LEGISLATIVE COUNCIL

Tuesday 29 May 2001

The PRESIDENT (Hon. J.C. Irwin) took the chair at 2.15 p.m. and read prayers.

QUESTIONS ON NOTICE

The PRESIDENT: I direct that written answers to the following questions on notice be distributed and printed in *Hansard*: Nos 45 and 77.

TELETECH CALL CENTRE

45. **The Hon. T. G. CAMERON:**

1. Why has there been a delay in the Teletech Call Centre beginning operations in South Australia, as announced by the Premier, Mr. Olsen, before the 1997 state election?
2. When is the centre now due to begin operations?
3. Will the Teletech Call Centre still create 1,000 jobs as promised by the Premier, or has the figure changed?
4. Has the state government offered any incentives to Teletech to set up operations in South Australia?
5. If so:
   (a) What were the incentives; and
   (b) How much state government funding is involved?

The Hon. R.I. LUCAS: I have been advised by the Department of Industry and Trade as follows:

- As indicated previously by both the Premier and the former Minister for Industry and Trade, the business circumstances upon which the TeleTech project was predicated have varied with the result that the project will not proceed in the form and in the time frame envisaged in the announcement.
- The Department of Industry and Trade continues periodic communications with the company regarding its investment requirements.
- Stellar Call Centre Solutions has since established a call centre in Adelaide. Stellar, a joint venture between Telstra and US based Excell, is one of TeleTech's key competitors. Stellar has joined other call centre outsourcers in Adelaide such as Link Telecommunications and continues to operate successfully from its centre in the EDS Building on North Terrace.
- Consistent with its investment attraction process, which sees the offering of incentive packages for strategic investments, the Government offered an incentive package to TeleTech to establish operations in Adelaide. (As the project has not proceeded, no payments have or will be made under the original arrangements).

SPEEDING OFFENCES

77. **The Hon. T.G. CAMERON:**

1. How many motorists were caught speeding in South Australia between 1 January 2001 and 31 March 2001 by—
   (a) speed cameras;
   (b) laser guns; and
   (c) other means;
   for the following speed zones—
   60-70 km/h;
   70-80 km/h;
   80-90 km/h;
   90-100 km/h;
   100-110 km/h;
   110 km/h and over?
2. Over the same period, how much revenue was raised from speeding fines in South Australia for each of these percentiles by—
   (a) speed cameras;
   (b) laser guns; and
   (c) other means?

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

The table below depicts the number of expiation notices issued and expiated between 1 January 2001 and 31 March 2001 in respect to speeding offences:

Speed Cameras	79 713
Laser Guns	No separate data available
Other Means	11 283

The information supplied identifies expiation notices issued as a result of speed cameras and by other means. SAPOL information systems record speed related expiation notices as being generated by either speed camera or other means. Therefore the requested laser gun figures are incorporated in 'other means'.

The table below depicts the number of expiation notices issued by speed cameras for the following speed for the following speed categories, 1 January 2001 and 31 March 2001 (speed camera offences only, and relate to a variety of speed limits and speed zones):

60-69 km/h	680
70-79 km/h	59 424
80-89 km/h	4 866
90-99 km/h	4 674
100-109 km/h	3 072
110 km/h and over	1 815
Unknown	20

Revenue raised from 1 January 2001 and 31 March 2001:

Speed Cameras	$8 500 512
Laser Guns	No data available to match question
Other Means	$1 696 247

During the same period 35 people were killed in motor vehicle accidents on South Australian roads.

PAPERS TABLED

The following papers were laid on the table:

By the Treasurer (Hon. R.I. Lucas)—

Regulation under the following Act—
Stamp Duties Act 1923—Recognised Stock Exchanges.
Murray-Darling Basin Agreement 1992—
Amended Schedule D.
Amended Schedule F.

By the Attorney-General (Hon. K.T. Griffin)—

Regulation under the following Act—
Second-hand Dealers and Pawnbrokers Act 1996—Identification.

By the Minister for Consumer Affairs (Hon. K.T. Griffin)—

Regulation under the following Act—
Land Agents Act 1994—Sales Representative Qualifications.

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

Gawler (CT) Development Plan—Development Plan Confirmation Plan Amendment Report.
Regulation under the following Act—
Environment Protection Act 1993—Power Station Exemption.
Corporation By-law—Onkaparinga—No. 9—Dogs.

LAND AGENTS

The Hon. K.T. GRIFFIN (Attorney-General): I seek leave to make a ministerial statement on the subject of the Land Agents Act 1994 National Competition Policy Review.

Leave granted.

The Hon. K.T. GRIFFIN: On 11 November 2000, I announced the reconvening of the review panel responsible for the National Competition Policy Review of the Land Agents Act 1994. Honourable members will recall that the purpose of reconvening this panel was to afford it the opportunity of considering various materials provided to me by the Real Estate Institute of South Australia outlining the concerns it had regarding the review panel's original 'legal qualifications' recommendation as contained in the panel's

final report. That recommendation was that, provided an applicant with legal qualifications and competency in appraisal met the other requirements of the act, he or she was entitled to be registered as a land agent.

In reconvening the review panel, I appointed a new member, Mr Cliff Hawkins, a highly respected leader in the real estate industry and past President of the Real Estate Institute. Mr Hawkins' appointment did not represent the appointment of an industry representative to the review panel, which would have been in breach of National Competition Policy guidelines; rather, it was the appointment of a person with real estate expertise to assist the continuing members of the review panel with technical issues. This reconvened review panel has now considered the material provided by the Real Estate Institute and, following further deliberations, has submitted a supplementary report to the government. I seek leave to table that report.

Leave granted.

The Hon. K.T. GRIFFIN: The government has accepted the supplementary report and its conclusions and recommendations. I released the report publicly on Wednesday 23 May 2001. Following my request for it to reconvene, the review panel met on six occasions between December 2000 and March 2001 and undertook a significant amount of research in order to prepare its comprehensive supplementary report. The review panel also sought information from a number of organisations in order to afford all interested parties the opportunity to be heard and to ensure that all material facts were being considered. Representatives of the Real Estate Institute, TAFE, the Flinders University Law School, the University of South Australia's Division of Business and Enterprise and the Law Society of South Australia met with the review panel in the course of its deliberations.

It is clear from this report that the review panel has taken full account of the arguments presented by all parties, including those of the Real Estate Institute. I have met with the President and board of the Real Estate Institute to discuss the report and its recommendation. I note that the board has subsequently indicated (on behalf of the Real Estate Institute) that the institute is pleased with the recommendations made by the review panel in its supplementary report. I have also met with representatives of the Law Society to discuss the supplementary report and brief them on its recommendation.

The supplementary report has now been considered by the Commissioner for Consumer Affairs. Having had the opportunity to consider the reasoning, conclusions and recommendations of the supplementary report, the Commissioner for Consumer Affairs has determined that it is appropriate to adopt and implement the recommendation of the supplementary report, which is as follows:

> The review panel recommends that the qualifications held by an admitted legal practitioner, or a person entitled to admission in South Australia, in combination with demonstrated skills in:-
>
> 1. Appraisal; and
> 2. Undertaking property sales by private treaty and conducting property sales by auction, limited to the discrete areas of:-
>
> · Listing process from first call to final signature;
> · Marketable features of residential properties which may have an effect on the sale/lease price and/or marketability of a property;
> · The common types of selling/leasing agencies used in the context of the South Australian market;
> · Understanding the costings and procedures for all methods of sale; and
> · Understanding that one method may be more suitable for a particular property than another method;
>
> should be accepted in satisfaction of the requirements under section 8(1)(a) of the Land Agents Act 1994.

As the recommendation made differs from the earlier recommendation, the issue of how to deal with applications lodged by those with legal qualifications has been addressed.

With respect to those who lodged applications prior to 23 May 2001, the date of the public release of the supplementary report, the Commissioner for Consumer Affairs has been advised by the Crown Solicitor that it is proper in law to determine all such applications in accordance with the earlier recommendation of the review panel. The Commissioner for Consumer Affairs has therefore granted land agent registration to the 18 applicants who had lodged their applications prior to 23 May 2001, based on their legal and appraisal qualifications.

I note that this represents the entire number of applications lodged prior to and remaining on foot at that date. Therefore, no further registrations will be granted under the terms of the earlier recommendations. Those who lodge applications from 23 May 2001 onwards will have their applications determined in accordance with the recommendation of the supplementary report. Therefore, all of those who have completed the Law Society's course, but have not yet lodged an application for registration, will have their applications assessed in accordance with the supplementary report recommendation.

It is important to note that the report supports the retention of the system of registration for land agents in South Australia and does not consider it appropriate to provide for an exemption from the requirements of the act. This means that any person who wishes to become a land agent must apply for registration to the Commissioner for Consumer Affairs and demonstrate that he or she meets all the registration requirements the act imposes. Registration, if granted, then requires that person to comply in all respects with the act's requirements, and renders him or her liable to be dealt with under the act for any breach. There will be no discrimination between land agents based on the source of their qualifications.

A crucial matter to note in relation to the whole issue of legal practitioners gaining registration as land agents is their ability to prepare conveyancing instruments. The position with regard to those people can be put very simply: section 28 of the Land and Business (Sale and Conveyancing) Act 1994 prohibits all land agents, and their partners, employees, employers and even co-workers, from preparing conveyancing instruments. This is so notwithstanding that the person may also be registered as a conveyancer, or may be practising as a legal practitioner. Indeed, it should be noted that, while there are some 50 people in South Australia who hold registration as both a conveyancer and as a land agent, those people are prohibited from practising as a conveyancer while they hold their land agent registration.

The review panel considered, and I accept, that there is no reason to put legal practitioners in a different category from those who hold registration both as a conveyancer and as a land agent. To do so would be inherently anti-competitive in the context of this market and, more importantly, would expose consumers to the risk of loss through conflict of interest situations. I therefore emphasise that the section 28 prohibition on the preparation of conveyancing instruments applies to all persons falling within the definition of 'land agent' under the Land Agents Act 1994, as well as all those who are in a prescribed relationship to a land agent. In this regard, it does not matter what other qualification or occupation a person may have because, if he or she can be characterised as a 'land agent' or a person in a 'prescribed relation-

ship' with a land agent, he or she will be prohibited from the preparation of conveyancing instruments.

It is important also to note that the panel identified that there are some areas of competency available through the Real Estate Institute of South Australia that have been approved by the Commissioner for Consumer Affairs under the same provisions that he used to approve the legal qualification recommendations, so any proposal to delete this provision of the Land Agents Act would be prejudicial to the institute as well as others outside its membership.

The only impact of the supplementary report and the final report will be to increase the pool of people who may be able to apply for registration as land agents in South Australia, subject to them being able to meet all the criteria set out in the act including, for those with legal qualifications, the provisions of the new recommendation. Having considered this recommendation in light of all the arguments presented in the supplementary report, and following discussions with the Real Estate Institute, I am confident that implementation of its recommendation will achieve maximum benefit from the regulatory scheme while maintaining the high levels of consumer protection necessary in this industry.

QUESTION TIME

FESTIVAL OF ARTS

The Hon. CAROLYN PICKLES (Leader of the Opposition): I seek leave to make a brief explanation before asking the Minister for the Arts a question about the 2000 Festival.

Leave granted.

The Hon. CAROLYN PICKLES: I refer the minister to an article that appeared in yesterday's *Australian* regarding the shortfall facing the Adelaide Festival. The story reports:

> . . . the organisers of the 2000 Adelaide Festival underestimated the riskiness of some of its productions, contributing to an $883 000 loss for Robyn Archer's second and final Adelaide Festival. According to the Festival 2000 financial report, which was released in January, $605 000 of festival reserves was used to prop up revenue and keep the loss, at that stage, down to $74 000. Mr Nicholas Heyward, General Manager of the festival, is reported as follows:
>
> 'We knew in advance of the festival that it was going to be difficult, and we had advised government it was going to be difficult,' says Heyward. 'But it was not clear until some time after the festival, when all the bills are in, what the impact of overruns was.

Furthermore, Mr Heyward also reports that there was a box office shortfall of $400 000. Box office came in at $2.26 million, as opposed to the anticipated $2.66 million. However, the festival's 2000 financial report indicates a box office of $2.43 million. Clearly, the figures do not add up. My questions to the minister are:

1. What is the extent of the actual loss of the festival, and does the minister agree with Mr Heyward's figure of a $883 000 loss?

2. Given that $605 000 of festival reserves was used to artificially prop up the festival's revenue, can the minister report the status of the present festival's reserve funds?

3. Is the shortfall totally attributable to the 2000 festival and, if not, what is it attributable to?

4. Given Mr Heyward's statement that I just quoted, does the minister concede that there was serious negligence at a senior management level in managing the festival's program?

5. What is the true box office figure?

The Hon. DIANA LAIDLAW (Minister for the Arts): The honourable member asked me a question on 3 April about the Adelaide Festival of Arts and its financial result. I have that answer today so, perhaps rather than providing it at another time in question time, I can read that answer for the benefit of all members.

In terms of the financial result, after the application of reserves approved by the Adelaide Festival Board to enhance the program the deficit at the end of the 1999-2000 financial year was $883 000. Therefore, in terms of the honourable member's first question I do agree with the figure provided and earlier reported.

I am also able to advise that recently the Adelaide Festival Corporation agreed to the terms of a proposal I put that will see the corporation paid grants in advance from Arts SA to cover this funding deficit as well as to assist in cash flowing budgeted expenditures for the 2002 festival. This arrangement will enable the festival to trade out of the deficit over the four year period from 2002-03 to 2005-06.

Rather than wildly accusing the board, management or festival director of serious negligence—as seems to be the wont of the shadow Minister for the Arts, which I think would be rather disappointing to the arts community and South Australians generally—I would have thought that she would appreciate that an event such as the biannual Adelaide Festival, which leads the world as a cutting edge arts festival, is a high risk undertaking. However, the rewards are also high. It is interesting that the honourable member does not want to hear my answer to the question; she would rather talk on the phone.

The Hon. Carolyn Pickles interjecting:

The Hon. DIANA LAIDLAW: You wish to listen? She has now put down the phone: it is a good thing. Just to show how earnest she is about this question, she would rather accuse the board and everybody else of serious negligence and yet she is so serious about the nature of her question that she gets on the phone and does not want to hear the answer, anyway. That is a pretty poor performance, a pretty lame performance, from the shadow Minister for the Arts.

Anyway, I am glad I have highlighted it, and it is refreshing to think she has put down the phone and will now focus on the issue that she professes to be concerned about. By throwing around expressions such as 'serious negligence' she is looking for a quick headline and has more interest in her headline rather than the fate of the arts or the festival itself. The honourable member knows—or if she cared about the festival and the arts generally she would know—that the Adelaide arts festival is a cutting edge festival and is therefore a high risk undertaking, but the rewards are equally high.

The 2000 festival, for example, delivered a large program involving some 37 world productions, many of them complex international collaborations. Overall, it was a milestone event reaffirming Adelaide's pre-eminent status in the arts during a period which I think the honourable member and perhaps the Labor Party in going for a headline also conveniently forgets—that this was a period of substantial competition and pressure on the Adelaide Festival to gain sponsorship support while there were events such as the Olympics in Sydney and Melbourne's federation festival.

I also highlight that, in terms of the exaggerated words that the honourable member has used throughout the exercise of looking at the result for the last Adelaide festival, she raised concerns on 3 April by referring to the 'shock departure' of the festival finance director. I can say quite categori-

cally that, contrary to this exaggerated headline-grabbing term from the honourable member and her speculation generally, the festival finance director, David Hepper, hardly made a shock departure: he resigned from this position earlier this year, giving over two months advance notice which enabled the festival corporation to recruit a replacement and ensure a smooth handover period.

ALICE SPRINGS TO DARWIN RAILWAY

The Hon. P. HOLLOWAY: I seek leave to make a brief explanation before asking the Minister for Industry and Trade a question on the Alice Springs to Darwin railway.

Leave granted.

The Hon. P. HOLLOWAY: In a government press release dated 16 May 2001, it was announced that former Deputy Prime Minister Tim Fischer had been appointed to the role of special envoy for the Alice Springs to Darwin railway project and that he would be paid a $3 000 monthly retainer, plus $2 000 a day for each day worked, plus travel, accommodation and other costs. An *Advertiser* report dated 26 May claims that the Premier found out about Mr Fischer's remuneration details in a memo from the project consortium after his 16 May announcement. My questions are:

1. Whose decision was it to appoint the retiring former Deputy Prime Minister Tim Fischer as special envoy to the rail project and who negotiated Mr Fischer's remuneration and job description?

2. Can the minister explain why the Northern Territory and commonwealth governments and Asia Pacific Transport Consortium were not involved in appointing or paying for Mr Fisher's consultancy as special envoy, and is the cost of his consultancy included in, or is it additional to, South Australia's $176.5 million contribution to the rail line project?

3. Given the government's new-found commitment to openness, will the minister now table a copy of Mr Fischer's employment contract for the job of special envoy and exactly what constitutes a day's work promoting the rail project?

4. How much taxpayers' money has been allocated over the next three years for Mr Fischer's consultancy as special envoy to the rail project?

The Hon. R.I. LUCAS (Minister for Industry and Trade): About 45 minutes ago I heard the Premier give a very impressive answer to a question which has just been repeated by the honourable member, so I refer the honourable member to that very impressive answer from the Premier in another place. Summarised in terms of the essential question as to who negotiated the contract, as I understood the Premier's response, he said that he would check but he believed or understood that it would have been negotiated by Partners in Rail, a group which reports to the Premier, who has had essential carriage of the Adelaide to Darwin railway and who has done a wonderful job on behalf of the people of South Australia in eventually getting that complicated deal through to financial close in recent months.

As the Premier has done, I am happy to take on notice some aspects of the honourable member's question, I will refer it to the Premier and I will send the honourable member a copy of the reply that the Premier is giving to the Leader of the Opposition in another place.

ABORIGINAL DEATHS IN CUSTODY

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Attorney-General a question on Aboriginal deaths in custody and police operations.

Leave granted.

The Hon. T.G. ROBERTS: Recently there was another unfortunate death in custody of an Aboriginal woman who apparently committed suicide in her cell while being assessed, I hope, for a suitable position in Glenside or in an institution for assessment, given that, from information provided to me, she had a psychiatric history. It is unfortunate when any person dies in custody or in a police operation, but even more tragic when it is an Aboriginal person, given the number of Aboriginal people in custody around Australia, and in this state, for little or no reason in a lot of cases.

The advocate for Aboriginal people, Tauto Sansbury, who operates out of the Aboriginal Justice Advocacy Committee, informed me on the occasion of a previous death due to police operations that the Aboriginal advocate who provides information was not contacted in time to be of any use to the police operation. It was suggested that, if greater use were to be made of the South Australian Aboriginal Justice Advocacy Committee liaison person, a role could be played that may prevent some of the problems that the justice system is facing in relation to making assessments about the adequacy of people who place themselves in conflict with the justice system.

The person who committed suicide just recently had a history of mental illness, and according to those who knew her should have been placed not in a police cell or in a gaol but under the care and concern of a psychiatric support service, such as Glenside. The figures that were released recently from the royal commission into deaths in custody indicate that there were a number of deaths that could be attributed to a wrong assessment or an inadequate assessment of those individual circumstances and that the deaths of six people could have been avoided had better assessments been made at a particular time. I am in no position to be able to make a judgment on that, but certainly the royal commission made a lot of recommendations that states were put in a position of having to implement. The questions I have are:

1. Is the Attorney-General aware of the circumstances surrounding the suicide death of a woman at the Northfield Women's Prison?

2. Will the Attorney-General assess and report on the current role and function of the advocate's position attached to the Aboriginal justice advocacy role, and will the position be continued to be funded in the next financial year?

3. Are there any steps that can be taken in this state to try to prevent any further increase in the numbers of deaths of Aboriginal people in custody and in their difficult position in relation to confrontation with our police?

The Hon. K.T. GRIFFIN (Attorney-General): The government does not want any deaths in custody, whether they are Aboriginal or non-Aboriginal deaths in custody. All of our processes are directed towards trying to ensure that that goal is achieved. Unfortunately, there are occasions when, for one reason or another, there is a death in custody, remembering that deaths in custody are not just those deaths which occur in a prison or a police cell. They may occur as a result of the hot pursuit of a stolen motor vehicle, for example. They may occur even in circumstances where a police officer has used gas to endeavour to constrain a person who might be behaving in a threatening way. It is a very

broad definition and does not just relate to institutional or custodial care.

In this state, we have in place a range of processes—practices—that are all directed towards trying to minimise the risk. In so far as it relates to Aboriginal persons, Correctional Services, for example, since late 1995, has introduced a number of initiatives specifically for Aboriginal offenders. These initiatives include employment in prisons of 10 Aboriginal liaison officers (that was the figure in February of this year, after which time I had a report), who are specifically to work with Aboriginal prisoners to identify those who are most at risk of self-harm.

Another initiative is the establishment of Aboriginal forums, where the chief executive and senior staff of the Department for Correctional Services meet with representatives of Aboriginal organisations, including the Aboriginal Justice Advocacy Committee, Aboriginal Drug and Alcohol Council, Aboriginal Legal Rights Movement, Department of Employment, Training and Further Education, Aboriginal Prisoners and Offenders Support Services, the Division of State Aboriginal Affairs and a representative group of Aboriginal prisoners. The forum has been established to look at ways to reduce the risk of deaths in custody. A number of initiatives have been taken by this group, including development of programs and courses for Aboriginal offenders in areas such as anger, grief, self-identity, cultural deprivation, personal development and family wellbeing.

Then there is the implementation of a departmental peer support program, which involves selected prisoners being trained in basic counselling techniques and health awareness to enable them to offer support to other prisoners. In addition, there is the implementation of a program that has increased the number of shared cell accommodation for Aboriginal prisoners. There is some criticism of doubling up in cells but, on the other hand, for Aboriginal prisoners this is a well recognised practice, designed to ensure that, as much as it is possible to do so, an Aboriginal prisoner does not commit suicide. Doubling up does provide mutual support to Aboriginal offenders who are sharing accommodation. An Aboriginal person has been recruited to assume strategic responsibility for Aboriginal recruitment and Aboriginal offender services within the Department for Correctional Services. There also has been the upgrading of cells in B Division at Yatala Labor Prison, consistent with the recommendations of the State Coroner, to minimise potential hanging points.

These are initiatives only within the area of the Department for Correctional Services. There are also initiatives in the area of police and in the area of courts. Aboriginal justice officers have been appointed, and a variety of other initiatives have been taken, such as the Aboriginal court day, all directed towards trying to ensure that, as much as possible, the pressures on Aboriginal offenders are reduced so that they do not end up being deaths in custody. A lot of steps have been taken to deal with non-Aboriginal people also—again, to prevent deaths in custody in respect of non-Aboriginal persons. But, certainly, Aboriginal offenders seem to be the more prone to deaths in custody than non-Aboriginal offenders.

Up to the middle of February this year, during the past 20 years in the Department for Correctional Services, eight Aboriginal offenders have committed suicide or have died from injuries sustained prior to their arrest; six Aboriginal offenders have died in the care of the South Australian Forensic Health Services (formerly Prison Medical Services) as a consequence of longstanding medical conditions or terminal illnesses which existed before they entered prison; and one Aboriginal offender has died as a result of a suspected overdose. The matter to which the honourable member referred has not been included in those figures. Because it is a death in custody there will be a coronial inquiry, and I do not intend to pre-empt either the giving of evidence to that inquiry or the findings that the Coroner may make but, quite obviously, that will be of considerable interest to the wider community.

In relation to the recommendations of the Royal Commission into Aboriginal Deaths in Custody, the government has taken steps to implement almost all of those recommendations which are sensible and capable of implementation. Our record is a good one, and we want to improve it. As I hope the honourable member can see from what I have indicated so far, positive things are being done within government to endeavour to reduce the risk of any further Aboriginal deaths in custody.

AUSTRALIAN WORKERS UNION

The Hon. L.H. DAVIS: I seek leave to make an explanation before asking the Treasurer a question about AWU electoral rorting.

Leave granted.

The Hon. L.H. DAVIS: The official Labor Party agenda papers for the Labor Party convention held last year list the membership of various unions affiliated with the ALP. These unions are entitled to one delegate to the ALP Council for each 1 000 members. The convention papers reveal that the Australian Workers Union was affiliated for 14 010 members as at 31 March 2000. However, the 1999-2000 annual accounts of the AWU, signed on 22 September 2000 by Bob Sneath as AWU Secretary, reveal that, as at 30 June 2000, there were only 10 208 members of the AWU in South Australia.

The accounting officer's certificate (signed by Bob Sneath) states:

> I, Robert Sneath, being the officer responsible for keeping the accounting records of the Australian Workers Union Greater SA Branch, certify that, as at 30 June 2000, the number of financial, life and retired members of the organisation was 10 208.

During 1999-2000, Bob Sneath was not only AWU Secretary but also State President of the Labor Party. He replaced the Hon. George Weatherill in the Legislative Council on 4 October 2000. There was an almost 40 per cent discrepancy between the AWU membership for the ALP convention, which was claimed at 14 010, and the certified membership signed off by Bob Sneath at 10 208. Bob Sneath, as President of the Labor Party and accounting officer for the AWU, would have to be aware of this discrepancy.

Curiously, in 1997, the AWU also affiliated with the ALP for 14 010 members, exactly the same figure as for the year 2000. However, the financial records of the AWU reveal that the membership in 1997 was signed off by Bob Sneath at 13 256. I have been advised by a senior figure in the parliamentary Labor Party that many rank and file members of the Labor Party and Labor politicians are outraged that no action has been taken over this obvious rorting. I have been told that Mr Rann and other parliamentary members of the Labor Party are aware of this discrepancy because the figures are readily available. Indeed, if I, who I am not a member of the Labor Party, know about the figures, why does not Mr Rann?

As I indicated to the Council last week, the union's claimed membership of 10 208 is suspect. Already 35 dead people on the AWU roll have been found by candidates canvassing for the AWU elections which are to be conducted between 28 May and 21 June. Some of these members have been dead for eight years and the union has been contacted about their death.

I have been advised that the AWU in South Australia, by overstating its membership by 40 per cent, has significantly influenced the outcome of elections within the Labor Party in this state. As mentioned, unions are entitled to one delegate to the ALP State Council for each 1 000 members. Because the AWU claimed 14 010 members, it has gained a seat on the Labor Party state executive, which it might otherwise not have obtained. I have been advised that the AWU has also used these additional members to relegate prominent Labor Senator Chris Schacht to the difficult third position on the Senate ticket.

Last year, serious allegations were made about electoral rorting in Queensland, which were investigated by the Criminal Justice Commission inquiry headed by former judge Tom Shepherdson. Counsel assisting the inquiry, Russell Hanson QC, said in his submission:

> There was a culture of improper enrolments in at least some ALP factions, predominantly the AWU faction.

Premier Beattie described electoral rorting as an internal cancer in the Labor Party.

In 1999, the Labor Party in South Australia was forced to reveal that 2 000 new party members had been signed up with a handful of cheques, and that 20 Aboriginal people from Coober Pedy were signed up without their knowledge using the one post office box with the obvious intent of someone in the Labor Party voting on their behalf. As state Labor MP Lyn Breuer stated, this amounted to fraud.

In view of the extraordinary events in Queensland over the last few months, it was reasonable to presume that the Labor Party in all states would have checked with affiliated unions, particularly the AWU, to ensure that proper procedures were adopted for recording membership and conducting elections. Following the serious branch stacking in the Labor Party in 1999, Labor Party leader, Mike Rann, said (and I quote from the *Advertiser* of 14 May 1999):

> If there is any evidence of rorting membership recruitment, those responsible must be dealt with severely and prosecuted to the full extent of our rules, because that kind of stupid behaviour is unacceptable and should not be tolerated and will not be tolerated.

I have been advised that many of Mr Mike Rann's parliamentary colleagues are heavily involved in the current AWU election battle. Allegations of electoral rorting in the AWU have already been canvassed in the media in late January of this year. My questions are:

1. Will the leader take up this serious matter with his ministerial colleagues to see if this latest disclosure of electoral rorting in the AWU and Labor Party breaches any law?

2. Is the minister aware of any action undertaken by the Leader of the Opposition, Mr Mike Rann, to investigate electoral rorting in the Labor Party following his statement of May 1999?

The Hon. R.I. LUCAS (Treasurer): I must say that I am most disturbed to hear these very serious allegations that the Hon. Mr Davis has again relayed to the Legislative Council. They follow on from the allegations made by the honourable member last week—or the week before—when he first raised this matter. I will raise the issue certainly with the Attorney-General and, indeed, other ministers to see whether or not any laws have been broken in any way by the actions of the AWU in this matter.

I guess all one can say about the issue of membership is that it would appear that the Hon. Bob Sneath and other office holders of the AWU certainly believe in the multiplier effect within the AWU membership if they can magically turn 10 000 members into 14 000 and then back again.

The Hon. Diana Laidlaw: The 40 per cent factor.

The Hon. R.I. LUCAS: In a lot of cases, I am sure the multiplier effect of 40 per cent would be very helpful. In relation to the actions of the Leader of the Opposition, it is a serious matter. The honourable member has quoted both statements made by Premier Beattie and also followed on by the Leader of the Opposition, Mike Rann, in relation to how seriously Mr Rann says he takes these particular issues. As the Hon. Mr Davis has indicated, given the allegations about AWU rorting and fraudulent activities in other states, it would have been a relatively simple matter to ring the office holders of the AWU at the time, in 1999, and, based on the activities going on in the AWU in other states, to satisfy himself that no similar cases of rorting and fraudulent activity were going on within the AWU at the time he was making the statement.

I am sure that the fearless representatives of the media who have heard these claims made in the last couple of weeks will be putting questions to the Leader of the Opposition, Mike Rann, to ask him specifically whether he took up these issues with Bob Sneath and other office holders in the AWU back in 1999—

The Hon. Diana Laidlaw: And before he entered this place.

The Hon. R.I. LUCAS: And before he entered this place, but in 1999. Has he taken up the issues again since these claims have been raised again in the last few weeks so that one can test, I guess, the mettle of the leadership of the Hon. Mike Rann in relation to the Parliamentary Labour Party?

As the Hon. Legh Davis has indicated, the Hon. Mike Rann has made it quite clear that he will not accept anyone within his parliamentary caucus behaving in this way. If someone is saying and it can be proved that the membership is only 10 000 members yet they were claiming 14 000 members, one cannot imagine a much more serious discrepancy than that in relation to these activities. If Mike Rann is true to those bold words of 1999, he will take very strong action against the Hon. Bob Sneath and any others who may well have been associated with activities such as those that have been outlined to this chamber.

HIH INSURANCE

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister for Consumer Affairs a question in relation to the HIH-FAI liquidation.

Leave granted.

The Hon. M.J. ELLIOTT: A constituent recently contacted me explaining that he, his partner and four children stand to lose some $120 000 due to the HIH collapse and due to no fault of their own. In June 1997 this constituent signed a contract for a new home with a builder who at the time was a member of the Master Builders Association, using the association's pro forma contract. Included in this contract was an allowance for an insurance policy with FAI against the failure of the builder. The constituent was not informed of any choice of insurer, as FAI was the preferred insurer of the Master Builders Association.

On 8 October 1997 hand-over of the house occurred, with the constituent signing an agreement with the builder that unfinished work would continue after hand-over. Through 1997-98 no further work was completed, and a series of defects was uncovered, culminating in the City of Onkaparinga issuing a defect order against the house on 28 October 1998. The issue was subjected to a protracted court battle until on 6 June 2000 creditors placed the builder in liquidation. In July 2000 a solicitor on behalf the constituent lodged a claim with FAI for $78 000 in damages. Prior to this time the builder ceased to be a member of the MBA, without the constituent's being informed.

In February, FAI offered a settlement of less than half the amount lodged. By March 2001, FAI and HIH were placed in liquidation, leaving the constituent's claim outstanding at this time. I understand that, if the house ends up being demolished, it will cost $90 000, and $30 000 has already been accumulated in legal fees in seeking some justice in this matter. I rang minister Hockey's office earlier today to get a clear understanding as to whether or not the federal package on offer would cover these people, and I was told quite clearly that they would not be covered, and that in their view this was a state matter. This young family is just one example of people who face losing everything they have and being left with a considerable debt—perhaps up to $120 000. Will the government do anything to help families in these sorts of situations?

The Hon. K.T. GRIFFIN (Attorney-General): If the honourable member would care to let me have the detail I will certainly have the matter followed up. The position in South Australia is not anywhere near as serious as it is in the eastern states, where there was a very heavy reliance on insurance through HIH. I know that the Office of Consumer and Business Affairs is endeavouring to monitor the developments interstate. There has been some consultation between the Commissioner for Consumer Affairs and his counterparts in other jurisdictions, as well as consultation with the commonwealth. The state has not made any decision about what steps, if any, should be taken in relation to those—

The Hon. M.J. Elliott: How will these people survive?

The Hon. K.T. GRIFFIN: I asked the honourable member to give me details of the matter, and I will have the Commissioner for Consumer Affairs talk to them and get a full picture of what has occurred in that context. It is all very well for the honourable member to get his publicity by slapping on the table a whole range of facts in a particular instance. It happens all the time: members do it and I know that. But from my point of view I need to have the details so that I can at least have them looked at carefully to see whether the issues can in some way or another be appropriately addressed.

So far as the government is concerned, no decision has been taken in respect of the way in which builders' indemnity issues will be dealt with in this state. There have been some consultations between the two industry organisations—the Master Builders and the HIA—and the government, and as I say no decision has yet been taken. I will have the matters followed up.

WATER SUPPLY, CLARE VALLEY

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Regional Development, questions regarding a reticulated water scheme for the Clare Valley.

Leave granted.

The Hon. T.G. CAMERON: I did not think it was very fair that they were getting stuck into my old, former colleague the Hon. Bob Sneath today.

The PRESIDENT: I would ask the honourable member to get on with his explanation.

The Hon. T.G. CAMERON: I understand that he lives up in the Clare Valley so I thought I would slip this question in.

The PRESIDENT: Order! I will ask the honourable member to sit down if he does not get into his explanation.

The Hon. T.G. CAMERON: This is part of my explanation.

The PRESIDENT: The honourable member was given leave to make an explanation.

The Hon. T.G. CAMERON: Well, that's what I am in the process of doing—how the question came up.

The PRESIDENT: If you are going to question the chair, I will sit you down.

The Hon. T.G. CAMERON: Sorry?

The PRESIDENT: Would you get on with your explanation.

The Hon. T.G. CAMERON: Did I question the chair? Sorry, I am lost, Mr President. Anyway, as I was about to say, I thought I would slip this one in for Bob Sneath because he lives up at Clare. It has been brought to my attention that there is an urgent need for a scheme to supply reticulated water to the Clare Valley. Since the 1940s, attempts have been made to secure reticulated water to the Clare Valley. There is growing frustration within the region about the lack of progress in getting a system in place.

The Clare Valley Water Scheme Committee believes that there are compelling arguments for the implementation of a reticulated water scheme throughout the Clare Valley for a number of reasons including:

- recent studies showing that up to $73 million per annum could be added to the state's economy and up to 1 400 local jobs created;
- the prevention of the loss of thousands of tonnes of grapes due to a lack of water;
- Mines and Energy records over the last 13 years which demonstrate that underground water supplies are diminishing significantly whilst salinity is increasing;
- the local population has grown by more than 5 per cent in the last year alone; and
- tourism developments and manufacturing companies supplying the wine and service industries are being held back due to the lack of water.

Results of a report undertaken by EconSearch in October 2000, as well as a scoping study by Arup Stokes in May 2001 and a survey conducted by the Clare and Gilbert Valley Council in March this year, strongly supports the introduction of infrastructure to secure reticulated water. My questions to the minister are:

1. Has the government undertaken any studies into the feasibility of supplying the Clare Valley with a reticulated water scheme and, if so, what were the outcomes of those studies?

2. If not, will the government as a matter of urgency undertake to conduct one?

The Hon. K.T. GRIFFIN (Attorney-General): I will take the question on notice, refer it to my colleague and bring back a reply.

ROADS, BLACK SPOT FUNDING

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for Transport a question about black spot funding.

Leave granted.

The Hon. CAROLINE SCHAEFER: I have in my possession a media release from the RAA which is headed 'RAA says budget will cost lives' and which goes on at some length as to how distressed the RAA is about the federal government. The one paragraph that I would like to quote is as follows:

> The RAA considers the most short-sighted decision contained in the budget is the discontinuance of the federal black spot program. This is totally at odds with the national road safety strategy. While South Australia will receive an additional $700 000 next financial year, thereafter the moneys completely dry up.

I represent the minister on the black spot funding allocation committee for South Australia and I have no knowledge of such funding drying up at the end of the next financial year, so I ask: will the minister give details of what is likely to happen in the next financial year?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I, too, received the RAA press release in response to the federal budget and I was disappointed to see its lack of analysis, objectivity and fact. The federal black spot program was introduced by the coalition government in 1996 after it had been abandoned—

The Hon. Caroline Schaefer: After they had scrapped it.

The Hon. DIANA LAIDLAW: Yes, after the Labor Party scrapped the program. It was reintroduced in 1996. It was a four-year program, so this coming financial year will be the fourth year of that program, and it was always to be evaluated in that last year. I am sorry that the RAA did not see fit to recognise those facts in responding to the federal budget.

The RAA's comments have drawn a candid response in a press release issued by Senator Boswell, the parliamentary secretary to the Minister for Transport and Regional Services, who pointed out clearly what I have just highlighted. In addition, he said that the government has made a commitment to evaluate the program, and that will be undertaken in July of this calendar year. Senator Boswell went on to say that he anticipates a very positive response from the federal government to that evaluation.

I take great heart from the fact that Senator Boswell, who is responsible for the administration of this program, believes that the evaluation will elicit a very positive response in terms of further funding effort by the federal government because, as the Hon. Caroline Schaefer knows, the black spot funding program, since its reintroduction by the federal government in 1996, has been absolutely invaluable in terms of extra investment in the worst spots on our state and in the local road network in South Australia and across Australia. That investment has seen many black spots fixed up and a lower death and injury toll on our roads and the nation's roads overall.

The RAA's misrepresentation of the federal government's intention to dry up the black spot funding suggested that it appeared to be a double blow for this state because South Australia, it claims, unlike other states, does not have its own formal black spot program. The RAA appears to me to be very hung up on the words 'formal program'. It knows that the state government handsomely funds road safety measures through roadworks arising from road safety audits that we have been working through with the RAA itself. If the RAA wants us to formalise all that funding in a state black spot program, I am happy to do that so it can be reassured of the form and value of the investment that the state makes each year in black spot funding.

WESTERN MINING CORPORATION

The Hon. R.K. SNEATH: I seek leave to make a brief explanation before asking the Minister for Industry and Trade a question regarding restructuring at Western Mining and pending job losses.

Leave granted.

The Hon. R.K. SNEATH: In today's paper there is an article headed 'Hundreds of WMC staff to go in restructuring'. It goes on to say:

> The corporate offices in Adelaide, Perth and Melbourne would be hardest hit. WMC employs more than 5 500 people nationally, including 1 300 at Olympic Dam in South Australia's north.

The article also mentions how Western Mining made a record net profit of $765 million, and that was announced in February. My questions are: has the minister met with Western Mining regarding possible job losses? If so, has it made the minister aware of losses and how many, and would it also affect the staff at Western Mining at Roxby Downs? If not, does the minister intend to meet with Western Mining in the near future?

The Hon. R.I. LUCAS (Treasurer): No, I have not met in recent times with the company. I would need to check to see whether officers of the Department for Industry and Trade have, so I will take the question on notice and bring back a reply. In relation to meeting with them, I am actually visiting the mine site in the next two weeks, I think, to meet management and employees. But I will endeavour to get some sort of response before that and provide a reply to the honourable member.

PAYDAY LENDERS

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation prior to asking the Attorney-General a question relating to payday lenders.

Leave granted.

The Hon. J.S.L. DAWKINS: The state government has previously announced its intention to support national moves to bring payday lenders under the national Consumer and Credit Code. Can the Minister for Consumer Affairs provide the Council with details of any progress made in this area?

The Hon. K.T. GRIFFIN (Minister for Consumer Affairs): There have been some advances over the last fortnight, and quite encouraging ones too. I have been concerned that, having committed to support amendments to the national Consumer Credit Code, there was a lot of delay occurring in Queensland in relation to the introduction of legislation in that state, because under the uniform credit code Queensland is the lead legislating jurisdiction and, once the legislation is introduced in that state and enacted, when it comes into effect in Queensland it automatically applies in every other jurisdiction.

I am told that Queensland is proposing to introduce its legislation this week, that is, into the state parliament in Queensland, and that will ensure when it is enacted that the payday lenders provision is tightened. It is of course somewhat surprising that with one house of parliament it still takes longer sometimes for the Queensland parliament to enact legislation and governments to introduce legislation in that

state than it does to get legislation through here, although in more recent times we have seen legislation sitting on the *Notice Paper* for months without it moving in this state.

Payday lending is, as we have previously identified, a new form of short term low value lending, involving a lender advancing a small amount of money, usually around $100 to $200, to a borrower until the borrower's next payday and usually for a fee which is around 25 per cent of the principal. The recovery of the money and the fee is often by way of direct debit authorisation against the borrower's bank account. The Consumer Credit Code up until now has not applied because it has excluded short-term lending for loans of 62 days or less.

Although payday lending is not yet a major issue in this state, I indicated previously that, because national firms were now seeming to get into this method of lending, it was appropriate to support the proposal for payday lending to be regulated under the consumer credit code.

Under the changes proposed in the legislation, the Office of Consumer and Business Affairs will be able to take legal action against payday lenders who continue to impose fees without any disclosure of an annual interest rate. The Consumer Credit Code is predicated upon proper disclosure of a variety of information to those who avail themselves of credit facilities and, if the information is not properly, or fully, given, other action might be taken.

If lenders are forced to disclose key requirements but do not do so—and they might be things such as the amount, the term, the interest rate, the fees and charges—an unjust transaction can be reopened and examined by the courts. There are several penalties to which the lenders may be exposed as a result of not providing important information about the loans that are on offer. I am pleased that Queensland is now moving to introduce its legislation, and I look forward to it being enacted in a reasonably short period of time and coming into force around Australia in the near future.

ELECTRICITY, AGED CARE IMPACT

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Minister for the Ageing a question about the impact of increased electricity prices upon the provision of aged care in South Australia.

Leave granted.

The Hon. SANDRA KANCK: Members would be well aware that, from 1 July, thousands of contestable electricity customers are facing price increases of between 30 per cent and 100 per cent. I can now tell this Council that the outrageous increase in the price of electricity will also impact directly upon many elderly South Australians living in aged care facilities. Elderly South Australians living in nursing homes and hostels managed by Resthaven (the Uniting Church's aged care community service) will bear the brunt of a $140 000 increase in the price of electricity supplied to Resthaven's aged care homes.

The Hon. T.G. Roberts interjecting:

The Hon. SANDRA KANCK: That may well be what will happen. The 33 per cent jump in the price of electricity can be covered only by reduced expenditure in other areas. We can expect this figure to be replicated throughout the aged care sector. There are genuine concerns about the impact of the increase in electricity prices on the quality of care the sector will be able to deliver after 1 July. It should be remembered that many of these people have sold their family homes to enter aged care facilities. They are encouraged to think of their new surroundings as another home.

The federal Minister for Aged Care insists that the word 'home' be used rather than 'facility' when referring to aged care homes. Yet under the Olsen government, because these people come together to live communally in the final years of their lives, they will be treated as components of a business and not as individuals. They will be discriminated against, because to warm the rooms in which they live and to boil the water for their pot of tea costs more than if they lived in private accommodation. My question is: what steps has the minister taken to ensure that the standard of living for elderly South Australians in aged care homes does not decline as a result of increasing electricity prices?

The Hon. R.D. LAWSON (Minister for the Ageing): The honourable member, in her claim that residents in aged care facilities will be discriminated against by reason of any increase in electricity charges, is way off the mark. There is absolutely no justification for asserting that residents of aged care facilities are being discriminated against. It is a fact, as the honourable member will know, that the funding for aged care facilities comes from the commonwealth government. Under the Aged Care Act, subsidies are paid to aged care providers to provide accommodation and services for their older residents. The charges are regulated by the commonwealth government. They will not increase in consequence of any change in the electricity costs in South Australia. No doubt, Resthaven and other aged care providers in South Australia will be making (as I am sure they are already) submissions to the federal government to ensure that the subsidy paid to them by the federal government is increased to reflect any changes in costs in this state.

The Council will remember that some time ago I conducted, on behalf of the government, a campaign to ensure that the disparity that existed between the subsidies paid to South Australian operators, as opposed to those paid to those in some other states, was removed. As a result of those representations, changes were made to the regime, and the disparity about which I spoke is steadily being reduced. However, in light of the circumstances to which the honourable member has referred, I am sure that the operators will be making representations to ensure that their operations and their standards of care are not affected by any increased costs that individual facilities may incur.

The subsidy that is paid by the commonwealth government is not directly related to the cost of water, food, land, wages or the like but is an overall assessment by the commonwealth of the appropriate level of funding, notwithstanding the fact that different costs are incurred in different operations, whether they are in the metropolitan area or in country areas. The standard and quality of care provided by facilities is something that is imposed under the act. Those standards are required to be met, and the operators, irrespective of their cost of operation, are required to meet those standards. There is absolutely no evidence or indication that any operator in South Australia will compromise the standard of care that is provided to residents. If the standard is compromised, there are ways in which the subsidy will be removed from a particular operator under the process of accreditation.

PROSTITUTION

The Hon. T.G. ROBERTS: I seek leave to make a personal explanation on the subject of the Prostitution (Regulation) Bill.

Leave granted.

The Hon. T.G. ROBERTS: In the dying days of the last week when we debated the Prostitution (Regulation) Bill, which was lost in this Council, a report in the *Advertiser* indicated that, although I had supported the bill (which is correct), I did not vote because I was paired and that I was absent from the Council. I indicate that that is not correct, and that I was not in the Council only because I was paired, not because I was absent. I had made one of the last contributions in the debate on the bill, during which I indicated my support. I was standing outside the chamber (which is allowable under the standing orders), but I was not absent from the Council. I was paired at, I think, 5.15 p.m., with the Hon. Robert Lawson. I indicate that that is a true and accurate record of my position in relation to that bill.

Members interjecting:

The PRESIDENT: Order! Has the honourable member finished his personal explanation?

The Hon. T.G. ROBERTS: Yes, Mr President.

STATUTES AMENDMENT (GAMBLING REGULATION No. 1) BILL

Adjourned debate on second reading.

(Continued from 17 May. Page 1531.)

The Hon. R.I. LUCAS (Treasurer): I thank honourable members for their wide ranging contributions to this piece of legislation. A number of questions were raised in the second reading. I propose not to respond in the second reading to the individual questions, because I am sure that we will have the opportunity during the committee stage of the debate to traverse the issues that members have raised.

The Hon. Mr Elliott, in particular, has raised a number of questions. I will endeavour to respond to any questions that he might have in committee. I look forward to the committee stage. I think members are aware that there is a long series of amendments to be moved by the Hon. Mr Xenophon, in particular, as well as amendments from some other members. I understand from the Hon. Mr Xenophon that he is willing to not unnecessarily or unduly prolong the debate beyond an important discussion of all the matters of principle that he wishes to have adequately canvassed in committee.

Bill read a second time.

SITTINGS AND BUSINESS

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

That standing orders be so far suspended as to enable me to move four motions seeking leave to introduce bills for four acts this day.

Motion carried.

CORPORATIONS (COMMONWEALTH POWERS) BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a bill for an act to refer certain matters relating to corporations and financial products and services to the parliament of the commonwealth for the purposes of section 51(xxxvii) of the Constitution of the commonwealth. Read a first time.

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

That this bill be now read a second time.

The Corporations (Commonwealth Powers) Bill 2001 forms part of a package of Corporations Law bills which follows historic negotiations between the commonwealth and the states to place the national scheme for corporate regulation on a secure constitutional foundation. The bill reflects the commitment of the South Australian government to achieving an effective, uniform system of corporate regulation across Australia.

To understand this bill and the package of Corporations Law bills that it accompanies, it is necessary to consider the history of corporate regulation in Australia over the last 20 years. In Australia, the development of an effective system of corporate regulation has been complicated by our federal system of government. The states and territories are sovereign entities, possessing the powers and the ability to make their own laws and, despite attempts to standardise the relevant legislation, different requirements relating to corporate regulation existed in each state and territory for many years.

From July 1982, corporate regulation in Australia was based on a cooperative scheme between the states, the Northern Territory and the commonwealth where substantially uniform legislation applied in all jurisdictions. Towards the end of the 1980s, emerging problems in the operation of the cooperative scheme, caused largely by the then commonwealth government's refusal to contribute its share to properly fund the operations of the joint state/commonwealth regulator, meant that the scheme was no longer an effective means of ensuring corporate regulation in a uniform and consistent manner suitable for a changing commercial environment.

Following an attempt by the commonwealth to unilaterally enact its own corporations legislation, the commonwealth, the states and the Northern Territory agreed to establish a new national scheme for the regulation of corporations, companies and securities. This new scheme commenced operation on 1 January 1991. It is based on the substantive commonwealth law which applies in the Australian Capital Territory known as the Corporations Law. This law, as in force from time to time, is applied in each state and the Northern Territory. In South Australia, the relevant legislation is the Corporations (South Australia) Act 1990.

In order to create a national scheme, certain commonwealth features were incorporated into the arrangements. These include the enforcement of Corporations Law offences by the Australian Securities and Investments Commission (ASIC), the Australian Federal Police and the Commonwealth Director of Public Prosecutions. In addition, the federal court was given power to hear matters arising under the Corporations Law of each state through a cross-vesting scheme contained in the corporations legislation of the commonwealth and the states.

The national scheme is underpinned by heads of agreement, which were agreed on 29 June 1990, and the Corporations Agreement, an intergovernmental agreement signed by the states, the Northern Territory and the commonwealth in September 1997. The Corporations Agreement sets out the functions, objectives and voting arrangements relating to the administration of the Corporations Law. It establishes the Ministerial Council for Corporations, which is constituted by the relevant commonwealth, state and territory ministers responsible for the national scheme law. The ministerial

council is the primary forum where matters relating to corporations securities and corporate governance are discussed and voted on.

The current scheme, to all intents and purposes, operates on a seamless, national footing. ASIC administers the Corporations Law through regional offices in each jurisdiction. The scheme has worked remarkably well. The parties to the Corporations Agreement have, in general, complied with its spirit and letter, and, apart from issues relating to the resources allocated to ASIC regional offices, there has been little discord between the states and the commonwealth about the operation of the Corporations Law in Australia.

However, difficulties associated with the current system of corporate regulation have been identified by the High Court in two significant cases. The first case was decided in June 1999. In re Wakim: ex parte McNally, the High Court held by majority that chapter III of the commonwealth constitution does not permit state jurisdiction to be conferred on federal courts. Effectively, this decision removed the jurisdiction of the federal court in most states and territories to resolve Corporations Law matters unless cases fell within the court's accrued jurisdiction or in certain other circumstances, and it denied litigants the choice of forum for the resolution of such disputes.

The second case was The Queen v. Hughes, decided in May 2000. There, the High Court held that the conferral of a power coupled with a duty on a commonwealth officer or authority by a state law must be referable to a commonwealth head of power. This means that, in certain circumstances where a common authority such as the Director of Public Prosecutions or ASIC has a duty under the Corporations Law, that duty must be supported by a head of power in the commonwealth constitution.

The effect of the Hughes decision on the administration of the Corporations Law scheme is questionable. It is the view of this government that the administrative and enforcement activities of the relevant commonwealth agencies, in particular ASIC and the DPP, are supported by valid heads of commonwealth power.

However, the decision has created uncertainty in some sections of the media and the business community as to whether the Corporations Law can be effectively enforced. This uncertainty has been relied upon to bring about delays in regulatory and enforcement processes and to provide a basis for challenging ATSIC's power to administer the Corporations Law. This uncertainty and the subsequent legal challenges prompted the Standing Committee of Attorneys-General and the Ministerial Council for Corporations to consider alternative constitutional arrangements to place the Corporations Law scheme on a more secure footing.

On 25 August 2000, commonwealth, state and territory ministers reached a historical in principle agreement for the states to refer to the commonwealth parliament the power to enact the Corporations Law as a commonwealth law and to make amendments to that law subject to the Corporations Agreement. Following this agreement, considerable negotiation over the terms on which the states would refer power occurred. While both the states and the commonwealth agreed on the matters to be referred, the states were concerned that appropriate protection against misuse of the referred power by the commonwealth was incorporated in the referral agreement.

On 28 November, at a special joint sitting of the Ministerial Council for Corporations and the Standing Committee of Attorneys-General, state ministers agreed on the terms of a referral bill and supported the bill's introduction into the New South Wales parliament. On 30 November 2000, the Attorney-General for New South Wales introduced the Corporations (Commonwealth Powers) Bill 2000.

Following the introduction of the bill in New South Wales, further negotiations took place and, on 21 December 2000, representatives of the Victorian, New South Wales and commonwealth governments met to resolve outstanding issues. It was unfortunate that no other state was invited to attend this meeting as these discussions resulted in agreement on the terms on which all states would be asked to refer power. Ultimately, the commonwealth, New South Wales and Victorian governments agreed on an amended form of the New South Wales bill, which is largely replicated in the bill now being introduced into this parliament. The amended New South Wales bill was introduced into that state's Legislative Assembly on 7 March this year.

Subsequent discussions involving the remaining states has resulted in an agreement that all states would refer corporations power on the terms agreed by the commonwealth, New South Wales and Victoria. The central component of this agreement is the enactment by all states of legislation substantially in the form of the Corporations (Commonwealth Powers) Bill 2001. The bill reflects the commitment of the South Australian government to ensure that the uncertainty that now prevails in the business community over the future of corporate regulation in Australia is resolved as quickly as possible.

The Corporations (Commonwealth Powers) Bill 2001, first, enables the commonwealth parliament to enact as commonwealth laws the proposed Corporations Bill 2001 and the Australian Securities and Investments Commission Bill 2001 in the form of the bills that were tabled in the New South Wales parliament on 7 March 2001. A copy of the commonwealth bills, which constitute the tabled text for the purposes of this bill, is available in the Parliamentary Library for use by members. Secondly, the bill enables the commonwealth to amend the laws, or regulations made under them, in the future as long as the amendments are confined to the matters of corporate regulation, formation of corporations and the regulation of financial products and services, but only to the extent of making express amendments to the bills referred to the commonwealth parliament.

Clause 1(3) of the bill provides that the act is not intended to allow for laws to be made pursuant to the amendment reference for the sole or main underlying purpose or object of regulating industrial relations matters. This exclusion is to ensure that the commonwealth cannot use the referred powers to legislate in the area of industrial relations or to override state laws dealing with industrial relations.

The bill provides that the reference of powers is to terminate five years after the commonwealth corporations legislation commences, or at an earlier time by proclamation. The states have agreed to give the referral for only five years because the referral of power by the states to the commonwealth is not a permanent solution to the problems undermining the current scheme. At the request of the states, the commonwealth has given a firm undertaking to examine long-term solutions to address the problems arising from the decisions of the High Court in Wakim and Hughes, including constitutional change. Those problems affect a number of intergovernmental legislative schemes. The states now look to the commonwealth to explore options for constitutional amendment thoroughly and expeditiously, through the Standing Committee of Attorneys-General. It is anticipated

that a decision will be made well before the expiry of the five-year period about the holding of a referendum on this matter.

The states can terminate the referral earlier, by proclamation, if, for example, the commonwealth parliament makes amendments to the new Corporations Act which go beyond what was envisaged when the referral was made, such as for the purpose of regulating the environment. The bill also provides for the termination of the power of the commonwealth to amend the referred laws, by proclamation. However, if the amendment reference only is terminated, the effect of the Commonwealth Corporations Bill is that the state would cease to be part of the new scheme unless all of the states also revoke the reference, giving six months notice of their intention to do so.

This underlines the importance of the Corporations Agreement, which will govern the scope of the referral. The Corporations Agreement is an intergovernmental agreement and, in formal terms, is not legally binding. However, the states place great weight on it, and have agreed to refer powers in the terms of the bill before the Council on the understanding that the commonwealth will abide by both the spirit and the letter of the agreement.

The agreement will contain specific provisions to prevent the use of the referred powers for the purpose of regulating industrial relations, the environment, or any other subject unanimously determined by the referring states. Subject to certain limitations, the commonwealth will be prohibited from using referred power to require persons or bodies to incorporate or operate through corporate structures. The agreement will also ensure that the states are consulted about any amendments made to the Commonwealth Corporations Act and, where the commonwealth does not have existing constitutional power, the states must vote on whether to approve or oppose the amendments. In addition, the agreement preserves the rights of the states to make laws that modify the operation of the Corporations Act in relation to their own activities, such as, for example, the regulation of state bodies corporate. The terms of the agreement are still being negotiated among governments, but it is anticipated that the remaining matters will be resolved in the near future.

South Australia has agreed to refer power on the terms negotiated by the commonwealth, New South Wales and Victoria on condition that the commonwealth be unable to use the amendment reference to require persons or bodies to incorporate except where this is necessary for the regulation of companies, securities or financial products and markets. This limitation on commonwealth power is presently secured by the Corporations Agreement, supported by the right to terminate the references as provided for in the bill. It is the government's view, however, that the commonwealth's power in this regard should also be limited by legislation. To this end, the government is negotiating with the commonwealth and the other states on an amendment to the bill, to be made at a convenient time once the legislation has commenced, to so limit the commonwealth's power with respect to incorporation.

It is understood that bills in similar terms to this bill will be introduced into all state parliaments around Australia. It is then envisaged that the commonwealth parliament will enact the Corporations Bill 2001 and the Australian Securities and Investments Commission Bill 2001 using the powers conferred on it by this bill and its counterparts in other states, so that the new scheme can commence as soon as possible.

Honourable members will appreciate that a number of consequential and transitional amendments to state legislation will need to be dealt with before the new scheme commences. Consequentially, separate bills for this purpose will be introduced before the commencement of the new scheme.

The Corporations (Commonwealth Powers) Bill 2001, related state legislation and the enactment by the commonwealth parliament of the Corporations Bill (commonwealth) and the Australian Securities and Investments Commission Bill (commonwealth) will, with the enactment of similar legislation in all other states, ensure that our national scheme of corporate regulations is placed on a sound constitutional foundation and reinforce Australia's reputation as a dynamic commercial centre in the Asia-Pacific region. I commend the bill to the Council and seek leave to have the detailed explanation of clauses incorporated in *Hansard* without my reading it.

Leave granted.

Explanation of clauses

Clause 1: Short title and purpose of Act

Clause 1 sets out the short title and the purpose of the proposed Act. Clause 1(3) provides that nothing in the proposed Act is intended to enable the making of a law pursuant to the amendment reference with the sole or a main underlying purpose or object of regulating industrial relations matters.

Clause 2: Commencement

Clause 2 provides that the measure will be brought into operation by proclamation.

Clause 3: Definitions

Clause 3 defines certain words and expressions used in the proposed Act.

Clause 4: Reference of matters

Clause 4 deals with the references to the Commonwealth Parliament. Clause 4(1) makes the references.

Clause 4(1)*(a)* in effect refers the text of the current Corporations Law (with appropriate amendments) to the Commonwealth Parliament, and provides for the inclusion of the referred provisions in Acts enacted in the terms, or substantially in the terms, of the tabled text (ie the text of the *Corporations Bill 2001* and the *Australian Securities and Investments Commission Act 2001)*. The expression 'substantially in the terms' of the tabled text will enable minor adjustments to be made to the tabled text.

Clause 4(1)*(b)* in effect refers matters to the Commonwealth Parliament in connection with the future amendment of the Corporations legislation.

Clause 4(2) makes it clear that the reference of a matter has effect only to the extent that the matter is not otherwise within the legislative power of the Commonwealth Parliament and to the extent that the matter is within the legislative power of the State Parliament.

Clause 4(3) removes a possible argument that one of the references might be limited by the other.

Clause 4(4) makes it clear that the State Parliament envisages that the Corporations legislation can be amended or affected by Commonwealth legislation enacted in reliance on other powers (though this may be the subject of provisions in the Corporations Agreement), that instruments under the Corporations legislation may affect the operation of that legislation otherwise than by express amendment, and that the references are not subject to any condition relating to either of those matters.

Clause 4(5) specifies the period during which a reference has effect.

Clause 5: Termination of references

Clause 5 provides that the references terminate on the fifth anniversary of the commencement of the proposed Corporations legislation, unless a proclamation is made that fixes an earlier or a later date of termination. Clause 5(4) makes it clear that the separate termination of the amendment reference does not affect laws already in place or the making of instruments under laws already in place.

Clause 6: Earlier termination of reference by proclamation

Clause 6 empowers the making of one or more proclamations to reduce the term of the references. Such a proclamation must be published at least six months in advance of the date of termination.

Clause 7: Evidence

Clause 7 provides for the accuracy of a copy of the tabled text containing the proposed Corporations legislation to be certified by

the Clerk of the Legislative Assembly of New South Wales. Such a certificate is evidence of the accuracy of the tabled text and that the text was in fact tabled as contemplated by the Bill.

Clause 8: Operation of Act

Clause 8 provides that the proposed Act has effect despite any provision of the *Corporations (South Australia) Act 1990* or of the laws applied by that Act, and avoids a possible argument that section 5 of that Act would otherwise prevent the Bill from affecting the operation of that Act.

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

CORPORATIONS (ANCILLARY PROVISIONS) BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a bill for an act to enact ancillary provisions, including transitional provisions, relating to the enactment by the Parliament of the Commonwealth of new corporations legislation and new ASIC legislation under its legislative powers, including powers with respect to matters referred to that parliament for the purposes of section 51(xxxvii) of the Constitution of the Commonwealth. Read a first time.

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

That this bill be now read a second time.

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

Leave granted.

The purpose of this Bill is to enact ancillary provisions, including transitional provisions, relating to the proposed new corporations legislation to be enacted by the Commonwealth Parliament following references of matters relating to corporations made by the States under section 51(xxxvii) of the Commonwealth Constitution.

The South Australian reference is made under the *Corporations (Commonwealth Powers) Bill 2001*. That measure refers to the Commonwealth Parliament certain matters relating to corporations, corporate regulation and financial products and services. The Commonwealth proposes to enact, under the powers conferred by these references and other powers available to it, a *Corporations Act 2001* and an *Australian Securities and Investments Commission Act 2001*.

This Bill, together with the *Corporations (Commonwealth Powers) Bill 2001*, the *Corporations (Administrative Arrangements) Bill 2001* and the *Statutes Amendment (Corporations) Bill 2001*, make up the legislative package needed in South Australia for the new corporations arrangements.

I commend this bill to honourable members.

Explanation of clauses

PART 1

PRELIMINARY

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

Clause 2 provides for the proposed Act to come into operation immediately before the new Commonwealth Corporations Act. Commencement at this time is necessary to ensure an effective transition to the new corporations arrangements.

Clause 3: Definitions

Clause 3 sets out definitions of terms used in the proposed Act.

Clause 4: Corresponding provision

Clause 4 sets out rules for determining whether provisions of old and new legislation are corresponding provisions for the purposes of the proposed Act.

Clause 5: Operation of Act

Clause 5 provides that the proposed Act has effect despite any provision of the *Corporations (South Australia) Act 1990* or of the laws applied by that Act, and avoids a possible argument that section 5 of that Act would otherwise prevent the Bill from affecting the operation of that Act.

PART 2

TRANSITIONAL PROVISIONS

Clause 6: National scheme laws

Clause 6 limits the application of the national scheme laws (the *Corporations (South Australia) Act 1990*, the Corporations Law of South Australia and the ASIC Law of South Australia) to matters arising before the beginning of the new corporations arrangements or matters arising out of such matters to the extent that those matters are not dealt with by the new Commonwealth legislation or the laws that pre-dated the national scheme laws in South Australia (the co-operative scheme laws).

Clause 7: Effect of section 6

Clause 7 contains provisions dealing with the effect of clause 6.

Subclause (1) applies to the limitation of operation of the national scheme laws effected by clause 6, the provisions of the *Acts Interpretation Act 1901* of the Commonwealth that apply on a repeal. Thus all accrued rights and liabilities under the national scheme laws are protected and legal proceedings in respect of those rights and liabilities may be commenced or continued. The Commonwealth provisions have been chosen so that a similar result is achieved in all jurisdictions moving to the new arrangements.

Subclause (2) cancels certain accrued rights and liabilities under the national scheme laws where substituted rights and liabilities are being provided under the new Commonwealth legislation.

Subclause (3) terminates certain legal proceedings commenced under the national scheme laws where the new Commonwealth legislation has the effect of deeming equivalent proceedings to have been brought under the new legislation in the same court.

Subclause (4) ensures that a person does not have to pay in respect of the same matter a fee or levy already paid under the national scheme laws.

Subclause (5) defines 'pre-commencement right or liability' for the purposes of subclause (2).

Subclause (6) ensures that the limitation of operation of the national scheme laws effected by clause 6 does not lead to the revival of operation of laws previously superseded by the national scheme laws.

Clause 8: Certain provisions of State law taken to operate despite national scheme law

Subclause (1) clarifies the continuing operation of existing State laws that are inconsistent with the new Commonwealth legislation by overcoming any argument against the effective operation of those laws based on non-compliance with section 5 of the *Corporations (South Australia) Act 1990*.

Subclause (2) ensures the non-application of the new Commonwealth legislation to a matter if a previous State corporations law did not apply to the matter.

Subclause (3) allows regulations to be made disapplying subclause (1) or (2) in specified circumstances.

Subclause (4) provides a test of inconsistency for the purposes of subclause (1).

Subclause (5) preserves the operation of section 6 of the *Corporations (South Australia) Act 1990*.

Subclause (6) defines 'matter' and 'relevant law of the State' for the purposes of the clause.

Clause 9: Court proceedings and orders

Clause 9 provides for the continuance of certain proceedings despite the cessation of operation of the national scheme laws and for certain court orders to cease to have effect.

Clause 10: Existing rules of court continue to have effect

Clause 10 saves existing court rules made under the national scheme laws.

Clause 11: References to old/new corporations legislation or old/new ASIC legislation

Clause 11 deals with the construction of references to corporations legislation.

Subclause (1), in conjunction with the Table in the Schedule, construes references in Acts, instruments made under Acts and laws applying as State laws to the national scheme laws as including references to the new Commonwealth legislation.

Subclause (2) enables regulations to be made providing for the non-application of subclause (1) in certain cases or for subclause (1) to operate in certain cases on an exclusive, rather than an inclusive, basis.

Subclause (3) excepts certain laws from the operation of subclause (1).

Subclause (4) enables regulations to be made construing references in Acts, instruments made under Acts and laws applying as State laws.

Subclause (5) provides that express references to the new Commonwealth legislation include, in connection with past events, circumstances or things, references to the corresponding old

corporations legislation of this and other jurisdictions that participated in the national scheme.

Subclause (6) enables regulations to be made providing for the non-application of subclause (5) in certain cases or for subclause (5) to operate in certain cases to construe a reference as a reference to the old corporations legislation of a specified jurisdiction only.

Clause 12: References to companies incorporation in a State or Territory

Clause 12 deals with the construction of references to certain companies in Acts, instruments made under Acts and laws applying as State laws.

Subclause (1) construes references to companies incorporated or registered under the national scheme laws as references to companies taken to be registered under the new Commonwealth legislation in Victoria or other relevant jurisdiction.

Subclause (2) construes references to foreign companies.

Subclause (3) construes references to the jurisdiction of incorporation of a company as references to the State or Territory in which the company is taken to be registered under the new Commonwealth legislation.

Subclause (4) enables regulations to be made providing for the non-application of subclause (1), (2) or (3) in certain cases or for subclause (1), (2) or (3) to operate in certain cases on an inclusive, rather than an exclusive, basis.

PART 3

APPLICATION OF COMMONWEALTH CORPORATIONS LEGISLATION TO STATE MATTERS

Clause 13: Definitions

Clause 13 defines certain terms used in the Part.

Clause 14: State provisions to which this Part applies

Clause 14 facilitates the application of the new Commonwealth legislation for the purposes of State laws in circumstances where it has no application of its own force. The effect is not to extend the operation of the Commonwealth legislation but to enable it to be applied as State law. The clause enables the use of a legislative device (a declaratory provision) which will result in either the whole, or a specified portion, of the new Commonwealth legislation being applied for the purposes of State law.

Clause 15: Effect of declaratory provisions

Clause 15 sets out the effect of particular declaratory provisions.

Clause 16: Modifications to applied law

Clause 16 makes certain modifications of the new Commonwealth legislation for the purposes of its application under this Part and enables further modifications to be made under this Act or the Act containing the declaratory provision.

Clause 17: Conferral of functions on ASIC

Clause 17 limits the circumstances in which a function may be conferred on the Australian Securities and Investments Commission (ASIC) by means of a declaratory provision and ensures that, even where a function is conferred on it, ASIC is not under a duty to perform the function.

Clause 18: Conferral of functions or duties on State Courts

Clause 18 translates references in applied laws to courts as references to the Supreme Court or other specified State court.

Clause 19: Implied application of regulations and other provisions of Corporations legislation

Clause 19 applies automatically certain other provisions of the new Commonwealth legislation where a declaratory provision is used but enables the application of these additional provisions to be modified by regulations under this Act.

Clause 20: Proceedings for offences

Clause 20 deals with prosecutions under applied laws, including the procedure to be followed and the maximum penalties available.

Clause 21: Application of Corporations legislation by other means

Clause 21 makes it clear that this Part does not provide an exhaustive code of how the new Commonwealth legislation might be applied as State laws.

PART 4

GENERAL

Clause 22: Power to amend certain statutory instruments

Clause 22 enables regulations to be made under this Act consequentially amending other statutory instruments.

Clause 23: Rules of the Supreme Court

Clause 23 provides a rule-making power for the Supreme Court.

Clause 24: ASIC has certain functions and powers

Clause 24 enables the Minister, or a person authorised by the Minister, to enter into an agreement or arrangement with ASIC for functions to be performed or powers to be exercised by it as an agent of the State.

Clause 25: Outstanding property held by CAC

It has come to light that the Corporate Affairs Commission still holds in South Australia certain property of de-registered companies under the *Companies Act 1962*, which should have been previously transferred to ASIC under previous arrangements. This clause contains a mechanism to transfer the property to ASIC.

Clause 26: Regulations

Clause 25 enables regulations to be made for the purposes of the proposed Act. The regulations may modify the operation of the transitional provisions contained in Part 2 and may facilitate the operation of State laws under the regime provided by the new Commonwealth legislation.

PART 5

AMENDMENT OF CERTAIN ACTS

Clause 27: Amendment of Companies (Application of Laws) Act 1982

Clause 28: Amendment of Securities Industry (Application of Laws) Act 1981

Clause 29: Amendment of Futures Industry (Application of Laws) Act 1986

Clause 30: Amendment of Jurisdiction of Courts (Cross-vesting) Act 1987

Clause 31: Amendment of Corporations (South Australia) Act 1990

These clauses make consequential amendments to certain other Acts associated with the new scheme.

SCHEDULE

Table

The Schedule contains a table of reference translations for the purposes of clause 11.

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

CORPORATIONS (ADMINISTRATIVE ACTIONS) BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a bill for an act relating to administrative actions taken by commonwealth authorities or officers of the commonwealth under certain state laws relating to corporations. Read a first time.

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

That this bill be now read a second time.

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

Leave granted.

This Bill forms part of the same set of reforms as the *Corporations (Commonwealth Powers) Bill 2001* and serves an ancillary purpose.

In the High Court decision of *The Queen v Hughes*, doubt was cast on the exercise of certain powers by the Australian Securities and Investments Commission ('ASIC'), the Commonwealth Director of Public Prosecutions and other Commonwealth agencies. Many or all actions by these Commonwealth authorities are likely to be valid, because they could be supported by the Commonwealth's legislative powers. However, the validity of each action can only be determined on a case by case basis, having regard to the particular circumstances of each action.

The difficulties arising from *Hughes*' case will not arise once the corporations legislation becomes a Commonwealth enactment.

The *Corporations (Administrative Actions) Bill 2001* will ensure that the rights of all persons are as though administrative actions taken by the Commonwealth bodies had been validly taken.

Such arrangements are vital to ensure that the multitude of activities undertaken by ASIC, from the incorporation of companies to the making of decisions to prosecute offenders, are not vulnerable to challenge.

The Bill also extends to actions taken by Commonwealth bodies under the Cooperative Scheme legislation that preceded the current Corporations law.

The Bill applies to any administrative action of an officer of the Commonwealth or a Commonwealth authority, taken under the corporations legislation, that might be invalid because the action was

taken pursuant to a power or function which was conferred by a State Act, when the power or function could not have been conferred by a valid law of the Commonwealth.

The Bill provides that those actions are taken to have the same force and effect as if they had been taken by a State authority or an officer of the State.

The Bill therefore overcomes any doubts about the validity of administrative actions by Commonwealth authorities or officers under the current and previous schemes. Other jurisdictions propose to introduce similar legislation to achieve a uniform effect.

The Bill preserves rights and liabilities potentially affected by invalid administrative actions, and specifically confirms the validity of the registration or incorporation of companies under the current and previous schemes.

I commend the bill to the house

Explanation of clauses

Clause 1: Short title

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2: Commencement

Clause 2 provides for the commencement of the proposed Act immediately before the proposed new Corporations legislation of the Commonwealth comes into operation.

Clause 3: Definitions

Clause 3 defines certain words and expressions used in the proposed Act. The expression *invalid administrative action* is defined as an administrative action that was taken before the commencement of the proposed Act by a Commonwealth authority or officer pursuant to a function or power conferred under the current or previous scheme (the *relevant function or power*), and that is invalid because its conferral on the Commonwealth authority or officer is not supported by a head of power in the Commonwealth Constitution.

Clause 4: Application and operation of Act

Clause 4 deals with the application and operation of the proposed Act. Clause 4 (1) provides that the proposed Act binds the Crown. Clause 4 (2) provides that the proposed Act has effect despite any provision of the *Corporations (South Australia) Act 1990* or of the laws applied by that Act, and avoids a possible argument that section 5 of that Act would otherwise prevent the Bill from affecting the operation of that Act. Clause 4 (3) provides that the proposed Act extends to affect rights and liabilities that are or have been the subject of legal proceedings. Clause 4 (4) provides that the proposed Act does not affect rights and liabilities arising between parties to legal proceedings heard and finally determined before the commencement of the proposed Act to the extent to which they arise from, or are affected by, an invalid administrative action.

Clause 5: Legal effect of invalid administrative actions

Clause 5 provides that every invalid administrative action has (and is deemed always to have had) the same force and effect as it would have had if it had been taken by a duly authorised State authority or officer of the State. The clause does not in terms validate administrative actions taken by Commonwealth authorities and officers, but rather attaches to the actions retrospectively the same force and effect as would have ensued had the actions been taken by State authorities and officers (a similar distinction was drawn in *The Queen v Humby, Ex parte Rooney* (1973) 129 CLR 231).

Clause 6: Rights and liabilities declared in certain cases

Clause 6 complements clause 5 and does not affect the generality of clause 5. The clause declares that the rights and liabilities of all persons are (and always have been) for all purposes the same as if every invalid administrative action had been taken by a duly authorised State authority or officer of the State.

Clause 7: Registration or incorporation of companies

Clause 7 complements clauses 5 and 6 and does not affect the generality of those clauses. The clause specifically declares that clauses 5 and 6 extend to the registration or incorporation of companies. The formation of corporations was held by the High Court in *The State of New South Wales v The Commonwealth of Australia* (1990) 169 CLR 482 to lie outside the legislative competence of the Commonwealth Parliament.

Clause 8: This Act to apply to administrative actions as purportedly in force from time to time

Clause 8 ensures that the proposed Act does not reinstate administrative actions that, since the action was taken, have been affected by another action or process. For example, if a decision has been altered on review, the proposed Act does not reinstate the decision in its original form. The Bill applies to the decision as it is affected by later actions from time to time.

Clause 9: Corresponding authorities or officers

Clause 9 provides that it is immaterial for the purposes of the proposed Act that a Commonwealth authority or officer does not have a counterpart in the State, or that the powers and functions of State authorities or officers do not correspond to the powers and functions of Commonwealth authorities or officers.

Clause 10: Act not to give rise to liability against the State

Clause 10 provides that the proposed Act does not give rise to any liability against the State.

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

STATUTES AMENDMENT (CORPORATIONS) BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a bill for an act to amend the Administration Probate Act 1919, the Architects Act 1939, the ASER (Restructure) Act 1997, the Associations Incorporation Act 1985, the Bank Mergers (South Australia) Act 1997, the Business Names Act 1996, the Chiropodists Act 1950, the Community Titles Act 1996, the Co-operatives Act 1997, the Corporations (Commonwealth Powers) Act 2001, the Crown Lands Act 1929, the Debits Tax Act 1994, the Emergency Services Funding Act 1998, the Financial Sector Reform (South Australia) Act 1999, the Gas Pipelines Access (South Australia) Act 1997, the Ground Water (Qualco-Sunlands) Control Act 2000, the Institute of Medical and Veterinary Science Act 1982, the Irrigation Act 1994, the Lottery and Gaming Act 1936, the Mining Act 1971, the Motor Accident Commission Act 1992, the National Electricity (South Australia) Act 1996, the Partnership Act 1891, the Payroll Tax Act 1971, the Petroleum Products Regulation Act 1995, the Public Finance and Audit Act 1987, the South Australian Co-operative and Community Housing Act 1991, the Stamp Duties Act 1923, the Tobacco Products Regulation Act 1997 and the Trustee Companies Act 1988. Read a first time.

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

That this bill be now read a second time.

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

Leave granted.

The referral of the 'corporations power' to the Commonwealth, and the enactment of the new corporations legislation as a law of the Commonwealth, means that it is necessary or convenient to make a number of consequential amendments to South Australian legislation. These amendments are contained in the *Statutes Amendment (Corporations) Bill 2001*.

Generally speaking, this Bill—

(a) amends provisions referring to the *Corporations Law*, or any part of it, so that they refer in future to the *Corporations Act 2001* of the Commonwealth, or the relevant part of it;

(b) corrects references to particular provisions of the *Corporations Law* so that they are read in future as references to the correct provisions of the Corporations Act (this includes amendments consequential on the *Corporate Law Economic Reform Program Act 1999* of the Commonwealth (CLERP));

(c) makes similar amendments and corrections in relation to certain references to the *Companies Act 1962* and the *Companies (South Australia) Code*;

(d) in accordance with Part 1.1A of the proposed *Corporations Act 2001* of the Commonwealth, continues certain existing exemptions, exceptions and exclusions from the operation of the *Corporations Law*;

(e) re-enacts provisions in Acts that apply particular provisions of the *Corporations Law* as if they were part of those Acts, so that the provisions continue to apply as State law;

(f) makes other miscellaneous adjustments necessary for the new corporations scheme.

Appropriate transitional arrangements are also made by the *Corporations (Ancillary Provisions) Bill 2001* (and that Bill will deal with matters that are not otherwise dealt with by this Bill).

It is anticipated that further consequential amendments will be made after the commencement of the Commonwealth legislation as part of an on-going process to up-date the statute book in relation to *Corporations Law* matters.

I commend this bill to the house.

Explanation of clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

The measure will be brought into operation on a day or days to be fixed by a proclamation or proclamations. It is expected that a number of the amendments will be brought into operation just before the commencement of the *Corporations Act 2001* of the Commonwealth (when the *Corporations Law* effectively becomes a law of the Commonwealth). It is necessary to exclude the potential operation of section 7(5) of the *Acts Interpretation Act 1915* (especially in connection with certain amendments contained in Act Number 68 of 1998, and the proposed amendment to the *Corporations (Commonwealth Powers) Act 2001*.)

Clause 3: Interpretation

A reference in the measure to the principal Act is a reference to the Act referred to in the heading in which the reference occurs.

Clause 4: Amendment of s. 56—Statement and account to be delivered

Clause 5: Amendment of s. 65—Administrator to pay over money and deliver property to Public Trustee

These amendments alter provisions referring to the *Companies Act 1962* (or a corresponding previous enactment) so that they refer in future to the *Corporations Act 2001* of the Commonwealth.

Clause 6: Amendment of s. 3—Interpretation

The definition of 'company' in the principal Act currently refers to a company incorporated under a law of this State or another State or Territory. The definition will now refer to a company registered under the Commonwealth Act.

Clause 7: Amendment of s. 23—Accounts

This amendment changes a reference to the *Corporations Law* to a reference to the *Corporations Act 2001* of the Commonwealth.

Clause 8: Amendment of s. 27—Winding up of the Corporation

This amendment updates a reference and cross-reference. It is also necessary to revise a provision relating to the winding up of the Corporation so as to now apply relevant provisions of the new Commonwealth Act as if they were provisions constituting a law of the State.

Clause 9: Amendment of s. 3—Interpretation

These amendments update references to the new Commonwealth Act. Any modifications to applied provisions of the Commonwealth Act will be modifications within the meaning of Part 3 of the *Corporations (Ancillary Provisions) Act 2001*, and so section 3(5) can be repealed.

Clause 10: Insertion of s. 3A

It is proposed to provide expressly that an incorporated association is not subject to the *Corporations Act 2001* of the Commonwealth (or to the ASIC Act). (Other provisions of the principal Act will apply certain provisions of the Commonwealth Act as a law of the State.)

Clause 11: Amendment of s. 35—Accounts to be kept

Clause 12: Amendment of s. 37—Provisions relating to auditors acting under this Division

These amendments alter provisions referring to the *Corporations Law* so that they refer in future to the *Corporations Act 2001* of the Commonwealth.

Clause 13: Substitution of ss. 40A and 40B

Clause 14: Amendment of s. 41—Winding up of incorporated association

Clause 15: Amendment of s. 41D—Disclosure to creditors on voluntary winding up

These provisions apply certain provisions of the Commonwealth Act as a law of the State, subject to necessary or appropriate modifications.

Clause 16: Amendment of s. 41E—Penalty for contravention of applied provisions

Clause 17: Amendment of s. 49AA—Interpretation and application

Clause 18: Amendment of s. 49AF—Frauds by officers

These amendments alter provisions referring to the *Corporations Law* so that they refer in future to the *Corporations Act 2001* of the Commonwealth (as applied by provisions of the principal Act).

Clause 19: Amendment of s. 61—Oppressive or unreasonable acts

The amendment will apply certain provisions of the new Commonwealth Act as a law of the State, subject to necessary or appropriate modifications.

Clause 20: Amendment of s. 3—Regulations for the merging of banks

Section 3(4) currently refers to the Minister administering the *Corporations Law*. It would be inappropriate for this to be 'translated' to the Minister administering the *Corporations Act 2001*, an Act of the Commonwealth. In the circumstances, it is best to repeal the subsection.

Clause 21: Amendment of s. 3—Interpretation

These amendments update certain references.

Clause 22: Amendment of s. 6—Agreement with ASIC

It is intended to make it clear that the law of the State is not imposing any duty on ASIC that cannot be imposed by State law (based on the decision in *Hughes*).

Clause 23: Amendment of s.12—Notification of changes in particulars

Clause 24: Amendment of s. 15—Reinstatement of registration

Clause 25: Amendment of s. 17—Certain convicted offenders not to use business names

Clause 26: Amendment of s. 19—Invitations to make deposits or loans

These amendments update certain references.

Clause 27: Amendment of s. 18—Accounts and audit

Section 18(3) of the principal Act currently refers to an auditor licensed under the *Companies Act 1962*. This is being updated to a reference to a registered company auditor.

Clause 28: Substitution of s. 78

Section 78 of the principal Act currently excludes community corporations from the application of the *Corporations Law*. It is necessary to revise this provision so as to now exclude the operation of the new Commonwealth Act.

Clause 29: Amendment of s. 121—Interpretation

Clause 30: Amendment of s. 138

These amendments update certain references.

Clause 31: Amendment of s. 4—Definitions

Clause 32: Substitution of Division 4 of Part 1

Clause 33: Amendment of s. 22—Existing body corporate can be registered

Clause 34: Amendment of s. 65—Representatives of bodies corporate

Clause 35: Amendment of s. 88—Orders that the Supreme Court may make

Clause 36: Amendment of s. 130—Cancellation of membership prohibited in certain circumstances

Clause 37: Amendment of s. 134—Interest on deposits and debentures

Clause 38: Amendment of s. 209—Disqualified persons

Clause 39: Amendment of s. 215—Meaning of 'officer'

Clause 40: Substitution of s. 223

Clause 41: Amendment of s. 233—Requirements for accounts and accounting records

Clause 42: Repeal of s. 235

Clause 43: Amendment of s. 257—Subordinated debt

Clause 44: Substitution of s. 258

Clause 45: Substitution of s. 261

Clause 46: Amendment of s. 270—Acquisition and disposal of assets

Clause 47: Amendment of s. 281—Unlisted companies to provide list of shareholders

Clause 48: Amendment of s. 285—Share offers to which this Division applies

Clause 49: Amendment of s. 289—Announcement of proposed takeovers concerning proposed Company

Clause 50: Amendment of s. 290—Additional disclosure requirements for offers involving conversion to company

Clause 51: Amendment of s. 301—Application for transfer

Clause 52: Amendment of s. 308—Stamp duty

Clause 53: Amendment of s. 309—Methods of winding up

Clause 54: Amendment of s. 310—Winding up on Commission's certificate

Clause 55: Substitution of s. 311

Clause 56: Amendment of s. 315—Liquidator vacancy may be filled by Commission

Clause 57: Substitution of Division 4 of Part 12

Clause 58: Repeal of s. 332

Clause 59: Substitution of s. 333

Clause 60: Amendment of s. 339—Application of Corporations Act to person appointed

Clause 61: Amendment of s. 347—Provisions for facilitating reconstructions and mergers

Clause 62: Amendment of s. 354—Disposal of consideration for shares compulsorily acquired

Clause 63: Substitution of s. 358

Clause 64: Amendment of s. 396—Privilege

Clause 65: Amendment of s. 402—Privilege

Clause 66: Amendment of Schedule 2

Clause 67: Amendment of Schedule 3

Clause 68: Amendment of Schedule 4

These amendments are all concerned with the interaction between the principal Act and the Corporations Act, as it may apply to co-operatives. Generally speaking, co-operatives are not to be subject to the Corporations Act (as is the case now in relation to the *Corporations Law*). However, it is recognised that certain aspects of the Commonwealth Act should apply to co-operatives (*see* section 8 of the existing Act and proposed new section 9). Certain provisions of the Commonwealth Act are also specifically applied to co-operatives by the provisions of the principal Act. In revising these provisions, the opportunity has been taken to update cross-references, where appropriate.

Clause 69: Amendment of s. 1—Short title and purpose of Act

This amendment is intended to revise clause 1 of the principal Act to make it clear that the amendment reference is not intended to enable the making of laws with the sole or main underlying purpose or object to restricting the practice of a particular profession or to trade to corporations or their employees, subject to certain specified exceptions.

Clause 70: Transitional provision

It will be made clear that the amendment to the *Corporations (Commonwealth Powers) Act 2001* is not intended to affect any law (or instrument) made before the amendment comes into force.

Clause 71: Substitution of s. 86

Section 86 of the principal Act provides that the *Companies Act 1962* does not apply to the Lyrup Village Association. It is necessary to revise this provision so as to now exclude the operation of the new Commonwealth Act.

Clause 72: Amendment of s. 3—Definitions

These amendments ensure that certain provisions are consistent with the scheme under the *Corporations Act 2001* of the Commonwealth to establish a 'nexus' with the State.

Clause 73: Amendment of s. 32—Service of notices

This amendment updates a service provision in connection with the new *Corporations Act 2001* of the Commonwealth.

Clause 74: Insertion of s. 6A

The *Corporations (Administrative Actions) Act 2001* is to extend in its operation to administrative actions of APRA and ASIC under this Act.

It is also intended to make it clear that the law of the State is not imposing any duties that cannot be imposed by State law (based on the decision in *Hughes*).

Clause 75: Amendment of s. 33—Matters in relation to deregistered financial bodies and societies

It is necessary to update a reference, and to apply Part 9.7 of the *Corporations Act 2001* of the Commonwealth as a law of the State.

Clause 76: Amendment of Schedule 1

These amendments alter provisions so that they will now be consistent with the *Corporations Act 2001* of the Commonwealth.

Clause 77: Amendment of s. 5—Establishment of the Trust

Section 5(5) of the principal Act currently excludes the Trust from the application of the *Corporations Law*. It is necessary to revise this provision so as to now exclude the application of the new Commonwealth Act.

Clause 78: Amendment of s. 78—Service of notices

This amendment updates a service provision in connection with the new *Corporations Act 2001* of the Commonwealth.

Clause 79: Amendment of s. 14—Functions and powers of the Institute

This amendment alters a reference to the *Companies (South Australia) Code* so that the relevant provision will refer in future to the *Corporations Act 2001* of the Commonwealth.

Clause 80: Amendment of s. 18—Constitution of trust

Section 18(4) of the principal Act currently excludes a trust from the application of the *Corporations Law*. It is necessary to revise this provision so as to now exclude the application of the Commonwealth Act.

Clause 81: Amendment of s. 5—Interpretation

Clause 82: Amendment of s. 11—Management of Society's affairs

Clause 83: Substitution of s. 30

These amendments alter provisions so that they will now be consistent with the *Corporations Act 2001* of the Commonwealth.

Clause 84: Repeal of s. 113

This amendment will repeal an out-dated section.

Clause 85: Amendment of s. 114—Premises of body corporate used for unlawful gaming

These amendments will revise certain definitions which currently rely on references to the *Companies Act 1962*.

Clause 86: Amendment of s. 87—Obligations in respect of take-over of corporations

This amendment alters a reference to the *Companies (South Australia) Code* so that the relevant provision will refer in future to the *Corporations Act 2001* of the Commonwealth.

Clause 87: Amendment of s. 31—Definitions

These amendments will provide consistency with the terminology now used under the *Corporations Act 2001* of the Commonwealth.

Clause 88: Amendment of s. 22 of Sched.—Resignation and termination

Clause 89: Amendment of s. 64F of Sched.—Resignation and termination of Tasmanian member

Clause 90: Amendment of s. 70 of Sched.—Application of funds on winding up

Clause 91: Amendment of s. 77A of Sched.—Immunity of NEMMCO and network service providers

These amendments alter references to the *Corporations Law* so that the relevant provisions will refer in future to the *Corporations Act 2001* of the Commonwealth.

Clause 92: Amendment of s. 74—Certain convicted offenders not to carry on business as general partners

This amendment will update a provision so as to now include a reference to the *Corporations Act 2001* of the Commonwealth.

Clause 93: Amendment of s. 3—Interpretation

Clause 94: Amendment of s. 18B—Grouping of corporations

Clause 95: Amendment of s. 18D—Grouping of commonly controlled businesses

Clause 96: Amendment of s. 18I—Exclusion of persons from groups

These amendments will provide consistency with the terminology now used under the *Corporations Act 2001* of the Commonwealth.

Clause 97: Amendment of s. 63—Service

This amendment updates a service provision in connection with the new *Corporations Act 2001* of the Commonwealth.

Clause 98: Amendment of s. 35—Audit of accounts of the Auditor-General

This amendment alters a reference to the *Companies (South Australia) Code* so that the relevant provision will refer in the future to the *Corporations Act 2001* of the Commonwealth.

Clause 99: Substitution of s. 6

Section 6 of the principal Act currently excludes a registered housing co-operative from the application of the *Corporations Law*, except as otherwise provided by the Act or regulations made under the Act. The new section will exclude the application of the Commonwealth Act. However, the regulations will be able to declare a matter relating to a registered housing co-operative to be a matter to which the new Commonwealth Act applies as a law of the State, subject to any prescribed modification.

Clause 100: Substitution of s. 59

Clause 101: Amendment of s. 73—Power to compromise with creditors

Clause 102: Amendment of s. 74—Winding up

Clause 103: Substitution of s. 82

Certain matters currently under the *Corporations Law* will continue to apply specifically to registered housing co-operatives, but now by the application of the new Commonwealth Act.

Clause 104: Amendment of Schedule

This amendment alters a provision so that it will now be consistent with the *Corporations Act 2001* of the Commonwealth.

Clause 105: Amendment of s. 2—Interpretation

Clause 106: Amendment of s. 3C—Special rules for determining location of certain forms of intangible property

Clause 107: Amendment of s. 31B—Interpretation

Clause 108: Amendment of s. 60A—Value of property conveyed or transferred

Clause 109: Amendment of s. 71—Instruments chargeable as conveyances operating as voluntary dispositions inter vivos

Clause 110: Amendment of s. 71E—Transactions otherwise than by dutiable instrument

Clause 111: Amendment of s. 81C—Duty paid on one mortgage may be denoted as having been paid on another mortgage

Clause 112: Amendment of s. 81D—Refinancing of primary producers' loans

Clause 113: Amendment of s. 90A—Interpretation

Clause 114: Amendment of s. 90G—Transactions in South Australian securities on U.K. stock exchange

Clause 115: Amendment of s. 90T—Application of Division

Clause 116: Amendment of s. 91—Interpretation

Clause 117: Amendment of Schedule 2

These amendments are all intended to ensure that relevant provisions of the principal Act will be consistent with the new *Corporations Act 2001* of the Commonwealth.

Clause 118: Amendment of s. 86—Service

This amendment updates a service provision in connection with the new *Corporations Act 2001* of the Commonwealth.

Clause 119: Amendment of s. 16—Power of trustee company acting in representative capacity to hold its own shares, etc.

Clause 120: Amendment of s. 19—Accounts, audits and information for investor, etc., in common funds

Clause 121: Amendment of s. 20—Information for prospective investors in common funds

These amendments are all intended to ensure that relevant provisions of the principal Act will be consistent with the new *Corporations Act 2001* of the Commonwealth.

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

STATUTES AMENDMENT (GAMBLING REGULATION No. 1) BILL

In committee (resumed on motion).

(Continued from page 1542 .)

Clause 1 passed.

Clause 2.

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

Page 4, line 6—Leave out all words on this line and insert:

(1) Part 1 and section 17A of this act will come into operation on assent.

This amendment has been filed in the name of the Treasurer notwithstanding the fact that I wrote last Friday saying that it ought to be filed in my name. The amendment is the preamble to the principal amendment (which again is in the Treasurer's name) which is section 14A, freeze on gaming machines, which deletes section 14A(6) and inserts the year 2003 in lieu of the year 2001. The effect of the amendment would mean that section 14A of the Gaming Machines Act would read:

This section expires on 31 May 2003.

What I propose is the extension of the freeze for a period of two years. I appreciate that there are severe and significant time constraints on the Legislative Council in dealing with the bill so I do not propose to go through all the other issues associated with it.

First, I stand by the comments that I raised in my speech on this issue last year when the interim freeze was proposed. Secondly, the issue in relation to how we deal with transfers of licences, goodwill and the like is a matter that will be referred to the Gaming Supervisory Authority which will become the Gambling Impact Authority in the event that the bill passes. Thirdly, it is part of an historical agreement (if I can describe it as that) that occurred between the proponents of gaming machines in the guise of the Australian Hotels Association and the Licensed Clubs Association on the one hand and the various welfare and church groups on the other. As I said in my second reading speech, it is my view that this parliament owes it to those parties to honour that agreement and the compromises that the parties reached therein.

Should the bill be substantially amended to the point where the agreement is not honoured, it is my intention to recommit the clause if the bill is successful because I do not propose to support the freeze unless that compromise agreement is substantially honoured. I also understand that the amendment will be treated as the test clause for the ultimate issue of the freeze.

The Hon. P. HOLLOWAY: I have indicated that I am opposed to the imposition of a freeze on the number of poker machines. I did discuss this matter at some length during my second reading speech and will not repeat all of it again. In the past day or so I received a letter from a country hotelier and I think it should be put on the record because it shows some of the problems that we are likely to get and some of the distortions that could occur if we impose a cap. We know from general economic theory that whenever we impose restrictions on things we tend to get distortions. We have enough examples of that now in relation to taxi licences and other areas where the government uses its statutory powers to ration particular licences, and it is my great fear that we will have a similar problem here. The letter from a hotel in the Mid North of the state is as follows:

We beg of the honourable member to consider the impact on country hotels when debating the government's gambling reform strategy and cap on poker machines. We have been self-employed in the hotel industry for 30 years, 26 years at the—

The particular hotel is named, but I will not read it out because I do not have the permission of the people to read the letter as it was received only in the past few days. However, I think the sentiments should be placed on the record. It continues:

We have always considered our hotel to be our superannuation for our retirement and now wonder what this might be if this cap is passed. We are considering retirement and are very concerned that this legislation cap on poker machines will virtually halve the value of our hotel overnight and thus perhaps become unattractive to prospective buyers if they are unable to obtain a poker machine licence and be competitive with hotels and clubs with a gaming licence.

There would be no incentive or money for small hoteliers to upgrade their premises. As small country hoteliers we consider this legislation will be completely unjust. Over the years, as with many small country hotels with limited income, we have supported small clubs, community and charitable organisations wherever possible. The hotel industry is a valuable icon for our state for employment and tourism.

The letter is signed by the hoteliers. That is just one example of the sort of distortions that can be created when caps are introduced.

During my second reading speech I gave the hypothetical example of a case where I thought the granting of a poker machine licence could be in the best interests of the state's economic development without any harmful consequences, and that is that you could have tourism developments that were catering primarily for the tourist trade and not regular constituents—

The Hon. M.J. Elliott interjecting:

The Hon. P. HOLLOWAY: The Casino was placed in Adelaide, but geographically if you had a hotel—and I will go through it again in case the honourable member was not here—somewhere in the Flinders Ranges where no local residents—

The Hon. M.J. Elliott interjecting:

The Hon. P. HOLLOWAY: Not at all. The Hon. Mike Elliott can distort it if he likes. I indicated that it was a

hypothetical example, but cases will come up where a development is good for the economic development of the state and will have virtually zero harm minimisation consequences because the patrons of the establishment would not be regulars, so the problem of harm—

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: I caused the problem? That is curious logic. Perhaps the Hon. Angus Redford can explain on the record somehow or other how I am playing politics with the issue. I simply say that the imposition of a cap can create economic distortions. I just gave that hypothetical example. I have an amendment on file which will allow exemptions to a cap and which a government could make by regulation. Obviously it is the wish of the current government that there be no exemptions whatsoever, that a proposal concerning harm minimisation is impossible in the next two years. However, in the interests of the state, if it wants to do that it does not have to enact such a regulation, but it will have a vehicle in the legislation where, if something like the hypothetical case I mentioned comes up, there could be an exemption.

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: Ask Kevin for his views; I am giving you mine. This is a conscience vote and I am telling you what my views are. If this exemption is carried I would be happy enough, I suppose—although it is against my better judgment—to see the cap go through because at least it would mean that, if there were cases where clearly there were minimal harmful consequences, some exemptions to a cap could be granted. As I said, I will move that amendment at the appropriate time and, if that is carried, I will be happy enough to support the cap. However, given that it is unlikely that there will be any exemptions, I will have no option but to oppose the cap outright when the appropriate time comes.

The Hon. M.J. ELLIOTT: When the issue of a cap has been raised on previous occasions, I have argued that a cap in itself has no merit at all when there are so many machines already installed or already approved. If we are worried about harm being done, there are ample machines to do harm now. However, I have supported a cap in recognition of the fact that the community will get sensible about gaming machines in the very near future and that the rules that cover gaming machines will change. In particular, the level of super profits that some of the machines are making is not sustainable in the long term; that is, not sustainable in terms of the community tolerating them. To encourage the installation of further machines when it is likely that we will change their mode of operation would be unreasonable.

One of the things that will occur as a result of the formation of the independent gaming commission, presuming it is fully independent and does not have too many vested interests at work, is that it will recommend significant changes to the way gambling works in this state. If I am right in that and it has implications for the profitability of gaming machines, it would be unfair and unreasonable to allow further investment to go on, assuming that things will stay as they are. I do not think that anybody in this place believes that they will stay as they are for very long. I am prepared to support a temporary cap and, during the period of that cap, I hope that we will see some further significant change to the law.

The Hon. NICK XENOPHON: I support the amendment of the Hon. Angus Redford. Previously in this chamber I have moved bills to freeze the number of poker machines. I acknowledge the reasoning of the Hon. Angus Redford and the Hon. Mike Elliott. I support a cap. As the Productivity Commission has said, it is a blunt instrument to deal with problem gambling, but it does draw a line in the sand. It gives an opportunity for communities that do not want to see any more poker machines to say 'enough'. I have acted for residents in the towns of Melrose and Callington in applications to oppose the introduction of gaming machines, but those applications were unsuccessful because of the current structure of the law that does not allow scope for community concern, notwithstanding that, in those towns, something like two-thirds to three-quarters of the population did not want to see poker machines in their community. I remind members that, in its extensive national survey, the Productivity Commission found that something like 92 per cent of the 10 000 Australians surveyed indicated that they did not want to see any more poker machines in the community.

I understand why the Hon. Paul Holloway has argued for his amendment, but I think it would make the cap a Clayton's cap and, for that reason, I oppose it. While I am concerned about country hoteliers and the regional hotels that do not have poker machines, the solution is not to give them a licence to put in poker machines: the solution is to give them adequate support, community support and support from the state taxation derived from poker machines and to put them in a special category for assistance, because those hotels do not add to the burden of the social costs that hotels with poker machines as a rule do, given the findings of the Productivity Commission. For that reason, I support the Hon. Angus Redford's amendment and I oppose the Hon. Paul Holloway's amendment.

The Hon. CAROLYN PICKLES: Since we are using this as a test case on the freeze, I make it perfectly clear to the Hon. Angus Redford that this is a conscience issue for members of my party, as I understand it is for members of his party. We have always respected such issues in this place and I do not think that cheap political throwaway lines get us anywhere at all. We saw enough of that in the other place.

The Hon. A.J. Redford: You started it when you tried to embarrass the Premier.

The CHAIRMAN: Order!

The Hon. CAROLYN PICKLES: I think he makes a pretty good job of doing that all on his own. I don't have to do anything to help him.

Members interjecting:

The CHAIRMAN: Order! The leader.

The Hon. A.J. Redford: You sought to suspend standing orders to embarrass the Premier. That is what you did.

The Hon. CAROLYN PICKLES: We are dealing with the issue of a freeze: we are not dealing with the issue of the suspension of standing orders. The Hon. Nick Xenophon has introduced a bill in this place on several occasions to bring in a freeze and on those occasions I have opposed it for reasons that I have already indicated. I do not believe it does one thing towards helping problem gamblers. There are other ways to deal with it. I would support the amendment moved by the Hon. Paul Holloway but, even with that amendment, I would still oppose a freeze.

The Hon. T.G. ROBERTS: I supported the original Blevins bill on the basis that South Australia could not stand still and be isolated from the rest of the states in relation to poker machines, bearing in mind that the Riverland and the South-East would certainly have been impacted upon if South Australia did not go down that track. An amendment was introduced to limit the number of poker machines in the one premise to 40 machines, and that is the way we have proceeded to administer the act.

Certainly, small, isolated and closed regional communities have been impacted upon by poker machines and there has been a redistribution of income in those communities. The government has had opportunities to address the redistribution of the social dollar and the sporting dollar, which has not taken place. There has been an increase in the government's capital take in taxation from what was predicted to be between $60 million to $80 million up to $200 million. We all have sympathy for the problems that the Hon. Nick Xenophon has raised in this chamber over a number of years in relation to problem gamblers but, in relation to addressing that problem, I think that we have missed the mark, given that we have opened up the state to poker machines and to the revenue redistribution that has occurred.

In my view, the only way to redress that is to intervene, not on the supply side but on the redistribution side, and to redistribute some of the income that is collected by government into communities and into those areas that are suffering most, and that includes junior sport, recreation, other activities associated with the drying up of the social and recreational dollar and charities. Charities have been impacted upon by the saturation of poker machines in rural communities, but we cannot take away from individuals their responsibility to make choices about how they spend their recreation and their time.

The Hon. Nick Xenophon interjecting:

The Hon. T.G. ROBERTS: That is right, there should be informed choice as to how they spend their dollars in gambling and gaming. A cap does not address the problem in any realistic way. It merely provides a temporary curb on the number of machines in areas that do not have access to them at the moment. So, in protecting one small section of the community, we may create a whole new set of problems in other areas.

I have recently done a tour of regional, outback and remote South Australia where environmental and cultural tourism and ecotourism are starting to develop, well after other states have had tourism development programs in such forms of tourism. Without going into what we found on that tour, we did learn that people were having trouble securing finance to support environmental tourism or cultural tourism developments that would be stand alone developments based on any projections as to the growth in those areas.

It would be of some assistance if any of the improvements to either hotel accommodation or environmentally suitable accommodation in those remote and regional areas could be supported by the assistance of poker machines in those places, to support not just the application but the financing, and some of the projected revenue figures that might enable them to take out loans to allow them to involve themselves in cultural and environmental tourism. At the moment the banks and financial services that they make applications to will not accept figures based on projections of visitations by people from either interstate or overseas in relation to poker machines.

There will be harm minimisation in relation to remote and regional areas where the projected growth in accommodation would take place, in that a lot of it would involve travelling visitors. They would be passing through, they would be temporary, and the recreational facilities would be used, funded and financed from the possibility of poker machines, gambling revenue, which revenue would be passed on to better facilities so that it could be built up for international visitors.

So I think there is a degree of hypocrisy in that those who have poker machines, the forties, those that have the number of poker machines that they require to keep their businesses afloat, will benefit. There will be an artificial price built in to the value of the machines, and those people who would potentially be able to benefit from poker machines in the future in these remote and regional areas will miss out if a cap is effective, and there are no provisions for an amendment such as the Hon. Paul Holloway has moved, which is to allow for a regulation that allows for exceptional circumstances to be included in a freeze.

So in relation to the cap that the Hon. Angus Redford was moving for, on the basis that it was the Premier's preferred position, I think the Premier was playing politics. Perhaps it was not his press releases that made the Premier the champion of the cause for a freeze, to make it appear to the broader community that at least putting a freeze on poker machines would eliminate the problems associated with problem gambling out in our community. I think that was the impression that some tried to glean out of the freeze, which in fact will not happen. The freeze will not affect at all the problems of problem gamblers. I have not seen in this state any venue other than perhaps the Casino where there has been a queue for poker machines, either in regional areas or in the metropolitan area. I do not frequent the hotels much in the metropolitan area, and have not had reports of queues waiting to use poker machines, which would be an indication that there are not enough poker machines in these particular outlets.

But it does happen, and I have been in places interstate where, for example, at times in some of the Sydney clubs you had to place beer mats or packets of cigarettes or handbags to note that you were using a machine in case somebody used it while you went to the toilet. They actually had hold buttons on them and the floor walkers would make sure that that machine was secured. That situation does not occur in South Australia. I am not saying that it is an indication that we have too many machines, but certainly it denotes to me that most of the applications made by hoteliers and club owners have been realistic.

I think there has been a rush for extra poker machines in the last 18 months based on the prospects of a possible freeze. So we now have an artificial demand built up by—I cannot call it regulation, because it is a lack of regulation—built up by uncertainty in the area of where the industry is to go from here. So I think we are going to have more of the same unless we have, and I suspect the Hon. Nick Xenophon would agree, an all-encompassing look at not just poker machines but online gambling. We have to have a look at the role of the TAB and the SAJC, the racing industry. At the moment we cannot sell the TAB because of the uncertainty with online gambling programs.

It is hard for governments to set the value of gambling services to find out what is a fair and reasonable return, and it is hard to indicate to South Australians in the community what the future will bring in relation to the plateau for the growth in poker machines. What will be the plateau? When will people get sick of using poker machines? It is a mind numbing activity and there may be a cut-off point, where people will not want to go and play poker machines, although I know the growth is exponential at the moment and there is a growth in some of the distribution problems that I was talking about earlier.

I think that work has to be done to try to map out exactly what the future for the gambling dollar is. How much will governments be taking out of the gambling dollar, say, in the

next five years? Will it move to $300 million? Will the taxation revenues move up to $300 million? Will people drop off, having worked out for themselves that gambling on poker machines is a no-win situation, where whatever you win generally tends to be put back into the machines? It is a form of entertainment but it is certainly not the be-all and end-all to your financial difficulties, by going in and playing poker machines to try to get returns to pay off those debts that are hanging around your neck. It only exacerbates the problem in most cases.

So a lot of those issues need to be looked at, and I do not think that temporary freezes, temporary caps, or even permanent caps, hold the solution to those problems. In terms of dealing with problem gamblers, the amount of money, as pointed out by Hon. Nick Xenophon, required from government coffers to deal with problem gamblers has not been allocated in any where near enough amount to deal with the problem gamblers that we have at the moment. If there are to be changes to the legislation, that we call for problem gamblers to be banned from gambling on poker machines, or gambling anywhere else, then far more money will be required just for the projections of the number of people who will be impacted by it, as problem gamblers in the near future. I think we need to have some projections on where we are going so that we can then look at whether a temporary freeze, a permanent freeze, or an alteration to the way in which we are operating needs to be done to satisfy the needs and requirements of people who are calling out for reform in this area.

The Hon. CARMEL ZOLLO: As this issue is one of conscience I indicate, as I did in my second reading contribution, that I support a freeze, and I think I have spoken on several occasions now as supporting one, and have given the reasons. I understand this amending clause of the Hon. Angus Redford is to be used as a test clause for the freeze and, with that in mind, I indicate my support.

The Hon. R.D. LAWSON: I support the amendment standing on the printed sheet in the name of the Treasurer but to be moved by the Hon. Angus Redford. On the first occasion when a cap came before this parliament in a bill introduced by the Hon. Nick Xenophon, I was the only member of my party at that stage to support a cap, and I continue to support it, notwithstanding the fact, as I acknowledge, that there are many arguments against a cap, many arguments which might suggest that a cap would not be effective.

The Hon. Carolyn Pickles said, for example, that a cap does nothing for problem gamblers. In my view, it does something for problem gamblers, but the purpose of introducing a cap is not to solve all the problems of problem gamblers.

The Hon. T.G. Roberts interjecting:

The Hon. R.D. LAWSON: And, as the Hon. Terry Roberts said, it would certainly not eliminate the problem. But I, for one, do not accept the argument that, once we allowed poker machines in this state and permitted a significant number of permits to be issued, we had, in effect, got onto a conveyor belt from which we could not get off. I do not accept that the parliament was powerless then to stop the number of gaming machines in the community. I believe that this cap sends a significant message to the community. It gives us pause to breathe and pause to consider measures which will reduce some of the problems that have identified themselves in consequence of the rapid expansion into our community of gaming machines.

The Hon. Terry Roberts said that we could go on issuing them. He posed the rhetorical question: when will people get sick of poker machines? I gather that then he would say that that is the time when there will be no more demand for them and the market itself will have some self-limiting quality. I do not believe that we have to wait until people get sick before we actually adopt these measures. I believe that we should adopt these measures before people get sick. We know that some people are suffering in consequence of the introduction of these things. I do not believe that it is appropriate to wait until this community is ruined by gaming machines, which well might be the case, before we pause to take stock. I support the amendment.

The Hon. T.G. CAMERON: I support the cap on poker machines that has been proposed by the government. I will not dwell on the subject for too long, because I have said it all before. I do not believe that the imposition of a cap will do anything much to stop problem gambling. People argue that, if we install a cap in South Australia, it will be some kind of a panacea or a cure-all for problem gamblers in South Australia. That will not happen. I understand that hundreds and hundreds of licences for poker machines have already been issued but not acted upon. I further understand that some licensees have not even started to build, but they have been given approval and a licence for the machines to go in their buildings. I am not quite sure how that can come about.

The Hon. A.J. Redford: It is under the act.

The Hon. T.G. CAMERON: Maybe that ought to be looked at.

The Hon. A.J. Redford interjecting:

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

The Hon. A.J. Redford interjecting:

The Hon. T.G. CAMERON: I make the point that a cap would have been more effective had it been installed earlier than today. If my memory serves me correctly, the Social Development Committee supported a cap. I am not sure how many years ago that was. However, whilst I do not believe that the imposition of a cap will do much to fix the problems that some people have with their gambling habits, I am prepared to support a cap because I believe that, symbolically, it sends an important message not only to the electorate but to the industry that this parliament recognises that there are problems and is prepared to act, if only symbolically, to ensure that at least the public has got the message that the parliament is serious about addressing some of these problems even though this may not be the right way to go about it.

The Hon. T. CROTHERS: I have considerable reservations about the cap that is proposed at this point in time. Many people in this Council were not around when the Blevins private member's bill was first introduced and passed in this Council by 11 votes to 10 during one very early morning session. At that time, an amendment was moved by the Hon. George Weatherill to put a cap on poker machines. The amendment was for something like 40 machines maximum per licensed premise. That amendment was carried.

An honourable member interjecting:

The Hon. T. CROTHERS: Yes, that was carried. Then, I think the Hon. Carolyn Pickles and I were members of a select committee, which I think I chaired. There were six members, and we were trying to assist gamblerholics in respect of their problems. We took evidence from a fellow who was in charge of gambling assistance at the Central Methodist Mission. He said that he was not opposed to gambling because it did not matter what they did, the people

who have problems with gambling on whatever level will always have problems, much the same as alcoholics.

Even when we imposed a ban, as we found out with the Volstead Act and when the Rechabites and others such as the Women's Temperance League got busy in the early part of this century, far from stopping the imbibing of alcohol, it led to it being done under the counter. I think that the capping processes that we have in mind may well lead to that also, just as other inhibitions that we put on gambling led to illegal pub SP betting, which robbed this state of many millions of dollars in potential taxable earnings over a number of years.

Capping poker machines may be a very politically correct thing to do, but I do not see what value it has, because we already have a cap on poker machines, but now we are proposing to put a cap on the number of poker machines not just in licensed premises (with the exception of the Casino) but new premises. Let me make this point quite clear: I would be a supporter of a cap on poker machines provided that it was done on a national basis and we did not get the old Hardy annual: oh well, if South Australia is going to do it, we will not do it in Queensland, the west or Tasmania, and even today we will not do it on the internet.

So, in my humble view, it is an exercise in jovial frivolity in respect of its usefulness. It is an exercise that might give us all a warm inner glow and perhaps satisfy the Hon. Mr Xenophon. I say to the Hon. Mr Xenophon, I am sick, sore and tired of the sorts of bills that he brings in here. I had just finished reading his massive bill when along he came and presented me with a further 100 pages of amendments. Even he cannot get it right. He has had all the time in the world, all the time that he has been in here, to do something about this matter, but even he cannot get it right. Have a look at this. These are his amendments; it is not the bill. If there are this number of amendments in this short space of time, how right or wrong is this measure that we are now trying to deal with?

One of the other things that will flow from this is the effect on tourism, which we are trying to promote. One of the things that this state has going for it is tourism. However, one of the problems that this state has always had in respect of tourism is that, unlike Tasmania, Victoria or parts of Queensland, our tourist attractions are far flung: they are up in the Flinders Ranges, in the Gawler Craton region, on the West Coast or down in the South-East—far away from the metropolis.

I think that Bill Spuarr has done a wonderful job for this state. We should not forget that tourism is a big employer of people, not only in the metropolitan area but in the rural areas of this state. We may be in a position where we cannot build enough accommodation and therefore the hotels that already exist, in order to get a licence, will have to pay perhaps 10 times their actual value and, if so, they will not set up here; they will go elsewhere. So, on the one hand, we are trying to advance employment through being more attractive in a tourism sense, and we are succeeding—this government has done a wonderful job. But, on the other hand, for the sake of political correctness and political reasons—and an election is coming up—the same government is now saying, 'Let's put a cap on'.

A cap will not work. It may mollify the Hon. Mr Xenophon. It may be a question, for instance, of you can fool some of the people some of the time and a lot of the people some of the time but you cannot fool all of the people all of the time. I have grave reservations about the impact of this cap because I am sure it will be passed. I will not be voting for it for the reasons that I have outlined; and I have even more reasons if I have to get to my feet again.

The Hon. SANDRA KANCK: I have put on record a number of times over the past few years my position in relation to gaming machines. I will not labour the point this time except to say that I know that, in voting against a cap, my name will probably be published in the paper and people will ring up and abuse me and say, 'Why?' I could very easily say, 'Go back and have a look at my very good speech of 2½ years ago where I explained the philosophical basis of my position in great detail.' But people probably would not do that.

In summary, I see that, yes, there are people who gamble who have problems, but they are only a very small proportion of the people who gamble. I think we have to look at other methods of dealing with this issue rather than a cap. The use of alcohol creates problem drinkers, it creates binge drinkers, and it creates alcoholics, but I do not see anyone suggesting that a cap should be placed on alcohol production in this state. In fact, if you were to do that there would be a great cry of outrage because of what the wine industry does for South Australia's economy and tourism.

The Hon. T.G. Cameron: A cap could be put on the number of hotels.

The Hon. SANDRA KANCK: Well, a cap could be put on the number of hotels, but there is no limit on how much they sell.

Members interjecting:

The CHAIRMAN: Order!

The Hon. SANDRA KANCK: I am not going to enter into that argument. At the present time, there are figures that show that about one in eight people will develop age onset diabetes. I do not see a move to cap the number of chocolates that can be sold. If you are to be consistent with the attitude to poker machines, that is what should be done. Every year, hundreds of people are killed and thousands are injured as a result of car accidents on our roads. I do not see any move from anyone in parliament to attempt to cap the number of cars on our roads when, arguably, they produce a great deal more misery than the problems caused by gaming machines.

I simply cannot see any consistency in the position taken by people. When action is taken to limit the amount of alcohol that can be produced, when action is taken to limit the number of cars on the roads because of the number of people killed and injured, I might take their arguments about limiting the number of poker machines seriously—but not until that time. I see this issue as one that is basically fed on populism. As a politician, I cannot make my decision based on populism; I need cold, hard facts. They have not, over a period of years, appeared. I will be opposing any freeze on the number of gaming machines.

The Hon. J.F. STEFANI: It is fair to say that the community has given a very clear signal to the parliament and the government that poker machines are a very serious social problem. In essence, a number of attempts have been made previously to cap the number of poker machines. When the Hon. Nick Xenophon introduced his bill, I opposed the cap because of its retrospectivity, as well as other reasons. However, there is an overwhelming community view that the number of poker machines should be capped because of the problems they have caused. I believe the government has attempted to address the issue in a competent manner, and a number of considerations have been built into the legislation. Therefore, I am convinced that we should attempt to cap the

number of poker machines, at least for a time, and this legislation is designed to do that.

There might be an opportunity for the present legislation to be reviewed at a later stage. I believe there is also an opportunity for, say, the Tanunda Club, which has suffered financially through the introduction of poker machines, to transfer its poker machines licence to another venue, perhaps another community club which might be able to utilise the licence, and so return money to the Tanunda community. For those reasons, I support the cap and indicate my support for the measure.

The Hon. L.H. DAVIS: I also indicate my support for a cap on poker machines. As some of my colleagues have already stated, there is a community belief that capping will restrict poker machine gambling in this state. That is very much open to debate because, obviously, a compulsive gambler will find a poker machine whether there are 10 or 20 poker machines in a hotel or club. It is a fact that there has been a lot of unrest about the incidence of gambling on poker machines in South Australia. It does not seem to matter whether or not people look at the gambling losses in South Australia which, at $683 per head, is well under that of most of the other states because, as many members have already observed, the vast majority of people gamble on poker machines for recreational enjoyment.

One might spend $50 on a poker machine in an evening instead of $50 at a restaurant or $50 at the movies and supper afterwards, or $50 at a bar drinking good red wine, but to the media $50 spent on poker machines is categorised as a loss, whereas $50 spent at a restaurant is not categorised as a loss. It is a fact that poker machines were introduced in South Australia in the early 1990s. It was left to the Liberal Party to implement their introduction. As a result, there have been many beneficial effects of poker machines. Undoubtedly, many of the heritage hotels around Adelaide, the metropolitan area and, indeed, country areas have been saved from closure because poker machine revenue has given them the opportunity to upgrade the hotels. Of course, it has also enabled a lowering in the price of meals and, in many communities, has introduced benefits that were not there before.

There is no doubt that the hotel industry in South Australia has been notably generous in its donations to community and charitable causes in both the country and the metropolitan areas. It is also true to say that the hotel industry in South Australia has led Australia in terms of its initiative in contributing money to causes associated with problem gambling. For that they should be commended. There is also no doubt that, with the present level of poker machines, there is a certain levelling off in the numbers. Anyone who has wanted to install poker machines in hotels, clubs and other venues has done so by now. There remains the unresolved difficulty of green field site development, extensions and expansions in metropolitan Adelaide or new country towns created in future, such as Roxby Downs. That will always be a difficulty with legislation such as this.

I support the cap. It is an initiative which has been largely agreed to by the various parties. I must say that I commend the churches and the hotel industry for the way in which they have got together to fashion a code, which has been agreed to. The churches have accepted the reality that poker machines are here, but they have come up with many sensible suggestions which, for the most part, have been accepted by the hotel industry, which recognises the challenge of coping with problem gambling and the social and economic consequences that flow from it. I support the cap.

The Hon. J.S.L. DAWKINS: I rise briefly to indicate my support for the cap. As many members would realise, in earlier days I certainly did not support a freeze or a cap; however, I have taken into account the work of the Gaming Machine Review Group, which included representatives from the AHA, Clubs SA, the heads of churches and welfare service groups. I remain unconvinced that a cap will achieve what many people in the community expect, but I am prepared to support the cap, because I believe it is a move in the right direction towards getting the balance right in our communities.

The Hon. CAROLINE SCHAEFER: I will not be supporting a cap and many times previously in this place I have given my reasons why. Basically, I do not believe that capping the number of gaming machines will curb gambling, nor will it curb problem gambling. However, it may curb investment in the hotel industry; it may prevent someone from either buying or building a hotel; it may curb the clubs; and it may set up an ethos of those who have and those who have not in small to medium business in this state. It prevents those who believe that gaming machines are not furthering their business from taking the opportunity to quit them. So, I will not support a cap.

The Hon. R.I. LUCAS: My views on capping have been known for a number of years, so I do not intend to repeat the views I have expressed on three or four occasions. I have never been a supporter of caps and I do not intend to start now. This remains a conscience vote for all members, as other members have indicated in this debate. As was the case on the last occasion, as I understand it there is more than enough support on both sides of the chamber to support a cap proceeding, so I guess the issue will be whether or not the Hon. Mr Holloway intends to move his amendments to subsequent clauses such as 14 or 17.

The only point I would make is that the Hon. Mr Xenophon referred to the Productivity Commission in support of his views. I remind him and other members that in its comprehensive report the Productivity Commission eventually came out and recommended against—or certainly did not support—the notion of caps to tackle the problem of problem gambling. The Productivity Commission is often quoted for various purposes. I think that in this case its views ought to be placed on the record, without my having to go into any great deal of depth again. I think its statements on this have already been placed on the record on other occasions during previous debates on similar provisions for caps.

The committee divided on the amendment:

AYES (14)

Cameron, T. G.	Davis, L. H.
Dawkins, J. S. L.	Elliott, M. J.
Gilfillan, I.	Griffin, K. T.
Laidlaw, D. V.	Lawson, R. D.
Redford, A. J. (teller)	Roberts, R. R.
Sneath, R. K.	Stefani, J. F.
Xenophon, N.	Zollo, C.

NOES (7)

Crothers, T.	Holloway, P. (teller)
Kanck, S. M.	Lucas, R. I.
Pickles, C. A.	Roberts, T. G.
Schaefer, C. V.	

Majority of 7 for the ayes.

Amendment thus carried.

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

Page 4, line 6—After subsection (1) insert:

(2) The remainder of this act will come into operation on a day to be fixed by proclamation.

This is a standard provision to ensure that the act will come into operation on a day to be fixed by proclamation.

Amendment carried; clause as amended passed.

Clauses 3 to 6 passed.

New clause 6A.

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

Amendment of s. 37—Application for grant or renewal, or variation of condition, of licence

6A. Section 37 of the principal act is amended by inserting after its present contents (now to be designated as subsection (1)) the following subsection:

(2) However, the authority cannot require an applicant for renewal of a bookmaker's, clerk's or betting shop licence, or a member of the applicant's family, to provide or to submit to the taking of fingerprints or palm prints or to provide or consent to the release of his or her criminal record (if any) if the applicant is a person to whom subclause (1), (2) or (3), as the case may be, of schedule 1 clause 3 applies.

Over recent weeks I and a number of other members have been approached by various bookmakers in relation to the continued licensing of their operations pursuant to the Authorised Betting Operations Act.

Until relatively recently bookmakers were administered and controlled by the Betting Control Board. That was then transferred to the Liquor Licensing Commissioner for a relatively short period of time, and the licensing of bookmakers proceeded without much controversy for many years. Indeed, for 40 or 50 years bookmakers have been licensed without any difficulty and over the years there has been little or no scandal associated with the conduct of their businesses.

I understand that there are some 35 licensed bookmakers in South Australia and that they are required to apply for a licence on an annual basis. When legislation was passed to amend the Racing Act, and in particular to corporatise the industry, the government felt that it was appropriate to ensure that the licensing of bookmakers came under the same umbrella as the licensing of other gambling activities. In particular it was felt that the licensing of bookmakers could be carried out easily by the Gaming Supervisory Authority.

I concede that the Treasurer did warn that there may be some difficulties given the very high standard of probity required in relation to other activities under the control of the Gaming Supervisory Authority and in particular the licensing of those people who operate the Casino business. Notwithstanding that, the parliament felt that it would be appropriate for bookmakers to be licensed under this regime. Following the transfer of this responsibility to the Gaming Supervisory Authority, it took it upon itself to substantially revamp the licensing requirements in relation to bookmakers, clerks and the betting shop that still exists in Port Pirie.

I have been approached by a number of bookmakers who have told me that the Gaming Supervisory Authority—and I accept that it has been put off for 12 months—is now seeking to demand that all existing bookmakers submit to a fingerprinting process and police checks not only of the bookmakers but also of members of their family. Given that these bookmakers have operated for extensive periods of time—some for up to 40 years—with no question raised about their past integrity it appears to me that to require them to engage in such a bureaucratic minefield would be bureaucratic excess in the extreme.

When we legislate to provide new licensing regimes or impose new qualifications in relation to any walk of life it is not uncommon to preserve the pre-existing licences or qualifications of those who have engaged in the industry for a period of time. I am told that during the course of the debate on the amendments to the racing legislation the bookmakers were assured by a senior officer—indeed the then Chief Executive Officer of the Racing Industry Development Authority which was instrumental in consultation regarding the change to this legislation—that nothing would change concerning the licensing of bookmakers other than the body to whom they would apply. As a consequence, at the time the bookmakers offered no objection to that change in administration.

I am told that, over the years, under the old regime and under the new regime which should continue even with this regulation, bookmakers have been very well controlled and that they have always enjoyed a good relationship with whichever authority provided the probity responsibility in relation to their position. For this reason I am told that South Australia has not had bookies who have gone broke or become insolvent. Further, unlike other states, all 38 bookmakers in this state operate on a full-time basis. I am told that in other states a substantial number of bookmakers do not use their licences at all. So we are quite unique in that respect.

I am told that we are the envy of every other state in Australia in relation to the provision of bookmaker services to horseracing punters. Indeed, I am told that on Adelaide Cup day and at Easter time in relation to the Oakbank meeting there is always a shortage of bookmakers.

The other regulatory regime that is not affected is that bookmakers have to apply monthly for a permit to operate at any given meeting. So, each month they submit an application to the appropriate authority—in this case the Gaming Supervisory Authority—for a permit to operate at a particular meeting.

I understand that the bookmakers have endeavoured to achieve a more reasonable outcome with the Gaming Supervisory Authority and that in that respect they have not been successful, although I accept that the Gaming Supervisory Authority has said that it has not totally made up its mind and has given them a 12 month grace period. It seems to me that it is either desirable and they can justify it now or that they leave it alone.

Indeed, Queensland is the only other state that has fingerprinting requirements for bookmaker licence applications in this country. I understand, however, that in Queensland all current certificate or licence holders are exempt from having to comply with the provisions and the like that have been purportedly required by the Gaming Supervisory Authority.

For that reason, I am moving these amendments. They seek to do no more than preserve the current status of bookmakers who have been operating in this industry for a considerable period of time. I understand that precisely the same concerns relate to bookmakers' clerks and also to betting shop licences. I was told by the Hon. Ron Roberts earlier (and I do not think he will mind if I mention it) that only one betting shop licence is left in this state, and that is run by a fairly reputable operator that has never been under any question mark. It seems to me that, again, it would be bureaucratic bastardry to expect them to have to go through a process that it has been indicated may be required by the Gaming Supervisory Authority and, in particular, the Chief Executive Officer.

The Hon. R.I. LUCAS: When the representatives of the bookmakers spoke to me, their principal concern was the issue of fingerprinting. In their representations to me, they

indicated that they did not have a concern about the release of any criminal record that a bookmaker might have. I inquire of the honourable member whether the bookmakers' representatives who spoke to him expressed concerns about the release of criminal records that a bookmaker may have, and so is that why he has included that measure in the amendment for which he seeks the support of this committee?

The Hon. A.J. REDFORD: The intent is that they were requiring criminal records from their families. One bookmaker to whom I spoke has elderly parents, and they were seeking to secure the criminal records of those people, who are in their 90s. In addition, they were also seeking the criminal records of his siblings, of whom he has four, three of whom do not reside in this state. That was the intention.

The Hon. R.I. Lucas interjecting:

The Hon. A.J. REDFORD: I will not go through the difficulties I had in getting the draft to me, but it was intended to cover the families in that respect. Perhaps we might pass it and have another look at the clause towards the end of the bill, if that suits the Treasurer. The intention is not to require or enable the GSA to require bookmakers to have their families subjected to this sort of scrutiny.

The Hon. R.I. LUCAS: If there are the numbers to support the clause as drafted, before the end of the evening when hopefully we finish it all, the member and parliamentary counsel might look to see how it might be amended to more accurately reflect his views, and that is that an applicant's criminal record might be able to be obtained by the authority but not that of an applicant's family members.

The Hon. Caroline Schaefer: And not a current licence holder.

The Hon. R.I. LUCAS: That is the issue that I am raising. In discussions I had with bookmakers, who fairly represented their views to me, their concerns related principally to fingerprinting, and, as the member has indicated, the impact on family members in particular, but in discussion with me they did not express concern about any criminal record that a licence holder might have not being made available to the authority to assist it in deciding whether or not the licence should continue.

The government's position, as discussed this morning, is that it will not oppose this amendment. Indeed, there are varying degrees of support within the government party room for the honourable member's position. As I understand it, that is likely to be the position of some other members in the chamber, as well. The first point that I would make is that, having been made aware of some of the claimed comments from staff representing the authority, I intend to take up those issues, at least while I am still the minister responsible for the Gaming Supervisory Authority, and I have already had a discussion with the authority and with the staff of the authority about ways of tackling this issue.

As the honourable member indicated, when I met with them, members of the authority demonstrated some willingness to listen to the concerns that were being raised. They have licensed the bookmakers under the provisions of the Racing Act, which allows them to continue for 12 months, and they have indicated to the bookmakers that they were intending to further consult about the concerns that bookmakers had about these provisions. Should the parliament pass this clause, as would appear to be likely, that issue, at least as it relates to bookmakers, will have been resolved by a decision of the parliament.

I flag, as I have in discussions with some of my colleagues, that, whilst this may well resolve the issue for bookmakers, we the parliament are creating an Independent Gambling Authority. When one talks about bureaucracy and public servants, the staff who work for this authority will not be answerable to me or to a minister. They will be independent of government, although they will ultimately table reports through someone to parliament. They will take seriously their new-found authority to be the Independent Gambling Authority and, ultimately, to be the final decision makers in many of these areas.

As I have indicated in previous debates, I have concerns about some of these issues, as reflected in some of the provisions of this legislation and in others. The important fact is that the parliament needs to retain, as much as it can, the ultimate capacity to influence some of those decisions. I have enormous regard for the work that the current chair and the members of the authority have undertaken and will undertake on our behalf over the coming months, and I hope that members will enter this new era with a willingness to allow the authority to demonstrate that goodwill, but also its willingness to implement the views that parliament wants to see implemented and in a way that has a good dose of commonsense, as well.

I do not intend to repeat the views that I have expressed on a number of occasions about the varying levels of probity that might be required here. The government and parliament have taken decisions on that and we now need to work cooperatively within the framework that has been provided to the new independent gaming authority, and when parliament decides to express a specific view, as it might do in relation to bookmakers, it has that capacity to do so and will continue to do so on occasions.

I am sure that the members of the authority and the staff who work for the authority, if they are not already aware of that, will become even more acutely aware of the capacity of the parliament to express a view when it wishes to do so. It will be much easier when the government of the day opens up the bill. It is much harder when in opposition or as a private member to get something through, other than in the specific circumstances of the parliament of this last three or four years, where the government of the day has not had the numbers in either house to prevent the passage of legislation with which it does not agree. During this period, there will be greater capacity to amend legislation as a private member or as a non-government party, should that be the desire.

But I finally say that, whilst this will potentially resolve the issue in relation to bookmakers, this authority has been given the power to make a range of decisions that will impact on a variety of other gambling providers, right across the board. As an authority it can make the decision, subject to parliament changing legislation, that it wants to see consistent requirements for all gambling providers, perhaps a view that says that, if a hotelier who has a hotel licence and a gaming licence has to go through various hoops like fingerprinting and so on, why shouldn't a bookmaker, unless parliament determines otherwise? There will be the capacity for parliament, as we potentially are about to do, to determine otherwise.

But they have the capacity to do that and interpret it in a consistent way if that is their independent view but, equally, as some of us have put the view to the authority, we think there might be the capacity to be able to look at the probity framework that applies to gambling providers and perhaps have a continuum, where at one end of the spectrum one has the Casino and then we move through the spectrum perhaps to the once a year country club meeting where a group of

volunteers come together to run that meeting or, indeed, if it ultimately becomes subject to the Independent Gambling Authority, raffles, small lotteries and trade promotions.

So certainly in the past a number of us have been prepared to look at the probity issues in a different way. I have to say that in recent years the views of some members have changed a bit, and people have wanted to treat the Casino as exactly the same as the hotels, or as other gambling providers. When I first entered the parliament there was an acceptance that, in essence, you went to the Casino to lose money. It was a gambling den, and the restrictions and regulations that applied to the Casino back in the 80s and early 90s certainly were different from the provisions that applied elsewhere. There were varying views at the time, but that was the prevailing view that related to the Casino.

So I think that the framework does allow the independent authority to make judgments of either flavour. It can seek to go down a consistent path, should it determine in its independent way to do so, or it can, in my view, make some judgments about a continuum of probity, if you want to put it that way, ranging from the most stringent and restrictive for the Casino, and perhaps some other providers, through to, at the low end of the spectrum where there might be less risk of corruption, although I guess Fine Cotton was an example of corruption—at a country race meeting was it?

An honourable member interjecting:

The Hon. R.I. LUCAS: Was that Brisbane was it? So, as I said, a country race club meeting, or something like that, that is being held once a year, in my judgment, sensibly should not need the same level of probity and restriction in terms of the governing of it. I am hopeful that the current chair and the members of the soon to be Independent Gambling Authority will listen to the views that I and others have put and will come to some happy, sensible resolution of these particular issues. It is early days for them and I hope members, whilst they might have some concerns about the way this issue of fingerprinting for bookmakers has been approached, will be prepared to at least give them some time to settle into the new gambling environment that is now to prevail and see how they adapt to that new environment.

The Hon. CAROLINE SCHAEFER: I have a question of the mover of this amendment. My understanding with regard to this amendment was that the quite stringent probity requirements would apply to bookmakers who are applying for a new licence, but it would not apply retrospectively to bookmakers who currently hold a licence, and would not apply to members of their immediate family in either case—that is, a bookmaker applying for a new bookmaker's licence or a current licence holding bookmaker. It is my understanding that it would not extend to families in any case. I suppose it is a vain hope but I really think I require only a yes or no answer.

The Hon. A.J. REDFORD: Perhaps if I respond to what the honourable Treasurer said, and that will lead into responding to the Hon. Caroline Schaefer's question. First, on reflection and looking at the clause, bearing in mind we have had this bill only since last Thursday, it seems to me that there does not need to be any amendment to the clause as is, because my understanding, and the Treasurer can correct me if I am wrong, is that when bookmakers first applied for a licence many years ago they did go through a police check, and those records would be on the file, and I understand when you apply to renew you are asked a question: 'Have you been convicted of an offence in the previous 12 months?' So it seems to me that there does not need to be a police check for existing bookmakers, and I do not think that we require in other fields of endeavour annual checks, renewed police checks, on people when they renew their licences. If I am wrong in that understanding, then certainly the Treasurer can correct me. So it seems to me that there does not need to be any amendment to the clause.

Secondly, the answer to the Hon. Caroline Schaefer's question is that the clause applies in all cases, with one exception, and that is that it does not apply to a new applicant's family. So in an act of bastardry, in my view, it would be open for the Gaming Supervisory Authority to require police checks and fingerprints of new applicants' licences if they saw fit. The GSA would then run the risk of getting—

The Hon. R.I. Lucas interjecting:

The Hon. A.J. REDFORD: —another small message from parliament, if I can talk over the top of the Treasurer, and I am sure that when the GSA digests this clause it will become just a fraction more reasonable in dealing with people who have provided a wonderful service in an honest and fair way over many years, that it will deal with the new applicants in an equally appropriate way without engaging in bureaucratic excess for the sake of it—otherwise it runs the risk of parliament intervening again.

The Hon. P. HOLLOWAY: On behalf of the opposition I wish to put on the record our support for this amendment. My colleague, the shadow minister for gaming and also the shadow minister for sport and recreation, which covers racing, Michael Wright, has had discussions with bookmakers in the racing industry on this matter. We certainly fully support the sentiments behind the amendments. It would not be our wish to see unnecessary and quite unwarranted zeal being exercised by the authority in relation to this matter.

Clearly, where bookmakers have already been operating in the past they would have gone through the various checks and so on that are required at the time, and it certainly does seem quite excessive and unnecessary for the sorts of things occurring that the Hon. Angus Redford outlined earlier—the fact of taking fingerprints of members of the family, and so on. It certainly does seem quite unnecessary and unwarranted to us. So we fully support the sentiments that are behind these amendments. If there is some technical problem with any part of the amendment I guess we can look at that later, but certainly as far as the sentiment behind the amendments is concerned the opposition fully supports it.

New clause inserted.

The Hon. NICK XENOPHON: I move:

Insert new section as follows:

Prohibition of interactive betting operations

42A.(1) It is a condition of the major betting operations licence or an on-course totalisator betting licence that the licensee must not conduct interactive betting operations under the licence involving the acceptance of bets from persons within South Australia.

(2) In this section-

'betting facility' means an office, branch or agency established by a person lawfully conducting betting operations at which the public may attend to make bets with that person;

'interactive betting operations' means operations involving betting by persons not present at a betting facility where the betting is by means of internet communications.

This proposed new section effectively prohibits online gambling via the TAB. I acknowledge that there is online gambling in respect of the TAB. Some members of the federal parliament in Canberra distinguish between online gambling on the TAB and online gambling by other means.

I understand that argument, but I do not accept it. For the sake of consistency, I move this amendment, but I indicate to the committee that I will not call for a division on this amendment because I have other amendments in relation to online gambling.

The federal Liberal Party through Senator Richard Alston last month moved for an interactive gambling ban. The points made by Senator Alston were pertinent in terms of the potential impact that online gambling would have on families and the community in general. I commend the federal government for moving that ban. I am disappointed in the position of the federal Labor Party (led by Senator Lundy) in relation to this issue.

I simply move this amendment on the basis that online gambling will cause increased levels of gambling addiction. I acknowledge that there is a distinction between online gambling via the TAB and new forms of online gambling in terms of online poker machines, interactive games and the like in that they are more addictive. As I indicated previously, I will not seek to divide on this clause, but I think the point needs to be made that the TAB now has online gambling. In a sense, it has been snuck in by ministerial fiat without adequate community debate, and there is a concern that it will lead to an increased level of gambling addiction.

Let us bear in mind the point made by the Productivity Commission (table 5.7) that the percentage of gambling losses of problem gamblers from lotteries is about 5.7 per cent but when you look at wagering it is 33 per cent and in terms of poker machines it is 42.3 per cent. There is a risk that these rapid electronic forms of gambling can increase levels of gambling addiction. So, for the sake of consistency I move this amendment as it relates to the TAB.

The Hon. R.I. LUCAS: We have had this debate a dozen times. I agree with the Hon. Mr Xenophon: in my view, it is not productive to have this debate again—I am not sure whether those were his exact words. However, it is the government's view that we should not repeat this debate again. When the Legislative Council select committee finalises its deliberations, we will have to vote one way or another on a number of important provisions, including, first, whether or not the state will seek to impose its own version of a ban over and above the federal version and, secondly, whether or not the state will support some sort of regulatory framework for interactive gambling.

More sensibly, I think that ought to be done as part of a substantive package. As the Hon. Mr Redford has indicated, we have a broad package of measures which is supported by both sides of this debate. This issue and a number of others I think we ought to debate in terms of either the Hon. Mr Xenophon's bills or a substantive bill that might be produced on interactive gambling after the decisions of the Legislative Council select committee.

The Hon. P. HOLLOWAY: I wish to make some comments about this clause before we move on. It requires a conscience vote as the question of interactive gambling consistently has. For the record, I moved a similar amendment to the Authorised Betting Bill when it was first brought before the parliament in December last year. However, my amendment differed a little from the amendment moved by the Hon. Nick Xenophon in the sense that I included what might be called a grandfather clause, which would not have outlawed the whole of the major betting operations licence from conducting interactive betting of a kind that had been in operation before the date of the bill.

Those who can remember that debate will recall that I amended my amendment on the floor to apply from 8 December 2000. In other words, it would have had no retrospective element. Given that the Hon. Nick Xenophon's amendment effectively contains a retrospective element, I will not support it this time in its current form. However, I wish to make one further point in relation to that amendment and the whole subject of interactive gambling.

As we know, there is before the commonwealth parliament at this time an interactive gambling bill. From what one reads about the debate in the Senate, it is very finely poised as to whether the bill will be passed in the form put forward by the government. If it is passed in the form in which it was introduced into the federal parliament (the Senate), it will actually have the effect of doing exactly what the Hon. Nick Xenophon's amendment does: in other words, it will outlaw any form of interactive gambling by residents of this state.

From what I have heard about it, my understanding of the bill is that it would apply to virtually all forms of gambling on the internet, including placing bets, lotteries, or any game played for money or anything else of value. Providing information about gambling activities would not be prohibited, but placing a bet or buying a lottery ticket in any way would be outlawed under the bill in its current form.

The point I make in relation to this is that, at the moment, the state government has the TAB up for sale. There is no question that if you are a potential purchaser of the TAB at this time you would have great interest in what this parliament and the federal parliament might do in terms of limiting interactive gambling. Unquestionably, although at present it comprises a small part of the overall income of the TAB, there is potential for that area to grow. So, if you are a potential purchaser of the TAB, I would have thought you would be very interested in the position of this parliament and, perhaps more importantly, what the federal parliament thinks about this matter.

Obviously, if this commonwealth legislation is passed in its current form and it does prohibit any lodging of bets on the internet, that would rule out many of the activities currently being undertaken by the TAB. I note from press reports in relation to the New South Wales TAB that the bill in its present form would ban its interactive wagering service, NetTAB, which produces sales of approximately $110 million per annum. Incidentally, we expect that the New South Wales TAB may well be a bidder for our TAB, which is currently on the block.

These matters would have no small impact in relation to the sale of the TAB at the moment. That raises with me the question of why on earth would a state government currently have the TAB on the selling block when there is a huge question mark hanging over the activities which will have an impact on the profitability of that organisation? I would imagine that, if many of those companies are bidding on the basis of what they think might be in the federal legislation, they would certainly be bidding a very low price for that asset because they would believe that the return may be reduced if the legislation in the Senate at the moment is passed.

We know from recent press reports that the bids that have been offered for the South Australian TAB were indeed well below what was expected. I refer to an article in the *Advertiser* of 11 May which suggests that the low prices might have been due to the amount of money that had been committed to the racing industry. However, I suggest to this committee that it may very well have something to do with the expectations of those bidders in relation to what might happen with

internet or interactive gambling. I make the comment in passing that it seems almost financially negligent of the government to have the TAB on the sale block at a time when this huge question mark is hanging over its activities, because I would have thought that, clearly, that would affect the price offered for the TAB.

With those comments, I indicate that I will not support the amendment in its current form simply because, in the past, the TAB has undertaken some activities of a type which would be outlawed by this bill, and that would also impact on the viability and price of the TAB. It is purely on those grounds that I oppose the bill. However, I remind members again that I had in fact proposed that there should be no entering into a major betting licence, at least until such time as the committee looking at this matter has completed its report. Unfortunately, that is not the case. The cat is out of the bag and the TAB already has some powers. I am not sure that we can shut the gate, although maybe the federal parliament can. With those comments, I indicate that I will be opposing the amendment.

The Hon. M.J. ELLIOTT: In relation to the introduction of gaming machines, the cat was let out of the bag and we are now busy trying to get it back in. I opposed the introduction of gaming machines and, unfortunately, everything that I feared would happen has happened—and more. Now that they are out there in the community, the major challenge is to try to make them work more fairly than they do at present. Unfortunately, it is a long, slow and tedious process and I believe that this parliament will be revisiting this issue annually for some time to come.

The Hon. P. Holloway interjecting:

The Hon. M.J. ELLIOTT: I am talking about the experience now. There is extremely limited interactive betting happening in South Australia at this stage. I think the cat has stuck a claw out, but it is not out of the bag in relation to interactive betting operations. In my view, we should—

The Hon. P. Holloway: It is in relation to the TAB.

The Hon. M.J. ELLIOTT: Well, depending on the feeling of honourable members participating in this debate, this is quite capable of further amendment. It might be possible for a further amendment to allow some limited exemption in relation to an existing operation, as long as it does not expand it. So, let us not say that we are either for or against this clause; let us examine it.

I would hate to think that the cat does get out of the bag in relation to interactive betting and we have to go through the same sort of process we are going through now with gaming machines to try to rein it in and make it work fairly, so far as that is possible. On that basis, I will support the Hon. Nick Xenophon's amendment. The point that there may be a limited amount of it happening now may be accurate, but I am sure that it is not beyond the wit of this parliament to allow an exemption, even through regulation, to an existing operation in so far as it is not allowed to expand its operation in any way. At the very least, I believe this will give us the sort of breathing space that we are getting after the event with caps on poker machines, and so on.

Let us not make the same sort of mistake again; let us anticipate in advance what the problems will be. If a decision is ultimately made to allow it to occur, let us ensure that it occurs in a far better fashion than the other expansions of gambling that have been allowed in this state so far.

The Hon. CARMEL ZOLLO: As indicated by the Hon. Paul Holloway, this is a conscience issue for the Labor Party. I recognise that strong arguments can be made for both sides of the issue. I have always stated that I do not disagree with gambling as such. Like many members of our community, I believe that not enough assistance is available for those who become addicted to gambling. I will support the Hon. Nick Xenophon's amendment at this time because, as already mentioned, legislation is before the federal parliament as to whether interactive gambling should be banned. A final decision has yet to be made, but I understand it will be some time in June.

An article by Selina Mitchell in today's *Australian* on the IT page sums up very well exactly what is happening. Ms Mitchell, when referring to the Senate committee that analysed the government's legislation to ban interactive gambling, says:

> The Liberal members of the committee supported the government's push to ban interactive gambling, including wagering, by Australians on Australian sites.
>
> It also sanctioned the decision to allow Australians to punt on overseas sites, and for Australian gambling operators to offer services to overseas clients. . . As expected, the Labor Party report did not support the proposed ban. Instead, it pressed the case for regulation of online gambling, saying the most effective way to manage the activity was to develop a national regulatory regime.
>
> Most of the Democrats sided with Labor, saying the bill was unworkable. The Democrat minority supported the government's push for a ban, but proposed amendments to increase its scope.

I guess the issue is still very much up in the air. It will probably depend on the votes of a couple of senators who hold the balance of power in the Senate. The article also goes on to say that apparently a number of senators have said they will try to introduce an amendment to stop Australian operators from supplying services at all, as it is morally indefensible to protect Australians from gambling, but allow operators to profit from overseas gamblers.

At a state level, I am now a member of the Select Committee on Internet and Interactive Home Gambling and Gambling by other means of Telecommunication in South Australia. Before I joined the committee, the majority of members decided, via an interim report, that South Australia should look at a regulatory model for online gambling. The committee is working towards a model to present to parliament. I have asked myself not whether gambling is wrong as such but whether internet or interactive access will assist in turning someone into a problem gambler or exacerbate an existing problem. I guess we are talking about extra temptation or easier availability for some.

For those who are prepared to be honest, internet gambling may well not be a problem for those less privileged in our community because they may not be able to afford to have access to a PC and a modem. However, I am well aware that addictive gambling can and does occur in all socio-economic groups and, because the debate is still proceeding at other levels, and in our own parliament—in our committee in particular—I indicate that I support the Hon. Nick Xenophon's amendment.

Amendment negatived.

The Hon. NICK XENOPHON: I move:

Insert new section as follows:

Prevention of betting by intoxicated person

47A. (1) It is a condition of the major betting operations licence or an on-course totalisator betting licence that the licensee must not permit an intoxicated person to make a bet in person with the licensee.

(2) In any proceedings under this act, if in fact an intoxicated person made a bet in person with a licensee, it will be presumed that the licensee permitted the intoxicated person to do so unless it is proved that the licensee took all reasonable steps to prevent such betting by intoxicated persons.

(3) An agent or employee of a licensee or a police officer may exercise reasonable force to prevent a person from entering a place at which bets may be made in person with the licensee, or to remove a person from such a place, if the person appears to be intoxicated.

This clause relates to bets that are made in person, either at an on-course totalisator or a TAB, whether it is a stand-alone TAB or within a pubTAB. There are similar clauses inserted with respect to the Casino licence, the gaming machine licence. Because of the number of amendments I have moved—and I am conscious of the time constraints—I will not be calling for a division in respect of this proposed new section.

I acknowledge that there is a difference in policy terms between a gaming machine licence, dealing with the issue of intoxication in the context of the Casino, or a gaming machine licence, where alcohol is served as part of that licence, where I believe there is a greater degree of responsibility. We had this debate a number of months ago with respect to the Casino (Miscellaneous) Amendment Bill. I have based this clause on section 163 of the Casino Control Act of New South Wales and have borrowed from the wording in that act. I am not introducing a radical concept. It is something that seems to have worked effectively without being too onerous on licensees. It has operated in a fair manner in the context of the Star City Casino in Sydney. Again, I urge all honourable members to support this proposed new section, but I will not be seeking to divide on it.

The Hon. R.I. LUCAS: The government is not prepared to support this provision at this stage. The government believes that this issue should be covered by the code of practice and should therefore ultimately be resolved through the procedures that have been outlined in this legislation and elsewhere for the Independent Gaming Authority and for the approval or otherwise of various codes of practice. We have had this debate before and I do not intend to repeat the arguments, but we have previously wrestled with the issue of a version of the reverse onus of proof on the licensee, where the licensee is presumed to have committed the offence until he or she can prove that they took all reasonable steps to prevent such betting by an intoxicated person. We have debated before how that might be difficult, particularly for some large hotels or the Casino. I do not intend to repeat the debate.

An honourable member interjecting:

The Hon. R.I. LUCAS: We might, but I do not intend to repeat the debate there, either. The government's position is that we believe that this ought to be covered by the code of practice arrangement.

The Hon. M.J. ELLIOTT: This parliament has had no problems in the past ensuring that intoxicated persons are not served drinks. That is an onus that we have placed on people working in licensed outlets. We have done that in those circumstances because we realise that the serving of drinks to an intoxicated person whose judgment is already impaired is likely to do them or others harm. One would argue that allowing a person who is intoxicated to gamble would involve perhaps not physical risks but certainly significant risks to that person, their family or their employer in some cases, because their judgment is impaired. If we already require people who are licensed to sell liquor to show that sort of judgment, I think it is no greater test for people who are licensed in relation to this legislation—and they are quite onerous licensing requirements overall—than it is for people serving liquor. In those circumstances, I cannot see that this parliament should have any problems with supporting this amendment.

The Hon. P. HOLLOWAY: I think that few, if any, members of the committee would not support in principle doing something about intoxicated persons gambling. The particular clause we have here specifically relates to the TAB, but later we will consider a number of similar clauses related to the Gaming Act—and I am not sure about lotteries and whether the Hon. Nick Xenophon intends to prevent intoxicated persons from buying lottery tickets, but we will come to that. Certainly, a number of clauses in relation to smoking, interactive gambling and intoxication will reappear, so as far as I am concerned we can use these as test clauses and do not need to have the debate over and over again. Whereas we would all agree that something needs to be done, the question before us is what is the best method of doing it. We have two options: one is to prescribe it in legislation, and the other approach is to put it into the codes.

Part of the bill we will be dealing with shortly will enable the Independent Gambling Authority to develop codes of practice, and these codes of practice will have the force of law. It is our view, like that of the government, that a better way of proceeding with this would be to develop the sort of detail in the code that we need through the IGA and impose it in that way, rather than putting it into legislation. I think we would all understand that policing these principles will be quite difficult. It is not always easy to identify who is intoxicated and who is not.

It is my understanding that already under the gaming code of practice that covers gaming machines—that is, the voluntary code that has been adopted through most of the hotel and club industry—people who are intoxicated may be lawfully removed. If that then becomes part of the code, that code will become law under the new provisions we will be dealing with shortly. In our view that would be a better way of dealing with it—by being reworked by the IGA into that suitable format and providing the force of law through that means rather than directly dumping it into legislation in this way, where there may be some problems with it. Therefore, we oppose this amendment, but we support the development of a suitable code of practice by the new IGA that would deal with this problem, and hopefully deal with it successfully.

The Hon. T. CROTHERS: I wish to indicate some practical problems I have with the amendment. I speak now as the only member in this place, apart from the Attorney-General, who has had to deal with a similar amendment with respect to intoxicated persons on licensed premises. It bears repeating again and again and, thanks to the good offices of the Attorney at one stage we got an amendment which at least gives the bar staff a defence which they did not have before in respect of serving someone under-age as well as intoxicated. The example I cited, and it is obviously the same at the Casino, is that you can get someone who is sober to go in and gamble for you whereas, at the Richmond Hotel, a 17 year old university student came in and sat down at a table around the corner from the bar. The barman, called Harold Chisholm, could not see him. The student's mate, who was 21, got a jug of beer and two glasses. Our poor old barman was pinged for selling to someone who was under-age. That was on a Friday, and those of you who went to Adelaide University would remember what the Richmond Hotel was like with university students before there was the refectory bar. Some of you would remember that, who have more experience than some of the barking dogs that we have to listen to from time to

time, or who would be even less knowledgeable than a barking dog.

I have some problems with that, because who will police it? If it is not policed and the person is removed by the inspectorate, who will be fined for not policing it? It can be very difficult in licensed premises with respect to controlling gambling, just as it can be in licensed premises with respect to controlling under-aged drinking or intoxication. That is the problem I have. If an amendment can be arrived at which will assuage my fevered brow with respect to that problem, I would not be disinclined to support it, but at the moment I have problems with it. Again I say to you all that this should be taken in the context of it being 12 months at the very most before an election, and all the major parties and some of the Independents are rushing for their place in the electoral sun instead of giving this bill the proper consideration that it so rightly and richly deserves. So, I have problems with this.

The Hon. T.G. CAMERON: Until the Hon. Trevor Crothers made his contribution, I was leaning in support of the Hon. Nick Xenophon's amendment, but he has prompted me to have a closer look at the clause, and I think he makes a couple of relevant points. I would be interested to know whether provisions like this exist in any other state in Australia. I would be particularly interested to hear from the Hon. Nick Xenophon in relation to subclause (3), which provides that an agent or employee of a licensee or a police officer may exercise reasonable force to prevent a person from entering a place at which bets can be made in person with a licensee. I am concerned about that because, given some of the activities of some of the agents or employees of licensed or unlicensed establishments, one can only wonder at what they consider to be the exercise of reasonable force to prevent a person from entering a place.

It has been brought to my attention—and I would like the Attorney to take note of this—that at some nightclubs and hotels these employees are asking for and taking people's IDs. The practice of a lot of these places is that when they hand them the ID the bouncer says, 'Through you go', and they do not look at it or even take it. However, some of the places have got into the habit of taking the ID, looking at it and, if the person is under age, keeping it.

I had a case where they were going to keep a person's driver's licence. Another practice they have is that they will keep whatever ID is put forward. One lad put his Bankcard and driver's licence forward; they kept both of them and he had to wait an hour before they would return them. I know that that is not particularly related to this clause, but I would have thought that they were committing some kind of offence. That is the advice I have given these people: that they should notify the police. But what do they do? The bouncer thinks that he has these young lads on toast—

The Hon. K.T. Griffin interjecting:

The Hon. T.G. CAMERON: But the question is: can they legally hold your driver's licence and not give it back?

The Hon. K.T. Griffin interjecting:

The Hon. T.G. CAMERON: Yes, but the question is: after having shown them your licence, do these people have the right to withhold it and not give it back to you? I would have thought that they do not. These are some of the problems that can occur. In his contribution the Hon. Trevor Crothers pointed out the problems in relation to who has the licence, who might be taking the action or what have you. This could be a situation where intoxicated people are unable to enter an establishment that does not even serve liquor but they happen to be entering a place at which bets may be made—

The Hon. K.T. Griffin: Or they may just want to sit down in the auditorium.

The Hon. T.G. CAMERON: Think about it. I am not happy about it. The Hon. Trevor Crothers made me have a good look at it, and I am looking at proposed new subsection (3), which provides:

> An agent or employee of a licensee or a police officer may exercise reasonable force to prevent a person from entering a place a which bets may be made—

and then it says—

> in person with the licensee.

Well, that might cover it. I am concerned about the implementation, the interpretation and the application of it.

The Hon. NICK XENOPHON: In response to the Hon. Terry Cameron's concerns, in relation to proposed new subsection (3) my understanding is that there is a similar provision in the Licensing Act that relates to the removal of intoxicated persons from premises. That subsection is modelled on existing legislation in relation to licensed premises. The Hon. Terry Cameron is quite right in saying that there is a distinction between a TAB outlet which does not serve alcohol and, say, a pub that does serve alcohol or the Casino. So I think that there is a difference there and that is why I said I did not want to divide on it. I think there is a principle in place.

In relation to the other question asked by the Hon. Terry Cameron, this section has been modelled on the Casino Control Act of New South Wales, and the language used is very much modelled on that. I have indicated that I will not be dividing on the new section; I am more concerned about the clause in relation to the Casino and the Gaming Machines Act. I concede that the policy arguments are not as strong in respect of TAB outlets that do not serve alcohol—that is, not pub TABs—as distinct from other licensed premises that do.

Amendment negatived.

[Sitting suspended from 6.11 to 7.45 p.m.]

The Hon. NICK XENOPHON: I move:

> Insert proposed new section as follows:
>
> Smoking prohibited at office or branch of major betting operations licensee
>
> 47B.(1) It is a condition of the major betting operations licence that the licensee must ensure that smoking of tobacco products does not occur in an office or branch of the licensee at which betting is conducted.
>
> (2) A person must not smoke in an office or branch of the holder of the major betting operations licence at which betting is conducted.
>
> Maximum penalty: $2 000
>
> Expiation fee: $300.
>
> (3) In this section—
>
> 'smoking' means smoking, holding or otherwise having control over an ignited tobacco product;
>
> 'tobacco product' has the same meaning as in the Tobacco Products Regulation Act 1977.

I advise the committee that there are two other clauses similar to this that relate to prohibiting smoking at certain venues. I do not propose to divide in relation to this measure because I want to spare members from having to divide on all clauses, but I propose to divide on the clause that relates to gaming venues. However, the arguments are very similar in many respects. It is worth outlining—

The Hon. Carolyn Pickles: It is a test clause.

The Hon. NICK XENOPHON: It is a test clause, but I do not propose to divide on it. I propose to divide on the

gaming machines clause, but this happens to be the first measure that relates to smoking. A debate on the issue of smoking in gaming rooms, the Casino and at premises of major betting operations licence has taken place in the other chamber, and we all know that was defeated quite resoundingly by members of the government and the opposition. This is an important public health issue and it cannot be ignored. It has been brought into sharp focus as a result of the decision of the New South Wales Supreme Court just this month on 2 May, when that court decided in favour of Mrs Marlene Sharp, a bar attendant in Port Kembla who contracted laryngeal cancer as a result of passive smoking.

The arguments relate to public places, particularly gaming venues, the Casino and also the TABs within pubs, and we know that stand-alone TAB outlets have been smoke free for a number of years. This measure relates to TAB outlets in pubs, and we know that something like 400 or so pub TABs exist in this state. The arguments for smoke-free premises have been put eloquently by Professor Simon Chapman, Professor of Public Health at the University of Sydney and Chairman of Action on Smoking and Health. Action on Smoking and Health is an organisation that the AHA's Mr John Lewis has described as having extreme views or as being an extremist organisation. I understand that the organisation is funded by the Royal College of Physicians, the Heart Foundation, the Asthma Foundation and other organisations that are concerned about public health.

An article by Professor Chapman in the *Sydney Morning Herald* of 11 May headed 'Let's give smokers all the space they deserve', encapsulated the arguments very well for a ban on smoking. Professor Chapman begins by saying:

> The recent jury verdict awarding Port Kembla bar worker Marlene Sharp $466 000 for her passive smoking-caused throat cancer will enter the history of contemporary public health. . . Romanticised as the last bastions for the standard-bearers of freedom, the more sordid truth has been that bars are hothouse incubators of respiratory disease and cancer. While patrons plainly choose whether or not to baste their lungs with others' smoke, the argument that bar staff have the same choice is redolent of Dickensian mine owners foaming that they didn't force 10-year olds down mines; they could always get another job.
>
> Just as factory owners today cannot say to their workers, 'The noise, dust, asbestos or chemicals in here will probably make you ill—but so long as we have told you our hands are clean,' bar owners should know that the same line will not wash with courts. Imagine a building owner saying, 'We've removed most of the flaky asbestos from the ceiling, but not all of it.' Yet despite the verdict, Clubs NSW is still advising its members in writing about options for reducing risk, such as 50 per cent of bar areas should be smoke free. They don't get it. It is like having a non-urinating section in a swimming pool.

Professor Chapman goes on to say:

> Thankfully, many smokers are only too conscious that their freedom stops at other people's noses. Here the role of the Australian Hotels Association in opposing smoking bans is particularly interesting. Its own polling last year found that the leading complaint—

Members interjecting:

The CHAIRMAN: Order! There are four members standing but only one has the call. The Hon. Mr Xenophon.

The Hon. NICK XENOPHON: To continue:

> The role of the Australian Hotels Association, in opposing smoking bans, is particularly interesting. Its own polling last year found that the leading complaint of pub attenders was tobacco smoke (25 per cent). There was daylight between the next concern, too many pokies, with 16 per cent.
>
> Cornered on ABC Radio's *PM*, the AHA publicly dumped on its own study, saying it included many infrequent pub patrons. So why did it bother interviewing them? And a Philip Morris study in Victoria also found a large majority of the community said a pub-and-club smoking ban would either make no difference or would increase their attendance. As the Americans say: do the math.

The issue of smoking in public places has been dealt with by the Hon. Dr Michael Armitage who, in an act of great political courage, moved to make dining areas smoke free in this state a number of years ago. The restaurants predicted it would be a disaster for their industry. In fact, the opposite has occurred. I think it will go down as Dr Armitage's most significant contribution to this parliament. In terms of public health he ought to be congratulated. He led the way in many respects in terms of other states, and the principles in Dr Armitage's bill—

The Hon. T. Crothers interjecting:

The Hon. NICK XENOPHON: The Hon. Trevor Crothers says, 'Hitler led the way on a few things.' That really is quite offensive. That really is not the point, and, in terms of public health, we have known since 1991, when the Federal Court, in a case against the Tobacco Institute of Australia, the Australian Federation of Consumer Organisations against the Tobacco Institute of Australia, Justice Morling found that tobacco passive smoking was a significant health risk, it was a cause of cancer, of asthma, of respiratory disease. This particular amendment seeks to enforce the rights of non-smokers, and particularly the workers in the industry, to work in a safe environment, rather than be subjected to passive smoke, and particularly since the decision of the New South Wales Supreme Court in the Marlene Sharp decision this issue is even more imperative. I urge honourable members to support this. I have indicated that I propose to divide in relation to the smoking ban in gaming areas, in order to save time, but, obviously, as this is the first occasion this has been dealt with, it will provide an opportunity for some debate on this issue.

The Hon. CAROLYN PICKLES: I have a great deal of sympathy for this particular amendment as I am a vehement non-smoker myself and have always been concerned about the effects of smoking in working areas. However, I think the methodology of trying to encapsulate your beliefs in the narrow confines of this piece of legislation is somewhat misplaced. I think that we have to take the debate in the much wider context of looking at hotels, looking at the whole industry, rather than just within the confines of this bill. I would like to read into the *Hansard* a letter from the Secretary of the Australian Liquor, Hospitality & Miscellaneous Workers Union, Mr Mark Butler, who wrote to the Premier on 3 May on this issue. I might say that the Miscellaneous Workers Union has been working over a long period of time on this issue. His letter states:

> Dear Premier,
>
> Re: Passive Smoking: Hospitality Industry
>
> You are obviously aware of the public and parliamentary debates spawned recently by the New South Wales RSL decision and the amendments proposed by Peter Lewis to the government's gambling amendment bill. The LHMU represents many thousands of hospitality workers in South Australia. My union's position in this debate has been clear:
>
> 1. We recognise passive smoking as a grave health and safety risk to hospitality workers which simply must be addressed.
>
> 2. We recognise the industry is a major employer of many thousands of South Australians and an important part of the South Australian economy.
>
> 3. We take the view that any changes (whether legislative or voluntary) must be well debated, well examined and have input from all stakeholders in the industry and other relevant community groups.
>
> You may have noticed in the media that I called yesterday for urgent round table discussions incorporating all of these groups. I am of the view that, given the importance of this industry to the state,

those round table discussions should be convened by yourself or a nominee.

I therefore ask you formally to convene a meeting of all relevant groups to begin discussing ways of ensuring the occupational health and safety of hospitality workers and maintaining the ongoing dynamism and viability of the state's hospitality industry. Those groups should, in my view, include the union, the AHA, the Clubs Association, the Opposition, WorkCover and representatives from the AMA and QUIT.

The Premier responded to this letter on—I can't quite read the date, sometime this month, and addressing his letter to Mr Mark Butler he stated:

Thank you for your recent letter concerning your union's position on passive smoking in the hospitality industry. As you may be aware, in 1998 the Minister for Human Services, the Hon. Dean Brown MP, formed an Anti Tobacco Ministerial Advisory Taskforce, chaired by Ms Diana Hill, that has the goal of reducing the ill effects of tobacco smoking over a five year period. A sub-committee of the taskforce chaired my Ms Hill has been formed to look at the impact of environmental tobacco smoke in the hospitality industry and is concerning itself with ensuring the occupational health and safety of hospitality workers, while taking into account the viability of the hospitality industry in South Australia. At the same time, the Department of Human Services is preparing amendments to the Tobacco Products Regulations Act 1997 to develop a strategic approach to the expansion of the number of smoke-free enclosed public places in South Australia.

The sub-committee will be consulting with all key groups and stakeholders and the Minister for Human Services has advised that the Australian Liquor, Hospitality and Miscellaneous Workers Union will be included in this process.

So, clearly, there is a great willingness on the part of the union to be involved in these discussions. They were not involved in the discussions about this whole freeze, of course, so it would be nice for them to be involved in discussions which concern their particular industry. I have had private discussions with Mr Mark Butler, I am a member of this union, and I certainly want to hold them to their promise to look at this issue very urgently, because I believe, as the Hon. Mr Xenophon has indicated, the decision regarding Marlene Sharp with throat cancer has clearly put it on the public agenda and we simply have to deal with it.

I must say that I was somewhat dismayed by the comment made by Mr Lewis from the AHA in relation to passive smoking. I think that the evidence is very well documented internationally that passive smoking does affect people, and I perhaps might urge Mr Lewis to read the international evidence on this issue. I, too, applaud the way in which the member for Adelaide, Hon. Michael Armitage, has created smoke-free areas in restaurants. People who think that this is going to end life on earth as we know it and cause the industry to halt should perhaps go and look at New York, which has a clean air act, San Francisco also, where even in nightclubs you are allowed to smoke only in specific areas, which have extraordinary vacuum extractor fans so that the workers are protected. So this is in the land of free enterprise, the United States of America, where they have managed to pass this kind of legislation.

However, I think it has to be looked at in the broad perspective of all areas of the hospitality industry. I do not think that this is the appropriate mechanism to deal with it. I think that it should be dealt with expeditiously, and I will certainly be trying to push it forward. I can give the honourable member my assurance on that, and with my contacts with this particular union I will certainly be wanting to see some very expeditious result, because I think this is not going to be the only case. I think, clearly, we are going to see more cases of this nature. The hospitality industry simply has to address these issues. While I have a sympathy for this amendment, I do not believe that this is the particular piece of legislation where we deal with this, and certainly on this occasion I will be opposing this amendment and urging that we, the government, opposition and minor parties, look at this particular issue and move forward expeditiously in the same way that we have dealt with the hospitality industry in restaurants.

It is a bit of a shock when you go to some of the other states and see that they do not have the same situation as the one which we have in South Australia. I think the GST has probably affected the restaurant business more adversely than the lack of smoking. I agree with the comments of the honourable member, but unfortunately on this occasion I think it would be wrong to try to insert it in this piece of legislation.

The CHAIRMAN: Before calling the minister, I would like to recognise in the gallery a visiting delegation of members of the West Java Parliament including the Vice-Chairman of the West Java Parliament and the Vice-Governor of West Java. On behalf of all members, I welcome you to the Legislative Council. I hope that your stay in South Australia is productive.

The Hon. DIANA LAIDLAW: I do not intend to get involved in the debate about passive smoking, but I am pleased that this amendment has come forward. When the former Minister for Health, Dr Michael Armitage, advanced non-smoking in restaurants, I supported that initiative. I admit as a smoker that it gets pretty cold outside on some occasions, but it is better for the rest and I am happy to comply. It is almost impossible to remember when we were able to smoke in this chamber behind the President's chair or in the party room. Those practices are long gone. I fully support non-smoking in restaurants, and I am inclined to support this initiative also.

I think that, in terms of breaking the cycle when one is talking about gaming addiction, that is an important consideration. I say that as one who strongly supported the introduction of poker machines in this state and would vote the same way again if I had the opportunity, even in the light of the experiences that I have met with since poker machines were introduced into this state.

The Hon. M.J. ELLIOTT: I have no problems with what the Hon. Mr Xenophon wants to achieve with this amendment, but I agree with some members who have spoken in this debate that I do not think this is the place where it should be achieved. I also supported legislation to ban smoking in restaurants. I think that has been an outstanding success despite all the doom and gloom that was predicted beforehand. In fact, we were told that restrictions within hotels would mark the end of hotels. Clearly, that was not the case either. I do not think that it is any accident that in South Australia we are seeing a significant decline in the smoking rate, faster than in any other state, as I understand it. We are achieving some real success in this area, but it seems to me that a gambling regulation bill is not quite the place in which one would seek to regulate smoking. So, at this stage it is not my intention to support this amendment.

The Hon. R.I. LUCAS: For reasons similar to those put by the Leader of the Opposition and the Leader of the Australian Democrats, the government does not support this provision at this stage. As members have indicated, there is probably a fair degree of support amongst a number of members of parliament of all political persuasions to head in this direction. However, I think that, as has been explained by the Leader of the Opposition, and certainly as was

discussed at length in the House of Assembly, if this issue is to be wrestled with it should not be as an add-on to the debate about a particular package in the gambling regulation bill. It is not just the issue of gaming or gambling establishments in which this public health issue will or will not need to be addressed; there are many other enclosed buildings and workplaces where similar issues might need to be canvassed whether or not the parliament ultimately is to tackle this issue.

I agree with other members about the significant advances that have been made in recent years in terms of the legislation introduced by the Hon. Michael Armitage. I pay public credit to Michael: he fought the good fight for a number of years and ultimately convinced his party and the government to take action. He can certainly look back on that particular policy decision as one of the successes of his time in the parliament, one for which many members of the community will long remember and thank him.

In relation to the detail of the proposed course of action from unions and others that the Leader of the Opposition outlined, I think there is agreement that these issues will need to be canvassed in discussions between worker representatives or unions, the industries involved (not just the gaming or gambling industry), the government and other interested parties and, obviously, the medical profession in terms of its views on this important issue.

For those reasons, at this stage, the government is not prepared to support this provision in this legislation. However, if I could offer a personal view, from the discussions that I have had with the industry and others, putting aside the question of time, I do not know when, but there is a certain inevitability as to the direction in which public policy is heading nationally and, in particular, in South Australia. Industry and industry leaders will need to bear in mind that, whilst this provision has not been successful on this occasion, I suspect—I do not think anyone can indicate when—that, ultimately, there will be support in both Houses of Parliament. I think the support is in the community generally, but I think there is a certain inevitability about the direction of public policy, and industry leaders, union leaders and parliamentarians will need to acknowledge that sooner rather than later.

Amendment negatived.

New clause 6C.

The Hon. NICK XENOPHON: I move:

Insert new clause as follows:

6C. Section 48 of the principal act is amended by inserting after its present contents (now to be designated as subsection (1)) the following subsection:

(2) The code of practice on advertising must require the telephone number of a gambling problem helpline to be included in all advertisements (and, in the case of television advertising, the code must require the number to appear at the end of the advertisement for a period of at least 15 per cent of the total running time of the advertisement).

There are similar provisions relating to other gambling codes. It is acknowledged that it is an advancement that the Independent Gambling Authority will have powers with respect to codes of practice. I think it is important that in relation to an advertising code of practice we ought to be prescriptive as a parliament in terms of the role of this parliament in setting the ground rules with respect to advertising. My preferred course is not to have any advertising at all of gambling products, particularly poker machines, given a similar approach in some respects to tobacco advertising, but I acknowledge that I do not have the numbers for that.

I have modelled this amendment on the Gaming Machine Control Advertising Regulations introduced earlier this year in Victoria which prescribe that there must be warning signs on gambling advertisements, that a telephone number for a gambling problem helpline must be included in all advertisements and that, in the case of television advertising, at least 15 per cent of the total running time of the advertisements must include references to an appropriate warning or a place where someone can obtain assistance. So, I have modelled it on the Victorian government's model, the Gaming Machine Control Advertising Regulations, and I would have thought that, as a consequence, that would be very attractive to members on the other side of the chamber in terms of amendments that were moved by their Victorian Labor colleagues, but I will not hold my breath. I indicate that I do propose to divide on one of these clauses if it looks as if the numbers are not there, but I do not propose to divide on all of them. I will treat it as a test clause.

The Hon. R.I. LUCAS: As with a number of the provisions, it is the government's intention in opposing this clause to indicate that we believe that this is one of the important issues that ought to be considered by the Independent Gambling Authority for inclusion in a code of practice. It is the government's view that clearly there is some argument for some restrictions on gambling in terms of advertising. Whether or not the Victorian parliament, in all its infinite wisdom, has it right or not in terms of South Australian circumstances I guess is something that the Independent Gambling Authority should first take advice on and then, secondly, we in the parliament will have an opportunity to express a view one way or another.

I understand that the provisions and regulations in Victoria are some six or seven pages long, and I think that, before we sign up to the Victorian model as being the best and most appropriate model to follow, all members ought to be well informed as to exactly what those provisions are and, indeed, what the implications might be. I would just proffer a personal view that, in relation to a television advertisement, if you think about it, if 15 per cent is the time to have the telephone number sitting at the end of the message for a 60 second ad, which is not uncommon, you will be looking at a number for 10 seconds—

The Hon. Nick Xenophon: Or a warning.

The Hon. R.I. LUCAS: Well, a warning or a phone number for 10 seconds of a 60 second ad.

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: Yes, it is. The authorisation of political ads is for half a second, or one second and you get a prize for whoever can say it the quickest! Clearly, I would have thought that the best scenario in relation to advising about problem gambling or providing a warning is somewhere in between the time it takes to read the authorisation statement at the end of a political ad and a 10 second static commercial or flashing light or something. I retain an open mind, but I start off with the 15 per cent figure and remain to be convinced that one needs to have a requirement as stringent as a 10 second insert into a 60 second commercial on problem gambling. But, in our view, that will be something for the Independent Gambling Authority to consider, consult with those groups working with problem gamblers, consult with the industry and with other experts in the area of advertising and advertising practice and then, ultimately, for members of parliament to form a view. At this stage, the government's view is consistent with a number of others not to support this amendment.

The Hon. P. HOLLOWAY: From the opposition's point of view, we do not support the amendment for reasons similar to those given by the Treasurer. We believe that it is really up to the new Independent Gambling Authority to determine its code of practice and, if it comes up with some recommendations in the area of advertising, certainly we would have no problem with that. But, in the view of the opposition, this matter would be better devised by the new authority rather than by us, if this amendment is carried, basically dictating to it in a fairly prescriptive way exactly what those advertisements should require.

The Hon. M.J. ELLIOTT: As I understand it, once a code of practice is devised it will be promulgated through regulations. That enables parliament to say yes or no, but one of the problems with regulations is that the parliament is not in a position to amend them. It seems to me that if you feel something should have been there all you can do is reject it, even though you might agree with most of what is there. That is one of the unsatisfactory aspects of using regulation. It seems to me that, if you feel certain things must be addressed within the code of practice, you should be making them quite plain within this legislation. We might have arguments about 15 per cent or whatever else and the appropriate lengths, and it might have been more appropriate to use language more along the lines of the code of practice requiring that a telephone number of a problem gambling help line be prominently included within all advertising. That probably would have been sufficient, and the actual percentage of running time, etc.—if that is the way it was decided to go—is something that the developers of the code could have addressed.

I am attracted to the notion that, if there is to be advertising in relation to gambling, one of the things that should happen is that advice is provided as to where people may seek assistance. I will support this amendment on the basis that I support the underlying principle contained within it. If a majority of members of this place had been attracted the same way, I am sure we could have come up with wording that would have addressed the apparent problems that people raised. Some people are not offering amendments when they are complaining but are simply opposed without saying so. At this stage I am indicating preparedness to support the amendment as it stands, but I would be quite happy to support a further amendment if it made plain that a code of practice required a prominent display of a telephone number for a gambling help line.

New clause negatived.

Clause 7 passed.

New clause 7B.

The Hon. NICK XENOPHON: I move:

After clause 7—Insert new clause as follows:

Amendment of s.50—Major betting operations licensee may bar excessive gamblers

7B. Section 50 of the principal act is amended by striking out subsection (8) and substituting the following subsection:

(8) It is a condition of the major betting operations licence that the licensee must not suffer or permit a person to whom an order under this section applies to contravene the order.

This proposed new clause gives increased powers to the major betting operations licensees to bar and it strengthens the provisions. My concern is that current barring provisions are not as effective as they ought to be. This seeks to remedy that. The issue of barring with respect to TABs is something that has not really been dealt with previously. I urge members at least to consider this as a measure to limit the harm caused by problem gambling and also to give support to the principle that barring can be an effective mechanism in some cases to prevent further damage to the problem gambler or their family.

The Hon. R.I. LUCAS: The government does not support the amendment at this stage. Certainly, I am advised that it supports further active consideration of this issue. A number of concerns have been raised by the industry in particular but also some others about this provision. As I understand it, the industry has raised some general issues about the whole barring process in South Australia and believes that a review of the IGA of the whole barring process ought to be undertaken. The industry also has a concern at this stage which is shared by the government, subject to the IGA looking at it, about the issue of third party barrings. Within its own forums the government had an interesting debate about the possibility of third party barrings and how potential issues might arise in relation to actions involving marriages or partnerships under stress and who would have the power to in essence initiate this sort of third party barring action, under what conditions and how these provisions would ultimately be—policed is too strong a word—managed.

Certainly, the intention is not to kill off the consideration of the issue of the power to bar or the issue of third party barring but, if this parliament and ultimately we as a community want to support third party barring and indeed the continued use of the barring process, the view was that there needed to be much closer consideration of the guidelines that would apply, without being silly about it, at least with a good number of reasonably understood situations that are likely to occur within families and how this provision might or might not be able to be activated by someone using the third party barring provision in particular. The industry has also raised the issue of how they can see the barring perhaps being better able to be managed at a regional level. I look at my home town of Mount Gambier: if someone is barred from the Globe Hotel or whatever—

The Hon. T. Crothers interjecting:

The Hon. R.I. LUCAS: They might go across the border, but there are enough other pubs in Mount Gambier. They might go to Millicent and have a drink with Terry. At least in Mount Gambier or in a regional community, if you are barred as a problem gambler from one hotel, there is a reasonable chance that the licensees and others in the hotel up the road or around the corner will be aware that you have been barred. The whole notion of statewide barring raises some important issues, particularly if you are to have a penalty on an employee of a gaming establishment who might happen to provide a service to somebody who is a barred problem gambler. If you have a statewide barring arrangement and one is circulating X hundred photos around the state indicating who are barred problem gamblers, it raises interesting issues in terms of the liability.

The Hon. T. Crothers: Are they barred from the TAB and the race track?

The Hon. R.I. LUCAS: It raises all those interesting questions that the Hon. Mr Crothers has raised. Whilst it raises those questions, they would become more important to employees of gaming establishments if liability for providing a gambling service were to rest on the employee who, through no fault of their own, was unable to recognise somebody who did not come from the local community and happened to be a problem gambler.

The Hon. T. Crothers interjecting:

The Hon. R.I. LUCAS: Even some of us cannot recognise ourselves from our mug shot files or driver's licence ID.

The Hon. J.S.L. Dawkins: Particularly with a 10 year licence.

The Hon. R.I. LUCAS: Particularly with a 10 year licence, as the Hon. Mr Dawkins indicates. From the government's point of view, without wanting to extend the debate, there are a significant number of practical issues in relation to this. The theory of the third party barring is certainly one that most members would want to see explored to determine whether it can be made to work, but we have a process now with the Independent Gaming Authority established to look at this and determine whether it can provide us with advice as a parliament on a process with appropriate guidelines which would also have appropriate protections for employees and workers within gaming establishments so that in the end they do not unnecessarily or unfairly have to accept liabilities in this area.

The Hon. P. HOLLOWAY: The opposition, after some considerable discussion on this matter—notwithstanding that we have some sympathy for the principle of barring, and indeed the current act already allows people to voluntarily bar themselves from gambling venues—has decided not to support the proposed new clause because of some concerns that we have in relation to third party barring. The Treasurer has already indicated that some concern was expressed as to whether the commissioner would be the appropriate person to judge the barring.

Other acts look at the level of intervention; for example, the Guardianship Board. If we were to intervene to that level in somebody's financial affairs and say that they cannot take this action and compare that with the action that is taken by the Guardianship Board, it is a fairly stringent test as to who might be granted authority in that sense.

We have some concerns about the third party barring as it is expressed here. In fairness to the Hon. Nick Xenophon we should say that we made our decision based on an earlier draft of the new section. I accept that he has amended it in its current form to address some of the issues, but unfortunately we did not have the opportunity to look at that at the time.

As the Treasurer has pointed out, there are a number of practical problems in relation to policing the barring. If, for example, literally hundreds of people were to be barred throughout the state it would be difficult for any hotel or people working in hotels to enforce the barring of such a large number of people. There are some difficulties with that as well.

I think we are still under the Authorised Betting Operations Act, so we are really talking about the TAB. If we look at the barring in relation to the Gaming Act, as I understand it it certainly is useful if somebody wants to bar themselves from a local hotel or several local hotels in their area. I guess the people who operate those hotels are likely to recognise that person and it would be an effective way of dealing with the problem, but if you are doing it on a much broader state basis there are difficulties with that.

For those reasons, although we have some sympathy with the idea of barring and improving the provisions, we as an opposition decided that we would not support the new clause on this occasion because we believe that there are some problems with the third party barring as it currently exists.

The Hon. T. CROTHERS: I think the last speaker had no problems opposing this at all. This is an amendment plucked from the abyss of ignorance by the person who cobbled it together. I have no doubt whatsoever about that. Let me tell you what I am talking about, Mr Chairman. There are over 600 hotels in this state, there are over 1 300 clubs, there are 150 motels and they are all licensed premises, all of which can or have applied to be licensed to have poker machines.

To adhere to what the Hon. Mr Xenophon and the other zealots want you would have to send all the staff, and there are hundreds of them, to New Scotland Yard to get trained if there is to be any success. I wonder where the people who draft these amendments come from. Have they been locked up for the past 20 years of their lives? Have they been cloistered in an ivory tower? Do they understand the pragmatic practicalities of day-to-day living? I doubt very much whether they do.

The more I see of some of these amendments the more I begin to wonder about the sanity of it all. I think that, if we keep going this way, far from debating this bill here in the halls of parliament we could consider taking two or three days at Glenside and see whether we can get more sense in the debate on this particular matter. I oppose it, resolutely.

The CHAIRMAN: I point out to the honourable member that the people who do the drafting do it on instruction from a member. It is not the drafters. It is unfair to reflect on them.

The Hon. T. Crothers: I am not having a go at the Crown.

The CHAIRMAN: Well, you did.

New clause negatived.

New clause 7C.

The Hon. NICK XENOPHON: I move:

After clause 7—Insert new clause as follows:

Insertion of s.50A

7C. The following section is inserted after section 50 of the principal act:

Commissioner's power to bar 50A.

(1) The commissioner may, by written order, bar a person (the excluded person) from one or more of the following:

(a) entering or remaining in a specified office or branch staffed and managed by the holder of the major betting operations licence;

(b) making bets at a specified agency of the holder of the major betting operations licence;

(c) making bets by telephone or other electronic means not requiring attendance at an office, branch or agency of the holder of the major betting operations licence.

(2) The commissioner may make an order under this section—

(a) on the application of the person against whom the order is to be made; or

(b) on the application of a dependant or other person who appears to have a legitimate interest in the welfare of the person against whom the order is to be made; or

(c) on the commissioner's own initiative.

(3) The order must—

(a) state the grounds on which the order is made; and

(b) set out the rights of the excluded person to have the order reviewed; and

(c) must be given to the excluded person personally or by sending it by post addressed to the person at the last known postal address.

(4) An order may be made under this section on any reasonable ground and, in particular, on the ground that the excluded person is placing his or her own welfare, or the welfare of dependants, at risk through gambling.

(5) The commissioner must give written notice of an order under this section, and of any variation or revocation of the order, to the holder of the major betting operations licence.

(6) An excluded person who contravenes an order under this section is guilty of an offence.

Maximum penalty: $2 500.

(7) If an authorised person (within the meaning of section 50) suspects on reasonable grounds that a person who is in, or who is entering or about to enter, an office or branch is barred from the office or branch by order under this section, the authorised person may require the person to leave the office or branch.

(8) If a person refuses or fails to comply with a requirement under subsection (7), an authorised person may remove the person from the office or branch, using only such force as is reasonably necessary for the purpose.

(9) The commissioner may at any time revoke an order under this section.

(10) The commissioner must retain copies of all orders made under this section.

(11) It is a condition of the major betting operations licence that the licensee must not suffer or permit a person to whom an order under this section applies to contravene the order.

I note that the Treasurer, the Hon. Paul Holloway and the Hon. Trevor Crothers have all made a contribution in relation to this proposed new section which relates to third party barring.

The position at the moment is that problem gamblers can be barred from a venue but generally at the instigation of a licensee. This proposed new section seeks to give third parties the right to bar and in particular those who have a legitimate interest in the welfare of the person, a dependant of the person, where there is concern that the problem gambler puts the welfare of those other people at risk.

It puts a procedure in place. Obviously with the increased level of accessibility to gambling venues it is more difficult, but at least it is an attempt to deal with the whole issue of barring and to give rights to those who do not have the same level of rights in existing legislation to be able to bar a person. It allows the commissioner to make inquiries, as it is now, in relation to barring from licensed premises generally. That is a power that venues have. It is an issue that the commissioner must adjudicate on in terms of, for instance, disorderly behaviour in venues. It follows that theme in a sense. I note the position of the government and the opposition to oppose it. I do not propose to divide in relation to this new section. It does relate to the authorised betting legislation and in particular TABs or pubTABs. It seems that the die has been cast in terms of the position of the government and the opposition.

New clause negatived.

New clause 7A.

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

After clause 7—Insert new clause as follows:

Amendment of s.51—Review and alteration of approved rules, systems, procedures, equipment or code provisions

7A. Section 51 of the principal act is amended by inserting before subsection (1) the following subsection:

(1aa) The authority must, in consultation with relevant licensees, review the codes of practice referred to in this division at least every 2 years.

I understand that in the drafting of the legislation there is a similar provision for the other areas of the bill. This one will require the authority in consultation with relevant licensees to review the codes of practice as they relate to the TAB and on-course tote. It is just to ensure consistency in the drafting of the legislation in this area compared to others.

The Hon. NICK XENOPHON: I move:

After proposed subsection (1aa) insert:

(1aab) The authority must seek and consider written submissions from the public when reviewing a code of practice under subsection (1aa).

This amendment amends the Treasurer's amendment. Whilst I welcome the government's amendment, as it is in keeping with the other parts of the bill, this simply notes that the public ought to be consulted as well so there can be broader submissions not just from the industry but from interested persons, from welfare groups, and from those at the front line of dealing with gambling addiction. I urge all honourable members to support this clause. It would be extraordinary if this clause, asking for input from the public in the broader sense, was opposed by this committee.

The Hon. R.I. LUCAS: In the spirit of compromise well renowned for this government, we think this is a superb amendment to our amendment, and we wholeheartedly endorse it.

The Hon. P. HOLLOWAY: The opposition supports both amendments.

Amendment carried; new clause as amended inserted.

Clause 8 passed.

New clause 8A.

The Hon. NICK XENOPHON: This is a consequential amendment to the ban on interactive gambling. Because it was defeated previously, I will not be proceeding with this amendment.

Clauses 9 to 13 passed.

Clause 14.

The Hon. NICK XENOPHON: I move:

[Casino Act]

Page 6, after line 32—Insert proposed subsection as follows:

(2) The code of practice on advertising must require—

(a) specified warnings relating to problem gambling; and

(b) the telephone number of a gambling problem helpline,

to be included in all advertisements connected with gaming machines (and, in the case of television advertising, the code must require the warnings and number to appear at the end of the advertisement for a period of at least 15% of the total running time of the advertisement.)

I know that we have dealt with this previously: it relates to the Casino. I will not seek to divide on this clause, because there is a similar clause in relation to gaming machines. I am not sure whether the position is the same in respect of the government and the opposition in relation to this clause. I suspect that it would be. Again, it is an issue of harm minimisation. I am disappointed that the Labor Party is not seeking to support its colleagues, in a sense, across the border—the Victorian Labor government, the gaming minister John Pandazopoulos—no relation—

An honourable member interjecting:

The Hon. NICK XENOPHON: To me.

An honourable member interjecting:

The Hon. NICK XENOPHON: We are both Greek. I urge honourable members to support this amendment.

The Hon. R.I. LUCAS: The government opposes this amendment, for reasons given earlier in the debate.

The Hon. P. HOLLOWAY: We oppose the amendment for the reasons given earlier.

Amendment negatived.

The Hon. NICK XENOPHON: I move:

Page 7, after line 10—Insert proposed subsection as follows:

(1a) The Authority must seek and consider written submissions from the public when reviewing a code of practice under subsection (1).

This amendment provides that the authority must seek and consider written submissions from the public. I trust that the government and the opposition will support this amendment, as they did a similar amendment under the Authorised Betting Operations Act.

The Hon. R.I. LUCAS: The government supports the amendment.

The Hon. P. HOLLOWAY: The opposition supports the amendment.

Amendment carried; clause as amended passed.

Clause 15 passed.

New clause 15A.

The Hon. NICK XENOPHON: I move:

After clause 15—Insert new clause as follows:

Amendment of s.42—Gambling on credit prohibited

15A. Section 42 of the principal act is amended by inserting in subsection (1) after paragraph (b) the following paragraph:

(ba) allow a person to use a credit card or charge card for the purpose of paying for gambling or in circumstances where the licensee could reasonably be expected to know that the use of the card is for that purpose; or.

This proposed new clause relates to gambling on credit being prohibited. There appears to be a loophole in the current legislation under both the Casino Act and the Gaming Machines Act in respect of the use of credit cards, if a credit card is misdescribed. Instances have been brought to my attention by both individuals who have had problems with gambling and by gambling counsellors, and I must emphasise that these complaints have related not to the Casino but to hotels and a licensed club with poker machines—but the principles are the same—where a credit card transaction is misdescribed, for instance, as for food and drink, whereas, in fact, it is for the purpose of a cash advance to play machines, and that has caused a great deal of difficulty for some individuals.

It goes against the spirit of the legislation in relation to gambling on credit. It is something that has been abused by some unscrupulous venues, and this clause would seek to rectify that. I emphasise that the complaints I have had have not related to the Casino, but the principles are the same: a venue ought not be allowed to misdescribe a credit card transaction in circumstances where the licensee could be reasonably expected to know that the use of the card is for that purpose. I urge honourable members to support this proposed new clause.

The Hon. R.I. LUCAS: I am advised that the government's position is to support the provision. I must admit, this is an area that has intrigued me. I thought, when we discussed this last year, I think, that anyone who, in my view, fraudulently misdescribed a credit card transaction would have been committing an offence against some act or law or piece of legislation somewhere. But evidently there is still some question as to whether or not that is the case. I remain surprised that it is not. Given that background, I understand that the government's position is to support the amendment.

The Hon. P. HOLLOWAY: We support the amendment.

New clause inserted.

Clause 16.

The Hon. NICK XENOPHON: I move:

Page 8, after line 3—Insert proposed sections as follows:

Prohibition of interactive gambling operations

42AA. (1) It is a condition of the casino licence that the licensee must not conduct interactive gambling operations under the licence involving gambling by persons within South Australia.

(2) In this section—

'interactive gambling operations' means operations involving gambling by persons not present at the casino where the gambling is by means of internet communications.

ATMs on casino premises

42AAB. It is a condition of the casino licence that the licensee must not provide, or allow another person to provide, on the premises of the casino an automatic teller machine unless it is capable of accepting deposits of cash and cheques.

We have already had this debate, to an extent, in relation to the Authorised Betting Operations Act. It seeks to prohibit the holder of a casino licence from conducting interactive gambling operations under the licence involving gambling by persons within South Australia. We had extensive debate on this issue over a number of days in this chamber at the end of last year. I know that a compromise was struck and the bill was passed. I am not certain of what the government's position will be at this stage. This clause seeks to prevent online gambling operations by the Casino. I will be guided by the Treasurer as to whether the government will support the amended form that was passed by this chamber a number of months ago.

An honourable member interjecting:

The Hon. NICK XENOPHON: I can indicate, then, that if it is defeated here I will introduce another bill to amend the Casino Act to deal with this issue in terms of the compromise that was painstakingly arrived at over a number of days of debate. Again, this issue, of course, could be affected by what occurs next month with the federal government's online gambling legislation.

The Hon. R.I. LUCAS: The member was right to describe the debate that we went through as painstaking, or painful—

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: Either or both. I have earlier outlined the government's position in relation to the other prohibition of interactive gambling clauses, and that is that we ought to have that substantive debate on interactive gambling right across the gambling spectrum, either as part of the honourable member's eternal number of pieces of legislation that he introduces, or the substantive debate that this parliament will need to have at the end of the Legislative Council's select committee deliberations, when we make a threshold decision as to whether we want to endeavour to add a state ban to what looks like being a federal ban—and, indeed, how we would do that—and, secondly, whether or not the state parliament wants to support some form of regulation of interactive gambling. Given that the federal ban is the ban you have when you are not having a ban, one would need—

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: It is only partly correct?

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: I can sit in my house in Adelaide and freely bet on any unregulated international gambling provider. Every citizen in South Australia can gamble on the internet. It does not sound like much of a ban on interactive gambling to me.

The Hon. Nick Xenophon: That is not a fair summary.

The Hon. R.I. LUCAS: It seems fairly accurate when any citizen in South Australia is able to gamble on any international or overseas-based interactive service provider.

The Hon. Nick Xenophon: There is an initial voiding transaction.

The Hon. R.I. LUCAS: Not under the federal legislation. I can happily sit here and gamble on my computer with an overseas provider. Indeed, South Australian and Australian service providers can beam their services to the rest of the world, providing gambling product as well. Let us have that debate after the federal legislation is passed, or not passed, and after the state's Legislative Council select committee has reported. We can debate the whole issue of interactive gambling as a coherent whole, rather than every time a gambling bill flies by throwing a clause to ban interactive gambling on the back of it. That is basically what is happening. A package of legislation is going through, it relates to certain issues and, as it flies by, we endeavour to throw an interactive gambling clause on the back of it. From the government's viewpoint, consistent with what we have said on the other provisions, we will not support this provision.

The Hon. P. HOLLOWAY: This amendment is a conscience vote for members of the opposition. Members will recall that we passed a similar amendment to the Hon. Nick Xenophon's Casino bill late last year, I think it was on the last sitting day, but if my recollection of the debate at that time is correct, it was in a slightly different form. I recall that we had some correspondence with the Casino and some issues were raised about the rights that the Casino would have vis-a-vis any other operator that might issue a casino licence. I seem to recall that we amended the clause in relation to prohibiting interactive gambling at the Casino to take into account the position in which the Casino might find itself in the future.

I have no problem with supporting a prohibition of interactive gambling at the Casino until parliament otherwise determines. However, I would be reluctant to support this measure in its current form if it were to create problems with the agreements that relate to the Casino sale. I remember that this was an issue six months ago, and I apologise to the committee that I did not have the opportunity to look through those debates, but I seem to recall that we had to amend the measure to take account of the issues raised by the Casino. For that reason I am reluctant to support the amendment at this time.

The only other point that I wish to make on a personal level, because it is a conscience vote, is that, as I indicated at the time, I said that I would support a regulated regime in relation to internet gambling, but my reason for supporting a prohibition would be simply to give parliament the right at the appropriate time to determine the matter. However, in view of the doubts over what this may mean in relation to the agreement that the government has with the Casino in relation to ensuring that it would not be disadvantaged in any sale, I am reluctant to support the amendment in its current form.

The Hon. CARMEL ZOLLO: As I indicated earlier, until we have some clarification both at the federal level and from the outcome of the select committee, at this time I will support the amendment of the Hon. Nick Xenophon.

The Hon. NICK XENOPHON: I note what the Treasurer said in relation to the government's position. Given the current position with the Casino licence, I understand that the Treasurer has power to authorise the Casino to operate interactive, online, internet gambling or interactive gambling. That arose in the course of the debate on the Casino (Miscellaneous) Amendment Bill. Can the Treasurer indicate that, pending a debate of this parliament in relation to online gambling and, in particular, the Casino's functions and role with respect to that, the government and the Treasurer will not authorise the Casino to offer new online gambling games until the parliament has debated this issue?

The Hon. R.I. LUCAS: For a couple of years I have had that power but I have not used it. I think that I am soon to be stripped of these powers, so I can give the honourable member a commitment but I do not know who the new minister will be. He will have to speak to him or her.

The Hon. Carmel Zollo: Speak for the moment.

The Hon. R.I. LUCAS: As I said, I can speak for the moment. I have had the power for a couple of years and I have indicated publicly that this parliament should have a debate about interactive gambling as a coherent whole, rather than slapdash bits and pieces here and there. Secondly, we wrote into the approved licensing agreement for the Casino, which is the point that the Hon. Paul Holloway made, a provision that sought to give some comfort to the new owners and operators of the Casino that, should the parliament or someone decide to give an interactive casino licence to someone else, the operators of the Casino would be treated no less favourably than their competitor.

My recollection of the amendment that the Hon. Paul Holloway mentioned is that someone drafted a provision that went into the Hon. Mr Xenophon's bill that may have covered that aspect of the Casino licensing agreement. I am happy to continue to give the assurance that I have given and, before I gave that assurance, to continue with the actions that I have undertaken, that I have had the power to issue the interactive gaming licence but chose not to do so for the reasons that I have outlined on a number of occasions. I cannot speak on behalf of the new minister for gaming. That minister might be more red hot on gaming than I am, because I have always been moderate and temperate in relation to these issues. My view is that the government would probably support the position that I have adopted and would urge or advise the new minister to do likewise. It has not been an issue that I have had a chance to discuss.

The Hon. M.J. ELLIOTT: Failure to pass this amendment means that parliament is giving up at this point its power to say no later on. It is my view that we should be saying no now, and if some future government produces a coherent case for interactive gambling and produces a comprehensive program of harm minimisation of which it can convince parliament, the parliament might want to reconsider. As I said, if parliament does nothing, it is really taking on faith, whoever the next minister happens to be, what that minister may or may not do. I for one do not want to follow that path and will support the amendment.

The Hon. NICK XENOPHON: Whilst I commend the Treasurer for his restraint in not providing a licence to the Casino for online gambling, can the Treasurer indicate whether the government has a formal position, a whole-of-government approach, in terms of whether it will hold off in providing the Casino with an online gambling licence pending any debate in this parliament on this issue?

The Hon. R.I. LUCAS: No, it has been a decision that I have taken as minister.

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: A courageous decision, thank you. The issue of interactive gambling for the government has involved on all occasions a conscience vote, and it will continue to be because there are varying views in the government about interactive gambling. On this occasion the government's position is that a package has been negotiated between the groups which deals with certain issues. What we are saying is let us get that package through the parliament rather than having in relation to this bill and every other bill a debate on interactive gambling and a whole variety of other issues. All that will serve to do is either delay or—and I do not see this happening—potentially jeopardise the deal or the package that has been negotiated.

I think most people see the package that is there as being—even in the Hon. Mr Xenophon's words—a positive step forward. He may well want more steps forward, to use his terminology, but it is at least a step forward. Let us at least take the step and we can continue the debate in relation to smoking and interactive gambling, and the variety of other issues that Mr Xenophon and others would wish to see the parliament support.

Proposed new section 42AA negatived.

The Hon. NICK XENOPHON: In relation to proposed section 42AB, which deals with the matter of ATMs on casino premises, this is similar to a clause that deals with

ATMs on licensed premises where gaming machines are. I do not propose to divide on this clause, but I do intend to divide on the other clause that relates to ATMs on licensed premises with gaming machines. The position at the moment is that, with respect to the ATMs at the Casino, there does not appear to be any deposit facility. It is also the case for all ATMs at gaming machine premises. The Productivity Commission and other reports indicate that the existence of ATMs at premises can in a number of cases be a significant accelerant in terms of gambling addiction, in terms of that ready access to cash.

It seems that a corollary of the ability to take cash out is you ought to have an ability to put cash in, in the unlikely event that you have a win either at the Casino or indeed at other licensed premises with gaming machines. This clause simply is a consumer protection measure that would provide for ATMs to also have a facility capable of accepting deposits of cash and cheques.

The Hon. R.I. LUCAS: The government's position is not to support this. As I understand it, there are no or very few machines that have this particular capability. The Hon. Mr Xenophon would concede that?

The Hon. Nick Xenophon: Yes.

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: Well, 98 per cent of people can gamble without actually getting themselves into trouble, so that is not correct. So this would require the wholesale replacement of existing ATMs would it?

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: I presume from that answer that the banks would have to either adapt or modify the existing machines to provide this facility or, if that was not possible, replace them with machines that had that facility. Would that be a fair—

The Hon. Nick Xenophon: Generally modify.

The Hon. R.I. LUCAS: Yes. From the government's viewpoint if this issue was to be explored we would have to get some idea of what the cost of this might be, and find whether there is any research available as to what the benefit of this particular facility might be. I am assuming the honourable member's argument for this is that problem gamblers are people who, once they have won a large sum of money or a cheque, are likely to go and deposit it in the ATM machine so they cannot access it.

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: I am not sure whether there is much research which indicates that problem gamblers are likely to act in that rational way. The Hon. Mr Xenophon or, indeed, other members might act in terms of, having had their win, going off and depositing it.

The Hon. T.G. Roberts: Sock money!

The Hon. R.I. LUCAS: Sock money is it? They might put it in their sock, but I do not know whether they would go and deposit in the ATM machine. So there are two factors. First, we would need to get some indication from somewhere that this would be an expense worth undertaking for the banking industry. There are a number of other areas which are being canvassed with the banking industry which, at least on the surface, would appear to have more support within the community, concerning impacts of problem gambling, that is, limits on the amount of money a person can take out, and those sorts of issues, as opposed to requiring of them to have a cheque receiving facility or a deposit receiving facility there. For those reasons, the government's position at this stage would be to oppose.

The Hon. P. HOLLOWAY: I indicate that the opposition also will not support this amendment. We have certainly only had short notice in relation to it and it has been difficult to conduct any research in relation to the implications of it. I would have thought that the ATM machines are probably provided by banks, rather than the Casino. With the business of a bank being to get money in and let it come out, I would have thought that if there was any demand for deposit facilities the bank would provide them.

The Hon. M.J. Elliott interjecting:

The Hon. P. HOLLOWAY: The banks are different from the Casino. If the Casino is providing these things they might have a different set of objectives than a bank. But I would have thought that a bank would be quite happy to get deposits. I do not know who provides these machines. I would have thought it was a bank. I could be wrong on this, but the fact is that I suspect that probably few, if any, of us in here really understand what the implications of this might be. So it is really on those grounds at this stage that we are opposed to it. But I again make the comment that I would have thought that if there was any demand for it the banks would provide it, and maybe it is just a matter of asking them and they would do it.

The Hon. M.J. ELLIOTT: I am supporting many of the Hon. Nick Xenophon's amendments tonight, but this is not one of them. While it might be true that only 2 per cent of gamblers are problem gamblers, I suspect that on any one night 90 per cent of gamblers who go in are going to go out with less money than they started with, and if they were not thinking about banking it when they went in they will certainly not be thinking about banking the smaller amount they have by the time they are leaving. I do not think it is a service that is going to be used, and it is even less likely to be used by problem gamblers. I think that moves to perhaps limit the amount that a person might gamble by having gambling cards which limit the amount they can take from their accounts, and those sorts of actions, are very sensible ones. But, frankly, I do not think this would have any positive effect at all.

The Hon. NICK XENOPHON: The Treasurer says that about 98 per cent of the people who gamble do so responsibly. The Productivity Commission report states that 2.1 per cent of adults have a significant gambling problem and that not all people gamble. The commission also reports that about 5 per cent of those who play poker machines have a problem with gambling on poker machines. To put those remarks into context: 2.1 per cent of the adult population has a significant problem with gambling and each one affects the lives of at least five others. So, in total, about 12 per cent of the entire population are in some way directly affected by problem gambling. That ought to be referred to for the record. I understand that this amendment will be defeated. Again, I indicate that I will not call for a division given the opposition to this amendment by both the government and the Labor Party.

Proposed new section 42AAB negatived.

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

Page 8, lines 7 and 8—Leave out 'on any one day' and insert 'in any one transaction'.

I am advised that the government's position was to try to limit any withdrawals from an ATM to $200 on any one day. Following discussions between representatives of the government and the banking industry, we advise that, at this stage, that is not technologically possible. This amendment

seeks to remove 'on any one day' and insert 'in any one transaction'. I am advised that there is an associated amendment to clause 16 (page 8, after line 11) to change it back to 'on any one day', and, at some date in the future, for it to be prescribed by regulation.

The Hon. M.J. ELLIOTT: I want to explore this claim by banks that it is not technologically possible. This stuff is software driven. The banks are quite capable of knowing how many dollars you have in your account and when you have gone one cent over—it is all in the programming. To suggest that they are not capable of putting a limit on a daily basis and that it is not technologically possible is an absolute nonsense. They may not be minded to modify their programs, because that would be a pain in the butt for them, but to say that it is not technologically possible, even the Treasurer would be aware that that is a nonsense. We are not talking about technology; we are talking about the writing of a program, and I would have thought a not particularly complex program at that.

The Hon. T. CROTHERS: I must side with what the Treasurer said because, as I said by way of interjection, some members want us to be mind police. Since when in any English-speaking country in the world or, indeed, any of the western democracies—apart from the Treasury and people with respect to inflation—has any parliament put strictures on the capacity of people to spend the money that they place in savings banks? If you thought that through logically, people would just put their money into an old sock. The balance of payments would be in freefall, at least from the point of view of having any investment infrastructure at all being generated from within the nation, particularly by those people who are fond of a gamble or two. What would you do with Kerry Packer and people like him if they want to go for a punt? It is a nonsense. Is there no end to the lengths some members of this parliament will go to in an attempt to foist on us what can best be described as a loopy set of snakes and ladders of would-be mind police? I oppose it.

The Hon. R.I. LUCAS: The Hon. Mr Elliott is right. I should have said that it is not technologically possible with what the banks have at the moment. The reason for the associated amendment (page 8, after line 11) is that, evidently, the discussions will continue about how the banks can change the existing technology to be able to meet the government's intention. It will remain at 'after the prescribed day'. So, at some stage when there can be a resolution to the discussions, the technology can be changed so that this intention or objective announced by the government can ultimately be achieved.

The Hon. P. HOLLOWAY: New section 42A is, in my opinion, one of the more desirable features of the Statutes Amendment (Gambling Regulation) Bill. By that I mean that I think it is one of the provisions that is more likely to be successful in terms of dealing with problem gambling even if it is only in a relatively small way. Basically, this new section limits to $200 the amount that a person at the Casino can withdraw at any one time. I think the benefit of this measure is in relation to harm minimisation. Gambling is obvious enough, but if people have to go back each time to get cash they are more likely to think about their behaviour rather than just get caught up. If they have swags of money in their pocket, they are more likely to go through it until it is gone.

The Hon. T. Crothers interjecting:

The Hon. P. HOLLOWAY: Well, I still think this is one of the more beneficial provisions. When it was introduced by the government I shared the concerns that I am sure others had as to how enforceable it would be. I understand why the Treasurer is moving these amendments to try to deal with the practicalities of banks. In that sense, we support the Treasurer's amendment. I think the original idea is a very good one, but obviously we have to make it practicable and work with the banks to make sure that this new scheme is workable. If we can make it workable, in my view it will be one of the more worthwhile provisions in this bill.

The Hon. NICK XENOPHON: I support this amendment. I have concerns about how effective it will be, but it is a step in the right direction. My preference would be for the limit to be less than $200, but it seems that there is a consensus between the opposition and the government in this regard. I hope that the Independent Gambling Authority will at least monitor the application of this new section to see how effective it is. I await the outcome of that with interest. I hope it is effective to some degree in dealing with problem gambling.

For some problem gamblers with whom I have dealt losing $200 in any one month would be devastating, but others have lost up to $2 000 of their savings in a night as a result of having access to an ATM at a venue. In those cases, it may at least slow down the rate of loss, and hopefully those people will be able to seek professional assistance before the consequences of their gambling addiction cause more damage to their family and themselves.

Amendment carried.

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

Page 8, after line 11—Insert proposed subsection as follows:

(1a) It is a condition of the casino licence that the licensee must not, on or after the prescribed day, provide, or allow another person to provide, cash facilities on the premises of the casino that allow a person to obtain cash by means of those facilities more than once on any one debit or credit card, on any one day.

Amendment carried.

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

Page 8, after lines 18 and 19—Leave out the proposed definition of 'prescribed day' and insert:

'prescribed day' means—

(a) for the purposes of subsection (1)—the day falling three months after the commencement of this section;

(b) for the purposes of subsection (1a)—a day fixed by proclamation.

This amendment is consequential on the last two.

Amendment carried.

The Hon. P. HOLLOWAY: I move:

Page 8, after line 23—Insert proposed subsection as follows:

(2) The Governor may, by regulation, grant an exemption from subsection (1) for a specified period for the purposes of the conduct of a trial of a system designed to monitor or limit levels of gambling through the operation of gaming machines by cards.

(3) Regulations made for the purposes of subsection (2) may make provision for the recording and reporting of data in connection with the trial.

(4) A regulation under subsection (2) cannot come into operation until the time has passed during which the regulation may be disallowed by resolution of either house of parliament.

(5) The minister must, within three months after expiry of an exemption under subsection (2), cause a report to be laid before both Houses of Parliament about the conduct and results of the trial.

Basically, the amendment allows the trial of what is known as a smart card. We moved a similar amendment to the Hon. Nick Xenophon's casino bill: it was discussed in December last year. Those of us in this place who were able to witness the demonstration of smart cards that was organised by my colleague in another place John Hill have, I think, been

impressed by the potential these cards have for doing good. This would have to be very carefully regulated but we think that as an emerging technology, rather than just ruling out completely the use of such cards, we should allow for some trial of them so that their potential for good can be properly assessed. Hopefully, if they live up to the promise that I think they might have, then they could become very beneficial in the future in addressing problem gambling. So, I commend the amendment and, incidentally, while I am on my feet, I will just say that I support the Treasurer's amendment to my amendment.

The Hon. R.I. LUCAS: I move to amend the Hon. Mr Holloway's amendment as follows:

Leave out from proposed subsection (2) 'by cards' and insert 'otherwise than by the insertion of coins'.

It is a very simple amendment. Basically, I am told that some of these trials might not actually involve cards in the future. They may well involve just touch typing a PIN directly onto a screen without the use of a card. So, there are a variety of other technologies that may eventuate in the future. As the Hon. Mr Holloway has supported it, I will not speak any longer.

The Hon. NICK XENOPHON: We have had this debate under the Casino (Miscellaneous) Amendment Bill. I also attended the smart card demonstration organised by Mr John Hill MP. My concern is that, if the smart card technology is controlled in any way by the industry, it will not be successful. It would need to be controlled by regulators. Whilst my preferred position is that we do not go down that path, I am open to the possibility that smart cards might have a useful role to play in limiting and reducing gambling addiction and, for that reason, I see some merit in the Hon. Mr Holloway's proposal. Obviously, any smart card trials will need to be carefully monitored and, no doubt, this parliament will need to view the results of that monitoring very carefully to ensure that they will be effective in reducing rather than increasing levels of gambling addiction.

The Hon. A.J. REDFORD: There was considerable discussion in the task force on the subject of smart cards. I see the smart card as probably the single biggest potential weapon that we as a parliament and as a community have to deal with problem gambling. I must say, some of the comments that have been made in opposition to the use of smart cards would indicate to me that people have not thought their way through the possibilities and the uses to which smart cards can be put.

It was put to the task force that the first issue—and I think this is something that the Gambling Impact Authority will have to look at very early and very seriously—is precommitment schemes whereby a person, at least initially, can voluntarily precommit to a limited loss. So, if I am a problem gambler or if I perceive that I might potentially be a problem gambler, with the use of this technology I can limit my losses. I would not necessarily follow this line, but once the technology develops further I could even envisage that, if parliament saw fit, it could actually impose a maximum loss per customer. So, this technology—

The Hon. T.G. Roberts interjecting:

The Hon. A.J. REDFORD: If they are anything like the mates I have been dealing with lately you have got Buckley's chance. Given some of the opportunities, I think this is the technology that will really give us greater scope and opportunity to deal with problem gambling. It would be churlish and extraordinarily short-sighted of us not to allow this sort of product to develop fully. With all the developments that might take place we have a greater capacity to deal with problem gambling. I would urge those who are nervous about them to keep an open mind, because all the issues I have been on about over the past 3½ years about problem gambling may well be solved through this technique as opposed to a range of other strategies that seem to take people's fancy from time to time.

The Hon. T.G. ROBERTS: I would like to make a contribution on smart cards. I think there are smart cards and then there will be smarter cards. At the moment, if you are away from the tables at the Crown Casino in Melbourne for any more than 14 days, a note arrives at your address wishing you all the best and hoping you are not too ill and that—

The Hon. Nick Xenophon interjecting:

The Hon. T.G. ROBERTS: Or too poor? No, the note goes out with a $5 chit for you to come back and enjoy yourself and get over the illness that you have had. It is a double edged sword.

The Hon. R.I. Lucas: You must be a good customer!

The Hon. T.G. ROBERTS: No; my son—the one that you know—was working at the Casino. Technology is a two edged sword; it can be used for either good or bad. Whatever you do, and whatever limiting technology you develop, problem gamblers will find a way to get around the limits by using that technology, an improvement on it or another way. If you put limits on credit cards or if you program banks to restrict access to credit, they will take out another credit card with another company or use another method to get around it. So, while you regulate to restrict, the smart cards are an efficient way for not only the Casino but also the gamblers themselves or social punters not to have to carry large sums of money around with them and to leave the Casino in a way which does not make them a target. One thing we need to consider when we look at the regulations is to try to prevent gamblers from leaving casinos with large amounts of cash, and smart cards are a way in which that can occur.

When I was a student I stayed in Sydney with a confirmed gambler, who threw away his membership to a particular rugby league club so that he would stop playing the pokies. He threw the membership card over a wall that would have been 5 metres high, but the next night he wanted to borrow money off me to go back with a step ladder to climb over this 5 metre high wall to get his entry badge back. There are ways in which we could over-regulate which would not prevent gamblers from harming themselves, but this picks up the points that the honourable member makes. Over a long period of time it might pick up those problem gamblers and deal with them at source. The sad story about this guy is that he ended up falling into the hands of SP bookmakers and had threats made against his life. It was a very sad story, into which I am not prepared to go too far at this time.

The Hon. M.J. ELLIOTT: I would agree with comments that smart cards seem to offer the potential to play a role in harm minimisation. Following the previous speaker, the Hon. Terry Roberts, they also have the capacity to be abused, as well.

The Hon. Nick Xenophon interjecting:

The Hon. M.J. ELLIOTT: That is right. The question is for whose benefit they exist; that will be the important thing. I do not know whether when the Gambling Impact Authority is established it will sit down and read all the debate so it can get some understanding as to what this parliament intended of its role. One would hope that it would perhaps have a look. We should be indicating that, if it considers allowing the use

of smart cards, it must be for reasons of harm minimisation and for the convenience and well-being of the gambler, not the convenience and well-being of the operators.

Clearly, as long as you are putting cash in the machines the operator cannot track your gambling habits in a way which apparently is already happening in some gambling venues. So, they cannot monitor what you are doing, whether you have been back recently, whether or not you need a few inducements to get you back, etc. I would hope that smart cards are used for one purpose, and that is for the regulation of gambling and the minimisation of harm, and that they are not used in any way as a tool for operators to gather extra information or to encourage people to gamble further or to choose one venue over another.

The Hon. P. HOLLOWAY: As the mover of the amendment I point out that it provides that the Governor may, by regulation, grant an exemption from subsection (i) (this is to permit trials) for a specified period for the purposes of the conduct of a trial of a system designed to monitor or limit levels of gambling through the operation of gaming machines by cards—although 'cards' would now be changed. It does provide 'to monitor or limit' levels of gambling. I would have thought from that it was clear that the trials were to have a harm minimisation objective, not a promotional objective. I agree with everything that the Hon. Mike Elliott says. Obviously, if and when these trials are completed we come up with their introduction in a way that would be good for harm minimisation we would have to look at it carefully, but let us do the work now, because there is no doubt the potential is there.

Amendment to amendment carried; amendment as amended carried.

The Hon. NICK XENOPHON: I move:

Page 8, lines 25 to 27—Leave out all words on these lines after 'prescribed day' and insert:

(a) provide any gaming machine in the casino that is fitted with a device or mechanism designed to allow—
  (i) the playing of a number of successive games by an automatic process; or
  (ii) the playing of more than one game (i.e. line) simultaneously; or
  (iii) betting at a rate of more than 10 cents per play; or
  (iv) the playing of music; or
(b) provide any gaming machine in the casino unless it is fitted with a device or mechanism designed to ensure—
  (i) that the machine automatically shuts down for at least five continuous minutes at the end of every hour; and
  (ii) that whenever credits are displayed on the machine the monetary value of those credits is also clearly displayed; and
  (iii) that for each game (i.e. line) played, whether the player has won or lost that game (i.e. line) is clearly displayed.

These amendments were moved in the other place by the member for Hammond. I indicate that there is a similar amendment to the Gaming Machines Act. This amendment provides that machines in the Casino cannot be played by an automatic process; as I understand it, that has been dealt with in the substantive bill. It also prohibits more than one line being played simultaneously, more than 10¢ per play or the playing of music; and there are a number of other requirements or restrictions on machines. It provides that machines shut down automatically every five minutes at the end of every hour, that whenever credits are displayed on a machine the monetary value of those credits is clearly displayed and that, for each game that is line played, whether the player has won or lost that game that line is clearly displayed.

I understand that these amendments will be opposed by most members, but it is worth having a debate in relation to modifying machines. When gaming machines were introduced into hotels and clubs in this state, in the course of the parliamentary debate in 1992 the marketing manager for Aristocrat gaming machines came to South Australia and said:

> It would take you a month of Sundays to lose $100 on one of these things.

That is simply not the case. On an Aristocrat machine today you can lose something like $700 per hour. We have some of the most voracious machines anywhere when you compare them to the fruit machines in the United Kingdom.

These amendments at least try to tackle the rate of loss on machines. The government is to be commended for dealing with the playing of machines by an automatic process. If this is really about entertainment, as the Hotels Association and the casino industry says, then what is wrong with reducing the rate of play to 10¢ per play? In terms of informed consent—a theme that the Productivity Commission dealt with consistently in its report—paragraphs (b)(ii) and (b)(iii) indicate that whenever credits are displayed on a machine the monetary value should be disclosed. To me that is a basic consumer protection issue. Also, in relation to the issue of when someone has played five or six lines, if they have won on one line and lost on five the machine still flashes up that you have won. Clearly, that is misleading if we are to be fair about this whole issue in terms of informed consent.

The Hon. M.J. Elliott interjecting:

The Hon. NICK XENOPHON: The machine ought to disclose whether someone has won or lost; they are quite misleading in that regard.

The Hon. T.G. Cameron interjecting:

The Hon. NICK XENOPHON: Well, the machine still flashes up that you have won, with the noises and all that sort of thing, and I think for some people it can be misleading. In terms of the psychology of it, it is very clever and it is something that can accelerate levels of gambling addiction. I look forward, I think, to the contribution of members in relation to these clauses. At least they relate to credits displaying a true monetary amount rather than just simply displaying credits without reference to a monetary amount. That is something that problem gamblers and gambling counsellors have discussed with me on a regular basis—that it is just a basic issue of consumer information. I commend the amendment to members.

The Hon. R.I. LUCAS: It will not surprise the honourable member that the government is not supporting this package of amendments. The government's position is that these, amongst others, should be referred to the IGA, and that has been the resolution of the committee that has evidently looked at this. The only other point I make is that the Ministerial Council on Gambling is giving priority to the whole notion of breaks and plays as a research area.

I am pleased to say that the new minister with responsibility for gambling at the national level is a bit more active in this area than the ministers who previously convened the Ministerial Council on Gambling—Senators Alston and Newman. Senator Vanstone convened the council at a relatively early stage and, whilst she for obvious reasons adopted a combative stance in a couple of areas, we are pleased to see some progress in relation to moving down the path to national collaboration in terms of research.

That is something that South Australia has been supporting for a long time. There are a number of areas that will be targeted for additional research. This area about breaks in play and whether we can get some evidence or research to indicate what changes, if any, the states and jurisdictions have been looking at might be successful in terms of reducing problem gamblers and may become apparent at the end of the research.

The Hon. M.J. ELLIOTT: The sorts of things being proposed here by the Hon. Nick Xenophon are things that I have been arguing for for some time. There is no question that gaming machines have been refined and refined and refined to maximise profits. That is perfectly understandable. At the end of the day, as far as the owners are concerned, they are machines which are to make a profit. It is no accident that the machines in South Australia started changing over time in a number of ways.

As I understand it, one of the most obvious ones was that the denomination of a single bet be reduced so that the most common machines were the 1¢ and 2¢ machines, yet they were the most profitable because of what else happened within them. The psychology firstly got the players in because they had gone to a lower denomination machine and they were getting more bets on more lines. The fact is they ended up betting more money more rapidly than they were on the higher denomination machines that may have been betting on a single line.

The Hon. R.I. Lucas interjecting:

The Hon. M.J. ELLIOTT: I didn't say that is necessarily the case: what I am saying is that a number of changes happened in collaboration. It was not the low denomination that caused the problem but the low denomination which they used to get people onto the machines thinking they were betting less, and then the introduction of multiple bets on multiple lines on a high denomination machine obviously was going to be a rapid loser but on a 1¢ or 2¢ machine it seemed to be fairly safe. I think the maximum bet on those 1¢ or 2¢ machines was up around $10 or more a single spin—or something approaching that.

The Hon. T.G. Cameron interjecting:

The Hon. M.J. ELLIOTT: I think they were also able to double up and things like that as well; other things were happening as well. Without arguing about how big the final bet was, certainly the hotels found that these were far more profitable machines because people were losing money more rapidly. It was possible to refine the machines to do that, and any refinement being made to the games now is to get people to stay at the machine but also hopefully for them to lose as much money as possible.

If one is to talk about harm minimisation, one can ask what is the psychology at work within these machines that enables a person to lose control—and that is effectively what happens to people at these machines—and what are the things that might happen that would give back some of that control. Certainly, a break of five minutes gives one a chance to reflect. So long as the machine is running, you will not do much reflecting. The very fact that credits, rather than monetary amounts, are used is not an accident. It is important, for those who are trying to maximise the profits, that people are not sitting there thinking about how much money they have accumulated or lost so far but rather simply see a number of credits going up and down. Why else would they use credits instead of monetary amounts? What valid reason would they have?

It would be true to say that the more you are being told that you have won, logically you may know you have lost when you have won on one line and lost on five, but you still have the lights flashing and are being told you have won. There is a range of things we can do to games, and I would be hopeful that the Independent Gambling Authority will move rapidly to make suggestions in this area.

It seems that modification of the games is one of a few areas in which we can have profound effects. One is the suggestion of limiting the amounts that people might gamble in a night by the use of smartcards—that is definitely promising. The modification of the games themselves and the operation of the rooms generally, which are being addressed by some other amendments of the Hon. Nick Xenophon, are clearly another place in which, if we want to have a real effect on people with a gambling addiction, we will have to move. I indicate support for the amendment at this stage.

The Hon. P. HOLLOWAY: The opposition opposes the amendment but in so doing I indicate that these are matters that could well be looked at by the IGA; the Hon. Mike Elliott just indicated that himself. Perhaps he was accepting the fate of the amendment. Clearly, these are the sorts of issues where, possibly, changes to the nature of the games do have some potential in harm minimisation. But they are, in our view, matters that really need some fairly close examination. If we just demand a whole raft of changes to how machines operate overnight in this bill it would create more than a little dislocation. So, from our point of view, we will oppose the amendment at this stage but, undoubtedly, the new IGA will be looking at these issues, and we will see what it comes up with.

The Hon. T.G. CAMERON: I would like some clarification. It is my understanding that to support the Hon. Nick Xenophon's clause 16 would mean supporting all the seven conditions that he has set out in his amendment. Is that correct—it is all or nothing?

The Hon. Nick Xenophon: As I understand it, yes—in terms of the way in which it has been moved.

The Hon. T.G. CAMERON: I understand that there is also an amendment for this to be referred to the gambling commission.

The Hon. R.I. Lucas: Not an amendment. We are saying that, in opposing this, it will go off to the IGA.

The Hon. T.G. CAMERON: Perhaps I could get some clarification from the Treasurer. If these amendments are defeated, does it mean that we are handing the power to determine all these issues over to the gaming commissioner and, therefore—

The Hon. Nick Xenophon: The IGA.

The Hon. T.G. CAMERON: Yes, the IGA—restricting our role in those matters at some future date? The reason I ask that is that some of the restrictions proposed by the Hon. Nick Xenophon—for example, the playing of a number of successive games by an automatic process—I would support. I am just getting clarification here that, if I vote against this amendment, it is not dead forever.

The Hon. R.I. Lucas: They will do the research and provide advice and it is up to us to legislate.

The Hon. T.G. CAMERON: I indicate support for paragraph (i), the playing of a number of successive games by an automatic process.

An honourable member interjecting:

The Hon. T.G. CAMERON: Thank you for that. As I read paragraph (iv), the playing of music, that only refers to the gaming machine.

Members interjecting:

The Hon. T.G. CAMERON: I do not support paragraph (iii), betting at a rate of more than 10¢ per play because, as I understand it, that would make the maximum bet ever 10¢. Is that correct?

The Hon. Nick Xenophon: Yes.

The Hon. T.G. CAMERON: And the playing of music, provided it is restricted to the machines. I remain unconvinced in relation to the shutting down of a machine. My view is there is that that would do very little to stop problem gambling, because they would just shift to another machine. I also support that, whenever credits are displayed on a machine, the monetary value of those credits is clearly displayed. It would take a computer programmer five minutes to alter the program to provide for these machines to display the monetary value. So, I guess it does beg the question as to why they do not do it, when it would be a very simple matter for them to do so.

Whilst I have listened to the argument on subclause (b)(iii), I am not yet convinced of that one. At this stage, I indicate that, whilst I have sympathy for some of the amendments contained in subclauses (a) and (b), I will not support them in total.

The Hon. R.I. LUCAS: I am advised that, in much of the issue that the Hon. Mr Elliott raised, action already has been taken by governments and regulators so that all new machines under the new regulatory standard will be required to demonstrate or display the monetary value of the credits rather than just the credits. So, in a number of these areas action is occurring even without legislation to require—

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: It is the new standard for the new machines.

Amendment negatived.

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

Page 8, lines 31 to 35—Leave out proposed section 42C.

I flag, at this stage, movement at the station, I suppose. The government is moving this amendment to leave out proposed section 42C. The government's position was to move this provision from $500—which had been moved by the member for Hammond's amendment in the House of Assembly—to a figure of $1 000. However, following discussions that ensued it transpired that it would be impossible for the Casino to comply with this provision. The government's intention had been, therefore, to continue with the provision applying to hotels and clubs. However, during the dinner break, I was advised that further discussions had taken place between the member for Bragg and others in relation to this area.

The government's position now is that it will be recommending to the committee that we do not proceed with having a different position between hotels, clubs and the Casino; that this issue be referred to the IGA and, whilst it is being referred to the IGA, clearly, the Casino will need to look at its capability should there be a decision by the IGA and then, ultimately, the parliament to introduce this provision as to how it might technologically be able to comply with any requirement that might ultimately emerge from this process. The government moves to leave out this proposed section 42C and there will be a consequential change in the government's position in relation to some subsequent amendments.

The Hon. P. HOLLOWAY: This presents something of a dilemma for the opposition. We received—just today after our caucus meeting, incidentally—some correspondence from Sky City, the owners of the Casino, and, if I may, I would like to read part of it into the record. The letter states:

I am writing to express the significant concerns of Sky City Ltd (Sky City), the owner and operator of Skycity Adelaide, at recent developments in relation to the Statutes Amendment (Gambling Regulation) Bill. In the first instance this concern relates to an amendment that would be entirely unworkable. In the second, our concern relates to the proposed amendments that would seriously undermine the basis on which our commercial decision to purchase Adelaide Casino from the government was made.

Under a subheading, 'Payment of Winnings in Excess of $500 by Cheque', which is essentially the matter that is before us now, the letter further states:

Proposed section 42C as inserted in the House of Assembly would mean that any gaming machine win in excess of $500 would be required to be paid by cheque. While we understand the political motivations behind this proposal and the clear policy intent, such a requirement is entirely impractical and would be unable to be implemented.

The simple reality is that gaming machines are not designed to allow us to meet this requirement, as this would require the machines to effectively be frozen when a win in excess of $500 (or a series of wins totalling more than $500) was achieved. Even if they were, however, the sheer logistics of drawing the number of cheques that would be required on any given day (particularly given that not all cashier staff have the authority to draw cheques) would impose a significant cost on our business together with dramatically reducing the enjoyment of the estimated 97 per cent of our customers who do not have a gambling problem.

While this proposal would impose a significant cost on our business, it is unclear how effective, if at all, it would be in achieving harm minimisation objectives. This would seem to be an issue that it would be appropriate for the Independent Gaming Authority to consider once this organisation has been established. I strongly encourage you and your Legislative Council colleagues to reconsider the proposal during the committee stages of the debate on the bill.

A paragraph relating to inducements follows, and then the letter continues:

Sky City shares parliament's concern with the potential for gaming to cause negative social outcomes, and the desire to develop quality harm minimisation policies. It is for this reason that we made a detailed submission to the review committee setting out not only the comprehensive harm minimisation policies Sky City has introduced in Adelaide but also a policy framework for advancing harm minimisation objectives. Our submission was circulated to all members of the House of Assembly and Legislative Councillors earlier this year.

Unfortunately, as we were not invited to be represented on the committee, we were unable to contribute to their work to the extent that we would have wished. However, we look forward to working with the independent gaming authority to contribute to the further development of a quality, industry-wide problem gambling policy framework. Unfortunately the initiatives discussed in this letter are, in our view, inconsistent with such an objective.

There is then an offer to discuss the matters further. As I said, that letter has only just come to light. Like Sky City, the opposition was not part of the committee either, so we were unable to be party to those discussions.

When we debated the Hon. Nick Xenophon's Casino (Miscellaneous) Amendment Bill at the end of last year, on a number of occasions the opposition considered amendments that addressed the concerns expressed by the Casino. I am on record on that occasion as saying that we would not wish to commercially disadvantage the Casino in the sense that, if it had some undertaking with the government in relation to the Casino sale, for example, we would not act detrimentally in that regard.

It puts us in somewhat of a difficult position because this information has only just come to light. It is certainly not the opposition's fault that this matter has come up so quickly. Usually we have a bit longer with these issues but, as everyone knows, this bill has to be debated at short notice to

get the matter through by the end of this month, because that is when the temporary cap expires. I cannot say much more in relation to this matter. I have tried to put the issues on the record. If this matter is put up, opposition members will not seek to divide on it and we will see what happens from there.

The Hon. NICK XENOPHON: Can the Hon. Paul Holloway indicate whether the Labor Party's position in relation to the deletion of new section 42C, which relates to winnings of the Casino, is also its position with respect to winnings of over $500 at gaming machine premises in hotels and clubs, or are its new-found reservations confined only to the Casino rather than hotels and clubs?

The Hon. P. HOLLOWAY: The reservation relates only to the Casino because that is the correspondence that we have just received. I think the Treasurer addressed the matter of hotels earlier. I am not sure whether the machines in use in hotels are the same as those in the Casino. The Treasurer might enlighten me on that point, and, if they are, perhaps the same issue arises, but the concern I just expressed relates to the Casino because it has specifically raised the matter. We took our position on this—

The Hon. Nick Xenophon: What is your position in relation to hotels and clubs?

The Hon. P. HOLLOWAY: As I said, the opposition supported the $500 limit; that is what we did in the other place. We have been asked to reconsider the matter. All I am saying is that we have not had a chance to do so formally.

The Hon. Nick Xenophon: For the Casino or for hotels and clubs?

The Hon. P. HOLLOWAY: As I indicated, perhaps the Treasurer could help me if I ask him the question. Given that the Casino has said:

> The simple reality is that gaming machines are not designed to allow us to meet this requirement, as this would require the machines to effectively be frozen when a win in excess of $500 (or a series of wins totalling more than $500) was achieved.

I assume that that might be the case with other machines in hotels. I am not sure whether the machines are the same or whether they are different in the Casino. I would assume that they are the same. If that is the case, then given that is the objective, that would also apply in relation to hotels. As I said, this has come at the last moment. I am not in any position to address this matter. We can only deal with the position as we were aware of it at the time we made the decision.

The Hon. R.I. LUCAS: As I said, this is a moving feast. Up until today, as I understood it, the government's advice and understanding had been that this was technologically possible for the 13 000, 14 000 (whatever the number) machines in hotels and clubs but it was not possible in the Casino: that is why the government originally had this amendment for the moment to exempt the Casino. However, as of today I am told that the advice is that some 5 000 of the machines in hotels and clubs will not be able to be locked down, so that evidently I as the minister would have to issue an exemption for those 5 000 machines and the provision would apply to the 8 000 machines.

I think that the advice that has arrived today has added to the good sense of actually backing off and finding out exactly what is and what is not possible in the hotels, clubs and Casino, referring it to the IGA and having the issue resolved. The caucus clearly could not have had that information because the government did not have it until today. It is not acceptable to have a situation where evidently this provision would not apply to 5 000 machines in hotels and clubs when we get to this later stage, yet it would apply to the other 8 000. Evidently, some of these machines and their communication connections to the monitoring system are pre 1997 (or something) and they have an incapacity to be locked down, whereas the post 1997 machines have the capacity to be locked down in the way in which it was originally envisaged.

I suggest to members that there is eminent good sense in not proceeding too far down the track until we can all be better informed as to exactly what the problems and issues are. As I said, I have only just been advised of this information about the 5 000 machines in the last five minutes. We have become aware of it today and it makes good sense to back off, refer it to the IGA and wait for its technical advice, and then we can decide how we might like to proceed.

The Hon. NICK XENOPHON: Further to what the Treasurer has said, I indicate that I will be opposing the amendment to delete section 42C. In relation to the information that the Treasurer received today regarding those 5 000 machines within hotels and clubs, is he in a position either to table or to provide to members details of the technical difficulties involved? The Treasurer is shaking his head. Does that mean no, you are not in a position to—

The Hon. R.I. Lucas interjecting:

The Hon. NICK XENOPHON: The Treasurer has indicated that he could write to me to give me a technical exposition and he knows that I would find that absolutely fascinating. I take it that the Treasurer has given an undertaking to write to me about that. I still do not think it is a satisfactory state of affairs. I would have thought that the industry had ample time to deal with this issue previously. This is an amendment of the member for Hammond—

The Hon. R.I. Lucas interjecting:

The Hon. NICK XENOPHON: That is what I mean—two or three weeks ago. I think I have been pretty reasonable so far. The member for Hammond fought very hard for this amendment and the Labor Party supported him. It is extraordinary that there has been a change in this regard. I will not seek to divide on this clause, but I will seek to divide on the other clause relating to gaming machines in hotels and clubs.

Amendment carried.

The Hon. NICK XENOPHON: I move:

Page 8, after line 35—Insert proposed sections as follows:

No change machines to be provided at casino

42D. It is a condition of the casino licence that the licensee must not provide or allow another person to provide on the premises of the casino a machine that provides coins in exchange for banknotes.

Prevention of gambling by intoxicated person

42E.(1) It is a condition of the casino licence that the licensee must not permit an intoxicated person to gamble in the casino.

(2) In any proceedings under this Act, if in fact an intoxicated person gambled in the casino, it will be presumed that the licensee permitted the intoxicated person to do so unless it is proved that the licensee took all reasonable steps to prevent supply of liquor to intoxicated persons in the casino and to prevent gambling by intoxicated persons in the casino.

Smoking prohibited at casino

42F.(1) It is a condition of the casino licence that the licensee must ensure that smoking of tobacco products does not occur in the casino.

(2) A person must not smoke in the casino.

Maximum penalty: $2 500.

Expiation fee: $210.

(3) In this section—

'smoking' means smoking, holding or otherwise having control over an ignited tobacco product;

'tobacco product' has the same meaning as in the Tobacco Products Regulation Act 1997.

Food and drink not to be served to person playing gaming machines

42G. It is a condition of the casino licence that the licensee must not cause, suffer or permit food or drink to be offered or served to a person while the person is at a gaming machine in the casino.

Lighting levels in gaming machine areas

42H. It is a condition of the casino licence that the licensee must ensure that the nature and level of lighting in any area of the casino in which a gaming machine is situated is of the standard required for interior office lighting under the Occupational Health, Safety and Welfare Act 1986.

Inducements to gamble prohibited

42I. It is a condition of the casino licence that the licensee must not offer or provide a person with any of the following as an inducement to gamble, or to continue to play a particular game, in the casino:

(a) free cash, or free vouchers or gambling chips that can be used for the purposes of gambling in the casino or that can be exchanged for cash;
(b) free points or credits on any game or machine played in the casino;
(c) membership (whether on payment of a fee or not) of a jackpot or other gambling club;
(d) free, or discounted, food or drink;
(e) free entry in any lottery;
(f) gifts or rewards of any other kind.

For the sake of saving the chamber some time, I move these *en bloc*. I have been given an indication that both the government and opposition oppose these proposed sections. Some of them flow-on from the smoking debate. I have indicated that there will be some divisions towards the end of the bill, particularly on the issue of smoking in gaming venues. Proposed section 42D relates to no change machines being provided in the Casino. I have discussed this issue with Mr Mark Henley, senior policy officer at the Adelaide Central Mission, and Mr Stephen Richards of the Heads of Churches Task Force. They support this amendment, which would prevent change machines being provided at the Casino, and also another amendment which relates to gaming venues. This amendment would mean that if a person wants to get change, rather than inserting a $100 or $50 note into a change machine within the gaming room, they would have to go to a cashier.

In terms of intervention, the information I have been provided by gambling counsellors is that that level of human interaction/intervention can play a role in monitoring a person who is either distressed or having difficulties with respect to the level of their losses. It provides a break in play in terms of contact with a gaming machine staff member. Given that there is a move in the industry—which I welcome—to have staff trained to deal with responsible gambling practices, obviously that is something that needs to be looked at by the Independent Gambling Authority. But, given there is a move in that direction, this amendment would take out those change machines at the Casino, and indeed another amendment relates to change machines at gaming venues.

The amendments relate to preventing gambling by intoxicated persons. It was dealt with, in a sense, in the Authorised Betting Operations Bill. This deals also with the issue of smoking. I do not propose to restate what I have said previously in relation to that. It also relates to a number of inducements, that is, food and drink not to be served to persons playing gaming machines, lighting levels in gaming machine areas and inducements to gamble being prohibited. They are matters that have been debated in this place in the context of the Gambling Industry Regulation Bill. I urge members to consider them, but I understand from the indications given privately by both the government and opposition that they will be opposed. That is why I propose to move all these proposed sections together rather than deal with them separately.

The Hon. R.I. LUCAS: Opposed.

The Hon. P. HOLLOWAY: Opposed.

Amendment negatived; clause as amended passed.

New clauses 16A, 16B and 16C.

The Hon. NICK XENOPHON: I move:

After clause 16—Insert new clauses as follows:

Amendment of s. 44—Licensee's power to bar

16A. Section 44 of the principal Act is amended by inserting after subsection (5) the following subsection:

(5a) The decision of the Commissioner on the review is not subject to review by the Authority or appeal in any court.

Amendment of s. 45—Commissioner's power to bar

16B. Section 45 of the principal Act is amended—

(a) by striking out paragraph (c) of subsection (2);
(b) by inserting after subsection (4) the following subsection:

(4a) The Commissioner must give written notice of an order under this section, and of any variation or revocation of the order, to the casino licensee.

Amendment of s. 65—Review of Commissioner's decision

16C. Section 65 of the principal Act is amended by striking out from subsection (1) 'A' and substituting 'Subject to this Act, a'.

New clause 16A relates to the licensee's power to bar; clause 16B relates to the commissioner's power to bar; and clause 16C relates to the review of the commissioner's decision. These amendments relate to issues of review with respect to barring. For instance, in relation to new clause 16A, it provides that the decision of the commissioner on the review is not subject to review by the authority or appeal in any court. If a licensee bars and it is subject to review, the decision of the commissioner is final. If there is a barring at the first instance by the commissioner, then that can be subject to review by the authority.

Previously in relation to the Authorised Betting Operations Act, these clauses were defeated in terms of the commissioner's power to bar. I still think that in terms of the issue of a third party barring the commissioner's powers are important. Obviously, the Independent Gambling Authority will look at them, but my preference is that they be dealt with in the context of this legislation.

The Hon. R.I. LUCAS: I will not repeat the arguments that we debated earlier in relation to the TAB. The government's position remains the same. We oppose the amendment.

New clauses negatived.

The Hon. NICK XENOPHON: I move:

New Part 3A, after clause 16—Insert new Part as follows:

PART 3A
AMENDMENT OF ELECTORAL ACT 1985

Insertion of Part 13A

16E. The following Part is inserted after section 130 of the principal Act:

PART 13A
POLITICAL DONATIONS

Object

130A. The object of this Part is to protect the public interest in both the fact and the appearance of the independence of the political process from the uniquely powerful economic force of the gambling industry.

Offence for gambling entity to make political donation

130B. (1) A gambling entity must not make a political donation or ask or direct another person to make a political donation on behalf of the gambling entity.

Maximum penalty: $20 000.

(2) For the purposes of this section, a gambling entity will be taken to have made a political donation if—

(a) another person makes the donation with property that is owned or controlled by the gambling entity; or

(b) another person makes the donation on behalf of the gambling entity and the donation would not have been made but for the influence of the gambling entity.

(3) For the purposes of this section, a gambling entity will not be taken to ask or direct another to make a political donation on behalf of the gambling entity by reason only of making a statement expressing support for or opposition to a political organisation or the election of a candidate if—

(a) the statement is made without reference to a donation; or

(b) the statement is made publicly and encourages all persons to make donations to political organisations or candidates (without reference to any particular organisation, candidate or group of candidates).

(4) In this section—

'disposition of property' means any conveyance, transfer, assignment, settlement, delivery, payment or other alienation of property, and includes—

(a) the allotment of shares in a company; and

(b) the creation of a trust in property; and

(c) the grant or creation of a lease, mortgage, charge, servitude, licence, power or partnership or any interest in property; and

(d) the release, discharge, surrender, forfeiture or abandonment, at law or in equity, of a debt, contract or chose in action or any interest in property; and

(e) the exercise by a person of a general power of appointment of property in favour of another person; and

(f) any transaction entered into by a person with intent to diminish, directly or indirectly, the value of the person's own property and to increase the value of the property of another person;

'donation' means any disposition of property made by a person to another person, otherwise than by a will, being a disposition made without consideration or with inadequate consideration, and includes the provision of a service (other than volunteer labour) for no consideration or for inadequate consideration;

'election' means an election of members of the Legislative Council or an election of a member or members of the House of Assembly;

'gambling entity' means—

(a) an applicant for, or the holder of, the casino licence;

(b) an applicant for, or the holder of, any licence under the Gaming Machines Act 1992;

(c) a racing controlling authority within the meaning of the Authorised Betting Operations Act 2000;

(d) an applicant for, or the holder of, the major betting operations licence under the Authorised Betting Operations Act 2000;

(e) an applicant for, or the holder of, an on-course totalisator betting licence under the Authorised Betting Operations Act 2000;

(f) TAB;

(g) a controlling authority within the meaning of the Racing Act 1976:

(h) a racing club registered under the Racing Act 1976;

(i) the Lotteries Commission of South Australia,

and, in each case, includes a close associate of the gambling entity;

'group of candidates' means a group of two or more candidates nominated for election to the Legislative Council who have their names grouped together on the ballot papers in accordance with section 58 of the Electoral Act 1985;

'political donation' means a donation made to or for the benefit of—

(a) a candidate, or group of candidates, in an election; or

(b) a political organisation,

but does not include an annual subscription paid to a political party by a person in respect of the person's membership of the party;

'political organisation' means a political party or a group, committee or association organised in support of a political party or a candidate in an election;

'property' includes money;

'spouse' includes a person who is a putative spouse, whether or not a declaration has been made under the Family Relationships Act 1975 in relation to that person.

'TAB' has the same meaning as in the Racing Act 1976.

(5) For the purposes of this section—

(a) a person is a close associate of a gambling entity if—

(i) one is a spouse, parent, brother, sister or child of the other; or

(ii) they are members of the same household; or

(iii) they are in partnership; or

(iv) they are joint venturers; or

(v) they are related bodies corporate; or

(vi) one is a body corporate and the other is a director, manager, secretary or public officer of the body corporate; or

(vii) one is a body corporate (other than a public company whose shares are listed on a stock exchange) and the other is a shareholder in the body corporate; or

(viii) one is a body corporate whose shares are listed on a stock exchange and the other is a substantial shareholder (within the meaning of the Corporations Law) in the body corporate; or

(ix) one has a right to participate (otherwise than as a shareholder in a body corporate) in income or profits derived from a business conducted by the other; or

(x) one is in a position to exercise control or significant influence over the conduct of the other; or

(xi) a chain of relationship can be traced between them under any one or more of the above subparagraphs; and

(b) the question of whether a body corporate is related to another body corporate is to be determined in the same manner as under the Corporations Law.

We debated an identical clause that I moved to the Gambling Industry (Regulation) Bill. I remember that, on that occasion, only my colleague the Hon. Terry Cameron supported me with respect to banning political donations from the gambling industry. I will reiterate those arguments briefly.

In the state of New Jersey, the home of the Atlantic City Casino industry, the legislature decided that, given the economic and political power of the gambling industry in that state, it was not desirable that political donations be made by the gambling industry or entities associated with the gambling industry because—

An honourable member interjecting:

The Hon. NICK XENOPHON: No, New Jersey—the industry in that state, as in many respects in relation to this state, relies for its existence on an act of parliament more so than I think does any other industry. It relies for its existence and its profitability on a licensing system approved by parliament. It is a unique industry. It is not like other entities such as a delicatessen, a supermarket or even a service station in terms of the licensing regime.

Given the information that has been disclosed by the Liquor and Gaming Commissioner's office that there are about 10 hotels in this state where the net gaming revenue between them amounts to $44 million, it indicates that

enormous amounts of money can be made. To be fair, about half of that would go to taxation, but it indicates that there is enormous influence on the part of this industry. This proposal seeks to stop donations being made. I expect that there has not been a change of heart on the part of the government or the opposition in this regard.

The Hon. T.G. Cameron interjecting:

The Hon. NICK XENOPHON: Yes. The Hon. Terry Cameron is quite passionate on this issue. I think he has gained some inside information during his time in the Labor Party. This industry has become enormously powerful. When members on both sides have indicated to me privately that they are concerned about the economic and political power of the industry, that is an area of great concern. This amendment seeks to prevent those political donations being made. As I have indicated to the Hotels Association, I am just trying to save them some money.

The Hon. R.I. LUCAS: The government opposes the amendment. I do not know whether I have spoken on this previously, but I guess I must have. I do not know why South Australian hoteliers or gambling companies ought to be treated any differently to a number of the other industry groups. Why is it that a hotelier is any worse than a banker, an insurance company executive, a cigarette or liquor company executive or a range of other companies that are economically powerful?

An honourable member interjecting:

The Hon. R.I. LUCAS: There is a system of licensing for the fishing industry. Do we ban fisherpeople?

An honourable member interjecting:

The Hon. R.I. LUCAS: Maybe. If your reference point is that anyone who is licensed ought to be banned from making political donations, there are builders, developers and real estate agents—

The Hon. T.G. Cameron: He's not saying that.

The Hon. R.I. LUCAS: No, that's what he just said. That was his response. I asked, 'Why do you distinguish a gambling industry from others?' He said, 'Because they are licensed; it is a system of licensing.'

The Hon. K.T. Griffin: We have 70 000 licensees.

The Hon. R.I. LUCAS: The Attorney tells me that there are 70 000 licensees. Let us be frank: not all of them are obviously in big earning industries. There are individual licences in the fishing industry that some—I would not—might sell their grandmothers for. There are a variety of licences, such as taxi licences—

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: Some of the fishing industry people make as much money and more than some of the hoteliers with gaming machines. If the honourable member had any connection with the fishing industry, he would know that. It can be quite a lucrative occupation that operates with limited licences the government has provided to individuals in the past. I assure the committee that licence holders in the fishing industry do not go through anywhere near the checks we are requiring of people with gaming machine licences, with fingerprinting and a whole variety of other checks.

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Cameron has greater knowledge of the aquaculture act and its progress than I do, so I bow to his knowledge in that area. There ought to be debate in this area, and the Hon. Mr Cameron has flown his flag in this area in terms of transparency, political donations and those sorts of issues. I am not sure why one group ought to be painted as pariahs in some way. Let us be frank about this: the inference in all this is that the reason that governments, oppositions or individuals adopt a position is that in some way they are influenced by political donations that either individuals or groups give to political parties or their candidates.

From my knowledge—and I think this is the case from the information the Hon. Mr Cameron has provided in the past—the hotel industry has provided not inconsiderable assistance to the Labor Party in the past. I would be very surprised if it had not provided assistance to Liberal candidates or conservative candidates in the past, as well.

As one member in this chamber who has adopted a consistent position on poker machines since 1992 or 1993, I can certainly say that the views I expressed in 1992 or 1993 were not influenced by what if any donations were given by gambling entities to the Liberal party, and my position seven or eight years later remains exactly the same. I have no direct knowledge of the quantums; and I do not want to know. My views now, in the past and in the future will not be influenced by whether or not there are donations from gambling entities.

So, I think you can have a valid debate about transparency in all this, at both federal and state levels, in relation to this particular issue and the big political parties will take their particular position, as they have in the past, which is not always a position that is shared by third or minor parties or, indeed, others in relation to this particular area. But, in relation to singling out hoteliers and those who hold gambling licences, I do not see why they should be treated any differently from, say, the fishing industry or, indeed, property developers—

An honourable member interjecting:

The Hon. R.I. LUCAS: —or the mining industry—there is another example—or the white shoe brigade in Queensland or their equivalent down here in terms of property developers. A number of significant property developers are very powerful, economically and politically, in South Australia and have friends—

The Hon. T.G. Cameron: They concentrate on councils more than the government.

The Hon. R.I. LUCAS: —in high places, maybe on councils as the Hon. Mr Cameron indicates, or indeed, in both levels of state and federal government. However, we are not saying that we shall ban the white shoe brigade or property developers from making donations—

The Hon. Nick Xenophon: Paul Keating suggested that.

The Hon. R.I. LUCAS: Paul Keating suggested that. I do not think so. Anyway, I do not want to delay tonight by going on at length in this particular debate. The government's position has been put down previously and I just repeat it with some comments from my own personal viewpoint. I do not see why we ought to be, in essence by inference, portraying people who are in the gambling industry, and in particular hoteliers, many of whom most of us would know pretty well, as being less of a human being than many others who also happen to make a dollar quite legally in this state.

The Hon. P. HOLLOWAY: I indicate that the opposition will oppose this amendment. I spoke at some length on this when we had the previous debate so I will not repeat it all. The Treasurer has outlined some of the reasons that this is not, from the point of view of the opposition and the government, a satisfactory amendment. Why should hoteliers be treated differently from any other person who wishes to make a political donation? Indeed, it is rather interesting to note that on this side of the chamber, when there are any moves that might increase or change the extent of gambling, they are

treated as conscience votes, and always have been in the Labor Party. So, one could argue that, in terms of what political influence might be brought to bear, given that members can exercise their own conscience, giving a donation to a party arguably has a lot less influence in an issue such as this than it would where a party may be able to direct its members. I just make that comment as an interesting aside. I will not go through all the arguments that we have put in the past. I just indicate again that we will be opposing the amendment.

The Hon. T.G. CAMERON: I rise to support the amendment standing in the name of the Hon. Nick Xenophon. It is a fairly courageous move to try to limit political donations being made by the gambling industry. As he pointed out, they have bitten the bullet in New Jersey on this issue. I would be interested to find out how that came about because one can always recognise the fact, I think, that the major political parties will always oppose any restriction on political donations.

The Treasurer, who is usually perspicacious on these issues, was, I think, somewhat naive in his rebuttal of the arguments outlined by the Hon. Nick Xenophon. I could not find any reference to the Hon. Nick Xenophon painting people who are involved in gambling as pariahs. The Treasurer in his contribution said, 'Well, what is different about the gambling industry compared to any other industry?' I think if you go back and have a look at his contribution, he hoisted himself on his own petard when he referred to the fact that we have strict licensing laws, strict probity laws, etc. for gambling.

The mere fact that we are setting up a gaming authority, and that we do have such strict laws in relation to licensing probity, and so on, does differentiate, for example, this industry from making shoes, clothes, and so on. I do not see too much substance to the argument that says, 'This industry is the same as every other industry so why should we make political contributions any different for them than anyone else?' On the other hand, the Treasurer has outlined to the Council the very strict licensing and probity requirements, and so on. One has to ask 'Why?' We all know the answer: the potential for corruption and unsavoury characters, and so on, to be involved in this business. I do not think there is a parliament anywhere in the world that has not had to deal at some stage with problems with licensees of casinos and other forms of gambling.

Quite clearly, to argue that this industry is the same as any other and that, if we do not differentiate with other industries, why should we with the gambling industry is a naive reason for not doing anything. In his contribution, the Hon. Nick Xenophon put his finger on why we need to treat this industry differently in relation to political donations. He pointed out the interesting statistic that 10 hotels alone drag in $44 million per year, which is a salutary reminder to all members of this place that we are talking about hundreds of millions of dollars.

It is the sort of industry that will get up to mischief if it can. If people involved in the industry believe that they can get some kind of advantage from making political donations, they will. It should come as no surprise to members of this committee that the only two parties, I understand, to which the hotels and the Australian Hotels Association donate are the Labor Party and the Liberal Party. I guess one could have—

The Hon. A.J. Redford interjecting:

The Hon. T.G. CAMERON: As is his wont at this time of night, the Hon. Angus Redford interjects. That may or may not be the case but let me assure the Hon. Angus Redford that the AHA has not been knocking on my door with $50 000 for the next election campaign. I guess when the disclosure—

The Hon. J.F. Stefani: They might.

The Hon. T.G. CAMERON: Yes, the sun might not come up tomorrow, either. I guess time will tell, when the political donations list is released after the next election, to whom they made donations in the forthcoming election. It would not surprise me if it is a similar result; that is, a substantial donation to the Liberal Party and a substantial donation to the Labor Party. While there are—

The Hon. R.K. Sneath: They are having an each way bet.

The Hon. T.G. CAMERON: I thank the honourable member for his interjection. He is dead right; they are having an each way bet. I thank him for summing up what the AHA is doing. They are having an each way bet with the two major parties. Eight and six make 14. It is to be noted that, on most of the big majorities on some of the contentious clauses put forward by the Hon. Nick Xenophon, there has been an interesting coalition between the Labor Party and the Liberal Party. I have no doubt that they will all be voting the same way on this clause again.

Now is not the time to have a substantive debate on this, but the one thing the Treasurer said in his contribution with which I did agree is that there does need to be a debate about this issue, and it needs to be fully debated. Perhaps I was a little remiss earlier in describing him as naive in relation to his contribution, because maybe he has recognised that something does need to be done about this but now is not the time to do it, and we can have a fuller debate about the question of whether or not gambling institutions can make political donations. SA First supports this amendment.

The Hon. NICK XENOPHON: I am grateful for the support of the Hon. Terry Cameron. I wish to make the point that I am not in any way suggesting that the Treasurer has been influenced by political donations from the gambling industry. I am not suggesting that at all. He has been consistent on this issue for a number of years. But, when members from both sides of the other place tell me privately that they are concerned about the influence of the hotel lobby, that they may hold private views as to the reduction of poker machines in their electorate but they acknowledge that they would be subjected to a ferocious campaign by hotels that would be well funded and cashed up by virtue of their gaming machine licences, that is an area of concern. It is something we ought to deal with. This industry is unique in terms of its economic power. The tuna boat owners and other industries may well be quite powerful but, in terms of its extent and breadth and the amount of income this industry has, it is unique in this state. It is unique by virtue of the Gaming Machines Act, and that is why we ought to deal with the whole issue of political donations.

I can understand the position of the government and the opposition; I do not accept it. I am grateful for the support of the Hon. Terry Cameron. This issue will not go away. I welcome the Treasurer's comments in relation to greater transparency. When the Electoral Act is debated I know that the Hon. Terry Cameron will move a number of amendments for disclosure at the state level that are long overdue. I look forward to those amendments being passed, together with some further amendments that would ensure further levels of transparency and disclosure. But the level of potential influence that some hoteliers can have in this state by virtue

of their gaming machine licences and their economic and political power is an area of great concern—some might say it is frightening. When members of both sides of the other place indicate to me the level of their concern privately, I think it is time we ought to act.

The Hon. R.I. LUCAS: I have been in this place for 20 years, and I can equally give examples where members from both sides of the House have voted against bills that they personally supported because of the political power of churches, welfare groups and constituencies within their communities. I know a number of members of parliament on both sides who voted against the Casino bill but who personally supported it. They voted against it because of the organised, powerful lobbies that were organised against them politically. I know of exactly the same position in relation to gaming machines—people who supported it voted against it for exactly the same reasons.

When one is talking about politically powerful lobbies, it cuts both ways. They exist on both sides, and people have voted against their personal views on a number of issues because of political intimidation. I do not think it is a one way street in relation to these issues. I know some of the people who voted against the Casino bill who spent more time trying to get me to go over to the Casino after parliament at night for a gamble, a drink and a smoke—as they used to do in the old days—than those who supported the Casino legislation coming into South Australia.

The committee divided on the amendment:

AYES (2)

Cameron, T. G.	Xenophon, N. (teller)

NOES (18)

Davis, L. H.	Dawkins, J. S. L.
Elliott, M. J.	Gilfillan, I.
Griffin, K. T.	Holloway, P.
Kanck, S. M.	Laidlaw, D. V.
Lawson, R. D.	Lucas, R. I. (teller)
Pickles, C. A.	Redford, A. J.
Roberts, R. R.	Roberts, T. G.
Schaefer, C. V.	Sneath, R. K.
Stefani, J. F.	Zollo, C.

Majority of 16 for the noes.

Amendment thus negatived.

Clause 17 passed.

New clause 17A.

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

Amendment of s.14A—Freeze on gaming machines

17A. Section 14A of the principal act is amended by striking out from subsection (6) '2001' and substituting '2003'.

This is consequential on an earlier vote concerning the freeze.

The Hon. P. HOLLOWAY: I move to amend the Hon. Angus Redford's amendment as follows:

After 'amended' insert:

(a) by inserting after subsection (2)(b) the following paragraph:
(c) an application made by any other person in prescribed circumstances.;

(b) by inserting after subsection (2) the following subsection:
(2a) A regulation made for the purposes of subsection (2)(c) cannot come into operation until the time has passed during which the regulation may be disallowed by resolution of either House of Parliament.

(c) by striking out from subsection (6) '2001' and substituting '2003'.

I will not go into a lengthy debate on the cap, as we had that in the earlier clause, but basically my amendment would provide the possibility for exemptions from a cap. These exemptions could happen only in prescribed circumstances; in other words, some regulation would have to be made by the government that would permit some prescribed circumstances where an application could be made to get around the cap. I indicated in the earlier debate that, as we will extend this cap for a two year period, it is quite possible that some developments could come forward that are in the economic interests of the state for which the presence of poker machines might be important for their economic viability, but at the same time they may not necessarily create any problems in relation to harm from gambling because of the nature of those developments. I will not go through the debate again, but it is important that at least the council has the option of voting on this so that we can say that we tried and, if there are any circumstances where an exception should be made, this provides for it.

I think that, given the feeling, it would require a fair bit of courage on behalf of the government to make prescribed circumstances, but I think that, in a way, that is a sort of self-policing element of this. Clearly, any exemption would have to have fairly wide community support, otherwise no government would risk doing it. I think, from that point of view, it is not an exemption that is likely to be used, except in fairly exceptional circumstances. Nevertheless, just in case those circumstances do arise in the next two years, I think it would be prudent for us to support such an exemption, and I commend it to the committee.

The Hon. R.I. LUCAS: This is, as I said, a moving feast. This is a conscience vote for members. I advise that for my government colleagues most of this was a party vote, but this issue of the freeze—and this is part of the freeze provision—is a conscience vote for members, so they will need to satisfy themselves as to what their views are on this issue.

I am sympathetic to the amendment of the Hon. Mr Holloway. I did not support the cap, but the majority did. I have spoken to parliamentary counsel, and both houses of parliament retain the power in relation to this matter. If a particular development can convince both houses of parliament that it is super-duper and absolutely essential and does not have any particular problems, both houses of parliament can vote on it. It would be a cumbersome process, but both houses of parliament would have to vote on it and approve it. The amendments have been drafted so that there is no provision where one can take any legal action until the whole parliamentary process has been gone through. So, we do not have the debate that we had in relation to education about school fees and materials, services and charges, where the government could introduce a regulation, enact the policy change, and then we have to disallow it and reintroduce it again.

The protection is there, so I am advised, and if someone moved a disallowance motion they could leave it there for months, basically, and we could not do anything. That is, again, a further protection, I suppose, in terms of something not proceeding until both houses of parliament had voted on it. Therefore, I think that, clearly, it would be a very rarely used provision in the next two years, but it would seem, on the surface of it (unless someone can come up with a persuasive reason against this), to have all the protections that would be required in relation to a major development that everyone agreed on or, indeed, a particular provision which, for some reason, everyone agreed on. I guess it does not have to be a major development: it could be the Ceduna Bowls Club, or whatever, which comes up with a very good reason why it wants an extra five machines, or something. I cannot envisage what those reasons would be but, in the end, if they

can convince two houses of parliament and get through the disallowance process and all those sorts of provisions—it would be a longwinded process which might take the whole two years of this freeze—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: I know. But you only have to have it there. You do not have to vote on it within 14 sitting days; you only have to move it. Someone who might not be disposed towards a fair go in relation to this, I guess, could use this device of the parliament to try to hold it up. But, again, from those viewpoints, the people who do not want to—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Yes, I guess that is an option. As I said, I think that, on the surface, it seems to be a sensible provision. Unless someone can come up with a very good reason, it is my inclination, on a conscience vote, to support the Hon. Mr Holloway.

Amendment carried; new clause as amended inserted.

Clauses 18 and 19 passed.

Clause 20.

The Hon. NICK XENOPHON: I move:

Page 9, after line 30—Insert proposed section as follows:

ATMs on licensed premises

51AB. The holder of a gaming machine licence must not provide, or allow another person to provide, on the licensed premises an automatic teller machine unless it is capable of accepting deposits of cash and cheques.

Maximum penalty: $35 000.

This amendment ensures that ATMs on licensed premises also have the facility to accept deposits of cash and cheques. This debate has been dealt with previously in the context of the Casino Act. I do not propose to divide on the basis that the position of the government and the opposition is the same. I would appreciate an indication of where they are headed with respect to this issue—I think I know what it is. Again, I do not propose to divide, but I consider that this is a sensible procedure that could do something to minimise the harm caused by gambling.

The Hon. R.I. LUCAS: The government opposes the amendment.

Amendment negatived.

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

Page 9, line 34—Leave out 'on any one day' and insert:

in any one transaction

This amendment is similar to one that I have moved previously; the explanation remains the same.

Amendment carried.

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

Page 10, after line 12—Insert proposed subsection as follows:

(2a) The holder of a gaming machine licence must not, on or after the prescribed day, provide, or allow another person to provide, cash facilities on the licensed premises that allow a person to obtain cash by means of those facilities more than once on any one debit or credit card, on any one day.

This amendment is consequential.

Amendment carried.

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

Page 10, lines 14 and 15—Leave out the proposed definition of 'prescribed day' and insert:

'prescribed day' means—

(a) for the purposes of subsection (1)—the day falling 3 months after the commencement of this section;

(b) for the purposes of subsection (2a)—a day fixed by proclamation.

This amendment is consequential.

Amendment carried.

The Hon. NICK XENOPHON: I move:

Page 10, after line 15—Insert proposed section as follows:

No change machines to be provided at licensed premises

51C. The holder of a gaming machine licence must not provide or allow another person to provide on the licensed premises a machine that provides coins in exchange for banknotes.

Maximum penalty: $35 000.

This amendment requires 'no change' machines to be provided at licensed premises. I have already spoken on this matter in the context of the Casino Act. I maintain my position. This initiative has been supported by the Heads of Churches Task Force on Gambling, the Adelaide Central Mission and gambling councils that are at the front line of dealing with gambling addiction. Having change machines that take large denomination notes rather than a person's attending a cashier—so that there is some human intervention—is a bad move in terms of containing problem gambling and that is why I have moved this amendment.

Amendment negatived; clause as amended passed.

New clause 20A.

The Hon. NICK XENOPHON: I move:

After clause 20—Insert new clause as follows:

Amendment of s.52—Prohibition of lending or extension of credit

20A. Section 52 of the principal act is amended by—

(a) by striking out from paragraph (a) 'the gaming area on';

(b) by striking out from paragraph (b) and substituting the following paragraphs:

(b) who allows a person to use a credit card or charge card for the purpose of paying for playing the gaming machines on the licensed premises or in circumstances where the holder, manager or employee could reasonably be expected to know that the use of the card is for the purpose; or

(c) who otherwise extends or offers to extend credit to any person for the purpose of enabling the person to play the gaming machines on the licensed premises or in circumstances where the holder, manager or employee could reasonably be expected to know that the credit is to be used for that purpose,.

This amendment relates to a prohibition of lending or extension of credit. It is something to which the Treasurer referred previously. In terms of existing loopholes in the legislation, it is something that I have pursued for some time. I am grateful to the Attorney for providing some responses following the Famularo case in New South Wales, which confirmed my concerns that current legislation does not, in effect, deal with the instances that I have raised, that is, where a venue misdescribes a credit or charge card transaction. For instance, they may say that it is for food and drink when, in fact, it is a cash advance and, in the context of being able to play the machines, it can cause a lot of hardship and exacerbate gambling problems.

I urge members to support this new clause as an essential consumer protection reform and a reform that would prevent rorting by those gaming machine venues that do not do the right thing and abuse the credit card facility for the purposes of advancing cash by misdescribing transactions.

The Hon. R.I. LUCAS: The government supports the new clause.

New clause inserted.

Clause 21.

The Hon. NICK XENOPHON: I move:

Page 10, lines 20 and 21—Leave out 'by insertion of a banknote' and insert:

by means other than the insertion of a coin

This ensures that, in terms of gaming machine facilities, it must be by the insertion of a coin. An earlier smart card amendment moved by the Hon. Paul Holloway has been passed, and I imagine that he has an amendment to this clause, as well. I understand the position of members who support the trial by the Hon. Paul Holloway. I have moved my amendment but it seems that it will not be supported by most members.

The Hon. R.I. LUCAS: My advice is that we will support this amendment and then the Hon. Mr Holloway's amendment. We need the Hon. Mr Xenophon's amendment to allow the Holloway amendment to be carried.

The Hon. M.J. ELLIOTT: I indicate support for this amendment and for the anticipated amendment from the Hon. Paul Holloway.

Amendment carried.

The Hon. P. HOLLOWAY: I move:

After line 22—Insert proposed subsections as follows:

(2) The Governor may, by regulation, grant an exemption from subsection (1) for a specified period for the purposes of the conduct of a trial system designed to monitor or limit levels of gambling through the operation of gaming machines by cards.

(3) Regulations made for the purposes of subsection (2) may make provision for the recording and reporting of data in connection with the trial.

(4) A regulation under subsection (2) cannot come into operation until the time has passed during which the regulation may be disallowed by resolution of either house of parliament.

(5) The minister must, within three months after the expiry of an exemption under subsection (3), cause a report to be laid before both houses of parliament about the conduct and results of the trial.

This permits the trial of smart cards or other technology. I indicate that the Treasurer will move a consequential amendment to this to change 'cards' to 'other means'. I will support that.

The Hon. R.I. LUCAS: I move to amend the Hon. Mr Holloway's amendment as follows:

Leave out from proposed subsection (2) 'by cards' and insert 'otherwise than by the insertion of coins'.

The Hon. Mr Lucas's amendment carried; the Hon. Mr Holloway's amendment as amended carried.

The Hon. NICK XENOPHON: I move:

Lines 24 and 25—Leave out all words in these lines and insert:

(a) provide any gaming machine on the licensed premises that is fitted with a device or mechanism designed to allow—
  (i) the playing of a number of successive games by an automatic process; or
  (ii) the playing of more than one game (i.e. line) simultaneously; or
  (iii) betting at a rate of more than 10 cents per play; or
  (iv) the playing of music; or

(b) provide any gaming machine on the licensed premises unless it is fitted with a device or mechanism designed to ensure—
  (i) that the machine automatically shuts down for at least five continuous minutes at the end of every hour; and
  (ii) that whenever credits are displayed on the machine the monetary value of those credits is also clearly displayed; and
  (iii) that for each game (i.e. line) played, whether the player has won or lost that game (i.e. line) is clearly displayed.

These are identical to the amendments that I moved to the Casino Act in relation to the modifying of gaming machines. I have already set out the arguments in respect of that and I look forward to the contribution of other members.

The Hon. R.I. LUCAS: The government opposes this amendment.

The Hon. P. HOLLOWAY: We oppose the amendment on the basis that these are matters that the IGA should look at in future.

Amendment negatived.

The Hon. R.I. LUCAS: This amendment is consequential on a previous debate about which we had an extensive discussion. I move:

Page 10, lines 30 to 34—Leave out proposed section 53B.

The Hon. P. HOLLOWAY: I think the Hon. Nick Xenophon indicated that he was going to divide on this matter. We had some discussion earlier about the consequences and at that time I referred to a letter from the Casino which indicated some problems. The opposition, as I said, did not have the opportunity to have this extra information when it made its decision. If the Hon. Nick Xenophon calls for a division on it, then we will vote in accordance with the position we took; that is, we will oppose the Treasurer's amendment, because that was our position. In other words, we will keep the clause as it came to us from the House of Assembly, which would mean that any person winning more than $500 would have to be paid by cheque. That was the position that we took. More evidence has come to light. If between the bill passing in this Council and going to the House of Assembly—

The Hon. R.I. Lucas: I do not think there will be a division on it.

The Hon. P. HOLLOWAY: In that case, we will see what happens.

The Hon. NICK XENOPHON: I indicate my opposition to the amendment. Again I express my disappointment that the Labor Party has backed down in relation to this. I maintain that this would have—

The Hon. P. Holloway interjecting:

The Hon. NICK XENOPHON: You are not backing down then?

The Hon. P. Holloway interjecting:

The Hon. NICK XENOPHON: I withdraw that. I indicate that I supported the original proposition in relation to any winning of over $500 on a gaming machine to be paid by way of cheque and that the venue must not cash any cheque, and I maintain that position.

Question—'That the amendment be agreed to'—declared carried.

The Hon. NICK XENOPHON: Divide!

The CHAIRMAN: There is only one voice.

Amendment carried.

The Hon. NICK XENOPHON: I move:

Page 10, after line 34—Insert proposed sections as follows:

Prevention of gambling by intoxicated persons

53C. (1) The holder of a gaming machine licence must not permit an intoxicated person to play a gaming machine on the licensed premises.

Maximum penalty: $10 000.

(2) In any proceedings for an offence against subsection (1), if in fact an intoxicated person played a gaming machine on the licensed premises, it will be presumed that the holder of the gaming machine licence permitted the intoxicated person to do so unless it is proved that the holder of the licence took all reasonable steps to prevent supply of liquor to intoxicated persons in the licensed premises and to prevent playing of gaming machines by intoxicated persons on the licensed premises.

Smoking prohibited in gaming areas

53D. (1) The holder of a gaming machine licence must ensure that smoking of tobacco products does not occur in a gaming area on the licensed premises.

Maximum penalty: $5 000.

(2) A person must not smoke in a gaming area.

Maximum penalty: $2 500.
Expiation fee: $210.
(3) In this section—
'smoking' means smoking, holding or otherwise having control over an ignited tobacco product;
'tobacco product' has the same meaning as in the Tobacco Products Regulation Act 1997.
Food and drink not to be served to person in gaming area
53E. The holder of a gaming machine licence must not cause, suffer or permit food or drink to be offered or served to a person in any gaming area on the licensed premises.
Maximum penalty: $5 000.
Lighting levels in gaming areas
53F. The holder of a gaming machine licence must ensure that the nature and level of lighting in each gaming area on the licensed premises is of the standard required for interior office lighting under the Occupational Health, Safety and Welfare Act 1986.
Maximum penalty: $5 000.
Prohibition of inducements to bet on gaming machines
53G. The holder of a gaming machine licence must not offer or provide a person with any of the following as an inducement to bet, or to continue to bet, on a gaming machine on the licensed premises:
(a) free cash, or free vouchers or gambling chips that can be used for the purposes of making bets on a gaming machine or that can be exchanged for cash;
(b) free points or credits on any machine;
(c) membership (whether on payment of a fee or not) of a jackpot or other gambling club;
(d) free, or discounted, food or drink;
(e) free entry in any lottery;
(f) gifts or rewards of any other kind.
Maximum penalty: $35 000 or imprisonment for two years.

This relates to the prevention of gambling by intoxicated persons. It is an identical provision to the provision relating to the Casino Act. I make it clear that I do intend to divide on this clause. I apologise for the confusion in relation to the previous amendment.

This amendment is based on the New South Wales Casino Control Act. It is not an onerous provision. It would at least put an onus on gambling venues to ensure that intoxicated persons do not gamble in gaming rooms at their premises. When some venues are not doing the right thing in terms of the provision of copious quantities of alcohol to players whilst they are gambling, then this amendment at least will act as an important check and balance to that sort of unconscionable conduct.

The Hon. M.J. ELLIOTT: I indicate support for this amendment, as I also supported a similar earlier amendment. I do not think that there is any question that a place which is in the business of selling liquor already has requirements under legislation to ensure that liquor is not served to intoxicated persons. It is no more onerous a task to ensure that that intoxicated person is not then engaged in gambling.

The Hon. R.I. LUCAS: For the reasons outlined before, the government does not support this and supports referring it to the IGA. Without again extending debate which we have had previously, it is a more onerous task, and I have explained previously why it can be a more onerous task. In relation to serving liquor, you are serving liquor to a person across a counter, or whatever it happens to be: you have person to person contact. For example, if I go to the Casino and drink in one of the bars downstairs, become intoxicated (whatever the definition of that will be), and then go upstairs to the poker machines and sit down quietly as a quiet drunk on one of the poker machines, I have no contact with staff up there that at all. So it is a naive view to believe that it is exactly the same and no more onerous than in relation to existing provisions or existing requirements. It can be the same, let me acknowledge that, but as I have highlighted previously there are many examples where it can be quite different from the provisions that apply in relation to gambling.

In relation to gambling, for those members who do not frequent these places, people can walk in and sit down at the machine and quite happily gamble. They do not have to go and ask someone's permission, and they do not have to have someone standing by them. They can sit at the machine and gamble at the particular gaming machine. If you go into a hotel to be served, someone has to serve alcohol to you. Someone has person to person contact with you and is able to make a judgment as to whether or not you are intoxicated. The Hon. Mr Crothers has waxed lyrical in the past on this issue about the difficulties of even doing that. Some people who, with the same blood alcohol level as someone else, look rather different or very different from others with exactly the same level of intoxication. There are the quiet drunks and the noisy drunks. There are difficulties, but our legislation, I guess, accepts the fact that there are those difficulties so we have those particular requirements. We have to cope and manage those as best we can.

There is an acceptance, certainly by me and others, that sensible provisions in relation to this should be incorporated. The IGA ought to look at how it does it. I have some concern about the reverse onus of proof provisions that the Hon. Mr Xenophon has incorporated in his drafting. In the end it may be that is the only way in which we can do it. I certainly support some changes in relation to this area, but the government's view is that it ought to be done after some advice from the IGA and as part of codes of practice.

The Hon. P. HOLLOWAY: As indicated earlier when we were discussing intoxication in relation to persons using the TAB, a code of practice approach is the preferred option of the opposition rather than putting it now into legislation. Consequently, we will oppose the amendment, but as an opposition we wish to see some developments coming from the IGA in the future.

The committee divided on the amendment:

AYES (4)

Elliott, M. J.	Gilfillan, I.
Kanck, S. M.	Xenophon, N. (teller)

NOES (15)

Davis, L. H.	Dawkins, J. S. L.
Griffin, K. T.	Holloway, P.
Laidlaw, D. V.	Lawson, R. D.
Lucas, R. I. (teller)	Pickles, C. A.
Redford, A. J.	Roberts, R. R.
Roberts, T. G.	Schaefer, C. V.
Sneath, R. K.	Stefani, J. F.
Zollo, C.	

Majority of 11 for the noes.

Amendment thus negatived.

The Hon. NICK XENOPHON: I move to insert the following new section:

Smoking prohibited in gaming areas
53D. (1) The holder of a gaming machine licence must ensure that smoking of tobacco products does not occur in a gaming area on the licensed premises.
Maximum penalty: $5 000.
(2) A person must not smoke in a gaming area.
Maximum penalty: $2 500.
Expiation fee: $210.
(3) In this section—
'smoking' means smoking, holding or otherwise having control over an ignited tobacco product;

'tobacco product' has the same meaning as in the tobacco Products Regulation Act 1997.

This matter was visited earlier this evening in the context of the casino and the Authorised Betting Operations Act. I take this opportunity to quote further from Professor Chapman's article in the *Sydney Morning Herald*, to which I referred previously. This is not about restricting choice for those who wish to smoke. In his article, Professor Chapman says:

I would like to see a return to the dedicated smoking room of the gentlemen's club. If these were unattended by staff, had airlocked doors and were separately ventilated from an outdoor air source, smokers' and non-smokers' civil liberties could be safeguarded. Have your smoke, romanticise with others about how rebellious and interesting you are, but leave the lungs of the rest of us alone. We can see such rooms now at airports, where smokers sit feeding their addiction in glass-boothed atmospheres so awful that they make wonderful health education messages to all who pass by.

A number of members have said that this issue ought to be visited in public health legislation. I remind members that when the Hon. Dr Armitage moved his amendments relating to smoking in restaurants, it was in the context of a bill which, as I understand it, dealt with excise issues for the tobacco industry.

I again take this opportunity to commend Dr Armitage for his courageous stand. I understand that even the member for Ross Smith, who was quite scathing and critical of Dr Armitage at the time, apologised in the House for the stand he took. The reform introduced by the Hon. Dr Armitage in this regard will go down as one of the more significant pieces of legislation, and he was a national pacesetter. The public health lobby and those who are concerned about the health of workers in the hospitality industry owe Dr Armitage a debt of gratitude. Let us hope that we do not have to wait another three or four years before these amendments are dealt with.

I have indicated that I would like to divide on this clause. I have not divided on the other clauses. I understand I will be a lone voice at this stage but, in terms of expediting the passage of this bill, I indicate there is not much more that I seek to divide on. I will be withdrawing a number of amendments, and I will deal with that in due course.

Question—'That the amendment moved by the Hon. Mr Xenophon be agreed to—declared negatived.

The Hon. NICK XENOPHON: Divide!

The CHAIRMAN: There being only one member for the ayes, the question is resolved in the negative.

The Hon. NICK XENOPHON: I move:

Insert new sections as follows:

Food and drink not to be served to person in gaming area

53E. The holder of a gaming machine licence must not cause, suffer or permit food or drink to be offered or served to a person in any gaming area on the licensed premises.

Maximum penalty: $5 000.

Lighting levels in gaming areas

53F. The holder of a gaming machine licence must ensure that the nature and level of lighting in each gaming area on the licensed premises is of the standard required for interior office lighting under the Occupational Health, Safety and Welfare Act 1986.

Maximum penalty: $5 000.

These amendments have been dealt with in the context of the Casino Act in relation to food and drink not to be served to persons in the gaming area, and the lighting levels in gaming areas to be areas of natural lighting. It is an issue that the Victorian and New South Wales governments have been looking at, and I understand they have been looking at a prohibition on inducements to bet on gaming machines. This debate has been had in relation to the Casino Act. It is simply not good enough to say that these matters should all be referred to the Independent Gambling Authority. I understand the position of the government and the opposition, and I do not propose to divide on these proposed new sections.

The Hon. R.I. LUCAS: The government opposes the proposed new sections.

The Hon. M.J. ELLIOTT: I would have liked to hear a little more debate on each of these. At this stage, the only provision I am considering is proposed new section 53G. In my mind at least that issue is cut and dried. I do not believe inducements should be offered to get people in to gamble in the first place. I see it as being somewhat akin to moves made in the smoking area many years ago when we banned advertising and general promotion. We recognised that adults might choose to smoke, but we certainly would not allow people to encourage them to smoke. Not everybody who smoked got lung cancer, but you did make a decision that enough damage was done by smoking that it was good idea whilst not banning it to not encourage it.

It would be an entirely consistent approach in relation to gambling to distinguish between allowing people to gamble and providing inducements for people to gamble. In my mind proposed new section 53G is something on which we should not wait for recommendations from the Independent Gambling Authority; it is a matter on which we should be getting clear direction. In relation to the other matters, at this stage I am still to be persuaded.

Amendment negatived; clause as amended passed.

New clauses 21A and 21B

. **The Hon. NICK XENOPHON:** I move:

After clause 21—Insert new clauses as follows:

Amendment of s. 59—Licensee may bar excessive gamblers

21A. Section 59 of the principal act is amended by inserting after subsection (4) the following subsections:

(5) The Commissioner may, on application by a person who is aggrieved by a decision of the licensee to issue an order under this section, review that decision.

(6) The Commissioner may confirm, vary or revoke the decision and the decision of the Commissioner is not subject to review by the Authority or appeal in any court.

Insertion of s. 59A

21B. The following section is inserted after section 59 of the principal Act:

Commissioner's power to bar

59A. (1) The Commissioner may, by written order, bar a person (the excluded person) from the gaming areas of specified licensed premises for a period specified in the order or for an unlimited period.

(2) The Commissioner may make an order under this section—

(a) on the application of the person against whom the order is to be made; or

(b) on the application of a dependant or other person who appears to have a legitimate interest in the welfare of the person against whom the order is to be made; or

(c) on the Commissioner's own initiative.

(3) The order must—

(a) state the grounds on which the order is made; and

(b) set out the rights of the excluded person to have the order reviewed; and

(c) must be given to the excluded person personally or by sending it by post addressed to the person at the last known postal address.

(4) An order may be made under this section on any reasonable ground and, in particular, on the ground that the excluded person is placing his or her own welfare, or the welfare of dependants, at risk through gambling.

(5) The Commissioner must give written notice of an order under this section, and of any variation or revocation of the order, to the relevant licensees.

(6) An excluded person who contravenes an order under this section is guilty of an offence.

Maximum penalty: $2 500.

(7) The holder of a gaming machine licence, an approved gaming machine manager or an approved gaming machine employee who suffers or permits a person to enter or remain in a gaming area from which the person has been barred is guilty of an offence.

Maximum penalty: $10 000.

(8) The Commissioner may at any time revoke an order under this section.

(9) The Commissioner must retain copies of all orders made under this section.

These matters have been dealt with previously in the context of the Casino Act. They are there to strengthen barring provisions and to give the commissioner power to deal with third party barring, particularly where the welfare of a person's dependents is at stake, or on an application of a dependent or other person who appears to have a legitimate interest in the welfare of the person against whom the order is to be made, or even on the commissioner's own initiative. This is an issue that would provide for welfare agencies that are concerned about the welfare of a person, such as the Salvation Army or Central Mission, or those who provide gambling counselling services, to intervene.

The consequences of gambling addiction can be devastating for families. This simply provides for strengthening those provisions, although I note that the government and the opposition seek to pass this on to the Independent Gambling Authority. My concern is that many lives could be adversely affected as a result of a lack of power on the part of the commissioner to bar and a lack of an appropriate intervention power by third parties to bar those who have a severe gambling addiction.

The Hon. R.I. LUCAS: We had a long debate on this earlier in the committee stage. The government opposes this for the reasons it has previously indicated.

The Hon. P. HOLLOWAY: In discussing proposed clause 7B, I indicated that we will oppose this.

The Hon. M.J. ELLIOTT: I want to make some comment in relation to licensees barring excessive gamblers. I think this should be an issue that will eventually emerge from the Independent Gambling Authority codes of conduct, etc. The behaviour of licensees is an issue that causes me great concern. When an individual has lost something like $100 000 into gaming machines at a single venue and the licensee's response while this is happening is to give birthday parties and an occasional free meal and drink, there are some significant issues of morality involved.

Some people would like to argue that gambling is immoral. I do not take that view but I do take a view that a licensee of a premises who knows that a person has a gambling problem and knows that that person has lost those sorts of sums of money and encourages it is a grossly immoral person in my view. Unfortunately, there are not just one or two, but quite a few licensees around this state who are prepared to siphon people's bank accounts into theirs; and they are doing nothing more nor less than that with these problem gamblers.

This is an issue that has to be addressed but I do not think that the issue is, ultimately, that the licensee 'may' bar excessive gamblers. I would hope that the code of conduct has some very strict requirements that go beyond 'may'. Some people like to argue that licensees do not know whether or not they have a problem gambler, or that some people might be able to afford it.

When you know this is happening in a country town, where this person is known to the owner of the business, and they know what they are doing to this person, there certainly are circumstances where it is not 'may bar' but 'shall bar' that becomes the more important issue. This is something that we cannot walk away from. I do not understand to this day how easily some people discount this 2 per cent of problem gamblers and do not seem to have any concerns about the morality of what is happening with these people nor the immoral behaviour of those people who are knowingly doing great damage to others—those people who are providing inducements and free meals, cashing cheques they are not supposed to cash, extending credit they are not supposed to extend, and doing all sorts of other things. I think too many people have been too blaze about this for too long.

New clauses negatived.

New clause 21D.

The Hon. NICK XENOPHON: I move:

Insert—

21D. Section 69 of the principal act is amended by striking out subsections (1) and (2) and substituting the following subsections:

(1) Subject to this act, a person who is the subject of an order or decision made or given by the commissioner under this act (other than section 59A) may appeal to the court against that order or decision.

(2) A person who—

(a) is the subject of a direction given by the commissioner under this act (except when acting as an authorised officer); or

(b) is aggrieved by a decision of the commissioner on an application under section 59A,

may appeal to the authority against that direction or decision.

This is similar to an amendment to the Casino Act and the Authorised Betting Operations Act in relation to the right of appeal of a decision of the commissioner, that is, being able to appeal to the authority in a case where the commissioner makes a decision rather than the licensee making the decision in the first instance. I have already spoken about this previously and I do not propose to unnecessarily restate my position.

New clause negatived.

Clause 22.

The Hon. NICK XENOPHON: I move:

Page 11, after line 6—Insert proposed subsection as follows:

(1a) The authority must seek and consider written submissions from the public when reviewing a code of practice under subsection (1).

This is similar to the amendments in the Authorised Betting Operations Act and the Casino Act, requiring that the authority must seek and consider submissions from the public when reviewing a code of practice under subsection (1). I understand it has the support of the government and the opposition.

Amendment carried; clause as amended passed.

The CHAIRMAN: The Hon. Mr Xenophon has an amendment for a new clause after clause 22.

The Hon. NICK XENOPHON: Mr Chairman, I will not be proceeding with the amendment of section 86—evidentiary provisions; nor will I be proceeding with the amendment to clause 23, page 11, after line 29, which seeks to strike out paragraphs (l) and (m), on the advice of Parliamentary Counsel.

Clause 23.

The Hon. NICK XENOPHON: I move:

Page 12, after line 26—Insert new paragraph as follows:

(c) by inserting at the end of the schedule the following:

The code of practice on advertising referred to in paragraph (na) must require—

(a) specified warnings relating to problem gambling; and

(b) the telephone number of a gambling problem helpline,

to be included in all advertisements connected with gaming machines (and, in the case of television advertising, the code must require the warnings and number to appear at the end of the advertisement for a period of at least 15 per cent of the total running time of the advertisement).

The substance of these provisions has been dealt with in the context of the Casino Act as well as the Authorised Betting Operations Act. I have already outlined the policy decisions for this amendment. It is based in substance on regulations passed in Victoria recently. I urge honourable members to support the amendment.

The Hon. R.I. LUCAS: For the reasons outlined in the earlier debate, the government opposes this amendment.

Amendment negatived; clause passed.

Clauses 24 to 29 passed.

Clause 30.

The Hon. NICK XENOPHON: I move:

Page 14, lines 23 and 24—Leave out proposed paragraph (b).

This seeks to leave out the proposed paragraph (b). In relation to functions and powers of the Independent Gambling Authority, the current section provides that in performing its functions and exercising its powers under this act or a prescribed act the authority must have regard to the following objects. Paragraph (a) provides for the fostering of responsibility in gambling and in particular the minimising of harm caused by gambling, recognising the positive and negative impacts of gambling on communities. Paragraph (b) provides for the maintenance of a sustainable and responsible gambling industry in this state. My concern is that if paragraph (b) remains it could well water down the functions of the authority in a significant way.

The wording of 'sustainable and responsible gambling industry' is at the very least ambiguous, and in some respects from a statutory interpretation point of view it could well be argued so as to water down and fetter the authority in its functions. For instance, if the Productivity Commission finding that about 42.3 per cent of losses on electronic gaming machines come from problem gamblers is accepted, and if the authority wanted to introduce smart card technology that could reduce the losses on gaming machines by one-third to significantly reduce the level of problem gambling, the industry could argue that it will not be sustainable because problem gamblers are a significant source of revenue. My concern is that the industry could well mount a legal challenge to the functioning of the authority because of the wording of paragraph (b) in its current form. That is why I move this amendment.

The Hon. R.I. LUCAS: The government opposes the amendment. As the Hon. Angus Redford indicated earlier, by and large this package of measures the government has before it has come about as a result of a historic coming together of the welfare and industry related groups in South Australia. I think it is fair to say that there has not been 100 per cent agreement on all things but, if one wants to look at it from the industry viewpoint, in the package we see before us the industry has conceded a significant number of issues. Some members will say, 'So they should have; and they should have done more.' I can understand their position.

One of the issues that the industry has argued is that we—the parliament and the regulators—ought to at least acknowledge that in essence they have a right to exist in our community and that 98 per cent of people are able to happily, without causing grief to their families, friends, acquaintances or next door neighbours, participate in gambling as a recreational or entertainment activity as part of their week to week, month to month existence. So, by and large, where we are today in relation to this bill has been as a result of some give and take on both sides. We saw earlier today that one of my colleagues, the Hon. Mr Redford, had some very strong views about the approach of what is about to be the Independent Gambling Authority in relation to an issue involving the fingerprinting of bookmakers.

The authority and/or its officers are taking a very strong view that they are independent and that in some areas they will make the final decisions in relation to some of these matters. It has long been my view, and I do not intend to elaborate this evening, that independent authorities, as well intentioned as they might be, in the end ought to be answerable on the major issues to the parliament. The parliament is duly elected to represent the electorate on these controversial issues. An independent authority answerable to no minister or to no body in the end has a role to play, but on the big issues it ought not to superimpose itself over and above the parliament.

In some of these areas it will have a very significant role to play as a result of the discussions that have ensued in recent weeks about the role of the Independent Gambling Authority. Given those powers that the authority might have, it is able through the issuing of licences, through the inexorable power that it will have in relation to codes of practice (advertising codes of practice and others) and in a whole variety of areas under this legislation, should it ever take the view (as members of the authority or as staff), in essence to virtually drive an industry out of existence. That is not something that I support.

I do not support the view that we ought to get rid of all gaming machines in South Australia because we have an acknowledged problem with 2 per cent of people who gamble and the impact on others that they might—

The Hon. Nick Xenophon: That is 2 per cent of all adults, not 2 per cent of gamblers.

The Hon. R.I. LUCAS: Yes, 2 per cent of all adults who have a gambling problem. Therefore, we are left in a position of trying to leave some sign in the sand for the Independent Gambling Authority as to what this parliament intended. It is nothing more than that: it is a sign in the sand that indicates that the government and the parliament want to see more done in relation to problem gamblers, in particular, but we also want to leave a sign in the sand that says that we do not believe that the authority ought to be using these powers to drive an industry out of existence, so that it becomes in the end an industry that just cannot be sustained and it therefore has the inevitable impact on the many thousands of South Australian workers and their families who rely on the industry for employment and income.

This is really the only provision that I can see in the bill that will at least put that sign in the sand for the authority that, in what it does, it needs to balance. I do not accept the view that the only reason you have the gaming authority, and its only task in life, is to tackle the issue of problem gambling. That is important for it, but it is there as a licence issuing authority; it is there to regulate the proper procedures in gaming; it is there to regulate to make sure that the 98 per cent of people who can happily gamble without getting into problems are not getting ripped off, not getting a dud deal; and it is there to ensure that there is not corruption in the industry. It is there for many reasons, not just the most

important issue of tackling problem gambling. I accept the view—

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: I have said that. I accept the view of the Hon. Mr Xenophon and the Hon. Mr Elliott that they might believe that that is the principal and overriding reason for the existence of the independent authority. That is a view that they have expressed on a number of occasions and clearly have the capacity to continue to put, but it is not the view of some members in another place or members in this place.

It is a critical purpose of the authority, but there are many others, some of which I have just outlined to the committee. Given the new powers and authority that the Independent Gambling Authority will have as an unelected body of worthy South Australians who will take on this task—the five who are there and the two to be appointed at some stage in the future—it will be a difficult task. The Hon. Mr Xenophon and others will be at them for not going hard enough and fast enough in relation to what is going on, and the industry and others will be saying they are being unreasonable.

In the end, they will become a little like the Treasurer or the government of the day in being criticised for not having taken decisions to resolve particular concerns that many in the community have about problem gambling, because there is no simple solution to the issues being raised by the community and members of parliament in relation to problem gambling. If it was as simple as clicking your fingers and its all going away, someone somewhere in the world would have done so, but that certainly has not occurred.

I strongly support the position on behalf of the government. We have had a long discussion and debate on this issue, and this provision ought to be there as a symbol or sign in the sand to the authority that it has these powers, that we know it has the powers in essence over time to drive people out of existence, but that is not what the parliament is saying to it. The Parliament is saying that there is a balance in all of this, and the maintenance of jobs and a sustainable industry in some way is something that the authority should continue to bear in mind as it goes about its job.

The Hon. M.J. ELLIOTT: I move:

Page 14, line 24—After 'State' insert '(but not so as to prejudice the furtherance of the object set out in paragraph (a)).

I am saying that whilst both paragraphs (a) and (b) would exist as objects, they do not stand as equal objects, and that paragraph (b) ultimately is subservient to paragraph (a). It is not to be ignored, but paragraph (a) prevails. In the first instance I will be supporting the knocking out of subclause (b), but should I fail in that respect I will seek to have that amendment agreed to.

When I first became involved in this debate about a gambling commission, I was certainly thinking in terms of a single body. However, my thinking over time in relation to that evolved and that was because I recognised that we might have the sort of problems that are starting to emerge in this bill. We have a single authority that has a dual function. It is both regulatory and monitoring impacts and making recommendations in relation to them. Those are two quite separate tasks, and to have got it right we should have had one body which had the regulatory role—the licensing, enforcement, and so on—and a quite distinct body that was largely advisory and providing advice predominantly to the parliament itself.

I have argued again here today that we will revisit gambling legislation on a number of occasions over the next couple of years. I should have hoped that we would have an independent body outside the licensing-policing role which simply monitors what is happening in the community, making recommendations to the parliament and perhaps providing advice in terms of appropriate codes of conduct and those sort of things.

I think that the dual role that we are giving the authority is the major mistake we are making in this establishment. Having called for the establishment of a commission, I am glad that we are now getting a body along those lines. Indeed, I think that there should have been two bodies, not one, and then we would not have this very clear conflict that is emerging in terms of these objects. These objects are capable of clashing, and I do not think that they are necessarily capable of being resolved internally. In fact, in my view, so far as there is a clash, that is something that should be resolved within this parliament, ultimately through legislation and regulations. But since we have only that one body, we must seek to ensure that, so far as there is a clash, we decide what are the most important goals that we are seeking to achieve. In my view, object (a) should prevail over object (b) in relation to this single body.

The Hon. P. HOLLOWAY: I indicate that the opposition will support the clause as it came to us from the House of Assembly. When we were discussing the Hon. Nick Xenophon's Casino amendment bill last year, we had a long debate on the objects of that legislation, and I think it came out in that debate that objects are important in terms of how the courts may interpret the legislation. So, it is important that we do have the balance.

Clause 30 sets out the functions and powers of the new Independent Gambling Authority, and provides:

In performing its functions and exercising its powers under this act or a prescribed act, the authority must have regard to the following objects:

Two objects are listed. The first is as follows:

the fostering of responsibility in gambling and, in particular, the minimising of harm caused by gambling, recognising the positive and negative impacts of gambling on communities.

I think we all agree with that. Certainly, that is, I guess, one of the main driving forces behind the introduction of this legislation. But, as the Treasurer has indicated, that is balanced in the clause as it came to us from the House of Assembly by object (b), which provides:

the maintenance of a sustainable and responsible gambling industry in this state.

That is the part that the Hon. Nick Xenophon seeks to delete. It is the view of the opposition that, if we were to delete that, it would unbalance the approach of the gambling authority. Certainly, speaking for myself, we still need to recognise that many people in our community—the vast majority, fortunately—participate in the gambling industry for their enjoyment. There are many people who get significant enjoyment out of the industry, and it is certainly my view that they should be able to continue to do so.

I see no problem with having a clause saying that we should maintain a sustainable and responsible gambling industry in this state. It has to be sustainable; that means that it cannot be destructive in its habits. And 'responsible' means that it must take into consideration the harm to the community. I certainly see absolutely no problems at all in retaining that clause. As the Treasurer pointed out, I think it is

important that we balance up the objectives of the Independent Gambling Authority. Under the bill that we will pass through here (soon, I hope), it does have a considerable number of things to do, and it will certainly be a very difficult job. I think that, while it is certainly looking at all the tasks to try to minimise harm, it also needs to recognise, in my view, that there is an industry out there that is providing a lot of jobs and a lot of enjoyment for people. The opposition will support this part of the bill as it came to us from the House of Assembly.

The Hon. A.J. REDFORD: I must say that I am not comfortable with this. I fought the good fight within the Liberal Party forum and the Liberal Party forum decided that we would support this clause. I respect and support that decision but that is not to say that that position will be intractable if this issue should come up again.

I also have extraordinary sympathy for the Hon. Michael Elliott's amendment; it seems to me to be a reasonable compromise. I suppose that we are in a rather awkward position as a result, I must say, of the making of two events: first, obviously, the task force process, and I was involved in that. It took a considerable amount of time to achieve the degree of consensus that we did to ensure that we walked the industries through with us—

The Hon. M.J. Elliott interjecting:

The Hon. A.J. REDFORD: To take on. I am not saying that there was. Did I say that? I did not say that. To achieve the degree of consensus that we did, in the general sense, took a lot of time and the parliament was given a limited amount of time to deal with it. At the same time—and I alluded to this earlier but I will say it in fairly blunt terms—we had the extraordinary Don Quixote performance in another place, where a considerable amount of parliamentary time was taken up dividing and arguing over clauses that were doomed to fail, which meant that when this clause was debated in the lower house it came on at a rather ridiculous hour in the morning and, I think, there was only one contributor and that was the Don Quixote performer himself.

The Hon. Nick Xenophon interjecting:

The Hon. A.J. REDFORD: The Hon. Nick Xenophon interjects. I understand that this was a team effort with the Hon. Nick Xenophon. The honourable member has been here long enough to understand how party forums operate. These issues are raised late at night because we have wasted so much time talking about other, peripheral issues. Matters are then brought into our forums, of the two major parties, late in the piece when we have committed ourselves to a course of action which makes it extraordinarily difficult for us. Sometimes—and I am not afraid to give the honourable member some advice—the Hon. Nick Xenophon would be better off looking at what he can achieve in terms of his agenda rather than continuously revisiting the same arguments over and again and taking up considerable periods of time.

I can say that I am disappointed that I will be supporting this clause, but I will support it. I think that the Treasurer quite fairly set out the reasons why the Liberal Party supports it, and I will do my best to shift the Liberal Party position at some stage down the track. I think that the way in which the debate was conducted, principally by the Hon. Nick Xenophon, puts people like me who want to advance a particular position in the party room in an extraordinarily difficult position when you are arguing about these things at the last minute because so much time has been wasted on other issues.

When one looks at the lower house debate, probably the most important clause in the bill is debated at 2.30 in the morning because members in that place have mucked around on other issues. I think that there is an important lesson to be learnt out of that and I hope that the honourable member takes it and heeds it.

The Hon. M.J. ELLIOTT: The previous speaker, in winding up his comments, made the comment that this might be the most important clause in the bill. I will not argue about whether it is the most important clause but, certainly, it is a significant clause. Very early in debate on this amendment the Treasurer talked about the fact that this has all emerged from a consensus operation. That is paraphrasing but, effectively, that is what he said. I have had an opportunity to have a brief discussion with some people involved in those discussions and my understanding is that this amendment does not reflect any consensus that was reached within the groups that were having discussions. Indeed, I understand that what is before us was not insisted on by the AHA but perhaps by a couple of senior government people.

We have been told that this has emerged from consensus and that we should not tinker with it. In fact, this is not something on which there was agreement or any signing off on, or anything else. As I understand it, in the consensus-building discussions, this would be knocked out only to come back after it had been somewhere within the senior offices of the Liberal Party. It was put back in two or three times. It was not necessarily the AHA that was driving this but, in fact, senior government people.

I am quite outraged that we are being told that this is something on which there has been some consensus and that we should not rock the boat, when that statement does not reflect what actually happened. This clause is important and I am extremely disappointed that we should be misinformed in that way.

The Hon. R.I. LUCAS: Whether inadvertently or otherwise, the honourable member has misinterpreted what I said, and I do not want to leave him interpreting what he believes I said on the public record. Putting the other side of the coin, there are a number of provisions in this with which the AHA does not agree. What I said was that there was give and take on both sides.

The Hon. M.J. Elliott: Did the AHA ask for this one?

The Hon. R.I. LUCAS: I wasn't there. You would have to ask the people who were there. You are the one who has spoken to the people—

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: You have spoken to the people who were on the task force. I have not spoken to them. You go and speak to them. If they say that the AHA did not, and I presume it is the welfare people that you have spoken to, it is for them to defend what they have told you. I was not there, so I cannot indicate the nature of the discussions. All I know is that, when it came out of that group and went off to parliamentary counsel, this provision was in it. Who drove the process, I do not know, and I do not pretend to know, either.

What I am saying is that, having spoken about some of the other provisions, if the AHA had its way, it would prefer some of the things not to go through. It has said that, although it is not its preferred course of action and if it were driving the process it would not be supportive, in the interests of give and take, it would be prepared to concede on some of the provisions that we have debated tonight, and others, in the interests of trying to develop a compromise package.

'Compromise' is a better way of putting it than 'consensus', because that construes that everyone agrees and is happy with every aspect of the compromise. My understanding, and again I can only rely on what came out of the task force, was that there was give and take and compromise on both sides. People might have remained unhappy about various provisions of the compromise package but, ultimately, there was a bit of give and take on all sides.

The government has had a long debate about this. Its position is clear, as I understand the opposition's position is clear. I do not intend to prolong the debate, even though 12.30 is my time for the sweep. However, I want to correct the record and indicate that I am not claiming that everyone has agreed with everything in relation to this; clearly that is never going to be possible. There has been give and take, as I understand it, on all sides, and that is where we have ended up.

The Hon. NICK XENOPHON: Can the Treasurer explain how paragraphs (a) and (b) will operate in conjunction with each other? Is there not an inherent tension between paragraph (b) and paragraph (a)? In the event that, for instance, the Independent Gambling Authority were presented with evidence that a particular gambling practice, game or machine was causing a significant degree of harm but that to remove it or to change it would mean that the industry would say that it would not be viable, where would that leave this legislation?

Would paragraph (a) or (b) be the dominant paragraph—there seems to be a degree of ambiguity? Has the Treasurer obtained advice as to whether the industry could take action in the Supreme Court by way of judicial review to prevent the Independent Gambling Authority from carrying out an order that minimises problem gambling because of the provision of paragraph (b), in particular, 'the maintenance of a sustainable and responsible gambling industry', with emphasis on the word 'sustainable'? Where does that leave us and what advice has the government obtained in terms of how that clause would work, in the sense of the industry having a right of action to fetter the operation of the authority?

The Hon. R.I. LUCAS: The authority will be there to try to provide a balance between the objectives that the parliament gives it. If the honourable member wants to portray that as tension or inevitable tension, in essence, it is the task we require of virtually every authority—

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: No, in terms of drafting and in terms of practice. It is a balancing act for many of the authorities that we establish where we give them two, three, and up to five or six objects that they must, as best as they can, balance. The honourable member only has to look at the objectives of organisations such as Funds SA and some of the investment management bodies that have to be responsible in terms of their investments, but they have to make money for their investors and their shareholders. The honourable member might like to describe that as a tension between objectives as well and whether or not people could take action under one particular objective.

In the end, they are the objectives that parliament gives an investment management body, or, in this case, a regulatory monitoring body such as the Independent Gambling Authority, and it will be a decision for the wise, cool heads (hopefully) of the Independent Gambling Authority to balance these objectives. The honourable member was fair enough to indicate that the second or first objective—whatever it is (paragraph (a) or (b))—is not just sustainable but it is sustainable and responsible. It is not as if one paragraph says, 'Gouge as much money out of market as you can' and the other one is about problem gambling and trying to balance those two issues.

One paragraph is saying, 'You have to look after problem gamblers' and the other paragraph is saying 'sustainable'. It is interesting that the honourable member used the word 'viable', because when this was debated between some of the forums in government I think at one stage the word 'viable' was being recommended by Parliamentary Counsel—and if it was not Parliamentary Counsel, I apologise immediately but I think it was—and the government believed that 'viable' was perhaps too aggressive a word but that what we were talking about was sustainable and responsible, and ultimately that was the position that the government—

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: It may be. That is for the lawyers such as the Hon. Mr Xenophon and others to argue, and the Chairman of the GSA or the Independent Gambling Authority is a lawyer of seven or 10 years standing, so clearly there is legal expertise available on the gambling authority and it will have legal expertise available too. However, the first or second provision, whatever it is, is not just about a sustainable industry: it is a sustainable and responsible gaming industry. It is not an either or situation: it is an 'and', and we are talking about a responsible industry as well as its being sustainable and as well as the gaming authority obviously having to place great weight in terms of problem gamblers.

I cannot give any more informed a response to the honourable member than that. It is a balancing act for the authority and, as many other authorities do when they get a series of objects in terms of how they must operate, it will have to balance those objectives as best it can in its operations.

The Hon. M.J. ELLIOTT: On further discussion outside of this place, I understand that the thrust of what I said before was indeed correct. My understanding is that the non-government members at least of the consultative group were seeking to remove the words 'objects' and the words 'sustainable and'. So far as there was a consensus position that is closer to the consensus position than what is put here. What we have here is the government position as distinct from the consultative group's position. I think that it is important that that is on the record.

The Hon. Mr Xenophon's amendment carried.

The committee divided on the Hon. Mr Elliott's amendment:

AYES (4)

Elliott, M. J. (teller)	Gilfillan, I.
Kanck, S. M.	Xenophon, N.

NOES (15)

Davis, L. H.	Dawkins, J. S. L.
Griffin, K. T.	Holloway, P.
Laidlaw, D. V.	Lawson, R. D.
Lucas, R. I. (teller)	Pickles, C. A.
Redford, A. J.	Roberts, R. R.
Roberts, T. G.	Schaefer, C. V.
Sneath, R. K.	Stefani, J. F.
Zollo, C.	

Majority of 11 for the noes.

Amendment thus negatived; clause passed.

Clauses 31 to 33 passed.

Clause 34.

The Hon. NICK XENOPHON: I move:

Page 15—

After line 16—Insert proposed paragraph as follows:

(c) in relation to making bets with the holder of the major betting operations licence—

(i) one or more specified premises that are offices or branches of the holder of that licence; or

(ii) making bets at one or more specified agencies of the holder of that licence; or

(iii) making bets by telephone or other electronic means not requiring attendance at an office, branch or agency of the holder of that licence; or

(d) in relation to purchasing lottery tickets from the commission—

(i) one or more specified premises that are offices or branches of the commission; or

(ii) purchasing lottery tickets at one or more specified agencies of the commission; or

(iii) purchasing lottery tickets by telephone or other electronic means not requiring attendance at an office, branch or agency of the commission.

Lines 21 and 22—Leave out 'the licensee of each place to which the order relates' and insert 'the relevant licensees or the commission'.

Lines 23 and 24—Leave out 'enters or remains in a place from which he or she has been barred' and insert 'contravenes an order'.

Line 26—Leave out 'the Casino Act 1997 or the Gaming Machines Act 1992' and insert 'the Authorised Betting Operations Act 2000, the Casino Act 1997, the Gaming Machines Act 1992 or the State Lotteries Act 1966'.

Line 31—Leave out 'from a place'.

After line 32—Insert proposed subsection as follows:

(8) In this section—

'Commission' means the Lotteries Commission of South Australia.

These amendments relate to voluntarily barring provisions. The authority has the power to deal with voluntary barring. My amendments allow for, in effect, voluntary barring to take place at TABs and Lotteries Commission outlets. This is quite different from the amendments that have been moved previously in respect of third party barring. This relates to voluntary barring. I urge members to support this proposal. I repeat: it is voluntary barring that we are talking about here. It allows a mechanism to be put in place for those who wish to be barred not only from hotels and club gaming areas but also from TABs and Lotteries Commission outlets—again, on a voluntary basis.

The Hon. R.I. LUCAS: I know that it is 10 past 12 midnight but, as I understand the amendments, the Hon. Mr Xenophon wants to make provision for people to bar themselves from buying lottery tickets from the local newsagent.

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: Yes. They will voluntarily bar themselves from buying lotto tickets at the local newsagent.

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: I understand the zealous nature of what the honourable member wants to do to keep us here in the early hours of the morning, but the honourable member has the notion that this parliament ought to provide a self-barring mechanism for people at the local newsagent. I do not know how he proposes to police a self-barring mechanism to stop someone from buying a X-Lotto or scratchie ticket from the local newsagent. I invite him to go to the Burnside shopping centre or somewhere similar where the newsagent is not actually in the shop but in a kiosk in the middle of the shopping centre. That is where you buy your X-Lotto or scratchy ticket. In relation to the whole notion that we are going to have a self-barring mechanism with the commissioner and a variety of others involved in policing it, I shake my head, and I shudder when I think of the lengths to which the honourable member is prepared to go stamp out this evil.

The Hon. Nick Xenophon: It is self-barring.

The Hon. R.I. LUCAS: It does not matter whether it is self-barring or what it is. The whole notion that we have to extend the debate to self-barring on X-Lotto and scratchie tickets at the local newsagency does the honourable member not much good at all in terms of his credibility in relation to this whole debate. There must surely be a limit beyond which even the Hon. Mr Xenophon will not go in relation to some of these issues. I am waiting for it. It has only been four years. It must come. Somewhere there will be a limit beyond which even the Hon. Mr Xenophon will say, 'I will not go beyond that limit. I will actually allow this raffle, or whatever it is, to go on in some way without being regulated to death by me and those who want to support me.' As the honourable member has probably gathered, I do not support his proposition. I do not intend to delay the proceedings any longer.

The Hon. P. HOLLOWAY: The opposition does not support the amendments.

Amendments negatived.

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

Page 15—

Line 18—Leave out 'the' and insert:

Subject to subsection (3a), the

After line 19—Insert proposed subsection as follows:

(3a) An order under this section may not be revoked, or be varied so as to limit in any way its application, unless it has been in force for a period of at least 12 months.

They are consequential upon each other, and I am advised that they raise the same substantive issue. I am told that the current arrangements are that someone who is on the register can instantaneously get themselves off the register. This provision will lock them in for 12 months so that, once they are on there, they have to remain for at least a 12 month period. They will not be able to get themselves off instantaneously. That has been discussed and there is some support for it.

Amendments carried.

The Hon. NICK XENOPHON: As they are consequential to my ill-fated amendment, I advise that I do not propose to proceed with my amendments to clause 34, page 5, lines 21, 22, 23, 24, 26, 31 and 32.

Clause as amended passed.

Clause 35 passed.

Clause 36.

The Hon. NICK XENOPHON: I move:

Page 16, after line 2—Insert proposed section as follows:

Matters to be referred to authority

18A. (1) If an association formed to promote or protect the interests of a section of the gambling or liquor industry, or employees in the gambling or liquor industry, receives a complaint that appears to allege a breach of a prescribed act or a condition of a licence under such an act, the association must refer to the complaint to the authority and provide the authority with all information in its possession relating to the complaint or alleged breach.

Maximum penalty: $10 000.

(2) Information provided to the authority under this section will be regarded as confidential information for the purposes of this act.

This relates to matters to be referred to the authority. This clause provides that, if an association formed to promote or protect the interests of a section of the gambling or liquor industry or employees in the gambling or liquor industry receives a complaint that appears to allege a breach of a prescribed act or a condition of a licence under such an act,

then that association must refer the complaint to the authority and provide the authority with all the information in its possession relating to the complaint or alleged breach.

I move this proposed new section as a result of advice I have received from gambling counsellors who tell me that in instances where an association has received information of a venue undertaking on the face of it illegal practices, particularly credit betting, the matter was resolved between the venue and the complainant in terms of a sweetheart arrangement, in a sense. That is inappropriate because the authority ought to be aware of it. My understanding of the matter—and I obviously stand to be corrected if it is not the case—is that the Hotels Association was not unsympathetic to this proposal. It would simply ensure that, if there is evidence of illegality, the authority ought to be informed of it so that its enforcement role, its role in monitoring the gambling industry, can be dealt with effectively. I urge honourable members to support this clause.

Members interjecting:

The Hon. R.I. LUCAS: Yes, the government has had a long-term policy on this particular issue. It has been very flexible. My advice is that the government is not inclined to support this provision. As I said, we have had some toing and froing on this issue throughout the day. There have been some concerns raised by the industry and, I think, from the government's viewpoint, it would be sensible for its concerns to at least be considered and investigated. Advice potentially comes from the IGA and, ultimately, the government or the parliament can decide when next we visit this legislation as the Hon. Mr Elliott, or someone else, said we are likely to do frequently in the future, it could be considered at that particular stage. Broadly, the concerns that it has raised are that there are a number of issues at what it would call the trivial end of the issue spectrum that might be raised with the association, things that it believes that it can satisfactorily resolve and resolve quickly without it necessarily having to be something which takes up the time and the concern of the Independent Gambling Authority.

Now, there are other issues. I must admit that I do not have the advice from the AHA here with me, but there are other issues that I know it has raised in relation to the practicalities of how this particular provision would operate in practice. So, on balance, at this stage with all those caveats, the government is not inclined to support the honourable member's amendment.

The Hon. NICK XENOPHON: I am disappointed with the government's position on this. My understanding was that the government was initially sympathetic. I understand that in the ebb and flow its position has changed, but if an association, whether it is the Hotels Association or a union, obtains information and it appears to be trivial, if they pass it on, the Independent Gambling Authority will presumably treat it as a trivial complaint and not take the matter further. But the information that I have had from gambling counsellors is that there have been occasions when the Hotels Association in years gone by has had information about credit betting, and it has dealt with that issue internally. It has not reported it to the authorities. That is something that is very serious. I am certainly not accusing Mr Lewis or Ms Van Deventer from the Hotels Association. This is information that I have obtained from gambling counsellors who have indicated that this has occurred in previous years.

If that information is correct, it is certainly very serious. There has yet to be a prosecution under the legislation for credit betting. It is a serious offence. This parliament decided that credit betting should be prohibited because of the risk it posed to accelerating problem gambling and the risk it posed to exploiting problem gamblers. I am aware of situations put to me by gambling counsellors where the Hotels Association has been aware of credit betting; they have dealt with this issue internally, in a sense, with the venue to wipe off debts, or whatever. On the face of it, there have been clear breaches under the act and those breaches were not reported to the commissioner's office or to the police.

This provision would have put the onus on the industry association and the union to report breaches, and I am very disappointed that the government will not go further in relation to this. Given the concerns expressed to me by gambling counsellors for whom I have a high regard, it is very disappointing that the government is not supporting a minimalist amendment that would at least put the onus on the AHA and the union whereby, if they are aware of illegal practices, they ought to refer them to the authority. I believe the wrong message is being sent to the industry by not supporting this amendment.

The Hon. P. HOLLOWAY: I indicate that we support the position of the government on this matter.

The Hon. M.J. ELLIOTT: I indicate support for the amendment. As I indicated previously, there is no question that some rogues are operating in the gambling industry and they are breaking the law on a number of occasions. It does not do the industry as a whole any good to have those people continuing to operate. Perhaps some of the organisations have been a little too tolerant of their own members' behaviour on some occasions and, in the process, they have not done those members who are doing the right thing a service. It brings the whole gambling industry into disrepute when some people are behaving in an improper fashion. I think it would be very sensible for the associations—whether they represent the industry or employees working in the industry, it would serve them all well—where they are aware of breaches occurring that those breaches should be reported to the authority.

The committee divided on the amendment:

AYES (4)

Elliott, M. J.	Gilfillan, I.
Kanck, S. M.	Xenophon, N. (teller)

NOES (15)

Davis, L. H.	Dawkins, J. S. L.
Griffin, K. T.	Holloway, P.
Laidlaw, D. V.	Lawson, R. D.
Lucas, R. I. (teller)	Pickles, C. A.
Redford, A. J.	Roberts, R. R.
Roberts, T. G.	Schaefer, C. V.
Sneath, R. K.	Stefani, J. F.
Zollo, C.	

Majority of 11 for the noes.

Amendment thus negatived; clause passed.

Clauses 37 and 38 passed.

The Hon. NICK XENOPHON: Given that a number of these provisions have been dealt with under other acts related to gambling and have been unsuccessful, I propose to withdraw the balance of my amendments, save for a separate amendment which I have on file to clause 49 about public consultation.

Clauses 39 to 48 passed.

Clause 49.

The Hon. NICK XENOPHON: I move:

Page 18, after line 34—Insert proposed subsection as follows:

1(a) The Authority must seek and consider written submissions from the public when reviewing a code of practice under subsection (1).

This relates to the Lotteries Commission and has been passed in relation to the authorised betting operations of the Casino Act and the Gaming Machines Act. For the sake of consistency it also ought to apply to lotteries products.

The Hon. R.I. LUCAS: The government supports the amendment.

The Hon. P. HOLLOWAY: The opposition supports the amendment.

Amendment carried; clause as amended passed.

Title passed.

Bill recommitted.

Clause 17A.

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

Leave out after the word 'amended' subclauses (a) and (b).

By way of explanation, what I am seeking to do is recommit the amendment that was moved by the Hon. Paul Holloway to section 14A of the principal act. For members who are not following the bill closely, section 14A is the clause that imposes a freeze on gaming machines. The Hon. Paul Holloway's amendment seeks to allow the freeze not to apply in relation to an application made by any other person in prescribed circumstances, and then provides that a regulation made for the purposes of subsection (2)(c) cannot come into operation until the time has passed during which the regulation may be disallowed by resolution of either house of parliament.

As I understand it, he sought to justify the insertion of that clause (that is, an application made by any other person in prescribed circumstances) on the basis that there may be before the year 2003 circumstances in which it might be appropriate to grant an application for poker machines in relation to greenfield developments. I think on one occasion he used the example that there may well be an application for a major development in a place such as the Flinders Ranges or some other place. He used it in a hypothetical sense. I will resist the opportunity to talk about the Flinders Ranges.

The point that concerns me in relation to this clause is that, whilst the honourable member's intention might be to confine it to that, that is not what the clause says. The clause says, 'an application made by any other person in prescribed circumstances'. This clause endeavours to give the executive arm of government carte blanche to prescribe any circumstances without any constraint.

The Hon. P. Holloway interjecting:

The Hon. A.J. REDFORD: I will come to that point because the honourable member would do that. The executive arm of government can prescribe that in any circumstances. It is not subscribed or confined in any way, shape or form. The executive arm of government can prescribe any circumstances that it sees fit.

It has not escaped my attention that the honourable member would then seek to argue that that does not matter because either house of parliament can move in and disallow that regulation by a resolution, and that would then end the regulation. The honourable member knows full well, because he has served on the Legislative Review Committee, that in theory that might sound like a reasonable protection, but put yourself in the position of the Legislative Review Committee and ultimately as a house of parliament in endeavouring to deal with an issue such as this.

If it is a major greenfields prescription or a generic description, the Legislative Review Committee, as the member well knows, would have a very complex and difficult task in making a recommendation to either or both houses of parliament in dealing with such a regulation. The honourable member well knows that we have 14 sitting days within which to deal with such a regulation.

I do not believe that parliament itself or the Legislative Review Committee is equipped in any way, shape or form to make an assessment of the appropriateness of granting or not granting poker machines or enabling such an application to be made in that time frame, given the level of resources that the Legislative Review Committee or other committees might have.

Members interjecting:

The Hon. A.J. REDFORD: We have the singularly worst resourced committee system in the nation.

The Hon. R.I. Lucas: We have more faith in your abilities.

The Hon. A.J. REDFORD: It may well not be my abilities: I may not be here after the next election—it may be someone else. We cannot presume, and that is what worries me.

Members interjecting:

The Hon. A.J. REDFORD: It is not that at all. You can be glib about the Legislative Review Committee.

The Hon. Diana Laidlaw interjecting:

The Hon. A.J. REDFORD: The honourable member well knows that with the number of holding motions we are moving in this place we are not keeping up with the workload we have, for a range of reasons, one being resources.

The Hon. Carmel Zollo interjecting:

The Hon. A.J. REDFORD: That may well be the case, but it is simply a matter of resources. The Hon. Rob Lucas supported this clause and the Hon. Diana Laidlaw interjects that we have incredible faith in the Legislative Review Committee. I can assure the member that, as the presiding officer, we probably would not be able to deal with this within time. I know that ministers use 26AA, which is supposed to be used on rare occasions, with gay abandon (that is, it is the exception not to use it rather than the rule), and that causes the holding motion to come into effect. But the reality is that the regulation would come into effect even if we did move a holding motion. So, what I am saying is—

An honourable member interjecting:

The Hon. A.J. REDFORD: I ask the member not to interject, and allow me to put my point of view. What I am saying is that the parliament is simply not equipped to deal with this. If there is a development of major considerations, there is nothing to prevent a government or an individual member from bringing a bill into the parliament and dealing with it in that context. It is not appropriate—

The Hon. Diana Laidlaw interjecting:

The Hon. A.J. REDFORD: Then you deal with it in the whole of the parliament. I will explain. The honourable member has been here a lot longer than any of us and ought to understand how the regulatory process works.

The Hon. Diana Laidlaw: I do. I understand it very well, and I have great respect for it.

The Hon. A.J. REDFORD: The honourable member knows full well that a regulation is promulgated in the *Government Gazette*. There is then a limited amount of time to deal with it.

An honourable member interjecting:

The Hon. A.J. REDFORD: If the honourable member interjects, she will get a response. Some 70 per cent of ministers do not respond within the time that the Legislative Review Committee can deal with these regulations in a timely fashion, or in a fashion in which we do not have to move a holding motion. What I am saying is that the so-called protection that the honourable member has put in in subclause 2(a) is illusory, and we will run the risk of the parliament not being able to deal with it in time and having quite a hiatus when—

The Hon. T.G. Roberts: What are you suggesting?

The Hon. A.J. REDFORD: I have put the suggestion. If you have a wonderful greenfields proposal, bring in a bill and deal with it then. It does not come into effect until the bill is passed. This is a back door way of bringing it in and, hopefully, getting it up within a short period of time. The second thing is that I think the debate about the freeze has been significant, and I do not think that it should be undermined in any way, shape or form.

The Hon. NICK XENOPHON: I indicate that I support wholeheartedly the Hon. Angus Redford's position and his eloquent exposition of the risks involved in the Hon. Paul Holloway's amendments.

The Hon. P. HOLLOWAY: I do not wish to revisit the debate we had earlier, because quite some time was spent on it then. I just wish to answer a couple of points that the Hon. Angus Redford has made. He really did draw a number of red herrings around this. After all, this parliament has just spent something like nine or 10 hours discussing an incredibly wide range of issues in relation to gambling, and we had no problem in doing that. I would have thought that, if my amendment gets up, and if at some stage in the next two years the government decides that there is a case that—

The Hon. A.J. Redford: But you have got the criteria.

The Hon. P. HOLLOWAY: No, I have not. I will explain that in a moment. If I had set some criteria such as greenfield development, it would be difficult to describe that in legislation. We have already voted on the cap, so the cap is in place; there will be a freeze now until 31 May 2003. That is in place; that is not at issue. All we are saying is that, if something comes up in the next two years where there are special circumstances, the government of the day can use the regulatory process, with the additional safeguard that it does not apply until the time has elapsed within which it may be disallowed. All those qualifications are in there. If something comes up, they can do it. It is simply an opt out provision for a very special case.

As I said earlier, which government will go against the spirit of a cap to allow some sort of frivolous development, or some development which is clearly outside the principles that this parliament has set?

It would obviously be used only in situations where there were very special circumstances, and they may arise. The Hon. Angus Redford can get up and say, 'Look, the circumstances could never arise in the next two years.' But there might be a case where there was some development which was in the interests of the state and which had minimal or zero harm minimisation impact, then we should not do it. A regulation is obviously much more convenient than introducing an act. It is not necessarily easy to introduce a special act when the parliament is not sitting, given that there will be some time delay, anyway. The Hon. Angus Redford raised a number of red herrings in relation to the Legislative Review Committee.

Certainly, the usual process is that some regulations would go before the Legislative Review Committee. Clearly, gambling has consumed so much of this parliament's time over the past three or four years—probably 10 per cent to 20 per cent of the time of this parliament over the past four years has been consumed with these issues. I would have thought that this parliament was very well equipped to deal with something so simple. If a regulation came through, I think that all of us could very quickly decide whether or not that was a legitimate exemption.

Some might say that there could never be a legitimate exemption but other people, perhaps those who have supported the cap in principle, might say, 'Yes, there is a very special circumstance here and we support it in that case.' It is up to members in the future to do that. We have certainly had no difficulty in deciding these issues on a range of gambling subjects over the past four years, and I do not think that we would have any difficulty in the future.

The only other point I wish to make relates to the history of this amendment. Incidentally, this amendment appeared in the same form when one of my colleagues, who is vehemently opposed to gaming machines, moved a freeze which, I think, was carried by the House of Assembly. It actually included this qualification. It was regarded as being so tight that it would be very difficult for any exemption to come forward.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: It was, remember, my colleague Michael Atkinson. The House of Assembly passed the amendment. In the end, the government, through the Hon. Angus Redford, moved the temporary freeze and that had no exemptions at all. However, the original amendment that my colleague moved included this provision because it recognised that there could be special circumstances where you may need an exemption. I do not think that we need keep the committee any longer. All members know what is at stake here. Let us have the vote and get this bill through.

The Hon. R.I. LUCAS: This provision was debated earlier in the evening and passed without division. There was opposition and, obviously, we can vote on it now. I do not share the views that the Hon. Mr Redford has indicated. This provision is not a loophole through which one can drive a Mack 10 truck, or whatever it is: it is a very tight restriction. The government of the day can introduce a regulation but it must make its way through both houses of parliament. Either house of parliament can disallow the regulation.

This also contains the provisions we discussed earlier in the evening—for those members who were part of the earlier debate—where a motion can be left on the table of either house of parliament and not proceeded with. For all that period you will not be able to proceed, or the government of the day—

The Hon. A.J. Redford interjecting:

The Hon. R.I. LUCAS: No, it would not be able to proceed.

The Hon. A.J. Redford interjecting:

The Hon. R.I. LUCAS: No, it would not be able to proceed with the development until that passage of time had expired.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Yes, but parliament ultimately determines. Unlike the school fees' debate, which is the example we gave earlier, where the government could introduce the regulation, enact the policy and, when it is disallowed, reintroduce another regulation. The advice that

has been provided to us makes it quite clear that this cannot be in those sets of circumstances. It is a cast iron restriction. Ultimately, the parliament either must agree or not agree in relation to this particular exemption if it is to be allowed.

As we indicated earlier, this is a conscience vote for members. As other members have indicated, I strongly reject the view that this cap can be seen in any way as a Clayton's cap. This provision could only be used infrequently and it would be able to be successfully used only if both houses of parliament, in essence, approved it. If both houses of parliament approve it, the prospect of changing the cap, which is only there by good grace if both houses of parliament continue to support it, is another issue to be considered. If the numbers exist to drive a truck through the cap proposal, the cap can be changed next month or, indeed, the first month after the next election. There is an option for the parliament, and it has the ability to say no if it does not agree.

The Hon. R.R. ROBERTS: I support the amendment moved by the Hon. Paul Holloway for a number of reasons. I am a supporter of the cap and I have been a supporter of it for a couple of years. It has been put to me on a number of occasions that there will be no more development of hotels or facilities, and I have accepted that argument.

Let me say in response to the contribution by the Hon. Angus Redford that, if subordinate legislation operated in the way it is supposed to operate, we would not have a problem. When a regulation is made, it is supposed to be laid on the table and not enacted for three or four months. However, the technique known as 10AA(2) has been introduced, and that has been abused by governments of both persuasions, with every regulation that is made carrying a 10AA(2) attachment, so it is enacted immediately.

The amendment deals with exceptional circumstances. Bearing in mind that I support the cap, nevertheless I have been persuaded that there may be exceptional circumstances. Let me also say that, if someone is planning a facility of the nature that is being contemplated, it will not be done in one day like a shot out of the blue: there is a planning process. If developers want to put up these proposals, they ought to make their submissions to government, and those submissions ought to be made before the government enacts a regulation.

If a competent government and a government of integrity were to apply subordinate legislation in the way it is meant to be applied, and not use the 10AA(2) provision, the concerns raised by the Hon. Angus Redford about the amount of time that the Legislative Review Committee might need to look over the matter and about giving people either for or against the proposal that there be an extension of the number of gaming machines ample time to make a contribution would not be an issue. The point that the Leader of the Government made was that the parliament, if that were the situation, would ultimately decide whether in fact an exemption from the cap ought to take place.

For all those reasons, on balance, I am supporting the proposition that the Hon. Paul Holloway has moved because it gives in an exceptional circumstance the opportunity for justice to be done after consultation, after proper consideration and after the consideration of the parliament.

The Hon. M.J. ELLIOTT: I recall in the earlier debate that the Hon. Paul Holloway tried to offer an example of the sort of thing where this provision would be necessary, and it seemed to be 40 gaming machines in the middle of the Flinders Ranges to which people fly across the world to visit. Frankly, what is the honourable member trying to achieve with this amendment? He has talked about projects that might come up. Hypothetically, let us come up with a real world case.

The Hon. P. Holloway interjecting:

The Hon. M.J. ELLIOTT: Okay, but let's be real. Give us a believable scenario of something that is really going to happen that necessitates the clause.

Members interjecting:

The CHAIRMAN: Order!

The Hon. M.J. ELLIOTT: It is not under our control, it is not state land. It seems to me that, if he is promoting this clause because he believes there could be special circumstances, he should be able to give us one example of the special circumstances that would necessitate the clause. As I said, the only one he has come up with so far is something in the Flinders Ranges. Presumably, it is an operation of 40 poker machines and it will bring people from all over the world and, in those circumstances, it is so damn urgent that it needs to be done by regulation. It is not real world stuff.

I can understand why people are a bit nervous about it: they do not see that as being realistic, so they then say, 'Well, if that is not realistic, what else can it be used for?' It is certainly capable of being abused, but give us an example of a real world case where we would really need a regulation to do what the honourable member is proposing?

The Hon. P. HOLLOWAY: As I said earlier, I am sure some people would never be convinced. The Hon. Angus Redford has used the word 'greenfield' site. I gave the example and mentioned the Flinders Ranges just to suggest some remote area of this state where there would be limited harm because there would not be any people permanently living in the region, apart from the staff, and presumably they would or could be excluded. In other words, in terms of harm minimisation, that would not be an issue, because you would not have people as you have, say, in the northern suburbs who would run the risk of blowing their wages at one of these establishments.

It is really up to the proponents of any development. Certainly, we have received correspondence about this issue. I think all members probably would have received a letter from some legal people who were representing the various developers. They made the point that there may be cases where development was necessary. I refer to a letter from someone from a legal company—

An honourable member interjecting:

The Hon. P. HOLLOWAY: That is right. In part the letter states:

> My very clear impression from developer clients is that no hotel will be built in this state without the infrastructure provided by gaming machines.

That is the opinion of someone in the industry—

The Hon. M.J. Elliott interjecting:

The Hon. P. HOLLOWAY: No, I am not talking about that: I am talking about remote areas where there would be no problem gambling issues. However, it is not up to the government of the day; it would be up to the parliament and it would be up to a developer to put a proposal. All I am doing with this is simply allowing for an exceptional case.

The Hon. A.J. REDFORD: I will respond by asking, 'When is a freeze not a freeze?': when the government of the day changes its mind. What this clause says to the government is, 'Yes, you can.' This clause fundamentally alters the freeze. We are endeavouring to send a message to the community through the imposition of a freeze and the amendment of the Hon. Paul Holloway says, 'Yes, except for

when it might be a bit hard, except when the big boys come into town, except when a lot of dollars are rolling around, or except when you can get a big beat up in it' and—

The Hon. P. Holloway interjecting:

The Hon. A.J. REDFORD: Yes, if the honourable member wants to take away those property rights from people, then the honourable member can move his amendment, but that is not where the honourable member is coming from, nor is it where anyone else is coming from. The reality is this is a Clayton's freeze. It opens up a huge, great loophole—

Members interjecting:

The Hon. A.J. REDFORD: Members can deride that, but it does—

The Hon. Diana Laidlaw: Why do you even stay as chair of the committee, if you have so little faith in it?

The Hon. A.J. REDFORD: If the honourable member wants me to resign from the committee, she just has to say so and she will get a resignation.

The Hon. Diana Laidlaw interjecting:

The Hon. A.J. REDFORD: If the honourable member wants to press it, she can have the resignation. As I say, when is a freeze not a freeze: when the government of the day changes its mind and this amendment says to the government, 'Yes, you can.'

The committee divided on the amendment:

AYES (4)

Elliott, M. J.	Gilfillan, I.
Redford, A. J. (teller)	Xenophon, N.

NOES (15)

Davis, L. H.	Dawkins, J. S. L.
Griffin, K. T.	Holloway, P. (teller)
Kanck, S. M.	Laidlaw, D. V.
Lawson, R. D.	Lucas, R. I.
Pickles, C. A.	Roberts, R. R.
Roberts, T. G.	Schaefer, C. V.
Sneath, R. K.	Stefani, J. F.
Zollo, C.	

Majority of 11 for the noes.

Amendment thus negatived; clause as previously amended passed.

Bill read a third time and passed.

RECONCILIATION WEEK

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I table a ministerial statement on reconciliation issued earlier today by the Hon. Dorothy Kotz, Minister for Aboriginal Affairs.

ADJOURNMENT

At 1.09 a.m. the Council adjourned until Wednesday 30 May at 2.15 p.m.