public Sector Management Act?

6. Has the Treasurer received any instruction from the Premier that Mr Cambridge is to be shown particular lenience despite his many indiscretions and, if so, for what reason?

**The Hon. R.I. LUCAS (Treasurer):** It is only 12 or 13 days after this was a matter of some public interest. It obviously takes a little while for it to sink into the Deputy Leader of the Opposition in this chamber. When this was an issue of some media moment two weeks ago, I said publicly (and I am happy to repeat it if the honourable member did not read my comments in detail in the press and in the media which were reported pretty widely at the time) that I did not agree with a number of the statements that the Chief Executive of the department had made. I have not used and will not use the term 'industrial dole' to refer to companies that may well be given assistance on the basis of merit to expand their operations on more than one occasion.

As I indicated to a number of media outlets, if a company came to the government five years ago asking for assistance, saying that it could provide an extra 100 jobs for South Australian workers and asking the government to provide some assistance, and the government made that judgment to do so on the basis of merit, that is fine. If that company comes back five years later and says it needs to expand into export markets and believes it can provide another 100 jobs to South Australian workers and provide income to the families and food on the plate for their children if the government is prepared to provide some assistance—

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

**The Hon. R.I. LUCAS:** Tax is paid to the government and the budget as well. If, on the basis of merit, that company gets a second round of assistance, I would not refer to that as industrial dole or corporate welfare. That is a judgment that the government of the day makes about providing assistance to companies on the basis of the merit of their applications.

*The Hon. P. Holloway interjecting:*

**The Hon. R.I. LUCAS:** Whether it is a CEO or a member of my own department, let me assure members—

*The Hon. P. Holloway interjecting:*

**The Hon. R.I. LUCAS:** Yes, I have confidence. And let me say that it is not him individually. The chief executive is the leader of a group of hard working public servants, and John Cambridge will be the first to acknowledge that he alone should not claim the credit for outstanding achievements in terms of industry assistance but that he, as a member of a team, has had significant and outstanding achievements in terms of industry assistance.

The recent decisions by the boards of Email, of BAe Systems and other national and international companies to expand their operations in South Australia demonstrate the quality of the work both of John Cambridge and of the hard working members in his team, particularly in the Invest SA team within the department.

'Industrial dole' or 'corporate welfare' is not a phrase I agree with or would use, and I have said so publicly, so I do disagree with my chief executive on that issue. I can assure the honourable member that, if he ever becomes a minister, if he is to adopt the position that he will agree with everything his public servants, including the chief executive officer, provide to him on every occasion and will never disagree with his own chief executive officer, then it will be a very sad

day for corporate governance in the state of South Australia. It is not the real world. You are there to accept—

*The Hon. P. Holloway interjecting:*

**The Hon. R.I. LUCAS:** And he should not do that, and I have made that clear. But the honourable member has gone on to say that in relation to the use of the term 'industrial dole' I am disagreeing with my own chief executive, as if that is some mortal sin. That is a sad fact of life: it is a reality. Ministers representing the people of South Australia do not always agree with the public sector advice that they get. On most occasions they will, but on a number of occasions they are there to make judgments on behalf of the people of South Australia.

Having heard the advice from the public sector and having taken other advice if they need to, they then make a decision. If what the honourable member wants to put up as the Labor model of governance of this state is that he as a minister will always agree with his chief executive officer on everything that he puts to him, then that is the most bizarre notion of governance that I have ever contemplated. And it will be a sad day if it ever has the chance to be put into practice.

*Members interjecting:*

**The PRESIDENT:** Order, the leader!

**The Hon. R.I. LUCAS:** I do not intend to name the companies, because I do not agree with the use of the term 'industrial dole'. As I pointed out, it was disingenuous, at best, of Mr Foley, because he was implying that this information had not been provided to the committee. At least the IDC and I think the Economic and Finance Committee, but one or both of them, were provided by me with a list of all the companies over past years—including under the Bannon government, I understand, when the Hon. Mr Holloway was approving packages on the committee—that were given industry assistance on more than one occasion. So, under the Labor government, when Mr Holloway was on the committee, companies were being given assistance for a second or perhaps a third occasion.

*The Hon. P. Holloway interjecting:*

**The Hon. R.I. LUCAS:** You say that Mr Holloway does not have a problem with that. That is my position as well. I do not have a problem with that either. If it is done on the basis of merit—

*The Hon. P. Holloway interjecting:*

**The PRESIDENT:** Order, the Hon. Mr Holloway!

**The Hon. R.I. LUCAS:** —if jobs are being given to South Australian families and workers, that is the way it ought to be. The Hon. Mr Holloway says that he did not have a problem—

*The Hon. P. Holloway interjecting:*

**The PRESIDENT:** Order, the Hon. Mr Holloway!

**The Hon. R.I. LUCAS:** —doing that when he was on the IDC, yet the inference from Mr Foley and another Labor spokesperson is that, in some way, it is a terrible thing that a company may well get assistance on more than one occasion.

*The Hon. Carolyn Pickles interjecting:*

**The Hon. R.I. LUCAS:** Well, they are. It was the role of people such as the Hon. Mr Holloway and others—and obviously, ultimately, the ministers and governments—to make sure that the interests of the taxpayers were being protected. I do not intend to name the companies. First, I do not accept the premise that it is industrial dole and, secondly, it is really in the mind of Mr Cambridge as to which particular firms—I am sure that he is not referring to all of them—he takes personal exception to. Commercial confidentiality is such that we are not going to reveal publicly the names of companies or the quantum of assistance that is provided to those companies.

*An honourable member interjecting:*

**The Hon. R.I. LUCAS:** Well, they haven't in the past. In relation to the term 'troglodyte', those members of the Legislative Council who can go back for 20 or 30 years should know that there have been a number of occasions when we esteemed members of this red house have been referred to as troglodytes. So, if the term 'troglodyte' is to be used in relation to Treasury, it will not be the first time, either directly or indirectly, that it has been referred to me, although it is perhaps the first time for my officers.

I say publicly again that I accept or expect that there will be a robust difference of opinion between Treasury officers and spending agency officers, particularly, in this case, Industry and Trade. That is half the reason for the existence of Treasury officers—to ensure that the budgets that are set down are followed. However, what I have made clear to the Chief Executive of Industry and Trade is that that robust discussion is to be kept where it ought to be and that is in the appropriate fora within the public sector.

I do not expect Industry and Trade to agree with Treasury all the time or Treasury to agree with Industry and Trade all the time. What I do expect is for them to work productively together and to ensure that any differences of opinion are not played out on the front page of the local newspaper. I have made that clear to the chief executive of the department as well. I cannot remember whether there are other questions amongst the six or seven to which I have not responded.

*The Hon. P. Holloway interjecting:*

**The Hon. R.I. LUCAS:** I do not know how you judge reprimands in terms of better or worse. I do not think it is appropriate, other than what I have said publicly and also again in this chamber today, that the nature of any discussions that I have with my chief executive officer is for anyone other than him and me. It is not really something for the voyeuristic interests of the Deputy Leader of the Opposition. All I can say is that I made my views known to the chief executive, he is aware of my position, and he is also aware of my indication that similar attacks on Treasury and others of that nature are not acceptable to me as the minister.

## GOODS AND SERVICES TAX

**The Hon. T.G. ROBERTS:** I seek leave to make a brief explanation before asking the Treasurer a question about forestry dividends and the impact of the GST.

Leave granted.

**The Hon. T.G. ROBERTS:** In the budget results of November 2000 that were issued to all members, there is a section headed 'Forestry South Australia'. On Tuesday, I asked a question in relation to the closure of a mill at Mount Burr. Part of the reason given for the closure was the downturn in the housing construction industry. We are all aware of the cyclical nature of the building and construction industry and its relationship with the timber industry. We know that the synergy between the two affects the forestry industry and the milling industry. The budget report states:

> Dividend payments to ForestrySA are spread over two financial years with the interim dividend made in the second half of the year and the final dividend in the first half of the following year. The expected dividend for 1998-99 was over-estimated, resulting in a high interim dividend in 1998-99 and a lower final dividend in 1999-2000.

This resulted in the 1999-2000 dividend being $4 million lower than budgeted. However, this is offset by the favourable dividend variance for 1989. Income tax equivalent payments are made by quarterly instalments spread over two financial years. The interim instalments made in 1998-99 were over-estimated resulting in lower final instalments. . .

That is repeating itself, but members should get the picture. It continues:

This resulted in 1999-2000 income tax equivalents being $2.9 million lower than budgeted. However, this is offset by the favourable income tax equivalent variance in 1998-99.

It is a fairly simple but complicated picture that the English language has described in terms of the figures, but it does get a little confusing to the layperson when you try to apply the figures to the current situation where there is a GST hangover which apparently is impacting on the milling of timber in the South-East.

There was a surge of activity in the first half of this calendar year which will probably lead to a hangover for the first half of next calendar year, and the state the industry is in now could get worse. My questions are:

1. What hangover effect has the GST, and the subsequent rush of applications for housing construction due to an increase in approvals, had on budget revenues for 2000-01; and what impact has that had on budget revenues from July to October this year (if you have those figures)?

2. What forward estimates are being predicted for dividends for the full financial year 2000-01?

**The Hon. R.I. LUCAS (Treasurer):** I will need to take those questions on notice and bring back a reply for the honourable member.

## AUDITOR-GENERAL'S REPORT

**The PRESIDENT:** I lay on the table the third supplementary report of the Auditor-General on the Electricity Businesses Disposal Processes in South Australia, Arrangements for the Disposal of ETSA Utilities Pty Ltd and ETSA Power Pty Ltd, Some Audit Observations 1999-2000.

## SHOP TRADING HOURS

**The Hon. J.S.L. DAWKINS:** I seek leave to make a brief explanation before asking the Minister for Workplace Relations a question about shop trading hours.

Leave granted.

**The Hon. J.S.L. DAWKINS:** Members of the Council may be aware that the deregulation of shop trading hours in the Berri-Barmera council area was approved by the minister early in June this year. Since that time there has been considerable community debate about the issue in the neighbouring council areas of Renmark Paringa and Loxton Waikerie. I was interested to note that the *Murray Pioneer* of 21 November this year contained a report on the subject of trading hours in Renmark under the headline 'Mayor tells Democrat MP: Mind your Business'. The Mayor of Renmark-Paringa, Mr Rod Thomas, is reported as saying that the Hon. Ian Gilfillan has his facts wrong. He is quoted as follows:

The thing we don't need is a city politician telling us how we should do a survey on an entirely local matter.

My questions are:

1. What is the current position in Renmark-Paringa on the issue of shop trading hours?

2. Who has got his facts wrong—Mayor Thomas or the Hon. Mr Ian Gilfillan?

**The Hon. R.D. LAWSON (Minister for Workplace Relations):** I thank the honourable member for his question and I thank him for drawing to my attention the report in the *Murray Pioneer* to which he referred in his explanation. I was surprised to see that the Hon. Mr Gilfillan was in the Riverland and the same report states:

[Mr Gilfillan] met with the Renmark-Paringa Chamber of Commerce which was opposed to deregulation before it collapsed due to a lack of members.

I am somewhat appalled that the Renmark-Paringa Chamber of Commerce should have folded so soon after meeting with the Hon. Ian Gilfillan.

Mayor Thomas is quite right to say that local issues should be determined by local people. Under the Shop Trading Hours Act a proclaimed shopping district can be de-proclaimed only on an application made by the council which has made a resolution to that effect. The act also requires that the council must give interested persons an opportunity to express their views to the council on the proposal, and the council must have regard to the views expressed by those interested persons.

The District Council of Renmark-Paringa has, in fact, embarked upon a process of ascertaining the views of residents and others in its district for the purpose of determining whether or not an application will be made to the government for a de-proclamation of the shopping district.

The honourable member has correctly said that earlier this year the District Council of Berri-Barmera did pass such a resolution and then made application to the government, which acceded to its request. It is of interest elsewhere in the state. For example, the Mount Gambier council has recently examined the issue of shop trading hours in its area and the District Council of Mount Barker has also passed a resolution and made application to the government for de-proclamation of its shopping district.

This is a local matter which should be determined by local residents and traders. Obviously, some traders will have a particular view about shop trading hours. It seems to be an issue on which everyone has an opinion but there is never unanimity of views. I commend the District Council of Renmark-Paringa for undertaking the process of allowing its residents to express their views and I commend the mayor for his robust defence of local interests against interlopers from outside.

In conclusion, as the honourable member would know because of his close interest in matters pertaining to the Riverland and his very active pursuit in this parliament of those interests, the District Council of Loxton-Waikerie is also investigating deregulation of shop trading hours in the two major towns in the district. Once again, it will be for the residents, traders and others in Loxton-Waikerie to make the decision as to whether they wish to advance the issue.

## ELECTRICITY, PRIVATISATION

**The Hon. M.J. ELLIOTT:** I seek leave to make a brief explanation before asking the Treasurer a question in relation to the Auditor-General's Report into the electricity businesses disposal process in South Australia.

Leave granted.

**The Hon. M.J. ELLIOTT:** My question relates to pages 53 and 54 of the report which refers to implications from the use of success fees.

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

**The Hon. M.J. ELLIOTT:** I gave the title of it; just pay attention. In his report the Auditor-General says that, although maximising revenue from the disposal is a state objective, it is coupled with the further objective of minimising the risk to the state of the disposal, and it is important that advice received is balanced in terms of both objectives.

He later makes a specific recommendation about success fee arrangements and says that they should not be used as a matter of course. He does not spell out the risks, but I would add that in recent weeks I have had several discussions with major users of electricity in South Australia who told me that they are not seeing the sorts of price reductions that were promised. In some cases they have faced cost increases, and they are extremely disappointed. They described two reasons for this failure to get price decreases: first, the structure that was created; and, secondly, the fact that they saw it as not being terribly competitive due to the fact that coal producers were never going to face any competition from gas and vice versa.

When the Auditor-General talks about minimising the risks—and he does not spell out what risks he is talking about, and certainly it was an issue that the Democrats were concerned about when it was debated in parliament—the question is whether or not the advisers were involved in providing advice as to what structures were to be created, recognising that the particular structure that was created probably optimised the price returned to the state and therefore maximised their fee, but it also had a potential negative impact on the price of electricity for South Australians.

**The Hon. R.I. LUCAS (Treasurer):** With due respect to the leader of the Democrats, I will need to repeat some of the criticism I have directed to his deputy leader over the past two years in this area of the electricity debate. To make the assertion that the industry, and particularly the generation industry that he mentioned, has been structured in such a way to maximise the value because in some way that would maximise the success fee is, frankly, the most bizarre notion I have heard since the Hon. Paul Holloway in question time today put forward the other bizarre notion—

**The Hon. M.J. Elliott:** Did they provide advice on the structure?

**The Hon. R.I. LUCAS:** Yes they did. I indicated back in the middle of 1998 that they provided advice on the structure. The Hon. Mr Elliott is obviously a slow learner. It has taken 2½ years for him to come back and ask the question again. I went on the public record during the debate in this chamber in late 1998 when his colleague took exception to one of the advisers being on the floor of the chamber because he was not an Australian. The whole debate was about the advice they were providing on the structure of the industry. It might be a blinding flash of acknowledgment from the leader of the Democrats that that is what they were here for, but everyone else in the chamber has known that for 2½ years—that they were here providing advice on a range of things, including the restructuring of the industry and preparation of the industry for entry into the national electricity market. I refer to not just the lead advisers but the whole range of advisers that the government had, including legal and economic and those who advised on the management of the privatisation process. That is the first aspect.

The honourable member is desperate to try to get an angle on this when he says that they cleverly constructed an industry structure for generation which maximised their success fee opportunities, the inference being that these greedy consultants obviously took the government and the people of South Australia to the cleaners in terms of the structure. I just remind the honourable member that the Australian Democrats, and indeed some others in South Australia, actually said to the government at one stage (the Democrats' position did change, and I must confess that it was hard to keep up with) that what we needed to do was to keep Optima as a single entity. By inference, what the honourable member said was that part of the criticism was that we had divided the companies along the line of coal and gas. I am not sure how else you would do it. One of the plants is wholly coal and another is wholly gas. Unless we are going to divide them into half and give half to someone and half to someone else—

*An honourable member interjecting:*

**The Hon. R.I. LUCAS:** I think that was one of the Hon. Mr Elliott's earlier bizarre notions.

*An honourable member interjecting:*

**The Hon. R.I. LUCAS:** No, I don't think he did 1 000 hours: his deputy leader did. How you would do that, I am not sure. The notion put to the government was that we should keep Optima as one entity rather than splitting it into three as we did. The argument was that that would maximise the value to the taxpayers of South Australia, because it was a monopoly provider. It was a portfolio provider. It had coal, gas, diesel and fuel oil. It was at Port Augusta and Torrens Island—it was spread over the state. We were told—indeed, the Optima board argued strongly to the government—that, if you want to maximise the value of the asset to the taxpayers of South Australia, the shareholders, you sell Optima as the monopoly it was without splitting it up to try to get competition.

Our advisers—the ones that Mr Elliott is trying to infer in relation to the structured generation industry—were the ones who, together with the economic advisers and the government, were strongly supporting the breaking up of the power that Optima would have as a monopoly supplier in South Australia. In doing so, that would reduce the value of the generators in terms of the sale value to the people of South Australia. It was a conscious decision not to keep Optima as a monopoly entity but to break it up into three, knowing that we would not be maximising the value of the asset, and also knowing that we had a public interest in trying to ensure, to the degree that we could, competition in the marketplace in South Australia.

Now the Hon. Mr Elliott, in typical Democrats fashion, is trying to suggest that in some way the lead advisers had structured the generation industry in South Australia to maximise the success fees that they might have accepted. When we looked at the notion of breaking up the assets, we saw that there were at least two or three options. One was to break up the entity into two competing companies, and the other was to break it up into three. Again, in the interests of trying to dilute the market power regarding the generators in South Australia, to the degree that we could, we took the more radical option of breaking it up into three and not into two generators. Therefore—

*The Hon. M.J. Elliott interjecting:*

**The Hon. R.I. LUCAS:** Again, the Hon. Mr Elliott does not understand what the structure was in 1998. The government's position, until it was held up by the parliament, was to offer the base load opportunity at Pelican Point, together with the peaking plants, as one development opportunity to a company, so it could compete with the other two. The only reason they were originally disaggregated was that the

parliament stopped the sale or lease of the peaking plant, Synergen, and we had to proceed quickly with the new development opportunity, the base load plant, at Pelican Point.

But the original model that was brought down was a model based on Torrens Island, of just over 1 000 megawatts, a model based on Port Augusta, which is about 700 or 800 megawatts, and a new proposal for Pelican Point, together with peakers, which was 500 to 800 megawatts, plus the peaking capacity of a couple of hundred megawatts or so spread across the state.

So the interjections and the original question of the honourable member have no substance to them at all, and all the advice that the government has taken is that the decisions we took were in the interests of trying to develop a more competitive market in terms of the structured generation. They certainly went against the advice we had that, if we wanted to maximise value and, by inference, maximise success fees for advisers, we would not have adopted the structure that we did.

## WEAPONS LAWS

**The Hon. CAROLINE SCHAEFER:** I seek leave to make a brief explanation before asking the Attorney-General a question about weapons laws.

Leave granted.

**The Hon. CAROLINE SCHAEFER:** About two years ago the parliament passed legislation to make significant changes to the law relating to weapons. Will the Attorney-General explain why there has been what appears to be an inordinate delay in the introduction of the new legislation; and when will the new law come into effect?

**The Hon. K.T. GRIFFIN (Attorney-General):** It has taken us about two years both to enact and then bring into operation legislation relating to new weapons laws. I think the legislation was passed in December 1998. Since then we have had an exhaustive period of consultation on draft regulations, then revised draft regulations and now the final regulations, and we have involved a whole range of different stakeholders in that process. The legislation is to be brought into effect on 17 December this year. The regulations were promulgated in executive council on 23 November.

There have been stakeholders' forums last week and this week and I think there will be some in the next few days, all directed towards ensuring that people properly understand what the new laws will mean in South Australia. Everyone would remember that the current law is that it is an offence to carry or be in possession of an offensive weapon without lawful excuse. It is also an offence to manufacture, sell or possess a dangerous article, defined in the regulations, without lawful excuse.

We have not had a category of prohibited weapon in this state. The Australian Police Ministers Council is looking at ways to get a more uniform approach to weapons legislation in Australia, including the different categories of weapons in respect of which different penalties might apply. In South Australia the Summary Offences Act is committed to the Attorney-General and not the minister for police. In other states ministers for police do have some responsibility for weapons type legislation, but not in every case.

In South Australia we have had an extensive period of cooperation and consultation between my officers and police officers in developing the new regulations. We have now launched a new campaign designed to focus upon weapons that are now under attack and also give information to members of the public in printed material, through the media and on the relevant web sites about what weapons will now be prohibited.

The aim of the legislation and regulations is to strengthen existing laws, make our community safer by getting more of these weapons off the street and make our laws more consistent with those interstate. A new category of prohibited weapon clearly defines what is a prohibited weapon, and that will give much more certainty to operational police on the beat having to deal with weapons such as flick knives and concealed weapons such as sword sticks, nunchaku, butterfly knives and other offensive weapons. There will be some exemptions for those who might have a lawful reason for possessing a prohibited weapon, but those exemptions set out in the act and the regulations are relatively limited.

If a person does not have an exemption and is carrying a prohibited weapon, an offence will have been committed. The onus will be on the offender to establish that he or she is in a category of exempt persons. We will still have dangerous article and offensive weapons offences and, particularly now, if a person is entitled to have a prohibited weapon, they have a statutory obligation to keep that weapon safe and secure. There is to be a moratorium for the purpose of enabling surrender of prohibited weapons, and that will be conducted by police.

During a period of two months, for which that moratorium will continue, from 17 December when we bring the laws into operation, fees on applications for exemption will be waived and people will not be prosecuted for voluntarily surrendering items to police. I am optimistic that this will make a significant difference to weapons laws in South Australia and that it is a positive and constructive approach to dealing with what has previously been a somewhat contentious issue.

## SPENCER GULF SHARK

**The Hon. R.R. ROBERTS:** I seek leave to make a brief explanation before asking the Minister for the Arts a question on the South Australian Museum.

Leave granted.

**The Hon. R.R. ROBERTS:** On 12 July 1998 a large great white shark was caught off Port Pirie. It created a great deal of media attention and it was determined that every effort would be made by the tourism and arts centre at Port Pirie to have the shark mounted so that it could become a tourism display at that centre. I know that the minister has some affection for that venue because she and I have met there on a number of occasions. The sum of $7 000 has been raised from community donations and there has been an $8 000 contribution by the Port Pirie and Districts Council to have the shark turned into a fibreglass model. An agreement was made with the South Australian Museum, and I do have a name and a number of phone contacts that I am happy to give the minister. One is 8207 7437 or 8207 7500. The minister can pick them up in the *Hansard*.

*Members interjecting:*

**The Hon. R.R. ROBERTS:** There is a good reason for giving them out, because numerous phone calls have always failed. We can get an answering machine but the minister in her exalted capacity might be able to get through. The model was supposed to have been made and delivered by November 2000. I understand that the museum was closed for renovations for 18 months and continued negotiations have been conducted with the manager for tourism in Port Pirie. Those

phone calls recently stopped and, as I said earlier, they can only get the answering machine. Frustration has developed further to the point where a delegation was sent to the museum, I believe last week, but unfortunately the delegation was locked out of the museum.

**The Hon. Diana Laidlaw:** Locked out?

**The Hon. R.R. ROBERTS:** They were not able to access the area of the museum to where the shark was spirited. On behalf of the Port Pirie council and the regional tourism board, I ask: will the minister investigate the activities at the museum with respect to the Spencer Gulf shark and report back as quickly as possible so that the moneys that have been so generously donated by the community at Port Pirie can be either wisely spent or given back?

**The Hon. DIANA LAIDLAW (Minister for the Arts):** I respect the fact that the honourable member says that local funds have been raised for the display of this shark. I do not know of any contractual issues or understandings reached in earlier times between the museum and the local community. However, I will follow up the issues that the honourable member has raised. I regret, however, that the honourable member has publicly inserted into *Hansard* phone numbers that he claims are to museum staff, and I wonder whether he has checked to see that they are for museum staff.

**The Hon. R.R. Roberts:** You ring them and you will get the answering machine.

**The Hon. DIANA LAIDLAW:** Have you checked yourself that they are actually public sector numbers?

*The Hon. R.R. Roberts interjecting:*

**The Hon. DIANA LAIDLAW:** They could have been given to me privately, but the decision has been made by the honourable member to put those numbers into *Hansard* publicly. Notwithstanding the exception I take to that course, I will certainly follow up the issues that the honourable member has raised. If he has information that he wants to give me that would help my inquiries, I would be pleased to receive that.

## GAMING MACHINES

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

1. How many officers of the Liquor and Gaming Commission are actively engaged on a weekly basis inspecting gaming machine venues in South Australia for compliance with the act, regulations and licensing conditions of those venues, and how much time is allocated for such inspections?

2. What records are kept by the commission's office of such inspections of gaming machine venues?

3. In the past 12 months, how many gaming machine venues have been inspected by officers of the commission and on how many occasions?

4. In the past 12 months, how many warnings and/or notices were issued against venues with respect to compliance with the Gaming Machines Act, including the conditions of their licences?

**The Hon. R.I. LUCAS (Treasurer):** I will refer those questions to my colleague in another place and bring back a reply.

## GREEN PHONE

**The Hon. A.J. REDFORD:** I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Regional Development, a question about Green Phone.

Leave granted.

**The Hon. A.J. REDFORD:** Recently there has been some publicity in the South-East announcing the establishment of an enterprise known as Green Phone, with the objective of providing cheaper phone calls to country south-east of South Australia and the western districts of Victoria, and also with a view to improving telecommunication service levels in that region. There has been some criticism of some aspects of the establishment of this business, first, in relation to the appropriateness of taxpayer funding and, secondly, as to the impact on local businesses as a result of this competition.

I do not wish to enter into that for the purposes of this question. Green Phone is essentially a creature of the South-East Economic Development Board and the South-East Local Government Association. In media reports in the South-East, some questions have been raised about its long-term future. I understand that Green Phone acquired an existing business known as South-East Online, and that they are taking up the service that that organisation offered.

I also understand that the general manager of Green Phone, Mr Tony Brown, is also a director of Net Tel Communications, an information technology company based in Mount Gambier. The business plan of Green Phone, it has been reported, has a suggested loss of $400 000 in the first year of its operation, and it will be, hopefully, profitable at some stage down the track.

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

**The Hon. A.J. REDFORD:** I don't know: that is one of my questions. I understand that some of the funding came from the commonwealth, some from the state and, I suspect, some from local government, but the commonwealth funding came from the program known as Networking the Nation. I understand that those funds are only available for projects that are competitively neutral. In light of that, my questions are:

1. How much money has been given by the South Australian state government towards this project? Is the government aware of how much the Victorian government has contributed and, if so, how much? Further, how much money has the federal government given towards this project?

2. What are the reporting mechanisms in so far as Green Phone is concerned and are regular financial reports made available, first, to the councils and council members in the South-East and, secondly, to the public at large?

3. Was the Minister for Local Government's approval sought for the establishment of this enterprise; if so, when, and were any conditions placed upon that approval?

4. Is the minister aware of the relationship between Green Phone and Net Tel Communications; and, if so, will the minister explain precisely what that relationship is?

5. Will the government confirm whether Green Phone purchased SE Online and, if so, for how much and on what basis?

6. Did the government in granting any funds to Green Phone conduct any studies on its impact on existing businesses and, in that respect, will the government assure us that the operations of Green Phone are competitively neutral?

**The Hon. K.T. GRIFFIN (Attorney-General):** The honourable member asks some very complex questions involving a number of different areas of responsibility within government. I will refer his questions to the appropriate ministers and bring back a reply. I am aware of the Green

Phone Inc issue. I was in the South-East a month or so ago when the matter was raised with me by several people, particularly in the context of the legal structure which is an association under the Associations Incorporation Act acting as trustee of, I think, a unit trust.

The question is whether it is actually carrying on business in a way that is appropriate for the structure under which it presently operates. I do not have any answers on that. I know that that issue is being examined and that, in due course, there will be some conclusion on the incorporation and business structure issues. As far as the other matters are concerned, I will see whether I can get some information and bring back answers for the honourable member.

## POLICE TRAINING

In reply to **Hon. IAN GILFILLAN** (25 October).

**The Hon. K.T. GRIFFIN:** The Minister for Police, Correctional Services and Emergency Services has been advised by the Commissioner of Police of the following information:

Constable training is a two-year process divided into two parts. The first part is a 26-week academy based training program. This is followed by the portion commonly referred to as 'The Probationary Period'. This 18-month period is workplace based and managed through supervision, a workbook, a mentor system and interface with LSA based training officers.

Police officers 'graduate' after 26 weeks on successful completion of the first part of the program. Graduation therefore is the 'rite of passage' to being sworn and appointed as a member of SAPOL.

New probationary constables (graduates) are sent to LSA's for an induction period of up to six weeks before they are programmed into driver training programs from which they emerge with urgent duty driving authorisation. The current induction period of SIX weeks is temporary due to various training demands including Incident Management and Operational Safety Training (IMOST) and the Premier's Task Force. After the January training course this period will reduce from six weeks to not longer than two weeks.

This is a superior system to the one it replaced where cadets were issued with a limited permit and later programmed for urgent duty driving instruction. Often the latter was delayed and not provided for a lengthy period.

No person graduates without firearms training and qualification up to IMOST (a cyclic qualification program in incident management and operational safety training including all aspects of firearms training). The only exceptions being people that are injured and cannot physically comply with the standards. These are managed by exception and number very few.

The four-day IMOST Course was introduced to SAPOL on 17 January 2000 as a result of the Operational Safety Training Review. All operational SAPOL sworn staff will undergo IMOST Course training in the 2 000 calendar year. IMOST Course training focuses on the variety of tactical options that are available to operational police to avoid confrontations and resolve conflict peacefully. The focus extends to risk assessment and planning approaches to incidents, together with the use of police equipment. Members are required to qualify each year in the use of firearms and other equipment issued to them when performing operational duties.

SAPOL general orders regarding operational safety training state:

> 'SAPOL is committed to ensuring members receive relevant and credible operational safety education and training that ensures safety for all is the highest priority.
>
> To perform duties which require operational equipment to be carried you must hold a current operational safety certification. Operational safety certification will only be obtained on successful completion of all components of the Incident Management and Operational Safety Training Course. It will remain valid for 12 months and during this time you must requalify.
>
> To requalify you must attend mandatory cyclic training (IMOST 2) and demonstrate competencies in all aspects. If you do not hold a current operational safety certification you may only carry operational equipment when authorised in writing by an Assistant Commissioner.'

The operational safety review introduced the formation of the operational safety portfolio chaired by an assistant commissioner. This panel monitors and continually assesses all aspects of operational safety and recommends improvement and changes to improve SAPOL's overall public safety strategies.

The 1999 report of which former Supreme Court judge, Mr Derek Bollen was a member, made a recommendation regarding monitoring and training in relation to legislative requirements and the theory and practical use of breath-testing equipment.

In February 2000 the police breath analysis training and monitoring systems where enhanced. This enhancement included the training course being extended in length and the use of improved written and practical examinations. Qualified operators are subject to ongoing training and refresher sessions to ensure standards are maintained. This is supported by supervision in the field and the availability of Traffic Training staff.

## CREDIT CARDS

In reply to **Hon. NICK XENOPHON** (8 November).

**The Hon. K.T. GRIFFIN:** The Commissioner for Consumer Affairs has provided the following information:

Any trader or provider of goods and services who accepts the conditions of the payments systems arrangements can supply the consumer with goods and services, including cash, on presentation of the credit card and appropriate identification. The credit provider then honours the transaction between the consumer and the third party supplier. The contract for the supply of credit and any payment for the provision of that credit remains between the consumer and the credit provider.

Under the Consumer Credit Code, which is a schedule to the Consumer Credit (South Australia) Act 1995, it is the responsibility of the credit provider to supply the consumer with a periodic statement of account. In my previous answer, I outlined the information that is required to be included in the statement in accordance with section 32 of the code. There is no requirement in the code for either the credit provider or a third party supplier of goods and services to provide a transaction slip for any transaction unless requested by the consumer. If a transaction slip is supplied, the information it contains should appear on the statement of account as specified in the code and there is no separate requirement for it to include information as to what the transaction was for.

Where a consumer uses a credit card at a supermarket, for example, a transaction slip is generated which details every item as a courtesy for the consumer and for the convenience of compiling statistics for the re-ordering of items for the supermarket. The information is supplied to the credit provider and appears on the statement of account for the consumer and includes the date of the transaction, the name of the supplier and the total amount of the transaction. If a consumer requests a cash advance as well, the total of the items including the cash advance is recorded as a single transaction.

Most businesses, traders and suppliers of goods and services provide a transaction slip as a courtesy and they must do so if requested by the consumer. A business that has the principal purpose of being a provider of food and beverages may, as a matter of courtesy, or for its own accounting purposes, state on the transaction slip that the transaction was for food and beverages, because that is their principal business.

In the absence of provisions such as those relating to statements of account, the law does not recognise misdescriptions in the form of inaccurate reporting of the terms of a contract. A transaction slip or receipt does not usually contain the full terms of a contract.

The law does recognise misrepresentations that occur before or during a transaction. A misreporting of a transaction after it has occurred is not actionable in the normal course of events, and neither should it be unless serious consumer detriment can be attributed to it.

Under the terms and conditions agreed to by a consumer for a contract for credit, the requirement to manage the credit limit remains with the consumer.

## METROPOLITAN FIRE SERVICE

**The Hon. IAN GILFILLAN:** I seek leave to make a brief explanation before asking the Attorney a question about the Auditor-General's Report on the South Australian Metropolitan Fire Service.

Leave granted.

**The Hon. IAN GILFILLAN:** The Auditor-General's Report states:

Last year's general purpose financial report included a note disclosure regarding an after balance date event relating to an agreement that the State Supply Board had signed with Lowes Industries (North Island) Limited for the supply of 16 fire appliances to the SAMFS at a cost of $5.5 million. It was reported that Lowes had appointed a liquidator for the purposes of winding up the affairs of the company and distributing the company's assets. At the time the SAMFS had a financial exposure to Lowes through non-completion of the contract. . . The SAMFS received delivery of four fire appliances in February 1999 with a further two fire appliances delivered in June 1999. The total payment made to Lowes was approximately $4 million.

The SAMFS ordered 16 fire appliances, received six, but had paid $4 million. I ask the Attorney:

1. What, if any, Metropolitan Fire Service personnel travelled to New Zealand to visit Lowes? If so, who went, how many, at what cost, who paid, and when did they travel?

2. In relation to the financial consequences, what justification was there for the advance payment of $4 million, which is three-quarters of the total indebtedness to Lowes Industries, when only six of the 16 fire appliances were supplied?

3. Was any security or guarantee received to cover the advance payment? If not, why not?

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

## BUILDING INSPECTIONS

**The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning):** I seek leave to provide an answer to a question that was asked by the Hon. Terry Cameron during the debate on the Development (System Improvement Program) Amendment Bill.

Leave granted.

**The Hon. DIANA LAIDLAW:** On Tuesday evening when debating the Development (System Improvement Program) Amendment Bill the Hon. Terry Cameron asked a question about building inspections and fees. I am advised that the Local Government Association, on behalf of councils generally, has made an application to Planning SA for an increase in the lodgment fee—not the inspection fee—from $27 to a flat fee of $65, which would be an increase of $38, to compensate councils for expenses associated with the inspections function.

Application fees for projects of less than $5 000 will not incur this increase, if it is in fact approved by the government. I have asked for some work to be undertaken on the application by the LGA. I have been advised that the fee proposed by the Local Government Association—a flat fee of $65 for projects over $5 000—is considerably less than similar charges incurred in other states and territories for such a lodgment fee. I advise the honourable member that no increase in the fee, let alone the increase sought, has been advanced by the government or approved.

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## EDUCATION (COUNCILS AND CHARGES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 28 November. Page 626.)

**The Hon. CAROLINE SCHAEFER:** Members of the Council may recall that last year and earlier this year I chaired a committee that looked into changing the system of governance for schools with a view to rewriting the Education Act or drafting a new one. Some of the issues arising from that consultation process are addressed in this bill.

The purpose of this bill, in part, is to provide a system of governance for schools. About 60 per cent of government schools and pre-schools have already taken up local management and the bill gives the school council some power of governance. It provides for increased responsibility in strategic planning and allocation of resources. The schools will be in charge of their own finances to a greater degree than at present, and there is provisions for accountability to the local community. Partnerships 21, which is what we are talking about, is still a voluntary process in South Australia and, therefore, schools that are not part of Partnerships 21 would retain their current method of governance, that is, via a school council which has an advisory role only but no actual power.

There would be three types of governance: a school council; a governing council; and parents and friends, who would retain their current role which, I understand, is an advisory role with a representative on the school council, on either scheme. This bill will give more ownership to parents. It is some time since I was involved with a school council or a parents and friends group. However, I do remember it being the constant bane of my life, when I was part of a school community and when parents were asked to make suggestions, that on many occasions their decisions were overridden by the school principal of the day. This bill will cover meeting procedures, membership and so on, consistent with the situation of virtually any incorporated body. Transition arrangements are included, and they would support councils in terms of changes to a constitution.

The form of constitutions is established under section 84. I understand that there would be assistance and there are three options regarding constitutions that may be adopted by the school councils that head down this path. They would also have the opportunity to apply to the minister for exemptions or additions to their constitution. The bill does not allow for the presiding member of a governing council to be an employee of a school or the department and it provides that there will be a majority of parents on the school council.

There is a range of provisions, including immunity from conflict of interest, regarding members of governing councils. Affiliated committees, as I have said, such as parents and friends groups will continue to be established by the minister as committees affiliated with the school councils.

I commend the bill because, as I have said, I believe that for some time we have been moving down the path of allowing parents to have a greater say in the education of their children and the governance of their schools. My experience, of course, is with schools outside the metropolitan area. A great amount of time, effort and voluntary labour is put into schools, and I am sure it is no different in city areas. This bill provides for parents to have some say in the governance of the school.

The second part of the bill allows for a materials and services charge and, obviously, there will be some philosophical differences between members on this side of the chamber and the opposition as to whether or not there should be compulsory fees. I hark back even longer to the very brief time that I actually went to a school, because I did distance education for the greater part of my schooling. In the brief

time that I went to a school, I remember my parents having to pay a goods and services charge, if you like. I remember that we had to pay for books and textbooks, so I cannot see that there has been a great change.

The bill sets down a maximum compulsory charge of $161 for primary school students and $215 for secondary school students. It also makes this much more transparent. I have seen a pro forma of the invoice that would be sent out to parents. It makes absolutely transparent those goods which are part of a compulsory charge and those which are voluntary. Obviously the compulsory charge on goods is not subject to GST, but those goods which are optional are subject to GST. For example, it might be necessary for a child to have a calculator, but that would be an optional component of the charges because a calculator of sufficient quality may well be able to be bought elsewhere at the local department store. If that was the case and it was purchased at a department store, it would be subject to GST. Equally, it would be subject to GST if it was charged through the school system.

However, part of the bill is that parents would be invoiced and it would be very clear as to what they were paying for, what was compulsory and what was not. There is, of course, provision for additional fees. I have seen a list of the schools which have the highest school fees and, far from being those in the lower socio-economic areas, they are in what one would consider to be relatively high income areas. I suppose in those cases the parents opt to pay a higher school fee—possibly because they are both working, or for whatever—so they do not have to do as much voluntary work. That is my assessment of what is happening rather than any proof I can point to.

School Card holders are exempt, under this bill, from the payment of the charge, and the principal has the authority to waive, reduce or arrange for payment of the charge by instalment from parents. A student cannot be refused materials or services by reason of non-payment, and charges for overseas and interstate students are brought into the legislation from the Education Fees Regulation Act. Voluntary charges, as I have said, are retained.

As an aside, I did ask what the additional cost to the state would be if we had no compulsory charges at schools. It would be an additional $20 million to the state per annum. There is no charge for preschools, and staff salaries, buildings and facilities may not be used to fund capital works. The compulsory school charge is to be purely for equipment for students. Eighty per cent of schools, as I understand it, charge less than the maximum fee now, and it is anticipated that that will continue.

Again, I realise that there will be some philosophical differences between those of us on this side of the chamber and those on the other side, but I think we need to move forward. We are moving into an area of self-governance with regulations which will protect students but which will give parents and those most interested in their schools some real say in their running at a local level. I commend the bill to the Council.

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

## NARACOORTE CAVES

Adjourned debate on motion of Hon. Diana Laidlaw:

That this Council requests His Excellency the Governor to make a proclamation under section 29(3) and section 28(1) of the National Parks and Wildlife Act 1972 abolishing the Naracoorte Caves Conservation Park and constituting the land formerly comprising that park (except for four small parcels that have negligible value) as a national park with the name Naracoorte Caves National Park.

(Continued from 29 November. Page 687.)

**The Hon. R.K. SNEATH:** The area surrounding the Naracoorte Caves is where I have spent most of my life. A couple of issues that the Hon. Mike Elliott raised in his contribution last night concern me as well. I am seeking to obtain further information from the minister. I understand that the type of vegetation that is found in the Naracoorte Caves Conservation Park is fairly limited. It is not dense scrub, and we are talking about probably 100 acres at the most, if that. The minister may be able to indicate the extent of the area and the type of vegetation found there. I understand it to be sandy loam country of small hills that is not densely scrubbed, surrounded by pine plantations on one side with normal stock grazing country on the other sides.

*The Hon. Diana Laidlaw interjecting:*

**The Hon. R.K. SNEATH:** This is the area that will be included. I am talking about the current conservation park. Like the Hon. Mike Elliott, I would like a description of the areas that are not to be included: what do they consist of and what sort of country is it? The Naracoorte Caves is a tourist area of the South-East that has gone from strength to strength over the last 10 to 20 years. Many major improvements have been undertaken, to the credit of those involved, and the area turns over an enormous amount of tourism because of the caves. They are probably high on the list of best caves in the world. I support the motion, but those couple of issues concern me.

**The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning):** I thank all honourable members who have spoken to this motion and thank them for their support generally.

*The Hon. M.J. Elliott interjecting:*

**The Hon. DIANA LAIDLAW:** I just said 'generally'. A number of questions have been asked by the Hon. Mike Elliott, and similar questions were asked by the Hon. Bob Sneath. The Hon. Mr Elliott asked, 'What assessment has been made on the level of visitation that is sustainable for the Naracoorte Caves in the long term?' I advise that in regard to visitation, the caves are managed according to a national classification system to ensure appropriate use and protection, and those categories include public access caves, special purpose caves—reference caves, special natural and/or cultural value caves and dangerous caves—and wild and unclassified caves.

I am advised that general public access is permitted only in show caves and adventure caves, and access to others is generally restricted to scientific research and exploration. Show caves have hardened walking paths, barriers to protect cave features, staged lighting to minimise light exposure and trained guides to manage groups of visitors. The main threat is people wandering off and breaking or walking over features. I should add that, having recently visited the caves, I found that the caves I entered were in the category of show caves and every one of those features was in evidence. Nobody wandered off the path and there was no breaking of or walking over features.

As with other popular sites, such as Seal Bay, limits are set on the maximum number of people participating in guided tours to ensure an enjoyable experience, so each group is

managed and the whole exercise is manageable. Sustainability is therefore based on sizes of tour groups rather than the total level of visitation. A further question related to the area of remnant vegetation across the whole of the South-East, and I am advised that about 270 000 hectares or 13 per cent of native vegetation remains in the South-East.

Another question related to the type of vegetation that is found within the Naracoorte Caves Conservation Park, and how much of that is still remnant in the South-East. I am advised that the main vegetation associations found in the Naracoorte Caves Conservation Park are a *Eucalyptus camaldulensis* woodland (16 742 hectares or 9.7 per cent remaining in the South-East), and a *Eucalyptus arenacea/ baxteri* woodland (73 485 hectares or 19.1 per cent remaining in the South-East).

Both the Hon. Mr Elliott and the Hon. Bob Sneath asked whether the existing four small parcels had been identified because of negligible ecological or financial value, and I was asked further whether the government had had any biological reports prepared to make the case that this land was of negligible value. My advice is that the four small parcels of land, less than 4.5 hectares, to be excised have negligible ecological value. The parcels have undergone a biodiversity assessment. They comprise land that had been cleared and cultivated, and they do not contain native vegetation of any consequence.

Allotment 1 in DP 48334, the size of which is 1.48 hectares, contains a departmental dwelling on a rural living site that has been developed as a 'parkland garden' setting of mown lawns and planted local and non-local native species. The site was formerly perpetual lease and extensively cleared. The presence of threatened plants and animals was not detected at the site during the biodiversity assessment. The second allotment is section 358 of the hundred of Robertson. The size is 1.85 hectares and comprises a disused quarry, introduced grasses, exotic trees (poplars) and several native woodland species, including blue and red gum in a 'sparse' parkland setting. Exclusion of this parcel would not threaten the minimal conservation value of the land. The presence of threatened species and animals was not detected at this site.

Section 396 has been fenced out of the park for a long period of time and has been cultivated. The northern portion of section 396 in the hundred of Joanna is 5 278 square metres. This area of land has been cultivated as part of a neighbouring farm for many years and contains introduced pastures. It has no biodiversity value. The presence of threatened plants and animals was not detected at this site, and the exclusion of this parcel would not threaten any biological values.

The southern portion of the section to which I was just referring—section 396 in the hundred of Joanna—has a size of 5 116 square metres. It comprises a sparse, low woodland environment of predominantly planted local and non-local native species in the context of a private front garden forming part of the living area to an adjoining landholder. The presence of—

*The Hon. M.J. Elliott interjecting:*

**The Hon. DIANA LAIDLAW:** It may have been a longstanding arrangement. The presence of threatened plants and animals was not detected at the site. Exclusion of these four parcels would not threaten any biological values or any remnant native vegetation which would, in any case, be adequately protected under the provisions of the Native Vegetation Act 1991. I also ask that it be noted that a schedule is attached to the motion which identifies the land to be included in the Naracoorte Caves National Park. This land covers 2 500 square metres and contains native vegetation of conservation significance.

The Hon. Bob Sneath asked about the native vegetation in the park area and also questioned whether it was sandy loam. I have just made a phone call to the minister. I cannot get that answer on the spot, but I undertake to the honourable member that either by the end of today or within the next few days we will provide that answer personally, and I hope that will be a satisfactory arrangement.

The Hon. Michael Elliott asked a final question relating to significant vegetation and, if it existed, whether it would support all animal populations and species dependent upon it if protected. I am advised that, whilst the native vegetation in the park has been modified by previous land uses, it is considered that the Naracoorte Caves Conservation Park (approximately 600 hectares) protects adequate native vegetation associations for the survival of wildlife that occurs there. For example, a population of the yellow-footed Antechinus thrives in the park. Bat Cave is a maternity site and significant for the conservation of the bent-winged bat. My notes state that no visitation to the cave is allowed, and that was certainly my experience when I visited the area: we went to an interpretive area adjacent to the cave, but certainly not into the cave.

**The Hon. M.J. Elliott:** You said there was a schedule, but no-one seems to have seen it.

**The Hon. DIANA LAIDLAW:** The Hon. Mike Elliott has alerted me to the fact that the statement I just provided highlighted that there was a schedule to the motion. I do not have the schedule which I have been advised is attached to the motion. I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

## SOUTH AUSTRALIAN PORTS (DISPOSAL OF MARITIME ASSETS) BILL

In committee.

(Continued from 29 November. Page 699.)

Clause 12.

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

Page 9, after line 32—Insert:

(e) making provision of up to $100 million for the State's superannuation liabilities.

I outlined the government's broad intentions in debate on clause 1 of the bill. This amendment seeks to implement the government's publicly announced position in relation to the state salinity strategy. I will not take up the time of the committee by outlining the importance to South Australia of the state salinity strategy; I am sure all members would take as read that we would want a salinity strategy to be implemented.

However, the key question is how it is to be funded. As I indicated yesterday, over the seven years there is no forward estimate allocation for the almost $100 million that will be required for the salinity strategy, and the state will have to find the money over that period to indicate to the commonwealth and to the other states that South Australia is fair dinkum about undertaking its responsibilities under the national salinity program that has been agreed by the Council of Australian Government leaders. I think that is important.

The other issue that I need to point out, as I indicated yesterday, is that at this stage we are not aware of the required flow of the funds to the strategy, that is, we know that the quantum is just under $100 million but negotiations are to be conducted over the coming weeks between commonwealth officers and other representatives of the states to decide what the allocations for each year will be in that seven-year plan. As I said, my understanding is that it is possible in some of those years that the allocation might have to be as high as $20 million to $25 million. If that is the case, in some of the other years there will be a much smaller quantum. It might be on average that the number over seven years will be about $14 million to $15 million a year, but at this stage that has not been decided and it may well be that it will not be a regular amount and that it will be somewhat higher in some years and lower in other years.

I will outline the reasons for using the procedure of state superannuation. The first one is that up to $100 million of the proceeds from the Ports Corporation sale, if they are received in this financial year, would be deposited as an up-front payment against unfunded superannuation liabilities. Those liabilities are some $3.5 billion. We have a 40-year program, approximately, to repay those unfunded superannuation liabilities and, on an annual basis, we make payments against that unfunded superannuation liability. As members know, the Auditor-General has conceded that the amount of unfunded superannuation has changed towards the end of each financial year.

While previous governments use contributions from SAFA as balancing items in the budget, this government, with the acknowledgment of the Auditor-General, has used the unfunded superannuation payments as the balancing item in terms of bringing down the bottom line results of the budget. It is fair to say that the Auditor-General has commented on the use of unfunded superannuation and he has not criticised the use of unfunded superannuation as the modern-day equivalent of the balancing item that governments use for their budgets, much the same as the previous government used contributions from SAFA to balance the budget.

The first part of this explanation is that up to $100 million is paid into unfunded superannuation. Then, for each of the next seven years of the salinity program, there is a budgeted forward estimates amount for superannuation which gets paid out of the budget into unfunded superannuation. In each of those years, that level of payment, which might have been $50 million or $100 million, will be reduced in each of those years by, say, an average of $14 million or $15 million, and that payment would then be paid into the unfunded superannuation.

Over the seven years there will be a reduction on average of $14 million or $15 million a year. Over those seven years, $100 million less would have been paid into unfunded superannuation so, at the end of the seven years, the unfunded superannuation repayment program will be entirely neutral because it got a surplus payment of $100 million in the first year and then for the next seven years reduced payments of $100 million, so at the end of the seven years those two items balance out and the repayment program for unfunded superannuation is unaffected by the series of transactions that occur over the seven-year period. Therefore in relation to the unfunded superannuation 40-year repayment program, at the end of the seven years, on the basis of this series of transactions, it will be in exactly the same position.

In relation to the state budget position, the reduction in the $15 million of superannuation repayment in each of the years on average will then be replaced by an equal expenditure item towards the state salinity strategy. If for each of those years we had a balanced budget, we would have reduced our expenditure by $15 million for unfunded superannuation, but we would then replace that expenditure by a $15 million expenditure on average on salinity. If there is a balanced budget, the position will remain that the budget stays in exactly the same position, that is, it is a balanced budget. It does not make the budget look better. It was suggested in another place that this makes the budget look better. It does not make the budget look better; it leaves it in the same place.

If we have a balanced budget in a particular year, if we pay $15 million less in unfunded superannuation and we spend that money on salinity, we are left in exactly the same balanced budget position. This procedure does not in any way impact in itself on the bottom line of the state budget. It leaves it in exactly the position it would have been prior to the processes and the changes.

The reason that we are using superannuation is that, if we do it in another way, when we receive the first $100 million it does not go to the budget bottom line. If we have a balanced budget and get $100 million, we would not have a $100 million surplus. It is treated as an abnormal so we are left with a balanced budget. If we put that $100 million into a salinity fund account, and it is only to be spent on salinity, in the year when the $100 million comes in, and the budget is balanced, it does not become a $100 million surplus because it is treated as an abnormal and it stays as a balanced budget item.

If we put it aside and in the remaining seven years we spend $15 million a year out of the salinity account that we have established, for each of those years, because of accounting principles, if we have a balanced budget and we spend $15 million, we then have a $15 million deficit in each of those years. If we spend $25 million in one year, we have a $25 million deficit in that year. As I said yesterday, whilst it is the correct interpretation of the accounting principles, we believe it is not a fair treatment of the moneys that are coming in from the Ports Corporation proceeds and are designated for the salinity strategy.

After seven years, the procedure that we have adopted will leave the repayment schedule for unfunded superannuation the same and will leave the budget position for each of those seven years exactly the same as a result of these transactions. It might change as a result of other things that we do but, as a result of these transactions, it leaves it in the same position.

I am sorry for the time taken in outlining that, but that is the advice that has been provided to me by Treasury officers in relation to the way accounting principles in the budget items will be treated in the various options we have in the transaction. I urge members to give sympathetic consideration to the amendment.

**The Hon. P. HOLLOWAY:** The opposition will be strenuously opposing this amendment. What we have seen here really is little more than an accounting rort. It has certainly given us a very revealing insight into the Olsen government's budgetary process. It should be no surprise to us that it has have come up with this sort of concoction—

*The Hon. M.J. Elliott interjecting:*

**The Hon. P. HOLLOWAY:** That is right. It should not really—

*The Hon. L.H. Davis interjecting:*

**The CHAIRMAN:** Order, the Hon. Mr Davis! Everyone has a chance to have their say. We are in committee.

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

**The Hon. P. HOLLOWAY:** If the Hon. Terry Cameron is referring to himself, he actually resigned, I believe.

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

**The CHAIRMAN:** Order, the Hon. Terry Cameron!

**The Hon. P. HOLLOWAY:** You were saying that people were expelled for different things. My understanding is that no-one has been expelled. But I am not going to be diverted into those things, even though I am sure—

*The Hon. L.H. Davis interjecting:*

**The Hon. P. HOLLOWAY:** We are discussing a particular amendment here. I heard the Treasurer in silence.

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

**The Hon. P. HOLLOWAY:** If you will give me a chance, then maybe I will be able to enlighten you.

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

**The Hon. P. HOLLOWAY:** That's fine. I do have to leave at 5 o'clock and, if it takes me till then to do it, I am happy to do so, so please feel free to interject. The point that needs to be made here is that we are selling an asset which is profitable, which has consistently returned an income to this state. This asset that we are selling has in the past year returned over $5 million in dividends, over $5 million in tax equivalent payments, and paid several million dollars in interest, so its contribution to the budget in that sense has been $12 million.

What we are doing is selling an asset that has produced about $12 million as a contribution to the state budget. So $12 million is the loss of income that the state will suffer as a result of this sale, and that is income that will be denied to the state forever. If we are talking about the Murray River here, let us get into this debate.

The Treasurer tells us that roughly $14 million for seven years is what we need to contribute to the Murray River. Ports Corp in its last budget has contributed $12 million, effectively, to the budget, and that is what it will contribute into the future. But in seven years, once it is sold, it will contribute zero: its contribution will be nought. What the Treasurer is saying is, 'Okay: let's take $100 million from the sale, put it up front, put it into this accounting artifice,' which is totally consistent with the Olsen government's budget practice.

This is what the government has been doing for years in relation to the moneys received from the bad bank, the $200 million or $300 million that this government is holding back from the Asset Management Corporation for an election. It did the same thing last year with the proceeds from the Casino sale. That is why no-one should be surprised that the government should come up with such an accounting artifice to deal with this problem, because that is what it has been doing in its last few budgets.

It has been getting a nominal balanced budget, $1 million surplus out of the $6 billion or $7 billion budget it comes up with each year. How does it do it? It gets all these off-balance sheet items such as the sale of the Casino, dividends from the Asset Management Corporation, and so on. That is the only way that it is getting this budget balance. Of course, one of the contributions is the $200 million from poker machines that this government received as a legacy after the change of government at the election. That is the current value of the poker machine revenue today. What would the budget be like without that?

The Hon. Legh Davis loves to reinvent history; he lives in the past. He is always dredging up events of the past, I guess because he is 15 years out of date, a bit like his dress. He likes to live in the past and that is why it is not surprising that he always wants to go back to events 10 or 15 years ago. Perhaps because that event happened in 1994, only six years ago, it will take him a while to catch up with the fact that this government gets $200 million in current value as a contribution from the poker machines—which the Premier of this state opposes and is trying to reverse at this very moment.

So much for the Hon. Legh Davis's interjection. What this amendment is all about is that the government is trying to get some accounting concoction so that it can, somehow or other, spend the money on the Murray River but not make it look as though it is increasing the deficit. If the government used this money that it receives from the ports sale to pay off debt, which is what the existing clause of the bill requires it to do, then as a result of that $100 million the state would save something like $7 million a year in interest.

Of course, the problem is that the ports, as I said, paid something like $12 million in the past financial year as a contribution to the budget. What we can guarantee is that, after it is sold, the contribution will be nought. In fact, it will be worse than that: we will be actually paying for the ports. As we have already seen, part of the sale proceeds have to go into developing the ports. We are not only privatising these ports, not only losing control of them, but we then have to go and pay for them to be developed! It is just like Adelaide Airport. We have privatised Adelaide Airport and now state taxpayers are having to dig into their pockets to support development at the airport.

*Members interjecting:*

**The CHAIRMAN:** Order!

*The Hon. L.H. Davis interjecting:*

**The CHAIRMAN:** Order, the Hon. Mr Davis!

**The Hon. P. HOLLOWAY:** Yes, they did.

*The Hon. L.H. Davis interjecting:*

**The CHAIRMAN:** Order! I warn the Hon. Mr Davis.

**The Hon. P. HOLLOWAY:** The Hon. Legh Davis has just discovered that a federal labor government privatised the airports! It is true.

*Members interjecting:*

**The CHAIRMAN:** Order! I have asked for order four times.

**The Hon. P. HOLLOWAY:** What I am saying is that state taxpayers are now subsidising that airport operator to get development. This argument that privatisation somehow or other removes the need for the states to inject finance is just nonsense. It was nonsense with the airport and is already nonsense with the ports, because we will need to put at least $30 million into developing them anyway, but the argument that this government keeps putting is that we have to sell the ports so the new owners will develop them, they will provide the money.

But they do not—and why should they? I again make the point that the ports have always contributed to the budget of this state. They have always provided finance for budget purposes. If we keep the ports in state hands, then that dividend flow will be available to the government to spend in other areas of the budget. However, if it is sold, then of course there will be no contribution. What we are going to get in future budgets—although this government will not be around to pay the price—is a deficit in the forward estimates of this state.

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

**The Hon. P. HOLLOWAY:** Is the Treasurer saying that the forward estimates of this state do not include contributions from Ports Corp? As I read those budget papers, they say that they are exclusive of asset sales.

*Members interjecting:*

**The Hon. P. HOLLOWAY:** Well, I'm sorry.

*The Hon. L.H. Davis interjecting:*

**The Hon. P. HOLLOWAY:** Let me tell Legh Davis, because he obviously does not understand.

*An honourable member interjecting:*

**The Hon. P. HOLLOWAY:** Well, perhaps I could give him a lecture on it, because I think he is the one who needs it. The facts are—

*An honourable member interjecting:*

**The Hon. P. HOLLOWAY:** I will certainly be happy to put my academic record on this subject against his. The budget forward estimates of this state, as they are prepared, are based on tables that exclude asset sales. The forward estimates for revenue of this state include dividends from government enterprises. If the Treasurer wants to deny that, let him get up and say so, but I do not believe he will. If we sell these assets, our future revenue will be less, because we will no longer be getting the contribution from those government owned enterprises. However, if we do not pay it off debt, we will not offset the loss of dividends and tax equivalent payments and internal interest funding by a reduction in interest on overall state debt.

If, as a result of this sale, this money goes to other purposes, not only will we lose that dividend stream in the future so that our future estimated earnings will be down but at the same time we will get no benefit. They will not be offset by a reduction in interest, because, instead, the money will go into this fund for the Murray River. I guess that some way or another the government will have to fund the Murray River strategy in which it wishes to be involved. I guess that it will have to come out of the budget somewhere.

**The Hon. L.H. Davis:** Are you quite sure about that, Paul? That's a big step.

**The Hon. P. HOLLOWAY:** And it is likely, Legh Davis, that we will have to pay for the Alice to Darwin rail line. Is that in the forward estimates? Perhaps the Treasurer might care to say, since his colleagues want to widen the debate, whether the $150 million that we are going to spend on the Alice to Darwin rail link is fully accounted for in the forward estimates for expenditure in his budget? I would like an answer to that, because—

**The Hon. L.H. Davis:** Gosh.

**The Hon. P. HOLLOWAY:** Legh Davis will want to hide that, of course. This is the most secretive government in history.

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

**The Hon. P. HOLLOWAY:** Yes, but we did not get any answers for it though. Of course Legh Davis would want to keep it secret, because this is the most secretive government in the country. This is the secret state: the government would not want basic facts such as that known.

Let us return to the issue. If we are to fund the Murray River, the money for that will have to be found from somewhere in the budget. If the sale proceeds go off debt and, therefore, we have an offsetting interest saving and the government wishes to spend this $100 million out of its budget somewhere else, it has to go through the budgetary process of looking at spending priorities, and this expenditure has to compete with all the other projects of government. That is the way it ought to be. That is how you get fiscal discipline—something, of course, that Legh Davis would know so little about.

All projects should have to compete through the budget process, but what has been done here is that this whole process has been circumvented and we will lose in perpetuity the future dividends stream from the ports. Instead, the money will go out in some other way without having to go through the budget test, with that expenditure being tested against alternative uses for it. That is fiscally imprudent. For that reason the opposition strongly opposes this particular amendment.

There are a couple of other points that came out of the Treasurer's comments to which I wish to refer. The Treasurer accused the previous government of using balancing items in SAFA. I make the point that, from the budget results that this government put out several days ago, I note that between the budget when it came out in May this year and the end of the financial year the state's net debt has deteriorated to the tune of $130 million. So, the state debt has worsened by $130 million over just a month and a half—I refer to page 7 of the statement—largely because SAFA's book losses were greater than those factored into the 1999-2000 estimated result. I did not have an opportunity during question time because of so many other issues to ask the Treasurer about that, but I would be interested to know why our net debt position deteriorated by $135 million in just a month and a half. Could it be, as we are talking about balancing items in SAFA, that there is a little bit of that sort of activity going on there? It would be interesting to hear the Treasurer's answer.

In his justification of this clause, the Treasurer said that this measure that he is proposing does not make the budget look better. That completely ignores the fact that, as a result of the ports sale, we will be losing the dividend stream. The future income stream from the ports sale will be lost—gone forever. We are selling an asset, denying ourselves a future dividend stream, and the money is going out the back door through what is a bit of accounting trickery?

That is enough comment at this stage of the debate, but again I indicate that the opposition will strenuously oppose what is bad financial practice. What we will have to consider in the future is what happens the next time we get involved in some financial arrangement with the commonwealth and need to find a lazy $100 million? How will we fund that? That is a problem that this state will face in the future, because how convenient—

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

**The Hon. P. HOLLOWAY:** That is right. There is no way of funding it—that is the whole point. There will be nothing left to sell. Very conveniently for this government, it just happens to have an asset sale. It desperately wants to avoid fiscal responsibility. It wants to use the proceeds to prop itself up just before the next election. It does not want to have to reveal the true financial position. It wants to find $100 million that it can spend on this, so that it can push the money out into other political areas. In other words, it wants to be fiscally irresponsible. That is what this government is all about.

It was very convenient for the government on this occasion. There happened to be asset sale proceeds. I guess that we will test it when we divide on this clause, but perhaps the government can get the numbers to get it out of this one. Even though all future governments in this state will be worse off because of the loss of this dividend stream, this government will get out of a short-term hole. What happens in the future when this happens again and we have to find this lazy $100 million to spend on whatever project, if this government stays in power—and God help us if that should happen. The next time it wants a project, what are we going to sell? The problem is that we are running out of assets.

**The Hon. M.J. ELLIOTT:** In my contribution, I will not reflect upon the merits of the sale of the Ports Corp or otherwise because the lead speaker for the Democrats in relation to this bill is the Hon. Sandra Kanck. What I will do is address the specific issues that are raised in the amendment to clause 12. The government has essentially admitted that what it is putting into this legislation is a contrivance. It uses the word 'mechanism' because it sounds better than 'contrivance'. However, it is a contrivance to play games with some bottom lines which appear on some pieces of paper but which do not actually alter the true bottom line situation. Basically, I think the Treasurer is trying to argue that the rating agencies are stupid, that the government can use contrivances and that they will not pick that up.

The government can even say to parliament that it can use a contrivance but, as long as they just take a quick look at the budget and it seems to look all right, then it will be fine. That is probably true of a lot of the ratings agencies because, unfortunately, they are pretty stupid. When you look at what has happened with the state's bottom line over the past seven years—the true bottom line as distinct from some of the other games that have been played around the term 'debt' and the way they have reacted with ratings—it just goes to show how stupid they are.

Let us take this $100 million, which would reflect nothing like any superannuation obligation that would have been with Ports Corp—and we will be keeping an obligation in relation to that, I am sure—and put it into a bank account earning interest at the relatively low rate of 6 per cent. The implication of that is that, of the annual $14 million that the Treasurer is talking about needing to spend, $6 million will come from interest and only $8 million will come from his $100 million capital.

The next year there is 6 per cent interest on the remaining $92 million, so approximately $5.5 million will be needed to top it up with $8.5 million of capital. Obviously, as you follow through, you get to the end of seven years and you never needed the $100 million—in fact, you needed $70 million or thereabouts—and the government has another $30 million slopping around. In other words, another little slush fund is being created.

**The Hon. T.G. Cameron:** In seven years?

**The Hon. M.J. ELLIOTT:** No, it's there now, because the government does not need it all—and it will never need it all because the fact is that $100 million is more than it needs to put aside.

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

**The Hon. M.J. ELLIOTT:** It has access to it any time any way.

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

**The Hon. M.J. ELLIOTT:** But the way the bill currently reads, it provides that it will be put against debt retirement. If you read the bill, at the moment it does not allow for it to be put into general revenue. I seem to recall that the Hon. Terry Cameron, in relation to the electricity sale, was insistent that it should be used for debt retirement.

**The Hon. T.G. Cameron:** That was about $8.5 billion. If you had been paying attention or understood, I asked the Treasurer a lot of questions about that. I am reasonably satisfied with where the debt is coming from.

**The Hon. M.J. ELLIOTT:** I'm glad you are.

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

**The Hon. M.J. ELLIOTT:** Just a second; let us keep this tumbling on. The point I am making is that, while the government may spend close to $100 million over seven years, if it put that amount away now there will still be $30 million of it left at the end of the seven years. It is also worth noting that I think the Treasurer is being a little disingenuous about accounting processes. The reason that abnormal is not counted is that abnormal is counted as a capital transfer correctly while interest on the abnormal is counted as a revenue inflow.

In other words, the interest on the bank account will be counted as revenue flow to offset against the spending of that interest. Using the $100 million to pay off debt reduces one outlay—annual interest—allowing another outlay—the salinity payments—to go up by the amount of interest saved, that is, about $6 million of the $14 million, without adding to our debt bottom line. Hence, the Treasurer really wants to use the rest of the interest saved from the Ports Corp proceeds to pay off debt for some purpose other than salinity.

The question I asked the Treasurer was, 'What is that other purpose?' I think it is also worth noting, in terms of looking prospectively, that we will be in net GST gain well before those seven years are up. In fact, it is looking quite likely that, within four years, the state will be making a net benefit and getting increased revenue streams on account of the GST. The evidence is clearly there that the flows are far greater than was first predicted. So far as there will be any difficulty, it will be the next two or three years in terms of finding money from the budget. It is a short-term problem not a long-term problem, yet the Treasurer is trying to set aside $100 million for the next seven years. I would argue that even if one could justify his argument of using a contrivance, which I am not convinced by—

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

**The Hon. M.J. ELLIOTT:** Well, let's call a spade a spade.

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

**The Hon. M.J. ELLIOTT:** Yes, a contrivance.

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

**The Hon. M.J. ELLIOTT:** You have to admit that the Treasurer has a habit of putting words in other people's mouths all the time.

**The Hon. T.G. Cameron:** And he's very bloody good at it.

**The Hon. M.J. ELLIOTT:** And he is very good at it.

**The Hon. T.G. Cameron:** It sounds like you're copying him.

**The Hon. M.J. ELLIOTT:** After spending 15 years listening to him do it one would be expected to do it, but the fact is that, calling a spade a spade, the mechanism is a contrivance. What I am saying is that even a contrivance is overkill because you do not need anything like $100 million put away now to pay the $100 million bill over the next seven years, first, because of the interest implications and, secondly, as I said, the budgetary situation should change dramatically in the next three or four years regardless of how hard the Liberals try to stuff it up.

**The Hon. T.G. CAMERON:** SA First supports the legislation, and I indicate that I support the amendment moved by the government. SA First does support upgrading the port. I would invite the Hon. Paul Holloway and any other Labor member of parliament to go down to the port and look at what has happened to it over the past 20 or 30 years. Port Adelaide is the home of Labor and it is literally dying on its feet.

The passage of the bill through the parliament will allow much needed development to upgrade the port, to upgrade the facilities at the port and to provide some deepening, and it

will give the port a new opportunity this century to perhaps get back to some of its former glory of the last century. The Hon. Paul Holloway says that this is a rort. That is a little rich coming from the Australian Labor Party at the moment, with some of the publicity that it is getting about rorts. I would have thought the Australian Labor Party, and particularly the local member, Kevin Foley, would be all in favour of upgrading the port.

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

**The Hon. T.G. CAMERON:** Let's just go back a step. So, everybody is agreed that we need to upgrade the port?

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

**The Hon. P. Holloway:** Or parts of it.

**The Hon. T.G. CAMERON:** So we have a slight difference: the Hon. Terry Roberts says 'yes' and the Hon. Paul Holloway says only parts of it. I will let them work out their differences later. There is no dispute that the port is in substantial need of redevelopment, and the package that has been put forward does allow essential upgrading of the port to take place. I made fleeting reference to it before, but does anybody in this chamber, particularly members of the Australian Labor Party and in particular the Hon. Bob Sneath, think for one moment that, if the Maritime Union was strongly opposed to the proposal, it would not be protesting? It is my understanding that all necessary transitional agreements have been worked out with the MUA and that it is happy with that. There is no doubt that the numbers are clearly here in this place to allow the passage of the bill. So the argument now boils down to—

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

**The Hon. T.G. CAMERON:** I will come to numbers in a moment. I do not want to hold up the committee. It was interesting to note that, whilst the Hon. Paul Holloway spoke for some length, he spoke about the bill and other matters rather than the amendment. What the government is proposing is eminently sensible. I think what it puts in place is an absolute ironclad guarantee that we will go ahead and deal with the salinity problem of the Murray River.

I do not think there is anyone in this chamber who would not agree that we urgently to deal with the salinity problem of the Murray River. As a potential minister for finance, the Hon. Paul Holloway would know only too well that South Australia cannot sit on its hands and not accept the federal government's package, which was negotiated largely as a result of initiatives undertaken by the South Australian government. I would have thought that members in this place would be clapping and cheering, particularly the Australian Democrats who, in my opinion, were the original leaders in drawing the attention of the public to the Murray River.

We have a situation with no answers provided and no solutions as to where this $98 million will come from to deal with the salinity problem. If anyone in this chamber thinks that the package being negotiated and the $98 million we are required to put forward will be the end of it they are sadly astray in their assessment of the condition of the Murray River. This is only one small step forward in restoring the Murray River to its former pristine condition.

While I congratulate the government for persuading the other states and the federal government to come up with this package, it is also appropriate to congratulate the Australian Democrats for their record over the years in relation to the Murray River. Whilst they might be an irritating nuisance at times, occasionally they do lead the way in reminding us all that there are certain things we cannot ignore—and the Murray River is one of them.

I am a little worried that, if this money does go to pay off debt (in reality, it will pay off debt, anyway—it will just sit in another account), where will we find the $98 million? Where will it come from? Surely the opponents of this amendment are not suggesting that we downgrade our hospitals or cut back funding to roads. Perhaps the Hon. Paul Holloway—

*The Hon. P. Holloway interjecting:*

**The Hon. T.G. CAMERON:** Perhaps the Hon. Paul Holloway would prefer we walked down the path of closing schools. Perhaps, as the minister for finance in a Labor government, he would seek to raise the money elsewhere. We know that the honourable member supported the emergency fire services levy. Would he bump that up, or adjust it, to find this $100 million? We have not heard a peep out of him. Perhaps the honourable member can put forward some suggestions as to where this money will come from: he has a degree in economics.

*The Hon. P. Holloway interjecting:*

**The Hon. T.G. CAMERON:** Well, you might be in government when we have to find the $100 million: we do not know.

**The Hon. P. Holloway:** Where is that going to come from?

**The Hon. T.G. CAMERON:** Well, you had better starting thinking about it then, hadn't you?

*The Hon. P. Holloway interjecting:*

**The Hon. T.G. CAMERON:** Let us deal with this $100 million first, shall we? We will come back to the railways at some future date. It seems that what the opponents of this proposal are saying is, 'Hang on a minute; we do support this $98 million going into rehabilitating the Murray River.' They quickly assume the populist ground in the debate. They say, 'We support that; that is not a problem. But we don't support providing the funding for it. We would rather pay the money off debt and come back next year and worry about where the $100 million will come from.' The Hon. Paul Holloway talked about mechanisms and contrivances—

**The Hon. T.G. Roberts:** I thought the commonwealth sold Telstra to fix the Murray River.

**The Hon. T.G. CAMERON:** I can recall attending a national Labor Party conference in Canberra where I almost got kicked out of the Centre Left for crossing the floor and voting with you lot. The reason you opposed those resolutions was on the basis that Beazley, who was the minister, and Keating were setting this up only so that the Australian Labor government could sell off Telstra. I supported you on that one.

**The Hon. T.G. Roberts:** Different argument.

*The Hon. P. Holloway interjecting:*

**The Hon. T.G. CAMERON:** Well, we lost. As I have said, I am often—

*An honourable member interjecting:*

**The Hon. T.G. CAMERON:** Well, I have voted with the Left only four times and I lost every bloody time. So I learnt my lesson. They seem to make a past-time of ending up on the losing side. If they think they might win, they change their position so that they can end up on the losing side. However, I do not want to be diverted. I was going to make only a brief contribution on this.

What the opposition to this amendment is about is paying all the proceeds from the Ports Corporation off debt. No-one has raised the subject of where the proceeds might go between this $100 million and the potential sale price, minus

what we have to spend on the upgrade. I thought that is what the argument would have been about but it has not been raised. So if $100 million is paid off debt, and we are currently paying about 6½ or 7 per cent interest, that would reduce our recurrent interest bill each year by that amount. What do you want the government to do? Do you want it to provide for this $100 million out of the budget? That seems to me a little bit like robbing Peter to pay Paul. This seems like an eminently sensible way of provisioning for one of the most important undertakings that this state will ever commit to, and that is the rehabilitation of the Murray River.

I do not have any problems at all in supporting this amendment. I think the Australian Labor Party opposition to it has more to do with the fact that it suspects that this will allow the government a little bit more flexibility in framing next year's budget and, 'Heavens above, we could not have that because that is a budget in the lead up to an election. So, let us play politics with the issue. Let us try to tie the government's hands and create an inflexible situation so that perhaps it will have to push up taxes or cut expenditure somewhere else.'

Whilst I will be supporting the bill, the same as the Australian Democrats, I would characterise my position as somewhat different. I am not absolutely opposed to the legislation, after looking at the package that has been put together. I held a public meeting down at Port Adelaide and I raised the subject of upgrading the port, and the one thing that the people who attended that meeting were in complete agreement with was that this would provide an opportunity for Port Adelaide to rehabilitate itself. This might just be the catalyst to kickstart a revitalisation of the entire Port Adelaide precinct.

*An honourable member interjecting:*

**The Hon. T.G. CAMERON:** Again, I invite the Hon. Paul Holloway to get in his car one weekend and go down there for a drive and have a look around, through the ports, through the warehouses, down through Outer Harbor, and so on.

I supported the second reading of this bill, along with the Hon. Trevor Crothers. The Hon. Trevor Crothers is unable to be here to vote on the passage of this bill today but he voted for the second reading. The Premier contacted me in relation to this proposal, to outline the details of it and he also contacted the Hon. Trevor Crothers in relation to the amendment that is before the committee. The Hon. Trevor Crothers confirmed with me on Monday or Tuesday when he was here that not only would he be supporting the passage of the legislation but that he would also support the passage of the amendment. However, I understand that the Australian Labor Party has refused a pair for the Hon. Trevor Crothers. We had an incident the other day where, despite a particular piece of legislation having the numbers to go through, the Australian Democrats refused to pair with him. It is my understanding—

*The Hon. M.J. Elliott interjecting:*

**The Hon. T.G. CAMERON:** At least there is some decency left in this place, as I understand that the Hon. Nick Xenophon will pair with the Hon. Trevor Crothers in the event that they are voting on opposite sides of a piece of legislation.

**The Hon. T.G. Roberts:** Your faith in human nature has been restored.

**The Hon. T.G. CAMERON:** Yes. The Hon. Terry Roberts interjects that my faith in human nature has been restored. He reminded me when he made that interjection that I have been a little remiss in not placing on the record my appreciation for the honourable and decent stand that the Hon. Nick Xenophon has taken in relation to the granting of pairs, and I commend him for that. SA First will be supporting this amendment.

**The Hon. NICK XENOPHON:** I oppose this amendment for a number of reasons. I endorse the thrust of the remarks of the Hon. Paul Holloway and the Hon. Mike Elliott in terms of their opposition to this clause. I have very grave reservations about the proceeds of an asset sale being used for anything other than debt reduction. There is no question on both sides of this chamber that the clean up of the Murray, the salinity issue, is important. It is an issue for which the Democrats have been fighting for a number of years, and the Premier has shown some considerable leadership on this in recent times, and he ought to be commended for that. But to tie in a salinity project using $100 million from an asset sale for this—in an unrelated piece of legislation—seems to me at least irresponsible and in some respects misleading. Some would say it is not a red herring but a red carp.

In the circumstances, I cannot support this amendment. There is a flip side to the coin of being debt free, that is, you are asset free and dividend free as well. Some would say that using the proceeds in this way in a sense is, at the very least, a clever accounting mechanism. But it goes against a principle that the Premier has previously espoused with respect to other asset sales—that it be used for the purpose of retiring a debt.

In relation to clause 12 generally, I have some questions to ask of the Treasurer in the event that I do not have an opportunity at a later stage to put these questions to him. With respect to clause 12(1)(c), which relates to improving services and facilities related to a port or infrastructure associated with a port, last night I expressed concern based on information I have received from two grain growers who have very real concerns about the Outer Harbor proposals being the worst option in terms of a deep sea port. They also expressed concern to me that, with respect to the Outer Harbor proposal, there will be a significant amount of road and rail infrastructure required, particularly rail, to get the grain to the Outer Harbor option in the first place.

My question to the Treasurer is: what studies, including any cost benefit analysis or feasibility study, have been carried out with respect to the cost of providing the necessary infrastructure to allow for grain to be sent to Outer Harbor, and what is the extent of the infrastructure required with respect to the Outer Harbor option?

**The Hon. R.I. LUCAS:** I thought we covered that last night. The amendment gave the breakdown of the infrastructure components, which added up to something like $34 million or $35 million.

*The Hon. Nick Xenophon interjecting:*

**The Hon. R.I. LUCAS:** No. Was there not rail related infrastructure of about $7 million which was leading into that? I think the honourable member asked during the second reading debate for breakdown information on that issue, which was provided. It is not just a deepening of the harbour: there is on-land infrastructure which connects into that.

*The Hon. Nick Xenophon interjecting:*

**The Hon. R.I. LUCAS:** If the honourable member has another look, I think he will find that it was $7 million for a rail loop and on-land related infrastructure leading into that area. I am not sure what other infrastructure the honourable member is taking about. I think the numbers were $19 million for deepening, widening or whatever it is they do, $8 million or so in relation to Wallaroo and Port Giles, and $7 million

for the on-land rail loop infrastructure leading into the terminal at Outer Harbor. The $7 million is for the rail loop in and around the Outer Harbor area.

**The Hon. NICK XENOPHON:** Just to follow up on that point of concern, are there any other costs that would be associated with it? As to the infrastructure costs in terms of the land component, can the Treasurer assure us it will not be beyond $7 million? Could any other costs be anticipated? The reason for asking that, even though it is an unrelated issue, is that a point was raised by the Hon. Mike Elliott with respect to Holdfast Shores, which was a case of a private development with a considerable amount of public infrastructure and ongoing public and taxpayer expenses essentially to prop up a private venture. That is another debate, but concern could be raised with respect to this proposal: will there be any ongoing expenses in terms of taxpayers' funds that will be committed essentially for a private operator in the context of the ongoing operation of Outer Harbor?

**The Hon. R.I. LUCAS:** Not being the minister responsible for the bill, I think the cautious, safest response is that the $34 million is the best estimate at this stage. The number might be higher: it might be lower. At this stage, we are not in a position obviously to do a final cost estimate as to what that number might happen to be, but I am told that the $7 million figure is not just in relation to a rail loop. It does include some current estimate of utilities costs to the edge of the private sector development.

I am advised that the private developer would have to pick up the utilities costs from the edge of the property—the on-property costs. The $34 million is an estimate. I would not want the member to leave the debate today saying that he was given a commitment by the government that it would not be one cent more than $34 million. It is the best estimate at this stage. It would be in relation to the costs for this needed development at Outer Harbor. I am not in a position to give him a final figure, because there is no definitive final cost estimate until they get into much more detail in terms of the final shape and structure of the development.

*The Hon. Nick Xenophon interjecting:*

**The Hon. R.I. LUCAS:** I presume they would be prepared by the team advising the Minister for Government Enterprises. In relation to the rail looping, I know that people from Transport SA or the appropriate section of the Minister for Transport's portfolio were involved in relation to that. I am assuming that the Ports Corp people would have been involved in relation to the ports related costings. I am assuming that, in relation to utilities costs, officers would have spoken to SA Water and ETSA Utilities, the appropriate utilities companies, to get some rough idea of what the costs might be. We are not at the stage where final costs have been done, and members should not leave the chamber with the impression that these are the final 'i's dotted, t's crossed' estimates in terms of numbers. They are the current best estimates that can be done.

**The Hon. M.J. ELLIOTT:** I will ask a few other questions which relate to issues of the asset value of Ports Corp. I understand that legal action is currently in progress. Brighton Cement has taken Ports Corp to court on the basis that port charges should be deemed to be a tax. My understanding is that the argument being put by Brighton Cement is that, if the charges cover only the costs of Ports Corp, they could not be regarded as a tax. That is the challenge it is putting forward; it is saying that the charges are such that essentially there is a tax component in them.

I will not ask the Treasurer to speculate about the case itself. However, what would it cost Ports Corp and/or the state should that legal action succeed in relation to Brighton Cement? If it is successful, there could be a queue of companies and it has been suggested to me that the liability could run into several hundred million dollars. Can the Treasurer throw any light on that matter?

**The Hon. R.I. LUCAS:** When we are involved in litigation we will not put on the public record what the potential liabilities might be. I am not sure whether the honourable member is serious, but we are involved in a very intensive legal debate with a very powerful company in relation to this issue.

*The Hon. M.J. Elliott interjecting:*

**The Hon. R.I. LUCAS:** The honourable member might say it is extraordinary, but in all honesty you cannot expect to place on the record one side of the legal dispute.

**The Hon. M.J. Elliott:** What claim is it making?

**The Hon. R.I. LUCAS:** It has been reported in the paper; you have read it. It has made a claim in relation to the dispute, and the government is obviously defending it, through Ports Corp.

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

**The Hon. R.I. LUCAS:** I do not know whether that has been claimed; I do not know what the quantum is. It may be on the public record, but I do not know what the claim is. Whatever the claim, it is being vigorously disputed, and the government will not place on the record information in relation to its legal position or what it might consider in terms of settlement, whatever happens. I am surprised that the Leader of the Democrats would even ask such a question framed in that way, when the state is trying to defend its position on behalf of the taxpayers. If the state is deemed to have a liability, it would be the responsibility of the Ports Corporation and not the responsibility of the new owners and operators.

The committee divided on the suggested amendment:

AYES (8)

| | |
|---|---|
| Cameron, T. G. | Dawkins, J. S. L. |
| Laidlaw, D. V. | Lawson, R. D. |
| Lucas, R. I. (teller) | Redford, A. J. |
| Schaefer, C. V. | Stefani, J. F. |

NOES (7)

| | |
|---|---|
| Elliott, M. J. | Gilfillan, I. |
| Kanck, S. M. | Roberts, R. R. |
| Roberts, T. G. | Sneath, R. K. |
| Zollo, C. (teller) | |

PAIR(S)

| | |
|---|---|
| Davis, L. H. | Pickles, C. A. |
| Griffin, K. T. | Holloway, P. |
| Crothers, T. | Xenophon, N. |

Majority of 1 for the ayes.

Suggested amendment thus carried.

Progress reported; committee to sit again.

## CONSTRUCTION INDUSTRY TRAINING FUND (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 713.)

**The Hon. R.I. LUCAS (Treasurer):** I thank members for their comprehensive consideration of this matter at the second reading. I understand that an amendment will be moved in

committee and I will reserve my comments on that until that time.

Bill read a second time.

In committee.

Clauses 1 to 5 passed.

Clause 6.

**The Hon. R.I. LUCAS:** Mr Chairman, I draw your attention to the state of the committee.

*A quorum having been formed:*

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

Page 4, after line 16—Insert:

(c) by inserting after subsection (5) the following subsections:

(6) The board may, by notice in the *Gazette*, exempt building or construction work, or building or construction work of a specified class, carried out—

(a) in a specified part of the building or construction industry; or

(b) by a specified person, or by persons of a specified class,

from the requirement to pay a levy, or a specified percentage of a levy, under this act.

(7) The board may only grant an exemption under subsection (6) if satisfied—

(a) that—

(i) in the case of an exemption under subsection (6)(a)—persons carrying out building or construction work in the specified part of the building or construction industry;

(ii) in the case of an exemption under subsection (6)(b)—the specified person, or persons of the specified class,

are making a contribution to training in the building and construction industry that is at least equal to the contribution that would be made if the exemption were not to be granted; and

(b) that that training is at least equal to training available through funding from the fund; and

(c) that, taking into account these and such other matters as the board thinks fit, it is reasonable to grant an exemption.

(8) A person, or a body acting on behalf of a group of persons, may make application to the board for the purposes of subsection (6).

(9) An application—

(a) must be made in the manner and form required by the regulations; and

(b) must be accompanied by the information required by the regulations or determined by the board for the purposes of this provision.

(10) An exemption under subsection (6) may be granted on conditions determined by the board.

(11) A condition under subsection (10) may include a requirement that a person within the ambit of an exemption pay to the board, in accordance with the terms of the notice of exemption, a contribution (determined in accordance with the notice)—

(a) towards the administrative costs of the board; and

(b) towards reviewing and evaluating training programs in the relevant sector of the building and construction industry; and

(c) towards the board's commitments to research with respect to the relevant sector of the building and construction industry.

(12) A person must not contravene or fail to comply with a condition under subsection (10).

Maximum penalty: $10 000.

(13) The board may, on its own initiative or on further application under this section made in a manner and form prescribed by the regulation, by subsequent notice in the *Gazette*—

(a) vary or revoke an exemption under subsection (6); or

(b) vary or revoke a condition of an exemption.

(14) A person directly affected by a decision of the board—

(a) to reject an application under subsection (8) or (13); or

(b) to impose a particular condition under subsection (10); or

(c) to vary or revoke an exemption or condition under subsection (13),

may appeal to the minister against that decision.

(15) The appeal must be commenced within one month after the making of the decision unless the minister allows an extension of time.

(16) The minister may (but is not obliged to) permit the applicant to appear personally or by representative before the Minister on an appeal.

(17) The minister has an absolute discretion to decide an appeal as the minister thinks fit (and the minister's decision will have effect according to its terms).

I draw members' attention to the contribution I made this morning. In fact, the bulk of my contribution was directed towards this particular amendment. I do not believe that I need to go through it in any detail. I am conscious of the numbers in relation to this clause. I understand that the government would like more time to consider it, but at least it is on the record.

**The Hon. R.I. LUCAS:** The minister has provided me with the following reasons for the government's inability to support the amendment. The government has just removed the exemption on the LGA and state government and does not want to reintroduce further exemptions. The amendment seeks to have an exemption granted on the basis that training is being provided. It contains specifications about quantity, cost and quality of training. All these matters would have to be monitored and audited with attendant cost and complexity, as per WorkCover.

The operation of the levy fundamentally differs from the WorkCover levy with WorkCover employers responsible for paying a separate portion of their payroll, with the figure of the portion being determined after an assessment of workers compensation payments made against the industry category in which the employer operates. Exemptions are possible after an employer is assessed as meeting a very comprehensive and detailed set of criteria. Western Australia, which has attempted similar amendments, has not been able to get agreement on the grounds on which to exempt organisations.

The amendments signal a significant departure from the original intent or spirit of the act, that is, industry controlled, managed and financed, in that a large proportion of apprentices in the building industry operate through group training arrangements. The proposal would, in the minister's view, discriminate against group training, which has been very successful in maintaining employment and skills development in this increasingly fragmented industry, because group training companies employ the apprentices and are responsible for their training yet are never project owners and thus have no potential to benefit from the levy exemption scheme as proposed.

The minister notes that there has not been consultation with the relevant industry stakeholders and that no industry association has been prepared to endorse these amendments. The minister has indicated that the act will be reviewed in 18 months in order to improve the efficiencies of the fund. In the minister's view, there is a need to pass the act and explore the amendments with the involvement of the whole industry, which is the point that the honourable member alluded to. For those reasons, the government indicates its inability to support the amendment.

**The Hon. R.K. SNEATH:** I do not support the amendment. The Construction Industry Training Board has been made up of all sections of the industry, from trade unions and various employer sections. From my observation it has

worked very well and provided young and elderly workers in the industry with very good training over many years. It is my understanding that there is no remuneration for people on the board of this organisation.

It has just emerged that the proposed amendment has not had the full consideration of any industry party or the Construction Industry Training Board. The heart of the amendment is certainly not industry driven and does not have the support of the principal industry associations, the Housing Industry Association and the Master Builders Association.

I heard the Hon. Angus Redford in his speech today mention the Western Australian issue. I understand that Western Australia has had this available for 18 months but that no exemptions have been granted in that time as no criteria could actually be agreed. It has resulted in an unwieldy position for people in Western Australia. Therefore, although it must have been pushed through with an amendment over there, 18 months up the track it is not working. I do not know whether the Hon. Angus Redford's position to—

*The Hon. A.J. Redford interjecting:*

**The Hon. R.K. SNEATH:** But you're not in our party, thank goodness! I do not know whether the honourable member's position is to reduce the unions' representation on boards, but it is surprising that recently there has been some attempt to reduce the representation of trade unions on ITABs. Using some of those arguments and speaking to some of the representation on the Construction Industry Training Board, we certainly cannot support the amendment.

**The Hon. T.G. CAMERON:** I have some sympathy for the amendment moved by the Hon. Angus Redford. As I understand it, in simple terms it would provide for industry to be able to conduct its own training, subject to the approval, control, monitoring etc. of the CITB. However, it is easy to count in this place and the amendment will not get up. I would not like to see debate on the amendment end there, because I suspect the amendment has come to this chamber quite late.

The Hon. Bob Sneath indicated that it does not have the support of the HIA or the MBA and, to the best of my knowledge, this amendment has basically been in the public arena for only a week or so. I have always had the view that the best place to conduct training, particularly blue collar or technical-type training (operating plant, equipment etc.) is on the job. That is where the best form of training takes place.

All this amendment would have provided was to give employers the choice under certain conditions to conduct their own training, not dissimilar to the current practice of thousands of employers here in South Australia. I do not accept the argument—although the argument has not been put to the committee with any degree of fullness—that the only way that training can be conducted is off the job, under arrangements like the CITB.

It seems to me that this amendment falls into a similar category as a number of other amendments that have been coming out of the blue in legislation before the Council, and I am always reluctant to support legislation unless there has been an appropriate opportunity for the key stakeholders in it to address the various groupings in the place as to their interests and views.

I had considered moving to refer this piece of legislation to a select committee, but I had a brief conversation with the Chief Executive Officer, Mr Doug Strain, who made a valid point to me that the matters being considered by this legislation have been under consideration for a number of years—I think he said four—and that there is general agreement across the industry for the amendment as it has been put forward. Notwithstanding my inclination to support a proposition along the lines moved by the Hon. Angus Redford, I would not want to walk down a path which might be contrary to the wishes of the industry, the trade union movement and the government. So, the honourable member will get token support from me for his amendment, but I flag to the committee that I think we should revisit this matter.

I have some concerns about the operation of the Construction Industry Training Board and whether we are getting proper training outcomes in relation to the operation of that board and its activities. After having looked at the balance sheets of the CITB for the past five years, I am a little bit concerned about the direction in which it is moving. However, that should not be a reason for delaying the passage of this bill. It may well be that in the new year we can revisit the proposition put forward by the Hon. Angus Redford through a select committee and perhaps deal with some of the other concerns that I have about the way in which training is being conducted in the construction industry and some of the costs associated with that. It may well be considered appropriate by other members of this place to establish a select committee to look at those matters.

I indicate support for the amendment in the knowledge that it will not go through. To be quite candid, if it was going through I would indicate to the Hon. Angus Redford that I would probably oppose it on the basis that it has not been out in the public arena for sufficient time. It concerns me that we have pieces of legislation that come to this Council—this is not a criticism directed at the Hon. Angus Redford—and, out of the blue, days (sometimes hours) before we are to vote on the matter, we are expected to come to a conclusion on an amendment which often has nothing whatsoever to do with the general thrust of the bill.

I indicate to members of this place that, if they think they are going to throw up amendments at the last moment in pursuit of some long lost cause that they have been after for years which has very little to do with the substance of the bill before us—even though I would be prepared to support the proposition they put forward—I will vote against it so that the stakeholders can have an appropriate opportunity to put their views forward. It does not sit easily with me that, because their vote will determine whether a bill goes through, various groups will use an opportunity to pluck some issue out of the air, insert it in an amendment, include it in the debate, and then hold the government to ransom. I do not care whether it is a Labor or a Liberal government, that is not a course that SA First would follow, notwithstanding the fact that, together with the Hon. Trevor Crothers and the Hon. Nick Xenophon, I could abuse that process if I wanted to, because in my view it denigrates the credibility of this chamber. I support the amendment but I want to revisit this matter next year.

**The CHAIRMAN:** The Hon. Terry Roberts.

**The Hon. A.J. Redford:** Bob's already spoken today.

**The Hon. T.G. ROBERTS:** No. Bob made a contribution on behalf of the Labor Party; I am doing the summation on behalf of the opposition. We support the government's position on this, so there is no need to be cheeky on this one.

*The Hon. A.J. Redford interjecting:*

**The Hon. T.G. ROBERTS:** But we may not support your amendment. Regarding the remarks made by the Hon. Mr Cameron about amendments that are filed late, in the history of the parliament since I have been here we would never get through a session if concessions were not made in

the last two weeks of parliament by either the government or the opposition in relation to who is placing amendments on file. Each of us makes concessions to get legislation through in the dying days of parliament. Considerations are made on behalf of stakeholders when late amendments are put forward, and the assumption is made that those who foster the bill (either the government or the opposition) have made the necessary contacts to confidently place before members of this place the instructions that they give to parliamentary counsel in relation to a whole range of bills. So, I am a little more lenient than the Hon. Mr Cameron in relation to process, but in relation to the amendment moved—

**The Hon. T.G. Cameron:** It's changed a bit from the days when you were the convenor of the Left, then.

**The Hon. T.G. ROBERTS:** Some of those had to be done on the run due to strategies put forward by other factions. The opposition will not support the amendment put forward by the honourable member, not because it is late but because the major stakeholders have indicated that they do not support it. That includes the government. If it was going to be carried or considered, I suspect that it would be fostered by the government. I can understand a member putting forward an amendment in the late stages of the presentation of a bill.

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

**The Hon. T.G. ROBERTS:** That's right, but it is our democratic right not to support it. So, we will support the bill but not the amendment. In relation to training and training programs in particular, everyone has an opinion of what works and what does not work. I have found from experience that the industry knows what is best for itself in broad terms, and specifically in relation to special industry sections they tend to know what is best for their section. However, in a broad based training program for an industry such as the housing construction industry you need a broad based, broadly administered program that has elements of packaged specialty training that can be done on site. Most industries carry out their programs in such a way.

The way in which industry training programs have been corrupted over the years can go back to federal governments of all persuasions. When the programs are set up and the levies are being collected and administered, on-the-ground infrastructure, training and understanding of what is required generally is absent. That then leads to money being wasted on training programs that are either irrelevant or not target specific. The beneficiaries of those programs in some cases do not embrace them or do not participate in them, or if they do participate in them they do so half-heartedly, thereby not getting the full benefit of those programs. That is a private observation from my own experience.

The most recent exploitation of a skills-based training program concerned an issue that I raised by way of question and occurred not in the building and construction industry but the wine industry. Centrelink and a private training group (which was established to train members in the wine industry and vineyards) were neglectful and ran a program which did not have certification of any note for a large number of young people who thought that they were participating in a program that would provide them with a base for future employment.

From time to time we need to keep our eyes open for bogus schemes. However, if the industry is administering the training programs, and if the affiliates of those industries and its members pay due diligence to the setting up of those training programs and work in conjunction with government instrumentalities such as TAFE and other bodies, there is no reason why they should fail.

Soundly based employer organisations, affiliates and industry association members who are keen to participate and to have input into training programs and put forward ideas and test them, and who keep in touch with modern trends and modernise their industries, survive and their members benefit. Also the industry benefits by having skilled employees and skilled potential employees, because if the quality of trainees and tradespeople decreases the industry has problems.

I suggest that the South Australian housing industry presently has problems in relation to the number of skilled people who have been lost interstate but who might now be starting to return. If the skills had been there, a number of projects could have started in the past 12 months and the industry would be better placed than it is now. For those reasons, I support the bill but do not support the amendment.

Progress reported; committee to sit again.

## NARACOORTE CAVES

Adjourned debate on motion of Hon. Diana Laidlaw (resumed on motion).

(Continued from page 723.)

**The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning):** Previously I sought leave to conclude my remarks to sum up the debate on this motion. I did so because a schedule that I had referred to was not included with the motion, and I have since provided it to the Hon. Mr Elliott. Reading between the lines and with his body language I think that he is half-way relaxed, if not even happy. Have I read the language correctly? At least he is laughing, so that is a good sign. On that basis I will promptly conclude my remarks, and hopefully the motion will be carried with a very positive vote.

Motion carried.

## TAB (DISPOSAL) BILL

Adjourned debate on second reading.

(Continued from 29 November. Page 692.)

**The Hon. R.K. SNEATH:** The bill continues the government's strategy to privatise whatever it can get its hands on. The government's record of privatisation is not good and, as the Hon. Trevor Crothers often says, the Thatcher-like asset sale process of selling the silverware is not the way to ensure the long-term stability of the state. There are many examples of selling off, long-term leasing or outsourcing. Some of the more infamous include ETSA, SA Water, Transport SA and State Print, and now we have the Ports Corp and the South Australian TAB. On all occasions when privatisation and selling off occurs it results in job losses, price increases, loss of services, loss of control and loss of future income—and it will be no different with the sale of the TAB.

I think it was in July this year that the government withdrew this bill because it did not get the support it needed from its side of the chamber. One can go back further than that because, over the past few years, the TAB has been strangled by a minister who has not allowed the TAB board, the management and the organisation to operate in a way that a good TAB should and must operate. It has been hamstrung by the minister and the government and the frustrations have

boiled over on a number of occasions. The losers in all this are the TAB and its staff, the taxpayers and the racing industry.

The TAB has been operating since 1967 and presently has about 76 staffed outlets with a 36 per cent corporate turnover, and some 305 pub TABs (173 metropolitan and 132 country) accounting for 49 per cent of the corporate TAB turnover. Telephone betting employs 555-plus staff and has about 59 000 betting accounts with a turnover of $620 million. The TAB has been a magnificent employer, a good income earner, and a great service provider to the public. Its facilities are based reasonably close to most residential areas and it has been a great generator of income for the racing industry.

The 1990s has seen TABCorp, New South Wales TAB Limited, and the Queensland and Northern Territory TABs privatised. During this period Labor has argued strongly that this state should be looking at its options, forming alliances, and getting a critical mass. All along we have said that we will act in the best interests of the TAB employees and the medium to long-term interests of the racing industry. Instead, this government has wasted three or four golden years of opportunity on studies and consultancies but no decisions have been made.

There has been no interface between the minister and the racing industry. There is great confusion as to why this government has one minister responsible for racing and another minister responsible for the TAB. I am sure a Labor government would ensure that one minister would be responsible for both because at the moment the minister responsible for the TAB has a stranglehold on the racing industry. This situation has resulted in great confusion and enormous frustration within the industry. Why would anyone want to be the minister responsible for racing without also being responsible for the TAB? I cannot work it out. On speaking to the leader of the Labor Party, any future Labor government minister for racing will be responsible for the TAB.

If the New South Wales TAB or TABCorp is the new owner, I believe it will move to rationalise the functions of the South Australian TAB within its own activities, which will result in enormous job losses. The South Australian TAB head office will no longer be required; it is likely that it will close very quickly if the new owner is either TABCorp or the New South Wales TAB. Its functions will be absorbed interstate and it will operate with only a skeleton staff. Why should either of these potential owners leave head office operations here in South Australia? I can assure honourable members that they will not.

What worries me about privatisation is customer service. It is understandable that privatised TAB offices cater very much for the 'big money' punters and, in order to attract them, they will be provided with privileges similar to those provided in casinos at the expense of the smaller punters such as pensioners who like to have a bet on the weekend.

It is a problem that has always existed with privatisation: those who can least afford to use a service are the ones who suffer the most. The TAB will be no different. The concern about job losses both in the metropolitan and country areas is enormous. Redundancy payments to people taking voluntary redundancy and perhaps then having the good fortune to gain employment with the new owner will be an enormous expense. If the TAB is sold, there will be those who will not be targeted but there is no doubt that many workers will put up their hands for voluntary redundancy and then re-apply to the new owner because of their expertise within the industry.

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

**The Hon. R.K. SNEATH:** I do not know about that. I do not think that privatisation will double their pay. It never seems to do that.

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

**The Hon. R.K. SNEATH:** Yes, for consultants it does. The TAB is a great industry, with great potential. With the slow demise of bookmakers because of the government's lack of support for them over the years and the harsh taxation requirements, the TAB will only grow in South Australia and will only put more money into the South Australian government to relieve the taxpayers in future years, if it remains in the hands of government. Given the loss of jobs, the large amounts of money that will be paid for redundancies, the hardship that privatisation causes, I certainly could not support the sale of the TAB.

**The Hon. R.R. ROBERTS** secured the adjournment of the debate.

*[Sitting suspended from 5.57 to 7.45 p.m.]*

## SOUTH AUSTRALIAN PORTS (DISPOSAL OF MARITIME ASSETS) BILL

In committee (resumed on motion).

(Continued from page 730.)

Clause 13 passed.

Clause 14.

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

Page 11, line 25—Leave out 'despite any contract or agreement between the employer and the employee to the contrary' and insert—

as a term or condition of the employee's contract of employment on the transfer of the employee to private employment but thereafter the term or condition is subject to variation or exclusion by agreement between the employer and employee.

I am advised that subclause (3) currently provides:

Any such term or condition takes effect despite any contract or agreement between the employer and the employee to the contrary.

This provision relates to the employee transfer order that the minister may make pursuant to clause 13(1) and suggests that an employee's term or condition could not be amended despite any contract or agreement between the employer and the employee. I am advised that the transfer order could, however, provide for the terms and conditions of employment to be amended by negotiation and agreement with employees.

It is not the government's intention to restrict any future agreement being reached between the purchaser and employees in respect of terms and conditions of employment and, accordingly, clause 14(3) has been amended as follows:

Any such term or condition takes effect as a term or condition of the employee's contract of employment on the transfer of the employee to private employment but thereafter the term or condition is subject to variation or exclusion by agreement between the employer and the employee.

It is considered that this amendment reflects the government's intentions and is consistent with the undertaking provided in the memorandum of understanding entered into between the government and the maritime unions. Furthermore, this amendment makes it very clear to employees that any changes to their terms and conditions of employment may be amended, but only by agreement.

**The Hon. P. HOLLOWAY:** What has brought about this change to the amendment? Was it requested by employees? Was it some oversight? What exactly is the background to it?

**The Hon. R.I. LUCAS:** I am advised that it was an oversight. The maritime unions have been consulted about the change, and they have agreed to the change.

**The Hon. R.K. SNEATH:** I take a bit from the speech of the Hon. Terry Cameron on the sale of the Ports Corp this evening, and I have read the memorandum of understanding put together by the Maritime Union of Australia with the government. The Hon. Terry Cameron referred to the MUA not actually holding a demonstration outside on the steps of Parliament House.

I must say I have not heard the MUA also yelling out 'Sell, sell!' The Hon. Mr Cameron referred to the numbers in the chamber, and I am sure the MUA would also have some idea of the numbers. I am pleased to see that, as with any good union, an agreement in the way of a memorandum of understanding has been put in place, pending a sell off of the Ports Corp to protect the workers. The MUA is a good union, as we have recently seen in the Patrick dispute, where it more than held its own against Reith and imported armies. I suppose it had one advantage: I understand that Mr Coombe had his phone while Mr Reith had lent his to his sons. I understand that, like all unions in Australia, the MUA certainly does not favour privatisation. I also pick up the Treasurer's words regarding his vision in moving this amendment (if I am not correct he might correct me); it was to satisfy the transmission of business in the memorandum of understanding that has been agreed to by the union and the government.

**The Hon. R.I. LUCAS:** I am advised that the memorandum of understanding entered into between the government and the maritime unions provides at clause 8—'transmission of business' the following:

> The government agrees to negotiate in good faith with any potential purchaser to the effect that, until replaced by an applicable industrial instrument, the purchaser will agree that the existing terms and conditions of employment including salaries contained in the following industrial instruments will be applied to Ports Corporation employees who become employees of the purchaser:
>
> Ports Corp South Australia Enterprise Bargaining Agreement 1997-2000 and/or its successor
>
> Ports Corp South Australia Ports Services Award
>
> Marine Pilots Award, 1991.

These undertakings are consistent with the provisions in the MOU relating to the employees' conditions when transferred to the purchaser, that is:

- employed under no less favourable terms and conditions of employment than those which currently exist with Ports Corporation (clause 6.11(a)) and
- continuity of service (clause 6.11(b)).

They are also consistent with the provisions of amended clause 14(3) of the disposal bill concerning employee transfer orders. I have already quoted proposed clause 14(3).

'Transmission of business' occurs when a determination is made by the Federal Court pursuant to sections 149—'persons bound by awards' and 170MB—'successor employers bound' of the Australian Workplace Relations Act 1996. These sections provide that, if a new employer or corporation becomes the successor, transmittee or assignee of the whole or part of the business, they will be bound by the relevant award and/or agreement. The tests applied by the court in determining 'transmission of business' have been the subject of recent decisions of both the Federal Court and the High Court, with each decision being decided very much on its own facts and circumstances. Any question of transmission of an industrial instrument is at the risk of the purchaser. The undertakings provided by the government in the MOU do not require the government to guarantee that the industrial instruments will transmit to the purchaser. Such a matter will be determined between the purchaser and the maritime unions, with recourse if necessary to the Federal Court in accordance with the provisions of the Australian Workplace Relations Act 1996.

Amendment carried; clause as amended passed.

Clauses 15 and 16 passed.

Clause 17.

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

Page 13—

Line 6—Leave out 'free of charge'.

After line 7—Insert:

(1A) The purpose of a recreational access agreement is to preserve or enhance access by the public, free of charge, to land and facilities to which the sale/lease agreement applies.

I am told that, on the advice of Parliamentary Counsel, this issue was done on foot in the House of Assembly, as sometimes occurs in that chamber. Parliamentary Counsel has had a closer look at what occurred there, and this tidies up the drafting. The intent and purpose is the same, but it has been tidied up and there is no practice of change.

**The Hon. P. HOLLOWAY:** The opposition in another place moved the original amendments, which had two purposes.

**The Hon. R.I. Lucas:** Ralph Clarke?

**The Hon. P. HOLLOWAY:** He moved the one about 'free of charge'.

**The Hon. R.I. Lucas:** He is still one of you?

**The Hon. P. HOLLOWAY:** Yes, he is a colleague of ours. My colleague in the House of Assembly moved this amendment to ensure that access by the public to our commercial wharves would continue to be free of charge. The other amendment moved by my other colleague, the shadow minister Patrick Conlon, was that we should not only protect access to commercial wharves under the agreement but also seek to enhance access. The amendments, we are pleased to say, were accepted by the government. The drafting clause, we agree, improves the drafting treatment of those measures, and we are happy to support it.

Amendments carried; clause as amended passed.

Clauses 18 to 25 passed.

Clause 26.

**The Hon. P. HOLLOWAY:** My question is of a general nature, but this is as close as I will get to raise these issues. Today the Auditor-General released a report on the electricity business disposal sale, and in that report the auditor makes the following statement in his introduction:

> Although at the time of the preparation of this report the disposal of government-owned electricity businesses is complete, I am aware that the disposal of other government owned assets is currently being pursued.

The Auditor-General then goes on in his report to make 32 recommendations, the great majority of which recommend changes to procedures in relation to future business or asset sales. Given that, at the request of this parliament the auditor has spent a considerable amount of time compiling the report, and given his experience with the sale and the fact that he has made all these recommendations about how the asset sale process should proceed, I would like the government to place on record what action it intends to take in relation to these

recommendations. Does the government accept the Auditor-General's recommendations and what will it do to ensure that the recommendations are followed during the sale process of the ports?

**The Hon. R.I. LUCAS:** I am sure that the minister will give the recommendations very close consideration and where appropriate he will implement any agreed recommendations from the Auditor-General. As I have indicated in response to the first three of these reports, and I think we have another five or six to come, the government on a good number of occasions agrees with the Auditor-General but, significantly, we would disagree with a number of his recommendations, and strongly. It would not be my recommendation to the government that we give a blanket endorsement to all the recommendations of the Auditor-General's Report.

As I have indicated, in a number of areas they are contrary to all the legal, commercial and accounting advice that the government has been given and, ultimately, having considered the views of the Auditor-General and the commonwealth legal advice that he had, and then having considered the other advice that we had, the government came to a reasoned, rational, sensible conclusion that it could not agree in some cases with the Auditor-General's view.

For example, I repeat that the Auditor-General took a view that he did not agree with success fees. The government took a view in relation to the electricity businesses that we disagreed with the Auditor-General's opinions in relation to that area. In a number of the other areas we have highlighted that the Auditor-General has come to a policy conclusion that the government, based on all its advice, has disagreed with. It is not for me to indicate what the Minster for Government Enterprises will implement in relation to this sale procedure but, if asked, I am sure that he will give very close consideration to the Auditor-General's recommendations and where appropriate and where agreed he will implement some of those recommendations. There may well be cases where the government and the minister would not agree and therefore would not endorse or implement particular recommendations of the Auditor-General.

**The Hon. P. HOLLOWAY:** I understood the Treasurer to say that the government had disagreed with a number of matters. I am not sure whether he was referring to the specific recommendations in today's report or whether he was referring to those in previous reports.

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

**The Hon. P. HOLLOWAY:** In other words, the Treasurer is saying that he disagrees with many of the recommendations in today's report.

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

**The Hon. P. HOLLOWAY:** Because we received it today, I have only had a quick look at the report, but it seems that most of the recommendations are fairly technical in relation to evaluation methodology and so on, and I hope they will be adopted. Those of us who were members of the special select committee that looked at the electricity sale process would appreciate that the Auditor-General had some significant things to say in relation to the process. Members on this side of the chamber believe that the recommendations that the government made at the last moment in relation to the evaluation process were extremely valuable and arguably prevented some sort of catastrophe in terms of the sale process. It would be most unfortunate if the government were to dismiss all the recommendations in this report out of hand. The Auditor-General has gone to a great deal of trouble, at the request of this parliament, to prepare those recommendations and, if the government chooses to ignore them, of course it does so at its own peril.

The Treasurer has really given a fairly vague answer to this. I would like some firmer undertaking from the Treasurer as to whether these recommendations will be treated really seriously by the government. Given the recommendations yesterday in relation to advisers, obviously it is too late to affect the process, because I gather that all of the advisers have been appointed. But in relation to the evaluation methodology and things like that, and given that we are not at the stage of going through the sale process, I would have thought that these recommendations warranted much closer attention than perhaps those of yesterday's report, which are too late to implement.

**The Hon. R.I. LUCAS:** We would not discount the Auditor's previous report. We will give all of his recommendations close attention and serious consideration. Nothing that I have said tonight should be interpreted any differently: that is, as always, we will give close attention and close consideration to all of the Auditor-General's recommendations in these three reports and the next five or six reports that the Auditor might bring down in regard to the electricity process. I will repeat what I have said: no person—be it the Premier, the Treasurer, or, indeed, the Deputy Leader of the Opposition—is infallible, and that includes the Auditor-General.

*The Hon. P. Holloway interjecting:*

**The Hon. R.I. LUCAS:** Exactly, and I have not said that we will reject all of his considerations, either. What I have said is that we will give close consideration to them. On most occasions we agree with the Auditor-General, but there are some isolated examples where the government will take a different position to the Auditor-General. However, we will, for considered reasons (not a knee jerk response, because we have due regard and respect for the office of the Auditor-General), give his recommendations close consideration. There will be the odd occasion when the government will take a different view from the Auditor-General and will not implement his recommendations, while in other areas we may well share common ground, and in those areas the minister may well be already implementing the views of the Auditor-General and, if not, he may give them close consideration.

**The Hon. P. HOLLOWAY:** Can we expect some formal response from the minister as to what will be done in relation to each of the recommendations?

**An honourable member:** They haven't considered them yet.

**The Hon. R.I. LUCAS:** I was going to say that the report, which comprises 120 pages, has only just been received, and I have been tied up in parliament all day. The deputy leader does me great credit to think that I might be able to respond. I am sure that the minister, and the government, will consider the recommendations and give them close consideration, but it is not going to be done in the next week with a report back to parliament.

**The Hon. P. Holloway:** But will there be some report on it subsequently?

**The Hon. R.I. LUCAS:** I do not know whether there will be a report, but we will give close consideration to all of the recommendations, as the honourable member would expect. The government certainly will consider, very closely, all of the recommendations of the Auditor-General in relation to these issues. As I said, where appropriate and where agreed, we will implement appropriate changes if they are required.

As I indicated in relation to the first couple of reports of the Auditor-General, my response will be the same for the remaining four, five, six or however many reports that the Auditor-General brings down.

**The Hon. CARMEL ZOLLO:** I refer to the same report and ask the Treasurer whether he could respond specifically to audit recommendation number 30, as follows:

In future asset disposals, where it is intended that the state retain certain liabilities in the disposal process, I recommend that in addition to a consideration of the legal position, to the extent possible, a full analysis of the potential cost to the state of retaining those liabilities be undertaken and documented before any decision is taken.

I reference this particular audit recommendation in view of Minister Armitage's comment that the combined wharf and transport infrastructure upgrades represent a significant contribution of $30 million to $35 million by the government to the grain industry.

**The Hon. R.I. LUCAS:** I am very relaxed representing the minister on this issue but, whilst some of these issues might be of great interest and will be the subject of debate in the parliament during question time, it is a bit hard to find the connection with the particular clause we are debating in this bill. I am happy to respond to a number of these questions but, if this is going to turn into a three hour session on the Auditor-General's Report, I do not believe that clause 26 of the Ports Corporation disposal bill is the appropriate forum for it.

In relation to a proper analysis of the costs in the recommendation the Auditor-General has made, speaking without the benefit of having spoken to the minister I am sure that it would be the intention of the minister and his team to properly assess all the costs and liabilities that relate to the particular business as they move through the transaction. That has been the case in the electricity business disposal and for the other disposals that this and previous governments have undertaken.

I cannot provide much more detail than that, other than to repeat that I do not really see clause 26 as being the avenue for a prolonged period of questioning about the Auditor-General's Report on electricity disposal, which was brought down today.

Clause passed.

Clauses 27 to 31 passed.

Clause 32.

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

Page 21, after line 16—Insert subclause as follows:

(4) However, the exemption conferred by subsection (3) does not extend to a development that is to be carried out under the terms or conditions of a sale/lease agreement.

I am advised that this amendment has been made out of an abundance of caution. The intent is to ensure that any development arising as a result of the sale/lease agreement is subject to the processes and procedures in the Development Act. Evidently, there was some slight possibility, depending on how you interpret it, that that might not be the case. This is to make it absolutely clear.

Amendment carried; clause as amended passed.

Remaining clauses (33 to 38), schedules and title passed.

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

*That this bill be now read a third time.*

**The Hon. P. HOLLOWAY:** We will oppose the third reading. In fact, at its third reading stage the bill is worse than it was at the second reading stage, because the government has now inserted the provision that the proceeds of the sale of this very profitable asset do not even have to go off debt, and that in itself is a regrettable step. What we are selling here in many ways is a first for Australia. No other state has divested itself of its ports. Even in Victoria, where some country ports have been sold, the main container terminal in Melbourne has been retained by the government, and that was the case even under the Kennett government. The reason for that is obvious enough: ports are very fundamental pieces of infrastructure in the development of the state. We believe that to control—

*An honourable member interjecting:*

**The Hon. P. HOLLOWAY:** No, they are actually much more important than airports. Airports are mainly for travellers but most of our trade is obviously exported from ports. Our imports come through the ports, and our exports go out through the ports, by and large. Very little exporting is done by other means such as by air. Given the importance of the ports as a basic infrastructure, we believe that they should remain in the hands of the government as they are in every other state. Indeed, some states, even small states like Tasmania, have been expanding the operations of their ports authority. We think it is a regrettable step that we are to lose control of our ports, unlike the position obtaining in every other state.

What makes it more regrettable is that this whole sale process—so typical of this government—has been done without any proper investigation which has underpinned the sale process. I am sure that nowhere else in the country would an asset of such importance and such value to the state be sold in the way it has been done here. It is just inconceivable that any other state would consider selling such an important asset without undertaking some major study that involved considerable public input before that took place. That has not happened here. It really is a shoddy process, and we believe that, when this becomes obvious to the public of South Australia, it will be yet another nail in the coffin of this government, and deservedly so. We oppose this bill.

**The Hon. R.R. ROBERTS:** I have not spoken on the seconding reading, but earlier tonight I indicated that I would make a few comments on some of the matters that were raised in committee. I rise to indicate my opposition to the third reading of this bill. This process is almost bringing to a conclusion the wholesale fire sale of assets of public infrastructure in this state. In contributions tonight the Hon. Terry Cameron in particular argued that, if we sell the ports, that will provide an upgrade of Port Adelaide. The upgrade of Port Adelaide itself and the inner port would have been brought about if we had taken the advice of the deep sea ports investigation. Bearing in mind the considerable amount of money involved, I point out that the principal primary production driving force in South Australia—that is, the farmers and SACBH—some years ago concluded that there needed to be a partial upgrade of the inner port which would be much cheaper and make it almost panamax compatible. In the deep sea ports it was proposed that we could top up at Port Giles or Port Lincoln, which would provide a much cheaper option for farmers and much less infrastructure installation, and overall we would have had a situation where—

*The Hon. P. Holloway interjecting:*

**The Hon. R.R. ROBERTS:** Absolutely! I happen to occupy offices within the Ports Corporation building at Port Pirie, and over the years I have had a good working relation-

ship with what was SACBH, now AusBulk. I have followed this situation of the ports for some time. Recently, when I attended a dinner hosted by the board of the Ports Corporation, I was told that it had now streamlined the Ports Corp and it was ready for privatisation. That really meant that we have the most efficient ports that we have ever had in this state. That has come at some social cost.

Everybody tonight has talked about the financial cost—whether we will offset debt, whether we will use this new principle that has been ripped out at the last minute and pin this all on the fact that we will upgrade the Murray River. It is a motherhood statement: everybody believes that we have to upgrade the Murray and consolidate our water resources. That was always the case. Before we started the parliamentary consideration of these matters that was always the case. The Hon. Terry Roberts pointed out that Telstra was to provide the moneys for all these sorts of things. The Hon. Terry Cameron also asked where we would get the money to do this.

Let us go back one step and look at the ports. When the forefathers of South Australia came here, they did not say, 'We won't have a port if we can't pay for it immediately, because we will be left with a debt.' The ports were developed in this state as a result of the primary production of grain. I direct anyone who wants a potted history to read a book entitled *On the Margins of the Good Earth* which explains exactly how the state was developed from a central point in Adelaide and how there was great competition for port locations around the state. Our forebears did not say, 'If we can't pay for it, we can't have it.'

This is another of those public utilities which has bound the people of South Australia together. This is one of those things that has made us a state. Public infrastructure has been stripped away by this government: all the things that people such as Tom Playford could see would enhance the state and provide social cohesion between the people of the state. The people worked together to put the infrastructure together. In all that development there was always a cost. Sometimes it was more expensive, but those with vision could see that you could actually provide jobs and other infrastructure and support mechanisms right across South Australia. The farming community was a great part of that. Because previous governments had this vision and a social view, they considered the people as well as the profit line or the bottom line of the balance sheet.

Through this process, not only the Ports Corporation but ETSA and the management of water—and we have had a go at our hospitals—all the things on which the community has worked and striven together to make us a state are being stripped away. I think it is ironic that, at the end of the program, the Premier plucks out of the air the one thing on which the state can focus and agree: the Murray River. That is about the only thing that will be left when this government strips away our public assets. It has sold almost every productive paddock in the farm. When I say 'productive paddock', this is a prime example, because the Ports Corporation has been made efficient and it is returning a profit every year.

Our primary producers have the best relationship with the Ports Corporation that we have ever had. If people take the trouble to talk to the primary producers on the land they will tell you that they have a very good working relationship with the Ports Corp. They do not want to see the ports sold. They want the Ports Corp to maintain a situation where their costs are kept down so that they can be profitable and the rest of the state can prosper with them.

So, they are looking at doing something that is not necessary. What this process does, which is worse than anything else, is that it throws those primary producers who helped to develop the whole of the state and the ports infrastructure into a situation with private companies whose responsibilities, in many cases, will be to their overseas shareholders. They will not be committed to the building of the state and its social infrastructure but to some bottom line or profit overseas.

What they now have to do is compete with them, knowing full well that, as soon as this is privatised, if what was SACBH loses control of this, their costs will go up. We all know what happens when costs go up: people's jobs go and social infrastructure collapses. Anyone who lives in a country area can see the despair of people in country areas where we have closed the highways camps and the EWS and where we have cut down on ETSA. We have ripped away all those things that make a community strong, including the social intercourse that takes place when people are in satisfying and productive work and when they are working in teams for the betterment of their state.

The other worrying aspect is that we are selling off the public infrastructure. It would not be so bad if we were using those moneys for other infrastructure that the community could bind together on and work towards. We talk about the Adelaide to Darwin railway line as if it is something new. We had the same proposition when we had the east-west line when we connected the east to the west. People took great pride in that, but they did not say: 'We will not have it unless we sell something else to pay for it.' They knew that, if we were to develop as a state, there had to be a balance between the cost today and the benefit tomorrow. They had no compunction about taking on these nation building or state building projects so that their families and their children could have a better future. They were not worried because, when you are talking about building a state or building a nation, your communities come along with you—and we all know it has to be paid for at some time. The question is how you pay for it, or, if you are to be a beneficiary of it, should you pay some of the cost?

What we have here is almost the last step, because they are still trying to get rid of the TAB and the Lotteries. Unfortunately for them, I think we can save the Lotteries Commission. At the end of this process I ask one question: what will hold our state together? What will be the social cost for those people who have been thrown out of productive work and who have been brought up with a work ethic? They do not have that social intercourse where they can talk to their friends and become part of something. We used to have tradesmen who prided themselves on being craftsmen. Now work is a means of getting a crust and, most of the time, it is casual. If we were using the proceeds of this to provide more satisfying work, sustaining work, job security and projects that would enhance our state, perhaps then there may be some sense in what we are doing.

This is a proposition which is designed to take away the ability of people in South Australia to maintain their heritage and have access to their ports. I am not at all convinced by the fact that there is a clause in the bill that talks about access. There will not be open access or free access. All sorts of other rules and regulations will apply to deny people access to the wharves, even if it is at a time when loading operations are taking place. There is no point in anyone trying to convince

me that in the middle of harvest time people in Port Pirie will have access to the wharf: it will not happen.

*An honourable member interjecting:*

**The Hon. R.R. ROBERTS:** Tonight the Hon. Mr Cameron decided that he was going to hang his hat on the Murray River. He has interjected saying that this may be a filibuster. Terry, I have to tell you, the first speech I ever heard you make was about dolphins. You said, 'If those dolphins could talk, what would they say about us?' I thought that was the most pathetic speech that I had ever heard in my life, but tonight's contribution capped it. The Hon. Terry Cameron, who has a slogan about putting people before profit and politics, will not worry about all the jobs that will be lost or about the people who will lose their dignity. He will vote with the government because, as I have said in this place before, the Hon. Terry Cameron has no choice. He is like the lemming that jumped over the side: he cannot come back; he has to go with this lot.

He and the government can mouth all day about their commitment to the people of South Australia, but their commitment is to the bottom line and trying to get back into government. If they do get back into office, they will have to face one other prospect, because the cupboard will be bare. We will have the prospect of trying to re-establish this state and bring back some dignity and decent work to this state. It will not be this lot—

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

**The Hon. R.R. ROBERTS:** This is how much he puts people before politics. This is the man who bragged in this Council, when we sold the Gas Company, that John Bannon could not get the numbers but he got the numbers—and he put his brother out of work. He ought to talk to me about putting people before profit. You did not even put your brother before your own ego—so don't you start.

I urge all members here—the Hon. Nick Xenophon and the Democrats, in particular—to oppose this legislation. The legislation has gone through, but it is not yet dead. We need to stop the process at this stage. I oppose the third reading.

**The Hon. T.G. CAMERON:** I rise to support the third reading of this bill—and do so with pleasure. I would like to comment on some of the statements made by the Hon. Paul Holloway and, in particular, the Hon. Ron Roberts. The Hon. Paul Holloway said that there would be no investigations, no consultation, and so on. What a pathetic, puerile complaint that was. If there has been one piece of legislation that has been more widely investigated and more widely consulted than this bill, I invite the Hon. Paul Holloway to tell me what it is. My understanding of this piece of legislation is that—

**The Hon. R.R. Roberts:** You'll vote with the government because you have no honour.

**The Hon. T.G. CAMERON:** The Hon. Ron Roberts interjects, 'But you will vote with the government.' I know he is half stupid, but is he half deaf as well? The Australian Labor Party spokesperson on this, the Hon. Paul Holloway, and the Hon. Ron Roberts have made great play of the fact that the government is selling off its infrastructure. Well, I just happen to know who the greatest privatisers in Australian history are: it is the federal Australian Labor Party. It sold off the Commonwealth Bank, the airports, Qantas, Australian Airlines, CSL—and one could go on with the list. The assets that it has sold, I might add, run into the tens of billions of dollars—not that the federal government was on the verge of bankruptcy like this state was.

The Hon. Ron Roberts and the Hon. Paul Holloway said that this is vital infrastructure; it is not as important as the ports and the wharves, according to the Hon. Paul Holloway. I can understand and appreciate why he made that point, because the Hon. Paul Holloway's faction, the right wing faction, was at the very forefront of selling off the airports, and it had some difficulty in convincing the other factions within the party to follow.

So, I think it is a little rich to be pointing the finger at this government for selling off assets when the main raison d'etre for selling off the assets was that the Labor government when in office lost something like $5 billion. You are quite content to let my children—

*The Hon. P. Holloway interjecting:*

**The Hon. T.G. CAMERON:** We have already debated that. The Hon. Paul Holloway says that this is not for debt. I do not know whether you want me to canvass that issue again. Surely not; we have covered that. This bill has been hanging around for something like two years. As we got nearer to the final conclusion, I thought, 'Hang on a moment, I am likely to get lobbying groups coming from everywhere to oppose this. I will have to deal with the Trades and Labor Council, the MUA, AusBulk, SeaLand and so on.' But the phone calls have not been coming, and there have not been knocks on the door.

I have not heard a peep from anyone urging me to oppose this legislation. I thought, 'At least I will hear from the Port Adelaide council, which has a Labor mayor. It is a Labor dominated council. Half its members are members of the Australian Labor Party. Nearly all the campaigns for the election of councillors in the Port Adelaide council are funded by Labor Party operatives.' But I have not heard a peep from the Port Adelaide council, or from the mayor, opposing this legislation. One can only assume from the silence that they must be reasonably happy about this legislation going through.

I think I should place on the record, and the Hon. Ron Roberts made some reference to it, some comments about the efficiency of the port we have here in South Australia. The crane loading rates per hour put Port Adelaide at the very forefront of ports around Australia; that is, we run the most efficient port in the country. I do not think that that is all to the credit of the union, the Ports Corporation or the minister, Diana Laidlaw. It is a bit unusual for me to be standing on my feet in this place praising the Minister for Transport, but the Minister for Transport, the Ports Corporation and the MUA have worked productively and cooperatively over the past five or six years to improve the productivity of the port, and they have done an excellent job of it.

I would have thought that, rather than being churlish about the passage of this legislation, someone would be prepared to stand up in this place and recognise that the cooperative approach of the union, the government and the management—including the private operators at our ports—has resulted in a more efficient port, higher productivity, greater efficiency and a lowering of freight rates out of Adelaide. Isn't that what we all want?

Reference has been made to upgrading the Murray River. The Australian Labor Party has said quite a bit about it, but it has not addressed the question of where the South Australian government will get the $98 million to pay for the salinity program for the Murray River.

We have not heard a peep out of the shadow minister for finance and we did not hear a peep out the Hon. Ron Roberts because he would not know. The Hon. Ron Roberts referred

to the fact that I am hanging my hat on the Murray River; well, I do not wear a hat and I am not sure how you could hang something on the Murray River. What I do know is that all the states and the federal government have reached an agreement, an historic agreement and one that was pushed long and hard by this state.

It seems like you now want the agreement to go ahead. As I understand it, it involves the contribution of $100 million by South Australia, but the sum total of it is that they will spend over $1 billion on trying to do something about the salinity in the Murray River. We all know that if we do not do something about it we will not have potable water on more than three days out of every five here in South Australia within 20 years.

Now, you want to address the question of debt. Very little was said about the question of debt by any contributor from the Australian Labor Party, and I can understand why the Hon. Paul Holloway and Hon. Ron Roberts did not want to raise the question of debt: because they created it.

**The Hon. P. Holloway:** Rubbish!

**The Hon. T.G. CAMERON:** You were in the government that created it, the Hon. Ron Roberts was in the government that created it—some $5 billion worth—and you are more than happy to let my children and their children and their children pay that debt off over some 30 or 40 years.

*Members interjecting:*

**The Hon. T.G. CAMERON:** Well, members of the Labor Party seem to enjoy going over my contributions and referring to them, so I will give them something to pore over on the weekend. The Hon. Ron Roberts talked about free access to these areas and said that there would be no such thing as free access. One can only interpret from that comment that he did not read that section in the bill or he did not understand it.

**The Hon. R.I. Lucas:** He can't read.

**The Hon. T.G. CAMERON:** No, I think he can read; he just has trouble comprehending what he reads. It is quite clearly set out in the legislation that there will be free access. If there are problems with that down the track, I am sure the Hon. Ron Roberts, if he is not sitting up there in the President's chair after the next election, would be more than happy to raise them.

There has also been a great deal of talk about the number of jobs that are going to be lost here. Once again, I have had no representations put to me at all about the number of jobs that will be lost down there. What I can assure you is that if we do not keep our port productive, if we do not keep our port efficient, then jobs will be lost. There has been very little reference to the upgrading program that this will involve—again, conveniently overlooked by those who are opposing this legislation. Even blind Freddy can see that we need to upgrade our port. It needs to be made panamax capable. At the moment we cannot get carriers in there that, as I understand it, carry more than about 50 000 or 60 000 tonnes. We need to make the port panamax capable.

I can understand and appreciate that the Hon. Ron Roberts would not know anything much about financial matters, but I do have a high regard for the financial acumen of the Hon. Paul Holloway, and I guess the thought has probably crossed his mind at some stage or other during this debate that, if he ended up as finance minister after the next election and we have not sold the port, just where is the money going to come from to upgrade the port? This was one of the problems that we had with the ETSA privatisation.

No member who opposed it paid any attention to where the Electricity Trust would raise $3 billion over the next 10 years to finance its capital works programs—no-one had thought about that. I can understand the Hon. Ron Roberts not thinking about it but it must have crossed a mind. You would have set up a system whereby South Australians, over the next 10 years, would have faced, year after year, budget after budget, cuts to services or further increases in taxes. One has only to look at the reaction that the Liberal government received when it introduced its emergency fire services levy, which was supported by the Australian Labor Party.

*The Hon. P. Holloway interjecting:*

**The Hon. T.G. CAMERON:** I beg your pardon?

*The Hon. P. Holloway interjecting:*

**The Hon. T.G. CAMERON:** I beg your pardon? The Liberal government incurred the wrath of a property owning constituency, and I am sure that it appreciates—

*The Hon. L.H. Davis interjecting:*

**The PRESIDENT:** Order! The Hon. Mr Davis will come to order.

*Members interjecting:*

**The PRESIDENT:** Order!

*Members interjecting:*

**The PRESIDENT:** Order! I have called for order three times.

**The Hon. T.G. CAMERON:** —that there is a degree of pain within the electorate at any moves to try to push up taxes. What is the other alternative? If you are not going to push up taxes, what will you do? Will you cut government services or sell off more assets?

*An honourable member interjecting:*

**The Hon. T.G. CAMERON:** What will you do? Will you introduce budget cuts in areas such as health, education, transport, etc.? I guess that in the years to come, if government does change at the next election, I will have four years, at least, to have a very close look at just what kind of budgets a Labor Government brings down. I would like to be a fly on the wall when Kevin Foley and the Hon. Paul Holloway are trying to impose a little financial discipline on the Labor caucus when it is full of lefties after the next election. Heavens above, I wish you well.

I am more than pleased to support the third reading of this bill. I grew up in the port. I did not leave the port until I was about 17 years of age. I probably know more about the port than any other person on this side of the chamber. I would certainly know a lot more about it than the Hon. Ron Roberts, who probably has not been down there for a decade or more. I understand that he might throw a fishing line in at Port Pirie but that is about his only contact with a port. I do not think that the honourable member has been down to Port Adelaide in the past decade.

For those who may have ventured down to the port, I suspect that we have heard very little from the Port Adelaide council because, in my view, the Port Adelaide council, the Port Adelaide business community, the MUA and all those who are supporting this legislation realise that this is an opportunity to rebuild the port, to put in much needed infrastructure, to make—

**The Hon. R.K. Sneath:** Are you saying that the MUA is supporting this—

**The Hon. T.G. CAMERON:** I have not said that at all.

**The Hon. R.K. Sneath:** You just said the MUA—

**The Hon. T.G. CAMERON:** I did not say that at all.

**The Hon. R.K. Sneath:** You said the MUA is supporting it.

**The Hon. T.G. CAMERON:** You fit into the same category as the Hon. Ron Roberts: you are either half stupid or half deaf.

**The Hon. R.K. Sneath:** I will look at *Hansard* tomorrow. You said that they are supporting it. No, I'm not. Go and have a look. Unless you get it corrected, of course. We'll have a look. You said the MUA is supporting it.

**The Hon. T.G. CAMERON:** You are free to have a look at it.

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

**The Hon. T.G. CAMERON:** The honourable member is free to have a look at what I said. Go right ahead. This bill will allow a much needed upgrade of Port Adelaide. Port Adelaide has been withering on the vine now for some 20 or 30 years. I came across information the other day that indicated that we are still currently losing freight to the Port of Melbourne. Apparently, it is dropped off in Melbourne and then rail freighted across to Adelaide. One can only hope, and I feel confident, that, with the passage of this legislation, at long last we will finally be able to upgrade the port and give it an opportunity to again be restored to its former glory.

**The Hon. R.I. LUCAS (Treasurer):** I thank honourable members for their contributions to the third reading debate. I had not realised that we were going to have another go at the third reading. I make two comments in conclusion.

The Hon. Ron Roberts, in his—let me be kind—pedestrian contribution to the third reading debate, tried to make the point that it would be okay if the money from the sale of this asset was being used to invest in another asset. Only the Hon. Ron Roberts would not recognise that the Murray River is this state's greatest asset. Unless we protect that asset and its water source to the people of South Australia, this state is destined to go backwards. It could only be the Hon. Ron Roberts—

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. R.I. LUCAS:** —who could make a statement that it would be okay if we used the money to invest it in another asset when, in fact, we are investing $100 million in the state's greatest asset, which is the Murray River.

*The Hon. R.R. Roberts interjecting:*

**The PRESIDENT:** Order! The Hon. Ron Roberts has had his say.

**The Hon. R.I. LUCAS:** The people of South Australia will become aware, after tonight, that Mike Rann voted against a clean-up of the Murray River, and was supported by all members of the Labor Party in voting against it; and that the Australian Democrats voted against a clean-up of the Murray River tonight and they voted in this Council to try to prevent the government, the Premier and the Minister for Water Resources from trying to clean up the Murray River.

The people of South Australia, from tonight onwards right through to the next election, will hear that Mike Rann led the charge to stop the clean-up of the Murray River. For the past three weeks he has stood up and said that this was a bipartisan issue; that he would be right behind the leader, Premier Olsen; and that he wanted to work with the government to clean up the Murray River. He said that this was a bipartisan issue: he would be there, shoulder to shoulder with John Olsen, to clean up the Murray River. But, in his first test (with $100 million to go into cleaning up the Murray River and salinity in South Australia), Mike Rann told his people in this Council—his puppets in here—to vote against it, to stop John Olsen, to stop the government and to stop the clean-up of the Murray River. The people of South Australia will hear from tonight onwards right through until March 2002 that Mike Rann, supported by the Australian Democrats, tried to stop the clean-up of the Murray River.

*Members interjecting:*

**The PRESIDENT:** Order!

The Council divided on the third reading:

AYES (13)

| | |
|---|---|
| Cameron, T. G. | Davis, L. H. |
| Dawkins, J. S. L. | Elliott, M. J. |
| Gilfillan, I. | Griffin, K. T. |
| Kanck, S. M. | Laidlaw, D. V. |
| Lawson, R. D. | Lucas, R. I. (teller) |
| Redford, A. J. | Schaefer, C. V. |
| Stefani, J. F. | |

NOES (6)

| | |
|---|---|
| Holloway, P. (teller) | Pickles, C. A. |
| Roberts, R. R. | Roberts, T. G. |
| Sneath, R. K. | Zollo, C. |

PAIR(S)

| | |
|---|---|
| Crothers, T. | Xenophon, N. |

Majority of 7 for the ayes.

Third reading thus carried.

Bill passed.

## MARITIME SERVICES (ACCESS) BILL

Adjourned debate on second reading.

(Continued from 17 November. Page 602.)

**The Hon. P. HOLLOWAY:** This bill is part of the package of the three bills to privatise the South Australian Ports Corporation. The opposition does not oppose the second reading of the bill, although our rejection of the privatisation of South Australian ports has been demonstrated in the previous debate. The bill provides for future third party access to port facilities currently owned and operated by SA Ports Corp. Sadly, given that privatisation of our ports is now authorised by the parliament, we have no option but to ensure that at least under that private ownership the operation is as competitive as possible. After all, our ports are a natural monopoly; that is why there is no option but to support this access bill that will at least try to ensure that that monopoly is not exploited.

The bill sets out the terms and conditions by which an operator will be required to provide access by third parties to ports, and it seeks to ensure that open and commercial access to ports will continue. I understand that the access regime will cover maritime services at six ports, being the provision of channels, common user berths and berths adjacent to bulk handling facilities. I understand that this access regime is subject to review by the South Australian independent industry regulator at the end of a three year period. We will not oppose the bill.

**The Hon. T.G. CAMERON:** SA First supports the second reading and will support the passage of the bill. I will rely on the outline of the bill that the Hon. Paul Holloway has set out, rather than repeat it.

**The Hon. R.I. LUCAS (Treasurer):** I thank members for their contributions and indications of support for the second reading.

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

## HARBORS AND NAVIGATION (CONTROL OF HARBORS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 17 November. Page 603.)

**The Hon. P. HOLLOWAY:** This bill is the third of the trifecta in the package to privatise the South Australian Ports Corporation. Given that the major bill to sell our ports has passed, there is no point in opposing the second reading of this bill. I will not speak at length on it, although I will ask a couple of questions in committee. This bill allows for the lessee of Ports Corp to operate the ports leased by the government. There are some regulatory clauses, the most significant being the introduction of port operating agreements, which set out the duties and responsibilities of the lessee. I understand there will be a separate port operating agreement for each port to be leased and that each port operating agreement will be tabled in parliament. The only concern I would express here is the lack of information regarding some aspects of the lease agreement, and I will ask a couple of brief questions about that when we get to clause 13.

**The Hon. R.I. LUCAS (Treasurer):** I thank the honourable member for his indication of support for the second reading.

Bill read a second time.

In committee.

Clauses 1 to 12 passed.

Clause 13.

**The Hon. P. HOLLOWAY:** In relation to new section 28F, can the minister give some details as to what type of offences are envisaged to constitute the need for disciplinary action? The section lists a reprimand, a fine not exceeding a limit fixed in the port operating agreement or cancellation of the port operating agreement.

**The Hon. R.I. LUCAS:** There are dozens of examples. For example, they would need to have an emergency management plan and, if they did not have an appropriate plan or did not ensure that it was being followed, that might require disciplinary action. They would need to appoint a port manager and, should they not appoint someone with the appropriate qualifications to be a port manager, that might also require disciplinary action. It is not possible to list all the areas where there might be a breach but that gives the honourable member a couple of examples of the sorts of things that might be contemplated by this provision.

**The Hon. P. HOLLOWAY:** What would constitute a reasonable opportunity for the operator to respond to the minister's written notice of non-compliance, as it is expressed in 28F(3)?

**The Hon. R.I. LUCAS:** Not being a lawyer but having listened to lawyers a fair bit, I recall an eminent QC's advice when asked in the previous debate as to what 'reasonable' was. The eminent QC, who is not present at the moment, said that 'reasonable' is an irreducible concept, that is, reasonable is reasonable, and it would be interpreted by the courts based on the precedents that had occurred in the past. I refer the Hon. Mr Holloway to the eminent QC's reasonable advice on the interpretation of 'reasonable' by the courts and legal officers, and that is the best we can do here. We are not able to put a time on the issue. It will have to be determined by those who have to make these sorts of judgments.

**The Hon. P. HOLLOWAY:** This measure gives a port operator 'a reasonable opportunity' to make written representations. Given that it is so vague, are we creating a problem for the port authorities? If an operator wants to extend it out, we are only going to create a problem for ourselves. I would like to know why there is no fixed period in new section 28F(3)(c). Why has no time limit been set for something like that?

**The Hon. R.I. LUCAS:** The obvious response is that, in these areas, it is impossible to prescribe the whole series of circumstances that might need to be covered. For one particular set of circumstances, what would be reasonable might be a relatively short period. Although I am not an expert in this area, I would think that, in another extraordinarily complex set of circumstances, what is reasonable might be a longer time. If we put down 14 days, 28 days or whatever, that does not make allowance for the different range of circumstances that might appertain. I assume that would be the reasoning and, if everyone acts with common sense and reasonably, there should not be a problem.

**The Hon. R.K. SNEATH:** New section 28F(7) provides:

> The port operating agreement may contain provisions governing the exercise of the Minister's powers under this section.

Could you explain the word 'may': it covers quite a large area. What sort of provisions are we talking about?

**The Hon. R.I. LUCAS:** I do not think there is a blindingly black and white response to the honourable member's question. I am advised that the intention is to include in the port operating agreement provisions which cover the exercise of the minister's powers as outlined earlier in this area, but it is the way Parliamentary Counsel crafts these things. There is no hidden intent in all of this. Clearly, there will need to be, in the port operating agreement, these provisions to govern the exercise or implementation of some of the powers outlined earlier in 28F. I am afraid that is the best response I can provide to the Hon. Mr Sneath.

**The Hon. R.K. SNEATH:** I probably accept that as an answer, but it took the Treasurer a long time to get it. I take it that the port operating agreement is an agreement between the government and the operators of the port?

**The Hon. R.I. LUCAS:** Yes.

**The Hon. P. HOLLOWAY:** In relation to new section 28F(4), how will any fine be calculated? New subsection (4) provides:

> . . . the Minister may—
> (b) by written notice. . .
> (ii) impose a fine (to be recoverable as a debt due to the Crown) of an amount stated in the earlier notice or of a lesser amount.

What is that actually talking about?

**The Hon. R.I. LUCAS:** I am advised that the particular levels that would be set, where it refers to amounts stated in the earlier notice, would come within the provisions of the port operating agreement. So, the port operating agreement, entered into between the operator and the representatives of the government, would stipulate a level of fines which, obviously, for the trivial offences would be at a lower level than the more serious ones. Under these provisions the minister will be able to impose fines up to and including those levels.

*The Hon. P. Holloway interjecting:*

**The Hon. R.I. LUCAS:** They are part of the port operating agreement.

**The Hon. R.K. SNEATH:** New section 28G(4) provides:

The port operating agreement may contain provisions governing the exercise of the minister's powers under this section.

Does that mean that the port operating agreement can have in it agreed provisions by the operator and the government that might not allow some of the above provisions to take place or be implemented?

**The Hon. R.I. LUCAS:** No, it will just provide the mechanism for this particular power to operate.

**The Hon. P. HOLLOWAY:** In relation to new section 28G, the power to appoint a manager, who exactly would we be envisaging if we did have to appoint an official manager to operate the port? Are we talking about a company or an individual? Who exactly would be available to step in if this power ever had to be exercised?

**The Hon. R.I. LUCAS:** It could be an official administrator who might then contract specialist services in this area. This clause could encompass that sort of arrangement.

Clause passed.

Remaining clauses (14 to 21) and title passed.

Bill read a third time and passed.

## CONSTRUCTION INDUSTRY TRAINING FUND (MISCELLANEOUS) AMENDMENT BILL

In committee (resumed on motion).

(Continued from page 733.)

Clause 6.

**The Hon. A.J. REDFORD:** Prior to the dinner break the minister made a number of comments. I was not going to say too much, but it would be remiss of me if I did not at least say something in response to them. I acknowledge that the government's position is that the act will be reviewed in 18 months' time in order to improve the efficiencies of the fund and that we need to explore these issues. Indeed, I acknowledge that, and I am grateful to that extent for the open-mindedness of the minister and the government. However, the minister made a number of comments prior to that which I must say I have to take issue with, with the greatest respect to the minister, with someone within his office who wrote it or the Construction Industry Training Board. In some respects, it would be best if they retained their anonymity.

First, the minister said that we have just removed the exemption on the LGA and the state government, and that the state government does not want to reintroduce exemptions. I say this with the greatest respect: that is a pretty cute argument. The only reason the state government and the LGA were exempt in 1993 when this act was promulgated was that local government and state government provided their own construction directly themselves through an army of employees, and they did not want to pay the levy. It was as simple as that. They justified their personal exemption by saying that the state and local government were strong on training. However, we are now in a different environment.

The state government does not do any construction any more. It substantially dismantled its own construction service business and its contracts. So it is not avoiding the levy by doing that. The same applies to local government, with some small exceptions on the West Coast, in the sense that local government now subcontracts. In that sense, they are paying a levy. So, the state government and local government need not be too cute about this. When they were obliged to pay the levy, they exempted themselves legislatively. Now they are not paying it because they contract people, and they remove the exemption. It is no more or less than that.

To hide behind the suggestion that the government does not want to reintroduce exemptions quite frankly is an insult to our intelligence and our understanding of why they went down this path. Secondly, the minister said on behalf of the industry that the monitoring of exemptions, particularly in relation to quantity, cost and quality of training, would be associated with some cost and complexity. I have every confidence that the Construction Industry Training Board has the wit to manage a scheme such as this, provided that the cost is reasonably and properly assessed. We all know that the Auditor-General is diligent (perhaps overly diligent in some cases), so he can assess whether the costs are reasonable. The industry has reasonable access to members of parliament if they want to complain and, at the end of the day, if they do not want to pay the costs they do not have to seek exemption. So, with the greatest of respect, in reality, that objection does not carry much weight.

The third point relates to the fact that, fundamentally, the levy differs from the WorkCover levy in that employers are responsible under the WorkCover system and they are assessed only because they might meet a very comprehensive and detailed set of criteria. All I say to that is: why cannot people in this industry devise a similar comprehensive and detailed set of criteria that can be dealt with as part of the process of consultation?

The fourth point that the minister makes is that Western Australia has not been able to get agreement on what grounds to exempt organisations. I accept that with one proviso, and that is that the Western Australia legislation has been in place for only a short time, particularly when one compares it with our legislation. Indeed, in a letter to me from the minister he suggests that our system of exemptions is more efficient and effective. The fact that we have never given an exemption leads the minister to the conclusion that it is more effective and efficient. The minister's logic escapes me, but I will be interested during the course of public consultation to see how he justifies that.

The minister then says—and this is a beauty—that the amendments signal a significant departure from the original intent or spirit of the act, that is, industry controlled, managed and financed. In terms of its objects (there is no specific objects section, I might add, so one must look at the long title to see what its objectives are), the act provides:

An act to establish a fund to be used to improve the quality of training in the building and construction industry; to establish the Construction Industry Training Board to administer the fund and coordinate appropriate training; to provide for the imposition and collection of a levy for the purposes of the fund; and for other purposes.

It seems to me that the act has one very simple objective, that is, to achieve the best training outcome. The objective is not to sustain or have a bureaucracy simply for the sake of having a bureaucracy. It is not there for the purpose of establishing a board. A board is a means by which an end can be achieved: that is, improved training outcomes. When we have consultation and discussion, that ought to be in the forefront of our minds.

The final issue (and there might well be some merit in this and some thought might need to be given to it) is that a large proportion of apprentices operate through group training arrangements and that, whilst levies are paid by small players in the industry, these group training schemes do not have any employers who directly pay a levy. That presupposes that the

small operators and contractors who sought exemption would not be able to achieve such an exemption, one would imagine, unless they were part of a group training scheme and that group training scheme delivered an outcome.

In closing, I must say that the minister and the industry will need to do better than this in terms of addressing and answering this issue through any consultation process that might take place. I also sincerely hope—and I note that the act says that it will be reviewed in 18 months—a response from the minister and, ultimately, the parliament will not thereafter take two or three years. If there is a review in 18 months, I hope that the parliament visits the issue very quickly thereafter because—and I make no criticism whatsoever of the minister in this case; he is only relatively new to this portfolio and, as I said earlier, we have had six ministers administering this—it has been a long time since the earlier review of 1997. One would hope that as a parliament and as a government the response is quicker next time.

**The Hon. T.G. CAMERON:** I endorse the comments of the Hon. Angus Redford, although I am not inclined to be as hard on the minister as he is, but he does make some very valid points. I understand that local government will be exempted from this. Will the government tell us what sums of money will now go to the board as a result of local government being exempted? I cannot imagine that the calculations have not been done. If they have not been done, someone is not doing their work properly.

**The Hon. R.I. LUCAS:** The honourable member will be delighted to know that the calculations have been done. The LGA has been consulted. I am told that it is proposed to commence from 1 July and that the levy income from local government, which will now pay it, will be somewhere between $100 000 and $200 000 in total.

**The Hon. T.G. CAMERON:** I ask the same question as to what the calculations are for the state government.

**The Hon. R.I. LUCAS:** I am told that the estimated quantum for the state government might be of the same order; that is, about $100 000 to $200 000, because the state government does not do in and of itself that much construction work; obviously it is contracted out to private construction companies.

**The Hon. T.G. CAMERON:** Summing that up, the passage of this bill would mean somewhere in the vicinity of $200 000 to $400 000 worth of extra revenue going into the Construction Industry Training Board.

**The Hon. R.I. LUCAS:** My advice is that that would be the maximum that is anticipated.

**The Hon. T.G. CAMERON:** Is the maximum $200 000 or $400 000?

**The Hon. R.I. LUCAS:** Between $200 000 and $400 000.

**The Hon. T.G. CAMERON:** In relation to local government, is it the intention that this will apply to all road construction work that a local council might do?

**The Hon. R.I. LUCAS:** My advice is that, in simple terms, yes, as long as the value of the project exceeds $15 000.

**The Hon. T.G. CAMERON:** Has anyone given any thought to the question of road construction work and work performed by local councils? It gets very difficult to determine whether it is road construction or road maintenance. Has any attention been paid to that matter? When does road construction stop and road maintenance start?

**The Hon. R.I. LUCAS:** Without, obviously, being too technical, because I cannot be, I am advised there has been considerable discussion about that issue with the LGA, and there is an understanding between the LGA and the board in relation to the fine line that distinguishes maintenance and construction.

Amendment negatived; clause passed.

Remaining clauses (7 to 16) and schedule passed.

Bill read a third time and passed.

## RETAIL AND COMMERCIAL LEASES (GST) AMENDMENT BILL

In committee.

(Continued from 28 November. Page 624.)

Clause 1.

**The Hon. CARMEL ZOLLO:** The amendment that I have already moved to clause 1 is consequential on the insertion of new clause 45A, so could this perhaps be used as a test clause, Attorney?

**The Hon. K.T. GRIFFIN:** I will not raise any issue on this. We will not use it as a test clause. I will let it go through as an amendment; but if none of the amendments get up I indicate that we will recommit.

Amendment carried; clause as amended passed.

Clause 2 passed.

Clause 3.

**The Hon. NICK XENOPHON:** I move:

Page 3, after line 9—Insert new paragraph:

(aa) by inserting after the definition of 'accounting period' in subsection (1) the following definition:

'casual lease', in relation to a retail shopping centre, means an agreement under which a person grants or agrees to grant to another person, a temporary right to occupy a common area within the retail shopping centre;

I have spoken to this previously, but this amendment provides a definition of 'casual lease' and it is similar to the other amendments that relate to casual tenancies. I seek some guidance as to whether it is appropriate that I discuss all the amendments. All the amendments are in a package and I reiterate to honourable members that these amendments will have a positive impact on the retail industry. It is an issue that retailers would overwhelmingly support. The casual leasing practices of some landlords have severely affected many retail businesses and this issue is so topical that even the national body of the Australian Retailers Association has attempted to reach resolution with the Property Council on many occasions with no success.

These amendments are almost identical to a code of conduct that was presented to the federal executive of the Property Council over a year ago. They are most reasonable and, in simple terms, protect retailers from having their trade disrupted or, worse, stolen by people who have not made a long-term commitment to the shopping centre nor invested time and money into businesses that meet the needs of the local community.

I am grateful for material that has been provided to me today from the Australian Retailers Association in this regard. One of the key principles here is that temporary entities should not have major advantage over established businesses that have risked virtually everything, in many cases, to sign a long-term commitment, a long-term lease, with a major shopping centre only to have their livelihoods severely affected by a casual tenancy.

With regard to the amendment of section 12, which provides that the lessee be given a disclosure statement,

effectively if a retailer knows that an area adjacent to a shop may be used for casual leasing and that a competitor may be granted space, they are in a better position to decide ahead of time whether this may adversely impact on their business. This amendment ensures that all parties know exactly where they stand. It is really about informed consent; it is about disclosure; and essentially it is a clause that allows a prospective long-term tenant to make an informed choice before entering into a major investment decision.

Regarding section 33 with respect to adjustment of contributions to outgoings, retailers directly and indirectly pay for the centre's outgoings: casual tenants do not. Given that casual tenancies are usually in common areas that retailers pay towards, it makes sense for the income generated by casual tenancies to be off-set against the total outgoings costs. At the very least—and I can indicate that the preferred position is obviously that in the amendment—a reasonable percentage of the casual tenancy windfall gained by shopping centres should be allocated against total centre outgoings.

The proposed amendment to section 56 relates to the lessor, ensuring that granting does not restrict access. The information I had a number of months ago from the State Retailers Association (formerly the Small Retailers Association) and also, more recently, from the Australian Retailers Association is that there have been many examples of casual tenants disrupting access to established stores or taking away sight lines.

Again, why should a temporary tenant gain an upper hand over a business that has made a full commitment to the centre and community? I note that the Property Council has written to members of parliament on this issue. With respect to the Property Council, it fails to understand that, in the first instance, it is retailers who make its money, not investors.

If the Property Council members wish to have temporary tenants, at the very least sitting tenants must be aware of the centre's policy in placement of temporary tenants. And temporary tenants should not be given a major advantage over sitting tenants. I consider that these requests are most reasonable. That is a view that has been endorsed by the Australian Retailers Association. If a centre wants to increase its revenue base and variety of retailers, it should look to extend the number of existing shops in a manner that would not adversely affect existing trade.

Depending on the outcome of this measure, I propose to ask the Property Council to provide information regarding the total revenue that it receives from sitting tenants, and separately from casual tenancies in common areas. The casual tenancy percentage will be very low compared to that received from sitting tenants, yet the potential damage to the sitting tenants' business is high.

That, in essence, sums up the effect of these clauses. I respect the Attorney's view that he is vehemently opposed to them, but this seems to be an overdue reform that would restore some equity and fairness with respect to the relationship between landlords and tenants. Those landlords who do not abuse the use of casual tenancies have nothing to fear but, in relation to those landlords who do the wrong thing and who make windfall profits with casual tenancies at the expense of their long-term tenants, this reform is long overdue.

**The Hon. K.T. GRIFFIN:** The government opposes the amendments, and I suggest that we use this particular amendment as the test amendment for the package of amendments on file by the Hon. Mr Xenophon. The reason the government opposes this amendment is that there has been no opportunity to have this matter fully examined by the Retail Shop Leases Advisory Committee, which is a committee comprising representatives of all the sectors of the retail industry. The normal practice, when issues of substance are raised, is for them to be referred to the committee for the purpose of having the issues properly examined.

It may be that the committee will not be able to agree on an appropriate form of words for either one or both of the different packages of amendments, but that is something that is to be tested in the future. I chair the committee and, in the time that it has been established, it has worked quite effectively to get the differing views of those who are members of the committee on potentially controversial issues. In many instances we have been able to resolve outstanding issues by that process of consultation. It is true to say that the Small Retailers Association is at ease with most of the proposals, and the Australian Retailers Association equally has no problem with the amendments, but being retailer-based one would understand that it would have that view.

I refer to some quick views that were recorded following a ring around earlier this week. The Australian Small Business Association did not have a problem with the assignment proposals but said that the casual leases proposal has some serious problems, particularly in relation to definitions. If one thinks about it, the casual leases issue has not been the subject of consultation with all those who have an interest. It may have been the subject of consultation with small retailers and the Australian Retailers Association, but they are not the only representatives of retailers and small business, and it is not true to say that all small business groups and all retailers are at one on this issue.

Knight Property Consultants has a problem with both of the issues and was concerned about the issues not having been the subject of much more intensive consultation than they appear to have received. The Property Council is concerned at substantive changes to the law without a full consultation process and does not support the amendments proposed, particularly the changes to the liabilities of assignors. The Property Council makes the comment that both amendments are ill thought out and have not been discussed with the industry. The casual leases issue has serious implications for property values and is already sufficiently covered in the act.

The Shopping Centre Council would like to see GST-related amendments go through but it can live without them in the interim. The council has no problem in discussing assignors further but says that, while there has been some movement in New South Wales, the proposals in South Australia are not similar.

The lack of consultation is of concern, as casual leasing is a fundamental issue for shopping centre proprietors and managers. The Newsagents Association of South Australia has considerable reservations about last-minute amendments which have not been the subject of consultation, and does not agree that assignors should not continue to be liable for obligations to pay under the lease. It did suggest that maybe there is a time limit for which the assignor might be liable—but that is a separate issue. It was agreed by the Newsagents Association that there should be some clarity in disclosure statements about temporary stalls. Mr Neil Kandelaars of the firm of Finlaysons has indicated that he would not want to see the non-GST amendments, because the policy considerations have not been properly explored. So, that is a range of the reaction that we received as we did a quick ring around to the members of the Retail Shop Leases Advisory Committee

members. They would be much more comfortable if these amendments were dealt with after at least full consultation, which has not been the case up to the present time.

It is true that in New South Wales there were some amendments to deal with the issue of assignments but the issue of casual leases is one which, at least in this state, will cause considerable concern. It may be that it has the capacity to be properly managed and finally agreed but that is not something that I am able to predict at this stage, because I have not called a meeting of my advisory committee. So, the government quite strenuously opposes the amendments proposed by the Hon. Mr Xenophon.

**The Hon. CARMEL ZOLLO:** As previously indicated, the opposition will support the Hon. Mr Nick Xenophon's amendments. Like the amendments of the opposition, the intent is to provide greater equity and fairness between lessors and lessees. We understand that the granting of casual leases without due regard for lessees can cause enormous harm to a small business person. The Hon. Nick Xenophon gave some smart examples of what can go wrong under the existing legislation. We agree that the granting of casual leases should always protect the person who has made the substantive commitment in good faith and who has taken out a lease in good faith. They should not then have imposed upon them extra competition in a manner which is detrimental to their businesses.

**The Hon. IAN GILFILLAN:** The Democrats will support the Hon. Nick Xenophon's amendments. As the committee would know, we voted against the second reading and we will vote against the third reading. However, that does not mean that we do not take part in the consideration of amendments as they come through. It is very difficult, because of the way in which this situation is structured, for relatively peripheral matters to be dealt with. So, I have a lot more sympathy for the introduction of constructive amendments, although they are not part of the initial substance of the bill.

I think that, quite clearly (and I think the Attorney would agree), an attempt is being made here to address the potential for an injustice to be done to current leaseholders. Although I have read the Attorney's notes (which, in his typical style, are very thorough and clinically analytical), the fact remains that I would rather err on the side of some degree of certainty in ensuring that the current trading situation of lessees is not attacked through some form of casual, part-time and what one would describe as unpredicted competition being introduced into their trading area. So, I indicate that we will support the Hon. Nick Xenophon's amendments.

**The Hon. T.G. CAMERON:** SA First will support the amendments moved in the name of the Hon. Nick Xenophon. The problem of casual leases and what is going on in some of the large shopping centres has been brought to my attention now for two or three years. Whilst supporting the amendment, again I wish to record that I believe it would have been more appropriate for this matter to come forward at a separate time.

*The Hon. Ian Gilfillan interjecting:*

**The Hon. T.G. CAMERON:** The Hon. Ian Gilfillan interjects that that is very difficult to do, but it is important on issues such as this that all the stakeholders have an opportunity to contribute. I received some telephone calls and correspondence from the South Australian Property Council today. Unfortunately I did not have time to get back to them, but they were complaining that this was the first they had heard of this issue—in legislative form anyway—and were arguing that the GST Amendment Bill should go through and this matter should be held over. I note that in his contribution the Hon. Nick Xenophon stated this is not exactly a new matter; it has been the subject of discussion between the various parties for a number of years.

I would be extremely surprised if the Property Council were not aware of the concerns held by both the Small Retailers Association and the Australian Retailers Association. There is a great deal of angst out there in shopping centres where small business people have made a significant financial contribution, taken out a lease, paid for a refit, worked hard to build up their business and a couple of years down the track wonder what is going out in the mall area with a bit of construction work going on. They find that a casual business is being set up in the mall area in close proximity to their shop and selling goods that are similar if not the same as their own. I do not believe that is a reasonable competitive pressure that these people should be placed under.

I am sure the Australian Democrats are aware of this, because of their close links with the small business community. I am aware of numerous cases where in pledging and signing a lease people are often in a de facto way mortgaging their own home. They often pay a considerable amount for the goodwill and for a refit, take out a mortgage on their own home, work hard at their business only to find out two or three years into a five year lease that they are subject to competitive pressures of which they were completely unaware when they entered into their lease.

I would hope that this is a salutary lesson both to the Property Council and to some of the big shopping centre owners that the days of their being able to lord it over their tenants and impose unreasonable conditions upon them are over. I reiterate the point I made earlier: I would have felt a little more comfortable with this amendment had we had more time to consider it and consult with the respective parties. However, SA First will support it.

**The Hon. K.T. GRIFFIN:** As I said, my major concern about this is that it has not really been the subject of careful analysis and consultation, and that is always the difficulty when we are trying to deal with matters of some considerable moment at relatively short notice. I had hoped that we would be able to deal with the bill without amendments on the basis that it dealt with a discrete issue. I do not deny that members have the right to take the opportunity to append unrelated amendments to any bill when it comes before the council, but it is unfortunate that that might happen in the context of some fairly important issues which, for both landlords and tenants in retail shopping centres, potentially have serious ramifications. Some of the advice I have received indicates—and I have already provided that information to the committee when I spoke on the amendments generally a few days ago—that there is concern about the drafting, the sort of concern that we cannot resolve merely by checking one or two things without much more complete consultation with those who work as landlords, tenants or managers in the retail industry.

I acknowledge that the numbers are against me. On that basis, there will be no point in calling for a division if I lose on the voices, but I indicate that the bill will not be acceptable in that form. In light of some of the quick advice that has been received from those who have an interest, we will most probably put it on hold and give some consideration to it over the break, with a view to dealing with it further in March. That will mean that the GST issues are put on hold, but certainly from some perspectives those who have been consulted quickly in the ring around that I have referred to

would prefer not to deal with the GST issue if it has appended to it the substantive changes to the tenancy law, which this series of amendments would cover. I am not proposing to call for a division if I lose on the voices.

Amendment carried; clause as amended passed.

New clause 3A.

**The Hon. NICK XENOPHON:** I move:

Page 3, after line 24—Insert new clause as follows:

Amendment of s.12—Lessee to be given disclosure statement

3A. Section 12 of the principal act is amended by inserting after paragraph (h) of subsection (3) the following paragraphs:

(ha) whether the lessor intends to enter into casual leases in respect of the retail shopping centre; and

(hb) whether the lessor is prepared to give the lessee an assurance that casual leases in respect of the retail shopping centre will not be entered into with competitors (other than tenants of other retail shops within the retail shopping centre); and

As I have discussed the issue, I do not propose to make any further contribution.

**The Hon. K.T. GRIFFIN:** I have already indicated that I see these as a package of amendments from the Hon. Mr Xenophon, not necessarily one following the other as night follows day and day follows night, but sufficiently related not to spend a lot of time on the issue. As I have said previously, there are sufficient disclosure mechanisms already in the act. Under section 37 of the act, if the lessor wants to alter or refurnish the shopping centre and it is likely to adversely affect the business of the lessee, the lessor must notify the lessee of the changes to be made at least one month before they are commenced. That gives the lessee an opportunity to prepare for those changes and in this situation make representations to the lessor about the appropriateness of the location of a temporary stall. As I said, I explored some of the related issues when I spoke on clause 1 a few days ago. I oppose the amendment.

**The Hon. CARMEL ZOLLO:** As indicated, the opposition supports the amendment.

New clause inserted.

Clauses 4 and 5 passed.

New clause 5A.

**The Hon. NICK XENOPHON:** I move:

Page 4, after line 10—Insert new clause as follows:

Amendment of s. 33—Adjustment of contributions to outgoings based on actual expenditure properly and reasonably incurred

5A. Section 33 of the principal act is amended by inserting in paragraph (b) after 'outgoings' last occurring ', less income received during that period by the lessor under casual leases in respect of the retail shopping centre concerned'.

I do not propose to make any further contribution, given the remarks made previously.

**The Hon. K.T. GRIFFIN:** This is opposed. I have said previously that the proposed amendment provides that the lessors' income from the temporary stalls would effectively pay for the outgoings of the shopping centre instead of the lessees effectively paying the outgoings. That might be attractive to existing lessees but there would be no incentive for lessors to allow such stalls to be set up to maximise the use of their common areas, and their operations would most likely cease. That would probably deny some fledgling businesses the opportunity to test the market with their products and services.

**The Hon. CARMEL ZOLLO:** I indicate opposition support.

New clause inserted.

Clause 6 passed.

New clause 7.

**The Hon. CARMEL ZOLLO:** I move:

Page 4, after clause 6—Insert new clause as follows:

Insertion of s. 45

7. The following section is inserted after section 45 of the principal act:

Liability of assignor

45A. (1) Notwithstanding a provision of a retail shop lease or of any other agreement (whether made before or after the commencement of this section), if a lessee assigns a retail shop lease, the lessee, or a guarantor of the lessee under a collateral agreement, is not liable to pay any money to the lessor in respect of an amount that is payable by the assignee of the lease.

(2) Nothing in this section relieves a lessee, or a guarantor of the lessee, of any liability accrued under a retail shop lease prior to the assignment of the lease.

As I indicated when I spoke on this matter before, it is envisaged that proposed new section 45A(1) removes the commitment of a lessee or his or her guarantor to be responsible for the debts of an assigned lease. It provides protection to assignors for another's liabilities. The Attorney-General previously spoke about section 43 of the principal act, which provides grounds on which consent to assignment can be withheld. The opposition sees this section as a redress or fallback for the lessor if he or she believes that the proposed assignee, amongst other considerations, is unable to meet his or her financial commitment. The other redress could be simply to re-let the property if the assignee defaults.

Proposed new section 45A(2) specifies that the lessee or his guarantor remains liable for any liability accrued before an assignment. The issue has been one of significant concern, as I mentioned previously, when leases are signed in good faith by lessees and they find themselves liable for someone else's bad management. In short, the onus is put back on the lessor rather than the lessee. The Labor Party is of the view that a small businessman is less likely to be in a position to carry the burden of another's debt than the lessor.

**The Hon. T.G. Cameron:** Or small businesswoman.

**The Hon. CARMEL ZOLLO:** I thank the Hon. Terry Cameron for that interjection, not that I have to thank him often. In many cases this would relate to lessors in very large shopping centres. The Attorney also mentioned that the New South Wales legislation is similar, and that is quite true. I have a copy of schedule 1 of the New South Wales Retail Leases Act 1998. Section 41A refers to the protection of assignors and guarantors, and subsection (1) provides:

A person who assigns a retail shop lease in connection with the lease of a retail shop that will continue to be an ongoing business, or a guarantor. . . of the person, is not liable to pay to the lessor any money in respect of amounts payable by the person to whom the lease is assigned if the former lessee gave:

It then talks about a disclosure statement. It is very similar to what we have in our act relating to grounds on which consent to assignment can be withheld. So it is covered in that, and it is also covered in section 45, relating to 'procedure for obtaining consent to assignment'. So, for reasons of equity and fairness, I urge honourable members to support this amendment.

**The Hon. K.T. GRIFFIN:** The government opposes the amendment, as I indicated when I spoke on the issue several days ago, for two reasons: first, it has not been the subject of any consultation; and, secondly, it really makes some quite radical changes. If one enters into a lease for a fixed term, whether it is for residential purposes or for commercial purposes, it is a contract, and one enters into it, hopefully, with eyes open and understanding that personal liability will continue until the lease term has reached an end. Even though

an assignment may be made, that assignment is generally more to the benefit of the tenant than to that of the landlord. As I probably indicated, section 43 provides some protections for assignees and that, in itself, is a benefit to those assignees.

There are provisions in New South Wales, but there is some difference, I suggest, between this and what occurs in that state. If this was an issue that had been the subject of proper consultation, it may be that something sensible could have come out of it. However, I am not prepared to accept and endorse the principle, particularly because of the lack of consultation.

**The Hon. T.G. CAMERON:** Whilst I have some sympathy with the amendment, it has all become a little academic now, as the bill is likely to be held over until the next session. I have not been lobbied in relation to this amendment. I am aware that section 43 provides a certain amount of protection for the—

*The Hon. Carmel Zollo interjecting:*

**The Hon. T.G. CAMERON:** I was not talking about you. It must have been a pretty good effort, because I cannot recall it. I think you might have said that you wanted to talk to me about it: I am not quite sure whether you went into the detail. I was not aware of the situation in New South Wales but, as this bill is being held over now, anyway, I consider it appropriate not to support this amendment. It has not been discussed with the industry. I have not received particular complaints in relation to the subject matter of the amendment, and it has quite significant ramifications. One hopes that, if something like this is going to work properly, we can get the parties together to work out some kind of agreed position, rather than everyone waking up one day and finding out that the world around them has changed. So I will not support the amendment.

**The Hon. NICK XENOPHON:** I can understand the Hon. Terry Cameron's position, and I am not critical but, on balance, I support the proposal because it will remedy situations that occur currently with respect to assignments that, in many respects, are not satisfactory.

The Attorney has indicated that this bill will not be proceeded with before the Christmas break. No doubt there will be a further period in which to discuss this particular clause between now and March, although I hope the Attorney will reconsider his position so that this bill can be dealt with or finalised before the Christmas break.

**The Hon. IAN GILFILLAN:** The Democrats support the amendment. We believe that it is well justified to be presented in this bill and we will support it.

The committee divided on the new clause:

AYES (9)

| | |
|---|---|
| Elliott, M. J. | Gilfillan, I. |
| Holloway, P. | Kanck, S. M. |
| Roberts, R. R. | Roberts, T. G. |
| Sneath, R. K. | Xenophon, N. |
| Zollo, C. (teller) | |

NOES (9)

| | |
|---|---|
| Cameron, T. G. | Davis, L. H. |
| Griffin, K. T. (teller) | Laidlaw, D. V. |
| Lawson, R. D. | Lucas, R. I. |
| Redford, A. J. | Schaefer, C. V. |
| Stefani, J. F. | |

PAIR

| | |
|---|---|
| Pickles, C. A. | Dawkins, J. S. L. |

**The PRESIDENT:** There being nine ayes and nine noes, there is therefore an equality of votes. To enable this clause to be considered further, I give my vote to the ayes.

New clause thus inserted.

**The Hon. K.T. GRIFFIN:** In light of the vote on that clause, I suggest that we report progress. I intimate that the bill will not proceed in this part of the session. We will give some consideration to the issues over the break.

Progress reported; committee to sit again.

## AUTHORISED BETTING OPERATIONS 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 provides for a comprehensive and consistent new regulatory regime for betting operations to be conducted by the SA TAB, racing clubs and bookmakers in place of the existing provisions of the *Racing Act*.

It is appropriate, in the context of the sale of the SA TAB, to establish a consolidated and more robust system for the regulation of betting operations in the State.

A major feature of the Bill is that the SA TAB will be subject to a comprehensive probity, regulatory, licensing and compliance regime overseen by the Gaming Supervisory Authority (GSA) and the Liquor and Gaming Commissioner—both of whom will have expanded supervisory and enforcement functions.

The GSA and the Commissioner will have new powers to ensure the probity and integrity of betting operations.

Importantly, the Government also proposes that the new regulatory framework will require the business operator to implement GSA-approved codes of conduct for advertising and responsible gambling. These provisions give effect to the Government's response to Parliament's Social Development Committee Gambling Inquiry Report.

That means, for example, that SA TAB will be required to display information about responsible gambling and the availability of rehabilitation and counselling services for problem gamblers. SA TAB will also be required to provide point-of-sale information on player returns.

The GSA will also have extensive powers that are directed towards ensuring the probity of the owner of SA TAB, its directors, executive officers and associates. Changes in the identity of any of these groups, and dealings with the licence or major aspects of the licensed business, will require GSA approval.

Overall, the regulatory framework represents a responsible balance of commercial considerations—in particular, the need to allow the business to continue to operate and compete effectively—with Government's broader social responsibilities.

The licence issued to SA TAB under the legislation will be known as the Major Betting Operations Licence. The first licence will be issued to the SA TAB shortly after it converts to a company, but while still in Government ownership. Provision is made for transfer of the licence to a clean Government-owned company established for the purposes of the sale process. Thereafter, a change in ownership of the company, or a transfer of the licence, as part of the sale process will require the approval or recommendation of the Authority.

The Bill sets down the authority conferred by the Major Betting Operations Licence and also provides that there will be only one such Licence issued.

An Approved Licensing Agreement, between the Minister and the Licensee, will set down the scope of the Licence more generally, and will deal with such matters as the term of the Licence; exclusivity rights; the maximum commission rates which may be earned on totalisators and other commercial matters and the detailed aspects of business regulation.

Many of the detailed commercial issues will be finalised as part of the sale process, once the preferences of bidders, and the consequential value to taxpayers, can be assessed against a range of financial, social, economic and other considerations.

Indicatively, the Government's current thinking is to offer a licence term of 99-years to the market, with a 15-year exclusivity period, in line with the Adelaide Casino model.

Also consistent with the Casino legislation, and in the interests of transparency and accountability, the Approved Licensing

Agreement—and any subsequent amendments—will be tabled in Parliament, once entered into by the Minister and approved by the GSA.

The Licensee will also enter into a Duty Agreement with the Treasurer, establishing a State taxation regime and dealing with other financial matters. This agreement will also be tabled in Parliament.

Importantly, in order for the Major Betting Operations Licence to be granted, a private sector Licensee must have in place and give effect to a formal commercial agreement with the SA Racing Industry (the Racing Distribution Agreement) concerning the payments to be made to the SA Racing Industry by the Licensee for the provision of local and interstate racing product and information.

The Bill provides for licensing of racing clubs to conduct on-course totalisator betting and licensing of bookmakers and bookmakers' clerks. The substance of the regulatory framework is largely unaltered but the institutional arrangements will change, with responsibility for the issue of licences, together with associated probity and regulatory functions, proposed to reside with the GSA and the Commissioner.

This Bill establishes a comprehensive yet balanced licensing and regulatory framework for all betting operations in this State.

The Bill should give all South Australians full confidence that a privately owned SA TAB will operate to the highest standards of probity and that fairness to customers, and other matters of public interest, have been adequately addressed.

I commend the Bill to the House.

Explanation of Clauses

PART 1

PRELIMINARY

*Clause 1: Short title*

This clause is formal.

*Clause 2: Commencement*

This clause provides for commencement by proclamation. The operation of section 7(5) of the *Acts Interpretation Act* (providing for commencement of the measure after 2 years if an earlier date has not been fixed by proclamation) is excluded.

*Clause 3: Interpretation*

This clause contains definitions for the purposes of the measure.

*Clause 4: Approved contingencies*

Betting operations authorised under the measure may relate to races held by licensed racing clubs or to approved contingencies. This clause provides for approval by the Authority of contingencies. The contingencies may be related to other races or sporting or other events within or outside Australia.

The approval is to relate to specified kinds of betting operations. This enables the Authority to approve in appropriate cases, for example, certain contingencies for totalisator betting conducted by the major betting operations licensee and different contingencies for fixed odds betting by licensed bookmakers.

The Authority may give a general approval for any form of betting on any contingency relating to an event of a specified class (for example, betting on the outcome or any combination of outcomes or the margin or margins in a series of matches) or may give a more limited approval for a particular form of betting on a particular contingency relating to a particular event (for example, fixed odds betting on the winner of a particular match). The clause allows the Authority to adjust the type of approval as it considers appropriate.

Subclause (2) provides that the Authority must not approve contingencies unless satisfied as to the adequacy of standards of probity applying in relation to the contingencies and the appropriateness in other respects of the contingencies for the conduct of betting operations generally or the particular betting operations concerned.

Approvals may be varied or revoked. The Minister is to be given prior notice of a proposal to approve contingencies and will have power to give the Authority binding directions preventing or restricting the approval of contingencies.

*Clause 5: Close associates*

This clause defines the meaning of close associates so as to cover all parties in a position to control or significantly influence another.

*Clause 6: Designation of racing controlling authorities*

Under this clause, the Governor may, by proclamation, designate the racing controlling authorities for the various racing codes (horse racing, harness racing and greyhound racing).

For a club to be a racing club for the purposes of the measure it must be related to a racing controlling authority through its membership of the authority or its membership of a body that is a member of the authority or through registration of the club by the Authority. A racing controlling authority will be regarded as a club if it holds race meetings. The racing controlling authorities are also given a role to play in the racing distribution agreement that must be entered into between the major betting operations licensee and the racing industry.

PART 2

MAJOR BETTING OPERATIONS LICENCE

DIVISION 1—GRANT, RENEWAL AND CONDITIONS OF LICENCE

*Clause 7: Grant of licence*

There is to be one major betting operations licence granted by the Governor. In the first instance the licence is to be granted to TABCO(A) (that is TAB as converted to a company under the *Corporations Law*). Any later grant is to be made on the recommendation of the Authority.

*Clause 8: Eligibility to hold licence*

The licensee is required to be a body corporate.

*Clause 9: Authority conferred by licence*

This clause sets out the betting operations that may be authorised by the licence as follows:

- to conduct off-course totalisator betting on races held by licensed racing clubs;
- to conduct off-course totalisator betting on approved contingencies;
- to conduct on-course totalisator betting under agreements with licensed racing clubs on races held by licensed racing clubs and on approved contingencies;
- to conduct other forms of betting on approved contingencies (other than fixed-odds betting on races within Australia on which licensed bookmakers are authorised to conduct betting).

Part 3 governs the granting of licences to racing clubs and bookmakers.

*Clause 10: Term and renewal of licence*

The term of the licence is to be governed by the approved licensing agreement (an agreement that must be entered into between the Minister and a prospective licensee before the grant of the licence).

The licensee is to have no expectation of renewal but, provided a new approved licensing agreement, a new racing distribution agreement and a new duty agreement are entered into, the Minister may renew the licence on the recommendation of the Authority.

*Clause 11: Conditions of licence*

The measure itself fixes various conditions of licence and the approved licensing agreement may fix other conditions of licence.

DIVISION 2—AGREEMENTS WITH LICENSEE

*Clause 12: Approved licensing agreement*

This clause sets out the requirement for there to be an approved licensing agreement between the licensee and the Minister.

The agreement is to be about—

- the scope and operation of the licensed business; and
- the term of the licence; and
- the conditions of the licence; and
- the performance of the licensee's responsibilities under the licence or the measure.

The agreement has no effect unless approved by the Authority.

The agreement binds the Minister, the Authority and the Liquor and Gaming Commissioner (the Commissioner) and may contain provisions governing the exercise of their powers under the measure or the *Gaming Supervisory Authority Act 1995*. The agreement may also bind any other person who consents to be bound.

The agreement may contain a provision relating to the exclusivity of the licence.

The agreement is required to set out the maximum commission that may be retained by the licensee out of bets made with the licensee.

A specific authorisation is included for the purposes of section 51 of the Commonwealth *Trade Practices Act*, and the *Competition Code of South Australia*, in relation to the agreement.

*Clause 13: Racing distribution agreement*

This clause requires there to be a racing distribution agreement between the licensee and the racing industry about terms and conditions on which the licensee may conduct betting operations on races held by licensed racing clubs.

The agreement will include provisions relating to—

- the arrangement of racing programs and the provision of information to the licensee about races (whether held within the State or elsewhere in Australia); and
- the payments to be made by the licensee to the racing industry.

The clause also provides for the racing controlling authorities to be able to give licensed racing clubs binding directions for the purposes of enabling the racing industry to perform its obligations and exercise its rights under the agreement.

A specific authorisation is included for the purposes of section 51 of the Commonwealth *Trade Practices Act*, and the *Competition Code of South Australia*, in relation to the racing distribution agreement.

*Clause 14: Duty agreement*

This clause requires there to be a duty agreement between the licensee and the Treasurer. The duty agreement may (but need not) extend to a requirement to pay all or part of unclaimed winnings or totalisator fractions to the Treasurer. Provisions for interest and penalties, security and returns are included.

*Clause 15: Approved licensing agreement and duty agreement to be tabled in Parliament*

The approved licensing agreement and the duty agreement (and any variation of either agreement) are to be laid before both Houses of Parliament.

DIVISION 3—DEALINGS WITH LICENCE OR LICENSED BUSINESS

*Clause 16: Transfer of licence*

Transfer of the licence requires the approval of the Governor, which may only be given on the recommendation of the Authority.

However, transfer of the licence from TABCO(A) (that is, TAB as converted to a company) to TABCO(B) (that is, a State-owned company established under the TAB (Disposal) measure) may be approved by the Governor on the recommendation of the Minister.

The clause ensures that the transferee is bound by the approved licensing agreement, the racing distribution agreement and the duty agreement.

*Clause 17: Dealings affecting licensed business*

This clause sets out the kinds of transactions that the licensee must not enter into without the approval of the Authority. In general terms any transaction under which another will gain an interest in the licensed business or a position of control or significant influence over the licensee is caught.

The provision will not apply to a transaction entered into by TABCO(A) or TABCO(B) while it is a State-owned company.

*Clause 18: Other transactions under which outsiders may acquire control or influence*

This clause recognises that there are various transactions beyond the control of the licensee by which a person may gain a position of control or significant influence over the licensee. The licensee is required to notify the Authority within 14 days after becoming aware of such a transaction.

If the Authority is not prepared to ratify such a transaction, the Authority may make orders designed to 'undo' the transaction. The Authority's orders may be registered in the Supreme Court for the purposes of enforcement. Provision is made in Part 7 for an appeal against an order of the Authority under this clause.

*Clause 19: Surrender of licence*

Approval of the Authority is required for the surrender of the licence.

DIVISION 4—APPROVAL OF DIRECTORS AND EXECUTIVE OFFICERS

*Clause 20: Approval of directors and executive officers*

Before a person becomes a director or executive officer of the licensee, the licensee must ensure that the person is approved by the Authority.

Executive officer is defined to mean a secretary or public officer of the body corporate or a person responsible for managing the body corporate's business or any aspect of its business. The Authority may limit the range of executive officers to which the section applies in a particular case by written notice to the licensee.

The provision will not apply to directors of TABCO(A) or TABCO(B) while it is a State-owned company.

DIVISION 5—APPLICATIONS AND CRITERIA FOR DETERMINATION OF APPLICATIONS

*Clause 21: Applications*

This clause covers—

- an application for the grant, renewal or transfer of the licence;
- an application for the Authority's approval or ratification of a transaction to which Division 3 applies (other than the transfer of the licence);
- an application for the Authority's approval of a transaction to which Division 3 would apply if the transaction were entered into;
- an application for the Authority's approval of a person who is to become a director or executive officer of the licensee.

It sets out who may make an application and the requirements relating to an application.

*Clause 22: Determination of applications*

This clause sets out the criteria to be applied to applications by the Authority including requirements relating to the suitability of a person to hold the licence or to conduct, or to control or exercise significant influence over the conduct of, the licensed business.

In assessing the suitability of a person, the Authority may have regard to a wide range of factors, including—

- the corporate structure of the person; and
- the person's financial background and resources; and
- the person's reputation; and
- the character, reputation, and financial background of the person's close associates; and
- any representations made by the Minister.

The concept of close associate is defined in Part 1 and includes partners, directors, executive officers, shareholders, persons who participate in profits and the like.

DIVISION 6—INVESTIGATIONS BY AUTHORITY

*Clause 23: Investigations*

The Authority is required to carry out the investigations it thinks necessary to enable it to make recommendations or decisions and to keep under review the continued suitability of the licensee and the licensee's close associates.

*Clause 24: Investigative powers*

This clause gives the Authority various powers to enable it to obtain relevant information.

*Clause 25: Costs of investigation relating to applications*

Applicants are to be required to meet the cost of investigations (other than investigations relating to an application for approval of a person to become a director or executive officer of the licensee).

*Clause 26: Results of investigation*

The Authority is required to notify the applicant and the Minister of the results of investigations in connection with an application.

DIVISION 7—ACCOUNTS AND AUDIT

*Clause 27: Accounts and audit*

This clause requires the licensee to keep proper financial accounts in relation to the operation of the licensed business, segregated from accounts relevant to other business carried on by the licensee.

*Clause 28: Licensee to supply authority with copy of audited accounts*

The licensee is required to give the Authority a copy of the audited accounts kept under this Division and those kept under the *Corporations Law*.

*Clause 29: Duty of auditor*

This clause requires the auditor of the licensee's accounts to report any suspected irregularities to the Authority.

*Clause 30: Non-application of Division*

This Division is not to apply to TABCO(A) or TABCO(B) while it is a State-owned company.

DIVISION 8—PAYMENT OF DUTY

*Clause 31: Liability to duty*

This clause imposes the obligation to pay the duty as set out in the duty agreement.

*Clause 32: Evasion of duty*

This clause makes it an offence for the licensee to attempt to evade the payment of duty and enables the Treasurer to reassess the duty payable in the case of an attempted evasion.

DIVISION 9—GENERAL POWER OF DIRECTION

*Clause 33: Directions to licensee*

The Authority is empowered to give directions to the licensee about the management, supervision and control of any aspect of the licensed business. The Authority must, unless the Authority considers it contrary to the public interest to do so, give the licensee an opportunity to comment on proposed directions.

PART 3
LICENSING OF OTHER BETTING OPERATIONS
DIVISION 1—LICENCES

*Clause 34: Classes of licences*

The classes of licences that may be granted by the Authority under this clause are as follows:

- an on-course totalisator betting licence (for racing clubs);
- a bookmaker's licence;
- a clerk's licence authorising a person to act as the clerk of a licensed bookmaker;

· a betting shop licence authorising a licensed bookmaker to conduct fixed-odds betting at specified premises situated within the City of Port Pirie.

Bookmakers and clerks must be persons who have attained 18 years of age.

The Minister may give the Authority binding directions about authorisations for on-course totalisator betting that is not in conjunction with a race meeting.

The requirement for a racing club to hold a licence is new. The other licences reflect those currently required to be held under the *Racing Act*.

Provision is made for the regulations to exclude classes of races held by licensed racing clubs from the events on which clubs or bookmakers may accept bets. This is designed to enable 'for profit' races to be excluded.

*Clause 35: Term of licence*

A licence is to be for a term specified in the licence and may be renewed in accordance with the regulations.

The Minister may give the Authority binding directions about the term of an on-course totalisator betting licence.

*Clause 36: Conditions of licence*

The Authority is empowered to impose conditions of licence and to vary the conditions by written notice to a licensee.

The Authority is required to attach conditions to an on-course totalisator betting licence fixing the commission that may be retained by the licensed racing club. The Minister may give the Authority binding directions relating to such conditions.

*Clause 37: Application for grant or renewal, or variation of condition, of licence*

This clause sets out requirements for applications.

*Clause 38: Determination of applications*

This clause sets out the criteria to be applied to applications by the Authority, namely, requirements relating to the suitability of a person to hold the licence and, in the case of an on-course totalisator betting licence, the adequacy of the standards of probity that will apply to races held by the racing club.

In assessing the suitability of a person, the Authority may have regard to a wide range of factors, including—

· the person's financial background and resources; and
· the person's reputation; and
· the character, reputation, and financial background of the person's close associates; and
· any representations made by the Minister.

DIVISION 2—LIABILITY TO PAY DUTY

*Clause 39: Liability to duty*

The regulations will impose a requirement to pay duty on licensed racing clubs and licensed bookmakers. This may (but need not) extend to a requirement to pay unclaimed winnings or totalisator fractions to the Treasurer. Provisions for interest and penalties, security and returns are included.

*Clause 40: Evasion of duty*

This clause makes it an offence for a licensee to attempt to evade the payment of duty and enables the Treasurer to reassess the duty payable in the case of an attempted evasion.

PART 4
REGULATION OF BETTING OPERATIONS
DIVISION 1—BETTING OPERATIONS OTHER THAN BOOKMAKING

*Clause 41: Approval of rules, systems, procedures and equipment*

The major licensee and licensed racing clubs are required to have rules governing betting operations conducted by the licensee, and related systems and procedures, approved by the Commissioner. The Authority can require other systems and procedures, or equipment, to also be approved by the Commissioner.

*Clause 42: Location of off-course totalisator offices, branches and agencies*

Before establishing an office, branch or agency, the major licensee is required to obtain the Authority's approval of its location. The Minister may give the Authority binding directions preventing or restricting the approval of the location of offices, branches or agencies.

*Clause 43: Prevention of betting by children*

The major licensee and licensed racing clubs are required to have systems and procedures approved by the Commissioner designed to prevent bets from being made by children.

*Clause 44: Prohibition of lending or extension of credit*

The major licensee and licensed racing clubs are prohibited from extending credit in connection with the making of a bet.

*Clause 45: Cash facilities at certain premises staffed and managed by major betting operations licensee*

The major licensee is prohibited from providing, or allowing another to provide, a cash facility within a part of premises that is staffed and managed by the licensee and at which the public may attend to make bets.

A cash facility is—

· an automatic teller machine; or
· an EFTPOS facility; or
· any other facility, prescribed by regulation, that enables a person to gain access to his or her funds or to credit.

*Clause 46: Player return information*

The major licensee and licensed racing clubs are required, in accordance with determinations made from time to time by the Commissioner, to provide information relating to player returns at places at which the public may attend to make bets with the licensee, on betting tickets issued by the licensee and otherwise as required by the Commissioner.

*Clause 47: Systems and procedures for dispute resolution*

The major licensee and licensed racing clubs are required to have systems and procedures approved by the Commissioner for the resolution of disputes about bets or winnings arising in the course of the licensee's betting operations.

*Clause 48: Advertising code of practice*

The major licensee and licensed racing clubs are each required to adopt a code of practice approved by the Authority on advertising.

*Clause 49: Responsible gambling code of practice*

The major licensee and licensed racing clubs are each required to adopt a code of practice approved by the Authority relating to signs, information and training of staff in respect of responsible gambling and the services available to address problems associated with gambling.

*Clause 50: Major betting operations licensee may bar excessive gamblers*

The major licensee is given powers to deal with situations where the welfare of a person, or the welfare of a person's dependants, is seriously at risk as a result of excessive gambling.

The major licensee may bar the person—

· from entering or remaining in a specified office or branch staffed and managed by the licensee;
· from making bets at a specified agency of the licensee;
· from making bets by telephone or other electronic means not requiring attendance at an office, branch or agency of the licensee.

A person may apply to the Commissioner for a review of a barring order.

This provision is similar to that applying in relation to gaming machines.

Specific provision is included to protect the major licensee or an authorised person against claims for damages or compensation in connection with a decision or failure to exercise or not to exercise powers under this clause.

*Clause 51: Alteration of approved rules, systems, procedures, equipment or code provisions*

This clause allows the Authority or the Commissioner (as the case requires) to require a licensee to make an alteration to approved rules, systems, procedures, equipment or code of practice provisions.

DIVISION 2—BOOKMAKING OPERATIONS

*Clause 52: Restriction on use of licensed betting shop*

This clause continues the provision in section 108 of the *Racing Act* preventing the betting shop at Port Pirie from operating when horse races are being conducted at a racecourse within 15 km of the shop.

*Clause 53: Cash facilities at licensed betting shop*

Cash facilities are not to be available at the betting shop at Port Pirie in the same way that cash facilities are not to be available at premises staffed and managed by the major licensee at which the public may attend to make bets.

*Clause 54: Licensed bookmakers required to hold permits*

This clause continues the requirement in section 111 of the *Racing Act* for the acceptance of bets by licensed bookmakers to be authorised by permit.

The permits are to be issued by the Commissioner.

*Clause 55: Granting of permits*

This clause contemplates the granting of permits to accept bets made on a specified day and at a specified place (compare sections 112 and 112A of the *Racing Act*).

The granting of permits for racecourses is dependent on consultation with the relevant licensed racing club.

The granting of permits for other places is dependent on consultation with the person or body occupying or controlling the place. The Minister is empowered to give the Commissioner binding directions about the granting of such permits.

*Clause 56: Permit authorising telephone bets etc.*

As currently contemplated in section 112(6) of the *Racing Act*, this clause allows for permits authorising the acceptance of bets by telephone or other electronic means.

*Clause 57: Conditions of permits*

The Commissioner is empowered to attach conditions to permits (as in section 112(3) and (4) of the *Racing Act*).

*Clause 58: Revocation of permit*

The Commissioner may revoke a permit (as in section 112B of the *Racing Act*).

*Clause 59: Operation of bookmakers on racecourses*

This clause is the equivalent of section 113 of the *Racing Act* and gives a bookmaker with the appropriate permit an entitlement to accept bets at a racecourse if the bookmaker has paid the appropriate fee to the licensed racing club.

*Clause 60: Prevention of betting with children by bookmaker*

Licensed bookmakers are required to have systems and procedures approved by the Commissioner designed to prevent bets from being made by children.

*Clause 61: Prohibition of certain information as to racing or betting*

This clause makes it an offence for information about probable race-results and betting with bookmakers to be communicated so as to prevent SP bookmaking. It takes the place of sections 119 and 120 of the *Racing Act*.

*Clause 62: Rules relating to bookmakers' operations*

The Authority is empowered to make rules relating to the operations of licensed bookmakers. The clause takes the place of section 124 of the *Racing Act*.

PART 5
ENFORCEMENT
DIVISION 1—COMMISSIONER'S SUPERVISORY RESPONSIBILITY

*Clause 63: Responsibility of the Commissioner*

This clause provides that the Commissioner is responsible to the Authority to ensure that the operations of each licensed business are subject to constant scrutiny.

DIVISION 2—POWER TO OBTAIN INFORMATION

*Clause 64: Power to obtain information*

This clause enables the Authority or the Commissioner to require a licensee to provide information that the Authority or Commissioner requires for the administration or enforcement of the measure.

DIVISION 3—INSPECTORS AND POWERS OF AUTHORISED OFFICERS

*Clause 65: Appointment of inspectors*

This clause allows for the appointment of Public Service inspectors and for the provision of identification cards by the Commissioner.

*Clause 66: Power to enter and inspect*

The powers under this clause are provided to the Commissioner, the members and secretary of the Authority, inspectors and police officers (collectively called authorised officers). The circumstances in which the powers may be exercised are set out in subclause (2). A warrant is required in respect of entry to a place in which there are not any operations of a kind authorised under the measure being conducted.

PART 6
POWER TO DEAL WITH DEFAULT OR BUSINESS FAILURE
DIVISION 1—STATUTORY DEFAULT

*Clause 67: Statutory default*

This Division gives the Authority various powers to deal with statutory default on the part of a licensee.

A statutory default occurs if—

- a licensee contravenes or fails to comply with a provision of the measure or a condition of the licence; or
- an event occurs, or circumstances come to light, that show a licensee or a close associate of a licensee to be an unsuitable person; or
- operations under a licence are improperly conducted or discontinued; or
- a licensee becomes liable to disciplinary action under the measure or on some other basis.

It is made clear that the races held by a licensed racing club are to be considered to be operations under the licence.

*Clause 68: Effect of criminal proceedings*

Proceedings under this Part (apart from the issue of an expiation notice) may be in addition to criminal proceedings. However, the Authority is required, in imposing a fine, to take into account any fine that has already been imposed in criminal proceedings.

*Clause 69: Compliance notice*

The Authority may issue a notice to a licensee requiring specified action to be taken to remedy a statutory default. Non-compliance with such a notice is an offence attracting a maximum penalty of $100 000 in the case of the major betting operations licensee and $20 000 in any other case.

*Clause 70: Expiation notice*

The Authority may issue an expiation notice to a licensee alleging statutory default and stating that disciplinary action may be avoided by payment of a specified sum not exceeding $10 000 in the case of the major betting operations licensee, and $1 000 in any other case, within a period specified in the notice.

*Clause 71: Injunctive remedies*

The Minister or the Authority may apply to the Supreme Court for an injunction to prevent statutory default or to prevent recurrence of statutory default.

*Clause 72: Disciplinary action*

The Authority may take disciplinary action against a licensee for statutory default as follows:

- the Authority may censure the licensee;
- the Authority may impose a fine on the licensee not exceeding $100 000 in the case of the major betting operations licensee and $20 000 in any other case;
- the Authority may vary the conditions of the licence (irrespective of any provision of the approved licensing agreement excluding or limiting the power of variation of the conditions of the licence);
- the Authority may give written directions to the licensee as to the winding up of betting operations under the licence;
- the Authority may suspend the licence for a specified or unlimited period;
- the Authority may cancel the licence.

The licensee must be given a reasonable opportunity to make submissions. Provision is made in Part 7 for an appeal against a decision of the Authority to take disciplinary action.

*Clause 73: Alternative remedy*

This clause makes it clear that the Authority may, instead of taking disciplinary action, issue a compliance notice.

DIVISION 2—OFFICIAL MANAGEMENT

*Clause 74: Power to appoint manager*

The Minister is empowered to appoint an official manager of the business conducted under a licence if the licence is suspended, cancelled or surrendered or expires and is not renewed, or if the licensee otherwise discontinues operations under the licence.

*Clause 75: Powers of manager*

This clause sets out the powers of the official manager to run the licensed business.

DIVISION 3—ADMINISTRATORS, CONTROLLERS AND LIQUIDATORS

*Clause 76: Administrators, controllers and liquidators*

This clause puts an administrator, controller or liquidator in a similar position to that of the licensee.

PART 7
REVIEW AND APPEAL

*Clause 77: Review of Commissioner's decision*

A person aggrieved by a decision of the Commissioner under the measure may, within 30 days after receiving notice of the decision, apply to the Authority for a review of the decision.

*Clause 78: Finality of Authority's decisions*

The Authority's decisions are final except as follows:

- an appeal lies to the Supreme Court against a decision to take disciplinary action against a licensee; and
- an appeal lies to the Supreme Court against an order made under clause 18(4); and
- an appeal lies, by leave of the Supreme Court, against a decision of the Authority on a question of law.

*Clause 79: Finality of Governor's decisions*

The Governor's decisions are final.

PART 8
MISCELLANEOUS

*Clause 80: Lawfulness of betting operations conducted in accordance with this Act*

This clause ensures that betting operations conducted in accordance with the measure (including operations of a person of whom the major betting operations licensee is an agent under a transaction

approved by the Authority) are lawful and do not, in themselves, constitute a public or private nuisance.

*Clause 81: Further trade practices authorisations*

Further specific authorisations are given for the purposes of section 51 of the *Commonwealth Trade Practices Act* in relation to agreements, arrangements or instruments relating to the racing industry or betting operations under this measure.

*Clause 82: Payments to racing clubs from duty paid by bookmakers*

This clause continues the requirement under section 114 of the *Racing Act* for 1.4 per cent of the amount bet with bookmakers in relation to traditional racing to be returned to the relevant racing club or body conducting the races.

*Clause 83: False or misleading information*

This clause makes it an offence to provide false or misleading information under the measure.

*Clause 84: Offences by body corporate*

This is a standard clause making each member of the governing body and the manager of the body corporate criminally responsible for offences committed by the body corporate.

*Clause 85: Reasons for decision*

Reasons for decisions under this measure need not be given except as follows:

- the Authority must, at the request of a person affected by a decision, give reasons for a decision if an appeal lies against the decision as of right, or by leave, to the Supreme Court;
- the Commissioner must, at the request of the Authority, give reasons to the Authority for a decision of the Commissioner under this Act.

*Clause 86: Power of Authority or Commissioner in relation to approvals*

This clause enables approvals under the measure to be of a general nature and subject to conditions.

*Clause 87: Confidentiality of information provided by Commissioner of Police*

This clause protects the confidentiality of information provided by the Commissioner of Police.

*Clause 88: Service*

This clause provides for the methods of service of notices or other documents under the measure.

*Clause 89: Evidence*

This clause provides evidentiary aids.

*Clause 90: Annual report*

The Commissioner is required to report to the Authority and the Authority is required to report to the Minister. The Authority's report is to be tabled before both Houses of Parliament.

The Authority's report is to contain—

- details of any statutory default occurring during the course of the relevant financial year; and
- details of any disciplinary action taken by the Authority; and
- details of any directions given to the Authority or the Commissioner by the Minister; and
- the Commissioner's report on the administration of the measure together with any observations on that report that the Authority considers appropriate.

*Clause 91: Regulations*

This clause provides general regulation making power for the purposes of the measure. In particular, it allows for *ex gratia* payments by the Treasurer in relation to unclaimed winnings if paid to the Treasurer under the measure.

SCHEDULE 1

*Transitional Provisions*

*Clause 1: Racing controlling authorities*

The controlling authorities for the various racing codes designated under the *Racing Act* continue as racing controlling authorities for the purposes of this measure.

*Clause 2: Racing clubs*

Provision is made for on-course totalisator betting licences to be granted to the current racing clubs according to Ministerial order.

*Clause 3: Bookmakers, clerks and licensed betting shops*

This clause provides for the continuation of licences for bookmakers, bookmakers' clerks and for the Port Pirie betting shop. Provision is made for the continuation of permits granted to bookmakers.

Approved events and rules for bookmaking under the *Racing Act* are continued as approved contingencies and bookmakers rules under Part 4 of this measure.

Bonds lodged by bookmakers are continued in force.

*Clause 4: Financial arrangements with racing industry*

Under this clause the existing financial distribution to the racing industry from bets made with TAB is to be continued for TABCO while it holds the major licence and is a State-owned company.

*Clause 5: Financial arrangements with football league*

Under this clause the existing financial distribution to the South Australian National Football League from bets made with TAB is to be continued for TABCO while it holds the major licence and is a State-owned company.

*Clause 6: Existing agreements with interstate totalisator authorities etc.*

This clause ensures the continued lawfulness of operations under interstate totalisator pooling agreements made under the *Racing Act* and in force at the commencement of this measure.

SCHEDULE 2

*Consequential Amendments*

*Clause 1: Amendment of Criminal Law (Undercover Operations) Act*

These are technical amendments to take account of the amendments to the *Lottery and Gaming Act* and the repeal of the *Racing Act* under the TAB (Disposal) legislation. Unlawful bookmaking remains serious criminal behaviour for which undercover operations may be approved.

*Clause 2: Amendment of Gaming Supervisory Authority Act*

The amendments are consequential on the expansion of the role of the Authority and are made with a view to avoiding the need for further amendment if further functions are given to the Authority under legislative schemes in the future.

The opportunity has been taken to make amendments—

- to make it clear that the Authority is an instrumentality of the Crown but not subject to Ministerial direction or control;
- to ensure that the Authority may obtain from the Commissioner a report on any matter relating to the operation, administration or enforcement of an Act under which functions are conferred on the Authority;
- to make it clear that the Authority may conduct meetings or proceedings, and allow persons to participate in proceedings, by telephone or other electronic means;
- to enable the Authority to delegate to a member, deputy member or the Secretary of the Authority or the Commissioner any of the powers or functions of the Authority under the Act or a prescribed Act (other than the conduct of an inquiry or review or appeal);
- to correct a reference in section 16 to employees of the Authority (the effect of section 16 as amended will be to prevent the members of the Authority and the Commissioner from participating in gambling activities to which the Authority's statutory responsibilities extend);
- to ensure that restrictions do not apply to the appropriate passing on of confidential information to officials and the Commissioner of Police.

*Clause 3: Amendment of Lottery and Gaming Act*

These amendments are consequential on the new regulatory scheme and remove references to the *Racing Act*. The Act is amended to make it clear that it binds the Crown. A new offence is created to ensure that agents or others who act dishonestly in the course of conducting a lottery are subject to a criminal penalty. Divisional penalties are also converted.

*Clause 4: Amendment of Workers Rehabilitation and Compensation Act*

Currently under section 58(2)*(b)* sporting injuries suffered by an employee authorised or permitted under the *Racing Act* to ride or drive in a race as defined in that Act may be compensable. The amendments are consequential and maintain the status quo.

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

## RACING (PROPRIETARY BUSINESS LICENSING) BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 707.)

**The Hon. A.J. REDFORD:** My support for the second reading of this bill will give the government and the member for Chaffey (for it is her bill) a final opportunity to rectify some glaring flaws that it contains. This bill was rushed

through the lower house, having been rushed into the parliament. There has been little public debate on this issue outside the immediate country regions where an organisation known as TeleTrak proposes to conduct private racing activities. Comment from the racing industry has been muted. I know that it is concerned but afraid to enter into any public debate for fear of reprisals or jeopardising the TAB legislation. It has been rushed through at a time when the new structures for the racing industry are in their infancy. It has been rushed through before we definitely know the outcome (both legislatively and financially) of the future of the TAB. It has also been rushed through before this parliament has made any definitive statement on the issue of internet gaming, whether it be prohibited, licensed or regulated, and the form of that regulation if it is not to be prohibited.

It has been rushed through prior to the further consideration by the federal parliament of the issue of an interactive gaming moratorium. Indeed, this has happened so quickly that, to my knowledge, neither party has even considered whether this issue ought to be the subject of a conscience vote. Notwithstanding my concerns, it would be churlish of me not to recognise that there are some members of this parliament (for example, the majority in the House of Assembly) who seem to be happy to deal with this issue in these very uncertain circumstances.

This bill does a number of things. It allows for the granting of a licence to enable private operators to conduct races on which betting is to occur (whether in South Australia or otherwise). It allows exemptions to occur by proclamation and conditions to be imposed on a licence. It enables agreements to be entered into between a minister and a proprietary racing licensee. It allows licences to be traded. It establishes a regime for approval of directors and executive officers of licensees. It provides for investigative powers. It enables an approval process for rules, etc., including advertising. It provides for various penalties, including fines of up to $20 000 for the provision of false information and operating in an unlicensed fashion and the like.

The bill follows the Casino Act in terms of its basic structures, although there are some important differences, particularly in the area of probity. The latter act has been the subject of extensive debate in this place recently. In this respect, we should note that the Authorised Betting Operations Bill was introduced yesterday and the second reading took place only a few moments ago. That bill comprises 56 pages, 90 clauses and two schedules, and it amends five acts. The complexity of this bill in conjunction with all of that other legislation, including the passage of yet another bill this morning on pokie freezes, makes it extraordinarily difficult for members on the backbench (with one staff member) to grapple with the overall gambling and gaming picture in South Australia and the most appropriate legislative framework within which it ought to operate.

Still, if it is the will of the majority of members of this parliament that we deal with these issues swiftly and without a great deal of thought, one must recognise and face up to that and do one's best to achieve an appropriate and positive outcome. Significant private members' bills have also been introduced, first, by the Hon. Nick Xenophon with the Gambling Industry Regulation Bill which relates to the Casino and yet another pokie freeze bill, and, secondly, by the Hon. Mike Elliott with the Gambling Impact Authority Bill. It was almost a blessed relief to hear that the Lotteries sale bill was rejected yesterday without any debate at all. I say that with tongue in cheek. That provides all of us with a great challenge, first, to endeavour to get our minds around the issues and, secondly, to endeavour to reflect what the South Australian public actually wants in terms of the gaming and gambling landscape within which they and their children wish to live.

I turn now to the matters at hand and, in particular, the issue of proprietary racing. First, it is hard to separate the issue of proprietary racing from its principal proponent TeleTrak. Secondly, we have to acknowledge that proprietary racing is simply a vehicle for gambling. In this respect I must say the colourful history of TeleTrak to date, in some respects, has coloured some views on the topic of proprietary racing. In this respect I think I should state that a number of issues are to be considered, irrespective of politics and irrespective of TeleTrak, or any other proponents of proprietary racing. The first thing we must consider is whether or not proprietary racing is in the best interests of the community. In this case I have yet to see any contribution from the government which would convince me that proprietary racing is in the best interests of the broader South Australian community.

Secondly, what impact will proprietary racing have on the existing industry and on existing practices within South Australia? In considering these two issues an important subset of questions arises. First, there is a question of probity and how we protect those who participate in this industry and also the reputation of existing gambling providers in South Australia. Secondly, there is the issue of taxation. What will be the benefit to South Australia both in terms of increased economic activity and, just as importantly, in terms of taxation revenue; and what impact will that have on other gaming revenue in South Australia?

I remind members that when we brought poker machines into this state there was a significant reduction in receipts from both the TAB and from lottery and gaming for a period. The third issue is the question of the internet and the question of prohibition or regulation and, indeed, if there is regulation, the nature and extent of that regulation and whether it ought to be tight or very loose. At the risk of repeating a contribution I made only a few short weeks ago, I would like to remind members of my long held view on the topic of internet gaming, and indeed that view is reflected in the dissenting statement issued by the Hon. Nick Xenophon and me, as I said, only a few short weeks ago.

First, the minority report noted that there is widespread genuine community concern over the impact of existing forms of gambling in Australia. He further noted that associated with that concern is a growing sense of frustration, often leading to corrosive apathy that parliaments not only fail to reflect community concern but also fail to attempt to grapple with those concerns by simply not engaging with the electorate on fundamental issues.

We noted the Productivity Commission's final report entitled 'Australia's Gambling Industries' released only in December last year by the Prime Minister, which outlined the magnitude of the social and economic impact of gambling in Australia. The Productivity Commission found—and I apologise if members have heard this before but I think they are significant—the following:

> Australians are the world's biggest per capita gamblers, losing an average of $760 per adult, with losses in excess of $11 billion—double the figure at the beginning of the 1990s.
>
> Australia has 290 0000 problem gamblers (2.1 per cent of Australian adults) each losing an average of around $12 000 per year, compared with $650 for other gamblers. Each problem gambler, on average, impacts on the lives of five other Australians.

Problem gamblers account for one-third of all gambling expenditure, with the extent of gambling losses derived from problem gamblers varying according to the form of gambling (from 5.7 per cent for lotteries, to 42.3 per cent for gaming machines).

*The Hon. Nick Xenophon interjecting:*

**The Hon. A.J. REDFORD:** The honourable member interjects and says, 'One-third for wagering.' It continues:

Levels of problem gambling are linked to the level of accessibility and the type of gambling products. Electronic gaming machines account for between 65 to 80 per cent of problem gamblers in Australia.

There is considerable public concern about the level of gambling in Australia. Nationally, about 70 per cent of Australians believe it does more harm than good (in South Australia the figure is 85 per cent) and 92 per cent of Australians do not want to see any more gaming machines.

There has been a noticeable lack of community debate on internet and interactive home gambling, which seems entirely disproportionate to the level of debate and public participation in South Australia over the introduction of lotteries. . . the TAB. . . the Casino. . . and gaming machines. . .

In relation to this bill, while there has been significant thought put into this issue by certain members of parliament, and certainly within the bureaucracy, it is important to note that the bill was laid on the table and read a first time in the House of Assembly on 26 October 2000—just over four weeks ago. One must question whether there has been sufficient community consultation and debate on this important issue at this time.

*The Hon. P. Holloway interjecting:*

**The Hon. A.J. REDFORD:** There has been discussion in other parts of the state, too, and I will go into some of that discussion in the sense that—

*The Hon. P. Holloway interjecting:*

**The Hon. A.J. REDFORD:** Let us say that there has been a moving feast in terms of what people understood to be the concept of proprietary racing. I am not sure that it has not been a game, with those who want to be informed, of 'let's try to catch up with what the real position is'. In any event, the position that I hold in relation to internet and interactive home gambling is set out quite clearly at page 67 of the report. It is stated:

In relation to forms of gambling—

for example, the TAB, bookmakers and trade promotion lotteries already taking place—

the Hon. Angus Redford MLC [myself] is of the view that the issues arising from that are most appropriately dealt with on a case by case basis within the legislative framework that currently—

and I emphasise 'currently'—

applies to those forms of gambling. In addition to the approach of the Hon. Angus Redford MLC, the Hon. Nick Xenophon MLC expresses serious concern about the methods used to expand TAB services, including telephone credit card betting. . .

In any event, my position in relation to this issue has been outlined fairly clearly on numerous occasions over a considerable period of time. I have indicated on previous occasions that I will not be a party to the extension of gambling in this state, at least in the absence of extensive and wide-ranging community debate and community support. In fact, there is no secret regarding my opposition to that.

I understand that some forms of internet betting are available in South Australia, and on my understanding they peculiarly relate to the TAB. In fact, they relate specifically to existing horse racing product and we are all familiar with the limitation in relation to the provision of that horse racing product. Basically, if a person wants to bet with the TAB on the internet, that person must first open a telephone betting account and, secondly, that account can be used for both telephone and internet betting. There is a separate password for both forms of betting. I understand (and this is the first important issue I wish to raise) that the South Australian TAB has entered into an agreement with a proponent of proprietary racing. The precise identity of that proponent is not known to me but it may well be TeleTrak or, alternatively, cyber racing.

It is clear that this may constitute an extension of gaming and wagering to the ordinary citizens of South Australia. If I am correct, my fundamental objection to that process is that no parliamentary or community debate has taken place as to whether or not this is appropriate for ordinary South Australians.

If there is such an agreement, I invite the government to table it so that we can all peruse it and participate in a public debate on the issue. On the other hand, if there is no such agreement, I would be delighted if the government would confirm that. I would also be delighted if a clause is inserted either in this bill, or the TAB sale bill, if it is successful (one never knows; that might be sufficient to get the Hon. Nick Xenophon over the line on that issue) providing that the South Australian TAB is not to render such a service and, in particular, any service to the South Australian community without some form of approval by the community and, in that regard, I suggest the approval of both houses of parliament. Secondly, I seek some provision to prevent the delivery of internet gaming products to any other unless and until there has been appropriate approval by the other states.

With respect to some of the issues raised by TeleTrak over the years, it has said on a number of occasions until relatively recently that it has no intention of offering any product to a South Australian, or any Australian, and that it intends to offer a gaming or gambling product to other countries.

In my view, that is a matter for them, the jurisdiction and the people they offer that product to, and it is not for us in this parliament to interfere in that process; although I would urge them to be very cautious if they propose to offer such a product without prior approval to the citizens of the United States. In particular, I draw the proponents' attention to some of the activity of the New York police and some of the arrests that have taken place there over the past twelve months.

*The Hon. Nick Xenophon interjecting:*

**The Hon. A.J. REDFORD:** Something like that. That is matter for the proponents of this, the provision of gamblers and the individual jurisdiction within which it has been dealt with. One of the concerns I also have is the way in which the debate on this issue has been conducted in some rural areas. Some local officials have reminded me of the proverbial south sea island chief standing on the beach in a grass skirt waving at every cargo ship that goes by saying, 'Pick me, pick me' without any serious analysis of whether or not there are likely to be appropriate outcomes for the community.

Members may recall that it was only last week that I asked the Treasurer a question concerning assertions about the extent of job creation arising from proprietary racing. Indeed, we had heard estimates of something from 800 jobs to 2 000 jobs that might well be created in the Millicent area alone as a result of this. That, I might add, is to be contrasted with the poker machine industry that has created only 4 000 jobs throughout the entire state. I asked the government whether there was any way we could check the veracity of these assertions. In his reply the Hon. Rob Lucas said:

. . . we need to be cautious about some of the claims from the proponents.

However, I have to say as a member of parliament, if I am to judge this bill and whether or not it ought to succeed at a third reading stage, we need a little more information than bald assertions about substantial jobs being created as a result of this sort of provision. I am sure the Treasurer endorses the government bill, so I invite him to provide me with some degree of precision as to the real estimates of the number of jobs likely to be created before I am required to vote on this bill.

I have watched the TeleTrak issue for some considerable time. It was in May 1996 that it was reported in the *Australian*—and that is now more than four years ago—that there was to be a public float for TeleTrak. It was announced four and a half years ago that this company would be floating on the stock exchange; that it would be seeking $136 million, with $24 million being set aside for the construction of a television racecourse and that it would be seeking a slice of the $22 billion Asian betting market by beaming live night racing to worldwide outlets. There has been a series of articles: in June 1996, quite some considerable time ago, an article in the *Herald Sun* reported that TeleTrak's world series racing was set to proceed in Victoria.

Since that time, quite a substantial number of articles have appeared about TeleTrak and, indeed, it did go on a roadshow throughout Victoria and South Australia and managed to encourage a number of local councils to participate in this process. It came very close to my attention back in 1998—and I am putting aside some of the activity that took place in the lead-up to the election of the current member for Chaffey—that TeleTrak racing was likely to take place following a report in the *Border Watch* of 26 March 1998. I remind members that that is now more than 2½ years ago. It was in March 1998 that Millicent was confirmed as the third South Australian site for a multimillion dollar TeleTrak horse racing complex. The Wattle Range Council has been a significant proponent of the TeleTrak proposal. I understand that it paid some $25 000 for the right to be considered as an operator of this track.

*The Hon. Nick Xenophon interjecting:*

**The Hon. A.J. REDFORD:** Yes, as did a number of other councils. The Waikerie council paid a sum of money and, I think, the Port Augusta council paid a sum of money.

*The Hon. Diana Laidlaw interjecting:*

**The Hon. A.J. REDFORD:** I do not know. I know that Teletrak also received moneys from other parts of Australia. I do not mind that: it is a matter for councils and ratepayers, I suppose. One must always be cautious before interfering in what councils do, and I have had a recent experience of that.

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

**The Hon. A.J. REDFORD:** I am grateful for the honourable member's interjection and I am grateful for the way in which he characterises it. In considering this, on behalf of my constituents who are part of the Wattle Range Council (and I am sure that the Hon. John Dawkins would be most interested to know on behalf of the residents and constituents in the Waikerie area) I would like to know whether or not any further sums of money have been paid to the proponents of these industries since the announced payment of the $25 000. The front page of the *South Eastern Times* dated Monday 20 April 1998 proudly announced in very strong terms that, following a special meeting, TeleTrak was to go ahead.

**The Hon. Diana Laidlaw:** In the South-East?

**The Hon. A.J. REDFORD:** In the South-East, yes. That announcement was supported by an article appearing in the *Border Watch* right next to, I might add, for those members who follow other issues with interest, a lovely photograph pro-farmers—the Australian Manufacturing Workers Union's State Secretary, Paul Noack and the Maritime Union of Australia's State Secretary, Rick Newland. Right next to those two gentlemen, the headline reads 'TeleTrak backed for SE. Wattle Range says Yes'. In August 1998 a Mr Horton addressed the Wattle Range Council, together with what was described as an enthusiastic crowd of over 80 interested people in the Millicent civic and arts supper room. The meeting was chaired by the then and current Mayor for Wattle Range, Don Ferguson. Addresses were presented by Teletrak consultant Geoff Horton and the council's CEO Frank Brennan. The process of this sort of racing was described and Mr Horton said:

> . . . there would be 180 million internet subscribers throughout the world and that offered a huge market potential with an estimated 100 million of these to be targeted as potential betters.

We are not talking about a small project here. Indeed, there was a reference to the European and the United Kingdom market, and in the middle of the article it was suggested that a draft of the prospectus to float the TeleTrak company on the Australian Stock Exchange was expected to be finalised 'in Adelaide tomorrow, Friday'. That was on 6 August 1998. There followed other articles in the *South-Eastern Times*, all of which have been quite positive towards TeleTrak.

Indeed, I wrote to representatives of the Wattle Range Council in April 1998, and advised them that the Development Assessment Commission had given approval for the construction of the course at Waikerie and that the government was still working out its position in relation to amendments to the Racing Act. I also informed them that I had spoken to Mr Simon Turner of Dicksons in George Street, which was reported to be the underwriter of a proposed prospectus, and he informed me that Dicksons has the right to underwrite the prospectus for a period of three years and that, as at the end of March 1998, there was no prospectus in place and they were not sure of any time scale in relation to that prospectus. On 22 February 1999, I received a letter from Mayor Ferguson. The letter states:

> While there appears to be no legislative impediment to TeleTrak commencing its proposed form of 'stand alone' thoroughbred racing, TeleTrak is cognisant of the fact that governments like to have control over gambling-related activities. To this end, TeleTrak have informed council that they have advised the state government that not only are they prepared to subject themselves to licensing control, they are also prepared to pay a substantial annual licence fee.

Indeed, the prospect of a substantial annual licence fee coming into state coffers, I am sure, would attract even the most resolute of treasurers. The letter continues:

> TeleTrak's project is potentially the biggest—

I emphasise 'biggest'—

> employment generating prospect ever contemplated for the state's regional and rural areas and has the added benefit of being a private enterprise initiative that does not seek government funding but in fact is now proposing to financially contribute towards the state's coffers.

I am delighted that TeleTrak, according to Mayor Ferguson, is potentially the state's biggest employment prospect in regional and rural areas—bigger than the timber industry; bigger than the Roxby Downs project; bigger than BHP steelworks in Whyalla; bigger than the wine industry.

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

**The Hon. A.J. REDFORD:** The honourable member hurts me: it never remotely crossed my mind. But it was quite clear, as early as February 1999, that the Mayor of Wattle

Range Council was clearly suggesting (obviously, he would not be saying these things if he was not in touch with TeleTrak) that there would be an extraordinary financial windfall for the state, and therein lies my next issue in relation to this legislation.

I would like to hear from the minister whether there is any specific information—some evidence—in relation to, first, what is likely to be this licence fee that is promised by Mayor Ferguson; and, secondly, the extent of that licence fee. If there is any documentation to support it, I would be grateful to see it. Indeed, I would be grateful to hear from the minister—or, if he needs to rely on him, from Mayor Ferguson—precisely whether or not those who are likely to participate in proprietary racing are able to pay the 'substantial contribution towards state coffers'.

*An honourable member interjecting:*

**The Hon. A.J. REDFORD:** The honourable member is too flippant with his interjection. Indeed, the Mayor was not satisfied just with writing to me in those terms: he sent a letter in precisely identical terms to the minister for racing on the same day. Notwithstanding the fact that the Mayor indicated that there was no legislative impediment to TeleTrak, he wrote to me on 25 February referring to a speech I made in 1999 about regional development and said that the commencement of the project depended somewhat on state government approvals regarding the issuing of appropriate licences.

Following that, I wrote a fairly lengthy letter to Mayor Ferguson on 9 March 1999 asking him whether he could precisely identify what state government approvals were required, as I in my capacity as a member of parliament might have been able to assist them in getting those approvals. He also suggested that TeleTrak had expended some $350 000 on its development, and I wrote asking whether the Mayor knew where that money had been.

Given that certain events have transpired and I have no doubt the Mayor is behind them, he would have no problem with my reading out part of what I wrote to him back in 1999 in relation to this proposal. I stated:

> I note your assertion that TeleTrak is now in the process of proceeding with a prospectus to raise capital. I have heard that assertion made on a score of occasions. Indeed, on 13 May 1996 the *Australian* reported that TeleTrak was about to lodge a prospectus, and nearly three years later they are still making the same statement. As recently as 6 August 1998, it was reported that TeleTrak would be lodging a prospectus on 7 August 1998. Despite promises, that has not occurred. I further note the assertion that 'governments like to have control over gambling related activities and that they have advised the state government that not only are they prepared to subject themselves to licensing control; they are also prepared to pay a substantial annual licence fee.'
>
> I have to say that I have absolutely no idea what they are talking about. My understanding of the TeleTrak proposal is that they intend to conduct racing in Australia and the gambling overseas. In that context I am not sure what control or licence they are referring to. If it is to facilitate or license local gambling, I would have to say that only the most naive in the community would think that the promulgation of new gambling legislation would take less than two years.

Perhaps I am a bit naive when I look at the date when this piece of legislation was introduced. The letter continues:

> For example, the Adelaide Casino was first proposed 15 years prior to legislation being introduced and passed in this parliament. It would be negligent in the extreme if TeleTrak thought that some sort of new licensing regime for gambling in South Australia, if that is what they have in mind, could occur in a short space of time. I also note that TeleTrak is proposing to contribute towards state coffers. However, there are no details in your correspondence as to how and upon what basis that is to occur.
>
> Furthermore, I note there are current discussions taking place with the state government. I will be delighted to know what your understanding is in relation to any discussions that might have taken place and in what context they occur. If those discussions relate to legislative change in the gambling area, then it is incumbent upon TeleTrak to outline to all members of parliament precisely what they have in mind. It may well be time for your council to properly reassess its commitment to TeleTrak and whether or not further ratepayers' money ought to be committed. In that regard the local government bill has provisions to ensure full public disclosure before ratepayers' money is committed.
>
> I would hope that your council will keep that in mind when communicating details to the public. I also hope that the council will ensure that TeleTrak also makes full disclosure to the public. I get the real feeling of deja vu in relation to the whole TeleTrak matter. I have absolutely no doubt that should the TeleTrak proposal not fulfil the lofty expectations created in the community by the council that the state government will be blamed.
>
> I hope you bear in mind that TeleTrak to date has blamed the Queensland, New South Wales, Victorian and Western Australian governments in relation to their respective attitudes. I hope you'll also be mindful of the fact that the state government to my knowledge will not give TeleTrak any advantage over any other private gambling activity in this state. For any licence to be issued, TeleTrak will be subject to the same conditions, checks and standards applying to any other gambling enterprise and in that regard the state of South Australia applies a very high standard.

I read that out as an indication that my viewpoint on this issue, which has generally been considered a conscience issue, has been pretty consistent for some considerable time. In any event I know that the minister wrote to Mr Ferguson in April 1999 and said that there was nothing in the existing law that prevented Teletrak from conducting races in the state without a licence so long as it did not use licensed persons or registered horses.

In relation to the conduct of internet gambling, it was advised that the government does not have power to issue a licence to TeleTrak under present legislation. So, it is pretty clear what the position was. In May 1999 there was some criticism of the state government. I wrote a letter to the editor of the *Border Watch*, as follows:

> Dear sir,
>
> In your article entitled 'TeleTrak talks continue' TeleTrak spokesman Geoff Horton is quoted as saying that the new anti-internet gambling bill before the United States Senate was designed to ensure people setting up gambling sites within mainland US acted correctly and were licensed appropriately. He went on and stated that all sorts of parties, including governments in New South Wales, Victoria and South Australia were all looking into the matter. Firstly, the legislation before the US Senate, known as the Kyle bill, was passed 100 votes to 10 by the Senate and is designed to outlaw altogether internet gambling by US citizens. It is certainly not aimed at legitimising internet gambling for US citizens by establishing an appropriate licensing regime.
>
> Secondly, the government of Western Australia has indicated their opposition to the concept that internet gambling be made available either to operators or citizens within their respective state. New South Wales is awaiting a federal report. The Northern Territory has allowed it for Northern Territorians only and the Tasmanians allow it for anyone except Tasmanians. Indeed, in the other states the issue of legislatively facilitating gambling on the internet will be dealt with by parliaments and will be the subject of conscience vote.

Until perhaps this week! The letter continues:

> The Legislative Council recently established a select committee on the issue of internet gambling to investigate ways of regulating (or hopefully prohibiting) internet gambling and the federal Productivity Commission is currently inquiring into the issue and is due to report some time in December this year.

Some of the comments yesterday by the Treasurer about how we came to our views early in the piece on this select committee are not entirely a matter of perception. He obviously had an opportunity to read my letter, which was

written not long after the establishment of the committee. The letter continues:

> Senator Chapman has proposed similar legislation to the Kyle bill and his proposal recently received overwhelming support from the February Liberal State Council meeting. There is much water to pass under the bridge, and I hope considerable community debate to take place before this country will meekly accept internet gambling at the behest of gambling promoters or bureaucrats only interested in revenue. Yours sincerely. . .

I received a number of positive phone calls as a consequence of that.

Since then some spasmodic articles on this topic have appeared in the *South-Eastern Times*, but I awoke on Tuesday 14 November to a doozey from that paper. It said, 'Vital racing legislation in the Legislative Council tomorrow'. One has to be patient from time to time with the media but it seemed to me to be rather strange that it was going to be voted on in the Legislative Council tomorrow, being 14 November, when at that stage we had not received the legislation from the lower house. I know that is a point of minor relevance perhaps but, if one is going to stick it up members of parliament, one would hope that the fourth estate could from time to time get some things right.

**The Hon. T.G. Roberts:** And put their by-line on it.

**The Hon. A.J. REDFORD:** I must say that I really do not know the identity of the journalist who wrote that article. He or she certainly has not outed himself or herself and I suppose it is a matter of some conjecture. I am not sure whether all journalists working at the *South-Eastern Times* would be pleased to be tarred with that brush, but that is a matter for them and for their editorial policy.

**The Hon. T.G. Roberts:** And their conscience.

**The Hon. A.J. REDFORD:** Yes, and their conscience. I suspect that I am not going to get a good article following this speech. The article was directed at the Hon. Terry Roberts and me, and we are both capable of defending ourselves. It suggested first that the Hon. Terry Roberts ought to leave the Labor Party over this issue and do a Terry Cameron. I know the Hon. Terry Roberts. Indeed, I have known him for a long time, and he is well known in the community. I would have to say that, for all but the poorest of observers, one would quickly come to the conclusion, and I hope that I do not offend him by saying this, that he is a rusted-on ALP caucus member and he would not go marching out of the Labor Party over a harebrained scheme like this, and he shakes his head.

I suppose that journalists are entitled to be naive when they are very early in their career, and perhaps it was the junior copy person who wrote this article, but to suggest that the Hon. Terry Roberts ought to do that was extraordinarily naive in the extreme. The article went on to say:

> Mr Roberts has already secured Labor Party preselection for the next poll while Mr Redford's term also expires in a year and Liberal Party preselection will occur in the next six months. The pair are certain to attract the ire of large sections of their home communities if they oppose the proprietary racing bill.

The oblique reference to my preselection, some might even call it a threat, was not dissimilar from a conversation I had with the Mayor only a few days earlier. For those avid *Hansard* readers, let me say that those of us who manage to find their way into this place, either through the major parties or through a vote directly, as in the case of the Hon. Nick Xenophon, are not stupid. We occasionally ring our delegates in the local area and say, 'What do you think about this issue?'

I have to say, for the benefit of the Mayor, that I have considerably enhanced my position in terms of my preselection by taking the position that I have taken. In fact, those who wish to threaten me—particularly at this critical stage of my political career with preselection—will find that I take precisely the opposite view. I am not sure whether it is because I have an Irish grandmother or whether I have a Scot's background on my father's side, but it is just a characteristic of myself, and I understand it is one that is shared by the rest of my family.

In any event, I go on record to say that I will not be browbeaten by those sorts of articles, and I will come to a conclusion on some of these issues simply based on what I believe and what I think, and I will consult with those people who have had the extraordinary good judgment to join the Liberal Party and also have the extraordinary skill and ability to find themselves in a position where they happen to have a vote on my electoral college. I am pleased to say that I enjoy their support, and I am also pleased to say that I am extraordinarily grateful for that support.

In any event, I let that one go through to the keeper. I thought, 'I will keep quiet on this issue: I will allow consultation to continue to take place.' It was the following Monday that I read, with some degree of concern, an article in the *South-Eastern Times*—and I had not spoken to anyone from the *South-Eastern Times*, I might add—where it says, 'Local MLCs against racing bill'. There is a suggestion that everyone is optimistic about the passage of the bill because Mike Elliott has indicated that his party may support it. It then goes on and states:

> Meanwhile, parliamentarians Terry Roberts and Ron Roberts (Labor) and Angus Redford (Liberal) have spoken against the proprietary racing bill but it has been backed by other Liberal MLCs.

If I can correct the record, at that stage I had not uttered a word on this bill.

**The Hon. Nick Xenophon:** Is this the *South-Eastern Times*?

**The Hon. A.J. REDFORD:** Yes, this is the *South-Eastern Times*.

**The Hon. Nick Xenophon:** And they did not contact you?

**The Hon. A.J. REDFORD:** That is right, no telephone call. So I broke my silence—I had held my tongue: I had been a highly disciplined member of parliament—and I wrote a letter and I said:

> Sir,
>
> I notice that I have attracted the attention of your paper concerning the proprietary racing and Beachport boat ramp issues. I note your article of 20 November suggests that I have spoken against the proprietary racing bill. I advise that at the time of writing I have not spoken at all on this bill as I am still awaiting further information concerning some important issues arising from the proposed introduction of proprietary racing.
>
> I think your readers should be aware this bill was rushed through the lower house ahead of other important pieces of legislation introduced prior to its introduction. Some of the issues that arise from proprietary racing include:
>
> (a) What will be the effect on the existing racing industry?
>
> (b) Will proposed arrangements with the existing greyhound and harness racing industry undermine the reputation of their traditional events?
>
> (c) What will be the reaction of interstate racing clubs and associations who provide 85 per cent of our local TAB turnover?
>
> (d) Will this lead to the introduction of internet and interactive gaming into our lounge rooms and lead our children to unacceptable exposure to gambling opportunities?
>
> (e) Will the proponents of proprietary racing be liable to the same taxation regime as traditional racing or will they be given a commercial advantage to traditional racing's detriment?

(f) Will the lack of probity provisions applicable to proprietary racing undermine public confidence in traditional racing?

They are just some of the questions that need to be addressed before the bill should be allowed to pass. Indeed, some might say that the asking and answering of questions like this are just the reason we have an upper house in South Australia.

I can assure your readers I will not overlook the benefits of private racing to the Millicent community. However, I have a responsibility not to overlook potential damage to the broader community such as the promotion of internet gambling into our homes, our schools and other places that are currently not lawfully available. Just as some now regret the day we introduced poker machines, others may in the future regret the day we introduced internet gambling.

That is what I said on that particular topic. I invite the government to address the questions that I raised in that letter. Just so that the Mayor (who obviously will read this at some stage in the future) understands, I have had one letter from the Millicent Chamber of Commerce supporting TeleTrak, one phone call also supporting it, and I have had a letter from the Australian Racing Quarter Horse Association Incorporated (and I am grateful to receive correspondence from anyone, although I had not heard of it before), saying what a wonderful proposal it is.

At this stage I have had 13 calls from local people saying that they are opposed to the project. At this stage, for the benefit of the Mayor, I am 13-2 up on the position I have taken so far on this issue. In terms of political management, out of 10 I would give the Mayor one. There are some concerns in relation to what I have been told about the agreement with the harness racing and greyhound racing industry. I know that the CEO of cyber racing currently is Trevor Cook, a man for whom I have high regard, and I know that he is doing his best to achieve an outcome.

He is a man of great integrity, but I do hear rumours and I would be most grateful if he and the authorities would tell us precisely what is in the agreement between them. Often in parliament we are confronted by this: you go to one side in an agreement and they say, 'I'd love to tell you, but the other side says I can't, and it's the subject of a confidentiality agreement.' Then when you meet the other side to the agreement they tell you precisely the same thing.

Given that they have entered into this long-term arrangement, I suggest that it might be of some assistance to me in coming to a conclusion at the third reading if we could have some detail about their agreement. Some people might say that this is a private agreement between two private institutions, and I accept that there is a limit to the extent to which the government should intrude into private arrangements between two institutions.

But in this case the agreement requires some parliamentary intervention, obviously, and I think it is appropriate, if we are to make a decision on this issue, that we know all the facts. It is appropriate that, if they are coming to us looking for that approval and we are going to give that approval on behalf of the men, women and children of South Australia, then we should be fully informed. As I said, it would be of great assistance if it was not just a briefing to me but a full disclosure to all members of parliament, so that we can deal with the issue.

The four concerns that I have dealt with are the issue of probity (and that has been covered elsewhere: I think Graham Ingerson covered it in his contribution); and the issue of a licence fee, a level playing field. Are some of the promises that were made earlier going to be kept? Thirdly, this appears to be a substantial change to the proposal outlined in 1998-99, where it was only going to be gambling for people offshore. Now there appears to be a sea change and it is going to be directed into the computer in my children's bedroom, and I will draw an absolute line at that. I want to know precisely what is out there.

Finally, I want to know what is the impact, first, on the existing industry and, secondly, can we get a real figure, not just such a beat-up figure but a real figure on what the employment prospects of this are? We know that there may well be some potential damage if there is a remote possibility of increased gambling in this state. If there is not, and if the government is prepared to accept a ban on internet gaming in this bill—and I suspect, knowing the Treasurer's viewpoint, that it will not—then we have to take that into account.

It is disappointing that, notwithstanding stated views on numerous occasions by members in this parliament, the TAB, whether or not under the control of the minister, continues to sign internet gaming agreements without any approval of this parliament. It is an affront to this parliament that the executive thinks it can go out and expand gambling and gaming in this state without coming back to us. It has been said over and again. I do not criticise the Treasurer in that regard. I think the Treasurer has taken a difficult line, because the events move on quite quickly. He has never at any stage suggested that there ought to be anything but parliamentary approval for internet gaming. I would hope that, when the Treasurer is sitting around the cabinet table when they finally work out what they are going to do with this bill, he reminds his cabinet colleagues of that important principle.

Indeed, I cannot imagine that we can deal with some of the issues I have raised before we resume next Tuesday. But if everybody is hell-bent on pushing this through and if they do not satisfy me, then this bill may fall over. That is a risk that the gun-toting member for Chaffey may well run, because in a political sense she has managed this in an appalling way. She may well want to put a gun at the head of certain people but she will not put any gun to any member's head in this place in terms of dealing with such serious and important legislation that has ramifications for our children in their bedrooms. She is either extraordinarily naive or she is playing an extraordinarily dangerous game in so far as this bill is concerned.

I have other concerns with the bill. As I have said, I have not looked at the authorised betting legislation; but there just seem to be some rather strange clauses. I will identify them so that the minister can consider them. Clause 19 deals with investigations by the authority, and subclause (3) provides that the authority may obtain from the Commissioner of Police such reports and so on as it considers necessary. The Casino Act provides that he must do that. I am not sure why there would be a difference. I know it is only subtle but, if there is going to be a difference in probity, I want to know why. I want to know why there is a difference in probity in relation to this, bearing in mind that a failure of probity on the part of this puts our existing racing industry and many thousands of jobs at risk.

I will give another example: costs of investigation relating to applications. The Casino Act provides that if you are going to investigate in relation to an application the applicant pays the lot. Why, then, is there a clause 21(6) which provides:

This section does not apply in relation to an application for approval of a person to become a director or executive officer of a licensee.

Why is there a difference in this bill compared to the Casino Act? Forgetting any gun that the member for Chaffey might be loading and cocking at the government's head, someone

will have to come out of the closet, put the gun back into the holster and start debating clause by clause why we have certain provisions in this bill. I will not sit back and have a repeat of the poker machine fiasco and allow that to intrude into our community without proper and appropriate debate.

There are other examples in the bill. For argument's sake, in the Casino bill there are extensive provisions about the exclusion of children from the Casino. There is no clause about whether or not children ought to be excluded from a proprietary racetrack. I am inclined not to think they should be. I used to go the races as a kid and it was a lot of fun. These sorts of issues need to be agitated, and we need to have some proper and fair discussion.

If the Hon. Karlene Maywald wants to put a gun to the government's head and try to jam this through in the three sitting days that it has been before the Council, she might finish up with a result that she does not like. If we can sit down, take a deep breath and deal with this line by line, clause by clause, we might well get a result. I know that some people are sceptical, but it might well be that we will have a good industry that will support rural and regional South Australia. However, it is not for us to stand on the beach in our grass skirts and grab at every piece of cargo that goes by to the detriment of our children.

**The Hon. NICK XENOPHON** secured the adjournment of the debate.

## COUNTRY FIRES (INCIDENT CONTROL) AMENDMENT BILL

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

## STAMP DUTIES (LAND RICH ENTITIES AND REDEMPTION) AMENDMENT BILL

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

## SOUTH AUSTRALIAN COUNTRY ARTS TRUST (APPOINTMENTS TO TRUST AND BOARDS) AMENDMENT BILL

The House of Assembly agreed to the bill with the amendments indicated by the following schedule, to which amendments the House of Assembly desires the concurrence of the Legislative Council:

No. 1. Clause 3, page 3, lines 11 to 21—Leave out new subsections (1) and (2) and insert:

(1) The presiding trustee of the Trust is appointed for a term not exceeding three years specified in the instrument of appointment.

(2) A trustee of the Trust (other than the presiding trustee or a trustee who holds office ex officio) is appointed for a term not exceeding two years specified in the instrument of appointment.

(2a) A trustee is eligible for reappointment on the expiration of a term of office but cannot be reappointed so that—

(a) the person's total term of office exceeds nine years; or

(b) the person's total term of office as a presiding trustee exceeds six years; or

(c) the person's total term of office as a trustee other than a presiding trustee exceeds six years.

No. 2. Clause 4, page 3, lines 25 to 29, page 4, lines 1 to 5—Leave out new subsections (1) and (2) and insert:

(1) The presiding member of a Country Arts Board is appointed for a term not exceeding three years specified in the instrument of appointment.

(2) A member of a Country Arts Board (other than the presiding member) is appointed for a term not exceeding two years specified in the instrument of appointment.

(2a) A member of a Country Arts Board is eligible for reappointment on the expiration of a term of office but cannot be reappointed so that—

(a) the person's total term exceeds nine years; or

(b) the person's total term of office as a presiding member exceeds six years; or

(c) the person's total term of office as a member other than a presiding member exceeds six years.

Consideration in committee.

**The Hon. DIANA LAIDLAW:** I move:

That the House of Assembly's amendments be agreed to.

These amendments arise from an issue raised by the Hon. Carolyn Pickles in this place that the clause was possibly ambiguous and could have been read to suggest that a presiding member could serve for a maximum of 12 years. That was never the intention.

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

**The Hon. DIANA LAIDLAW:** No. The amendment moved for the government by the Minister for Human Services in the other place proposes a maximum term of nine years. It was agreed unanimously there. I have earlier canvassed the issue with the Hon. Carolyn Pickles and the Hon. Sandra Kanck who earlier spoke to this measure in this place, and they both agreed to accept the amendments.

**The Hon. T.G. ROBERTS:** I indicate that the opposition supports the amendments put forward by the minister.

Motion carried.

## ADELAIDE FESTIVAL CENTRE TRUST (COMPOSITION OF TRUST) AMENDMENT BILL

The House of Assembly agreed to the bill without any amendment.

## ELECTRONIC TRANSACTIONS BILL

The House of Assembly agreed to the bill without any amendment.

## SHOP THEFT (ALTERNATIVE ENFORCEMENT) BILL

The House of Assembly agreed to the bill without any amendment.

## STATUTES AMENDMENT (FEDERAL COURTS—STATE JURISDICTION) BILL

The House of Assembly agreed to the bill without any amendment.

## LEGAL PRACTITIONERS (MISCELLANEOUS) AMENDMENT BILL

The House of Assembly agreed to the bill without any amendment.

## GAMING MACHINES (FREEZE ON GAMING MACHINES) AMENDMENT BILL

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

**ADJOURNMENT**

At 11.43 p.m. the Council adjourned until Tuesday 5 December at 2.15 p.m.