LEGISLATIVE COUNCIL

Tuesday 9 November 2004

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

PAPERS TABLED

The following papers were laid on the table:

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

- Reports, 2003-04—
  - Adelaide Festival Centre
  - Adelaide Festival Corporation
  - Claims against the Legal Practitioners Guarantee Fund Report to the Attorney-General
  - Department of the Premier and Cabinet
  - Disability Information and Resource Centre Inc
  - JamFactory Contemporary Craft and Design Inc
  - South Australian Film Corporation
  - South Australian Museum Board
- Regulations under the following Acts—
  - Essential Services Commission Act 2002—Price Determination
  - Harbors and Navigation Act 1993—Speed Restrictions
  - Juries Act 1927—Summons to Jurors
  - Liquor Licensing Act 1997—Long Term Dry Areas—Adelaide and North Adelaide
  - Mount Gambier
  - Maritime Services (Access) Act 2000—Parts Access Regime
  - Motor Vehicles Act 1959—Demerit Points
  - Road Traffic Act 1961—
    - Alcotest Analysis
    - Crash Reports
- Rules under Acts—
  - Road Traffic—Australian Road Rules Variation 2004
- Motor Accident Commission Charter (dated 22 October 2004)

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

- Flinders University, Adelaide, Australia—Report, 2003
- Reports , 2003-04—
  - Adelaide Convention Centre
  - Construction Industry Training Board—Incorporating the 2004-05 Annual Training Plan
  - Dairy Authority of South Australia
  - Department of Human Services
  - Independent Gambling Authority
  - Local Government Superannuation Board
  - Office of the Liquor and Gambling Commissioner, Gaming Machines Act 1992
  - SA Water
  - State Theatre Company of South Australia
  - The State Opera of South Australia
  - Veterinary Surgeons Board of South Australia
  - Windmill Performing Arts Company
- Regulations under the following Acts—
  - Fisheries Act 1982—
    - Delivery, Storage and Sale of Rock Lobster
    - Disposal of Rock Lobster
    - Keeping of Rock Lobster
  - South Australian Health Commission Act 1976—Non-Medicare Patients
- Rules under Acts—
  - Local Government—
    - Australian Renewable Fuels
    - Correction to Rule 6
    - Definition of Dependant
    - Natural Resources Management
    - Presiding Member
- Statutory Authorities Review Committee: Inquiry into HomeStart Finance—Ministerial Response—October 2004.

EXTRACTIVE AREAS REHABILITATION FUND

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): I rise to inform the council that I have approved new guidelines for the funding of the rehabilitation of quarries and sandpits within the extractive industries of South Australia. The new guidelines are designed to result in better environmental outcomes, because the focus will be more on projects aimed at rehabilitating quarries and sandpits in this state. The new arrangements introduce the concept of core rehabilitation that will be undertaken by the quarry operators as they go about their normal mining operations. This will result in cheaper and more efficient outcomes than previous rehabilitation programs conducted under the former Extractive Areas Rehabilitation Fund (EARF).

The EARF was first introduced in the 1970s and does not cater adequately for modern quarrying operations. It also reflects the decision by the extractive industry to assume greater responsibility for rehabilitation. However, care has been taken to ensure that existing operations are not disadvantaged by the changes, especially for quarries that are close to the end of their mining life. Industry and other stakeholders have been involved with ongoing consultation since the release of a discussion paper in 2003. The changed funding arrangements apply from 1 July 2005, giving industry sufficient time to make the necessary changes to existing commercial arrangements. From 1 July next year, the royalty rate of 35¢ per tonne will apply. The rate will comprise an amount of 10¢ per tonne to be paid to consolidated revenue, which remains unchanged, and a contribution of 25¢ per tonne will be paid into the EARF—an increase from the current 10¢ per tonne.

While mine owners will be required to make provision for a substantial portion of the rehabilitation required under the approved mining operation plans, funding for certain rehabilitation projects (such as those necessitated by changes in community standards) would continue to be available from the EARF.

The industries have also recognised the importance of government regulation for the extractive industries and have agreed to contribute to the funding of additional mine inspector positions through royalty payments. PIRSA's Minerals and Energy Division will shortly hold a series of meetings for interested stakeholders in Adelaide and various regional centres to explain the changes. Projects submitted for funding by the EARF will be considered by a project assessment panel comprising an independent chair and three industry representatives nominated by the Extractive Industries Association, one of whom must be a regional industry representative.

On the panel will also be the Executive Director of the Minerals and Energy Division of PIRSA, or their nominee, and a nominee from the Department of Environment and Heritage. I inform the council that I have lifted the suspension on applications for EARF funding that had been in place since I announced the review in 2003, and project applications can now be submitted for consideration. Some legislative changes will be required and will be introduced into the House of Assembly this week.

The Hon. Sandra Kanck interjecting:

The Hon. P. HOLLOWAY: It is a money bill, so it needs to originate there. It changes the royalty provisions of the Mining Act. Regulations will need to be made as a result of the legislative changes, and these will be introduced after the

legislation is passed. This has been a long process that has involved a number of people. I thank my department, the Extractive Industries Association and the public input which has assisted in developing the revised arrangements.

QUESTION TIME

DEPARTMENTAL FUNDS

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make a brief explanation before asking the minister representing the Minister for Police questions about the financial scandals outlined in the Auditor-General's Report.

Leave granted.

The Hon. R.I. LUCAS: Members would be aware of the concerns expressed by the Auditor-General in his annual report in relation to a series of financial scandals which have embroiled a number of Rann government ministers. In particular, I refer to the example of the $1.03 million paid out of police department funds into the Crown Solicitor's Trust Account. I note that the Treasurer was made the Minister for Police in May 2003, and he has been the minister responsible for the police department's budget for almost 18 months.

The Hon. A.J. Redford: Why was he made police minister and not Mr Conlon, I wonder?

The Hon. R.I. LUCAS: That is an interesting question, which we have explored on other occasions, but perhaps not today, and certainly not by interjection, Mr President. You might like to rule my colleague out of order for being provocative.

The Hon. A.J. Redford: But it was a good interjection.

The Hon. R.I. LUCAS: It was a very good interjection, but I will not be diverted. The Adelaide Police Station relocation was approximately a $30 million project which evidently came in under budget at an amount of about $1.03 million. It is correct to say that the project was originally commenced by former Liberal police ministers, and then it continued to be implemented by Mr Conlon when he was minister for police, but Mr Foley took over in May 2003 when the accounts were finalised and the deposit was made into the Crown Solicitor's Trust Account. My questions are:

1. What advice was provided to Treasury, the police department and the Minister for Police's office since May 2003 on the budget progress of this project?

2. Why has Mr Foley, either as police minister or as Treasurer, never asked a question in almost 18 months since May 2003 about how the budget for this $30 million project was progressing?

3. Given that, in the minister's ministerial statement of 27 October 2004, the minister claimed that $1.03 million had been 'overpaid to the Department of Administrative and Information Services (DAIS)', can the minister give an explanation as to why $1.03 million was allegedly overpaid to DAIS?

4. Was the $1.03 million, which was deposited in the Crown Solicitor's Trust Account in June 2003, left in the Crown Solicitor's Trust Account until the time the Auditor-General started raising questions about deposits in the Crown Solicitor's Trust Account? If it was removed earlier than that date, when was it transferred out and to which budget account was it transferred?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): Again, the Leader of the Opposition is raising matters which have been very widely canvassed in the House of Assembly with the relevant minister. I will refer those questions to the Minister for Police and, if there are any matters in there which he has not already adequately covered in those questions asked in the House of Assembly, I am sure the minister will provide an answer.

DIRECTOR OF PUBLIC PROSECUTIONS

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Leader of the Government, representing the Attorney-General, a question about the Office of the Director of Public Prosecutions.

Leave granted.

The Hon. R.D. LAWSON: In the latest annual report of the Office of the Director of Public Prosecutions, which was tabled recently in this place, it is reported as follows:

> . . . there has been a significant impact on the Office of the unavailability of either judges or courtrooms for trials. During the year a total of 107 trials were deferred, which is more than double the number in the previous year.

The report goes on:

> There is a significant impact on the Office when late notification is received of matters not proceeding on the listed date. When a matter is deferred and re-listed for trial it is usually some months later, thereby delaying the finalisation of the files.

The report also notes additional funding of $1.5 million allocated to the office. It states that, during the 2004-05 year, an organisational review is to be undertaken of the structure, practices, procedures and business systems of the office. It is stated that an experienced consultant will be engaged to undertake the process of the review and to assist in the implementation of appropriate recommendations. My questions to the Attorney are:

1. Arising out of the 107 trials that were deferred last year, is he aware of this issue?

2. Does the government have a plan of action to address the issue of the unavailability of judges and courts, which impacts not only on the Office of the DPP but also on others who are involved in criminal trials, such as litigants, their advisers, the Legal Services Commission and witnesses, etc?

The Hon. A.J. Redford: Victims?

The Hon. R.D. LAWSON: And victims, of course.

3. If the Attorney does have a plan to address this issue, can he advise what the plan is?

4. In relation to the consultant to be engaged, has that consultant yet been engaged? Was the consultancy let to tender? If it has not already been let, will the government open that consultancy to tender?

5. Will the government table the report of the consultant in due course?

6. When does the government propose to appoint a replacement for Paul Rofe QC, who left office more than six months ago?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I will refer those questions to the Attorney-General and bring back a response. I am pleased that, in his preamble to that question, the deputy leader noted that this government has provided a significant resource increase of $1.5 million to the Office of the DPP in recognition of the office's increased workload.

EXTRACTIVE AREAS REHABILITATION FUND

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question about new guidelines for the Extractive Areas Rehabilitation Fund.

Leave granted.

The Hon. CAROLINE SCHAEFER: The minister has just handed us his ministerial statement on the new guidelines for the extractive industries of South Australia and, in particular, the rehabilitation fund. In that ministerial statement, he spoke of projects aimed at rehabilitating quarries and sandpits in this state. The new arrangements introduce the concept of core rehabilitation that will be undertaken by the quarry operators as they go about their normal mining operations. The statement further says that an additional 25¢ per tonne contribution will be paid in the form of royalties, and additional mining inspector positions will be funded out of those royalty payments. My questions to the minister are:

1. What effect will this change of regulations have on people who are specialists in quarry rehabilitation but do not own their own quarry?

2. Does this mean that many of them will lose their means of making a living?

3. Will the operation of such rehabilitation now be under the auspices of the department?

4. What expertise do quarry owners have to do such rehabilitation?

5. How much extra revenue will be generated by the additional charge of 25¢ per tonne, up from 10¢ per tonne to 35¢ per tonne?

6. What percentage of that extra revenue will be used to finance additional mines inspectors?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): I will take the last part of the question first. The increase is from 20¢ to 35¢. At present 10¢ goes into general revenue and 10¢ goes to the EARF, which is a total of 20¢. If the limit is increased to 35¢, an extra 15¢ will go into the Extractive Areas Rehabilitation Fund, of which about 4¢ per tonne would be used to provide for the additional compliance. At present, I think the total amount is roughly $1 million per annum, give or take $100 000 or so that goes into the EARF. That is based on 10¢ going into it. So, if it is increased by an extra 15¢ per tonne, that is another $1.5 million that is likely to be going into the fund.

Of course, as I have pointed out to the council in the past, it is estimated that anywhere between $50 million and $100 million of work might well be required, or even more, depending on how one defines it. Obviously, if $1 million a year was going into the fund (and the amount going into the fund has not been increased for many years), clearly, that was not going to be enough. I am very pleased that the Extractive Industries Association has agreed to this additional contribution to the Extractive Areas Rehabilitation Fund so that some of that work can be addressed.

As I said in my statement, the idea of the new scheme is to try to get more rehabilitation work done within the system as the quarrying is being undertaken, because that is more efficient. If one just leaves the rehabilitation work right to the end of the operation, that is likely to be more expensive than if some backfilling or other operations are done during the course of the mine. Part of these changes, which have been discussed very widely with the industry, are to ensure that the quarry operation plans allow for ongoing rehabilitation during the course of the mine.

We recognise that a significant amount of work will need to be covered by the EARF. The guidelines for operation that I have released do refer to the matters that are in and out of scope for EARF funding. I am happy to provide a copy to the honourable member, if she so wishes. Obviously, it will be circulated throughout the industry.

Under the new arrangements, the miner is responsible for undertaking and funding all rehabilitation on the relevant lease or private mine sites, except where it is funded from the EARF. For the greater part, rehabilitation required on a site will be documented in the relevant mining plan, in the manner prescribed for each type of mining operations plan. Rehabilitation requirements will be subject to compliance and enforcement action under the Mining Act by PIRSA. Rehabilitation that is undertaken and funded directly by the miner is referred to as core rehabilitation. Rehabilitation that is funded from the EARF is referred to as non-core rehabilitation.

Examples of specific matters which are in scope (that is, non-core rehabilitation) for EARF funding are as follows:

- Rehabilitation resulting from changes in community standards where, having regard to the site or project in question, or part thereof, these are not reasonably (technically or financially) able to be incorporated into future mine planning.
- Screening, including mounding, to meet community expectations and requirements that could not be anticipated; for example, if housing encroaches upon a quarry, then that should be funded out of the EARF.
- Amenity revegetation, including necessary maintenance and securing such as fencing.
- Revegetation, that is, seeding necessary to secure the stability of a final landform or to provide erosion control.
- Rehabilitation required due to company failures and failures of rehabilitation following surrender or revocation of a right to mine extractive minerals.
- Derelict mines where it is considered that the industry might come to be held in disrepute.
- Research into methods of mining engineering and practice by which environmental damage or impairment resulting from mining operations for the recovery of extractive minerals may be reduced. Such research is to be in the general interests of the industry and the outcome of such research will be publicly available.

They are examples of the sorts of funding that would come from the EARF and the increased contribution.

The industry has agreed also to take more of a loading in terms of attempting to build rehabilitation into their mine planning, so that the amount of work that is required at the end should be reduced. We believe that with these changes, that is, the greater responsibility taken by the industry plus additional funding, it will enable the adequate rehabilitation of extractive area sites, including some of the derelict sites to which I have referred, to be addressed. I am grateful for the cooperation of the industry in relation to those sites. I trust that has answered all the questions asked by the honourable member.

MINERAL SANDS

The Hon. R.K. SNEATH: I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question about a mineral sands discovery.

Leave granted.

The Hon. R.K. SNEATH: On the ABC Radio News this morning there was a report regarding exploration for and discovery of mineral sands in the state's Far West. Does the minister have any details of the exploration and discovery mentioned in that news article?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): I am pleased to have been asked this question, because it is an excellent example of the potential of this state in terms of mining, and it is something which I and many others have been working towards with great energy for some time. Last Friday, Iluka Resources announced to the Australian Stock Exchange that it had discovered a sizeable and, possibly, commercial deposit of heavy mineral sands. The discovery is particularly rich in zircon. The discovery is in the south-eastern half of Iluka's wholly owned exploration licence 2900 and is located approximately 200 kilometres north-west of Ceduna and 45 kilometres south of the transcontinental railway.

Sample assays from the discovery have confirmed the zircon endowment of this section of the Eucla Basin, and the size, grades and low clay content (just 8 per cent) suggest that it has the potential to be economically developed. The initial laboratory results also suggest that the mineral has the potential to be treated by conventional mineral separation technology. In addition, significant quantities of rutile and secondary ilmenite are present in the discovery area. I am advised that, based on the results from the discovery drill line, the mineral assemblage at Jacinth prospect is very attractive, with an average heavy mineral content of 10 per cent, which contains an average of 52 per cent zircon, 7 per cent rutile and 24 per cent ilmenite. This compares very favourably with the mineral assemblage of the Eneabba mineral sands province in Western Australia in its heyday, and that has been one of the most productive mineral sand fields in the world.

Six reconnaissance traverses have been drilled across the Jacinth prospect using one of the company's air core drilling rigs. All holes were drilled vertically and sampled at 1.5 metre increments. The samples were logged by a company geologist on site and the samples containing anomalous mineralisation were sent to the company's laboratory for analysis. At this stage laboratory results have only been received for line 5776 and the remaining samples are being processed at Iluka's laboratory. The visual indications for the other reconnaissance lines suggest that anomalous mineralisation extends across an extensive area and all mineralisation detected occurs in unconsolidated sands above the watertable. The reconnaissance traverses across the prospect and laboratory results received to date support the initial interpretation. In addition, ongoing exploration in the region continues to intersect anomalous mineralisation along strike.

Adelaide Resources owns the exploration licence only five kilometres to the south-east of the Iluka discovery. Yesterday that company announced the commencement of an exploration drilling program in joint venture with Iluka within their exploration licence. The Iluka discovery is localised on sands on a north-west trending tertiary coastline which can be traced inland through the eastern Eucla Basin. This ancient coastline is interpreted to extend for about 30 kilometres through exploration licence 2840, owned by Adelaide Resources.

Mineral sands deposits of the type discovered at Jacinth can occur in bodies of economic concentrations scattered along the extent of ancient shorelines. The focus of exploration has now moved to exploration licence 2840 where drilling commenced very recently with the objective of testing targets along the projected shoreline. The prospectivity of shorelines within exploration lease 2840 has markedly increased since the discovery of Jacinth. One hole drilled in 1990 showed high zircon values occur within that exploration licence. This drilling will be completed in the next month with samples being analysed in the Iluka laboratory in early 2005.

The government and I are very happy with this development and welcome it with open arms. I look forward to the continued results from both Iluka and Adelaide Resources and wish them every success with their exploration. If they are able to discover commercial deposits such as those we talked about yesterday in question time in the Murray Mallee, it will be excellent news for this state and I sincerely hope that this discovery becomes another mine in South Australia. I conclude by saying that it is proof that the government's plan for accelerating exploration is beginning to pay dividends.

The Hon. T.G. CAMERON: I have a supplementary question. Is Iluka Resources currently the subject of any takeover offer?

The Hon. P. HOLLOWAY: Any announcement like that should be in the Stock Exchange, not in the parliament. I have no—

The Hon. T.G. Cameron: I am asking you whether you are aware.

The Hon. P. HOLLOWAY: It is really not up to me to comment on the ownership of companies. I am delighted that this prospect has shown such good results, but really the ownership of the company is a matter for its shareholders.

The Hon. T.G. CAMERON: I have a further supplementary question. The question I asked the minister was: is he aware of any takeover offer for Iluka Resources? I did not ask whether he thinks it is a good—

The PRESIDENT: That is not another supplementary question; that is the same question.

The Hon. T.G. CAMERON: But he has not answered the first one yet.

The PRESIDENT: I cannot direct the minister on how he answers the question.

MOVING ON PROGRAM

The Hon. KATE REYNOLDS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Families and Communities, a question about the Moving On program for young people with intellectual disabilities.

Leave granted.

The Hon. KATE REYNOLDS: The government yesterday announced to *The Advertiser* newspaper that it will be providing 'millions of dollars' for the Moving On day options program. Members will remember that, prior to and since the May budget, I have raised this issue in this place on numerous occasions. The lack of funding has also triggered a major campaign by parents of young people who have been denied access to day options programs. I have been working closely with members of the campaign's organising committee and other disability advocacy groups; and because unfunded disability services are not restricted to this particu-

lar program, I will be hosting a briefing for members on a range of related issues in the Old Chamber during the lunch break on Wednesday 24 November.

Given the welcome announcement revealed exclusively, I note, to *The Advertiser* yesterday and reported today, the Public Dignity for the Disabled campaign has obviously had some early success (and I congratulate its organisers and its supporters), but we do not know how much money will be made available, when, or for whom. It appears that 40 additional Moving On school leaver places will be offered from February next year, but that may well leave another 35 school leavers entering the system without five day placements; and we do not know whether those 40 places will take into account the current waiting list which has 74 people on it and the other 312 waiting for more support. People who are not recent school leavers also want to join the program, but we do not know what services, if any, they will be offered. I understand that the Moving On working party report makes 22 separate recommendations related to the management, efficiency, effectiveness, assessment, eligibility criteria, equity of access and standards for the program. My questions are:

1. When will the minister make the full report of the government's Moving On working party available for public scrutiny?

2. When will the minister announce details of the budget allocation, time lines, eligibility criteria, range of services to be offered and cost to parents or participants?

3. When will the minister announce details of any plans specifically to address the needs of families in rural and remote communities?

4. Will the minister give an assurance that these 'millions of dollars' is a new allocation and will not be at the expense of other disability services?

5. When will the minister release the government's response to all 22 recommendations contained in the working party's report?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I take this opportunity to table a ministerial statement on the Moving On program made by the Hon. Jay Weatherill on this day in another house because it may go some way to answering some of the questions asked by the honourable member. I understand, as the honourable member indicated, that the minister's way of dealing with many of these issues is to meet with the community and allow the community to discuss the important issues impacting on them. That consultation process does take some time. I understand that some of the processes associated with the report and most of the recommendations have been worked through by that community and the results will now be shown.

I will refer the questions about budget implications, the strategy for rural areas and the direct lines of funding not being rebadged and old money to the minister in another place and bring back a reply.

HALLETT COVE BEACH

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Environment and Conservation, questions about sewage spills at Hallett Cove beach.

Leave granted.

The Hon. T.G. CAMERON: I have received a number of complaints from residents of Hallett Cove regarding sewage spills into street drains following power failures. The most recent outage occurred when a power failure caused three local pumping stations to allow 35 000 litres of waste water to overflow from a system. It is the second time this year a power outage has caused a sewage spill in the area and the fourth spill of raw sewage in just nine months. In February, 900 000 litres of sewage poured from SA Water's sewers onto the beach at Hallett Cove, closing for a week the beach and Field River to the public.

Local residents have told my office that they feel as though they are being forced to live with a second-rate sewerage system that is a threat to both their health and the local environment. The impact is made worse by the fact that the world renowned heritage listed Hallett Cove Conservation Park is just a few hundred metres from the Field River mouth. It is totally unacceptable that Hallett Cove residents have again been subjected to a spill of raw sewage. My questions to the minister are:

1. What short and long-term environmental impact have the sewage spills had on the Field River and the Hallett Cove beach?

2. What action has the government taken to ensure that, as far as humanly possible, no further spills occur?

3. How many similar spillages have occurred on other Adelaide metropolitan beaches in the past two years?

4. Considering the environmental impact, will the government implement an audit of all seaside metropolitan water and sewerage plants and facilities to prevent similar spillages occurring in the future?

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

CHARTER FISHING BOATS

The Hon. T.J. STEPHENS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Agriculture, Food and Fisheries, a question about charter fishing boat licences.

Leave granted.

The Hon. T.J. STEPHENS: *Whyalla News* recently published an article regarding the proposed introduction of new regulations for charter boats, and it focused particularly on the proposed introduction of fishing licences for charter boats. The view put forward in the article was that, while fish stocks needed to be protected, the introduction of the licences would have a negative effect on Whyalla's tourism, which is a major employer (as it is throughout South Australia) and of which fishing out of Whyalla is a major feature. My questions to the minister are:

1. Has the government conducted an impact study on the effect of these regulations in relation to tourism in Whyalla?

2. Will he consider a solution that does not involve charging operators for licences (which, to me, appear to be another new tax)?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I am aware that Whyalla is reinventing itself in relation to finding other opportunities for employment within the area, and tourism is an important feature of that. I will refer those important questions to the minister in another place and bring back a reply.

HINDMARSH SOCCER STADIUM

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Recreation, Sport and Racing, a question about Hindmarsh stadium.

Leave granted.

The Hon. J.F. STEFANI: I refer to the deed of agreement, dated 29 March 2001, signed by the Treasurer, the Minister for Recreation, Sport and Racing, the Minister for Government Enterprises and the South Australian Soccer Federation Inc. On page 17, clause 10.3 provides:

> The Treasurer will ensure that the Federation shall have available to it sufficient funds to make all scheduled loan repayments to the bank. Loan repayments shall be made initially from the stadium account operated by the stadium management and, where the amount standing to the credit of the stadium account (having due regard to cash flow requirements) is insufficient to pay scheduled loan repayments, then any shortfall shall be paid by the Treasurer and be recorded as a debt against the Federation in favour of the minister in accordance with the provisions of the funding deed or the fit-out guarantee deed as the case requires.

My questions are:

1. Will the minister advise the net surplus amount, if any, that stood in the credit of the stadium account operated by the stadium management which is controlled by the government for each of the following years: 2001-02, 2002-03 and 2003-04?

2. Will the minister provide details of the amounts paid to the bank, if any, from the surplus amounts generated by the stadium management through the hiring activities during the above-mentioned periods?

3. Will the minister give details of the amounts provided by the government to meet any shortfall in the money available to repay the loans to the National Bank on behalf of the South Australian Soccer Federation for each of the following years: 2001-02, 2002-03 and 2003-04?

4. Will the minister confirm the total amount of debt recorded against the South Australian Soccer Federation as at 30 June 2004 and advise whether any offset repayment arrangements have been discussed with the South Australian Soccer Federation from the stadium account in view of the anticipated and much greater income to be generated by the future leasing arrangements with Adelaide United?

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

ABORIGINAL SENIORS

The Hon. J. GAZZOLA: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question about Aboriginal seniors.

Leave granted.

The Hon. J. GAZZOLA: On previous occasions the minister has informed the council of the role played by many Aboriginal people in assisting their communities; often this assistance is voluntary and in many forums. Some are recognised by the wider community through award recognition such as the Ceduna Women's Group, as reported to the council by the minister yesterday. Is the minister aware of any instances where Aboriginal seniors have been recognised for their contribution to improving the lives of Aboriginal people?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for his question and the council for taking note of many of the good works that Aboriginal people do, particularly seniors, in assisting their communities and providing at least one forum in this state to be able to publicise some of the good work. Much of the work that is done by volunteers throughout the state goes unheralded and unrecognised. On most occasions, in the Aboriginal community in particular, they do it without a lot of financial support and without a lot of fanfare.

By way of background information, the Council on the Ageing (COTA SA) has run a celebratory program of events across the state for people who are aged over 50 years. The program that runs annually through the month of October, formerly known as Celebrate Seniors, is now named Every Generation. It encourages participation by all generations. Aboriginal participation in the program in the past has been minimal, and this year the Department of Families and Communities granted $20 000 to the Council on the Ageing to specifically engage Aboriginal people from around the state in the activities of the Every Generation program.

Phyllis Bilney was one of those people who received an award of excellence at the gala masquerade ball held on Friday 29 October. She was born at the Koonibba Mission in April 1937, as were many people from the West Coast. It was quite a large settlement. She was one of the first to establish herself and her family in Mallee Park, which is an active centre for Aboriginal people in all walks of life on the West Coast. It is a pleasure to deal with people at Mallee Park. They have very good leadership, health, education and recreational programs. Sport is flourishing; in particular, Australian Rules Football is encouraged. Port Power, The Crows and other AFL sides have benefited from players from Mallee Park, Melbourne included. I understand they have just put together a cricket team to compete in this season's—

The Hon. J.S.L. Dawkins interjecting:

The Hon. T.G. ROBERTS: It is quite a way to travel for me. I thank the honourable member for offering to transfer my cricketing skills from the parliamentary seniors side to Mallee Park. However, I will not take up the offer; I think something sinister is behind the offer. Throughout the years Phyllis, who has raised eight children of her own, has assisted many other young mothers with their children and has been a carer within that community for some considerable time. She recognised that Aboriginal people needed a voice, and she organised the establishment of a committee in Mallee Park. She undertook many of the challenges and through her work formalised programs have been implemented in and around Port Lincoln. I congratulate her for the work she has done in a quiet and determined way. I pay tribute to her, and I hope that other members of the council will join me in paying tribute to the work she has done over many years.

SHEEP, FLYSTRIKE

The Hon. IAN GILFILLAN: I seek leave to make an explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Agriculture, Food and Fisheries, a question about the biological control of flystrike.

Leave granted.

The Hon. IAN GILFILLAN: There is currently significant news coverage about the protest by animal liberationists, particularly in America, opposing the purchase of Australian wool because of what they refer to as the inhumane treatment of Australian sheep, in particular. Mulesing, which has been

used for many years, has saved countless hours of agonising suffering in the sheep industry. It is widely recognised that this protest is misguided. An article entitled 'Biotech success the hard way' appears in the June-July edition of *Bionews*, a publication of BioInnovation SA, an initiative of the government of South Australia. The article states:

> It may not be the perfect model of how to achieve commercial success in the biotech world, but Microbial Products is a case study of strong science, strategic partnerships, patience and sheer determination.

The two scientists who started this research and who have followed it right through since the 1980s are Dr David Cooper and Professor Dudley Pinnock. The article goes on:

> The two scientists applied their extensive knowledge of insect pathology to develop a natural way of controlling these sheep parasites.
>
> Sheep blowfly maggots, sheep biting lice and psoroptic mange mites feed on bacteria, so the scientists sought and discovered strains of specific entomopathogenic bacteria that, when ingested by the pests, rapidly kill them.

This achievement is already a fact in South Australia. The article goes on:

> Prof. Pinnock said the reason a woolgrower would use their microbial products instead of the chemical insecticides currently available [or mulesing] is because they are cost competitive, harmless to the sheep, the farmer and the environment and do not leave chemical residues in the wool, lanolin or sheep meat.

The article goes on:

> The company's new challenge is to determine where its products will be made on a commercial scale.

Their laboratory and half a tonne pilot plant facilities at Norwood produces the material. The company is looking for a larger scale enterprise and is currently looking at Melbourne, overseas and locations other than South Australia to develop the product. I believe that many sheep growers in Australia would be very concerned if this industry was lost offshore through lack of support. My questions to the minister are:

1. Is he aware of the advanced stage of development of this product and its availability to go on to the commercial market?

2. What has the department done to assist in funding, first, research, and, secondly, the development of the commercialisation and what, if anything, has the department or the government done to encourage the further commercialisation and development of this industry in South Australia?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for his very important questions and his sincere interest in this important issue. I will pass on those questions to the minister in another place and bring back a reply.

DISABILITY SERVICES

The Hon. A.L. EVANS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Disability, a question about the priorities for funding for programs that help disabled people.

Leave granted.

The Hon. A.L. EVANS: In a recent interview on 5AA, the Minister for Disability stated that there were different programs with different degrees of urgency in regard to disability funding. Given that there are 300 separate disability organisations within South Australia and that their support structures and advocacy levels vary, the minister appears to be facing a significant challenge in addressing priorities. Mr David Holst, spokesman for Dignity for the Disabled, commented that, every way you look at the disability system, South Australia ranks last compared to other states in Australia in terms of supporting its disabled people.

Specifically, in interstate comparisons, the other states and territories are averaging 72 per cent more in funding of services for people with a disability, according to the 2004 Productivity Commission Report. Dignity for the Disabled has highlighted significant unmet needs in early intervention, residential care, respite care, aged disability care, community care, Moving On and family care. My questions to the minister are:

1. How does he propose to prioritise government action to address each of these areas experiencing funding shortfalls presently?

2. What criteria will be set for this purpose and how will this be explained to the community of the disabled and their families and carers in South Australia, who are hurting in this area?

3. Will further funding be provided to disabled support services in South Australia to ensure that, in the near future, we are not ranked last compared to other states in support of our disabled people?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will pass the honourable member's questions on to the minister in another place and bring back a reply.

CARNEGIE MELLON UNIVERSITY

The Hon. J.M.A. LENSINK: I seek leave to make an explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Education, a question about the proposed Carnegie Mellon private university.

Leave granted.

The Hon. J.M.A. LENSINK: There have been a number of articles in the papers, and I also note the Premier's statement in the House of Assembly yesterday, in relation to the proposed university. I would like to quote from some of the articles. An article which appeared in *The Australian* of Wednesday 3 November stated:

> The new entity, which will offer post-graduate degrees in business and public administration from 2006, was aimed at diverting overseas post-graduate students away from US universities to Adelaide. But Mr Rann said he expected it would not drain the foreign student market share of the city's other universities. The university will be privately run but it is expected the South Australian and federal governments will subsidise it.

I emphasise that word 'subsidise'. Another article in *The Australian* of Monday 1 November stated:

> . . . Carnegie Mellon executives visited Adelaide and it is understood some form of financial contribution was expected from the state and federal governments for the scheme to be a success.
>
> Details on the plan remained sketchy yesterday and South Australia's three publicly funded universities remained lukewarm. . . A spokesman for the University of South Australia said it was pleased the government had turned its back on a plan mooted in 2002 to combine the three universities.

The Sunday Mail of 31 October refers to this issue and an article states:

> The unique thing about Carnegie Mellon is it will offer students in our state, interstate and overseas. . . an opportunity to get a US post-graduate degree.

An article in *The Advertiser* of 6 November states:

Carnegie Mellon is unlikely to open a campus here. Instead, two of its affiliate schools, the Heinz School and iCarnegie, will offer their respective courses in public administration and computer science.

A number of these facts were confirmed in the Premier's statement yesterday, when he said:

It is vital that South Australia dramatically improves its performance in attracting overseas students. South Australia's share of overseas students has been dropping in recent years, and the most recent data shows that the state had 3.8 per cent of national enrolments compared to 7.8 per cent of Australia's population. The new university, with its ability to offer US degrees, will help attract overseas students who would not have otherwise come here and position Adelaide as a leading international city of three strong public universities and an internationally recognised world-class private university. . . the state will, subject to outcomes of a feasibility study, back the new university. . . It is anticipated that the new university will have a special focus on disciplines such as public administration, business management, economics and commerce, international studies and information technology, as well as, of course, computer science.

My questions are:

1. Does the minister acknowledge that the three existing universities already provide courses in all those disciplines?

2. How will the minister guarantee that there will not be any duplication from this new university?

3. Will the minister rule out any subsidies from the South Australian government; and, if not, will this be in conflict with the government's stated position that it does not subsidise business welfare?

4. Will the minister guarantee that the branding of the Carnegie Mellon school will be associated with this new university?

5. What has been the role of Education Adelaide?

6. Are the Premier's statements yesterday, in which he said that South Australia's share of overseas students has been dropping, an indictment on Education Adelaide?

7. Was Education Adelaide consulted?

8. What will be the cost of the feasibility study?

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

PORT LINCOLN, PETROL STATION

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Minister for Urban Development and Planning, a question about the locating of a petrol station opposite a primary school in Port Lincoln.

Leave granted.

The Hon. SANDRA KANCK: My office has been advised of a decision by Planning SA to give planning approval for a petrol outlet on the corner of Boston Street and Mortlock Terrace in Port Lincoln. This places a high volume petrol station (related to a supermarket chain) opposite the Port Lincoln Primary School. Indeed, this area could accurately be called a school precinct with St Joseph's Catholic School located just to the south and Port Lincoln Junior Primary School and Port Lincoln High School in the vicinity. The increase in traffic volumes, as a consequence of the petrol outlet, will bring increased risks to children in the area. The risk is exacerbated by the very narrow frontage of the block on which the service station is being constructed. Further, the block's side road is very narrow, having once been a nightcart alley. I am also told that the onsite storage tanks will be below the watertable, in which case any leakage poses a direct threat to the area's underground water. My questions are:

1. What assessment was made of the increased risk the project poses to schoolchildren in the area before planning approval was granted?

2. Does Planning SA have any guidelines for minimising traffic flows near the schools? If not, why not?

3. What risk assessment was made of the possibility of pollution in the ground water?

4. Is seepage from on-site petrol storage tanks a problem that has been identified by Planning SA?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I will refer that question to my colleague in the House of Assembly and bring back a reply.

MINING EXPERT GROUP

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question regarding the mining expert group.

Leave granted.

The Hon. CARMEL ZOLLO: Recently the minister informed the chamber of a dinner to be hosted in Brisbane by the South Australian Minerals and Petroleum Expert Group. Does the minister have any information on the success of that dinner?

The Hon. A.J. Redford: You have got to be kidding! We are getting questions about dinner now!

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): I am extremely happy to be able to tell the council that my advice is that the dinner went very well indeed. Unfortunately, parliament was sitting during that time. I can inform the council that 18 mining executives attended the dinner and they were all significant players within the mining industry. The dinner was hosted by Mr Nick Stump, Mr Deryk Carter and Mr Jim Hallion.

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: No, I was in parliament that night. It was in Brisbane and it was hosted by Mr Nick Stump, Mr Deryk Carter and Mr Jim Hallion. The attendees were given a brief overview of the plan for accelerating exploration, the geology of the state, the future geoscientific data collection plans of the department and the state's plans for improved land access decision making as part of the PACE initiative. The government's message was, I am advised, very well received. There is an increasing awareness of the PACE initiative, the drilling partnership and the increased willingness to consider South Australia as an exploration destination. My department will be following up the opportunities that were identified at the dinner and I look forward to being able to report that progress to the council. The Hon. Angus Redford has shown such great interest in it that I am sure he will be delighted when I provide that information.

As I have previously told the council, the dinner was held in conjunction with the Mining 2004 Conference. At the conference, a talk was given by Ms Susan Johnston, the chief executive of the Queensland equivalent of the South Australian Chamber of Mines and Energy, the Queensland Resources Council. Her comments are a good indication that South Australia is on the right track and is making an impact with its Plan for Accelerating Exploration (PACE) initiative.

This is what she said, and I am sure the Hon. Angus Redford will listen very carefully to this:

> We could learn from South Australia. I never thought that I would be standing up saying this but I think it's true. In that state, the government's formed a group of experts to help boost mineral exploration and production, headed by the former chief executive and chairman of Normandy Mining, that some of you might have heard speaking at a QRC lunch a few weeks ago, Mr Robert Champion De Crespigny. The South Australian task force includes names familiar to us all such as Ross Adler and Hugh Morgan, Ian Gould and Pat Dodson. But what really sets it apart is the involvement of the Premier and the Treasurer and government departments. . . I think we can learn something from them.

That was said at the Mining 2004 Conference in Brisbane. I am very pleased to report this endorsement of South Australia's mineral search policy. Even if opposition members cannot acknowledge good policy when they see it, the Queensland Resources Council can.

The Hon. A.J. REDFORD: I have a supplementary question. What did this dinner cost the South Australian taxpayer?

The Hon. P. HOLLOWAY: The dinner is provided for as part of the PACE budget. A very small part of that program was put aside to the mining ambassadors portion of it, of which that was part. I can certainly provide that information to the honourable member. I am also happy to continue reporting to this parliament the success of the PACE program. Of course, the Hon. Bob Sneath asked the question earlier about the great success we are having in mineral sands exploration. As part of the PACE program—

The Hon. A.J. Redford: Why didn't they invite you to this dinner?

The Hon. T.G. Roberts: He was working.

The Hon. P. HOLLOWAY: That is right; parliament was sitting. The dinner was just part of what a number of this expert group attended at that Mining 2004 conference. I have just relayed to the council the comments made by Susan Johnston, who is the chief executive of the Queensland Resources Council. That is the sort of reaction that this state is getting when those mining ambassadors attend a function such as that. The dinner was part of the overall package. That is the sort of response we are getting.

I am very happy that, for a small outlay, this state is getting such a fabulous return and we are attaining this acceptance, even if it is somewhat reluctant by some of our competitors in other states. This state is setting the pace in relation to mining exploration; this state is leading the way. The mining experts will continue to undertake the good work that they are doing wherever there are significant conferences and gatherings of the mining industry.

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: Yes, I am a regular attendee at all those SACOME functions and, as a matter of fact, I had some very good feedback from members of the mining industry in this state—

The Hon. J.S.L. Dawkins interjecting:

The Hon. P. HOLLOWAY: That is right; very good feedback from members of the mining industry about the success of this program. I again thank the honourable member for his question. I am delighted that the programs that we have put in place are gaining acceptance throughout this country. All we need is for the opposition to accept it as well. What the government is doing is very much in the interests of this state.

Members interjecting:

The PRESIDENT: Order! It would seem that the red wine was not the only thing that was sucked in at that dinner.

COONGIE LAKES NATIONAL PARK

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

> That this council requests Her Excellency the Governor to make a proclamation under section 34A(2) and section 28(1) of the National Parks and Wildlife Act 1972—
> (a) excluding allotment 100 of Plan No. DP 63648, out of Hundreds (Innamincka), accepted for deposit in the Lands Titles Registration Office at Adelaide, from the Innamincka Regional Reserve; and
> (b) constituting that excluded land as a national park with the name of Coongie Lakes National Park.

The Hon. G.E. GAGO secured the adjournment of the debate.

STATUTES AMENDMENT (RELATIONSHIPS) BILL

The Hon. P. HOLLOWAY (Minister for Industry and Trade) obtained leave and introduced a bill for an act to amend various acts to make provision for same-sex couples to be treated on an equal basis with opposite-sex couples; and for other purposes. Read a first time.

The Hon. P. HOLLOWAY: I move:

> That this bill be now read a second time.

I bring this bill before the council in fulfilment of the government's election commitment to remove unjustified legislative discrimination against same-sex couples. Like heterosexual people, many homosexual people choose to live their life in couple relationships of mutual affection and support. As with those of opposite-sex couples, these partnerships may be of short or long duration and, in many cases, may be lifelong. They have much the same social consequences as the relationships of opposite-sex couples. For example, a couple may merge their property and financial affairs; they may provide care for each other during periods of illness or disability; and they may be involved in caring for children together. Our law, however, knows nothing of such arrangements. Whereas it recognises opposite-sex couples, whether they marry or not, and attaches legal consequences to these relationships, it behaves as though same-sex couples did not exist.

As a result, same-sex couples are denied some rights and exempted from some obligations that accrue to unmarried opposite-sex partners in the same situation. For example, if one's de facto partner is killed at work, or through negligence, or by homicide, if there has been the requisite period of cohabitation the surviving dependent partner is entitled to claim compensation for the loss of the deceased's financial support. A dependent same-sex partner has no such entitlement. Likewise, if a person's de facto partner dies without leaving a will, where there has been the requisite period of cohabitation the remaining partner is entitled to inherit the estate, or part of it, depending on whether the deceased also left children. A same-sex partner in that situation cannot inherit. Again, if the deceased had made a will but had disinherited the surviving de facto partner, that person can apply to have provision made out of the estate, despite the

will; a same-sex partner, however, cannot. There are many other instances of such discrimination—for instance, in the area of guardianship and medical consent.

Conversely, there are also some instances where the present law imposes obligations or restrictions on unmarried opposite-sex couples that are not imposed on same-sex couples. For instance, at present a person who is elected a member of a local council, or a member of parliament, must disclose on the register of interests the interests of his or her putative spouse. A member of a same-sex couple is under no obligation to disclose the interests of his or her partner. Again, a person whose de facto partner has received a first home owner's grant, or who already owns land, is not entitled to a first home owner's grant, but a member of a same-sex couple in that situation is. This bill will redress such inequities.

It will extend to same-sex couples the same legal rights and obligations that now apply to unmarried opposite-sex couples. The approach taken in the bill is simply to build on the existing law as it applies to opposite-sex couples; that is, where an opposite-sex couple is recognised under the present law, the bill proposes to recognise a same-sex couple in the same way. However, one important change is proposed. At the moment the law generally requires that a couple live together for five years before they can be recognised, that is, unless they have a child together. This requirement arises from the Family Relationships Act and applies across the statute book wherever there is a reference to a putative spouse. For example, this is the requirement to be able to inherit in case of intestacy. However, the De Facto Relationships Act requires only three years' cohabitation. That act applies to the division of property where a de facto couple separates.

The bill proposes to remove this discrepancy by granting legal rights across the statute book after a period of three years' cohabitation. Our present five-year requirement is higher than that generally prevailing interstate where periods of two years' cohabitation are often sufficient to give rise to legal rights. It is reasonable to regard a couple who have been living together for three years as an established de facto couple for legal purposes, and our law already does so for property adjustment purposes.

It is logical that it should also do this for other legal purposes. I emphasise that this bill is not about marriage. Under the Australian Constitution marriage is a matter of commonwealth law. The bill cannot and does not seek to provide for the marriage of same-sex partners. Those who want the law of marriage extended to encompass same-sex couples must lobby the commonwealth government. Neither does the bill provide any regime for the legal registration of same-sex partners as couples. It treats same-sex partners in just the same way that the law now treats unmarried opposite-sex couples.

It may assist if I explain how the bill is structured. The Family Relationships Act is amended to create the new statutory status of de facto partner. The term will include partners of opposite sex or the same sex. The criteria for a de facto partnership are similar to those now applied to the status of putative spouse, except for the reduction from five to three years' cohabitation. The parties must have cohabited for three years as a couple on a genuine domestic basis; however, a new requirement is that the relationship must be measured against a list of criteria including the duration of the relationship, the nature and extent of common residents, the existence of a sexual relationship, a degree of financial dependence and the arrangements for financial support between the partners, a degree of mutual commitment to a shared life, the public aspects of the relationship, and other matters. The criteria have been adapted from similar provisions in the laws of New South Wales, Victoria, Queensland and Western Australia. None of the indicia is on its own determinative, so it is not necessary to show that they are all present. The more criteria satisfied, the more likely it is that the couple's relationship exists but, ultimately, the matter is one for the court, just as it is now for putative spouses. However, people cannot be domestic partners if they are within the prohibited degrees of relationship for marriage.

The bill is about couple relationships, not friendships or so-called codependent relationships. The statutes amended by the bill then refer to the status of being a domestic partner. This term includes lawful spouses and de facto partners. In statutes that now speak of spouses or putative spouses, those references are replaced with references to a domestic partner, thus, in acts that now require a declaration from a court of putative spouse status, a person claiming through a same-sex relationship will need to secure a declaration of de facto partner status. In those acts that require a set period of cohabitation, but do not require a declaration, that is made the rule for same-sex partners. In those acts that require no set period of cohabitation, that is also the rule for same-sex partners.

The Family Relationships Act is also amended in two other important ways. At the moment, a declaration of putative spouse status can be made by either the District Court or the Supreme Court. It is proposed that the Magistrates Court should also be able to make such declarations. A declaration depends upon findings of fact. Those findings present no greater difficulty than is presented in matters ordinarily determined by the Magistrates Court in its day-to-day business. An application there may be cheaper than an application to a higher court. Also, the confidentiality provision of section 13 of the act is expanded and the penalties for a breach are increased based on the provisions of the existing state superannuation acts, as amended last year. I think these rules against the publication of identifying information about an application for a declaration, or other proceedings under that act, should apply in all cases.

The amendments of the other acts amended by the bill can be usefully grouped into five kinds. First, there are those that give same-sex partners the legal rights of family members. These include inheritance rights and rights to claim compensation when a partner is killed, which I mentioned earlier. They also include the right to apply for guardianship orders, where a partner is incapacitated and to consent or refuse consent to organ donation, post mortem examination and cremation. For these purposes, wherever a putative spouse now has rights as a next-of-kin, those rights will now accrue also to same-sex partners.

Secondly, there are provisions amending several of the acts that regulate the professions. This arises where the law permits a company to be registered or licensed as a practitioner of a profession. In these cases, the present law generally provides that the directors of a company practitioner must be practitioners, except where there is a two-director company and one director is a close relative of the other. Same-sex partners will be treated as relatives for the purposes of these provisions. This also means that, if the relationship ends, the right of the same-sex partner to hold shares in such companies ends, just as it does now when putative spouses cease cohabitation.

Thirdly, there are provisions dealing with conflicts of interest. These require the disclosure of the interests of a same-sex partner in the same way that the person must now disclose the interests of a putative spouse. Similarly, there are provisions dealing with relevant associations between people for corporate governance purposes; for example, in the context of transactions between the entity and its directors or their associates. The Co-operatives Act is an example.

Fourthly, there are those acts under which a person's association with another person is relevant in deciding whether the first person is suitable to hold a licence, such as a gaming licence. Under the bill, a same-sex partner will be an associate for this purpose in the same way as a putative spouse. Fifthly, there are some statutory provisions that entitle the government to make certain financial recovery from a spouse, or prioritise government charges over land ahead of existing charges in favour of a spouse. Again, the same provision has been made for a same-sex partner.

Members will see that the four state superannuation acts are amended by this bill. As members would recall, legislation was passed last year amending these acts so that same-sex partners of state employees could inherit superannuation entitlements. Members might wonder why those acts are proposed to be further amended. The earlier amendments provided that, whereas a putative spouse does not need a declaration of his or her status, a same-sex partner does. The view has been taken that there is no justification for this different treatment. Therefore, in the present bill, those provisions are further amended so that same-sex partners are in the same position as opposite-sex partners. They do not need to apply for a declaration. Also, the confidentiality provisions have been deleted because the same protection will be delivered through section 13 of the Family Relationships Act, which is expanded in scope to match the protection now given under those four acts.

There have also been some other minor changes to some superannuation acts which are not required to give equal rights to same-sex couples but which extend the rights of some partners. At present, both the Judges Pensions Act and the Governors Pensions Act require that to be eligible for a pension the spouse must have been married to the judge or governor while he or she held office. The same is not required, however, under the Parliamentary Superannuation Act. For consistency, the two former acts are amended so that a domestic partner of a judge or governor can claim the death benefit irrespective of whether the relationship existed while the judge or governor held office.

Further, the bill provides that it will be the case under all four state superannuation acts that death benefit entitlements arise if the person was married to the member on the date of death, regardless of whether the parties were married while the person was still employed and regardless of the period of cohabitation. At the moment, some of these acts require that a married spouse who was not married to the member during relevant employment complete a period of cohabitation (whether as a de facto or married couple) before death to qualify for a benefit. The effect of the changes is to relax that requirement to match the position if the member dies before retiring. In that case there is no period of cohabitation required for married couples.

There are some measures now before this parliament that will need to be amended if this bill passes. It was thought best, if possible, to avoid a piecemeal approach in which bills now before the council are individually amended during passage. It is therefore intended later to bring before the parliament a bill making consequential amendments to such laws once the present bill has passed.

When the government consulted on this proposal last year, it received more than 2 000 replies. These replies made it clear that two matters are especially controversial: the adoption of children by same-sex couples and access by such couples to assisted reproductive technology. Indeed, of the thousand or so people who expressed opposition to the proposed bill, the great majority appeared to be mainly, or in some cases solely, concerned about these two matters.

It is apparent that any amendment of the Adoption Act or the Reproductive Technology Act would be controversial. Many South Australians are concerned, alarmed or even horrified at the prospect of the adoption of children by same-sex couples and at the possibility that a same-sex couple could use reproductive technology to produce a child. It is of course the reality now that some same-sex couples do raise children. For example, the children of one partner from a former relationship may live with the same-sex couple by agreement of the parents or by order of the Family Court. With or without legislative change, some children will grow up in such families. Nonetheless, there would be fervent public opposition to legislation amending either act. To avoid compromising the prospects of passage of this bill, therefore, the government has not included such measures in it. That is not to say that such amendments have been ruled out. They remain under consideration and may be the subject of future bills. In the meantime, we will watch with interest the developments in other states and territories.

It may be of interest to members to hear some brief extracts from the comment received on the discussion paper. They provide a snapshot of the polarity of public opinion. Writers opposing the proposals typically held that homosexual behaviour is immoral and thus that the bill would represent a decline in moral standards. Some argued that to give equal legal rights to these couples would encourage homosexuality and undermine marriage. Many of these letters were in strong terms. Some warned the government of the destruction of the family unit and even the ebbing away of our civilisation if we enact these measures. It is clear that, although we long ago repealed laws criminalising homosexual conduct and enacted laws giving equal opportunity to homosexual people, hostility toward homosexuals remains. One letter said:

> Words cannot express the horror and outrage we feel at the same-sex couples issues to go before Parliament. . . The status of marriage for which we were created is being undermined and the nation will fall and judgment will come.

Another said:

> If a state enacts laws which accommodate the immoral, perverted and abnormal life-styles of misguided individuals (same-sex couples) then the state is encouraging (aiding and abetting) such life-styles to exist. God will not give his blessings to such a state and the state in due course will reap what it sows. . . The legitimisation of homosexuality and lesbianism as alternative life-styles will lead to a cultural Armageddon.

Another said:

> Let us talk openly: how can a life style which is the fruit of a bent element within society, nourished by child sex abuse and pornography, be seen on a par with marriage?

Another said:

> The shameful, unnatural, perverted homosexual lifestyle should not be rewarded through rights and privileges through legislation. This type of lifestyle undermines the fabric of our society and of nations and should not be encouraged. I am quite shocked that the

Rann Government would even contemplate sanctioning this depravity and wickedness.

Another said:

This paper, for want of a better term, is no more than an introduction to the depth of depravity that is creeping into our society. . . At one time homosexuality was dealt with in the most direct manner, that of stoning to death. . . This Bill would just be the continuation of a downward spiral into Sodom and Gomorrah.

Another said:

Why is it that you perverse pollies are forever changing things to improve the lot of criminals, wrongdoers and sickos such as homosexuals to the detriment of decent, law-abiding heterosexuals. . . You now want to further improve the lives of deviant, depraved, miscreant, filthy, disease-spreading homosexuals. . . You're all corrupt and disgusting people but rest assured the day is coming soon when you will have to pay for your sins.

No doubt these writers are entitled to their views—and, certainly, not all opponents of the proposal expressed themselves in such terms: many were more moderate. These letters, however, illustrate the hostility and even hatred that still confronts homosexual people today. Those who wrote in support of the Bill tended to use the language of human rights and of equality before the law. One said:

It's my opinion that laws which are based on gender or sexuality do nothing but deny people their basic human and civil rights. Our diverse and democratic society deserves laws which reflect the many family structures which make up our communities.

Another said:

Stronger families and communities are built on the basis that everyone is equal before the law and we urge the Government to make the necessary changes without fear or favour. . . South Australia has a long history of social justice and it is difficult to comprehend how we find ourselves in 2003 without adequate protection.

Several people in support of the proposals pointed out that they themselves were not homosexual but thought the law should be changed as a matter of fairness. One married couple wrote to say:

We cannot speak out for this discrimination from a personal viewpoint, but we do have two very dear gay friends who have been in a loving family relationship for almost 20 years. They have purchased a home together and are partners in a business venture also. Their lives are permanently entwined in exactly the same way that married couples are. . . Unfortunately, the law at present does not offer the rights and protection to this couple that it does to ourselves. . . Let's change the law so that we can truly be equal in all ways.

Another said:

To my thinking (I am heterosexual and have been married since 1986) this is simply discrimination against a minority.

Another person wrote:

I have been prompted to write as today I received a letter which I was invited to add my support to. . . I disagree strongly with the contents of this letter and am concerned that this letter may be construed as speaking for the 'silent majority' in the absence of other comments. For the record, I am a 32 year old heterosexual married female with a 16 month old daughter. I support unreservedly changes to legislation to treat same sex couples in the same manner as opposite sex couples. . . gay couples would simply need to show the same level of commitment to each other that heterosexual couples must show.

Some did, however, speak from their personal experience, as follows:

My partner and I have lived together as a couple for more than 30 years. We have been positive contributors to the Adelaide community for all that time. We have been involved in voluntary activities for the betterment of our local residential area, and I have served as an elected member on the [local] council for four terms. We are both law-abiding tax-paying citizens who are respected in our community, despite our relationship having no legal standing under South Australian law. . . I am heartily sick of being treated as a second-class citizen.

Another said:

During our long partnership, we have happily supported the needs of 'normal' families by way of our taxes. Schools, institutions for disabled and wayward children, IVF clinics, day-care facilities, playgrounds, sports grounds, and the like. . . We are willing to do so for the betterment of society (we are 69 and 71 respectively). Does this society care about our non-legal status, or does it once again go in the too-hard basket?

The government has taken account of all the comments received. That is why the bill does not cover adoption or reproductive technology. The bill does, however, seek to equalise the rights of same sex couples with those of opposite sex couples in all other areas. It is not the policy of the government that homosexual relationships are the same as marriages. It is our policy, however, that same sex couples should have the same legal rights and duties as unmarried opposite sex couples. Same sex relationships do not threaten the fabric of society. On the contrary, all stable, committed relationships contribute to it.

The present bill is an important step towards equal civil rights for all South Australians. It has long been the policy of our law, through the Equal Opportunity Act, that there is to be no discrimination against homosexual people as individuals in the areas to which the act applies. Our law, however, has been too slow to recognise the rights and duties of homosexual people as couples. That many homosexual people choose to live in a relationship as a couple, much like heterosexual people, is a fact of life and one that the law can no longer ignore. This bill acknowledges in law what everyone knows to be so in fact. It is a just measure and I commend it to the council. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

EXPLANATION OF CLAUSES

General remarks

This measure, in general, seeks to achieve equality before the law for couples of the opposite sex who live together as husband and wife de facto, and couples of the same sex who live together in a similar relationship. Such relationships would be known as ***domestic partnerships*** in the legislation of this State following passage of this measure, with a ***domestic partner*** being defined in each case as a spouse or a de facto partner.

It is proposed to amend the *Family Relationships Act 1975* (see Part 27 of the measure) by deleting current Part 3 (which provides for declarations in relation to putative spouses) and substituting a new Part that instead provides for de facto partners.

Proposed section 11A(1) of the *Family Relationships Act 1975* provides that a person is, on a certain date, the ***de facto partner*** of another (irrespective of the sex of the other) if he or she is, on that date, cohabiting with that person as a couple on a genuine domestic basis (other than as a legally married couple) and he or she—

(a) has so cohabited with that other person continuously for the period of 3 years immediately preceding that date; or

(b) has during the period of 4 years immediately preceding that date so cohabited with that other person for periods aggregating not less than 3 years.

Proposed section 11A(2) provides that a person is, on a certain date, the ***de facto partner*** of another if he or she is, on that date, cohabiting with that person as a couple on a genuine domestic basis (other than as a legally married couple) and a child, of which he or she and the other person are the parents, has been born (whether or not the child was still living at that date).

Proposed section 11A(4) provides that a person whose rights or obligations depend on whether he or she and another

person, or 2 other persons, were, on a certain date, de facto partners one of the other may apply to the Court for a declaration under section 11A.

Proposed section 11A(6) provides that, for the purposes of determining whether a person is to be the de facto partner of another (within the meaning of the *Family Relationships Act 1975*), consideration must be given to the following:

(a) the duration of the relationship;

(b) the nature and extent of common residence;

(c) whether or not a sexual relationship exists, or has existed;

(d) the degree of financial dependence and interdependence, or arrangements for financial support between the parties;

(e) the ownership, use or acquisition of property;

(f) the degree of mutual commitment to a shared life;

(g) the care and support of children;

(h) the performance of household duties;

(I) the reputation and public aspects of the relationship.

The opportunity has been taken in this measure to achieve some consistency across the statute book. In most cases, a ***de facto partner*** will be defined as a person who is a de facto partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under proposed Part 3 of that Act or not, while in a few cases (such as the *Inheritance (Family Provision) Act 1972*), a declaration will be required. However, whether a declaration is required or not for the purposes of a particular Act, the matters set out in proposed Part 3 of the *Family Relationships Act 1975* are relevant in determining whether or not a particular person is, or was, at a particular time, the de facto partner of another.

Part 1—Preliminary

This Part contains the formal clauses.

Part 2—Amendment of *Administration and Probate Act 1919*

It is proposed to insert definitions of ***de facto partner*** and ***domestic partner*** and, as a consequence, delete the definitions of ***putative spouse*** and ***spouse***. This Act is one that does require a declaration to be made that one person is the de facto partner of another as at a particular date under the new proposed Part 3 of the *Family Relationships Act 1975*.

Clause 15 provides that an amendment made by this Act to the *Administration and Probate Act 1919* applies only in relation to the estate of a deceased person whose death occurs after the commencement of the amendment.

Part 3—Amendment of *Aged and Infirm Persons' Property Act 1940*

In each of the Acts amended in Parts 3 to 10, the definitions of ***de facto partner*** and ***domestic partner*** are to be inserted in the appropriate section of the particular Act. In each of them, a de facto partner is to be defined as a person who is a de facto partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under proposed Part 3 of that Act or not, and a ***domestic partner*** is defined as a spouse or de facto partner. The remainder of the amendments are consequential on the insertion of those definitions or provide for transitional arrangements.

Part 4—Amendment of *Architects Act 1939*

Part 5—Amendment of *Associations Incorporation Act 1985*

Part 6—Amendment of *Authorised Betting Operations Act 2000*

Part 7—Amendment of *Casino Act 1997*

Part 8—Amendment of *Chiropractors Act 1991*

Part 9—Amendment of *Citrus Industry Act 1991*

Part 10—Amendment of *City of Adelaide Act 1998*

Part 11—Amendment of *Civil Liability Act 1936*

It is proposed to insert definitions of ***de facto partner*** and ***domestic partner*** and, as a consequence, delete the definitions of ***putative spouse*** and ***spouse***. This Act is another that requires a declaration to be made that one person is the de facto partner of another as at a particular date under the new proposed Part 3 of the *Family Relationships Act 1975*.

The remainder of the proposed amendments are consequential except for the insertion of a provision that provides that an amendment made by this measure to the *Civil Liability Act 1936* applies only in relation to a cause of action that arises after the commencement of the amendment.

Part 12—Amendment of *Community Titles Act 1996*

In each of the Acts amended in Parts 12 to 18, the definitions of ***de facto partner*** and ***domestic partner*** are to be inserted in the appropriate section of the particular Act. In each of them, a de facto partner is to be defined as a person who is a de facto partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under proposed Part 3 of that Act or not, and a ***domestic partner*** is defined as a spouse or de facto partner. The remainder of the amendments are consequential on the insertion of those definitions or provide for transitional arrangements.

Part 13—Amendment of *Conveyancers Act 1994*

Part 14—Amendment of *Co-operatives Act 1997*

Part 15—Amendment of *Cremation Act 2000*

Part 16—Amendment of *Criminal Law Consolidation Act 1935*

Part 17—Amendment of *Criminal Law (Forensic Procedures) Act 1998*

Part 18—Amendment of *Crown Lands Act 1929*

Part 19—Amendment of *De Facto Relationships Act 1996*

This Act establishes a legislative scheme whereby a husband and wife de facto can make arrangements for property settlements. It is not proposed to alter the requirements of the scheme except to extend it to include persons of the same sex who cohabit with each other as a couple on a genuine domestic basis.

Part 20—Amendment of *Dental Practice Act 2001*

The amendments to this Act are consistent with proposed amendments in this measure to other Acts that regulate a profession.

Part 21—Amendment of *Development Act 1993*

In the Act amended in this Part, the definitions of ***de facto partner*** and ***domestic partner*** are to be inserted. A de facto partner is to be defined as a person who is a de facto partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under proposed Part 3 of that Act or not, and a ***domestic partner*** is defined as a spouse or de facto partner. The remainder of the amendments are consequential on the insertion of those definitions or provide for transitional arrangements.

Part 22—Amendment of *Domestic Violence Act 1994*

This Act provides for applications to be made to the Magistrates Court relating to an order restraining a person from committing domestic violence against his or her husband or wife, or his or her husband or wife de facto. It is proposed to extend this to allow persons of the same sex who cohabit with one another as a couple on a genuine domestic basis to make such applications if the circumstances require.

Part 23—Amendment of *Electoral Act 1985*

In the Acts amended in Parts 23 to 26, the definitions of ***de facto partner*** and ***domestic partner*** are to be inserted in the appropriate section of the particular Act. A de facto partner is to be defined as a person who is a de facto partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under proposed Part 3 of that Act or not, and a ***domestic partner*** is defined as a spouse or de facto partner. The remainder of the amendments are consequential on the insertion of those definitions or provide for transitional arrangements.

Part 24—Amendment of *Environment Protection Act 1993*

Part 25—Amendment of *Equal Opportunity Act 1984*

Part 26—Amendment of *Evidence Act 1929*

Part 27—Amendment of *Family Relationships Act 1975*

73—Amendment of section 5—Interpretation

It is proposed to expand the definition of ***Court*** for the purposes of this Act to mean the Supreme Court, the District Court or the Magistrates Court.

74—Substitution of Part 3

It is proposed to delete current Part 3 (which provides for declarations in relation to putative spouses) and substitute a new Part that instead provides for de facto partners.

Proposed section 11A(1) provides that a person is, on a certain date, the ***de facto partner*** of another (irrespective of the sex of the other) if he or she is, on that date, cohabiting with that person as a couple on a genuine domestic basis (other than as a legally married couple) and he or she—

(a) has so cohabited with that other person continuously for the period of 3 years immediately preceding that date; or

(b) has during the period of 4 years immediately preceding that date so cohabited with that other person for periods aggregating not less than 3 years.

Proposed section 11 is an interpretation provision that clarifies the meaning of new section 11A(3), which provides that a person is not the de facto partner of another if he or she

is related by family to the other. For the purposes of Part 3, persons are *related by family* if—

(a) one is the parent, or another ancestor, of the other; or

(b) one is the child, or another descendant, of the other; or

(c) they have a parent in common.

Proposed section 11A(2) provides that a person is, on a certain date, the ***de facto partner*** of another if he or she is, on that date, cohabiting with that person as a couple on a genuine domestic basis (other than as a legally married couple) and a child, of which he or she and the other person are the parents, has been born (whether or not the child was still living at that date).

Proposed section 11A(4) provides that a person whose rights or obligations depend on whether he or she and another person, or 2 other persons, were, on a certain date, de facto partners one of the other may apply to the Court for a declaration under section 11A.

Proposed section 11A(6) provides that, for the purposes of determining whether a person is to be recognised under the law of South Australia as the de facto partner of another, consideration must be given to the following:

(a) the duration of the relationship;

(b) the nature and extent of common residence;

(c) whether or not a sexual relationship exists, or has existed;

(d) the degree of financial dependence and interdependence, or arrangements for financial support between the parties;

(e) the ownership, use or acquisition of property;

(f) the degree of mutual commitment to a shared life;

(g) the care and support of children;

(h) the performance of household duties;

(I) the reputation and public aspects of the relationship.

75—Substitution of section 13

Proposed section 13 is substantially the same as a provision that currently appears in each of the Superannuation Acts and provides for confidentiality of proceedings relating to applications under this Act. New section 13 creates an offence (punishable by a fine of $5 000 or imprisonment for 1 year) if a person publishes ***protected information*** (that is, information relating to such an application that identifies or may lead to the identification of an applicant, or an associate of the applicant, or a witness to an application).

76—Transitional provision

This clause provides that if, before the commencement of this clause, a declaration has been made under Part 3 of the *Family Relationships Act 1975* that a person was, on a certain date, the putative spouse of another, the declaration will, if the case requires, be taken to be that the person was, on that date, the de facto partner of the other.

Part 28—Amendment of *Firearms Act 1977*

The proposed amendments to this Act are effected in the same way as the amendments proposed to the majority of the Acts to be amended by this measure.

Part 29—Amendment of *First Home Owner Grant Act 2000*

The amendments proposed in this Part do not work by reference to the *Family Relationships Act 1975*. Instead, reference is made to persons cohabiting as a couple on a genuine domestic basis (whether they are of the opposite or the same sex).

The transitional provision provides that an amendment made by this measure to the *First Home Owner Grant Act 2000* applies only in relation to an application for a first home owner grant made after the commencement of the amendment.

Part 30—Amendment of *Gaming Machines Act 1992*

The amendments proposed in Parts 30 and 31 are effectively the same as the amendments proposed to the majority of the Acts to be amended by this measure.

Part 31—Amendment of *Genetically Modified Crops Management Act 2004*

Part 32—Amendment of *Governors' Pensions Act 1976*

The amendments proposed to this Act will achieve consistency with other State Acts that deal with pension and superannuation schemes.

De facto partner and ***domestic partner*** are defined by reference to the *Family Relationships Act 1975* consistently with the majority approach taken elsewhere in this measure (that is, no declaration is required under that Act).

The other amendments are consequential but for the transitional provision which provides that an amendment made by a provision of this measure to a provision of the *Governors' Pensions Act 1976* that provides for, or relates to, the payment of a pension to a person on the death of a Governor, or former Governor, applies only if the death occurs after the commencement of the amendment.

Part 33—Amendment of *Ground Water (Qualco-Sunlands) Control Act 2000*

The amendments proposed in Parts 33 to 38 are consistent with the amendments proposed to the majority of Acts by this measure.

Part 34—Amendment of *Guardianship and Administration Act 1993*

Part 35—Amendment of *Hospitals Act 1934*

Part 36—Amendment of *Housing and Urban Development (Administrative Arrangements) Act 1995*

Part 37—Amendment of *Housing Improvement Act 1940*

Part 38—Amendment of *Industrial and Employee Relations Act 1994*

Part 39—Amendment of *Inheritance (Family Provision) Act 1972*

The amendments proposed to this Act require a declaration to be made under the *Family Relationships Act 1975*.

It is proposed to insert definitions of ***de facto partner*** and ***domestic partner*** and, as a consequence, delete the definition of ***spouse***. A ***de facto partner*** in relation to a deceased person is a person declared under the *Family Relationships Act 1975* to have been a de facto partner of the deceased as at the date of his or her death, or at some earlier date.

The amendments will only apply in relation to the estate of a deceased person whose death occurs after the commencement of the amendments.

Part 40—Amendment of *Judges' Pensions Act 1971*

The amendments proposed to this Act will achieve consistency with the other State Acts dealing with pension and superannuation schemes. It will no longer be the case that the spouse of a deceased former judge will be entitled to a benefit only if he or she was the former judge's spouse before the former judge ceased to be a judge. A person who is the domestic partner of a deceased judge or former judge at the time of death will be entitled to a benefit irrespective of when he or she became the domestic partner of the judge or former judge. However, because ***de facto partner*** is defined by reference to the *Family Relationships Act 1975*, a person can only be the de facto partner of a judge or former judge if he or she has cohabited with the judge or former judge for at least three years or is the parent of a child of whom the judge or former judge is also a parent.

The amendments proposed to section 4 will insert definitions of ***de facto partner*** and ***domestic partner***. Consequential amendments are also made to the definitions of ***eligible child*** and ***notional pension***.

Proposed new section 9 provides for the division of benefits where a deceased judge or former judge is survived by more than one domestic partner. Any benefit to which a surviving domestic partner is entitled under the Act will be divided between the domestic partners in a ratio determined by reference to the length of the periods for which each of them cohabited with the deceased as his or her domestic partner. A substantially similar provision is included in each of the Acts dealing with superannuation entitlements.

An amendment made by a provision of this measure to a provision of the *Judges' Pensions Act 1971* that provides for, or relates to, the payment of a pension to a person on the death of a Judge, or former Judge, applies only if the death occurs after the commencement of the amendment.

Part 41—Amendment of *Juries Act 1927*

The amendment proposes to use the term ***domestic partner*** instead of the term ***spouse*** in relation to describing certain persons who, because of their relationship with another, are ineligible to serve on a jury.

An amendment made by this measure to the *Juries Act 1927* does not affect the eligibility of a person to serve on a jury empanelled before the commencement of the amendment.

Part 42—Amendment of the *Legal Practitioners Act 1981*

The amendments proposed in Parts 42 to 48 are consistent with the amendments proposed to the majority of Acts by this measure.

Part 43—Amendment of *Liquor Licensing Act 1997*

Part 44—Amendment of *Local Government Act 1999*

Part 45—Amendment of *Medical Practitioners Act 1983*

Part 46—Amendment of *Members of Parliament (Register of Interests) Act 1983*
Part 47—Amendment of *Mental Health Act 1993*
Part 48—Amendment of *Natural Resources Management Act 2004*
Part 49—Amendment of *Parliamentary Superannuation Act 1974*

The amendments proposed to section 5 of this Act would have the effect of removing the definitions of ***spouse*** and ***putative spouse*** and substituting ***de facto partner*** and ***domestic partner***. ***De facto partner*** in relation to a deceased member or deceased member pensioner is defined to mean a person who was the member or member pensioner's de facto partner within the meaning of the *Family Relationships Act 1975* at the date of the death of the member or member pensioner. This clause also proposes consequential amendments to the definitions of ***eligible child*** and ***spouse pension***.

Current section 7A provides that a person who is the same sex partner of a member can apply to the District Court for a declaration that he or she is the putative spouse of the member. The District Court is required to make the declaration if the relationship between the two persons satisfies certain criteria. This section is redundant as a consequence of the proposed amendments to section 5. As a result of those amendments, the de facto partner of a deceased member, whether of the opposite or same sex as the member, will be entitled to a benefit if he or she is a de facto partner of the member within the meaning of the *Family Relationships Act 1975*. Section 7A is therefore to be repealed.

It is also proposed to repeal section 7B, which provides for the confidentiality of proceedings under section 7A. Section 7B is substantially the same as proposed new section 13 of the *Family Relationships Act 1975*. The protection afforded by section 7B will therefore continue and will apply equally to opposite sex and same sex de facto partners.

Many of the proposed amendments are consequential on the above changes.

An amendment made by a provision of this measure to a provision of the *Parliamentary Superannuation Act 1974* that provides for, or relates to, the payment of a pension, lump sum or other benefit to a person on the death of a member, or former member, applies only if the death occurs after the commencement of the amendment.

Part 50—Amendment of *Partnership Act 1891*

The amendments proposed in Parts 50 to 54 are consistent with the amendments proposed to the majority of Acts by this measure.

Part 51—Amendment of *Pastoral Land Management and Conservation Act 1989*
Part 52—Amendment of *Pharmacists Act 1991*
Part 53—Amendment of *Phylloxera and Grape Industry Act 1995*
Part 54—Amendment of *Physiotherapists Act 1991*
Part 55—Amendment of *Pitjantjatjara Land Rights Act 1981*

This proposed amendment to this Act replaces the words "lawful or defacto spouse" with "domestic partner". For the purposes of section 25, a person is the ***de facto partner*** of another if he or she cohabits with the other as a couple of a genuine domestic basis but is not legally married to the other.

Part 56—Amendment of *Police (Complaints and Disciplinary Proceedings) Act 1985*

The amendments proposed to this Act are consistent with the amendments proposed to the majority of Acts by this measure.

Part 57—Amendment of *Police Superannuation Act 1990*

The proposed amendments to current section 4 of this Act would have the effect of removing the definitions of ***spouse*** and ***putative spouse*** and substituting ***de facto partner*** and ***domestic partner***. ***De facto partner*** in relation to a deceased contributor would be defined to mean a person who was the contributor's de facto partner within the meaning of the *Family Relationships Act 1975* at the date of the death of the contributor.

Currently, section 4A provides that a person who is the same sex partner of a contributor can apply to the District Court for a declaration that he or she is the putative spouse of the contributor. The District Court is required to make the declaration if the relationship between the two persons satisfies certain criteria. This section will become redundant as a consequence of the proposed amendments to section 4. As a result of those amendments, the de facto partner of a deceased contributor, whether of the opposite or same sex as the contributor, will be entitled to a benefit if he or she is a de facto partner of the contributor within the meaning of the *Family Relationships Act 1975*. Section 4A is therefore to be repealed.

Current section 4B (which provides for the confidentiality of proceedings under section 4A) is also to be repealed. Section 4B is substantially the same as proposed new section 13 of the *Family Relationships Act 1975*. The protection afforded by section 4B will therefore continue and will apply equally to opposite sex and same sex de facto partners.

It is currently the case that the lawful spouse of a deceased contributor is entitled to a benefit if he or she became the lawful spouse of the contributor before the termination of the contributor's employment or if he or she cohabited with the contributor as the contributor's de facto husband or wife or lawful spouse for a period of 5 years immediately before the contributor's death. A spouse who does not satisfy those criteria is nevertheless entitled to a benefit if he or she is the natural parent of a child of the contributor.

As a consequence of the proposed amendments, the domestic partner of a deceased contributor at the time of the contributor's death will be entitled to a benefit irrespective of whether he or she was the contributor's domestic partner prior to the termination of the contributor's employment. However, because de facto partner is defined by reference to the *Family Relationships Act 1975*, a person will not be entitled to a benefit as the de facto partner of a contributor unless the person has, at the time of the contributor's death, been cohabiting with the contributor as a couple for 3 years, or the person is the natural parent of a child of whom the contributor is also the natural parent.

Other amendments are consequential or make provision for transitional matters.

Part 58—Amendment of *Problem Gambling Family Protection Orders Act 2004*

The proposed amendment to this Act has the effect of replacing the definition of ***spouse*** with ***domestic partner***. For the purposes of this Act, a person is the ***de facto partner*** of another if he or she cohabits with the other as a couple of a genuine domestic basis but is not legally married to the other.

Part 59—Amendment of *Public Corporations Act 1993*

The amendments proposed in this Part are consistent with the amendments proposed to the majority of Acts by this measure.

Part 60—Amendment of *Public Intoxication Act 1984*

The proposed amendment to this Act has the effect of replacing the definition of ***spouse*** with ***domestic partner***. For the purposes of this Act, a person is the ***de facto partner*** of another if he or she cohabits with the other as a couple on a genuine domestic basis but is not legally married to the other.

Part 61—Amendment of *Public Sector Management Act 1995*

The proposed amendments to the *Public Sector Management Act 1995* (as amended by the *Statutes Amendment (Honesty and Accountability in Government) Amendment Act 2003*) are consistent with the amendments proposed to the majority of Acts by this measure.

Part 62—Amendment of *Public Trustee Act 1995*

The proposed amendments to this Act will insert definitions of ***de facto partner*** and ***domestic partner*** and, as a consequence, replace references to ***spouse*** with ***domestic partner***. A ***de facto partner*** in relation to a deceased person is a person declared under the *Family Relationships Act 1975* to have been a de facto partner of the deceased as at the date of his or her death, or at some earlier date.

Other amendments are consequential.

Part 63—Amendment of *Racing (Proprietary Business Licensing) Act 2000*

The amendments proposed in Parts 63 to 70 are consistent with the amendments proposed to the majority of Acts by this measure.

Part 64—Amendment of *Renmark Irrigation Trust Act 1936*
Part 65—Amendment of *Residential Tenancies Act 1995*
Part 66—Amendment of *Retirement Villages Act 1987*
Part 67—Amendment of *River Murray Act 2003*
Part 68—Amendment of *South Australian Health Commission Act 1976*
Part 69—Amendment of *South Australian Housing Trust Act 1995*
Part 70—Amendment of *South Eastern Water Conservation and Drainage Act 1992*
Part 71—Amendment of *Southern State Superannuation Act 1994*

The proposed amendments to this Act remove the definitions of ***spouse*** and ***putative spouse*** and insert ***de facto partner*** and ***domestic partner***. ***De facto partner*** in relation to a deceased member means a person who was the member's de facto partner within the meaning of the *Family Relationships Act 1975* at the date of the death of the member.

Section 3A provides that a person who is the same sex partner of a member can apply to the District Court for a declaration that he or she is the putative spouse of the member. The District Court is required to make the declaration if the relationship between the two persons satisfies certain criteria. This section is redundant as a consequence of the proposed amendments to section 3. As a result of those amendments, the de facto partner of a deceased member, whether of the opposite or same sex as the member, will be entitled to a benefit if he or she is a de facto partner of the member within the meaning of the *Family Relationships Act 1975*. Section 3A is therefore to be repealed.

Section 3B, which provides for the confidentiality of proceedings under section 3A is also to be repealed. Section 3B is substantially the same as proposed new section 13 of the *Family Relationships Act 1975*. The protection afforded by section 3B will therefore continue and will apply equally to opposite sex and same sex de facto partners.

Other amendments are consequential.

Part 72—Amendment of *Stamp Duties Act 1923*

A proposed amendment to this Act will insert definitions of ***de facto partner*** and ***domestic partner*** and removes the definition of ***spouse***. For the purposes of this Act, a person is the de facto partner of another if the person—

(a) cohabits with the other as a couple on a genuine domestic basis (other than as a legally married couple); and

(b) has so cohabited continuously for at least three years.

This Act currently defines ***spouse*** to include the de facto husband or wife of a person who has been cohabiting continuously with the person for at least three years. The new definition of ***de facto partner*** is consistent with this but includes partners of the same sex.

Most of the other amendments are consequential. The proposed amendments to section 71CBA will have the effect of extending the stamp duty exemption provided by that section to certain instruments executed under the *De Facto Relationships Act 1996* by persons of the same sex who are, or have been, in a de facto relationship.

A transitional provision will provide that an amendment made by this measure to the *Stamp Duties Act 1923* will apply only in relation to instruments executed after the commencement of the amendments.

Part 73—Amendment of *Superannuation Act 1988*

The proposed amendments to section 4 of the *Superannuation Act 1988* have the effect of removing the definitions of ***spouse*** and ***putative spouse*** and substituting ***de facto partner*** and ***domestic partner***. ***De facto partner*** in relation to a deceased contributor means a person who was the contributor's de facto partner within the meaning of the *Family Relationships Act 1975* at the date of the death of the contributor.

Currently, section 4A provides that a person who is the same sex partner of a contributor can apply to the District Court for a declaration that he or she is the putative spouse of the contributor. The District Court is required to make the declaration if the relationship between the two persons satisfies certain criteria. This section is redundant as a consequence of the proposed amendments to section 4. As a result of those amendments, the de facto partner of a deceased contributor, whether of the opposite or same sex as the contributor, will be entitled to a benefit if he or she is a de facto partner of the contributor within the meaning of the *Family Relationships Act 1975*. Section 4A is therefore to be repealed.

Section 4B, which provides for the confidentiality of proceedings under section 4A, is also to be repealed. Section 4B is substantially the same as proposed new section 13 of the *Family Relationships Act 1975*. The protection afforded by section 4B will therefore continue and will apply equally to opposite sex and same sex de facto partners.

Other amendments are consequential.

It is currently the case under section 38 of the Act that the lawful spouse of a deceased contributor is entitled to a benefit if he or she became the lawful spouse of the contributor before the termination of the contributor's employment or he or she cohabited with the contributor as the contributor's de facto husband or wife or lawful spouse for a period of five years immediately before the contributor's death. A spouse who does not satisfy those criteria is nevertheless entitled to a benefit if he or she is the natural parent of a child of the contributor.

As a consequence of proposed amendments, the domestic partner of a deceased contributor at the time of the contributor's death will be entitled to a benefit irrespective of whether he or she was the contributor's domestic partner prior to the termination of the contributor's employment. However, because ***de facto partner*** is defined by reference to the *Family Relationships Act 1975*, a person will not be entitled to a benefit as the de facto partner of a contributor unless the person has, at the time of the contributor's death, cohabited with the contributor as a couple for three years or the person is the natural parent of a child of whom the contributor is also the natural parent.

A transitional provision consequential on the passage of this measure provides that an amendment made by a provision of this measure to the *Superannuation Act 1988* that provides for or relates to the payment of a pension, lump sum or other benefit to a person on the death of a contributor applies only if the death occurs after the commencement of the amendment.

Part 74—Amendment of *Superannuation Funds Management Corporation of South Australia Act 1995*

The amendments proposed in Parts 74 and 75 are consistent with the amendments proposed to the majority of Acts by this measure.

Part 75—Amendment of *Supported Residential Facilities Act 1992*

Part 76—Amendment of *Supreme Court Act 1935*

It is proposed to insert into this Act definitions of ***de facto partner*** and ***domestic partner*** and, as a consequence, replace references to ***wife or husband*** with ***domestic partner***. A ***de facto partner*** in relation to a deceased judge or master is a person declared under the *Family Relationships Act 1975* to have been a de facto partner of the judge or master as at the date of his or her death, or at some earlier date.

Part 77—Amendment of *Transplantation and Anatomy Act 1983*

The amendments proposed in Parts 77 to 82 are consistent with the amendments proposed to the majority of Acts by this measure.

Part 78—Amendment of *University of Adelaide Act 1971*

Part 79—Amendment of *Upper South East Dryland Salinity and Flood Management Act 2002*

Part 80—Amendment of *Veterinary Practice Act 2003*

Part 81—Amendment of *Victims of Crime Act 2001*

An amendment to this Act effected by a provision of this measure only applies in relation to a claim for statutory compensation for an injury caused by an offence committed after the commencement of the amendment.

Part 82—Amendment of *Wills Act 1936*

Part 83—Amendment of *Workers Rehabilitation and Compensation Act 1986*

The proposed amendments remove the definition of ***spouse*** and insert definitions of ***de facto partner*** and ***domestic partner***. For the purposes of this Act, a person is the de facto partner of a worker if the person cohabits with the worker as a couple on a genuine domestic basis (other than as a legally married couple) and the person—

(a) has been so cohabiting continuously with the worker for a period of three years; or

(b) has during the preceding period of four years so cohabited with the worker for periods aggregating not less than three years; or

(c) has been cohabiting with the worker for a substantial part of such a period and the Corporation considers that it is fair and reasonable that the person be regarded as the de facto partner of the worker for the purposes of this Act.

A person will also be the de facto partner of a worker if he or she cohabits with the worker as a couple and a child, of whom the worker and the person are the parents, has been born.

Other amendments are consequential.

The transitional clause makes it clear that an amendment to the Act effected by this measure that provides a lump sum or weekly payments to a person on the death of a worker will apply only if the death occurs after the commencement of the relevant amending provision.

The Hon. R.I. LUCAS secured the adjournment of the debate.

GAMING MACHINES (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 8 November. Page 443.)

The Hon. NICK XENOPHON: I welcome this bill because it presents an opportunity to debate and to find solutions to the terrible burden of problem gambling in this state brought about by the introduction of poker machines in 1994. It is worth repeating that this debate ought to be about reducing the level of problem gambling in this state. It ought to be about reducing the significant hardship and impact on tens of thousands of South Australians brought about because of the introduction of poker machines in South Australia.

The Productivity Commission in its very comprehensive report in 1999 indicated that there were some 290 000 Australians with a gambling problem, with 65 to 80 per cent of those due to poker machines. It indicated that in 1999 on average those problem gamblers were losing $12 000 per annum. The commission also found that on average seven individuals were affected by each problem gambler. It also found that, in terms of the proportion of losses from problem gamblers, compared to other forms of gambling poker machines were much higher than other forms of gambling. Lotteries were some 5.7 per cent, casino games were about 10 per cent, Keno and scratchies were of the order of 19 per cent, wagering was 33 per cent, but poker machines were at 42.3 per cent. More recent surveys and studies from the University of Western Sydney indicate a figure approaching 50 per cent. That indicates that close to half of poker machine losses are derived from problem gamblers, so in a sense from those who are vulnerable and addicted.

Recently the South Australian Centre for Economic Studies wrote to all members of parliament in relation to this legislation. It is worth putting on the record some of the matters raised in that report or in those studies, given that the SA Centre for Economic Studies, with Michael O'Neil as its director, has produced a number of comprehensive reports, well-considered reports, in relation to gambling and its impact. That does not mean to say that I necessarily agree with all the positions put by Dr Michael O'Neil, but I certainly respect the rigorousness of his analysis and the work he has done and the considered approach he has taken on a number of these issues. The South Australian Centre for Economic Studies has produced a number of high level, independent research projects on gambling, including projects for the Victorian Gambling Research Panel, which I note the Bracks Labor government decided to disband recently. That is a classic case of shooting the messenger.

The Centre for Economic Studies has also produced a number of reports including one for the Provincial Cities Association on the impact of electronic gaming machines on small regional economies. That report was published in August 2001 and I will refer to it shortly. The SA Centre for Economic Studies has also produced a report on the evaluation of self-exclusion programs, again, as I understand it, for the Victorian Gambling Research Panel, and that report drew considerable discussion from around the nation in terms of the effectiveness of such programs. It has also prepared a report on the evaluation of the impact of regional caps on electronic gaming machines in Victoria, but unfortunately that report is not yet ready for release. I understand it is embargoed and I do not know what the contents of that report are. Dr O'Neil is observing that strict embargo but it is unfortunate that we do not have that report at this stage, and I hope that before this bill is finally dealt with in this place that that report will be made available, because I am sure that it will provide further information which I believe would be useful in the context of dealing with this issue.

The report comments on the Independent Gambling Authority's report on the management of gaming machine numbers. I know that there has been significant criticism of the Independent Gambling Authority. This is one of the rare occasions where I agree with the Hon. Mr Lucas in relation to the Independent Gambling Authority, in the sense that I believe it is up to parliament to decide what legislation ought to be in place with respect to gambling.

I also believe it is very useful for us to draw on expert advice and export reports, and I welcome the revamping and establishment of the Independent Gambling Authority, because, notwithstanding some members in the other place severely criticising the Independent Gambling Authority, I see this as a very useful basis for debate and discussion and as a resource for members to use in the context of this debate. Rather than shooting the messenger, we should at least look at the message and use that as a basis for further debate and discussion. In its report the Independent Gambling Authority made a number of recommendations, and I will refer to them briefly. However, in its report (which I think is a fair critique of the Independent Gambling Authority's report) the SA Centre for Economic Studies states:

> The IGA have put a case that is concerned with machine numbers as well as the number of venues. That is to say, there are two policy targets and one principal objective, namely to reduce the incidence of problem gambling.

That ought to be our principal objective.

In due course, I will also refer to the challenge of the Hon. Mr Lucas in respect of a reduction of poker machine numbers and the impact that will have on problem gambling. I will also refer to the Productivity Commission's findings on accessibility. I mention at this stage that I know that yesterday the Hon. Mr Lucas referred to me as his 'very good friend'. I think it should be put on the record in *Hansard* that, when the Hon. Mr Lucas said that, a number of members looked either bemused or horrified. I presume that the Hon. Mr Lucas has his preselection stitched up for the next election and is not concerned about the damage that that remark could do to him and his preselection chances.

The SA Centre for Economic Studies makes reference to the history of the introduction of poker machines, the clubs versus hotels debate and a discussion paper prepared by the AHA in 1991, which states:

> The AHA proposes a maximum of 30 machines for any eligible establishment. This may be a somewhat ambitious proposal for hotels.

I think it is worth reflecting on the history of what occurred then. The SA Centre for Economic Studies notes that the estimated number of problem gamblers with varying degrees of severity is 23 500 to 24 500 adult South Australians; that they each impact on seven other members of the community; and that upwards of 140 000 people may be affected in some way.

The SA Centre for Economic Studies makes the point that, if you compare this with another social problem such as drink driving—the number of drink drivers apprehended in South Australia in 2002-03 by RBTs was 5 562—and the commensurate effort expended in detecting, apprehending, courts, fines and so on related to drink driving, many of the initiatives to address problem gambling are tokenisms which

would not be tolerated if similar strategies were put forward to deal with drink driving or driving without seat belts and so on. That is an analogy that the SA Centre for Economic Studies puts, but I think it is worth bearing in mind in terms of this debate, in that this ought to be seen as one of a number of measures dealing with problem gambling.

Of course, this bill is not simply about the reduction of poker machines, although that is a key element, but it is also about a number of other reforms, including the social impact of poker machines. An amendment in the other place introduced 10-year certainty for the hotel industry. I say that the paramount issue of certainty ought to be for problem gamblers; that is, for many thousands of South Australians all certainty has been lost because of a significant gambling problem, and most gambling problems in this state are due to poker machines. In relation to the issue of certainty, my priority is for those who have been hurt by poker machines and for those who in the future could fall vulnerable and become addicted to poker machines.

The issue of certainty ought to be about the impact on individuals and their families, not an industry which has done extremely well out of poker machines and which has had a virtually guaranteed income stream for a number of years. When members consider the Productivity Commission's finding that 42.3 per cent of gambling losses are derived from problem gamblers, the bottom line for those venues and, indeed, the state government's coffers is that a significant proportion of their revenue is derived from people who have a problem with poker machines. There is a lot of misery in those figures in terms of the hotel and club revenue and also the revenue for the state government.

The SA Centre for Economic Studies sets out a number of facts that it considers to be relevant to the current debate, and it is worth repeating a number of those. It states that South Australia has 15 000 machines outside the casino. Victoria has 27 500, yet the population ratio is approximately 1:3. If a similar population to machine ratio was applied, South Australia would have only 9 200 to 10 000 machines. It goes on to say that there are 50 venues per 100 000 persons in South Australia compared to 15 in Victoria; and 11 machines per 1 000 adult persons in South Australia compared to eight machines per 1 000 in Victoria.

The SA Centre for Economic Studies did look at the issue of provincial cities in its 2001 report. I am also concerned that the other place deleted a provision in the original bill which provided for a provincial cities cap (by way of shorthand) but essentially a greater deal of flexibility and a greater emphasis on ensuring that the impact of poker machines in provincial cities was tackled in a substantive way by giving a greater discretion and a greater priority, in a sense, to deal with the impact of poker machines in provincial and regional areas. The SA Centre for Economic Studies points out that provincial cities have a higher number of machines per 1 000 adult persons at 18 machines compared to a state average of 11 (in Port Augusta there are 31 machines per 1 000 adults; in Mount Gambier, 25 machines per 1 000 adults) and that the provincial cities possess a disproportionate share of all gaming machines at 14.9 per cent, yet have a population share of 9.1 per cent.

The report further states that eight of the nine provincial cities are above the state average in terms of average net gaming revenue per adult, but only two of the nine are above average in terms of income, namely, Mount Gambier and Port Lincoln. The centre says that there is an inverse relationship between a region's income and the total amount spent on gaming machines.

The SA Centre for Economic Studies provided a number of submissions to the Independent Gambling Authority that were considered by the authority. Obviously, the authority took into consideration the recommendations made by the centre in its own recommendations released at the end of last year. That is why it is particularly disappointing that the very comprehensive work done by Michael O'Neil and others at the centre has, effectively, been ignored by the amendment in the other place that deletes reference to the impact on regional centres. That is why I will move an amendment that the clause relating to regional caps be reinstated.

I urge all honourable members who are considering this issue to read the centre's analysis and to look at its original report in 2001. I understand that Dr O'Neil has made himself available to provide a briefing and discuss his findings with all members of the council and the other place. Dr O'Neil comes from the dispassionate position of a researcher who is well respected. He does not have an axe to grind. He has undertaken a considerable body of research well-known for the independence and robustness of its process and findings. That is why I think it important that honourable members take heed of Dr O'Neil's concerns. The centre's report further states:

> It is a statement of fact that the ready availability and accessibility of EGMs leads to high rates of problem gambling.

The issues are: how do you best manage machine numbers, and how do you deal with this problem?

I will not respond to all the Hon. Mr Lucas's challenges at this stage, but I will certainly do so in due course when I refer to other reports, including that of the Productivity Commission. However, not to do anything and to keep the status quo is simply unacceptable. If members who are pro and anti-gambling take the view that one problem gambler is too many (and I know that the Hon. Mr Lucas has said that on the record, and I commend him for doing so), we need to tackle this issue head on. Short of getting rid of all poker machines, from my point of view no legislation will be perfect but, if there is a clawback in the number of machines, clearly that is preferable to keeping the same number of machines or, indeed, allowing an increase, given what the Productivity Commission has said about the number of machines and their accessibility.

Within the debate about the number of machines to be reduced are other debates about the number of machines per venue and also the number of venues in a community. That is why I believe that the whole issue of a regime of transferability will occupy a lot of the time of this place during the committee stage. I understand that a number of members have very strong views either way, but I have reservations about the whole issue of transferability and whether it is the best way forward in dealing with this problem.

Earlier today, I had an opportunity for a brief discussion with Dr O'Neil and, without putting words into his mouth, I think he also shares concerns about the issue of transferability in terms of this approach. I want to put a number of questions to the minister on notice that I believe ought to be answered before this debate is advanced to the committee stage. In the absence of answers to those questions, I believe that honourable members will not have a reasonable degree of information to advance the debate in a sensible fashion.

The Centre for Economic Studies talks about prevalence rates of between 2.1 and 2.5 per cent of the adult population with respect to problem gambling. It also states:

> While changes to the number of machines may represent a fairly blunt instrument in tackling problem gambling, we have already noted that, relative to Victoria and New South Wales, South Australia on comparative population basis should have approximately 10 000 machines. A reduction from 15 000 to 12 000 is quite appropriate. The second policy objective is to reduce the number of venues with machines. Again, we have 50 venues per 100 000 adult persons; Victoria Park has 15. The geographical size of the state may warrant additional venues, but is it 50?

That question was posed by the SA Centre for Economic Studies. Again, those are not necessarily my views but, given that this is an independent voice with respect to gambling research, honourable members need to take heed of it. There is also an issue relating to the utilisation rate and machine capacity. The centre estimates that machines are used at 20 to 22 per cent of their potential earning capacity overall. It also states:

> It is not axiomatic that this will alter the number of problem gamblers—

that is, a reduction in machines, mainly to higher rates of utilisation and higher net gaming revenue per machine—

> although it is likely it will change behaviour, as most certainly will the smoking ban.

The centre also talks about the confidential information on the impact of regional caps in Victoria which, unfortunately, it is not at liberty to divulge at this stage. I hope that that report will be available to us in the near future. The centre says that what is reasonably assured is that no venue will collapse as a result of the reduction regime put forward by the IGA. In fact, my criticism of the IGA on this issue is that I do not believe that it has gone far enough. In its report, it indicated that it was considering a more significant reduction of 20 per cent but, in the end, that seems to have been the compromise position of the board in terms of reducing the number of machines.

The whole issue of tourism has been raised by the centre. It makes the valid point that tourists are not visiting any region to access gaming machines. It is not as though people are coming to South Australia—to Victor Harbor or the Flinders Ranges, for example—just for the opportunity to play poker machines.

The issue in relation to the contested assertion that jobs will be lost has also been tackled by the centre, and it ought to be in the minds of honourable members when we are debating this issue. I know that the Australian Hotels Association has waged a massive lobbying and publicity campaign about the issue of jobs in its sector. The Productivity Commission in its discussion on this indicated that, if anything, it was jobs-neutral. The Centre for Economic Studies' research illustrates that the employment to income ratio in hotels, taverns, bars and clubs (expressed as jobs per million dollar income) is as follows: gambling income, 3.2 jobs per million dollars; sales of liquor and other beverages, 8.3 jobs per million dollars; and sales of meals and food sales, 20.2 jobs per million dollars.

A study was released in 2000 by La Trobe University in relation to the impact on poker machines in Bendigo. This study was carried out by Mr Ian Pinge of La Trobe University, who is based at the Bendigo campus, and it paints a very different picture from that of the Australian Hotels Association. I have spoken to Mr Pinge about his research and, as I understand it, he was given access to the books of various venues for the purpose of undertaking this study. He found that in Bendigo, which has a population of 80 000, the money lost to poker machines was $32.35 million. With 532 poker machines, Bendigo has almost 850 problem gamblers who collectively overspent $4.4 million, and the net loss to the region's economy—even allowing for economic activity generated by poker machines—was $11.57 million or the equivalent of 237 full-time jobs. That gives a very different picture from that of the hotels association in terms of job creation.

Even the totally dispassionate analysis of the SA Centre for Economic Studies indicates that many more jobs are generated by the sales of meals and food within the hospitality industry, at 20.2 jobs per million dollars spent compared to 3.2 jobs per million dollars. I do not have the figures with me in relation to the retail industry, but I would imagine that it would be commensurate with that and that a significantly high number of jobs would be created per million dollars spent. In short, as the centre says, it has been shown that the number of jobs generated from gambling income is small and jobs will not be lost as a result of machine reductions.

The centre also refers to the issue of prevalence rates of problem gambling in all South Australia—in the Adelaide metropolitan area and in the provincial cities. Its findings are, again, built on analyses done previously. The SERCIS study was carried out by the state government at the time when Dean Brown was the minister and it showed various prevalence rates. That was a comprehensive study that was carried out several years ago. Building on those studies, the centre found that, in all South Australia, there is a prevalence rate of problem gambling of 2.04 per cent; in the Adelaide metropolitan area, 2.06 per cent; and in other non-metro areas, 1.43 per cent, but in provincial cities the rate is 2.81 per cent. That is obviously an area of significant concern for the centre and for the Provincial Cities Association with respect to the impact of poker machines on those provincial cities.

The centre also makes the point that, in its submissions to the Independent Gambling Authority, it discussed the role of the authority under section 11(2)(a) of the Independent Gambling Authority Act with respect to the authority's role in fostering responsibility in gambling and, in particular, the minimisation of harm caused by gambling, in recognising the positive and negative impacts of gambling on communities, and, in regard to section 11(2)(b), in the maintenance of a sustainable and responsible gambling industry in this state.

I know that the Hon. Mr Lucas referred to that, and I am glad that he did, because my criticism of the IGA is that it has put too much emphasis on the sustainability of the industry, whereas I believe that the primary objective ought to be to deal with problem gambling. The Centre for Economic Studies notes that, given that object (a) relates exclusively to harm minimisation and object (b) refers to both industry sustainability and harm minimisation, the emphasis of the act is on harm minimisation, and that is where I agree. I believe that that ought to be the primary objective of this legislation.

The Centre for Economic Studies looks at the issue of caps and freezes, and it makes the point that a freeze becomes a cap only when all applications forwarded to the Office of the Liquor and Gambling Commissioner have been processed. It further states that, when the last application is processed, from that date we have an effective ceiling or cap. I know that, in relation to questions I have asked in this place, both of this government and the previous government, there was a long lag period where there was a catch-up of applications

because that is the way the legislation was passed by the parliament.

The centre is quite critical of the Australian Gaming Machine Manufacturers Association. It refers to its views and is quite critical of them. That is a submission that was made to the Independent Gambling Authority. The centre also refers to gaming machine features that could contribute to a reduction in problem gambling in the first instance. In the committee stage I would like to get assurances from the government with respect to how it says that the new system of approval of machines will work so that we do not end up with fewer machines but faster, more addictive machines and so we ensure that there are mechanisms in place to allow for an appropriate analysis of machines. Some guidelines are in place with respect to the spin rate of machines and other features. However, that is something that needs to be explored further to ensure that the legislation is more effective.

The centre does refer to the social and psychological harms, and information has been collected on adaptive behaviours and of problem gamblers receiving treatment. In the context of this debate it is worth putting some information on the record. The following information is from a Victorian study with respect to the analysis of clients presenting to problem gambling services. It states that 78.7 per cent reported unsuccessful attempts to control problem gambling; 81.7 per cent reported that they chased losses; 16.8 per cent reported that they had committed illegal acts related to gambling and 51.4 per cent indicated that they had jeopardised relationships, employment and/or education.

I am not suggesting that this applies to everyone who has played the machines: it applies to those people who have presented for help. Unfortunately, we do not seem to have that degree of analysis and breakdown of figures with respect to Breakeven Services here in South Australia.

One of the questions I have put on notice to the minister is: what analysis has been carried out? I have previously asked this question during question time. I would have thought that, in the context of this debate about effective strategies to reduce problem gambling, it would be beneficial to have an analysis of what has occurred over the years with respect to the thousands of people seen by Breakeven Services in terms of following up on the effectiveness of treatment and the different treatment programs. For instance, the only inpatient treatment program is located at the Flinders Medical Centre at the Centre for Anxiety and Related Disorders, where the waiting time for some people to get help is something like six months. We are talking about people at the severe end of gambling problems; people who have severe emotional and psychological problems because of their gambling addiction; and people who have had suicidal thoughts or have attempted suicide. I have met with a group of people who are either in treatment or have gone through the program at the Flinders Medical Centre.

When the state government is getting close to $1 million a day in taxes from poker machines and when the government is giving only something like $1 in every $200 to the Gamblers Rehabilitation Fund—and I do acknowledge the $1.5 million from the hotels, and that figure has remained static since 1994, notwithstanding there has been an exponential increase in revenue for the industry—there is something seriously wrong when people who are desperate for help have to wait six months to get help. At other Breakeven agencies that do not have that intensive inpatient service the wait is several weeks to get face-to-face counselling, particularly ongoing counselling,. When the state is getting close to $1 million a day in gambling taxes there is something seriously wrong with that situation.

I foreshadow that I will move an amendment which, in terms of the constitutional requirements, will be in erased type. There may well be some interesting points of order taken at that time as to what can and cannot be done. However, I think it is important that—

The Hon. R.I. Lucas interjecting:

The Hon. NICK XENOPHON: The Hon. Mr Lucas makes a valid point that there are some interesting and important constitutional issues in general terms, not just in relation to the proposal that I am flagging. However, that is something that the government ought to consider. I would like to hear the Treasurer's response as to how he can justify in good conscience a situation where there is what I consider to be a crisis with respect to the rehabilitation of gamblers in this state. Counselling services are stretched to the limit and cannot provide the service they should be providing. Notwithstanding that I believe in the philosophy that it is much better to have a fence at the top of the cliff, rather than the best equipped ambulance at its base, and that our first priority should be to reduce the number of people falling off the edge and developing a gambling problem, if someone does develop a gambling problem, we ought to give them the best possible and speediest treatment available.

When I was in Coober Pedy last week, I saw the picture painted for me by residents. I spoke to a number of people and those who work in the welfare field about the damage caused by poker machines in that community. Concern was expressed, for instance, about one subgroup of indigenous women and the harm gambling was causing and the fact that there is no longer any face-to-face counselling available in Coober Pedy. That is a disgrace. As I understand it, face-to-face counselling ended in 1990, at the time of the previous government. So, there is something seriously wrong when the government is collecting so much revenue from poker machines and giving so little back in terms of dealing with problem gambling.

Professor James Westphal, the head of the Addictions Unit at San Francisco General Hospital, visited the highly regarded Flinders program a number of weeks ago and he was very fulsome in his praise. He is now taking what he has learnt here in South Australia back to the United States, because he believes we can learn a lot from the cognitive behaviour therapy carried through the Flinders program. However, people in the northern suburbs—interestingly, seats held by, for instance, the Premier and the health minister—do not have access to such a program. People are travelling a couple of hours a day from the northern parts of the metropolitan area to Flinders Medical Centre, catching two or three buses to get there, because there is no similar program at, for instance, the Lyell McEwin Hospital or the community centre, or through Breakeven Services, to provide this intensive therapy and treatment. That is something that I believe this place should debate during the committee stage.

I am hoping there will be a favourable ruling from you, Mr President, with respect to issues of mandating a certain percentage of gambling revenue for gamblers rehabilitation in this state, because it certainly has not kept up with the number of people being hurt and the level of gambling losses.

The Centre for Economic Studies (and this is something that will be debated further during the committee stage, and I will refer to it then) comments on the need to have a different approach with respect to the management of

machine numbers. I hope before the committee stage to speak further with Michael O'Neil from the Centre for Economic Studies with respect to his concerns.

Reference is made to the spatial distribution of gaming machines, and I will refer in due course to the Productivity Commission's report, because a number of questions arise out of the government's transferability model, about which I have significant concern. The Centre for Economic Studies, I think, in an understatement in its supplementary submission to the inquiry into the management of machine numbers (which I understand was forwarded to all members) indicated that the management of machine numbers has a relatively checkered history. The paper discusses the AHA's view that there be a maximum of only 13 machines per venue and that this was an ambitious proposal for hotels. It also talked about the anticipated figure of $230 per capita that was derived for expenditure on gaming machines in licensed premises, of which $62 reflected a transfer from lotteries and the casino and $168 was from other sources.

In relation to that, I know the Hon. Frank Blevins, when he was treasurer (and notwithstanding that it was a private member's bill that he introduced in the other place for the introduction of machines), made some estimates at the time as to what would be the likely poker machine losses in South Australia and the likely revenue. It was shown to me by a veteran gambling counsellor some time ago, and I do not have it in front of me but, hopefully, during the committee stage I will have it. My recollection is that it was an absolute fraction of the figure that is now being derived by the state government in taxes from gaming machines: it was in the order of $25 million to $30 million. I do not know whether the Hon. Mr Lucas can assist me with that. The Hon. Mr Blevins' estimates were much lower in terms of what has transpired, and the mechanisms that we have had in place to deal with problem gambling simply have not kept up with the exponential increase in poker machine losses.

The Centre for Economic Studies (so I am not quoting it out of context), at page 10 of its supplementary submission to the Independent Gambling Authority, stated:

> It is not possible to have a serious, thoughtful and honest debate about the management of machine numbers without acknowledging the fact that public policy was wide of the mark. Put simply, while it 'got a lot right', including the purchase, supply and electronic surveillance of machines, it could be argued to also have got a lot wrong.

That is something that ought to be borne in mind with respect to this debate, and when we deal with this bill in the committee stage I hope that the views of Michael O'Neil and others who have a dispassionate interest with respect to the research into problem gambling, and who are concerned about the impact of problem gambling, are taken into account by this place.

The centre also discussed various other issues that can make a difference (and I hope this is something that is considered in the committee stage), such as bans on allowing intoxicated people to gamble, as this has been shown to lead to irrational gambling behaviour, even in non-problem gamblers. In terms of anecdotal evidence in years gone by, I think there have been a number of hotels that are now getting it more right than wrong with respect to intoxicated people gambling. That is not universal, but I believe there has been an improvement, and I will acknowledge that. But we know, from research by Dickerson and Kyngton in 1999, that something like two standard drinks can double gambling losses.

The centre talked about maximum betting limits; restrictions on machine spin speed; smoking bans or other restrictions, such as bans on eating or drinking at machines; restrictions on the number of rows that can be played at any one time; restrictions on maximum credit values; restrictions on the accessibility of cash near venues—that is, bans or withdrawal limits on ATMs near gaming rooms; and restrictions on how winnings can be paid to gamblers. That is all part of the equation, and a 20 per cent reduction in the number of poker machines in this state does not to equate to a 20 per cent reduction in problem gambling.

Even Mr Stephen Howells, the Presiding Member of the Independent Gambling Authority, acknowledged that at the media conference he gave following the release of the authority's report last December. My recollection is that, whilst it was not in the report, Mr Howells was hoping that the prevalence rate would be reduced by about 0.2 of a per cent—if it is about 2.2 per cent, for instance, that it would translate into a reduction, with a combination of measures, of about 2 000 people who have been affected by problem gambling. It is certainly a step in the right direction, but it does not go anywhere near far enough to deal with such a significant and serious problem.

The Productivity Commission has also discussed the whole issue of poker machines and accessibility, and that is something to which I would like to refer honourable members, because it is not a black and white issue as to whether you simply change transferability or reduce the number of machines per venue.

At part 8 of the Productivity Commission's report—the link between accessibility and problems—the point is made that the commission estimated that there would be an additional 10 500 problem gamblers in Western Australia, or about 110 per cent more than current levels, if gaming machines were liberalised to the same extent and under the same conditions as the eastern states. I commend to honourable members the discussion of the Productivity Commission report. It does refer to the multiple dimensions of accessibility. So, it is not simply about the number of machines in a state, and it is not only about the number of venues—it is also about the number of machines per venue.

At point 8.1 in paragraph 8.4 of the Productivity Commission's report there is a diagram with respect to multiple dimensions of accessibility. It looks at issues such as the number of venues; the opening hours; the conditions of entry; the ease of use; the initial outlay; social accessibility; the location of venues; the number of opportunities to gamble; and the opportunities to gamble per venue, and that all adds up to the equation of accessibility. That is why it is not black and white in terms of dealing with this issue.

Paragraph 8.5 of the Productivity Commission's report, figure 8.2, asks, 'Does spatial distribution affect accessibility?' It gives two cases: one a cluster of a number of venues in diagram A, about 16 or 17 venues spread across a whole area, and the other an even greater number of venues in a smaller area. As I understand the policy position of the government in terms of this bill, it is one of the factors it takes into account. However, my concern is this: what guarantee is there that there will be a reduction in the number of venues because of the way in which the transferability process is structured? This is not a criticism of the Independent Gambling Authority. It reflects the fact that this is a difficult policy issue in terms of trying to claw back machines, in the context of both the lobbying of the industry and the mechanisms that need to be in place to deal with this as

effectively as possible in order to reduce the number of problem gamblers.

I do not apologise for my position that a zero number of machines would mean zero poker machine gamblers. When all 30 000 machines were taken out of South Carolina in the year 2000, I spoke to one person who was active in that campaign. They said that the people who lost jobs were the gambling counsellors because there was not much to counsel after the machines had been pulled out.

The Hon. T.G. Roberts interjecting:

The Hon. NICK XENOPHON: And the Hon. Terry Roberts makes the point that I would have to retire, too: somehow I do not think it will happen in a hurry, at least not for the next 17 months. The issue of transferability and the way in which the legislation has been structured I know is a difficult issue. If we look at the transferability model in the legislation, basically, for every eight machines traded, six machines go back into the system and two are lost. I know the member for Enfield in the other place indicated that, as a result of the $50 000 price cap, he became a convert to competition policy, because he thought it was anathema to competition policy.

The Hon. R.I. Lucas: Are you opposing the $50 000?

The Hon. NICK XENOPHON: I have concerns about the whole issue of transferability and the whole mechanism in place, and that is why I want to ask a number of questions of the government—which I believe ought to be answered before we go into the committee stage. The South Australian gaming machines statistics by local government area, for instance, in 2003-04 linked grouped LGA areas with the number of venues and the amount of losses. In Adelaide, there are 59 venues with losses of $40.780 million; Norwood Payneham and St Peters, 20 venues and $31.565 million; Onkaparinga (in the southern suburbs), 26 venues and $63.817 million; Port Adelaide Enfield (where the Treasurer has his electorate), 48 venues and $64.253 million; and Salisbury (an area where both the Premier and the health minister have their electorates), 22 venues and $66.831 million. I know that the Mayor of Salisbury, Mr Tony Zappia, has been very concerned about the impact of poker machines in his community, and he has spoken out on them in the past.

My question is: has a survey been undertaken of venues to determine whether they will avail themselves of the transferability scheme? My understanding is that there has not been a survey, because we are relying, in some respects, on market forces and incentives with respect to the transferability model; but we could end up with the same number of venues, with venues trimming off their machines—the ones that are not performing very well—and putting them into the pool. That is one aspect of it. What surveys have been undertaken? In terms of a rigorous independent survey of venues, will there be a survey as to what venues are intending to do with respect to the transferability model? I believe that is an important and legitimate question.

The IGA in its model of transferability talks about venues losing up to eight machines, depending on whether they have 32 to 40 or 20 to 27, with respect to the number of machines that they lose. Because of electronic monitoring of machines, I believe these are not unreasonable questions. Given that we have had electronic monitoring of machines from day one, what is the net gaming revenue and the losses per machine for venues of one to 10, 11 to 20, 20 to 28, 28 to 35 and 35 to 40? That seems to give a breakdown of the sorts of venues in the poker machine industry in this state. How much is lost per machine in those venues?

What is the difference between venues in the metropolitan area, provincial cities and other areas, as defined in the report of the SA Centre for Economic Studies? Also, in terms of spatial distribution referred to by the Productivity Commission with respect to machine accessibility, what is the spatial distribution in the metropolitan area, the provincial cities and other places? I believe that information is readily available to the government. With respect to smaller venues, medium venues and larger venues, that is the sort of thing we ought to know before we proceed further with this debate in order to determine what will work; what indication do we have from venues as to whether they are prepared to go into this trading scheme? We know what the amount will be, given the $50 000 amount that has been determined in the other place. Given that figure and that it will not be an auction system, what level of uptake will there be with respect to the reduction of machines and transferability?

The Hon. R.I. Lucas: Not as much as if it were $100 000. Even you could work that out.

The Hon. NICK XENOPHON: The Hon. Mr Lucas says not as much as if it is $100 000, and that even I can work that out. I can work out that $100 000 is double $50 000 and that—

The Hon. R.I. Lucas: It is that Greek heritage of yours coming out.

The Hon. NICK XENOPHON: I do not know what my Greek heritage has to do with being able to count; I think it is common to people of all ethnic backgrounds. In relation to that, I would have thought that at least a representative survey of venues to indicate what the uptake would be would give us some idea of whether this particular model will work as intended. I think that is important. In terms of the machines that are not performing as well as other machines, what is the position with respect to the poker machine losses per machine? For instance, what do the top 3 000 machines earn compared to, say, the bottom 3 000 machines? As I understand it, they are figures that the Office of the Liquor and Gambling Commissioner has available to it.

I understand from people who have attended industry forums that there has been some discussion about machines that are not performing as well. If we are looking simply at transferring machines, and at the transferability model, from those that are under performing out the back of beyond to an area where there is a higher intensity of play, where there are higher losses, in an establishment that is ruthlessly efficient in the way that it gathers gambling expenditure, those issues ought to be considered and the government has an obligation, I believe, to tell us about that. The whole issue of spatial distribution may be academic in the context of the Productivity Commission's report.

A more recent report comes from the ACT where analysis was carried out with respect to accessibility of machines and their impact on problem gamblers. If honourable members would like a copy of that report, I am more than happy to provide it. It was commissioned by the ACT Gambling and Racing Commission and prepared by the Australian National University and is titled 'Gaming machine accessibility and use in suburban Canberra: A detailed analysis of the Tuggeranong Valley'. I again invite all members to contact me if they wish to read copies of these reports because it is relevant to this debate. The report, which deals with clubs, states:

> The closer gamblers live to their regular club, the higher their annual expenditure on gaming machines tends to be. EGM gamblers

living closer to their regular club report spending more on EGMs per year than do gamblers living further away. People who travelled less than 3.54 kilometres to their regular club were found to spend more per annum ($858) than those who travelled greater than this distance to their regular club ($580).

The annual EGM expenditure of both males and females appears to be influenced by the distance to regular club. Distance to club is identified as the strongest explanatory variable for EGM frequency when assessed statistically. Persons living within 4 kilometres of their regular EGM club have more frequent EGM sessions than more distant EGM gamblers. Tuggeranong residents who travelled less that 3.54 kilometres gamble on EGMs more often (32 times per annum) than people who usually travelled further to gamble (22 times per annum). Female gamblers who live close to their regular club tend to have longer gambling sessions.

That report is very useful and it has been released only in the last few weeks.

With respect to the transferability model being suggested in this legislation—the City of Adelaide has 59 venues; in Norwood Payneham St Peter's, a relatively smaller council, 20 venues; Onkaparinga, 26 venues; Port Adelaide Enfield, a much larger council area, 48 venues; and Salisbury, 22 venues—what does the government say that this particular transferability model will do with respect to reducing the number of venues? Even if a survey indicated, for instance, that in Salisbury it might mean two or three venues that go, down to 18 or 19, what does that mean to the residents of the City of Salisbury in terms of having access to poker machines? That is a legitimate question.

If we look at the ACT study with its figure of 3.5 kilometres in terms of travelling to a club with poker machines, and if getting rid of a couple of venues in a particular area will still mean that people have access in that area within 3.5 kilometres to a machine, what difference will that make? For instance, in Salisbury, two hotels, the Eureka and the Stockade, are essentially side by side, as I understand it. They are certainly very close to each other. If one of those were pokies free, what difference would that make in terms of accessibility for problem gamblers? The government should respond to these issues to ensure that whatever model is in place for the reduction of machines is as effective as possible given the constraints of this legislation to ensure that there is a maximum impact in doing something about the terrible costs of problem gambling to the community, to those who have an addiction to poker machines, and to their families.

For instance, when I heard from people in Cooper Pedy who worked in the welfare sector of children going hungry and getting emergency assistance for food and that it was directly linked to problem gambling on poker machines, then it is a very serious social issue. I believe that any child who misses a meal as a result of a parent's poker machine addiction is something we have an obligation to tackle head on and to provide a solution. The Productivity Commission talks about spatial distribution and accessibility, and I commend that discussion to members. The commission makes it clear that there is not a black and white answer, but it does talk about the implications. In terms of any policy debate, it is important that members come to grips with the whole issue of spatial distribution and accessibility.

I know some members in the other place talked about accessibility. The member for Napier (Mr O'Brien), for instance, made reference to studies about the ease of access. I think he made reference to McDonald's and that, the closer you are to McDonald's, the more likely you are to be a patron. However, in terms of spatial distribution and accessibility, the transferability model will simply mean that there be 10 per cent fewer venues. However, if 95 per cent or 98 per cent of South Australians are still very close to venues in terms of their being three, four or five kilometre away, then to what extent does the government say that 10 per cent fewer venues will make a difference to the levels of problem gambling?

The Hon. R.I. Lucas interjecting:

The Hon. NICK XENOPHON: The Hon. Mr Lucas says that this is my bill—

The Hon. R.I. Lucas: No, you are supporting it.

The Hon. NICK XENOPHON: Yes, I am supporting it because the other option is to not do anything, the option of sitting back and saying, 'Let us just have the status quo. Let us just sit back and see tens of thousands of South Australians being affected by poker machines'.

The Hon. R.I. Lucas interjecting:

The Hon. NICK XENOPHON: That is why I am asking these questions—because I want this to work. Having fewer machines—

The Hon. D.W. Ridgway interjecting:

The Hon. NICK XENOPHON: The Hon. Mr Ridgway says, 'It does not go anywhere near far enough'. I agree; and that is why I am hoping that my amendments to a whole range of measures will be supported. I see this only as a first step. Some members may see this as the final step. I see this as only a first step in dealing with problem gambling, but to simply sit back and say, 'Let us leave it at the status quo; let us not tackle this difficult issue' is not the way forward. We have an obligation to the many thousands of South Australians who have been hurt by poker machines to do something about it. That is why I welcome the challenge of the Hon. Mr Lucas and why the Productivity Commission—

The Hon. R.I. Lucas interjecting:

The Hon. NICK XENOPHON: I am heartened by the fact that the Hon. Mr Lucas is impatient to hear from me in relation to that. I trust that he shares my concern for tackling problem gambling because having 23 000 or 24 000 South Australians with a gambling problem because of poker machines and each affecting the lives of seven others is simply an unacceptable cost. Part 15 of the Productivity Commission's report looks at regulating access. The commission indicates in one of its key messages that venue caps can play a role in moderating the accessibility drivers of problem gambling and are preferable to statewide caps for this purpose. The commission had quite an extensive discussion about the size of venues, having smaller venues and what worked and what did not work.

It is important to obtain information in South Australia from the Office of the Liquor and Gambling Commissioner about the net gambling revenue per machine for the smaller venues compared to the medium size and larger venues, because if we are simply shifting machines from the underperforming venues (as has been the case in Victoria where, because of the Tattersall's/TABCorp duopoly, they consciously shift machines in a way to maximise gambling revenue) then that is something that needs to be considered.

In its discussion, the Productivity Commission talks about having smaller venues and what the impacts would be. At part 15.10 of the commissioner's report headed 'How queuing may change people's style of playing', it talks about having smaller venues or a smaller number of machines per venue and that that could have an effect and states:

Machine shortages create queuing, which has a number of possible impacts. First, in order to play, people have to spend time waiting. Given that people have constraints on the total amount of time that they can spend gambling, this restricts the amount of time

they can play. Second, a possible response by venues to queuing is some form of time rationing of machines, which would have the same effect.

There is a complex graph about the combined restraint and other factors referred to in the Productivity Commission's report.

One of the matters that needs to be taken into account—and I hark back to the member for Napier's reference to McDonald's and the ease of access, say, to a fast-food outlet—is that there is a difference between that product and gambling as a product in respect of the elasticity of demand for those who have a gambling problem. We are not talking about non-problem gamblers but people who do have a problem, and in that case elasticity of demand is quite different from, say, other consumer products. In relation to venue caps, the Productivity Commission at part 15.3 under the heading 'What are the impacts of venue caps on gaming machines' discusses the number of machines per venue. It makes the point that the consequence of caps is that any venue in which—

The Hon. R.I. Lucas interjecting:

The Hon. NICK XENOPHON: The Hon. Mr Lucas says that we do have a venue cap. I take the point that we have a venue cap of 40 per venue, but the issue is, if you have fewer machines per venue, if it goes from, say, 40 to 32, or to the magical figure of 30 (which a number of years ago the hotels association, presumably under the leadership of Mr Ian Horne, was saying was an ambitious figure), what would the impact of that be in terms of dealing with problem gambling? You would have fewer machines with the bells and whistles, resulting in less of an ambience. The venue would operate somewhat differently from a larger one, and that is one of the issues that the Productivity Commission considered. To use a gambling analogy, the Productivity Commission seemed to have two bob each way when it considered the pros and cons of larger and smaller venues. I urge members to look at that model, and I propose to raise that issue further at the committee stage.

The commission also refers to other axis approaches to regional gaming machine quotas, the issue of destination venues, the tourism argument and a whole range of other measures to reduce problem gambling, such as the design features of machines and improving what it refers to as the 'safety of the environment', educating consumers and improving the care facilities for those affected by poker machines. These are all matters that need to be considered as part of any substantive debate on machine numbers. I do not think it is enough. The Premier makes the point that we are the only state that will be reducing the number of poker machines but, with respect to the Premier, we need to go much further.

The Hon. R.I. Lucas: Is New South Wales reducing numbers?

The Hon. NICK XENOPHON: That state has a different system in place, namely, a cap on venues. I am happy to get back to the honourable member about that, but I understand that the New South Wales government was talking about a slight reduction in the number of machines. Overall, however, it seems that more have been transferred to other venues, so that the number of machines is substantially the same. I believe that the Premier's assertion is substantially correct, but I am more than happy to take the Hon. Mr Lucas's question on notice and give him that information next week when the council is not sitting.

The alarm bells rang for me when I read the budget papers and the figures prepared by Treasury (and, from what he said yesterday, I understand that the Hon. Mr Lucas is a very good friend), and I have very serious concerns. I will set the scene. In terms of gaming machine dollars, the 2003-04 budget allowed for $274.9 million. The 2003 estimated result was $280 million—an annual change of 15.7 per cent. So, the government received from poker machine revenue in the region of $5.1 million more than it anticipated. The 2004-05 budget estimates $302.4 million from poker machines (an 8 per cent increase); in 2005-06, $322.6 million (a 6.7 per cent increase); in 2006-07, $344 million in poker machine taxes (a 6.6 per cent increase); and, in 2007-08, poker machine taxes of $327.1 million (a decline of 4.9 per cent). The budget papers state:

Forward estimates provide for a slowing in gaming machine NGR growth with projected increases of 6.0 per cent in 2004-05 and 5.0 per cent in both 2005-06 and 2006-07, followed by a fall of 3.75 per cent in 2007-08. The estimated long-term rate of growth in gaming machine expenditure has been revised down from 5.5 per cent to 5 per cent in recognition of recently introduced harm minimisation measures (for example, industry codes of practice). The introduction of smoking bans in gaming venues will have a small impact on casino table revenue from 2004-05 but is not expected to impact on gaming machine activity in clubs, hotels and the Casino until 2007-08.

The only decline seen in poker machine losses in the nation has been as a result of the Bracks government's introducing the bans on 1 September 2002 with respect to poker machine venues and to most of the Crown Casino. My questions to the government are: does the Treasury estimate of 5.5 per cent to 5 per cent take into account the proposed reduction in the number of machines, or is another factor to be taken into account, given that, as I understand it, the government had already announced that it was supporting the Independent Gambling Authority's recommendation to reduce the number of machines by 3 000 in South Australia? What is the basis for the estimate of a reduction in growth of only 5.5 per cent to 5 per cent?

The Hon. R.I. Lucas: Because it will not affect problem gamblers—that is why. Treasury has already confirmed that those numbers are incorporated in its estimates for—

The PRESIDENT: This is a formal debating forum, not an informal one.

The Hon. NICK XENOPHON: I think that it is useful to get as much information from Treasury as possible about the material it had when making this estimate. If that is the case, that ought to set off alarm bells about the effectiveness of a reduction from 5.5 to 5 per cent. It may well be that targeting other measures, such as codes of practice and so on, will make that difference, and earlier intervention could also be a factor. I understand that Treasury also looked at the demographics of gambling (different age groups and so on) and, given our ageing population, different age groups will spend somewhat differently on poker machines.

Again, I ask the government to provide that information for the sake of completeness and so that we can have a full debate on this in the committee stage. That is an important issue regarding the factors that the government has considered with respect to the 5 per cent to 5.5 per cent growth being reduced. It is only a marginal amount, but the government has to stand by those figures. I want this legislation to be as effective as possible. That is why it is important to increase the funding of the Gamblers Rehabilitation Fund to ensure that people get help when they need it, not when they have spent another $5 000 or $10 000 while they are waiting

to get face-to-face counselling. An increase in funding will enable that intensive level of therapy and support which is provided for the more severe cases at the Flinders Medical Centre but which is not offered to people in the rest of the state. As it is now, people have to travel to the Flinders Medical Centre. It is not there in the northern suburbs, and that is something that needs to be dealt with.

Other issues relate to the five-year clause that was taken out of the legislation. That clause basically allowed for the renewability of licences. I supported that clause even though I believed it could have been stronger, but I will move for that clause in a slightly amended form to be reintroduced in this place. There ought to be a debate on that, because I believe that it is absolutely imperative for venues to have renewability of licences to ensure that they are complying with codes of practice that, at least, will make some difference in the levels of problem gambling. It is part of the equation, and that is important.

In 2001, when we were debating this issue, I believe an amendment was moved by the Hon. Mr Holloway with respect to smart cards. The Hon. Mr Lucas may correct me. I thought it was the Hon. Mr Holloway who moved an amendment with respect to having a trial of smart cards to see whether that would make a difference, given that so much of the revenue collected from gambling comes from problem gamblers. It could be that an appropriately regulated smart card system could make a difference and take a significant edge off the levels of problem gambling in the community. As I understand it, no trials have taken place. I know that some honourable members have indicated their concerns about smart cards, and I believe that this could be raised by other honourable members in the context of this debate. I foreshadow an amendment to do with smart cards that will require the Independent Gambling Authority to look at the issue of smart cards as a matter of urgency and to report back to the parliament. We must try every possible measure to reduce the impact of problem gambling on the community.

I will move a range of other amendments. I still believe that South Australians ought to have a say on poker machines via a referendum. I think that every Liberal and Labor member voted against it when I put this up in 2001.

The Hon. R.I. Lucas: Hear, hear!

The Hon. NICK XENOPHON: The Hon. Mr Lucas says, 'Hear, hear!' If we could have a referendum in this state on such issues as shopping hours and daylight saving, let us have one on an issue that has caused so much heartache and pain to so many South Australians. There is talk of a national ministerial council regulating ATM access. I know that Senator Kay Patterson, the federal minister for family and community services, has been looking at this issue at the ministerial council on gambling. The Productivity Commission makes it very clear that there is a strong link between problem gambling behaviour and ATM access and that non-problem gamblers do not access them. I will refer to that in due course with respect to the amendments that I will move. Of course, I will move other amendments that I believe will strengthen the right of communities with respect to that.

The Hon. R.K. Sneath: What about the clubs?

The Hon. NICK XENOPHON: I think that the issue of clubs is a vexed one.

The Hon. R.K. Sneath interjecting:

The Hon. NICK XENOPHON: The Hon. Bob Sneath is getting very excited in relation to that.

The Hon. R.I. Lucas: At his age that's dangerous.

The Hon. NICK XENOPHON: That's right.

The Hon. R.K. Sneath: What are you doing with the clubs?

The Hon. NICK XENOPHON: I could spend a good half-hour, 40 minutes or even an hour on it for the Hon. Mr Sneath, but I know that the minister responsible is keen for me to get to the committee stage. Let me say that, if a person is hurt by problem gambling on a club poker machine, it is just as devastating for that person or their family. I agree with that; there is no question about that. In the discussions that I have had, the club industry has been more willing to implement immediate smoking bans, for instance, which will make a difference to problem gambling.

The Hon. R.K. Sneath interjecting:

The PRESIDENT: Order!

The Hon. NICK XENOPHON: Let's have that debate, but I also foreshadow that, as a result of discussions I have had with the welfare sector in the last 24 hours, if there is to be an exemption with respect to clubs, I believe that the burden can more reasonably fall on hotels, given the structure of the industry in this state. That is something that the Centre for Economic Studies has referred to.

The Hon. R.K. Sneath: Backflip Nick.

The Hon. NICK XENOPHON: For the Hon. Mr Sneath to talk about backflips is just ridiculous. This is about reducing the number of machines and the level of problem gambling. That is something that I am more than happy to deal with. I am happy to have a very robust and full debate with the Hon. Mr Sneath and anybody else. Again, Mr Acting President—

The Hon. R.K. Sneath interjecting:

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): Order! I am having difficulty hearing the Hon. Mr Xenophon.

The Hon. NICK XENOPHON: At the risk of shocking honourable members, I agree with the Hon. Mr Lucas to an extent. Some of the complaints of clubs suggest that it would be the end of the SANFL as we know it if it were subject to that measure. I think those complaints are overblown and ridiculous. The argument ought to be about reducing problem gambling and the power of the hotel industry in this state compared with community clubs. That is something that I look forward to debating in the committee stage.

The Hon. Mr Lucas made reference to the report yesterday of Dr Paul Delfabbro from the University of Adelaide who is also well known for his work on researching problem gambling. He undertook some work for the Independent Gambling Authority. He also undertook work for the Department of Human Services whilst the Hon. Dean Brown was minister. He is well respected for his dispassionate analysis of the impact of poker machines and measures to tackle poker machine addiction. His work with the Department of Psychology and his published papers are well known and I believe are well respected widely.

I know the Hon. Mr Lucas made the point that Dr Delfabbro had something like three months to prepare his report. I have not spoken to Dr Delfabbro about that time frame specifically, and I do not question what the Hon. Mr Lucas has said. However, my understanding is that this report would have built on other reports Dr Delfabbro has prepared, so it is not as though he came into this issue from the cold. He has prepared a number of reports in years gone by, including reports for the Department of Human Services, when it was under the Hon. Mr Brown's ministry. Again, I think Dr Delfabbro's report is worth looking at, and I hope that he will make himself available to honourable members to discuss his concerns with respect to poker machines.

In conclusion, I refer to someone who could not possibly be considered a wowser, namely, the late Hon. Don Dunstan. At a public rally on 25 July 1998, the Hon. Don Dunstan spoke out about poker machines. He said:

> We've got far more here in this gambling activity than should ever have been allowed to take place and the state ought to admit that the decision to establish poker machines and particularly to allow them into hotels has been a gross mistake for the state. Now we have to set about rectifying it. The problems which have been stated here today are obvious enough and we have to stop what is going on. There should be no further development of poker machines and we should devise a means by which we peg them back over a period.

I urge those Labor Party members who still hold the Hon. Mr Dunstan in high regard to take heed of what the late Don Dunstan said about poker machines. As someone who has been referred to as a social libertarian, he was deeply concerned about the impact of poker machines in this state.

I urge honourable members to look at the broader community interests in relation to reducing problem gambling and to ignore the vested interests in the industry which have made hundreds of millions of dollars out of poker machines since their introduction and to look at the impact on the more than 23 000 South Australians and their families who have been deeply affected and, in many cases, devastated by the introduction of poker machines in this state.

The Hon. KATE REYNOLDS: I rise today to make a brief contribution on this bill, which is affectionately known to many of us as the pokies bill. The Democrats vehemently opposed the introduction of poker machines in South Australia. We remain vehemently opposed to them today not only because we think they cause significant problems for individuals, families and communities but because we three cannot begin to fathom the attraction they hold for some people. Personally, I would find watching paint dry a more enjoyable experience.

The Australian Democrats support moves to reduce problem gambling in South Australia, but we are yet to be convinced that this bill goes far enough. First and foremost, I flag that the Democrats are keen to see a regional cap reinstated, but we are yet to be convinced of the need for a 10-year freeze on further reductions in the number of electronic gaming machines. Problem gambling is an insidious plague that pervades all aspects of society. As so many members have said, it affects many more people than the problem gamblers themselves. Family members, friends and work colleagues are all drawn into the problems of the gambling addict who cannot fight what they see as the attraction of the flashing lights, the tinny tunes and the lure of the elusive win.

Poker machines have been installed in their thousands across this state since they were introduced 10 years ago, making them accessible in basically every corner of every community. That accessibility has brought with it major problems, including an increasing number of punters with a gambling addiction. It is time to draw a line in the sand and make strategic attempts to stop the growth in the number of problem gamblers in South Australia. While we welcome any move to reduce the number of poker machines, we believe that much more needs to be done to address the issue of problem gambling. My own belief is that, while reducing poker machine numbers is a good first step, the government's response is really just a smokescreen aimed at pacifying the families, neighbours and agencies trying to clean up the mess left by problem gamblers.

The Hon. T.J. Stephens interjecting:

The Hon. KATE REYNOLDS: As the Hon. Terry Stephens says, and to give them a good headline. The IGA has recommended a series of follow-up assessments to determine whether there has been a reduction in the estimated 22 000 problem gamblers. You do not need to be a rocket scientist to know that needs to be done, and we will assume, optimistically, that the government will ensure that this research is undertaken. Previous research has shown that the number of poker machines was irrelevant in terms of revenue raised by both the venues and the government. Simply cutting the numbers will not solve the problem; this government must take more action to deal with the issue of problem gambling.

Across the border, our Victorian colleagues have been having similar discussions about problem gambling. As *The Age* newspaper reported on 2 June, many Victorians believe that it is time to reduce the number of gaming machines in their state. According to that newspaper, up to 3 per cent of Australians have a gambling problem, many of whom spend more money trying to win back what they have already lost. The Victorian state government funds Gamblers Help, a free counselling and referral service for problem gamblers and their families. This service includes a 24-hour helpline and individual, couple or family counselling. There is also an advertising campaign warning about the dangers of problem gambling.

Victoria has introduced other measures to help control problem gambling. To stop gamblers from losing track of time, all poker machines now have clocks. Twelve months after the introduction of smoking bans in gaming venues, player losses to poker machines decreased by 20 per cent, although I note that they are apparently increasing again. Some venues have self-exclusion programs that allow problem gamblers to ban themselves from gambling. A recent Victorian survey showed that 85 per cent of problem gamblers supported a reduction in the opening hours of pub and club gaming venues, and 96 per cent believe that removing ATMs from gaming venues would help curb their losses.

Some 78 per cent supported a reduction in the maximum bet on poker machines from $10 to $1. This same survey, which was released by the Victorian Gambling Research Panel in May, showed that 90 per cent of respondents supported a cut in poker machine numbers, up from 73 per cent in 1999. However, as *The Age* newspaper pointed out, despite community condemnation, the Victorian government will not reduce the number of poker machines. It says that it would cost too much to break the poker machine contracts it has with Tattersalls and TABCorp. Those companies are each licensed to run 13 750 machines until 2012, and the Crown Casino has 2 500 machines. So, there is, of course, a conflict of interest in the Victorian government's handling of gambling problems.

Tax revenue from gaming accounts for 15 per cent of that state's total annual tax income; that is, $1.33 billion. Successful problem gambling strategies could potentially result in less income for the state, but the Victorian government says that its problem gambling strategy is the country's most comprehensive. The editorial in *The Age* of 28 May stated:

> The Victorian state government is itself addicted to the revenue gaming generates. Victoria ought to become less reliant on an income stream drawing upon the vulnerable within society and from machines that are disproportionately located in low income areas. The state government should heed the overwhelming public sentiment and move towards a reduction in the number of machines.

Of course, the South Australian government is just as hooked on the flashing lights and tinny melodies of poker machines: it draws millions of dollars in revenue from the misfortunes of gamblers across the state. Here in South Australia, advocates for problem gamblers say that the legislation does not reflect the wishes of the public and they want regional caps reinserted, the 10-year moratorium removed and the five-year re-licensing arrangements reintroduced. They say that 80 per cent of South Australian residents want poker machines removed, and they want the incidence of problem gambling reduced. Like the Hon. Nick Xenophon, we look forward to more debate on these matters during the committee stage.

The following are some general comments. It is important to remember that clubs and pubs have had 10 years of what some people would call no control and what other people would call little control, free poker machine licences and, like the state government, they have had windfall gains from those machines. For some of us, it seems a little too much to take that they are now complaining that it would be unfair for them to have to comply with regular licence renewals. I look forward to more debate on that issue.

Also, we think it is a bit rich to hand hoteliers a 10-year guarantee that there will be no further cuts in poker machine numbers, and especially because in another place there was a decision to review this legislation in two years. Once this further research has been completed, we could well be told that another cut in numbers is exactly what is needed. So, I will support a 10-year guarantee only when the government will guarantee no electricity or gas price rises for 10 years; when there is a maximum wait of two hours in a hospital casualty department; when there is a job guarantee for all South Australian residents who want to work; and when there is no class larger than 18 students in South Australian state schools.

The Hon. Nick Xenophon has already placed on the record the work done by the South Australian Centre for Economic Studies and the Productivity Commission, so I will not repeat their extensive and, I think, very useful findings. I support the acknowledgment by the Hon. Nick Xenophon of the work of the South Australian Centre for Economic Studies and join him in encouraging members to familiarise themselves with the recommendations made by Mr Michael O'Neil. I would particularly draw members' attention to Mr O'Neil's comments about the clubs versus hotels debate, which is on page 3 of the correspondence received by members last week.

The South Australian Centre for Economic Studies report noted that the Productivity Commission found evidence of a concentration of gaming machines in lower socioeconomic areas. In particular, it found an inverse relationship between a region's income and the total amount spent on gaming machines. It also found a negative and significant relationship between medium weekly income and average annual expenditure on electronic gaming machines for regions in South Australia. That suggests that people in lower income groups are more likely to gamble using electronic gaming machines and/or are more likely to lose a greater amount when they do so.

The report calculated the number of problem gamblers in the provincial cities at about 3 100 and stated that, based on the distribution of problem gamblers, all the provincial cities except Loxton and Waikerie had substantial costs from problem gambling. The report also clearly stated in its conclusion that the regional concentration of machines and the regional nature of costs suggests that regional caps, or even reductions in machine numbers, may well be a necessary component of any harm minimisation strategy. So, really, it does not get any simpler. As I said previously, I indicate that the Democrats are likely to support a regional cap.

I also place on the record one of the more offensive moments for me during the debate regarding the issue of reducing the number of machines, that is, the way in which the SANFL clubs have cried poor and attempted to emotionally blackmail (I think it is reasonable to describe it as) politicians by saying that the clubs will be forced to cut funding for junior sport, apparently without giving much, or any, consideration to reducing expenditure in any other areas of their activities. As the mother of two sons who currently play for a country football club, and one who is possibly, against his mother's recommendations, going to defect from soccer to Aussie Rules, I have to say that we have seen very little support from our zone's SANFL club. I would have a great deal more sympathy for their position if they were prepared to consider reducing the wages paid to some of the professional players and provide more support to junior development, without which, of course, they will have no future.

My personal view is that the hotel industry has done very well out of this bill so far and, once we look past the nonsense claims about job loses, we can see that hotels will not be forced to retrench staff as a result of reducing the number of poker machines. Paying $50 000 for a licence that will generate millions of dollars is, in my view, a bargain.

Personally, I see nothing attractive about pushing money into a noisy, impersonal, money-hungry machine. I can see nothing attractive about communities having to spend hundreds of thousand of dollars, and in some communities millions of dollars, on harm minimisation programs. The $500 million spent on poker machines, even the nearly $1 million per day going into the government coffers, does not justify the undeniable neglect of children, the relationship, family and community breakdown, and the harm and distress caused by problem gambling.

Having said all that, we are not convinced that this bill will make a significant difference, but it does make a symbolic gesture towards acknowledging the need to strategically address problem gambling, provided the bill is not decimated by political games in either this place or the other—and assuming that it returns there. The Democrats support the second reading of the bill, but we indicate that we have not yet decided whether we will support or oppose the bill, given the number of amendments that have been flagged by other members. We look forward to constructive and, hopefully, not painfully drawn-out debate during the committee stage.

The Hon. CAROLINE SCHAEFER: I feel a sense of deja vu when speaking against this bill. I have looked at the various speeches I have made about gaming machines since I have been in the parliament. It appears that roughly every nine months we have to debate, in some form or another, the evils or otherwise of gaming machines to the South Australian society. I think it is worth remembering that the only state which spends less on gaming machines in Australia per head of population is Western Australia where there are not any machines. It would appear that we do not have any greater problem with addictive gambling in South Australia than in any other state—in fact, somewhat less of a problem. It is also worth regurgitating part of one of my earlier speeches on this matter. On 27 October 1999 I said:

There is an element within South Australia—and, if we look at South Australia's history, this is not surprising—that is of the view that all gambling is wrong. I need to say at the outset that I am not of that view. I see gambling as a legitimate pastime, no more or less harmful than a day at the football, a night at the theatre or a drink in a hotel—and probably considerably less harmful than cigarette smoking. I am always quite surprised when I hear how much money is lost to gambling in this state. No-one ever talks about how much money is lost by going to the theatre; no-one says, 'I went out to dinner and lost $100'; no-one says, 'I went to the football,' or 'I joined a football club,' or 'I joined Football Park and lost $600.' I believe all of us are entitled to spend some of our hard-earned dollars in what we see as a legitimate leisure pursuit.

I might also add that I find poker machines mind-numbingly boring, but I do not believe that I have the right to impose my views on people who believe that it is a legitimate pastime. Any of these pastimes only become a problem when the participant becomes addicted to their chosen pursuit. That is when there is a problem. I have said on the public record that had I been in the parliament at the time I would not have voted for the introduction of poker machines on the ground that we already have plenty of gambling outlets in this state. While they may not do as much harm as is widely claimed, neither do I think they do much good. However, they are here now and they are legal. A considerable number of people have invested large amounts of money in them. They directly employ about 4 000 people and indirectly many more. Let us make no mistake about this. This bill is about getting rid of poker machines in hotels. It is not about minimising poker machines—and not about bringing in further regulations. It is about getting rid of poker machines in hotels.

As I see it, nothing much has changed other than, once again, our populist Premier is playing games. This is about how many free grabs in the paper Mike Rann can get. I think it would have been highly—

The Hon. P. Holloway interjecting:

The Hon. CAROLINE SCHAEFER: Unfortunately, it was premier Olsen who set up the IGA, but it is Premier Mike Rann who has milked this for all it is worth. Can members imagine if they were a fly on the wall when the discussion was held between Premier Rann and Mr Foley? It would have gone something along these lines: 'Right, we'll get rid of poker machines.' 'Well, sorry, Mr Premier, but we are actually dependant on poker machines for some $240 million worth of revenue per year.' 'Oh, hell, well, what can we do?' 'Well, we'll reduce them by a number—think of a number, any number.' 'All right, we will reduce them by 3 000.' 'How will we do that?' 'Well, let's just pick on the publicans. They've got most of the machines, so we'll just pick on the publicans.' 'But, Mr Premier, the large publicans, the ones who have 40 machines each, actually provide us with most of the revenue.' 'Okay, we'd better make it so they can buy them back.' And, as a result of that, one of the most ridiculous pieces of legislation that I have seen in a long while has been framed.

There is nothing in this bill about harm minimisation, and there is even less in this bill about looking after, counselling or doing anything about addictive gamblers. As I have said on a number of previous occasions, we do nothing in this state to get to the root causes of compulsive addictive behaviour, whether it be gambling, shoplifting, overeating or overspending. There are a number of issues that need to be raised about compulsive addictive behaviour.

There is nothing in this bill about that. There is nothing in this bill that provides for extra funds for rehabilitation of addictive gamblers. In fact, the only contributor in this state to the Gamblers Rehabilitation Fund is the Australian Hotels Association. The TAB, which is a government agency, contributes nothing; the Lotteries Commission, which is a government agency, contributes nothing. This bill is really about reducing the number of machines for no other purpose than saying that we have reduced the number of machines. It will do nothing for what it says it will do. The Hon. Gail Gago yesterday waxed lyrical about the reduction of harm and the minimisation of problem gambling in this state, but there is nothing in this bill whatsoever that will do that.

While I will not oppose it, I also find it quite hypocritical that it is the root of all evil to play a gaming machine in a hotel but it is quite okay to play the same gaming machine in a club. It is fine for a club to be dependent on the income that it receives from gaming machines, but it is not okay for a hotel to be dependent on the same percentage of income. I have spent a long time thinking about whether or not I will oppose that clause. I will not for the simple reason that I cannot see any point in punishing two sections of society, but I do need to raise the issue that we continually hear about how the clubs put back into their communities. Indeed they do, but the money they put back is centred on the advancement of sport within South Australia.

I think it needs to be acknowledged that over the last two years the hotels association, as a body, has donated something like $70 000 to the Anti-Cancer Foundation, and every little publican I know across the state donates to their communities for every chook raffle, every large donation and every sponsorship. Every hotel is expected to fork out, and they do that, so I cannot see that there is any difference between those people who are legitimate proprietors of a hotel and those people who are legitimate proprietors of a sporting club. The only reason I will not be opposing the exemption of sporting clubs is, as I say, just because one section of society is being punished there is probably no point in another section of society being punished.

Because of that exemption clause, we have a whole series of compromises (about which I will speak more at the committee stage) that actually make this legislation even more unworkable and more ridiculous than it previously was. We now have a compromise that caps the price of the machines, and I have just had explained to me the most involved and convoluted process of buying back under transferability. It goes something like, 'Ring a ring a rosy, merry go round, and when the music stops you get the chance to bid for a machine.' It is a case of 'All will be revealed, trust us, we are from the government, and we are going to do that in regulations.'

As I have said, this is one of the most hypocritical, most stupid pieces of legislation that I have seen in the 11 years that I have been here. I will be voting against the second reading. I do not expect to be successful, in which case I will endeavour to support those amendments that I think make this a more businesslike and workable piece of legislation, but I know now that it would take greater talents than mine or indeed the combined efforts of this chamber to make this into a sensible piece of legislation.

The Hon. J.S.L. DAWKINS: I rise to speak on this bill which, as has been indicated, is a conscience issue for members of the Liberal Party. The Hon. Rob Lucas covered much of the history of gaming machines in this state and, as my colleague the Hon. Caroline Schaefer noted, I feel I have made a number of contributions on this sector of the state over the time that I have been here. In fact, it was one of the first issues that I dealt with as a conscience matter, anyway, following my entry into this place in late 1997.

One of the things that the Hon. Mr Lucas encapsulated very well was the increase in the value of gaming machines and the venues in which they are used as a result of the freeze on the number of machines. That was one of the things that

caused me, initially, to oppose a cap or freeze on the number of gaming machines. However, I changed my position and supported the current freeze, despite considerable reservations, due to a need that I thought was there to address considerable community concern.

In relation to this bill, I remain unconvinced that a reduction of 3 000 machines will reduce the number of problem gamblers. I have been assured that research has been done to support the notion that there will be a reduction in the number of problem gamblers if we reduce the number of machines. However, no-one has produced that research and, when you ask where it comes from, the answer as to where that has been done seems to be entirely unconvincing.

The other thing I must say is that I feel this situation is different to that of the past where there has been considerable community emotion about the need to address the problems of poker machines. Despite the reasonable amount of publicity in the media, particularly when the bill was going through the other house, I have not had anybody from the general community come up to me in the street, or at functions that I have attended, or wherever, and say that I must do one thing or the other on this issue. I find that strange, because in earlier days people did that. From my own gauging of community opinion, there does not seem to be much interest in the actual legislation which is before us.

Another thing I would mention, particularly in light of the fact that I remain unconvinced, is that I have not had the promised personal contact from the Premier. The great thing was that he was going to convince me (and others who were not convinced) about the merits of this. The only thing I received from the Premier was a standard letter which had a computer generated signature on the bottom of it. He has made no attempt to try to convince me of the merits of this bill.

The Hon. Caroline Schaefer interjecting:

The Hon. J.S.L. DAWKINS: As my colleague reminds me, that is probably because he did not support the entirety of the bill in the other place. He crossed the floor and let his gaming minister sit on the other side of the house. I make some general comments in relation to various aspects of the gaming industry. In some aspects, people have painted the hotel sector in a bad light. We have heard the term 'pokie barons' and they are treated by some as rogues. I have to say that, from my experience, most hotels are either owned by small businesses or run by small businesses, and they also do a great deal to support the communities in which they are situated. I also believe that, to continue to play the role that they do as a small business and as a base operating in a community, whether it be metropolitan or rural, they need certainty.

Similarly, clubs and community-owned hotels also need to be supported, because their links to community groups are very strong. I will support the retention of an exemption for clubs. One great example I have seen is the work done by Salisbury North Football Club in an area which I suppose some would describe as a lower socioeconomic area. The extraordinary work that the Salisbury North Football Club does in supporting the people of that area is also replicated in other clubs. I do not doubt the sincerity of those who are concerned about the level of problem gambling in this state, and particularly I do not doubt the sincerity of those who deal closely with problem gamblers, some on a day-to-day basis.

There will always be those in an industry who act like cowboys and, no doubt, some in the hotel industry do not do the right thing in the way in which they administer gaming machines in their venues. In recent times, I have gone out of my way when visiting various hotels, particularly in the north-eastern suburbs, to observe the way in which these gaming rooms are operated. I certainly do not go there to play gaming machines because, as I have said in this council before, I find them some of the most uninteresting objects that I have ever come across, but I do respect the right of people in this community to play them and play them responsibly. However, from my own experience as an observer, most operators do the right thing when dealing with those people. I have taken a great interest in observing the way in which staff in those gaming rooms deal with people who they feel have been gaming irresponsibly or for too long.

It is a difficult thing for any of us to determine whether people have a problem (and they do not have to be people in an institution in which you work: they might be your friend). If you determine that they have a problem in relation to gambling, when do you take any action and, if you do take action, what do you do? It is a very difficult problem, and I think the staff in gaming rooms have to deal with that as well. At this point I commend the Australian Hotels Association on the appointment of a responsible gambling officer in the past six months or so, and the fact that that person is someone who has had a background in dealing with the social welfare of people who have been down on their luck or who have had a difficult situation in their life.

We need to do more to get additional responsible gaming officers in the community. I know people from churches and other organisations do this, but we should look at getting more money out of the government to fund these people. I do not intend to go on at this point, because a range of issues will be dealt with as we go through the committee stage. A number of measures have been changed or inserted by the other house, and I understand that attempts will be made to put back by way of amendment some measures which have been deleted. No doubt, we will all have the opportunity to comment and ask questions about a range of those amendments. I will follow closely the examination of this bill in the committee stage.

The Hon. J. GAZZOLA secured the adjournment of the debate.

CORRECTIONAL SERVICES (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 8 November. Page 445.)

The Hon. IAN GILFILLAN: Honourable members will recall that I sought leave to conclude my remarks. I will reiterate part of what I said yesterday in order to put my comments in context. I expressed concern about the power to order drug testing. I have particular concern with the power to authorise drug testing (to be made more extensively available than currently) in 'any other circumstances that the chief executive thinks fit', as this is clearly carte blanche for victimisation and abuse. No doubt, the chief executive will rely on advice from prison officers, and no doubt some will be tempted to use this provision to punish prisoners who do not exactly comply with instructions from authority. Consider, if you will, the psychological effect this would have. Clearly, it is bad for both parties: the gaoler would be tempted to abuse the power and the gaoled could be victim-

ised. This is part of the dehumanising process of incarceration that effectively distances a prisoner from human society. Many argue that offenders already feel disconnected from society and that this leads to their behaviour.

What we need to achieve is a change of heart, where a person understands their connection to society as a whole and how best to be a functioning part of that society. The Offenders Aid and Rehabilitation Service recently described the difficulties experienced by released prisoners because their experiences in prison are such a poor match with the outside world. When a person goes from an environment where every decision is made by an authority figure, where their day is ordered entirely by schedules and bells and where they have little or no say in their own life, we have more or less set that person up for failure. Do members of this place think that it is acceptable to be required to provide 'biological samples' at the whim of another person in case drugs have been consumed? How would it affect your sense of self-worth to be assumed guilty and to have to continually prove your innocence?

The bill extends beyond the presumed guilt of offenders: it also creates greater powers for searching prison visitors. The newly drafted sections 85A and 85B in clause 15 give correctional institutions much greater powers of search and deplorably describe these searches as voluntary, even though visitors can be barred from prisons at the will of the management. The combination of these powers is very dangerous and may create a situation of potential abuse and long-term harm to inmates by banning access to family and friends. The Law Society suggests:

> . . . the powers of search should be clearly defined and limited to occasions where there is a reasonable suspicion of a person carrying a prohibited item.

It further states:

> The society considers that the persons conducting searches, and any other persons present, should be of the same sex as the persons searched.

I find it extraordinary that this government is so culturally insensitive that it proposes limited strip searches and pat-down searches without making specific provision for the separate treatment of men and women and for cultures that have strict taboos against body contact. Earlier, I mentioned the importance of integrating offenders into society and expressed concerns about the effect of the provisions of this bill. Similarly, I have grave concerns about the effect of changes that would tend to intimidate a prisoner's friends and family when visiting and maintaining links with the outside world, their future plans and their goals. The Law Society states:

> The society is advised that sustained family relationships are one of the greatest factors in preventing recidivism in offenders. It must be a very intimidating experience for family members to visit offenders in prison. It is submitted that the proposed amendments to the act in relation to searches, coupled with the already extensive powers of detention for visitors, are not warranted.

This is particularly so when the search is likely to result in the detainment of visitors because they carry hair spray or deodorant. I am aware that it is common for young women to carry small containers of Impulse body spray and that this deodorant is sold in a package designed to be carried in a handbag. It is outrageous to think that a young woman could be searched and detained because she is carrying such a common item. Mr President, can you imagine how you would feel if this happened to your daughter or grand-daughter, bearing in mind that she could be visiting someone who had not paid their parking tickets or who had been caught up in a street protest?

We despair that this government prepares bills of this nature with so little concern for the consequences should the powers granted fall into the wrong hands. I indicate support for the second reading but, in conclusion, I must observe that it is very easy to pass legislation and to take an attitude that virtually discards any sensitivity to those who are at the end of our social and economic scale—those who are often vilified and portrayed as almost subhuman in their involvement with and acceptance in society. For those in this place, and others who hold similar principles, it was those people whose value Christ recognised and for whom He showed the most concern and compassion. As a parliament, and as a community portraying some sophistication and care, we owe as much of an obligation to the proper treatment of such people as we do to successful business people, or to ourselves as politicians. The Democrats support the second reading, but, at the committee stage, we will make some critical observations on some of the clauses that we find quite abhorrent in terms of the running of a proper humane prison.

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

STATUTORY AUTHORITIES REVIEW COMMITTEE: ANNUAL REPORT

Adjourned debate on motion of Hon. R.K. Sneath:

That the 2003-04 report of the committee be noted.

(Continued from 13 October. Page 259.)

The Hon. T.J. STEPHENS: I intend to quickly touch on some of the ground that the Hon. Bob Sneath mentioned in his comments in relation to this motion. This is the ninth annual report of the Statutory Authorities Review Committee, and it provides a summary of the committee's activities for the 2003-04 year. In November 2003, the committee tabled the report of its inquiry into the South Australian Housing Trust. The Minister for Housing accepted the vast majority of the recommendations arising from the report. The committee received 98 written submissions and spoke to over 50 witnesses from the Adelaide metropolitan area and regional South Australia.

I personally thought that it was a gutsy report and one of the better things that I have seen in the committee work that we have done to date. In 2003-04, SARC also took a great number of written submissions and evidence from witnesses in relation to its inquiry into the WorkCover Corporation of South Australia. It intends to report on these matters before the end of 2004—all things being equal. The committee also tabled a fifth report on the timeliness of annual reporting of statutory authorities for 2001-02.

I wish to thank the Hon. Bob Sneath for his chairmanship of the committee. I also thank the other members of the committee for their diligent work: the Hon. Caroline Schaefer, the Hon. Nick Xenophon and the Hon. Andrew Evans. The committee's research officer for the past 20 months, Mr Tim Ryan, left in July 2004 to take up a senior position in the Premier's office. We wish him success in his new appointment, but not too much considering who he works for. Ms Jenny Cassidy took over on 20 September 2004 and has made an immediate impact and has impressed us greatly with the speed with which she has grasped the work before us. I thank Mr Gareth Hickery, our secretary, and

his efforts and professional administration of the committee should be applauded. I also thank Ms Cynthia Gray, our administrative assistant, for her tireless efforts.

The Hon. R.K. SNEATH: I thank honourable members for their contributions. Once again, I thank the staff of the committee.

Motion carried.

STATUTES AMENDMENT (MISUSE OF MOTOR VEHICLES) BILL

Adjourned debate on second reading.

(Continued from 27 October. Page 391.)

The Hon. CARMEL ZOLLO: I am pleased to add my support for this legislation introduced by the Hon. Bob Such, the member for Fisher in another place, which is supported by both the government and opposition. I am also aware that a lot of work was done by the previous government to progress this important issue. Hoon driving has the potential to destroy the quality of life of those who are unfortunate enough to live in the pathway of those who are irresponsible and, sometimes, plain stupid in their behaviour. I know of one couple who ended up selling their home and who have told me how much they welcome this legislation.

The member for Fisher's bill was introduced in the last session of parliament. It was based on the Queensland Police Powers and Responsibilities Amendment Act 2002 which came into effect in Queensland in November 2002. The purpose of the legislation before us, reintroduced in this session, is to allow for the seizure and impounding or forfeiture of vehicles driven in contravention of prescribed offences. As in the Queensland act, the bill targets the careless driving of motor vehicles, racing, speed trails, burn-outs on roads and the dangerous operation of a motor vehicle with the penalties that can apply.

The bill amends both the Road Traffic Act 1961 and the Summary Offences Act 1953 to create several new offences: the offence of misuse of a motor vehicle; the offence of promoting or organising an event; and the offence of emitting excessive noise from a vehicle by amplified sound equipment or other devices. Some of the popular housing we now see in our suburbs are courtyard homes with very many advantages such as large living areas and compact yards without the quarter acre block to look after. It means that neighbours live closer together. I know of several complaints in relation to annoying and thoughtless neighbours who arrive fairly late at night with their car stereo full blast, or tooting the horn as if the rest of the neighbourhood should be awake with them as they drive into their street and announce their arrival to everyone in the vicinity.

As the Attorney-General said in another place, the bill before us takes the best features of the Queensland hoon driving laws and sets up a much simpler and fairer process for vehicle impounding. It is designed to complement existing offences relating to dangerous and irresponsible driving activities that cause unacceptable noise to the public. The focus of our legislation is proscribed conduct, that is, doing doughnuts, wheelies, burnouts, going around the neighbourhood with car stereo systems vibrating the whole street and drag racing. Under the impounding offences in this legislation, a vehicle can be impounded for 48 hours. In addition to the 48 hours of police impounding, a vehicle used to commit an impounding offence may be impounded or forfeited by court order.

As expected, there are safeguards in the legislation if the vehicle is used without the knowledge or consent of the owner. As pointed out in the other place, we need to balance the rights of the parent, relative or friend who owns the vehicle, with the right of society to stamp out hoon driving by pre-conviction impoundment. Clearly, having a vehicle forfeited to the state is undesirable if it is used by another person without the knowledge or consent of the owner; or, indeed, if it is a stolen vehicle there is provision in the legislation for people to seek damages if their vehicle has been wrongly impounded.

I know that some in our society and members in this parliament are concerned about the need to protect civil liberties and minimise the risk of unintended consequences. This legislation is not out of step with other jurisdictions, being primarily based on laws in New South Wales and Queensland. I noticed in a recent article in *The Age* that, with the opposition's support, Victoria could have anti-hooning legislation within months. The Victorian Premier, Steve Bracks, recently announced plans for a new law that would allow police to impound hoons' vehicles on state roads. The new anti-hoon legislation will be referred to the government's Ministerial Road Safety Council for consideration and, as mentioned, it could come into force within months.

The move would bring Victoria in line with Tasmania, Western Australia, Queensland and New South Wales, which have varying rules but which commonly include seizing the offender's car as punishment. Tasmania employs a more sophisticated approach than zero tolerance by providing a 48 hour vehicle impoundment for a first offence, three months for a second, and indefinitely for a third offence. It is considered that, for some drivers who are guilty of youthful recklessness, a first warning may bring them to their senses. Laws that allow for hoons' cars to be confiscated have applied in New South Wales since 1996 and in Queensland for the past two years. Apparently, similar laws have just come into force in Western Australia and Tasmania. All these laws cover offences such as street racing displays of acceleration, burn outs and excessive noise.

The Age article goes on to say that the laws are being applied with some zeal, particularly in Queensland where the confiscation rate is about 700 cars a year. Overseas, I understand that Scotland is set to crack down on the antisocial behaviour of nuisance drivers who terrorise their neighbourhoods. Apparently, existing law already covers dangerous driving, speeding and joy riding, and a great deal of debate is occurring at the moment, with some monitoring of the situation in England and Wales. In 2002, England and Wales legislated to make it an offence to use a vehicle in a manner causing alarm, distress or annoyance.

Besides addressing the obvious antisocial and annoying behaviour of hoon driving, I see the greater benefit of this legislation as addressing road safety. I believe such sentiments are shared by the majority in our society.

The Age editorial of 19 October 2004 expresses it well. It states:

> Every suburban street has hoon drivers. The hoon who is driving leaves residents muttering, 'They're going to kill someone' or words to that effect.
>
> That fear is realised week after week in all states, where young drivers and their passengers are over-represented amongst the dead and injured on our roads. So widespread is the tragedy that anti-hoon legislation is likely to have strong public support. No-one has any

tolerance for people who drive cars in a reckless manner and put lives at risk.

Road safety is a complex, never-ending challenge. It demands a broad range of approaches from improved education of learner drivers and tighter restrictions on P-platers to a constant focus on improving community attitudes, which is regrettably undermined by some car advertisements. The most intractable road safety problem is presented by drivers with attitudes so reckless that they are impervious to all campaigns, fines and licence penalties. For these drivers, whose love for their cars is equalled only by their contempt for others, confiscation may be the only effective deterrent. A car in the wrong hands is as deadly as a gun. Anyone who recklessly fires a gun in public can expect to lose that weapon because of the threat to community safety. It seems reasonable to apply the same principle to hoons and their cars.

The residents of a community have a right to go about their daily lives in a safe and secure environment, and this bill is designed to empower our police force to protect those rights. Again, I add my support for this bill.

The Hon. CAROLINE SCHAEFER secured the adjournment of the debate.

IN SITU LEACH MINING

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I lay on the table a copy of a ministerial statement regarding in situ leach mining made today in another place by my colleague the Hon. John Hill.

ADJOURNMENT

At 6.14 p.m., the council adjourned until Wednesday 10 November at 2.15 p.m.