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## **TRANSCRIPT OF PROCEEDINGS**

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### **PRODUCTIVITY COMMISSION**

### **PUBLIC HEARING ON THE DRAFT REPORT ON AUSTRALIA'S GAMBLING INDUSTRIES**

**MR G.R. BANKS, Chairman**  
**MR R. FITZGERALD, Associate Commissioner**

### **TRANSCRIPT OF PROCEEDINGS**

**AT SYDNEY ON THURSDAY, 16 SEPTEMBER 1999, AT 9.30 AM**

**Continued from 13/9/99 in Adelaide**

**MR BANKS:** Welcome, ladies and gentlemen, to the public hearings here in Sydney following the release of the Productivity Commission's draft report into Australia's gambling industries. My name is Gary Banks. I'm chairman of the Productivity Commission. On my right is Robert Fitzgerald, who is associate commissioner for this inquiry.

The purpose of these hearings is to facilitate public scrutiny of the commission's work and in particular to get comment and feedback on the draft report. It provides us with the opportunity to discuss people's submissions. Many people or organisations will of course continue to make submissions without seeking to discuss them in a public hearing. But all submissions need to be in by the end of September to give the commission time to digest them and take them on board in preparing its final report. That report is due to be presented to the government at the end of November.

On the first page of our report we have a schedule of where the hearings are being held. We're now about two-thirds of the way through. We have hearings here in Sydney this week, hearings are scheduled for Perth next week and we will be concluding in Brisbane at the end of the following week, at the end of September. Following this public discussion phase, we will draw on that feedback and other continuing research in preparing our final report to government. The hearings are conducted as informally as possible, although a transcript is made to provide a record of discussions. There's no formal oath-taking required but the Productivity Commission Act does require participants to be truthful in their remarks.

The transcripts of the hearings and the submissions themselves are public documents and can be purchased or accessed through the Productivity Commission's Web site. Details are in circulars available outside this room or by phoning the Productivity Commission. I emphasise that participants are welcome to comment to the remarks of other participants in these hearings or indeed to respond to any submissions. We have designed the process to give people enough time to do that within the time-frame that we ourselves must meet. I would now like to welcome the Christian Democratic Party to be the first representative at the Sydney hearings. Could you please give me your name and your position.

**REVEREND NILE:** Reverend the Honourable Fred Nile. I'm the national president and party leader of the Christian Democratic Party.

**MR BANKS:** Good. Thank you very much. Thank you for taking the trouble to come here today.

**REVEREND NILE:** My pleasure.

**MR BANKS:** We received a submission from you in the first round of proceedings and I think we have talked to your colleagues in Adelaide. We have a brief submission from you here, so why don't I let you address the key points that you would like to make.

**REVEREND NILE:** Thank you for the opportunity to appear before the commission. I would like to put on the record our appreciation of the federal government and the federal treasurer in setting up the inquiry and thank the commission for the work that it has done. At the moment we're debating two gambling bills in the state parliament and I have been quoting your report extensively because it's a wealth of facts, of information, that has not previously been available. I think that has been the main value of your inquiry. What you have done is you have shown that the gambling genie if you like is out of the bottle and how do we put it back in the bottle, which is a problem.

I know many individuals have tried to define your report. I think one journalist was very critical and said it was like a report dealing with an atomic nuclear explosion where it listed some values of such an explosion: that it reduced the population and increased the funeral industry's work. That may be a bit cynical. I would rather say perhaps you have shown that Australia is like a patient: that it's sick and you have examined the patient and you have found it has got a terminal disease called gambling. So it is a very serious problem and you have certainly defined the problem. The big challenge is what to do about it and how in fact to reduce the harmful impact of gambling. That's the concern of our political party, the Christian Democratic Party.

We're concerned about the impact of gambling upon individuals and families. Problem gambling impacts more on lower income families, often targeting lower income communities. These people live on set incomes with less disposable income available in their family budget so gambling preys upon their dream to win "the big one". I know in your report you have come out raising the issues of advertising, the problems of advertising. With the skills of the media in the area of advertising, obviously they can design advertising which is very attractive and encourages people to take up more and more gambling, even beyond their own financial means. That's why one of our main thrusts in trying to reduce the impact of gambling would be to question the whole advertising area of gambling.

I know it may sound a bit utopian to say let's ban all gambling advertising, but I did successfully move a bill in 1991-92 in the state parliament called the Tobacco Advertising Prohibition Bill. Initially it had a lot of opposition but eventually it was accepted unanimously and other states adopted it. It's now a national policy in Australia. So what may have seemed, say 10 or 15 years ago, an impossible dream was achieved in a very powerful area of sales and use - the tobacco area. So I do believe we should have a bit of faith and hope that we could wind back the impact of gambling through prohibiting the advertising. I would urge the commission to look into ways and means of doing that. I know you can't do it overnight and even in my Tobacco Bill I had a five-year phasing-out period. So it had the minimum impact on industry and on advertising, sponsorship of sport and all those sort of things.

I was only watching the television this morning and I noticed that not only do we have all the advertising for gambling as such, but now companies are using the

gambling aspect if you like - "win a prize" - in almost every product. I use Qantas, and I'm not critical of Qantas as an airline but I notice even this morning they have a big advertising campaign to say if you buy a ticket between a certain period, you've got a chance of winning a Jeep. There are five Jeeps available. I thought, "Every company now is seeing an incentive in having a gambling aspect to their product." I don't think that was necessary. If a product is good enough - Qantas has got a good economical price for their tickets etcetera - let's deal with that and not add another component to it, which they've done just this week. But every other company is doing it, even dog food and so on, there always seems to be a tag now, you can win a prize. I think that's showing how gambling is becoming very much part of our culture - I know it has always been part of our culture - but becoming a dominant part of our culture now.

So I've listed a few highlights, if you like, these six points which - it would take a lot of time to go through them in detail. But you have certainly shown the seriousness of the problem and I recognise that in a sense your commission, by its very name "productivity", tends to look at things from an economical point of view, because that's in some ways where the inquiry originally came from, out of the treasurer's recommendation. But I do believe the report lacks the whole area of the ethical considerations concerning the impact of gambling. One of my suggestions would be for the commission in its recommendations - and I trust that's one of the aims of the final report - that it will come down with some clear-cut recommendations.

We know that we had a lot of problems with the environment and the abuse of the environment and so a whole lot of legislative machinery has been put in place now to protect the environment, with environment impact statements and so on. I would like to see that policy extended into the impact of gambling. It may be to have a Family Impact Commission, for example, a federal one as well as state equivalents, who would assess gambling - not only gambling but other social problems. It could include prostitution, pornography and so on. But what seems to be lacking at the moment is that governments - and the commission has done this in its own report - look very much at figures, facts, without looking at this ethical aspect, the social aspect, the harmful impact on society and in the long term the costs to society in that area.

I have also in the second point - that the committee in your final report have identified that there's a tension between we want to be a free society where everybody can do what they like but also we want to have a social safety net and I recognise that's always going to be a tension, because it is a democracy. But I do believe if governments are elected and they present their policies to the public, to the voter - as it accepted the prohibition on tobacco advertising, not banning tobacco but tobacco advertising - that governments can do things which are democratic which do reduce, if you like, in some ways the freedom of people, such as we have to wear safety belts in cars and so on and we have random breath testing now for drivers who are influenced by alcohol. So the public are prepared to understand there has to be a balance between the freedom as well as the responsibility they have as a citizen. I

believe the report could move more in that direction of, if you like, erring on the side of the safety net area rather than overemphasising the individualism of people, that they can do what they like.

The third item is perhaps more of a philosophical one but if the gambling sort of ethos becomes so prominent in our society, does it affect individuals in their attitude to their jobs, to their company? In other words, instead of working hard - the work ethic - to get ahead, gambling gives you what they call a short cut way. I've seen advertisements, for example, where it has had a beautiful house, a young couple standing in front of this modern brick home. I thought, "That must be an ad coming on for invest - if you like, take out a mortgage, take out a loan to buy this house." But instead it was actually, "Buy a ticket and you could win this house." To me, I thought for young married couples they could say, "That's okay, let's go and buy, and get more and more involved in winning rather than working." I think that's a very serious matter which has a long-term impact on our whole culture in Australia, if we think we can only get ahead by gambling rather than by our own hard work.

The fourth item does touch on what I've mentioned already, the whole issue of prohibiting certain forms of gambling initially and restricting - certainly, I would hope, banning Internet gambling - and reducing as far as we can electronic gaming machines or gambling machines and hopefully a ban on gambling advertising. This would help to curtail the growing incidence of problem gambling in Australia. I note that the Hotel Association has been critical of the report, saying they don't believe that there are so many people affected by gambling. I think the report mentioned about 330,000. I would think that's probably an underestimate. It's very hard of course to be accurate to the last detail but I think the commission report is far more accurate in that direction and would be an underestimation rather than an exaggeration.

The fifth point I've made, in urging that the report take up in more detail the effect on the low income families as well as small communities, rural communities and so on - it seems the evidence indicates that those communities even suffer more in many ways from the impact of gambling. The sixth and last point, which is a serious one, is that it does seem that the report has underestimated the social economic impact of gambling on society. I would urge the commission to examine more closely some of the American approaches in estimating the impact of gambling - the ratio, if you like - and I would hope follow their model.

For example you are, I understand, talking about 29 cents in every dollar is perhaps the social cost and working that out from tax revenue as \$1.1 billion is the social cost if you like to society, whereas if you took the American figures it would be somewhere closer to \$11.5 billion. In other words, there's a big gap between the way you calculate the social economic costs and the way the American authorities are doing it. I don't mean American church authorities, I mean proper university research groups and so on. So that gets back to some of the documents in your report on page 10.10.

The rest of my submission - I won't go into detail now - it just lists out areas that I believe come out of your report which should now become recommendations. I think we're in a very strong position - because we haven't had an inquiry such as yours where you can raise up many positive recommendations. If those recommendations are there, at least it will create community discussion, debate, and force state governments, even local councils, to discuss your recommendations. I know you can't enforce them, by the nature of your inquiry, and so I've raised the whole question of the location of ATM machines, the need to establish a self-exclusion scheme, the training and responsible service of gambling, signage for counselling services in places where gambling is occurring, the lodging of complaints, advertising restrictions and hopefully eventually a ban, appointment of a gambling ombudsman for people to contact where they feel there is some matter they wish to bring to a neutral person, the banning of inducements, the drafting of an industry code of practice.

I've spelled out those items in more detail in my submission and I've also quoted a section which you may have had available to you but it's only recent - that there has been a new report, the National Gambling Impact Study Commission report from the United States, dated June 1999. I've just taken some of the recommendations from that report, which is the most recent one, and one which we regard as a very authoritative report and one the commission could quote with confidence.

So I thank you again for the opportunity to provide this submission and to comment on the commission's draft report. We believe the gambling industry - and we prefer to call it "gambling industry". There's a tension now I notice, even in your report you talk about the "gambling industry" then "gaming, gambling, gaming". "Gaming" is obviously a softer word and even the word "industry" perhaps may be misapplied to gambling. But I believe the commission should be clearly describing anything where people win something by chance, that it is gambling, not gaming. There's no skill in operating a poker machine. I know the governments I think very cleverly want to keep discussing gaming, g-a-m-i-n-g. I think the commission should take a strong stand and say, "Look, this whole area is gambling and don't let's try and hide something under the bushel but let's be open and factual."

The impact of gambling in Australia can be greatly improved by the introduction of regulatory and consumer protectionary forms to prevent further negative social impacts and problem gambings in our communities. But I have one warning. I know a lot of people want to set up sort of gambling commissions. I would favour a Family Impact Commission. Why I say that is, having been in parliament now for 18 years, that you can still influence politicians and governments - the public can, if they have the vote and they have other ways of influencing governments. How do the public influence a gambling commission?

I can see a gambling commission, which may have initially good objectives, perhaps becoming more indifferent to the social impact and be more of a technical body saying, "Well, how many more machines should we license," and so on, and maybe even have people eventually appointed to the commission who aren't even

interested in the social impact as individuals. It depends a lot on the mind-set of people too. I gather in America, say like in Nevada, sometimes those commissions seem to be more expert on how to facilitate gambling, if you like, and don't have much impact in the area of restriction.

So that's my question mark about having a regulatory body set up for the gambling commission. I think it's still safer for the public to be dealing directly with governments. I mean, governments can have advisory bodies and so on to assist them but the final decision must be made by local council, state governments and federal governments. Thank you very much.

**MR BANKS:** Good. Thank you very much for that. I might just respond to one point, really a key point in the broad thrust of your submission, in asking us to make much more formal recommendations in our final report. This is an issue that has been some contention with some other participants as well. The inquiry is known as an information inquiry, which in a technical sense simply means that we're not making formal policy recommendations that the Commonwealth government would need to respond to and it's the Commonwealth which is our area of jurisdiction.

So the nature of the report is one that has obviously significant policy implications and findings and so on, but we are somewhat circumscribed in how far we can go in that direction. Certainly the points you were raising for our attention are ones that we can take on board in various ways, short of that.

**REVEREND NILE:** But maybe, Mr Banks, what you could do is say as a result of the inquiry and because of the limitations of your inquiry, you recommend that there be some further body which would make the recommendations, perhaps coming out of your inquiry.

**MR BANKS:** Well, in a way, what we've floated for public discussion in our last chapter is a sort of institutional framework which would just set up a kind of ongoing process of review and a policy assessment in the different jurisdictions. Now, you've made a point about that. You've raised a question mark about gambling commissions and a bit of a warning, and I think your concern is that you don't give what are inherently political powers to a body of officials who don't have the political responsibility that goes with it. I guess we'd broadly agree with that. What we've argued in that last chapter is that policy-making, broadly defined - I mean, the big threshold issues to do with gambling should probably be the preserve of parliament. There's no doubt about that.

It then comes down to a gambling commission which would have control powers within the framework of the legislation that defines those bigger questions. Now, reasonable people might differ about what belongs in which basket and they're things that we would be happy to hear views on.

**REVEREND NILE:** I agree with that if that authority - say we've got some restrictions on advertising, the question would be who actually enforces that. You

wouldn't want to have police officers trying to assess advertising. So that authority could have that kind of regulatory authority of controlling gambling, advertising or inducements, all that type of thing, with penalties. It would take a lot of work to work out the penalties, whether you close a casino down or you fine a casino or you fine a company. But in the same way as we've had tensions in the area of controlling television and radio and so on, I believe it could be worked out how to do that so that the gambling body would not be so much set up to expand gambling but to - the government would lay down the policy, lay down these factors about advertising, and then they would enforce those regulations, make sure that they are observed and even have the power to impose penalties.

**MR BANKS:** The third point - did you want to follow on from that point?

**MR FITZGERALD:** No, that's fine.

**REVEREND NILE:** I can give you a copy too - I should have mentioned this. I have drafted a bill called the Gambling (Anti-Greed) Advertising Prohibition Bill, which we're debating in the parliament right now. It's just a coincidence. We introduced that yesterday. I deliberately put the word "greed" in it. I had a lot of trouble with the parliamentary counsel saying they had never had "greed" in the title of a bill before, but I thought, "I want to make a point," so they accepted it. So I can supply - in fact I've got them here today and I can give that to the staff - a copy of that bill.

I have also a draft of another bill called the Family Impact Commission Bill, as to how such a commission would operate in assisting governments to - say the government decided to increase the number of poker machines. This commission, the Family Impact Commission, would then do an inquiry like you've been doing but more looking at the social impact. It would say, "What impact would that have on society and particularly the family if the government went ahead with that particular proposal?" So there needs to be more evaluation sometimes of the impact of government proposals before they actually do it, rather than something is done and the government says, "Oh, look what's happened."

I think governments should actually be sympathetic to that. They do it with the environment now. We have all these environmental impact statements and so on. I think that this is a parallel that could be easily implemented. So I'll leave those reports with your staff.

**MR FITZGERALD:** Just in relation to a couple of things, you've mentioned in one of your dot points that you actually believe in a progressive phasing-out of the most addictive forms of gambling, such as gaming machines and what have you. Do you actually think that is a possibility, a realistic possibility or - - -

**REVEREND NILE:** That's why I said it's like the genie is out of the bottle. That's why, as you know, the Prime Minister himself was shocked when your report indicated that over 20 per cent of the world's poker machines were in Australia, and



10 per cent of those were in New South Wales - that we, to our shame, are now leading the gambling drive in the world, more than the United States and other countries you would think would be worse than us. So how to wind it back is a very serious question and I know from sitting in parliament that governments now look at the revenue from poker machines. That's what's driving them. You almost could, say, prohibit governments from having tax revenue on gambling. I think that suddenly they would lose interest in gambling.

But at the moment the treasurers want to raise revenue and there's tremendous pressure on governments to meet their budget commitments, so I can see the treasurer always looking at poker machines as an area of revenue. Therefore they're not keen to restrict the number of poker machines, and certainly to say they're going to ban them next week would cause a revolution. But I do believe to start off there should be a cap. We should say "no more" and then work out ways of winding back the number of poker machines, particularly that type of electronic - I know that they're no longer with the handle and so on - but the electronic poker machines, and try and wind back the quantities.

We've got clubs now that are starting - there's a big one wanting to start near Liverpool which wants to start off with 500 machines. It's almost a mini-casino as big as the Star Casino. With all the debate about casinos, here we have one right in a working class area too, which is the point I was making earlier: that people who can least afford it seem to be the ones that are attracted into the gambling area, because they want to get out of that poverty trap. But that's not the way to get out of it. One in a million or one in 10 million gets out of it.

**MR FITZGERALD:** Just in terms of that, one of the issues that has arisen around Australia and is subject to some comment in our report is about the role of local governments and local communities being consulted and that. Do you have a particular view about the way in which local communities should be consulted or are able to have a voice in relation to gambling generally? Given that we've talked about the state, do you have a view about that lower level?

**REVEREND NILE:** Definitely. I'm a strong advocate of grassroots democracy and I have another bill called the Alcohol Beverages Advertising Prohibition Bill, which has in it that aspect of local option if you like, that the community should be more involved and their view should be sought, as used to happen even about a hotel licence in particular area. Gradually that has been taken away from the people. That has just happened with that Liverpool project I just mentioned, where the council actually has approved it. I would imagine that there would be a lot of people who would be opposed to that development but the council doesn't appear to have taken note of that. But there could be some machinery by which there is a referendum or some other way of assessing the views of the community.

I think the community should be involved. In fact from the reports we have seen over the years we would say that still, say, up to 70 per cent of the Australian people are opposed to this sort of gambling epidemic. There's 30 per cent who are

sympathetic to it or don't have any strong opposition to it. Then there's a small minority actually who are being ripped off through it. So if we did listen more to the local community, I think we would find views that are closer to the views I'm presenting to you today than you would get from, say, the major stakeholders, the hoteliers and the registered clubs and so on. Again, they've become hooked in, like the treasurer, wanting money for revenue. They see the huge profits. As you know, the decision in the state government to put poker machines into the hotels doubled the value of those hotels overnight. Many of them went from \$1 million to \$2 million just by that one action of 15 poker machines put into a hotel - you know, a licence for 15 poker machines.

**MR FITZGERALD:** The New South Wales government has introduced draft legislation and you were saying the crossbenchers and yourselves will be looking at that and making amendments. Without going into the detail, where do you think that sort of approach is currently deficient?

**REVEREND NILE:** Well, I think at least it's a step in the right direction. It's almost like we've reached the top of the mountain - acknowledgment of the seriousness of the problem - now we're going down the other side, where for the first time a state government has put up a bill which they call "responsible gambling" or "gaming", and it does have a lot of the recommendations that I've put up to you here today. Our concern is that often - and the government is saying this - it will adopt the bill in principle and leave it to us to work out the detail. I think the detail should be looked at in parliament as well. So as I mentioned, we'll be trying to bring what would be in regulations into the body of the bill and give the bill more teeth, so to speak, and legislative power, by having matters such as the prohibition of ATMs being available in casinos or, if not just inside the casino, very accessible.

I mentioned in my speech yesterday that we've actually got the slips from an ATM machine where people have been drawing money out at the casino and the slip which a person dropped on the floor just said "insufficient funds". People have actually literally drawn all their funds out of their credit card account because of the accessibility of the ATMs. So those are the sort of practical things that I think should be put into the legislation itself.

**MR FITZGERALD:** Trying to deal with this broader issue about the ethics of it, we had a submission in Adelaide from the Festival of Light talking about similar issues and I noticed they talked about the report being a bit schizophrenic. I feel this week is a schizophrenic week because one of the comments they made there, they thought that the draft report had been "held captive by a short-sighted libertarian philosophy". I'm sure in a few minutes' time we're about to hear a view that says we've been held captive by other forces, so it is a week of schizophrenic views about this report.

But one of the issues that is a serious issue, and we've heard it from a number of groups, is whilst we've identified social costs - and you can argue about the quantities although, as you say, they're less than some of the USA studies, but much

more than has ever been produced here - how do you actually effectively deal with this balance of ethical and social considerations, not the costs, in a way where you have an activity where the vast majority of people that play it, by their own admission and by all research, are not adversely affected, yet you and others maintain that overall it has a damaging impact on society and the ethical framework? Yet, as I said, you've got a very large percentage of the population that play and on the surface are not directly adversely affected by that activity - in fact some are positively benefited by that, in their own terms.

**REVEREND NILE:** Well, I did refer to that whole question about being a democracy. People have obviously maximum freedom where they're not hurting other people. But I do believe you can put up a strong case - even when you said a moment ago that everybody's gambling has no harmful effect. I mean, every day we're seeing people who - a wife who complains that her husband has actually mortgaged all their property and their shop and it's all gone through the casino, and now she's found out they own nothing. You could have asked that man, he may have said, "I enjoy it, it's entertainment and it's having no harmful effects." So I think that's very subjective, the harmful effect. I think it is more harmful than even the individuals would say in a survey or when they're being questioned. You would have to ask their relatives. If the husband is gambling, ask the wife. If the parents are gambling, ask the children, and the neighbours perhaps.

I know this is always a difficult question because in a democracy you can't, if you like, be authoritarian and just say, "You must do this." But I do believe you can combat that problem with education. I know you may not have intended it, but your draft report has been one of the most important educative documents that we've had. It has actually - and I sense this in our state parliament - changed the nature of the debate, because up till now people in an innocent way would say that gambling is no problem, and when they saw the facts in our report it has changed. There's a seriousness. There's a solemnness now. We do have a problem. For the first time the state parliament has the discussion, should there be a cap on poker machines? That's the result of your report. So if that was expanded, the impact of that report into a general education campaign - and who would run? That's another question. But for a federal and/or state government, perhaps in coalition together, to indicate to the public through scientific study, through genuine investigation, "We have proved we have a serious problem. We now seek the community support in solving that," and maybe even your inquiry could be followed up with community inquiries, perhaps in local areas and get more feedback from the community, so the community would go along with the reforms. So it would not create a backlash of people saying, "Suddenly you're taking away our poker machines. Why are we concerned about the impact of poker machines?" Get the public to understand that, even the people who use the poker machines, to understand that. I think that would be very important.

That would be another recommendation. I know you're not doing specific recommendations but it could be a general aspect that even your report could be - the final report to be in an edited document that could go into schools and school

libraries and so on. I think even children, students in high schools, should understand we have a very serious social problem in Australia.

**MR BANKS:** The only other comment I was going to make - thank you for drawing our attention to the US studies and the apparent difference in the sort of ratios that they have got between costs and tax revenue and so on. We'll look at those. There are all sorts of perils in making comparisons between studies in one country and another.

**REVEREND NILE:** Yes, I appreciate that.

**MR BANKS:** Both methodological and for other reasons, so we have some caution in using them, but your colleagues, I think, identified a particular study that they felt was worth us looking at and we'll do that.

**REVEREND NILE:** One of the values of those socioeconomic comparisons, as you would well know again, that governments often respond to the economic dollar question and I've endeavoured to do this, to show with the tobacco issue, for example, the number of people who are in hospitals because of tobacco problems and suddenly the politicians, the government, listens. They think, "We've got one in seven beds filled with a person infected by tobacco." You show 330,000 problem gamblers, what impact is that putting on the social services, community services, and that's the way to get governments perhaps to focus. That's why those comparisons are important, to show for every dollar you get from gambling - I argued this in the parliament, it's hard to prove it - you get \$1 from gambling revenue, you spend \$3 in all the other avenues of social service, community issues, even police perhaps, broken families, divorce on the other side of the ledger. If governments could understand that more clearly, they might not be so enthusiastic to increase gambling opportunities to increase revenue, because they don't see the costs maybe eating up what they think is the profit. They're not making any profit at all.

**MR BANKS:** Thank you very much, Reverend Nile.

**REVEREND NILE:** Thanks very much for that. Thank you for the opportunity.

**MR BANKS:** We'll break now for a moment please before our next participants.

**MR BANKS:** Our next participant this morning is Australian Hotels Association of New South Wales. Could you give your name please and your position with the association.

**MR CHARLES:** Yes, thanks, Mr Chairman. David Charles, chief executive of the Australian Hotels Association (New South Wales).

**MR BANKS:** Good, thank you. Thank you for attending again. We had a good discussion on the first round, in fact I think it's the third time we've talked together, and also for the effort that you've put into your submission. We look forward to your presentation and we'll debate some of the points that you raise to help improve our report. But look, first, I'd like to make just a few observations about some key aspects of the submission that misrepresent the commission in its draft report. Perhaps the most important of these is the claim by the Australian Hotels Association of New South Wales that the commission has exceeded its terms of reference by including analysis and assessments in its draft report and not just data and description.

You appear to have misunderstood what is meant by an information report. The only real difference with a standard inquiry report is that we're not asked to make formal policy recommendations which require a response from the Commonwealth government. The whole purpose of an information inquiry, like any other inquiry, is to help informed policy-making, and that's the Productivity Commission's job. Indeed, the Australian Hotels Association itself urged us from the outset to make recommendations about taxation of clubs' income from poker machines, and even in the present submission you criticise us for not coming out strongly enough on that issue.

The second point I want to make is that the Australian Hotels Association of New South Wales also accuses the commission of bias and lack of transparency in its processes and uses the term "a star chamber". You say the industry has not been consulted and there's been no public appropriate debate, and that again is wrong. The commission represents no vested interest. We've sought views from all sides and designed our inquiry processes to maximise their openness and accessibility to all participants. In addition to getting some 200 submissions, we conducted 60 visits to participants, including yourselves, and we held public hearings in all capital cities where we tested a wide range of views. All submissions are public documents and most of them are on our Web site. The culmination of all this is this very process that we're going through today of exposing our draft report to your scrutiny and the scrutiny of others at these public hearings before finalising a report to government.

You have repeatedly claimed, and I heard it again this morning on the radio, that the national survey that the commission conducted is fundamentally flawed. That too is wrong and I believe the AHA would have benefited from expert advice, as we did, in these matters. The commission undertook its survey with great care, with considerable prior research and investigation, using methods and sample sizes comparable to those employed by the ABS. Indeed, the survey size of 10,500 is

greater than the 8500 employed by the ABS in its household expenditure survey. The sample size is the biggest that's been employed in any survey of gambling in Australia and is large by world standards. The results were not affected by the period in which it was undertaken. We achieved an 88 per cent contact rate. The survey provides evidence on 150 problem gamblers, not 81, and this is by far the largest sample reached by any Australian survey. Sample surveys of this kind are all used to infer the overall population affected by problem gambling. It's the basis of all other epidemiological research into problem gambling in the world and nearly all the survey work done by the ABS and other statistical agencies.

Finally, I must confess to being a bit puzzled by the tone of the submission. In the end it's the strength of the arguments, not the language, I think, that will win us over. On that score, we look forward to discussing some of the arguments with you. But first it's over to you to raise whatever points you wish to make.

**MR CHARLES:** Well, thank you very much, Mr Chairman, for those remarks and obviously I disagree with some of them and we will talk through them. I agree totally with your last comments. It's no good discussing things and throwing around heaps of rhetoric unless you've got the arguments to sustain them, which we believe we have. Nonetheless, as I've said in our new submission, we've congratulated the commission on gathering a tremendous amount of information and very useful information from the industry and from, I think, government viewpoint.

But notwithstanding that, there are - I think it's probably a fine line and we still hold from our criticism, that in fact the terms of reference do not detail that there should be recommendations, conclusions or key findings in the report, and I think that should be taken on board when the commission is putting its final report to the government. Indeed, the reason we looked at that point and we didn't throw it into the debate lightly is because governments - I know some people think, "Well, that's a minor point," but governments write terms of references quite deliberately and quite accurately about what they want from a particular inquiry. So it's by no accident that certain words are put on paper and it's for the commission or for whoever, the bodies doing the inquiry, to adhere to those terms of reference.

Mr Chairman, though having said that, I also raise the point - you raised the point just then, you raised the point about bias. I found it interesting, as you know, Mr Chairman, the last few days or last week there's been a few newspaper articles regarding the accuracy or otherwise of the percentage of gaming machines in Australia. Now, I'm sure that can be sorted out within this inquiry and probably those questions are going to be more targeted at the Australian gaming manufacturers and some of the bigger gaming groups, but notwithstanding that, I believe it was inappropriate for you to enter into the debate in a public way as you did on Monday, when in the Financial Review, in a letter to the Financial Review, you talked about sophisticated pokies, mechanical reel devices and Japanese-style machines, when in fact I thought we were talking about the gaming market. Whether machines are run by computer or mechanical device or some sort of other mechanism, it's all

completely irrelevant. We're talking about gaming, gaming machines and the gaming market.

Indeed, when you start talking about those things and the commission's findings, it brings me to the point of whether, as chairman, you should be making those sorts of remarks in a public debate, shall we say, outside of the commission hearings, because it reminds me a little bit of the judge who's found someone guilty before the trial has even commenced, and I don't think that's appropriate until the final report is actually handed to the federal treasurer. Anyway, Mr Chairman, I will move on because I think it's more important to get to some of the major issues that need to be debated.

Firstly, the statement in the draft report that says the economic benefits of the industry are largely "illusionary". May I point out, Mr Chairman, that gambling turnover in Australia is, as you've stated in the report, \$80 billion; expenditure or spend to the public is \$11.3 billion; the industry pays taxation of \$4 billion plus a multitude of other taxes, particularly from hotels throughout Australia. The industry employs over 110,000 people directly connected with gaming, and this is the commission's own figure, and then there are several hundred thousand other employees, particularly in hotels and in clubs that are part of the wider hospitality industry supported in part by gaming.

Now, Mr Chairman, the reality is that this is one of the biggest growth industries in Australia and to suggest that these benefits - and I've just mentioned just a few - are largely illusionary or, put in a more colloquial sense, full of hot air, is sheer nonsense. The commission goes further and suggests that the reasoning behind the statement is if the gaming industry didn't exist, all the economic benefits including the substantial employment involved would simply move to another industry. With the greatest respect, Mr Chairman, this is simply not correct. It may be sound economic theory but it shows a complete lack of understanding of the hotel industry in particular, where many hoteliers have been involved in the industry for decades. Indeed, we often see several generations of hoteliers involved in the industry.

Mr Chairman, as mentioned in our submission, in the 90s it was estimated that between 4 and 5 hundred hotels in New South Wales were involved with financial arrangements with their banks in order to keep afloat. In other words, they were under financial management. Now, these hoteliers didn't shift their money to the chocolate industry or the steel-making industry. The economic theories though, espoused by the commission, place most hoteliers as investors who can readily shift their money from industry to industry or even offshore. But as I have said, the reality is quite different. Most hoteliers invest in the industry they know and love and will stay in the industry to pursue their living, their interests and the great friendships that they've developed across the hospitality industry over a lifetime.

Further, Mr Chairman, the commission does not take into account the changing nature of the industry and the growing number of career paths being created

throughout the gambling industries in Australia. From the hotel industry's viewpoint, there are many hoteliers who are employing specialist gaming people to manage their gaming entertainment, quite apart from the hotel's food and beverage operations. Also I take issue, Mr Chairman, with the fact the draft report states the economic gains could be between \$150 million and \$5.2 billion. Well, to be perfectly frank, Mr Chairman, that's an admission by the commission that simply doesn't have a clue. Therefore, if you don't have a clue, why do we have all this guesswork at a major national report? If the federal treasurer stood up on budget night and said, "I think the federal government will have a surplus of somewhere between zero and \$5 billion," he would be laughed out of the parliament. But essentially that's what you've said in this report.

Obviously the industry would suggest most strongly that the economic benefits are in the billions, as suggested by the figures I've already stated. However, if more work needs to be done then so be it, but let it be done properly and accurately with industry consultation. The second point I wish to raise, Mr Chairman, relates to the survey, as you've mentioned, by the Productivity Commission. Out of this survey the commissioner stated that one-third of a million people, Australians, are problem gamblers, or 2.33 per cent of the population. This is, Mr Chairman, notwithstanding the fact that virtually every other survey in Australia and the rest of the world has put the figure at about half that put forward by the commission. Indeed, in your own report you identify reports from Sweden, Canada, several from the United States, Spain, New Zealand, all averaging around the 1 per cent mark - some a bit less, some a bit more.

The well regarded gambling researcher from Sydney, Mark Dickerson, is quoted at length where his survey in 1997 calculated 0.97 per cent of the population had a problem with gambling. But the Productivity Commission, with no background or expertise in the area, has come forward and stated that problem gamblers account for double that figure which relates to one-third of a million Australians. Now, where do these figures come from? As we have shown, Mr Chairman, in our submission on pages 33 to 43 we believe the commission survey is fundamentally flawed and indeed, on pages 41 and 42 of our new submission we set out our mathematical equations which we prove.

In order to have a reasonable variance in the figures the commission needed a survey of 25,000 people, not 3498, and whilst you went to 10,000 originally, the second survey, the proper survey, was of 3498 people, and indeed, the spreadsheet which I can table now which shows the variable at the extreme end of the problem gambler range in your survey ranges between 55 and nearly 60 per cent. Now, in other words, you could hardly call that a survey because that variable and those figures are completely unreliable.

**MR BANKS:** Look, can I just pause on that one because you've compared our survey unfavourably to a range of other surveys. Our survey is bigger than all of those surveys that you've quoted with - - -



**MR CHARLES:** I'll just follow on from something else you've said.

**MR BANKS:** Okay. Maybe we can come back and - - -

**MR CHARLES:** Absolutely, I'm quite happy to go back.

**MR BANKS:** Okay.

**MR CHARLES:** But if as our figures show, if you want a variable of no more than 5 per cent so that you get a reliable figure, you need around 25,000 people. Indeed, we did seek expert advice. We did go to a professor of mathematics of Western Sydney who was formerly the deputy Commonwealth statistician, who verified the figures you have before you that we've presented to you today. It is our figures - according to your survey, if you're saying it's 150 people, we would like to go back and work with you and come back and see what the figures are. But looking at your survey and the figures, it shows that 81 people had a problem gambling and 11 people had a major problem at SOGS 10, but we'll come back to that.

**MR BANKS:** Those numbers are wrong.

**MR CHARLES:** We will come back to that. May I also point out that the test that the commission relied upon, the South Oaks Gambling Screen test or SOGS, is unreliable in the sense - and notwithstanding some of its good points - it is culturally attuned to the historical and cultural background of the United States, particularly in the mid-west United States and not Australia. You have identified problem gamblers who have answered yes to five of the SOGS questions. I don't want to put myself in, Mr Chairman, but I don't hardly play a gaming machine and I answered yes to six.

Half the AHA staff have qualified as problem gamblers, with the greatest of respect, under the criteria with such questions as, "Have you ever gambled more than you intended?" "Yes." "Have people ever criticised your gambling?" "Yes." "Have you ever hidden betting slips or lottery slips?" "Yes" - so that my wife couldn't see them. "Have you ever claimed to be winning more than you were?" "Yes." "Have you ever argued with people you live with about how you handle money?" "Yes." Well, I'm a problem gambler. I mean, it's not too hard.

Mr Chairman, I recognise quite clearly that if someone said yes to 10 questions, they have a definite problem. But if you go slightly above where I answered, I would look at about SOG 7, so that if someone answers seven alarm bells go off, which I personally believe is a more accurate figure looking at the text of the SOGS test and the context of Australia. Well, surprise surprise, under your report the problem gambling percentage drops to 1.09 per cent - we're back to our 1 per cent figure again. So as you can see, we're back to that magical figure. Further, the commission goes on to talk about divorce and separation rates as it does in its supplementary report - its appendix and the relationship to problem gambling. The report states:

In the past year 43,000 divorces or separation were due to gambling-related problems.

However, the commission then states:

This estimate seems high when compared to a total of 51,000 divorces each year from all causes in Australia.

Well, obviously it's too high, 43 out of 53,000 and it's a totally stupid number. Therefore, if this part of the survey is blatantly wrong, doesn't this, if not ring alarm bells, bring the whole survey into question? You can't pick some parts of the survey and say, "Well, that's right but this part of the survey is obviously wrong." If it throws up wrong numbers, wouldn't you at least ask questions about other aspects of the survey? I think the commission has acted irresponsibly by putting the figures into the marketplace that I don't believe it can substantiate.

Mr Chairman, the industry is concerned about problem gambling which is why the AHA is about to present a very comprehensive, responsible gambling package to the premier of this state, notwithstanding the fact that they've introduced legislation; we actually have another package beyond that. We wish to be proactive to ensure that hoteliers act responsibly and consumers are aware of the services that are available to them to assist, if they believe they have a problem. However, Mr Chairman, the commission survey hasn't done the commission any justice or the industry for that matter, and our mathematic equations dictate, as we've said before, backed up by the professor of mathematics at University of New South Wales, we believe a substantially greater survey is required.

That has to be through, I think - the Australian Bureau of Statistics should be involved. Why have they been ignored when the Australian Bureau of Statistics have said in their own submission:

Any survey of gambling activity and its impact on individuals and family wellbeing would need to be the subject of considerable research and investigation.

Now, I don't believe that has occurred. Mr Chairman, the next point I wish to raise is basically set around chapter 14, the regulation chapter. As we state in our submission, I was fairly blunt to the point when I said chapter 14 should be dustbinned as it has been written with no understanding and no relevance to the gambling industry. With the greatest of respect, it's full of academic theories that have no relevance whatsoever. But finally in the chapter there is one small paragraph where the commission gets it right, actually hits the nail on the head when discussing the capping of venues, where it says:

Capping may prevent the development of large casino-like gambling establishments in the suburbs.

However, the commission then doesn't develop this point and moves off into other academic theories. We state in our submission a government decision to protect the community interest by refusing to allow large casinos to develop in the suburbs is perfectly acceptable. This is one of the few sustainable reasons for venue capping and yet the commission raises the point and doesn't move on with it. Indeed, Mr Chairman, we can see there has been a very good reason for the state government of New South Wales to pursue this course of action with Penrith Panthers now moving to take over several other clubs and claim a higher number of gaming machines under the control in the Star City Casino.

Let me make point, Mr Chairman, the Star City Casino came into being after some 10 years of negotiation and tendering and finally, when the successful tender was named, they paid \$370 million to the state government for the casino licence. However, we're now reaching a point where some clubs in the suburbs may be larger in gaming machine terms than the Star City Casino and that alone, without considering anything else, should be sufficient for the introduction of venue capping at a reasonable level. At present there is a raft of regulations by which the industry much abide. State governments have gathered expertise over many years and put in place regulations which suit the requirements of each particular state. It seems a little presumptuous for the commission, with no background in the industry, to suggest an array of new regulations to somehow fix the perceived concerns of some minority groups.

The industry is continually in discussions with government to define regulations, to ensure the gaming operators carry out the responsibilities and the public are aware of all the rules and regulations and at the same time can enjoy the entertainment offered by the industry and thankfully, this happy event occurs for 99 per cent of the population. However, Mr Chairman, if I can also say, to relate the gaming industry to the tobacco industry and smoking in general which occurs is simply a disgrace, where in the latter all long-term smokers are problem smokers and the long-term impact on themselves and possibly others may cost the Australia taxpayer, through health and hospital costs, billions of dollars. As can be determined from our submission, 99 per cent of the population enjoy a gamble of one form or another and do so without any adverse effects.

The last point I wish to raise, Mr Chairman, is the mutuality principle. The commission states, amongst other things, that:

It is certainly true that the mutuality principle does not treat hotels and clubs equally but this does not mean that hotel owners are treated inequitably.

Well, that one beat me but, Mr Chairman, as we state in our submission, we believe that the commission's statement represents a totally unrealistic appreciation of the issues. It is almost unbelievable that the argument should be put that if the government taxes one group of people at a much higher tax rate than another group of people both engaged in the same activity, then the government is not acting

inequitably. As I said, that one beats me. But equally, why are butchers, motels, hairdressers and others treated inequitably through, in your report, you say - through "the generation of inequitable capital losses" and "undermining the profitability" - profitability of those groups - whilst hotel owners are not.

Hoteliers provide identical products to those provided by clubs. However, clubs enjoy substantially lower tax rates. Therefore it is difficult to accept the commission's conclusions that hotel owners may not be treated inequitably from a taxation standpoint as a consequence of the mutuality principle.

Mr Chairman, in answer to the commission's own invitation, we have provided an answer to the difference between the clubs' submission where the Council of Community Clubs of Australia and New Zealand stated that the community support by the New South Wales club industry alone was 155 million, whilst the AHA New South Wales in its submission, claimed community donation to external organisations amounted to around 57 and a half million. As you will note in our new submission, Mr Chairman, 57 and a half million was taken from the registered clubs' own survey undertaken by KPMG and released in March 1996. It was one of KPMG's quarterly surveys that they did on a regular basis.

May I also point out the fact, Mr Chairman, that throughout 1996 when the club movement was desperately trying to stop the hotel industry entering the gaming market, the then chief executive of the RCA, Mr Keith Kerr, publicly enunciated on numerous occasions, including full page newspaper advertisements, that community donations from the New South Wales club industry was "\$700 million". It is interesting that they are now claiming only \$155 million. It is also interesting that several rugby league clubs are now screaming for money and are wondering if they can continue in the new national rugby league competition, where at the same time their associated leagues club or social club, if I can put it that way, may be worth millions. I thought these clubs were set up to support the football clubs and sporting organisations. However, it appears they have commenced a life of their own.

Mr Chairman, the gambling industries in Australia are a substantial growth industry and provide substantial benefits to the national economy, including significant employment numbers. Certainly we are not suggesting all is perfect, but in such a fast-growing industry, it never is. But neither is the industry out of control, has lost its way or is covered in hordes of problem gamblers that are ruining our society. The points I have raised today are real ones, based on fact, not hearsay, and I trust the commission will go back to the drawing board, look at the facts, consult with the industries and produce an information report to the federal government that will be beneficial to all concerned in the longer term. Thank you, Mr Chairman.

**MR BANKS:** Good, thank you. We share that sentiment and that's what this is about. You have raised a lot of things there and Robert and I no doubt will have different things that we want to raise. But perhaps the best place to start is where you started, which is with our terms of reference. I obviously didn't convince you with my introductory remarks, but I just point out that in the terms of reference, item E

talks about the commission examining and reporting on the effects of the regulatory structures, including licensing arrangements, entry and advertising restrictions, application of the mutuality principle and differing taxation arrangements governing the gambling industry, including the implications of differing approaches for industry development and consumers. That tells me that the treasurer might have been a bit disappointed if we'd just had a few facts and figures out of the Bureau of Statistics publications in a rather slimmer report. Clearly, we will continue with findings, with analysis, with policy relevant assessments and views in our final report, and I guess what we're trying to do here is to get a better understanding for the underpinning of those to make sure that they're as well founded as they can be.

Your second point, you returned to the point about bias and you talked about what you thought was my inappropriate letter to the editor, responding to a story in that same newspaper in which there was a report that the Australian Gaming Manufacturers Association was critical of our estimate of the number of machines and the proportion of the world total. I thought I was, as the chairman of this inquiry, justified in correcting the point that it wasn't our estimate, but rather an estimate that we had got from the industry, and indeed the leading manufacturer of gaming machines in Australia, and an estimate that we in fact had actually talked to them about and confirmed before we went to print.

The other point I would make about that is that you won't find a lot of discussion in that report about that number. It appears as a dot point in a box in the overview which talks about some of the features of the industry, and then in a chapter which talks about the industry and its operations where we replicate the table that we got from the gaming industry annual report. I don't know whether you want to comment further on that, but that's my position. I have now written, as you would probably know, to both parties, the manufacturer and the manufacturer's association, to ask for further detail on the breakdown.

Your point about the broader market I think is right. I mean, as an economist, I'm quite receptive to that notion that there is a very broad market - and indeed we're talking about the gambling industries here - but as you would also know, there are questions about the substitutability of one service or product for another, just as there is a question about whether you could substitute a bicycle for a racing car. There are different forms of gambling machines and whether they are directly substitutable I think is an important question. No doubt the industry had a view on that before; it seems to have a slightly different view now, and that's something we will be looking at.

**MR CHARLES:** I wouldn't have had a problem with your letter if you had have written and said, "Look, the report is dated X percentage and we got it from X group and this is why we quoted it," etcetera etcetera, but whilst having said that, you then went on and you talked about other things. You talked about Australia's sophisticated pokies, and real devices, Japanese machines. You talked about the commission's findings and related it back to problem gambling, other matters that obviously were on your mind that you put in that letter which I don't think was

appropriate to debate in that forum but probably should be more so in this forum and in your final report.

But notwithstanding that, I don't want to get stuck on the numbers. I think you correctly have done the right thing in going back to the manufacturers and others to say, "Well, what is the real figure?" and it's up to them to - - -

**MR FITZGERALD:** No, not what is the real figure; how they're now redefining that figure. I want to be very clear about this: that figure was an industry figure, verified with the industry.

**MR CHARLES:** When you say "the industry" - who?

**MR FITZGERALD:** The people that actually manufacture the machines, the largest manufacturer to their shareholders. Up until that point of that report, the perceived wisdom about those numbers was not questioned by anyone in the industry throughout this inquiry - not at all. I think it is very important that simply because the way in which that number has been taken and used politically, we don't then enter into a new process of trying to redefine a market in a way that is itself misleading and unrepresentative. I think we will investigate that. But I want to make it very clear: nobody should come to this commission and try to restate the figures, if they have represented those to shareholders, on the one hand saying how successful the industry has been, and then suddenly when the figure gets used politically against them, say, "No, it's a different market." I'd be very interested to know how shareholders would react to that if that's the case.

But it is a serious issue and we are looking at it and we welcome that input. It is a dot point in the report. But now to say that the change in the market in which that number exists has dramatic implications, is equally misrepresentative by some in the industry who do so. I'm sure it will come up in other submissions, both here and in Brisbane, but we are going back to the industry for their clarification about some of those issues, but it was not a commission figure.

**MR CHARLES:** I understand that.

**MR FITZGERALD:** And the industry should not now disown it.

**MR CHARLES:** We haven't. That's why I don't want to get stuck on that point. It's best for you, as you have done, to go back to the manufacturers.

**MR BANKS:** We could talk more about that but we won't. The second point you raised, and this is a legitimate point, is to talk about the economic benefits of the industry and your criticism of our approach there. I think that criticism is again perhaps based on a misunderstanding about what we're saying. We are not denying that the industry accounts for a lot of jobs and a lot of activity; in fact we document it in our report, so that's not the case. The question we looked at rather was that if there hadn't been a deregulation of gambling, if there hadn't been the expansion of

gambling, what would have happened to the money that went into gambling? It wouldn't have disappeared. It would have been spent on other things.

So the basis for our logic is rather the counter-factual. The point you make, having established an industry, if we were to ban it overnight, that would have a very significant effect. There's no doubt about that. I don't deny that. But the issue we were looking at, in a sense - and we were required to by our terms of reference - was what is the additional value, the economic benefit brought about by the expansion of this industry. It's in that context that we made those observations.

**MR CHARLES:** Can I just add two things there. I understand where you've come from and I understand the economic argument you put. But there are two things: one, as to industry viewpoint, if you logically extend that, then you would virtually say the same for any industry. If that industry is not there, the money goes somewhere else. Let's forget about steel making, let's forget about whatever - you know, don't worry about the farms and the wheat, if the money is not there, it goes somewhere else. So in that sense, whether it be our industry or whether it be the agricultural industry or manufacturing industry, any industry is a bit sensitive when you say the benefits are "largely illusory", notwithstanding the economic theory behind it.

But in a more practical sense, the one thing I haven't raised is, particularly in country and regional New South Wales, the money wouldn't have moved from A to B. I mean, there are empty factories around New South Wales now that haven't been picked up because industries have had to change, they have deregulated, they haven't faced the competition. There's empty factories around New South Wales now. Indeed, if the gambling industry was eliminated or severely restricted and we had a number of hotels and clubs close down, a lot of that would just simply not move on to the local farmers or some other industry, particularly in country and regional New South Wales. They would just be gone and you would have another huge increase in unemployment in the country and another debate again about people moving from the country to the city, trying to find jobs, that whole economic argument all starts all over again. Then governments are saying, "We need to decentralise, what are we going to put into the" - you know, the whole argument - you've seen it all before, I'm sure - again.

So in a more practical sense, the reality is that there are significant economic benefits and job opportunities in the industry in country and regional New South Wales, or right throughout Australia for that matter. But we see it also when the industry is doing well and it flows from our hotels to farmers to other shopkeepers etcetera, right throughout country towns, where if things are bad, the economy just sort of stops dead. People struggle to keep body and soul together. But when things are going much better, when the hotels are going better, farms are going better, it all flows from one to another.

I think regionally and country is one of the great practical problems that we would face, if in fact, as you've said, we were to stop it all tomorrow, notwithstanding

the effect that probably, in a sense, all the money would flow somewhere else eventually, particularly in the city. From an industry viewpoint, I would wish to make the point again that you could say that about any industry, whether it be the agricultural industry or manufacturing industry or whatever. That's basically the point where I think the industry is a bit sensitive when there is massive turnover, massive taxation - we're not talking about hundreds of millions, we're talking about billions of dollars - so the industry is a bit sensitive to its benefit to the national economy.

**MR BANKS:** I can understand that, and I think we were quite clear in how we expressed it. I mean, even your point about regional areas, we have had a lot of retailers and other business people telling us that the gambling industry's growth has been at their cost and has been to the disadvantage of the region, has generated earnings which have been siphoned out of the region through tax and through repatriated profit. There have been some studies done which have tried to quantify that, some of them have been made available to us just since the publication of the draft report, so it's by no means a straightforward story, even in a regional context.

**MR CHARLES:** It's not. I haven't seen all of those studies and I'll be trying to chase some of those up myself, but I've seen studies, going back a few years now, from the Victorian Casino and Gaming Commission, which basically at the end of the day refutes those arguments from the retail industry in Victoria.

**MR BANKS:** But very aggregated studies, you see - very aggregated.

**MR CHARLES:** Absolutely, yes. I mean, it's one of these things, we could sit here and not argue about it, but we could debate and discuss all day about where the money is, etcetera etcetera. But if you look at all the stats I've done in Melbourne, it clearly shows that whilst in a period - in the early 90s in particular - the retail industry didn't boom, but it didn't boom for a whole host of reasons, it still improved and continued to grow and still continues to grow today, notwithstanding the fact that the gambling industry has grown at the same time. We have seen the introduction of the Crown casino etcetera in Victoria.

So the retailers - particularly I know in Melbourne - are starting to drop off that little scenario because I think they're not going to win it, because I don't think we've seen that difference. We even see it in the hotel industry where people do come in - I saw it in America when I lived in America - where people will pay for products and they will pay more for products if you give them the right product. The old Australian thing when I was a lot younger of, you know, "Give everyone a dozen roses, sort of thing. It doesn't matter what it is. It'll be good because they'd love a dozen roses" - well, I think people have got around now to being more sophisticated. So, "No, look, we'd really prefer one, you know, really good rose and we'll pay for it, not a dozen ordinary ones."

Indeed, that's what we see and we see it within the hotel industry. I relate this back to the hotel industry where you see how good hotels who offer - forget the



gaming side for a minute. You offer good services, good food, good accommodation, good bar services and then they have a good niche gaming room or whatever. But they do better, always do better than anybody else, because people will come in and spend their money because they've got the money. They want to be entertained. They want to have nice food, a nice drink. They might put \$50 in the gaming machines, may or may not, but particularly the 20 to 35-year-old age group have a different perception about entertainment and they come in and they will spend the money, but only if the product is there. Now, some of that money, the retail sector is saying, "Well, it's not coming to us." Maybe they should be looking at what they're providing.

**MR FITZGERALD:** But hardly - the report could not be seen to be a document that actually is taking up the cause of regional retailers in an aggressive way. I mean, the report - I would have thought your industry would actually be saying "Well done" - because what it actually does, is does not give undue weight to those arguments. It tries to put them in a real, reasonable context and I think that that's where I would have been surprised that you actually don't acknowledge that that is in fact a much fairer treatment of those arguments than has hitherto been put.

**MR CHARLES:** Look, I understand that. I suppose we've reacted to those two famous words of, you know, "largely illusory" and said, "Hang on just a minute," and we've reacted to that.

**MR FITZGERALD:** No, it's fine.

**MR CHARLES:** But notwithstanding that, just to put it into context, you know, there's a bigger picture.

**MR BANKS:** Yes. I think at one point you say that we say "highly illusory". We would never have said that.

**MR CHARLES:** No, it's "largely", that's right.

**MR BANKS:** All right. The next point that was raised was just this range which you said reveals the fact that we don't have a clue and how I wouldn't make a very good treasurer. Well, the latter part is true. I agree with that part, it's a hard job. I guess what the range reflects is uncertainty. There's no doubt about that. Now, whether you can say that uncertainty and not having a clue amount to the same thing - I think you would have been much more critical of us, as you have been in other places, where you've thought we went for false precision.

So I guess what we did in the range was - and the range largely reflects more the cost side than the benefit side - was that that range reflects a range of assumptions which we felt bounded what we were looking at, so that even the minimums could tell you something. We've had people for example who wanted to find a large net cost to Australia, who criticised us because the range is all on the positive side and that that positive range has been used by those who would be proponents of the

industry. So we've got flak from them for finding a positive range and some of those, including some university professors, are doing their best to find reasons why it would be in the negative end of the spectrum.

But that is the reason why the range is there, simply to give a more robust indication of what's involved. Now, in part we did that and the way we depicted it I think was to show that it's ball park or back of the envelope type assessments. But we did it partly because others had put numbers up to us, including in submissions, throughout the inquiry. We couldn't just let those go without ourselves looking at them independently and that's why we did it.

**MR CHARLES:** I understand that. I suppose we wanted to make the point that, you know, in a sort of bold, stark sense when someone says the benefits could be anything between here and nowhere, it's a hell of a figure to throw around. I understand what you've just said, that it is difficult, and indeed it may be you have to make a judgment in the final report and that's why we're here, you said at the start. That's why we're here to discuss all this. You have to make a judgment in the final report: do you leave it like this or do you explain it even more so by saying, "Look, you know, the weight of evidence may suggest that it's at the higher end but we can't conclude that and we have to stay with the range." I don't know. But we really just wanted to basically put it back to you to really look at that again and to make a judgment that you'll obviously have to make in the final report.

**MR FITZGERALD:** Yes, and it's an issue that we've looked at, whether you range it or you take an estimate and then be attacked on the estimate in that range. Anyway, that's fine. What I do find surprising, however, is the one area we did find of benefits, despite the range, you have actually completely discounted. We came to a conclusion based on consumer surplus, which you haven't referred to in your oral presentation. You say, "There's no practical use because it's little more than a non-measurable, hypothetical notion, a useless academic parlour game." In fact, that's where we got the \$5 billion worth of benefit for your industry. If you actually have no consumer surplus, given that in economic terms there may or may not be significant benefit from employment and other activity, you end up with nothing.

So I'm surprised that you have attacked what is, I find, a difficult concept, being a non-economist. However, everyone else has told me - economists from the industry itself, from internally the Productivity Commission and externally - that this is a very appropriate technique for measuring the consumer surplus of a product. Now, there are many people who have said to us, "There is absolutely no value, no benefit, out of gambling." The commission has been extraordinarily liberal in actually saying, "Yes, there is," and we've tried to quantify that. Yet you actually take it out of hand. I find that extraordinary.

**MR CHARLES:** Yes. I suppose what we're really saying is that the academic - that the theories are - I suppose we're attacking the theory more than the substance and, you know, one can come at it from various ways and obviously we believe there's a benefit, which is what we've said. Look, we'll go back and have a look at that and

weigh it all up and come back to you, where we think the benefits are, and obviously there are benefits and substantial benefits. But we're looking at more the academic theories that in some places don't - it relates back to some of the regulation too. I don't want to get really too far off the point, but some of the regulation and some of the theories about price control and there's this "lift or lower the price of gambling" and really some of those theories just don't operate in the real world of gambling, and that's what I think we're trying to get at here too. Some of the theories just don't operate in the real world of gambling.

I mean, the clubs for example, to be fair, always ran their machines at 90 or 92 per cent or whatever and some ran them higher, even when the hotels didn't have gambling, because they wanted to make sure the product was good, that their customers were buying a reasonable product.

**MR FITZGERALD:** So that we don't move too far off the point, because you've moved right off the point - - -

**MR CHARLES:** No, but I'm just trying to get that theory in the sense of saying - - -

**MR FITZGERALD:** Yes, we'll come to that. But I just want to get to the point. If you say that this is a hypothetical nonsense, literally, then you are left with the position that you will not be able to attribute any quantifiable value to the enjoyment experienced by your customers. I think that is a very unusual position for an industry to take and I'd be very keen for you to reflect on that. At the end of the day I'd be quite happy if you said, "Well, we actually don't see a value," or you do see a value. But if you say, "There's no point in quantifying it," I think that would be very interesting.

**MR CHARLES:** No, don't say we've said there's no point in quantifying it. But I will take that on board and we will go back and we will quantify it. We'll come back to you quite deliberately on that point, Mr Fitzgerald.

**MR BANKS:** And I'm sure when you reflect on it you will get a big number, because it is - - -

**MR CHARLES:** I'm sure we will. I'm sure we'll get a very big number.

**MR BANKS:** Because it is an important part. I mean, I thought that was one of the contributions we made and we had a bit of difficulty convincing people, including a number of journalists, that there was such a thing as consumer benefits out of this industry, that people weren't just indifferent, they were just spending an amount that made them indifferent, so that if you took the industry away they'd be no worse off. I think they're getting value well above what they're paying, in a sense. So they would be worse off if you took the industry away.

**MR CHARLES:** That's right. No, I understand. I'm just recollecting now there are certain aspects of the report where in fact you do say just because you don't get a

specific good, a product, such as this glass, that it doesn't mean you haven't got a benefit. That's right.

**MR FITZGERALLD:** And bearing in mind that many of the submissions that have been put to us, and will be put to us today, actually will query consumer surplus, but on the basis that there is actually no benefit.

**MR CHARLES:** Yes.

**MR FITZGERALLD:** Anyway, we've canvassed that.

**MR CHARLES:** We'll come back to it, to the survey.

**MR BANKS:** Yes, okay. Let's perhaps just talk a little bit about the survey because I think that was another major issue and we clearly still differ on that and our experts can talk to your experts and so on, and we'd be grateful to get names and details and so on. But I should just come back to one point that you make early on and you say that the survey was conceived and executed in haste. You seem to be building up a case that somehow we boxed ourselves into the corner and had no time to do it, did it at the very worst time and therefore the thing was sort of doomed before it started.

On the point about "conceived and executed in haste", I just for the record note that we first held a round table of experts to discuss survey methodology and design issues in October 1998. The members of that round table are all eminent researchers in this area and indeed have conducted a number of the surveys that you cite with approval. That was in October 1998. The field work was conducted from the end of March through April over a four-week period in 1999. So October, November, December, January, February, March, April, seven months of development, of testing, of discussion, of getting consultants to go through our work and discuss it with experts and so on before we did it.

Now, that is a reasonable period of time, particularly when you take into account that we had a lot of existing research methodology to draw on. You know, we weren't starting with a clean sheet and indeed, as you know, the commission was granted a three-month extension in preparing its draft report, partly or largely because of the need to do this work properly. So I think we disagree with your view about "conceived and executed in haste".

**MR CHARLES:** Excepting that at the end of the day it was over the Easter holiday period when the survey was eventually done.

**MR BANKS:** That's right. I don't know whether Rob would like to comment on that.

**MR FITZGERALLD:** No, that's another issue. I know you've got some points about it. I just wanted to come to the sample size because I want to just deal with that, if I can. This is one of the largest surveys done in the world. You have cited

with absolutely no question surveys which I find interesting. At the end of the day this was one of the largest in the world. Compared to the United States for example, we surveyed 10,500, they surveyed 2400. You cite with absolutely no hesitation a report in New South Wales which actually surveyed 288 regular gamblers. We actually interviewed in depth 1225. Ours is questionable, that is not questionable. The issue I would have thought you may have debated, and you have, is whether you use SOGS 5 or 10 or other indicators. That has been a constant discussion in every survey throughout the world.

I do find it, however, not acceptable that you continue to maintain such a strong issue about the sample size and its methodology. This survey interviewed, double interviewed people, in a way that almost no other survey in Australia has done, and the one thing that the experts have all said is it's one of the best surveys in the world that has ever been done. Now, you can argue whether or not we chose a point along that continuum of SOGS and whether SOGS is an appropriate method. That is a point of contention that has been so right throughout the inquiry. But I do find it extraordinary that you continue to attack the actual survey methodology and size when I would say that that is the one thing about it that has actually world credibility.

**MR CHARLES:** Who are the experts? You just said "the experts".

**MR FITZGERALD:** Yes, we have.

**MR BANKS:** Well, we've actually already had feedback at an international conference in New Zealand from Lesieur, who is regarded as being the world expert in survey design and analysis in this area, who has given us a very positive response. Now, as I said earlier, we also framed the survey and formulated it in collaboration and discussion with a lot of the leading researchers in Australia. It's all documented in our report and so on. We'll take any criticism that is justified and that can help us do better. It's just that we don't see much in terms of the number of the points you've made here. For example, your point about the holiday period, we ourselves said that it wasn't ideal to initiate a survey during that holiday period.

But we compensated for that with up to four or five call backs, so at the end of the day somebody who wasn't there, if there was any problem because of the holiday period, that had been well and truly compensated for over the period, the four-week period in which we conducted the survey, and we got a contact rate of 88 per cent. Now, that's not 100 per cent but anybody who knows anything about surveys knows that a contact rate, a response rate of 88 per cent, is very high, if not unprecedented in this area.

Now, the interesting thing is a number of the other surveys again that you've quoted with approval have not even given us the contact rate. We don't know. We don't know what the response rate was. They might have got their numbers by just moving on. Someone wasn't home - "Let's interview somebody else." Now, we were meticulous in that and if we're sounding a little precious it's because we went to a lot of trouble to ensure that our survey design was watertight.

We're happy to get back to you and if you've got other estimates of standard errors and so on that we should be looking at, we can look at those and respond to it. Standard error calculations in this area are not easy. In some of them because of the complexity of the nature of some of the parameters, we're looking at millions of iterations through a computer simulated model to get the correct estimates. Back of the envelope stuff won't get us there. And neither Robert nor I are expert in this area but we have confidence in the people and the people who advised them.

**MR CHARLES:** Well, Mr Chairman, you've said we should have sought expert advice and we did and in fact the figures I've given you today have been put together by the - as I said at the start - former deputy Commonwealth statistician and now professor of mathematics at the University of Western Sydney and we would be - - -

**MR BANKS:** That's good and we look forward to it.

**MR CHARLES:** We'd be quite happy to discuss the matter through us and him and with your people.

**MR FITZGERALD:** You then end up with a situation of course, if that is so, that none of the surveys with which you've quoted - - -

**MR CHARLES:** Well, it could be.

**MR FITZGERALD:** And your 1 per cent figure falls apart as well.

**MR CHARLES:** It could be.

**MR FITZGERALD:** You end up with no figure.

**MR CHARLES:** It could be, but then again, then again, let's not just - first of all, I've said we have had expert advice. Secondly, let's not skip over the SOGS question because even under your survey if you go to - because don't forget, every problem gambler was someone who answered "five, five". To be perfectly frank it's not too hard to answer yes to five or six, five or six. If you then go, and this is just my personal viewpoint, to about seven which is then starting to get - you know, if someone's got a few problems, if you then rule a line about seven, coincidentally you come across in your own figures to 1.09 per cent. Whether that's absolutely accurate or not we don't know. But it's surprisingly coming back to that figure.

**MR FITZGERALD:** Yet in the United States many of the surveys are at SOGS 3 plus.

**MR CHARLES:** Absolutely, but then again when I lived the United States, I remember sitting at dinner one night in Portland, Oregon, and saying to the person there - I think it must have been Melbourne Cup time, but whatever - we were talking about horse racing, and I said, "Is there any involvement with the middle class in

horse racing around here?" The answer was, "Absolutely zero. None, never heard of it." Like, you just wouldn't even contemplate being involved, having a bet; nothing like that. I mean, you're talking about two different cultures altogether. We here in Australia - there's five questions there that a good percentage of the population would answer yes to. That's where I think the SOGS - notwithstanding the general SOGS thing is not bad, it's where you draw the line. I think the line has been drawn too low.

**MR FITZGERALD:** We take that on board but even at SOGS 10 you end up with something like 140,000 or so people with problem gambling. Surely that is significant in public policy terms and if you want to go along the continuum, as we have other submissions, have said we've drawn the line far too high and you're saying that's too low; some are saying too high. We've used other indicators including harm minimisation indicators which Gary might want to talk about or otherwise, but I just wonder in terms of public policy what is the figure or figures that you as an association think should in fact cause governments to be looking at this issue? Is it 140, is it 100, is it 200? Where does it happen? Frankly, we're never going to agree on the SOGS issue about the break. We're going to get different views. Where does it become an issue for public concern?

**MR CHARLES:** That's very easily answered. It becomes an issue for public concern, and there are two parts to the answer - it becomes an issue for public concern when one person has got a problem. That's very simple. When there's one person that's got a problem, that person has to be looked after in some way, shape or form and there has to be policies enunciated to look after that person, one person. So one person is too many.

**MR BANKS:** You've gone further than I probably would go now, so - - -

**MR CHARLES:** No, but I mean that's - you can't argue. You can't sit here and logically argue. You can't see the logic, that that's all right for 1000 but it's not all right for 2000. That just doesn't make any logical sense. Notwithstanding whether it be a small group or a large group, if it is at the relatively smaller end, if it's around the 100,000 mark and not a third of a million or half a million or wherever you want to draw the line at - the top end - then it's much more manageable from a government's viewpoint. If it knows it's dealing with a much smaller number it's much more manageable and from the government's viewpoint and from the industry's viewpoint about having appropriate policies. If it thinks it's got half a million people, then that's totally out of control.

There's obviously problems, etcetera etcetera. If you're going down the other end then it's much more manageable. That's what we're talking to the government now as to - Star City's in the audience and they would be talking to the government too about responsible gaming packages and what it should do, how it should react - counselling - a whole range of things. Now, whether that's for a dozen people that come into our places or whether it's hundreds of people or whether it's a few thousand people, it doesn't matter, but the processes have to be in place. What we are concerned about is saying there's one third of a million people with problems, that are

problem gamblers - we don't agree with it - and the alarm bells that that rings in a political sense to governments, who then get twitchy.

**MR BANKS:** Just one point - I know Robert has got another one - but on that one, again you indicated earlier or said that we stood out; that we were head and shoulders above all the other surveys which got about 1 per cent. That's not actually correct. I mean, to be able to say that you need to look at the thresholds that they've used. When you look at the thresholds that are comparable to ours, in fact our 2.3 per cent is lower than the average that we got for all other Australian studies. So I don't think those comparisons hold up. One other point that - - -

**MR CHARLES:** The other point I'd like to make which you may wish to make comment on - but I mean, in your survey - and I alluded to it in my introduction, where you talk about divorces and out of the survey you say last year there were 43,000 divorces or separations were due in some way to sort of gambling related problems. Then you say, "This estimate seems high when compared with a total of 51,000 for everyone." Obviously it's wrong. If that's obviously wrong and dramatically wrong, then I mean, it doesn't matter what the survey is about, obviously you've then got to relate, well, is the rest of the survey right or wrong.

**MR BANKS:** That is a very nice debating point, I grant you that, but anyone who knows anything about surveys will know that every estimate has a band around it or standard error and that if everything looks exactly right that's almost a sure sign that something is shonky in the survey. In other words, you expect with a survey and with the number of variables that come out of a survey of this magnitude that you are going to get some where the average is out of kilter. It's just in the nature of having the sort of standard errors that apply. We actually included our standard errors in the report, again, something a lot of other surveys don't. So you have a basis for assessing how reasonable they are. That said, when you get a result like that you do need to test it. A lot of what we've done in our survey is test our results against others to corroborate them, but getting one outcome that doesn't seem right, doesn't damn the whole survey at all. There would be no survey in the world that didn't have that kind of outcome.

**MR CHARLES:** I understand what you're saying but at the same time the logic of that is if that is so far out of kilter, which it obviously is, because there's a whole host of other reasons why divorces occur, unfortunately - if that is so far out of kilter, you know, one could then argue that it may be the main part of this is out of kilter and how far is it out of kilter? You will see there 330,000 but - - -

**MR FITZGERALD:** No, you've just ignored one of the comments that Gary has just made. We actually looked at our results against the average of all surveys that were undertaken in Australia and actually found we were on the low side. In fact, the main game, the main point is not out of kilter. Your paper claims it to be out of kilter. It is not. It is where you draw the particular line. The point that I don't understand is this: the industry has always acknowledged that there is a continuum. You know, there is a continuum on that problem gambling trail. It's not just those



that right at the end - that you have to worry about. It's those that are on the way; those at risk and they can be at any point on the SOGS scale.

Therefore in terms of public policy it isn't just that you've got a bundle of people that have actually hit that very end point that are actually problem gamblers. Surely the view that I'd be keen to know is do you actually acknowledge that public policy is about minimising risk on that continuum? I would have thought that your statements both to the senate commission in relation to Internet gambling and your - you're going to put a package to the state government - actually supports that view.

**MR CHARLES:** Absolutely.

**MR FITZGERALD:** So in fact this thing about whether it's five, seven, 10 harm minimiser, the issue for public policy which is where this document goes is actually about minimising risk on the continuum. I would have thought the actions of AHA New South Wales is supportive of that view.

**MR CHARLES:** Absolutely. Absolutely. The problem we have, the point that I want to make - look, harm minimisation, all of that, our discussions with government, you've absolutely summed it up. We totally agree with all that. But the point I want to make is - and I understand where the commission is in a sense in the middle because it's a political point. If the commission comes out and says that there's one third of a million Australians are problem gamblers or whatever, the government doesn't determine that those one third of a million are somewhere along the track. The government says, "Golly, there's one third of a million Australians right at this end, have all got major problems and it's out of control and we've got to do something." It's a political thing. Now, is the commission saying that one third of a million Australians are all at this end; are all right up here and got a major, major problem?

**MR FITZGERALD:** Clearly not. Nobody is saying that.

**MR CHARLES:** But that's the perception in the marketplace now because we've seen the reaction of some state governments who perceive it. That's not a criticism of the commission.

**MR FITZGERALD:** I'd just make a comment about that.

**MR CHARLES:** That's not a criticism of the commission.

**MR FITZGERALD:** Yes, it is, because in your document you actually almost say, almost assert, that the commission has taken almost a political stance at coming to that sort of numbering.

**MR CHARLES:** No, we're saying - - -

**MR FITZGERALD:** And the point about it is that I just want to make, the point is the commission has not come to a number based on anything other than what it sees as reasonable. If others choose to use a number that is no reason why the commission in its final report should then dampen that number down simply to moderate the political outcome. That would be like saying we should pump the number up to encourage a political outcome. Both are inappropriate. The only way you can look at it is to say what do you actually reasonably believe is the best methodology to identify this particular group.

**MR CHARLES:** I understand that.

**MR FITZGERALD:** I think your submission, your written submission, verges on the point of actually implicating the commission in trying to achieve a political outcome and if that's wrong, I apologise. My reading of it however is very close to that view.

**MR CHARLES:** No, what we have said - what we have said very clearly - is what I've just said - is that, is the commission suggesting that one third of a million Australians are at the end, as you put it a minute ago, Mr Fitzgerald? Now, if the commission is not saying that there may be in this final report, it should elaborate on what makes up that number because politically governments have grabbed that one number, shoved everyone in the same basket and said they all have major problems. The commission may not have said that but that's the political perception. That's where the industry has a concern.

**MR BANKS:** I agree and I think clearly we try to be careful and probably we need to be even more careful in being clear and plain in our speaking so that people understand what we're saying, but that diagram that we had which showed the continuum in part was intended to convey a picture for people who don't like reading words, so that they would get the same - - -

**MR CHARLES:** As you know, Mr Chairman, with the greatest respect to our media and so on, they love to grab the juicy bits, and if you say there's one third of a million Australians are problem gamblers, they will all whack it in the one basket. Governments react to that and therefore you do have to be pretty sensitive all the time as I am always juggling this fine wire - to make sure. I know what you're saying, but in the final report, if I can just say to you, if you can please look at that because if that's the perception you don't want to give, then I think you may have to.

**MR FITZGERALD:** The perception speaks for itself, that on a particular basis there are a large number of people that are experiencing problems with their gambling. That's the perception and that is a right perception. Whether it's 140,000 or 330 or 500,000, that's the issue, as to where you draw the line. But that there are a large number of people experiencing problems with gambling is in fact what the report indicates and you accept that. I don't think we can advance the discussion in this any further because clearly we will disagree about where that is drawn, at five or seven or 10 or some other measure, at the moment. There are many other

submissions from industry and other groups about that. I just want to confer with Gary.

**MR CHARLES:** If I just finish with that point. But at the end of the day the political perception is one that I think the commission has to be aware of when it brings its final report down, notwithstanding the fact that you're not writing a political report. You have to be aware that people are going to grab it and use it in certain ways and I think you have to be aware of that.

**MR BANKS:** No, we certainly will take particular pain to make sure that we're not misrepresented. Maybe if I move on from that area to another point which - you got quite passionate at the end and I can understand why - where you accused the commission of not seeing the inequity in the differential tax treatment between the clubs and the hotels. Now, again, maybe we could have explained ourselves a bit better. I guess - I mean, the point for us was that this tax treatment has been there for some time. We didn't see evidence that current holders of hotel licences were getting lower returns in the market as a result of that and would be interested to see any evidence on that, that pub owners are actually accepting relatively low returns compared to other things they could do with their money. But I take your point, that people can get stuck in situations where they don't always make the logical financial decision.

I think in your report you accuse us of patronising them but I wouldn't patronise them - in some ways, you may be patronising them yourself by saying that they're people who don't really know what's going on outside the pub. The pub owners I know actually have been pretty canny investors, I can tell you.

**MR CHARLES:** But the majority of hotel owners, you know, they've been in it for years, quite often their families have been in it for years, and they don't readily say, "Jeez, things are bad so I'll sell the hotel and move off into some other industry." They don't. They stay within the industry and work out how they can survive until times are better. They work out through the AHA, "How do we get better deals on things, how do we get into gaming," like the campaign in 95-96, because fundamentally, as I've said, in the early 90s things were absolutely dreadful in New South Wales. If we hadn't have got into gaming, the industry would be absolutely dead in the water today in New South Wales, absolutely dead. You would not need me to give you any facts and figures. Half the industry would be gone.

It was saved by that decision in late 1996, for a whole host of reasons, which again - some of it relates back to mutuality, some of it relates back to state government decisions about the treatment of clubs, etcetera etcetera.

**MR BANKS:** Yes.

**MR CHARLES:** But, you know, people don't just readily move out of the industry unless it gets to actually desperation stages. That's the real point that I wanted to make, you know, money just doesn't move from A to B readily.

**MR BANKS:** Yes, we see obviously the same - we talked about the rural sector before, and clearly farmers often are in the same sort of situation.

**MR CHARLES:** In the same sort of thing, yes.

**MR BANKS:** Although we didn't give them poker machines to solve their problems but maybe that's an idea, perhaps for the future. Okay. I might just backtrack. Yes, you say that chapter 14 should be dustbinned. There would be a lot of people who would actually feel that would be good because it's such a big chapter in the report.

**MR CHARLES:** 30 pages.

**MR BANKS:** But I'm a bit reluctant to do it without hearing a bit more from you as to why it should be dustbinned and indeed, which of the analyses and the proposals in it you feel have no merit or which have some merit. Perhaps it's something that you could get back to us on. But I would just say though that the commission again has been quite careful in the information it has put there and the options it has put. It hasn't said, "Government, do all of this stuff." What it has said is, "Here's an issue. We believe that consumer protection is underdone, that there should be more options for gamblers to have more control, particularly problem gamblers, to understand more about the nature of the activity that they're involved in, and here's some possible ways of achieving that. They would need to be tested, they would need to be assessed for their effectiveness and so on in the normal way."

So in a sense we put the matter properly in a draft report to get the kind of reaction that hopefully you and others will give to us as to whether these are appropriate or not. You say they don't pass the reality check and that may well be true of some of them. We screened out some that we felt didn't meet a reality check, but if you tell us that some of those would be totally inappropriate for some reason, then we will respond to that.

**MR FITZGERALD:** Could I just make a comment. The reality check was - if you are talking about actually what's in chapter 15, which is the consumer protection stuff, because chapter 14 is about capping and accessibility.

**MR BANKS:** Okay, 15, yes.

**MR FITZGERALD:** So I'm not sure which chapter you're throwing out, but you can tell me that in a minute. 14 is about access. Is that the one?

**MR BANKS:** I thought you liked that one.

**MR FITZGERALD:** Yes, I'm surprised you would throw that one out, but it's the other one that I thought you might. Can I just make a comment about the consumer protection stuff. Firstly, we have sought comments, so that's fine. The second thing is it was reality checked against 300 problem gamblers. It has never happened before

in the world. Actually, these issues were put and they didn't agree with all of them. As you know, we put a tick and a cross thing. We said, "Come back to us." The 300 problem gamblers, who actually have experienced it, were much more discerning in terms of what they said would work and wouldn't work. A lot of the stuff we thought might work they said wouldn't work at all.

So there's a very big reality check and I doubt whether your association or anyone else has surveyed actual problem gamblers. Just occasionally people that have actually consumed the product might actually know which might have helped minimise their problems. That's what we did. 300 problem gamblers who had nothing to lose or nothing to gain from this survey - very insightful. A lot of the stuff that others had said to us, like clocks on walls, they said, "Waste of time." So it would be a mistake to believe this hasn't been reality checked. It has been reality checked with your consumers, but those that ultimately ended up with difficulties. So in your response, be very careful that you think these are not out of some theory. They were heavily reality checked. Whether you agree with them or not, I just want to make that point because this was something that I think is really important in social and economic impact statements - that you actually do talk to consumers who can inform.

**MR CHARLES:** Just in relation - well, that's mainly in chapter 15, but if I just go to chapter 14 for a second, I'll come back to that. I found chapter 14, Regulation and Access - a lot of it I found sort of very academic and I don't think it really hit the mark. Indeed, once or twice you hit the mark, as I've said; you have then glossed over it. The obvious reason for having capping - whether you cap machines per venue at 50 or 100 or whatever - the reason for capping, one substantial reason if no other reason, is to stop casinos developing. Otherwise in Sydney you will have a dozen or more casinos develop with 1000 or more machines, if the state government doesn't do something about capping. I mean, that just stands out like the proverbial light on the hill.

The other thing I take in 14, where you basically say that smaller venues will generally be unable to match these efforts, that is, of larger venues, in regards to problem gambling - I mean, I don't agree with that. I mean, if I was a problem gambler, I'd just think the exact opposite is true. If I wanted to be anonymous, I would run into a place that had several hundred machines that I could sit there and no-one really knows I'm there, whereas if I go into a place with - whether it be a hotel or a club - with 20, 30, 40 machines, obviously the proprietor, I know particularly in a hotel, they will know them. I think it's the exact opposite.

Now, you will see with the state government's legislation that it introduced yesterday and the package that we are going to be putting forward to them in the next few weeks that we have been developing for six months - that together with harm minimisation, all of that, all those put together, you know, a hotel with 30 machines will have the right package. It really has nothing to do - it's totally irrelevant whether he's going to have 20, 30 or 40 machines. I just think the capping thing though, to

me, stands out as an issue that's just undebatable. But on the 15, I take your viewpoint.

**MR BANKS:** Just come back to the 14, then, just to finish that off. I guess on the capping, the thrust of this chapter was to look at what most people are concerned about when they talk about capping, and that is capping it in a way to reduce social impacts. So we responded to that and what we found was that it's very complicated. The global caps can create perverse effects and so on. So we came down favouring somewhat venue caps relative to global caps - - -

**MR CHARLES:** Absolutely.

**MR BANKS:** - - - and I think you liked that. You said, however, that we hadn't highlighted the main reason for that, which was to stop your competitors, the clubs, getting too big. Now, on that issue we have a whole chapter on mutuality and so on, as you know, where again I think we've sort of laboriously gone through all the ways of dealing with what we do agree with you is a distortion occurring through the pokie income that's fuelling excessive capital expansion in the clubs. But again, it's not an easy issue to deal with and I think we've gone through it very seriously to sort of understand what would pass a reality check, in terms of what would be a reasonable way of dealing with it. Now, capping is one possible indirect way of dealing with something that is not readily taxed. So I agree with you there. But maybe it's something we can look at more in final.

**MR CHARLES:** Just in summary, at the AHA, we have been discussing recently - in fact we just had a discussion yesterday on a number of matters, on issues coming up, and it was said that we're effectively - I know this is a very general statement - but we're really not in the retail industry any more like hotels used to be. We're entertainment centres where people will go in, have nice food, bistro, bar, have a niche market gaming room if they want to go in and pay 20 or 50 dollars into a gaming room, which is how we sold it and argued it with the government. I don't want personally, and I don't think the industry wants, two or three - although individual hoteliers might disagree - but we don't want 2 or 3 hundred gaming machines in hotels in New South Wales.

Now, obviously we would like a few more than 30 but, I mean, the thing is that basically you're looking at a total entertainment of good food, good wines and beers, etcetera etcetera, good entertainment, a nice little gaming room for people to have a good, encompassing entertainment for that evening. That's where it's going and that's where people are spending their money and that's why hotels in New South Wales now are doing fairly well. That's the future, but we don't want to become gaming palaces. But I just think as a taxpayer, I don't want to see a dozen or so casinos develop out in the suburbs out where I am. No, thank you very much. It doesn't matter who owns them or who runs them. It's as simple as that.

On the side of chapter 15 that Mr Fitzgerald raised, we will come back to you. I don't want to go through it all now. I understand what you're saying. We will try to

be more specific and come back to you on that, because now that we are about to give our presentation to the state government, we will probably be more attuned to this and we will come back to you on that. Some of the things, personally I don't think they will have an impact. If I'm proved wrong, well, so be it. That's good, but nevertheless we will come back to you in more detail on that.

**MR BANKS:** Okay, thank you. I'm conscious that the clock is ticking by and we don't want to hold you longer than necessary. I'll just go through the points I was going to make and see if - - -

**MR CHARLES:** If I can say, just while you're looking, one of the points that were raised when we were talking about total entertainment centres, raises the question about liquor stores, and you're talking about online services. We're talking about online - nobody saw in the paper recently - about online liquor sales etcetera. I mean, you're going to be able to sit at home and just order all your - whether you do it on the telephone or whether you do it via computer. You will just have all your packaged liquor via online. The world is changing and that's where we have started from in the hotel industry, saying, "Look, we're not an over the counter retail any more." Sure, some hotels, particularly in some areas, will be more so than others, but we're more entertainment centres now offering quality products.

**MR FITZGERALD:** We appreciate you giving us a copy of your submission to the Senate on the online and Internet stuff, so we won't go into that.

**MR CHARLES:** You will see that we basically don't differ very much.

**MR BANKS:** No, in fact at one point you heartily endorse something and I almost choked, but - - -

**MR CHARLES:** You thought, "What's wrong?"

**MR BANKS:** What's going on here? A change of author? But no, and I think that's right. But the interesting thing for me was, I think your submission to the Senate on Internet gambling in some ways is consistent with the approach we have taken in that chapter 15, because you're talking about it using a range of protections and measures, probity checks, consumer protection devices and so on, which in some ways we're trying to translate from cyberspace into real space. That's what we're doing in that chapter.

The only other point, really - there are a few minor things - but the only other general point I suppose is that, partly because of your view about the role of our commission in making findings, you didn't address very much the last chapter, where we float some options for a kind of a blueprint of gambling regulation and institutions. If you had, I know you would be thinking about that in the context of New South Wales. If you wanted to make any comments on what we have put there, offer any criticism or even any compliments, that would be okay. But I'll leave that with you.

**MR CHARLES:** We'll come back to you. We'll have another look at that and come back to you, have a look in the context of the whole thing.

**MR BANKS:** Look, I think we have had a good discussion. It's exactly the sort of discussion I wanted to have, and thank you for staying with us so long on that. We look forward to getting more information from you. We will certainly look at the material you have given us and get back to you about how we can confer with those who have helped you prepare that material.

**MR CHARLES:** Yes, absolutely.

**MR BANKS:** Good. Thanks very much. We'll break now for a moment, please.

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**MR BANKS:** Our next participant this morning is the Uniting Church Board for Social Responsibility. Welcome to the hearings. Could I ask you please to give your name and your position.

**REVEREND HERBERT:** Right. My name is the Reverend Harry Herbert and I'm the executive director of the Uniting Church Board for Social Responsibility.

**MR BANKS:** Good, thank you. Thank you very much for taking the trouble to appear today and also for preparing the submission for us, which we've read and we might want to ask you a couple of questions. But why don't you proceed to outline the main points that you want to make.

**REVEREND HERBERT:** Well, just as preliminary, as opposed to the previous speaker, we thought that your report was pretty good in general. In fact, having previously had a few rounds with your body and particularly its predecessors on other reports, we were pleasantly surprised to find ourselves largely in agreement with the Productivity Commission. It's changed our whole view of the Productivity Commission.

**MR BANKS:** This is a new organisation.

**REVEREND HERBERT:** That's right. But we do detect a pretty extensive campaign all around the place to discredit your report, which rather alarms us. I mean, for example, I was attending a meeting this week when a very senior public servant, very close to making policy in the New South Wales government on these very issues, said at the meeting, "Oh well, you know, there's not really many problem gamblers because the Productivity Commission simply said anyone who spends \$12,000 or more a year - that's the test they use - is a problem gambler," etcetera etcetera.

Now, you'll be pleased to hear that I did correct him in midstream and drew his attention to the SOGS test and that it doesn't have any mention of \$12,000 anywhere in it, to my knowledge, and that he's nicely conflated two parts of your report into one. But it does, I guess, indicate how difficult it is for some people who are close to the gambling industry to accept some of the information you've produced and also how easy it is for them to now have a rearguard action to make out that your information is not well based.

I mean, for us, for the first time a group within the community had put a lot of effort and work into providing some very good factual information and if it says - as we say in our report - if it says one thing, it makes it very clear that we need that sort of thing on an ongoing basis, and so your question about research we would answer in the positive. Yes, there ought to be research done on gambling. There is some at the moment but I think there's a very good argument for a national research organisation funded across from contributions from the gambling industries in each of the states. For example, the Community Benefit Fund in New South Wales, of

which I'm a trustee, does commission research, but I think there's an argument for saying some of their money could in fact be allocated across to a national program.

Also I think at the moment there's not - although in New South Wales we know some of the things that go on in Victoria and there's a bit of tick-tacking between various groups, there really isn't much national coordination. There would be a lot to be said for doing it on a national basis as you have done. So in answer to your question on that, yes, some efforts ought to be made by the Commonwealth government to have something, such as we have with the Institute of Family Studies in regard to family issues and others like that, so that the information continues to be put forward.

The main concern we have is exactly where the last contributor didn't - you commented - didn't make any submissions and that is in regard to chapter 21, which we think is the crucial chapter of your report. We think it's really important now for governments to address the issue, how are we going to deal with these issues? What bodies will we establish in our - for instance, in New South Wales, to deal with the issues that you have identified? We note, as we say in our submission, that there's a bit of ambiguity in your report. It might just be typographical errors as to what ought to be held together. You know, you mention in one part one list and in another part a different list. We believe that there ought to be four things that ought to be held together in the one body which you rightly, we believe, indicate should be an independent group attached somewhere within government.

Those four things are research, as I previously mentioned, public awareness campaigns - we've had, for example, in New South Wales very little public awareness campaigns except in the promotion of the G-Line, and by that I mean proper media campaigns which draw the public's attention to the possible dangers of gambling. Thirdly, funding services which provide help, assistance, counselling and treatment for people who do have a problem in gambling; and, fourthly, most importantly, also to provide funding for preventative programs and services.

In New South Wales the IPART committee really wanted to reduce that and to say that this body should simply only provide funding for counselling programs. We believe all those things ought to be held together, not dispersed around government; for example, not put public awareness into one government body, put research into another government body and funding programs into, say, Department of Community Services and dissipate the work, because we think that if this issue, which will be an ongoing issue, it is an expanding industry, it's going to be there, we need to have the one body who has their finger on the issue from a social impact point of view. That body could be very helpful to governments in the future because governments could look to them to provide help and advice and assistance in making policy decisions.

So in New South Wales, as you know, we've had the IPART report, and we don't agree with some of the recommendations of the IPART report. We don't agree with diminishing further the role of the Community Benefit Fund. In fact, we want to see it, as I said, expanded into a bigger role, not diminished into a smaller role. Also

they recommended, we believe wrongly, that that independent authority, as you call it, should be attached to the enforcement arm, you know, under policy control enforcement. We think it ought to be attached either to policy or to control, certainly not to the enforcement of government. I think your commission would do the New South Wales government a favour by making a bit of that more clearer in your chapter 21. I think maybe you got a bit tired when you got to chapter 21 at the end of the process and you - - -

**MR BANKS:** We were tired by the time we got to chapter 15.

**REVEREND HERBERT:** And you put so much tremendous work into the earlier stuff and I thought that some more attention to those issues would be really good, so that's what we're encouraging you to do, because we see, in New South Wales in particular, these are current matters. These are matters being discussed and debated at this very time and I think that some people in New South Wales, even the premier himself, has mentioned the Productivity Commission a number of times and so some guidance from your commission might well assist public policy making here.

**MR FITZGERALD:** Yes, I think chapter 21 is one where we really do want feedback because in some senses, given that there are many constituencies who are affected by this report, government is one of them, and there does seem to be around Australia a need for some sort of blueprint which they can bounce off, so we are looking for comments.

**REVEREND HERBERT:** Exactly, yes.

**MR FITZGERALD:** I just need to understand something. You mentioned the enforcement agency we had as separate from the Gaming Control Authority, but we have not worked out where it sits. Does it sit reporting to a Department of Gaming? Does it sit, you know, in the New Jersey model, to the attorney-general? We haven't been at all prescriptive. We haven't been prescriptive about any of that chapter but certainly in that area about where that sits, you just made a comment about that. I just need to clarify where you think an enforcement agency or body sits or functions.

**REVEREND HERBERT:** Well, in the IPART report they gave the control and enforcement as two, more or less, statutory bodies - - -

**MR FITZGERALD:** In the one thing.

**REVEREND HERBERT:** No, separately, I think. They're two separate functions. I always favour and I think groups from the community sector always favour independence for such bodies because we have seen over the years how the intense lobbying that occurs in those areas - and at the end policy is of course at the top made by parliament, that's an open process, but I think there's a lot to be said for statutory and independent bodies to be in charge of those control and enforcement functions. I mean, the Casino Control Authority in New South Wales is a model set-up as an independent body and nobody has particularly attacked the Casino Control Authority

as not being an effective body, and so following that model across to other gaming venues is important, as I think you show.

The idea that the industry is segmented now is not so clear. I mean, clubs are now almost mini casinos; they're huge. I mean, the Panthers Club is a huge organisation. It's much more akin to the casino than it is akin to the West Lindfield Bowling Club. I think that those old ways of seeing the industry, I think are no longer appropriate. So independence is a very important - - -

**MR FITZGERALD:** Why do you think governments broadly have still resisted independent control authorities across modes of gambling. Where is the stumbling block in this? Because this is not a new concept. It came up in IPART. It's come up in other studies. Where do you think the stumbling block - given that, I think you're right, the Casino Control Authority has not been criticised substantially in these hearings certainly - where do you think the stumbling block is to get across Gambling Control Authority?

**REVEREND HERBERT:** Well, I think the industry and its component parts are very powerful lobbyists. They're very powerful sectors in our community and governments want to be able to deal directly with them. They want to be able to make deals to satisfy. They don't want the annoyance of having some independent body between the government and the hotels and the clubs or the casino in making these decisions. In the end I believe governments will see the great value in having someone in between them and these bodies, but at the moment they don't appear to see that and I think therein hangs the difficulty, whereas it would be better if governments saw themselves as simply providing the overall policy direction and the overall legislative framework. But I think in time, as I said, governments will come to see that - particularly with reports like this - that there is some value in them standing aside from these decisions.

Over the years each various lobby group has done separate deals with government with no real policy. If you were to say today, "Where is the New South Wales government overall policy on gambling?" - well, the best you could be shown is the harm minimisation bill which has been, you know, trundled out in the last few weeks in some ways in response to your report. There's no overall policy.

**MR FITZGERALD:** Just in relation to the community fund which we've put in here, we've got a couple of things as a blueprint for discussion. One was that there should be a levy not only on casinos but across all modes and, secondly, that that would have an independent board but with the secretariat being provided by some form of control authority. But one of the issues that's cropped up is - I just want to canvass this - people have said that there's already so much money coming out of the existing levy, say in New South Wales from the casino, that there's no reason why it should be across the gambling industries, and the second thing is that you can't spend it anyway - you know, that there's so much money that ultimately you won't be able to spend it, so why collect it? Do you have a view about those sort of positions?

**REVEREND HERBERT:** It depends what you give that body to do as to how much money it needs. For example, the current Community Benefit Fund has not done any substantial public awareness. Actually I can say that at our meeting yesterday we decided to form a subcommittee, of which I was made the chairperson, to start to organise that. The question of how much you spend on a public awareness campaign, well, it depends on how big you want it to be. I think that realistically a good public awareness campaign on an ongoing basis, even a modest one, could easily spend 5 or 6 million dollars a year. I mean, in the advertising world that is not large money. If you compared it - for example, I don't have the figures on what the industry spends on advertising the industry but they would be massive amounts of money. I wouldn't propose the same amount on public awareness but some figure relative to that, some percentage of it, would still take up a large sum of money.

Also preventative programs. A current round of the Community Benefit Fund is looking at some preventative programs and we will no doubt get a lot of applicants. The fund was told - the trustees were told yesterday that some 800 inquiries for the packages have been received by the staff, so that will indicate the interest in the community. Again, preventative programs - well, that could be a very large expenditure. At the moment - for example, the Community Benefit Fund funds a company called Convenience Advertising to put notices in the toilets of gambling venues - at the moment that costs the Community Benefit Fund about \$50,000 per month but it's only in 10 per cent of the venues.

We have to look at whether or not it's good to pay the company to do it or to force the venues to do it. Those are issues we'll approach. I simply give that as an example, that if you have a well organised, well orchestrated information public awareness campaign, you could easily justify the expenditure of 10 or 12 million dollars a year on that alone, I believe. There's 3000-odd venues in New South Wales.

**MR BANKS:** Just when you use the term "preventative programs", what have you primarily got in mind?

**REVEREND HERBERT:** For example, some of the programs we would support there may be related to drug and alcohol problems because often those are intermingled with gambling problems. We've, in the past from that fund, funded family support programs because family support services have indicated to us a number of their clients are people who are also affected, within their families, with gambling problems. Also I think that there is some evidence around that if, in some areas, more alternative programs were provided for people for their entertainment for example, or youth programs etcetera, theatre programs even, that that could be classified as a preventative program in some ways.

**MR BANKS:** Okay.

**MR FITZGERALD:** The research that you talk about - and your fund actually does fund some research - - -

**REVEREND HERBERT:** Well, it has in the past, although I think we discovered as trustees that we originally put our submissions to people to put up proposals for research, and I think we've now discovered that's not a good way to go. It would be better to ask more deliberately, to work out a research program and then go out to people and say, "Look, this is what we want to know. Who wants to help us find out about it?" But again, that's a program that could consume quite large amounts of money, if it is very professionally done. I mean, in my view the fund ought to have a person in charge of that program, who's someone with good academic qualifications and someone at a reasonably senior level who's in charge of it.

**MR FITZGERALD:** We've made some comments, I think in the very last part of it, about national coordination to some degree - - -

**REVEREND HERBERT:** Yes, I mentioned that before.

**MR FITZGERALD:** You're largely supportive of a coordinating role?

**REVEREND HERBERT:** I don't think I would say that you should have no research in New South Wales or Victoria. But some effort ought to be made - I mean for example, a national body which would draw some funds from each of the states could then act as a coordinating body. I think there are different elements of gambling, different practices between various states, that in themselves would provide good reason to have different sorts of research in different places. But certainly it all ought to be brought together in some sensible way.

**MR BANKS:** Yes. Certainly one area that struck us as being very fragmented is just information about counselling services and their activities and profiles of people who go through them and all that.

**REVEREND HERBERT:** Exactly. I think that's another area in New South Wales that needs more resources and more effort to be made. I think there needs to be an accreditation system for counsellors. I think the trustees all recognise that has got to happen. There need to be some ground rules about the type of counselling that is offered. I don't ever suggest that it will be one type of counselling but there ought to be a number of types of counselling. Also, I think that the qualifications of counsellors will be an issue that will have to be raised. All of that applies in regard to Commonwealth funded marriage counselling programs currently and one would expect it to come onto line in this area as well.

**MR FITZGERALD:** Just in a broader sense, one of the things that we have heard both before and since the draft report was released - some have indicated that they're still of the view that a large amount of the concern around problem gambling is still generated by an emerging welfare industry which, to put not too fine a point on it, they would say is a self-serving sector. Given your background, both as a service provider but more significantly in terms of funding agencies, is there any validity in that, and to that extent what trends are we seeing over that period of time that the

funds have been funding agencies? Are we starting to see improvements, systemic improvements in the quality of those services?

**REVEREND HERBERT:** I think we are, and of course the benefit fund in New South Wales has got processes in place to get data and feedback from the agencies that it funds. So I think it's becoming more sophisticated as we have moved into the industry. It's always important to remember that in New South Wales, unlike in Victoria, when our fund was established - and none of us really thought we were going to be doing the things we have ended up doing, I might say, as volunteers on this fund doing all this work for the government. It seems in some way ridiculous. But because I so value the independence, I freely make myself available to do the work that I don't think they would do as well. But there was an established sector in New South Wales when we came into operation. There were organisations providing gambling counselling. It wasn't as if we could start with a clean slate, as they did I believe in Victoria. So that has meant a period of merging what was there with what needs to happen in the future.

I do think it is improving but I still say more effort and resources ought to be put into bringing that on line more speedily. That's where I would go back to the levy across all of the industry. While you can say it's not the casino's money - and I quite agree with that, despite whatever the casino continually says. It's the government's money which they have appropriated. The government can say, "Well, we took it from the casino because that suited us, rather than taking it from other operators." I believe that from a philosophical point of view it would be better if the Community Benefit Fund had its funds drawn right across the industry. It seems to me always a little galling that it's the Community Benefit Fund that pays for the convenience advertising and the G-Line promotional material in the clubs and hotels, when in fact they don't actually contribute to the fund.

Also of course I would re-emphasise the importance of any such body, as you have said, to be based, as the New South Wales fund is, on independent people, because this is a very politically active industry and when we come to community awareness campaigns I can be pretty sure there will be sensitivity about those things. I think they should be in the hands of independent people and not controlled by forces within government who will want to placate the operators.

**MR FITZGERALD:** Can I just ask one final question about that. There have been some issues around whether or not such funds should actually fund government-delivered services. In New South Wales that would be funding through DOCS or funding through health and what have you. Others have said that those sorts of departments would need to be represented on any board or what have you.

**REVEREND HERBERT:** Yes.

**MR FITZGERALD:** Do you have a particular view about the way in which government interacts with these sorts of funding or community fund bodies?

**REVEREND HERBERT:** Well, the trustees in New South Wales compromise both community people like myself and also representatives of government departments, and I think that's a good model. It does allow the community representatives to get the benefit of the expertise of government representatives. I think it's an excellent model. I don't have any problem with such a fund, particularly if it's expanded. I think when it's a small fund, as it is - in our submission we quote the figure there, where we point out that the New South Wales government, since the casino has established, has obtained some - what is it - \$600 million from the casino in taxes and fees, and 20 million has been made available to the community fund. So let's keep it in perspective. It hasn't been a massive sum of money, and yet we have funded some government departmental programs.

We have just agreed to fund TAFE to develop a course for employees for harm minimisation in gambling. So I have no personal problems with that. I think that works well. But when it's a small fund you're naturally reluctant to want to spend it on programs that you think that department ought to fund out of its regular budget. But if it's something quite specific then I think that's appropriate.

**MR BANKS:** All right, thank you very much for attending. We appreciate that. We will break now for lunch and we're resuming at 1.30.

(Luncheon adjournment)



**MR BANKS:** Welcome back everybody. Our first participant this afternoon is Star City Casino. Welcome to the hearings. Can I ask you please just to give your names and positions.

**MR HOGGETT:** I'm Jim Hoggett, general manager corporate affairs, Star City.

**MR GRIMSHAW:** Peter Grimshaw, media director of Star City.

**MR BANKS:** Good, thank you. Thanks very much for taking the trouble to come here to talk to us about your submission. We've read it through, there's lots in it and hopefully we can discuss some of the key points here, but I'll hand over to you to make whatever overview of the submission you'd like to make.

**MR HOGGETT:** Thanks very much, Mr Chairman. I have read the report and although I won't admit to reading all of the annexures, it's a very large and detailed report. As you've already said, we've commented in some detail on the draft report. We think there's a lot of useful discussion in the report and we won't be making the detailed points here. They're in our written response which we delivered to you yesterday. I'll say at the outset, I guess, that the draft report has taken the public debate in a certain direction. That arises from the structure and the emphasis of the draft report. In a sense the public debate on this issue is more important than the full draft report because the public debate will influence what extra burdens are placed on the industry, what extra restrictions are placed on gamblers and what new regulations and associated regulators come into being.

So the emphasis of the commission's draft report summaries are in some ways more important than the content of the full report, although we've commented on that obviously. The reaction to the draft report demonstrates this. There was an outburst of hysteria and self-flagellation on the publication of the draft report and this is a form of self-indulgence that the anti-gambling industry loves. In turn, like a Parisian chorus line, all the politicians gave a synchronised knee jerk and of course none of them had read the draft report. They had read the carefully crafted key findings and bits of the executive summary and had had a few short briefings. I'd like to posit some alternative headlines which the draft report could have generated with a different and more realistic summary of the work in it.

Three of them occur to me: "80 per cent of Australians enjoy gambling", "98 per cent of gamblers have no problem with their pastime", "Gambling creates only a tiny fraction of harms associated with, for example, drugs, alcohol, smoking or road smashes". Of course, headlines like these would never get a run. They're a bit like the classic headline, "Major earthquake in California, very few people injured". But if you read this draft report in detail, that's the sort of headline it would attract if it was interpreted in a balanced way. I point out quite tangentially that the incidence of violent crime in this country has tripled between 1993 and 1997 without generating a report of this kind. Now, there's a real serious national problem. Despite all the attempts to minimise the benefits and maximise the costs of gambling,

we can't get away from the fact that even with its own survey - and I might say we'll be coming back to the survey.

We have as a group, as you know, commissioned ACIL to look at the survey. Surveys are very expert matters. They're matters on which I'm certainly not qualified to comment at all. We've asked for a detailed analysis of the survey and I understand that some of the results of that will be presented at the hearing of the commission in Brisbane. But even with its own survey the Productivity Commission finds less than 1 per cent of adults have severe gambling problems and a bit more 2 per cent overall have some significant problem in the words of the commission - at least in the words of the frontispiece of the commission's report. These figures are very close to figures that are published from the US commission and study into gaming in the USA. I think that's significant because we've had a lot of commentary on how it's out of control in this country. Our figures aren't much different from the USA.

The commission has indicated that it may be trying to inflate these figures or enlarge them somewhat in their final report. We think they're already inflated. We don't think they're the tip of the iceberg, we think they're the whole iceberg and part of the surrounding ocean. We think there are rubbery figures. We're particularly concerned about the attribution of divorce and suicides to this industry. Those are serious, serious matters. We urge the commission to look very carefully at those statements in the report that relate to those extremely serious results. Three-quarters of this report is devoted to 2 per cent of gamblers. As I said, according to an American study, gambling generates only a tiny fraction of the costs associated with other major social problems.

I think to some degree the way this report has been drafted is a misallocation of the commission's efforts and of our public funds. That's my judgment and I realise it won't be shared by the commission, but that's my judgment. Apart from this we have three specific quarrels with the report - major quarrels. We have a lot of minor ones which are included in our commentary. First, it seems to contain, and unfortunately by virtue of the way in which our media works, to have propagated a number of important inaccuracies. The Prime Minister is ashamed that we have 20 per cent of the world's pokies and the treasurer is appalled.

We hope they can now stop being ashamed and appalled. It turns out that it's much less than that, possibly less than 3 per cent, but we believe certainly no more than 6 per cent. I don't blame the commission entirely for this error. It's been around for some time and we've fallen for it for ourselves, but we believe they should have checked more thoroughly here. It's a terribly important point and it's a mega-sensitive point to the media. It's the sort of figure they pick up and it's the sort of figure that I guess we should have known they would pick up.

**MR BANKS:** Just on that, why do you think the industry never corrected that number because I remember reading about that number even before this inquiry started and it was typically recorded as 12 per cent - New South Wales as 10 to 12 per cent of the world's pokies - and it just has common currency. So when we saw

it in the annual report of the major manufacturer of poker machines in Australia, the annual report to shareholders - and had it broken down in the way you have, this had certain credibility, it still seemed like a big number - we got back to them and asked them about it. They gave us no response to lead us to doubt those numbers. So in some ways we'd been led into this by the industry.

Having said that, as you know, our report doesn't depend on those numbers and in fact they're mentioned almost incidentally and I too was surprised by the extent to which they were picked up. But why do you think the industry didn't raise this as an issue before?

**MR HOGGETT:** The numbers, as I said, had been around a long time. They're figures that we've understood were correct. But this is little old Australia, this is a tiny portion of the world. When we start using global figures we really need to correct them. We need to go globally. Those figures I guess you took from maybe an annual report of an Australian manufacturer, I don't know.

**MR BANKS:** Yes, a manufacturer operating in world markets.

**MR HOGGETT:** That's right. But let's look into the point itself. It's not in your key findings, that figure, so you haven't actually highlighted it up-front. We're not accusing you of making a big thing of it in your report. What I'm saying is, it's such an explosive number that wherever you put it in your report it was going to make headlines. Any media person would tell you that.

**MR FITZGERALD:** But a couple of things we should say, it's not necessarily an incorrect number. At the moment you in your submission have made a summary of world gaming machine numbers which we're seeking a breakdown of. For example, some of the machines that possibly are caught up in your figures actually produce cookies as results. Are we to compare poker machines and the sophisticated manner that we play them with machines that actually deliver cookies and food? Is that the same? Are these in there? This talks about moving into almost pinball-type machines. Are they included in these figures? So I just want to make a point: at the moment there's been no information from the industry to actually tell us what we're comparing here in these new numbers. If you think the 21 per cent is wrong, I'd be very cautious about adopting the current new figures until we get that breakdown because we know in those figures that you've presented in your submission, particularly in Asia-Pacific, there's very little comparison between machines; in fact, almost none.

In the annual report that was quoted which was for shareholders and investors, it was very clear about the fact that we had a very substantial part of the world's market and boasted about that. In fact, overseas they actually talk to them as the Australian-type machines. So I just want to be careful here; whilst we note the new figures, the jury still is out as to whether we're comparing like to like, or whether if you think the 21 is wrong, then in fact these figures also may be misrepresented. What we want to do is get to the bottom of that. But if we are talking about

comparing machines that are not of any likeness and certainly produce totally and absolutely different rewards, then that's what we have to find out.

**MR HOGGETT:** I heartily endorse that. I'm not here to score points on this. I'm saying your figure is wrong and it's wrong by a long way. But let's try and find the right figure. You might say, "Pachenko machines aren't the same." If you ever go into a Pachenko parlour and see people playing, the same characteristics about which you are concerned - those characteristics of addictiveness, those characteristics of long play, those characteristics of putting money into the machine - irrespective of the prize, are there.

**MR FITZGERALD:** What is the prize?

**MR HOGGETT:** The prize, as I understand it, the prize now could be money.

**MR FITZGERALD:** Could be.

**MR HOGGETT:** Yes, it could be. We need to look at it.

**MR FITZGERALD:** We take that on, but I just make the comment, you keep saying our figure is wrong by a long shot. On the other hand, you say we've got to look into it. I would just want to make sure that on the record at this moment you put an alternative set of numbers which have to be evaluated, so our figure may or may not be wrong and it may or may not be right. At the moment let's just look at it. I mean - - -

**MR BANKS:** We don't want to blow this up out of proportion.

**MR HOGGETT:** No, that's not blowing it out of proportion.

**MR BANKS:** I think obviously the public now is going to have an expectation of our final report that we'll nail this issue. The study that I've seen - and it's not the one that you're referring to which I think is a Canadian based one.

**MR HOGGETT:** There are two at the moment, yes.

**MR BANKS:** I've seen the other one and that doesn't help me because it says we've lumped everything together and it just gives numbers, but it doesn't say what kind of machine in what place and so on. So it's a bit like lumping, as I was saying, racing cars and mini-minors and bicycles and sticking them all together and saying, "This is the number of forms of transport that we've got in the world."

**MR HOGGETT:** I'm happy about that. Let me put on the record though that we believe that the figures we produced are at least as valid and possibly more so than the figures you have. So we're in dispute about this. All we want is that we get the right figure that takes in the sorts of machines about which you're concerned. Let's

not play with what the prizes were, let's play with what their properties are. That's what you're concerned about, Robert.

**MR FITZGERALD:** Let's have a discussion later because the last part that you've just moved out, of the prizing, is quite a considerable issue. To not acknowledge that, to only say, "We're not going to look at that element," is - - -

**MR HOGGETT:** I'm not not acknowledging it, I'm saying it's only part of it. Don't put words in my mouth.

**MR FITZGERALD:** Well, let's just see.

**MR HOGGETT:** Yes, let's see. We are, by the way, very concerned about the defensiveness of the commission on this and, Gary, your letter to the Financial Review attacking the industry we thought was a bit out of place. We're trying to find the right figure. We want to find the right - - -

**MR BANKS:** No, that's right. But you see all I was doing was correcting the implication in that article that it was our estimate and I think I was quite within my rights to indicate that we got that estimate from the industry.

**MR HOGGETT:** You said the industry was trying to redefine the market; we're not, we're trying to find the right figure, let me just say that. We're not trying to redefine the market.

**MR BANKS:** I was making an observation which is consistent with what you were saying before. I mean, there was no indication from the industry previously putting doubt on the 10 per cent or 12 per cent or by implication the 21 per cent number. So it's only happened since our report has come out. So that's all I was saying. I wasn't trying to - in a sense I was simply trying to set the record straight in terms of what we'd said and where we got it from. But we may differ on that.

**MR HOGGETT:** Well, it may be 2 per cent, it may be 6 per cent, it may be 9 per cent, but it's a long way from 20, 21 per cent. The figure is important because in a sense the commission's report makes it important, inadvertently or otherwise. If of course it's 2 per cent or 6 per cent, then we're not much out of line with other nations and we think a major plank of the report disappears, which is the plank that we are somehow out of control as a nation. The commission can of course say that machines across the globe are different, but that's still a world away from saying that we have one fifth of the ones that we're talking about.

The fact is that if you look at the gross figures, the gross consumption figures, we don't gamble all that much at all in total household consumption, and in compensation for pokies we have a very small proportion of the world's football pools, wagering on races or mah-jong sets. We have our own forms of gambling. We are also a little, I guess, intrigued by the commission's use of the black rhinos example, because we believe that led to a misleading view that you had to play the

machine, I don't know how many hundreds of thousands of times, to win the top prize. Of course that's not the way it happens, and we've tried to put some correction into that. But it's easy in this industry to get the facts wrong, particularly about gaming machines. They are quite complex affairs, and you use that point when you're talking about the need for the odds to be published.

**MR BANKS:** I should say on that, you may be interested in that we did have our own simulation model of that particular game - - -

**MR HOGGETT:** I know that.

**MR BANKS:** - - - based on information that we received, and in the report we did say "on average", so we're talking about a distribution. We're not saying that this is the only point, which you seem to imply, and again, I agree - I mean, things can be simplified if taken out of context.

**MR HOGGETT:** I ask you to look at the word, because in one point it says "it will take X number of plays". Well, "it may take" or "it could take" is the wording.

**MR BANKS:** "On average".

**MR HOGGETT:** "It may take one button push." I ask you to look at that wording again, because of course everybody - the newspapers all said, "Oh, gosh," you know, "Black Rhinos is going to take you 50 million button pushes to get a prize." Now, it sort of makes our customers look a bit stupid, because actually they know that it doesn't take that or it may not take that, otherwise they wouldn't play. If they thought it took that, those machines would never be played.

**MR BANKS:** Well, not many of them will know that, because not many of those prizes have been given out.

**MR HOGGETT:** Yes, well, that's true. Not many of them win, but that's the nature of machines and gambling.

**MR BANKS:** That's right.

**MR HOGGETT:** It's the nature of this industry. It also, I think, tends to gloss over the fact that governments, as you know, already set the return to player, and when we talk about the cycling through, and you will eventually lose or you will eventually spend all your money, I think we need to keep firmly in mind that governments do set the return to player from machines and players know that. I'm disturbed at the sort of degree of suppressio veri and suggestio falsi, Gary, that I find in the report and that we tried to tackle in our submission.

Secondly, this draft is typical of what I would call a finger wagging monetary document that official sources sometimes produce. It is, I think, a bit de haute en bas. It looks down on gamblers. It makes little attempt to understand why so many

people, 98 per cent of gamblers, enjoy their gambling. Gambling is part of what our most famous poet, Max Murray, might describe as our vernacular culture. It's one of those pastimes that are dear to the heart of many Australians, but it is neither understood nor approved of by the elites, including those, I have to say, who make policy. They cannot understand why anyone would want to do something that has no monetary or aesthetic return directly. It's tolerated. So while we sit in our subsidised seats at the gambling subsidised Opera House, watching a subsidised performance performed by subsidised performers, probably having arrived by subsidised transport, we can think about how to regulate, and even more heavily tax those totally unsubsidised facilities for leisure and entertainment called clubs, pubs and casinos, paid for and enjoyed by the mass of Australians.

Why do the masses need to be so heavily regulated and taxed in this way? Because they cannot be trusted to behave themselves. What is a gambler? It appears that any gambler is someone who always has a potential problem, however long their trouble-free experience is. A gambler is someone who has to be constantly reminded by public signs in his or her face of the dangers of his pastime. A gambler is someone who cannot be trusted too close to an ATM. A gambler is someone who is financially punished through heavy taxation of his pastime. I shouldn't descend into sarcasm, but the temptation is almost too great to say perhaps they ought to be bushwalking, watching the ABC, going to the theatre. This is a social engineer's dream. The elites include those individuals such as the Reverend Costello whose main activity, like the industry protectionists of old, seems to be the public lobbying of government to oblige people to do what they cannot otherwise be persuaded to do voluntarily. In doing so, they add another turn to the wheel of the immense juggernaut of government regulations which rolls over Australian business every year.

I find it surprising that industry is arguing for economic freedom for the commission. This is a role reversal. I ask the commission to consider the people who work in this industry and who enjoy its product, when devising ways to make their lives more difficult. There is a massive national shift in consumption towards leisure and entertainment, towards experiences rather than goods. There is nothing unnatural in the growth of gambling, nothing that needs to be punished. There are problem gamblers. I'd just like to record that this industry is not in denial about this. They do need help. We see it every day.

Virginia Baker sitting there, works on it every day. Many of us inside and outside the industry are doing what we can on that score, and there are a long list of programs in place, often paid for by the industry. Most of the research on problem gambling in New South Wales, I think it's safe to say, has been paid for by Star City, or at least heavily subsidised by Star City through a casino community benefit fund which is now to be renamed the New South Wales Government Community Benefit Fund. So I think we need to keep it all in perspective.

The third and final reason we don't like this draft report is the sort of policies it asks us to contemplate. There's a strong suggestion in the report that the people who

work in this industry, the people on our casino floor, the people who take the drinks around in the clubs, should identify so-called problem gamblers and stop them from doing it. There will naturally be whole new teams of inspectorial busybodies to go with this which the commission has not mentioned and I think ought to address. We could have Luddite rules prohibiting bill acceptors and link jackpots. In this respect we think this is an anti-productivity draft report. Worse than this, forcing our employers to decide who is a problem gambler is a long step.

We're asking ordinary workers to decide something which the commission admits even experts disagree violently upon. Worse than this, we will force one set of Australians to police another set. This is what used to be called narking. I hate to think that this is because the commission knows that the government will not take on this dirty work itself. This would be the sort of obvious state control, inspectors patrolling the gaming floors, that Australians rightly detest. The commission would force a group of people who don't want to do this job, to do it on a whole group of other people who don't want it done to them. We're not just talking about the considerable economic costs of this, where the commission seems to have undergone a role reversal; we're talking about the social costs. A totally mistaken parallel is drawn here with the responsible service of alcohol.

If someone is intoxicated, you may be able to see it, though in many cases with difficulty. In the extreme you can measure blood alcohol content, but it's an incredibly difficult, and often unpleasant policy, for bar staff to administer. There's a propensity in government to pass a regulation and think, well, that's over, and then everybody goes off and does it and that's okay. Well, let me tell you, responsible service of alcohol is an extremely difficult policy to administer, and it causes a great deal of aggravation, anger and other things when people are told they can't have another drink and they're not actually intoxicated but maybe they're showing signs of one kind and another.

Identifying a problem gambler will in most cases be impossible, without extremely intrusive data on that person's life. So at this stage we have to invite the commission and its staff to give us some clear and easily workable guidelines, useable by people who are not skilled in this, and perhaps from time to time to come down to the casino and cop the personal abuse, possible violence and legal action that will ensue if we get it wrong. These cases won't just arise from mistakenly identifying problem gamblers, which will happen; they will arise from problem gamblers who don't want to be identified. If problem gambling is a sickness, as the commission implies, then there are quite a number of people who want to get treatment in their own time and on their own terms. When they do, then we're ready to assist and refer them to expert help. It's one of the things we do. They do not want to be tackled in public. We should at least extend to problem gamblers the same privilege of privacy that we give to other medical conditions.

I know the drafting process involved in these reports, Mr Chairman, and I've been involved in it, so I have little hope that the slant of this draft report will be much altered on its emphasis. I guess what I do ask is that the commission at least draws



back from the sort of pernicious policy that forces one set of Australians to do a job on another set.

In conclusion, we think the draft report fails to adequately meet its terms of reference. We were afraid when this commission was set up that it was stacked against the industry. We compared it with the US commission, broadly based with representation from industry and not just representation from the welfare side, but we did expect a greater attempt at balance. We think the commission has lost its way with this inquiry. We think the draft is unbalanced. We think it's tendentious, and we think some of its more important policy conclusions are out of touch with reality. Thanks, Mr Chairman.

**MR BANKS:** All right, well, I've resisted interrupting you.

**MR HOGGETT:** I'm amazed that you did.

**MR BANKS:** If you read the transcript you'll already see my monologue in relation to the independence of the commission.

**MR HOGGETT:** Yes.

**MR BANKS:** Perhaps if I start there, we certainly don't see ourselves representing anybody. We've tackled this in the way the commission has tackled any other inquiry where it's drawn for an associate commissioner someone with broader expertise from outside the commission itself, as opposed to some other bodies where they are seeking people as representatives of different groupings and you end up with a report I think that reflects that in the lowest common denominator, and sometimes that's seen as desirable. I've been, as you know, Jim, with the organisation on and off for a long time. I certainly uphold the values reflected in our legislation in the tradition of this organisation as much as anybody, perhaps more so, so I take exception to your comments towards the end, but you're at liberty to make them, and that's part of the process, I guess, that we go through in preparing our reports. I can sense that my colleague is going to say something.

**MR FITZGERALD:** Well, just the last comment. You referred to the US commissioner. I find it interesting. They actually have made recommendations, in many senses, more draconian than anything that's been presented in ours - the total banning of a new form of gambling - yet that somehow or another seems to be a better perhaps process or something. But I don't take particular objection. I think it's a tragic misreading of the report and your last stuff about the commission being responsible for Australians against Australians - please show me any paragraph in the report that leads you to that conclusion. You've now spent a third of your thing - - -

**MR HOGGETT:** Delighted.

**MR FITZGERALD:** Please, where is it?

**MR HOGGETT:** It's in a written response there. It's those elements that suggest that problem gamblers should be identified by the industry providers.

**MR FITZGERALD:** But show it to me, because in table 8, where we actually put most of the harm minimisation procedures, which we list 20 or 30 - where is it?

**MR HOGGETT:** As I understand it, you favour the idea of identifying problem gamblers?

**MR FITZGERALD:** You do. You haven't explored the process.

**MR HOGGETT:** No, do you favour it?

**MR FITZGERALD:** We have raised - - -

**MR HOGGETT:** You have said that "we will go one further" than we go. We go to the point of people self-identifying and then self-exclusion. As I understand it, and I'll have to go back over the commission's report, you favour going further than that.

**MR FITZGERALD:** Can you clarify something for me? I understood that in the industry, you were adopting training processes by which staff actually identify problem gamblers.

**MR HOGGETT:** No.

**MR FITZGERALD:** You don't?

**MR HOGGETT:** No. What happens is - - -

**MR FITZGERALD:** So what is the staff training?

**MR HOGGETT:** If our staff are approached by problem gamblers then we refer them. We do not attempt to go out and identify them.

**MR FITZGERALD:** So you don't have any proactive measures in the casino to try to identify people that may be having difficulties with gambling. Is that correct?

**MR HOGGETT:** We can't do that.

**MR FITZGERALD:** Okay, that's fine.

**MR .....:** The signage and things are proactive approaches.

**MR HOGGETT:** No, well, even signage - I mean, there are signs everywhere. That's proactive, but actually tacking somebody, going up to them and saying, "We

think you have a problem" - which is what happens with responsible service of alcohol - no, we don't do that. I think that's right, Virginia?

**MS BAKER:** Yes.

**MR FITZGERALD:** Well, it's not listed.

**MR BANKS:** We have discussed it in our chapter - - -

**MR HOGGETT:** It was discussed - - -

**MR BANKS:** - - - among a range of proposals that have been put to us and ones that we have filtered through.

**MR HOGGETT:** It's in the report.

**MR BANKS:** But you're implying that we've got this in here as a gilt-edged recommendation. We floated that and a whole range of other options for consideration and discussion.

**MR FITZGERALD:** Should we not have done that?

**MR BANKS:** Are you saying that - - -

**MR HOGGETT:** That brings me back to what Robert said earlier.

**MR FITZGERALD:** Can I just qualify - it then might help you in answering this.

**MR HOGGETT:** By all means qualify, Robert.

**MR FITZGERALD:** It's in relation to the whole issue about duty of care, whether or not you go down that model, whether you go down a regulatory or self-regulatory model, around exclusion, self-exclusion - so around those whole issues. In submission after submission we heard from people that in fact a more proactive response in trying to identify people that may have problems would be appropriate. We have canvassed it. I still would like you to find the part which gives you the justification to say the commission's position - because I don't think that's true. If it were true, then I would be keen to see it, because that's not the intent.

But what we have done, very clearly - and I would have thought you would have welcomed this - is to put forward a whole range of ideas, suggestions, views, options for exploration. That is one that you heard. It has come up quite often. Now, that's all that has happened but you have now taken that to a new level of actually saying, "Well, the commission would be responsible for" - and I would have thought that's a huge jump and it is not justified on what I understand is in our report. But if you can find it, I would be happy to look at it.

**MR HOGGETT:** Let me answer a couple of questions or a couple of points raised. Firstly, to go back to your beginning, the point about the balance of the commission. I phrase my words carefully and you will see it in the context. We think the result - we feared it was stacked and we think the result is tendentious. We do that on the basis of the balance of the report. The attentions which paid - there could be an awful lot more written about gambling that isn't written, an awful lot more exploration of what gamblers do, why they do it, their habits, the extent it happens, the profiles, all of that. There could have been a thorough examination of the industry.

**MR BANKS:** Well, you will find it's a more thorough examination of the industry than has ever happened before in Australia.

**MR HOGGETT:** Possibly so, but we're talking here about the balance of the report.

**MR FITZGERALD:** No, you're not.

**MR HOGGETT:** Yes, I am, I'm talking about the balance of the report. That is exactly what I'm talking about.

**MR FITZGERALD:** You indicated, you said it was "stacked".

**MR HOGGETT:** No. I said - - -

**MR FITZGERALD:** The commission was stacked against - - -

**MR HOGGETT:** I said "we feared the commission was stacked and the result was a report that is tendentious and one-sided." That's what I said. You can listen to it.

**MR FITZGERALD:** I find that - anyway, it doesn't matter.

**MR HOGGETT:** By the way - but, Robert, if you are not recommending that we shirt front people - - -

**MR FITZGERALD:** We're not recommending anything.

**MR HOGGETT:** That's great.

**MR BANKS:** Well, we can reassure you on that. We certainly haven't recommended that anyone shirt fronts anybody.

**MR HOGGETT:** Well, that's good. If it's not one of your policy conclusions, we'll be even happier.

**MR BANKS:** But if you would like - - -

**MR HOGGETT:** We would be very happy about that.

**MR FITZGERALD:** You're playing here and I just wanted to get stopped for a second. Firstly, there were no recommendations in relation to that in the report. You understand that, you know it well. Secondly - - -

**MR HOGGETT:** I challenge that, but I'll do that in a moment.

**MR FITZGERALD:** Well, I wonder, you know - perhaps there's no point in proceeding to discuss that particular issue - - -

**MR HOGGETT:** Possibly.

**MR FITZGERALD:** - - - but I just want to make the point that if you are fair in relation to the chapter that deals with harm minimisation and consumer protection, the one thing you could not draw from that - I wouldn't have thought - is that the major conclusion of the commission is to have people confronting other people in the way that you have described. Now, that's the only point that I would make.

**MR HOGGETT:** I'm very happy to hear that. The reason I paid so much attention to it is that if it were implemented, it would cause us enormous difficulties. That's the point that I think I'm making.

**MR BANKS:** That's fine, and in fact that's the kind of feedback we want about a whole range of things that we have floated in here.

**MR HOGGETT:** Good.

**MR BANKS:** We have filtered some ourselves and we want people to filter the others for us. I think we have been quite careful in how we have done that. Your point about the commission still rankles with me, Jim, as you would expect. I mean, I was worried that some people would think the commission was stacked in the other direction. You've got a bloke like me, who's generally regarded as an economic rationalist, I've got a hand-picked team within the commission, all of whom are economists, all of whom have worked in the economic rational domain for a long, long time. So I would have some sympathy for people who felt that it was stacked in the other way. You've almost said so yourself, in terms of the way the commission has approached issues over time.

I actually believe that people have often misread what the commission has done, even our friends as well as our enemies, in that I think we take a much more sophisticated approach, and always have, to even traditional inquiries, where we've looked at appropriate regulation, not just deregulation, not privatisation. What's the appropriate role for government? How should government regulate a particular industry such that you get the appropriate light-handedness but also address the objectives that government wants to meet or the community wants to meet? So I

don't really believe that there's anything - what's different about this is that the social issues are so central to this inquiry, and I think it has simply brought out what was always latent, what came out I suppose nevertheless in inquiries like private health insurance, charitable organisations and public housing and some others. But this one, I think it has simply been a focus for them.

Now, the fact that you say that we have devoted so much of the report to looking at the social impacts I think reflects the fact that that's what really needed to be assessed. I mean, a lot of the information about the industry is generally available. We have done what we can there. The big questions that confronted us as we sort of embarked on this inquiry had to do with the social impacts. Now, they were raised with us by both sides, the industry saying, "We think they're much less than people think," and the other side saying, "They're much bigger than anybody knows." So we felt that that was such an important issue that we needed to treat it seriously. Now, we were conscious ourselves that it looks like we have overloaded that side, but it simply reflected the enormity of the task in that domain. Well, that's my explanation, and one I believe.

**MR HOGGETT:** Well, I guess we looked at the outcome, we looked at the bulk of the report, where it was devoted, what it was devoted to. We looked at the reaction, we looked at the debate that occurred afterwards. We looked at the proportions, the 97.7 per cent and 2.3 per cent and we said to ourselves, "This isn't a study of the gambling industry."

**MR GRIMSHAW:** It doesn't reflect what happens at Star City every day, it doesn't reflect - - -

**MR BANKS:** This is not a report of Star City.

**MR GRIMSHAW:** Of any gaming venue. That proportion doesn't reflect a daily occurrence at any of those gaming venues.

**MR HOGGETT:** So what we've got is a sort of huge report - - -

**MR GRIMSHAW:** It's doesn't reflect the fact that there's thousands of people working every day, that there are millions of dollars generated in tax. There's so much concentrated on the 2 per cent of social - - -

**MR BANKS:** No, because, you see, in a way we take that as given. I mean, you're an industry like another. Some people will dispute that and want to call you something else, but you are an industry like any other. What's interesting about this industry, I think, are the social impacts and how one, as a society or a government, deals with them. That's the policy issue, in some respects. Up until now, the policy issue has been seen primarily as probity and you have justifiably said, "Why pick on the casinos?" We have supported you in that and we have raised some questions there about the extent to which the casinos are copping more than their fair share and

to what extent, in a way, things have caught up with the rest of the gambling industry, which requires that kind of relativity to be looked at.

So perhaps if I just come back to the other point, where you're implying that we're focused - we're trying to deny that the majority benefits from this. To the contrary. I think we have provided information in there. Those headlines that you said could have come out of it are in the report and I think are given emphasis. Shortly after the report came out, representatives of the Hotels Association and clubs in Victoria - on the issue of caps, which is a big issue in Victoria - were drawing out on our report in a supportive way.

Now, in a sense you may have lost the media battle out there, with all that's going on. I don't think you should blame us for that. I think, while we will look at the wording and everything we say and to what extent we should qualify and provide context, we have tried to tell the story as flat as we could, given what was coming through. I was as surprised as a lot of others about the sorts of numbers and so on that were being used in the debate. Anyway, I think we perhaps should go on and talk about some of the specifics.

**MR HOGGETT:** Can I just say one more thing? It is a report largely, I guess, on a social issue. It's an area the commission doesn't traditionally enter. It's a much more explosive area. It's much less amenable to measurement than other areas, although the commission has done its valiant best there. I guess all I'm saying is that when this debate hit the fan and exploded on the media, I didn't see anybody going out from the commission and trying to say, "Well, hold on, there's a bigger story here." The discussion was all about - - -

**MR BANKS:** I'll send you a few transcripts, Jim. You've probably already got them but - - -

**MR HOGGETT:** They didn't get well reported.

**MR FITZGERALD:** It goes to the substance of it. In a sense - I'm just curious. The report clearly indicates the size, strength of the industry, the employment characteristics, the generation of it and so on. It also attributes to those who gamble, particularly recreational gamblers, a very substantial benefit. We can argue about the figure. Rarely has that ever been identified. In fact, our figures of benefit are bigger than the industry's figure. Of course there's a social dimension to it but there's a social dimension to many other things.

Is the surprise that a body has actually attempted, for almost the first time, to actually do the same thing on the cost side as we've always done on the benefit side? That is, that in social and economic terms, it has always been traditional on the economic side to quantify it. Nobody doubts that. It has been much harder and much more difficult to do that on the social side. This actual landmark brings it forward so that one starts to do that. Is the surprise that it has actually been attempted and done

reasonably well, whereas previously - for example, in Victoria and others - they have said it can never be done?

So always the debate in relation to problem gambling, or gambling broadly, has had one set of figures only on the economic side and no set of figures on the other - because I sense that it's not actually that the report deals with social issues, as you would expect it would have to, but that suddenly somebody has actually tried to put some numbers to it. That seems to have surprised people, because you could not look at this report and say it's social issues. You would actually have to say, "Yes, it actually canvasses the economic side of the industry very effectively."

**MR HOGGETT:** I think you're probably misunderstanding where I'm coming from on that now, Robert, because sure, we like the economic side of it and we think it could have been bigger. We think the attention there could have been larger. Sure, we're not averse to the calculation of costs, although as we've said in our attempt to critique the report, we don't agree with the values you put on all the costs. That's a matter for debates, the SOGS 5 and all of that sort of stuff. We have also said we think there are some more benefits there that you haven't attempted to measure and we would like you to do that. So no, that's not the concern.

What I'm saying is that it is a highly explosive, hard to measure area and that was exhibited by the debate that took place afterwards, because immediately the whole of the media, driven by the anti-gambling groups - if I may call them that - focused on that. I'm not saying that that was unexpected. Given the nature of the report it's entirely to be expected.

**MR FITZGERALD:** But also can I just - and these are going to the substance of the issues. Let's just assume for the moment the numbers are roughly right on both sides - just assume, given the range.

**MR HOGGETT:** The range, yes.

**MR FITZGERALD:** Even if you change the SOG 5 or 10, the social costs are still high; the benefits are potentially still high. In public policy terms you have always acknowledged Star City, unlike some others in the industry - have always acknowledged that there are problem gamblers and you've been fairly reasonable in that regard, whereas others have doubted the very notion of problem gamblers. I'm just in your particular verbal submission a bit surprised by part of it, because if you look at our report, the casinos in many senses have actually come off quite well. They're high probity. Yes, there's a lack of criminality. All those issues which have in fact surrounded this debate we've been able to, I think to use your words, demystify some of those.

At the end of the day we have found that there's a fairly significant but small group of problem gamblers and then you've made comments in relation to some of the discussion about how you might moderate or deal with those particular groups. So I'm just a bit concerned at why you think it is so unbalanced. I can't quite get to



grips with that, especially from the casino's point of view. If you're a hotel group who are in fierce competition with the clubs, perhaps, but I'm not understanding where you're coming from and the emphasis that you've given, particularly in your oral submission today.

**MR HOGGETT:** I think it's important that you do because those words were carefully chosen and I agonised over them because I wanted to make the right expression of our view. It is true that casinos do a great deal more than most other gaming industry participants to deal with this social issue. We have brochures. We have an emergency counsellor. We have cards on the back of toilet doors. We have signs on our host desks. We're putting signs up on our machines. We have signs at the doors. We have light boxes around the casinos. We have brochures in seven languages. We have a heap of stuff and we ask our staff to be aware and we're going to improve our training programs there and we've been working on that now for about, I guess about nine months, trying to get a proper training program for all staff who contact people so that they can recognise the signs; if they're approached they can refer the people to expert help.

We think we do a lot and we think we're going to do more, and we are going to do more. Our concern of it is that you ask us to do something that we can't do and that is the twist in the debate that concerns us.

The balance of the report, as I've said, 75 per cent focuses on the social issue. The balance of the debate has been about 99 per cent on the social issue which is what you would expect, the way the media works. So when that happens there's a big build-up and it starts to affect government. You will know from your own inside knowledge that proposals have been made in New South Wales already which have been discussed, and some have been modified, of the kind that are in the Productivity Commission report and some of them, even early drafts, went so far as to talk about the sort of thing that I'm concerned about. My concern is that the debate will be pushed out to an extreme and we will have policy prescriptions placed upon us that we cannot satisfy. That's my concern and that's why I took a gaming industry rather than just a casino approach.

**MR FITZGERALD:** Okay, I understand that. One of the things, that as a practical person, one is not trying - one of the things that I abhor is a regulatory or self-regulatory approach that actually doesn't lead to better outcomes for the group that you're trying to impact on.

**MR HOGGETT:** Or the group that's trying to do it.

**MR FITZGERALD:** Yes. You can have it - - -

**MR HOGGETT:** They're affected too.

**MR FITZGERALD:** Yes, all right.

**MR BANKS:** Your point again about I suppose our report, in citing a kind of very de rigueur regulatory environment, I mean, you came along to the first hearings and complained about such an environment anyway so I guess it's the game - you are sort of in that game already. I would have thought that the commission actually could probably hose down some more extreme proposals that are being put, including to us about bans, for example, and prohibitions, and major winding back and so on. You know, clearly you're most sensitive to the things where there's been criticism of the industry but there is quite a lot of that kind as well, as you'd know from reading the report. I agree with you that that isn't always the part that's been highlighted in the media.

I'm conscious that we've already almost used up an hour and what I think we should do now is perhaps each of just find the things that are most worth discussing out of here and there may well be other things that we'll get back to you on.

**MR HOGGETT:** I'm very happy to participate in any further discussion you wish.

**MR BANKS:** Okay. There was one question I had here. On page 8 you say that:

The draft report appears to dismiss from its calculations the potential benefits arising from economy-wide effects of shifts in consumption or taxes.

Could you just elaborate on that?

**MR HOGGETT:** There's quite a deal of modelling being done I know by the commission and also by ACIL on this. I would have liked to have seen some more discussion on impacts of reductions in taxation and things of that kind. I realise it's a very unpopular thing to advocate reductions of taxation of any kind and particularly reductions of taxation on the gambling industry, but in the end those taxes do fall on the players and I would like to have seen, you know, whether the models are showing that reductions of taxation would provide benefits to the 98 per cent of people at least who play without a problem. There's quite a lot of people play and we are always concerned about the regressive and other impacts of income tax and taxes of other kinds. This was an interesting subject that I think we could have more fully explored.

**MR BANKS:** Certainly we'll do that. I'm sure we'll hear more about the GE side of that. As you know, in our tax chapter - it's probably not giving away too much of a confidence to say that I began this inquiry thinking that the taxes should be reduced. It just seemed clear to me. The more work I did on it, looking at the different dimensions on the efficiency and equity and social impact dimensions, it became more clouded and our final conclusion was somewhat guarded about the need to be careful in reducing taxes. So that is an area we ourselves feel that we need to think more carefully about. GE modelling can give you some insights but in an interesting area like gambling with its own particular tax structure and significance and demand characteristics, there are issues there to do with demand sensitivity and so on which could lead you to different prescriptions than what you might have on an economy-wide sort of approach.

**MR HOGGETT:** The results are ambiguous, and as we've said, when we stray into the social area the measurements become very difficult and we understand that, but it did seem clear that the taxes in this industry are fairly regressive and there's a lot of statistics that - there's another element of this report, if I may just digress briefly, that we could have looked at, and that's the age profiles that are running through gambling. For example, for racing it's probably true that the average age of the punter is 50 or over. That's just the way racing has gone.

We can see from our own statistics that the average age of the pokie player is also rising. The younger people are tending to play Nintendo. They're getting onto the Internet. They're playing skill-based games rather than poker machine games. So the average age of the poker machine player is also rising. All these things impact not only directly on your discussion of the profile but on income levels, on taxation levels and on things of that kind and an exploration of those things would have been extremely interesting and quite revealing. I realise your resources are limited.

**MR BANKS:** Again, we would have to use our survey, if you'll give us permission to use that, I think, to get more information out of it.

**MR HOGGETT:** We'll be having something to say about the survey later, I assume.

**MR BANKS:** We look forward to that. Another number I suppose that has been perhaps highlighted or misused or the interpretation of what we've done hasn't always been right, is this question of the 7.4 - that each problem gambler, as you say, will not necessarily affect 7.4 other people. We had a range there that we saw - ranging from five to 10 people and some have said to us that we haven't differentiated enough in talking about the intensity of effects and so on. That's right. But in terms of any estimating we've done or any quantitative data, we've used the average family size, which is 3.2 people. So we haven't used that larger number.

**MR HOGGETT:** I understand that. I simply wanted to, I guess, make the point that the higher your top figure is, the greater the bias in the whole approach to the report that people will take and people do tend to pick those figures up and say, "Geez, 7.4."

**MR FITZGERALD:** Except just there. I mean, the figure is somewhere between five and 10 and averaged out at seven or something or other, so again, just to highlight how conservative the commission has been, it went for a 3.2 or 3.5 figure. I mean, if we wanted to be alarmist, as some may have indicated, you could have gone for 10, 7.5, five. It therefore only reiterates my concern about the angle that you've taken, and in fact if you actually look at the numbers, they have always erred on the side of conservatism. To be sure - - -

**MR HOGGETT:** I urge you to remain on that side on it.

**MR FITZGERALD:** It will but it would be helpful for it to be recognised occasionally. However - - -

**MR HOGGETT:** We do our best. You've asked us for criticism and we're giving it to you.

**MR FITZGERALD:** I'm just saying - you weren't actually here during the morning but I have to say this has been a schizophrenic week because in Adelaide we were accused of being the captives of the libertarian socialists, so it's been a diverse week in terms of criticism of the report.

**MR HOGGETT:** A typical week, if one may say.

**MR BANKS:** Another point you make is that you say it's scaremongering and untrue; that all gamblers are potentially vulnerable, and when you put it like that, I'd agree with you. I guess the point we were making is that there weren't clear risk factors coming out of the sort of work we did, which means that people in a range of circumstances, income levels, age groups, and so on, were represented in the problem - so it was more that context than saying that anybody, regardless of their circumstances, is potentially a problem gambler.

**MR HOGGETT:** You know what bothered me about that particular statement and that particular chart to which I also took objection, was that - - -

**MR BANKS:** Which is the chart?

**MR HOGGETT:** The chart that shades across the problem gambling chart.

**MR BANKS:** The continuum?

**MR HOGGETT:** Yes, the continuum.

**MR BANKS:** We'll have a fold-out section in our next report so we can have it that long.

**MR HOGGETT:** Good, I look forward to it. What worried me about that is I guess if you do see a lot of gamblers and associate with a lot of gamblers, as you're bound to if you're in the industry, you realise that there is a vast number of Australians who simply habitually gamble. It's part of their household budget and they don't regard it as questionable and they've got it totally under control throughout the whole of their lifetime. They may spend more at one stage than another because their circumstances permit it and it's just like another hobby. I'm concerned the impression that whatever percentage it is - over 90 at least, I would think - is somehow potentially always at risk. I don't think they are. Most Australians know how to control their budgets and they do, and gambling is just a component of it. That was my concern there.

**MR BANKS:** Yes, I think you reminded me of a comment you made earlier where you said that the commission was looking down on gambling or if you didn't say that directly you said - - -

**MR HOGGETT:** I did say it directly.

**MR BANKS:** All right. Then I can respond to it directly.

**MR HOGGETT:** You can object to it, yes.

**MR BANKS:** Again, I think that's again a misrepresentation of what we say in the report. I mean, we document the sort of fun or utility or enjoyment that people get out of gambling and I think we do so in a value-free way. Some people have objected on the other side, that we can find harmless pleasure in something like that which they see as ethically dangerous and wrong. It may be we haven't spent enough pages reiterating the point but it is there. Indeed, I feel that we've injected that much more firmly into the debate than ever had been before in a number of reports, where the notion of consumer benefits had never been really given systematic consideration. Some of the submissions, ACIL and others, obviously did in the context of this inquiry, but you won't find too many other reports in Australia that put those things at centre stage. It may fail the page count test but in terms of the structure and the concepts, I think we've set it all out.

**MR HOGGETT:** This is a very important report and so I read it all. I read the key findings and then I read the executive summary and then I read the whole report. I guess what I've written is the impressionistic thing; that is my impression. It's not going to be found in any part of the report. But I read it and I came to the end of it and I thought, "Gee whiz, these guys don't like gamblers."

**MR BANKS:** Some of my best friends are gamblers.

**MR FITZGERALD:** I could only just reiterate Gary's point. There's no issue at all and we've actually attributed to gambling substantially greater benefits than are attributed to any other study in the world almost. For example, let me just give you an illustration of that to again show the point. In many of the studies in the United States of America they attribute actually no benefit at all in the play of the game to somebody that is deemed to be a problem gambler. They say it's zero value. We not only said that there was value, we not only said it was the same as an ordinary gambler, we attributed double that of a regular gambler to it. We went overboard on it. Again, if you were in America that would have had a zero value - substantially different approach.

So again we've erred on the side of actually acknowledging the entertainment, not only to recreational gamblers, but actually to problem gamblers in a way that other people would have said is far too generous. So again if you actually look at what the report did, as distinct from your perceptions of the report, you'll find that it actually goes overboard to establish benefit which in other jurisdictions they wouldn't

even attribute to it. I think those things need to be constantly reminded, you know - said. At the end of the day, if you have a perception that it looks down on gamblers, then nothing I say will change that perception, other than to say if you actually look at how we did it, the contrary is so, to the point of actually being extraordinarily generous in that benefit. I would hope that's acknowledged also as we go through.

**MR HOGGETT:** No, because you've used words like "we went overboard the other way" and of course as you know from our submission, we don't agree with you. I did read the report and of course I read that part of it and you're attributing double. We're saying that's not generous, we're saying it's ungenerous. We're saying if somebody spends 20 times on gambling than what somebody else spends, then maybe they get more than twice the fun out of it. That doesn't seem to me unreasonable. We'd disagree on that one, Robert.

**MR FITZGERALD:** As you disagree with most of the industry on that one because their original submissions to the commission on the draft actually had lower benefits than we've attributed.

**MR HOGGETT:** Maybe so.

**MR BANKS:** You'd be interested to know that Prof Blandy in Adelaide has also been tackling this issue of how you assess the benefits from problem gamblers. He's accused us of being far too generous, so you might care to have a look at his submission.

**MR HOGGETT:** Yes, I've had a look at it, yes.

**MR BANKS:** You have, okay.

**MR HOGGETT:** Yes, I have indeed.

**MR BANKS:** I think perhaps we can hold it there. Clearly we will be having more discussions - - -

**MR HOGGETT:** Yes, I've taken too much of your time.

**MR BANKS:** No, no, it's just that we've got some other people - - -

**MR FITZGERALD:** I just need to set the record straight in relation to our earlier discussion about where the withdrawing gambling from a person might come from. I've discovered the section. There is a section in 15.5(3) that talks about that as a possibility. That is canvassed. It is also canvassed in the total range of other measures and that's the context in which that should be read.

**MR HOGGETT:** And that was my concern.

**MR BANKS:** Thank you again. I think we've had a good discussion on some of the fundamentals.

**MR HOGGETT:** Robust.

**MR BANKS:** Robust and frank, and thanks for that. Again if other things occur to you out of this that you'd like to respond to us on, we'd be happy to receive it.

**MR HOGGETT:** We will indeed. Thank you very much.

**MR BANKS:** We'll break now before our next participants.

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**MR BANKS:** Our next participant this afternoon is Wesley Community Legal Service. Welcome to our hearings again. Could I ask you to give your names please and your positions.

**MR BRADING:** Richard Brading, I'm the principal solicitor of Wesley Community Legal Service.

**MS FORD:** Janelle Ford, solicitor with Wesley Community Legal Service.

**MR BANKS:** Good, thank you. Thank you very much for coming today and for the submission. You've got some very useful information and feedback on our report in there and as we discussed, perhaps you might just like to go through the key points you want to raise.

**MR BRADING:** I really wanted to start with perhaps some introductory remarks and welcome you to Kings Cross.

**MR BANKS:** I thought this was Potts Point.

**MR BRADING:** Kings Cross is one of our gambling centres of notoriety in New South Wales and whilst it's not quite as stylish as Crown Casino, certainly we have some interest here. It's just up the road at a now famous hotel but we have one of our test cases on at the moment arguing over the duty of care of a hotel to its patrons. This particular hotel indulged in the practice of providing advances on American Express card and that's mentioned in your draft report. By way of update the matter is proceeding very slowly through the courts. The hotel is not giving an inch and why should they. American Express is also defending it on the basis that they didn't know anything about it. But it's clear along the way that this sort of practice is not completely isolated, although it's probably still rare and becoming rarer.

To be fair on the hotels, there's another club up the street, the Civic Hotel that was mentioned in the media some time ago. It had a duty manager who was left alone with the PIN numbers one Saturday afternoon and decided he'd place a couple of bets on Club Keno. Before too long he'd gambled \$20,000 of the club's money away and was convicted through the courts. The club didn't get a very good response from the magistrate who was surprised that they would let just a single staff member loose with this, in effect, ability to gamble unlimited amounts of money on Club Keno. While we're at it, I guess to be very fair, we've got a couple of the casino representatives here. Nice to see you. I did enjoy Mr Hoggett's words.

I've been seeing a Chinese lady; she and her husband came from Taiwan some years ago with a fair bit of money which they used to buy a house. They had \$40,000 saved up in the bank. He developed a passion for blackjack and went missing in fact for 10 days. I won't name the casino but it's in the neighbourhood here that he spent his 10 days gambling away that \$40,000. She went down to the casino to ask him to come home but she wasn't allowed into the high rollers' room because she wasn't a



high roller and he didn't need to come home at night because I gather the casino provided him with free accommodation. However, it seems as casino staff aren't trained to identify who's a problem gambler and who isn't, the fact that the wife came along and complained to them probably was not something that the staff would be trained to identify.

Having started off on picking on all sectors of industry, I would like to say there were some things about the report that did concern me. I didn't put this in here so I'm getting in by surprise. I know that you're well used to it today. I was surprised looking at the human costs, even though you did an estimate, the number suicides, potential suicides and what have you. You put a dollar figure on the cost of an attempted suicide. The suicide section only had an "n/e" for "not estimated". My understanding is that it was too difficult to work out what the value of a human life was. I mean that would really get people up in arms. But I would have thought that at least you'd put a dollar figure on equivalent to the not successful suicides. In thinking about much of the debate that's gone on today - and presumably you'll go around other parts of Australia - we need to look at the fact that even if we're talking about 2 point something per cent or 1 per cent of the population, it's still a significant number.

If we look at other examples of human lives at risk, such as the four snowboarders who went missing some time ago and the millions of dollars that have been spent looking for those young men, and then extrapolated that with, say, 400 problem gambling suicides a year, it's a pretty big figure. Those snowboarders voluntarily chose to go out to do something that they regarded as an enjoyable recreation with risks, so a clear parallel can be drawn between a hazardous outdoor activity - and I think Mr Hoggett mentioned bushwalking which is also dear to my heart but is a hazardous activity. If I go out bushwalking and unfortunately get killed by a falling tree or something, well, that's very sad, but if I get lost, for example, there's no doubt the community would go to some expense to find me, whether I was in north-western Australia or in the Blue Mountains here. Somewhere we need to face up to the fact that there is a cost to problem gambling.

The parallel has been drawn by other people with the tobacco industry and the fact that for years - and even now there are some tobacco industry executives who are denying that tobacco kills perhaps half the number of smokers in the course of their lives. So the figures are a lot less in the gambling area and I guess that's why we've had less public concern about gambling than we have about tobacco; but it's still there. It's disappointing to me to have leading industry leaders getting into an enormous debate about whether it's 2.3 per cent or 1 per cent of poker machines. These sort of issues are a lovely debate but the end result is, unless we're sitting down and doing something to address the problem, then it's a lot of hot air. Dare I say it's a pity to see Star City doing that because Star City has been the leader in harm minimisation. I do mention that in the paper I've given to you. There's a lot of excellent things that Star City have been doing and I'd like to see them do more. I think in future consultations that Star City would be willing to do more if things were appropriate.

On the other hand, we look at the hotels and unfortunately Mr Charles was unable to stay, but the hotels have been dragging their heels in this state. I've been to a number of inquiries - IPART and your earlier inquiry - and on both occasions, as I recall, hotel representatives assured the inquiry that they were developing responsible gambling programs which were just about completed. Again this morning we hear that it's just about completed but it will be ready for the New South Wales government's deliberations on the responsible gambling bill. In my books it's an embarrassment to the gambling industry to have such a major player dragging its heels in that way. Dare I say we've been called the Wesley wowsers before but we're past the point where we can say, as the Reverend Nile did this morning, "Put the genie back in the bottle."

We know from public opinion surveys that the vast majority of Australians are willing to let gambling stay. So let's move beyond that point now to a point where we're talking about minimising the costs so that we can honestly say that the benefits do exceed the costs. I think if people are willing to sit down and talk about the things that could be done to improve the industry, improve regulation, improve harm minimisation, we would get to that point where the benefits would outweigh the costs.

Moving on to some of the notes I've given you there about the financial effects of problem gambling, it's clear that just dollars alone is a grossly inadequate way of identifying what's a problem gambler, because if you're a pensioner, you're on a low income, you may be gambling a very small quantity. But percentage-wise it's a substantial part of the disposable income above the essentials - rent, food and clothing. Working with financial counsellors has been a good lesson to us as lawyers in understanding how to assess what money is available over and above those essentials and clearly in working with clients, financial counsellors are able to assess in a structured way the extent to which gambling is going to be harmful to them. It's clear that gambling providers can't sit down with all their patrons and say, "Give us a money play showing all your expenditure." So whilst it's difficult for them, there are other ways than just working out that as a percentage of expenditure.

On the other hand you need to look at a person's assets. A person may well appear to be doing well as a gambler but if they're eating into the equity of a mortgage or something like that, eventually they get to the point where they have gone from perhaps substantial assets to no assets at all. That's just as harmful but it's even harder to identify. That's not to say that we shouldn't be trying to identify it, and there are other indicators that have been suggested to you in some of the submissions. As far as problem gamblers being doomed to be penniless at 7.44, it's a good topic heading, I guess, because there are certainly some at the very extreme end, perhaps the SOGS 10 end, who one would say would tend to be penniless. But that's passing a judgment. It's like saying that a person who has got a drinking problem is doomed to be an alcoholic. No person is irredeemable.

We would say that the crisis point for gamblers which I would call rock bottom is the critical point for bringing about a change in their life and that often is a moment of their life when they suddenly realise that they have lost everything and they have got themselves into a huge mess and they want to do something about it. That's the point where problem gamblers need to be picked up, encouraged to take the steps that go with that commitment. If you let them go, they may well sink beyond that perceived rock bottom point and not return to it for some time. From our end, rock bottom for many of our clients occurs when they are charged with a criminal offence. It would be nice if they stopped before that but for many people who are law abiding citizens, to be charged with, say, misappropriating money from their employer or from some other sort of offence is a big shock to them. For many that's a turning point where they would deal with their problem.

You look at bankruptcy from different angles. Generally bankruptcy can be a very positive thing for people who are in tremendous debt because at the point of tremendous debt they are under enormous pressure from creditors ringing up, from relatives, from a whole lot of different sources, the sheriff coming to their home to try to seize goods, and those stresses can push them into other things - become potentially suicidal etcetera. So bankruptcy from a problem gambler's point of view may actually be a good thing.

I mention a couple of the negatives as well. There is of course the possibility of being prosecuted for gambling. There is the stigma. There is the fact that debts incurred by fraud are not extinguished by bankruptcy. So at the end of three years it's open to creditors to come round and say, "Well, look, you still owe us the money," and if a person is unemployed and owes tens of thousands of dollars, that may be a burden they carry around with them for life. So bankruptcy is clearly a part of the whole process with problem gambling.

As far as loan sharking is concerned, my main point here is just to emphasise that loan sharking is illegal as far as credit law is concerned. I know that you talked to the criminal law experts, I guess, who are much more concerned about serious things like people having legs and arms broken, but from my point of view as a civil lawyer I suppose the fact that it's illegal means that it should be discouraged in all forms, and no doubt the casino does try hard to discourage loan sharking, but it's something that at least occurs on isolated occasions.

On the area of price information, you asked about the information to be provided. In general we would agree very much with your comments there, and in regard to the situation with food products where you have an information box that's fairly clear, that provides, say, the percentage of an ingredient per 100 grams, is very useful so you can compare products. With gamblers, the big interest that most gamblers have is having a bigger win, say, on a poker machine anyway, so the fact that they might get a percentage return is something that we would agree really is not helpful to them. What they want to know is what's the chance of having, you know, something substantial to put in their pocket. So even though it's not a perfect situation, we would like to see something as suggested by you - and we put our own

thoughts here - on each machine or at least at some point where it's easily visible, that would give people an idea of what they're gambling.

You talked about country communities, Aboriginal communities, but don't really deal with ethnic communities. A big issue in New South Wales is you would see because we have - some ethnic groups are very partial to gambling and in addition to that there are also social issues that that would have brought with them. Typically in some communities it's very much a masculine thing to gamble, so you'll see a lot of males of that particular group gambling and very few females, and that may well be tied with the fact that the males have control of the finances. So in a relationship situation, it's a typical situation, not always the case but typical in some ethnic communities, that men are causing family poverty by gambling away family finances. That may not lead to divorce because they may well be a community where divorce is frowned upon. So I suspect you didn't deal with ethnic communities at great length because it was an area that would require a whole lot of extra research - - -

**MR BANKS:** That's right.

**MR BRADING:** - - - or you didn't have it, but I do feel it's a big issue particularly perhaps in our capital cities such as Sydney.

**MR BANKS:** Yes, maybe if I just comment on that, and that is that we were aware that, (a) it was a difficult area, and (b) that there were a number of excellent surveys being conducted with relatively large samples and using interviewers from ethnic communities to talk to people within those communities and so on. It looked far better than anything we could do and unfortunately the results of those surveys haven't been made available yet. We're still hoping to be able to access them for our final report. We were warned very early that if we were going to do something in that area, as with the indigenous gambling area, you would need it to be done very well, so there were resource constraints on our capacity to do it. So we're still hopeful that we can get more of that information from that and other surveys to draw on in our final report.

**MR BRADING:** Could I say I thought your indigenous chapter was excellent. It was certainly very, very well thought out and a difficult issue that's quite specialised, so I think it warranted having a separate chapter, yes.

**MR BANKS:** Good, thank you. We've had some feedback on that already which will help us improve it, so yes, that's a goal for us to develop in the final report.

**MR BRADING:** I mention at 15.9 putting a fence up at the top of a cliff is more effective than parking an ambulance at the bottom - not an original quote I must say - but it brings into perspective the nature of gambling counselling services which has primarily been an ambulance at the bottom of a hill. There are not many people who will go off to see a gambling counsellor at the time when they're becoming a problem gambler. They're only going to go and see a gambling counsellor when life is pretty

bad. So we need to do some of the things that you suggested as far as education, public awareness, to try to perhaps reduce the number of people that are ultimately going to end up with counselling services.

**MR BANKS:** Did you find it, from your perspective, surprising that the numbers of people that we were able to estimate who were actually in counselling or have been in counselling over the 12 months only seem to be a small proportion of the numbers of people who were either saying that they wanted to get counselling or the numbers of people who we identified as having serious gambling problems?

**MR BRADING:** No, because a lot of problem gamblers are very reluctant to seek counselling. Firstly, problem gambling is a very secretive sort of business and clearly both industry and consumer people would be saying that to you. People do not want to put up their hands and say, "I'm a problem gambler." In fact, very few people would want to admit they're gambling at all in public. It's the sort of thing that carries some degree of stigma. Oddly enough, most of us indulge in it as well. But for a problem gambler to come forward and say, "I've got a problem," is very difficult to do. It's against the Australian way. We work on the "I'm all right" philosophy even when things are going badly. So I think if you talk to any counsellor, which you would have talked to many, none would be surprised how few would be coming forward. All agencies, to my knowledge, have the problem of people making appointments and then not turning up, particularly if they have to wait more than a few days. So the problem is there, it's just that people don't want to see counsellors about it.

**MR BANKS:** Unless they've got no alternative.

**MR BRADING:** Yes. A counsellor is not going to get them their money back, it's not going to get them their life back. The counsellor will help them internally come to grips with where they are, the same as a grief counsellor will help a person come to grips with the death of a loved one, say, but a grief counsellor can't bring back the loved one. A financial person or a psychologist can't bring back the money that's been lost. It's gone. So I'm not at all surprised that the numbers are low. From our point of view as lawyers of course, people want us when they've been charged because they can't usually wriggle out of that. That's I suppose it. But for many, you know, who say, "Look, we've got to go and get counselling," once the legal crisis is over, they're off like a shot.

**MR BANKS:** Indeed, would many people come into counselling via the legal service?

**MR BRADING:** Yes.

**MS FORD:** Or vice versa sometimes - - -

**MR BRADING:** Or vice versa. We encourage people to come to us for legal assistance, to seek counselling, because otherwise we're just bailing them out. We're

helping them deal with one crisis so they can move onto another crisis. Unless they deal with their gambling problem there's little point in just fixing the immediate legal or financial crisis. You've got to change that frame of mind.

**MR BANKS:** Good, thank you.

**MR BRADING:** In 15.36 you look at the common law duty of care, which is an expression dearly loved by lawyers. We're representing a number of problem gamblers in common law cases against gambling institutions and clearly there is a common law duty of care. Whether it's appropriate to raise that duty by statutory means is something that I would doubt because it's hard enough to define what the ordinary duty is, let alone what an enhanced duty is. I think just about everyone on both sides of the fence would be saying we want the lines, you know, delineated. We want some higher power to come and say, "These are the things you should do," or, "These are the things you shouldn't do," because if you leave it to every provider to make up their own mind, the bigger responsible ones such as Star City are going to go and do the right thing and develop their own program and spend a lot of money, whereas your little club or hotel around the corner are going to say, "Well, look, we'll just do the bare minimum that we're forced to do and take a chance on the rest."

So you need to have a one size fits all type of regulatory approach and you identify that in chapter 1, that it's so ad hoc at the moment that, for example, you can have certain sorts of cash advances or credit, say, for a TAB in a pub, when you can't have it for a poker machine in a pub simply because the wording in the Totalisator Act is different to the wording in the Liquor Act. That sort of thing becomes very complicated if you have a gambler, such as I do, who did some of his gambling on the poker machine and some on the TAB and naturally he didn't keep records of what amounts he gambled on both.

You're well aware of the New South Wales gambling legislation, the amendment for responsible gambling. I've just sent you my comments to that but we certainly see that as being a major step forward in the state. It could have been earlier, but better late than never, and we would hope that other states would follow that example and seek to provide a regime which is going to provide those minimum standards. I would urge you not to put too much hope in the success of court cases.

Court cases are, you know, inefficient, they're expensive, they provide good employment for lawyers, but that's about all, and there's not many of those cases current in New South Wales. Generally everyone, both the gambler and the gambling provider involved, regards them as a big drain. So having said that, my experience is that they have been quite effective in stirring up the industry to understand that they do have a responsibility to problem gamblers, which is, you know, a long way beyond where we were, say, 12 or 24 months ago. But ultimately it needs to be an area with a tight regulatory regime.

I just mentioned a few things about bankruptcy and perhaps you want to double-check some of those figures with ITSA. But clearly, as far as debtors'

petitions, it's effectively a free service for a debtor to become bankrupt and logically that's the only way it would work. So I think there may have been some confusion in the figures that you were probably provided as far as bankruptcy is concerned. I found it difficult to understand how you dealt with the costs of debt collection, which of course is a major issue for problem gamblers.

Debt collection is a major industry. It involves a lot of time and expense in chasing after people, and if they're a problem gambler it's very unlikely that that debt would ever be recovered. The beauty of debt collection of course is that if a credit provider, say, makes reasonable efforts to collect the debt and fails, then it's a tax deduction. I think you talk about it being a transfer, and I would bow to your wisdom as economists in whether you decide whether it's a transfer or a cost to the community, but in my book it's a - - -

**MR BANKS:** It might be a bit of both, different components. Some part of it might be a transfer, part of it a cost.

**MR FITZGERALD:** I was going to say there's a distinction between the debt itself and the debt collection - - -

**MR BANKS:** And the costs of the collection, yes.

**MR FITZGERALD:** The costs of debt collection.

**MR BRADING:** Well, both.

**MR FITZGERALD:** Yes, there's a difference between the - - -

**MR BRADING:** We're talking about the cost of debt collection and the actual unrecovered debts. There are a lot of people borrowing money to gamble and that's not necessarily, you know, unlawful, because not all creditors want to know what the purpose is or require that the money be used for a certain purpose, but it's clear that if you gamble money with the expectation that you'll be paid for your winnings, you're having yourself on, and whilst that is a perception that problem gamblers have, it's not one that the courts would support.

**MR BANKS:** Yes, we certainly have treated the bad debts themselves as a transfer in the sense that the money doesn't disappear. It's unfortunate for those who miss out but I think what you're saying, that that has implication for interest rate burdens and so on, on others.

**MR BRADING:** Yes.

**MR BANKS:** There's a margin that is factored in which does have a real resource cost as well.

**MR BRADING:** Particularly if you look at unsecured loans from finance companies where the interest rate range may well be, say, 15 to 29 per cent. Now, that's a lot higher than your average home owner is going to be paying on their mortgage and much of that interest is because of the risk that people will not pay the money back, many of whom are problem gamblers, and the finance industry would not know who gambled away their money and who would not. I'd like to tell them but I can't. But it's clear that it's easy to go and borrow money from these various finance companies.

If gamblers are really desperate they can buy goods on interest free terms and go and pawn them and gamble the cash that way, so there's all sorts of ways that that happens. I find it hard to see that it's just a transfer. I mean, obviously it means that some other person in effect is subsidising the gambler to go and lose the money on a machine which, according to your report, provides them with pleasure which has a monetary value and therefore is a positive thing. So economics is a beautiful thing, I suppose, is all I could conclude from that. I don't want to be as rude as some of the previous speakers.

**MR BANKS:** We won't start swapping lawyer jokes or economist jokes.

**MR BRADING:** No, please don't. My friend Janelle would just like to say a few words, perhaps, about the criminal side of things.

**MS FORD:** I'd like to actually share this case with you, because it happened on Monday and it highlights the cost to community, personally and financially. I had a 50-year-old grandmother of seven who, over a period of nine years, knocked off \$400,000 from her employer. It was actually \$600,000, but they couldn't prove 200 was attributed to her. So the fraud was discovered. We pleaded guilty. On Monday this 50-year-old grandmother of seven was sentenced to 12 months' jail. She's now presently being inducted at Mulawa Prison. Her pregnant daughter collapsed and an ambulance had to be called to take her to hospital with threatened miscarriage. Her husband, her son, her friends, her parents were just devastated. She had never been in trouble before. No hope of the money being paid back.

She knew the owners of the business as personal friends for 25 years, was a trusted employee and ran the business, basically. They just let her do it, and trickle by trickle and drip by drip the whole lot went to Penrith Panthers. The next tragedy of this case - if it can get any more tragic - is that the owner of the business, who was in his retirement year and he and his wife were going to settle the business up, got rid of it and move on to greener pastures, because the business bled to death because of this fraud. He went away to Port Macquarie to clear his thoughts and work out what he was going to do. I mean, his livelihood had ended, his future, his retirement, all gone, all blown, all down at Panthers. He went fishing and was washed off rocks and he's dead. He drowned.

So now Lynn is in jail and her grandchildren and children and husband are suffering, her employer's wife, she's a widow, her grandchildren have no grandfather,



so the tragedy just unfolds, and it's not isolated. She's just your normal 50-year-old mum that goes to the club. The other thing that sticks in my mind about this case is when I did some conferences with them at their home, when you walked into the foyer of her house, standing there was this huge, three foot six black panther, which was Panthers' special gift to her because she was such a good poker player; there regularly. So that's just the cost, and it's happening.

The only other thing I would like to add is that - and it's in the report - in New South Wales, the law as it is now, when dealing with problem gamblers who commit crime, you just don't raise your problem gambling, per se, as a factor to be taken in to mitigation. You won't be heard. When Prof McMillen talks tomorrow, there's an issue about whether pathological gambling is a psychiatric-type disorder or not. So to keep my clients out of jail, because of the approach taken by the New South Wales Supreme Court, we have to go one step further and say, "Yes, they're a pathological gambler but it's an underlying psychiatric problem," to keep them out of jail, because the courts will give you no sympathy at all. That's the state of law in New South Wales.

**MR BRADING:** Good. Thank you.

**MR FITZGERALD:** When you say it's the state of the law in New South Wales, you're actually saying it's the state of the judicials - - -

**MS FORD:** It's the common law.

**MR FITZGERALD:** Yes, the common law and the way in which our current judicial system views gambling.

**MS FORD:** Yes.

**MR FITZGERALD:** Problem gambling.

**MS FORD:** Yes. I mean, the leading case is our gambling granny of Mrs Molesworth, who stole money from Social Security, but the Court of Criminal Appeal - Justice Spigelman, who's the chief judge, Justice Abadee, Justice Adams - dealt with that case in March on appeal and reconfirmed the view that if you're a problem gambler, don't expect sympathy from the court unless it's something that is beyond just problem gambling. We didn't appeal to the High Court. There were no grounds. So that is the final pronouncement by our Supreme Court and it binds magistrates and judges in New South Wales.

So unless we see a shift - and I must say that the particular judge at first instance who sentenced the gambling granny, his view by the Supreme Court was exonerated. They said what he decided, 18 months' jail, was correct. That same judge - you wouldn't believe it - sentenced my 50-year-old Panther grandmother on Monday, but I must say I noticed a shift in his view from, say, 12 months ago. My submission to him was, in view of what has come out of various reports, "perhaps

your Honour should take a little bit of a more lenient view of problem gamblers." It was more a political statement to him. But I must say he mellowed considerably in 12 months, because I think for \$400,000 a 12-month sentence isn't that bad. It's not a bad result.

I mean, she shouldn't be in jail, in my view. It should have been home detention, but I'd let everybody out if I was on the bench. There would be no jails, there would be no work out of Corrective Services offices. But certainly I was expecting something between three to eight years in her case, because of the amount, so he has obviously mellowed. So we're chipping away, but it just takes a lot of time and a lot of heartache.

**MR BANKS:** You have obviously thought quite a bit about this. What is the logic in law of this provision in relation to gambling and bankruptcy?

**MR BRADING:** Sorry - - -

**MR BANKS:** What is the logic in law, the illegality of - - -

**MS FORD:** The bankruptcy and - - -

**MR BRADING:** It's public policy and if you look back at the cases, most of the cases go back to late last century, in the Victorian period, where it was a great dishonour to not repay your debts. A number of the cases deal with, for example, lawyers that went into speculative business enterprises, but gambling certainly was the sport or the recreation of the wealthy, who often gambled on a handshake or that situation. So it was a dishonourable thing for them not to pay their gambling debts. So as a result of that, if they then became bankrupt and said, "Look, I'm not going to pay my creditors," they did not get the protection of bankruptcy that, for example, a failed trader would. So if you're an honest trader and, through your own misfortune or lack of skill, fail, then bankruptcy was available to you, but if you were, say, a wealthy playboy and you lost your money gambling, then bankruptcy was not available.

That's the current basis of section 271 of the Bankruptcy Act. It's quite anachronistic. However, it's still useful for the group of people who may be, say, angry, for example, with their situation. Their business has failed anyway so they think, "Well, rather than give my last \$10,000 to creditors, I'll go down and gamble it and either try and win it back or lose the lot." So in that situation it can provide a sanction for people who gamble money in the last minute in that sort of reckless way. That's why there are so few prosecutions, because the trustees in bankruptcy in effect rarely use it, because it's a bit of an embarrassment to the whole system.

**MR BANKS:** Is there any sort of documentation of the origins of that provision, that you're aware of, that we could get access to?

**MR BRADING:** Certainly if you look at the article I did for New Directions in Bankruptcy, that quotes a couple of the cases they use. I'll send you a bit more stuff, but bankruptcy's whole history is quite odd, going back to Roman times. Much of bankruptcy law is based on a moral code, which is that people who lose their money doing the right thing should be provided some relief. People who lose their money doing the wrong thing should be punished for doing so.

**MR BANKS:** It's almost a logic that if you didn't have that punishment, then they would be more likely to be doing the wrong thing. There's a moral hazard kind of dimension to it.

**MR BRADING:** If you lose your money - you know, if you go out and illegally buy heroin and can't pay your bills because you borrowed money to pay for heroin, you're in a better position than if you borrowed money to gamble. So all I would say is that there are other sections of the Bankruptcy Act, such as disposing of money to defeat creditors, that would be available to prosecute bankrupts as it is available in respect of other areas. That's why the statistics on bankruptcy are so low, because most bankrupts are going bankrupt on debtor's petitions. They are often, say, talking to financial counsellors who go through a whole list of pros and cons of bankruptcy, one of which is that if it's a gambling bankruptcy, the person could be prosecuted.

So the person says, "Well, look, rather than put bankruptcy as my cause, it's simply inability to pay creditors." Now, it may be just as true, but from the point of view of this study, the fact that they were unable to pay creditors is not the point. The reason they couldn't pay their creditors is because they had gambled the money away rather than paying them.

**MR BANKS:** Okay, good. Thank you.

**MR FITZGERALD:** Now, it just says "the duty of care". I note your comments here. In your paper you say, "So we would prefer not to follow the path of defining a duty of care through the courts" - and I understand the reasons for that - "a reasonable minimum of standards by consultation." I just want to link that back to the discussions we have just had with the former participant from Star City about the identification of problem gamblers generally. When you talk about minimum standards here, the development of minimum standards, does that or does that not involve training for gambling providers to identify people with problems with gambling or not? Just explore to me what you mean by minimum standards there.

**MR BRADING:** Minimum standards - and you have got a whole list of different things. For example, clocks on the wall are not effective with problem gamblers. They may be effective for people who are potentially problem gamblers.

**MR FITZGERALD:** I see, it's that general range of - - -

**MR BRADING:** The cost of putting a clock on the wall is, what, \$20 or something, so that could be a minimum standard. As far as identifying problem gamblers, in

many institutions now we have the loyalty cards, the Star Card or the Thommo's Card or that sort of thing. That sort of situation is ideal because when you get your loyalty card, you can say, "The maximum I want to gamble per month is \$200." Once you get to \$200, the machine says, "Thanks very much, Richard, you've gambled your month's allowance."

**MR FITZGERALD:** So your minimum standards there are basically to deal with the list of consumer protection, harm minimisation-type approaches that we have identified.

**MR BRADING:** Because I'm interested in picking on the worst operators rather than the best operators in the industry.

**MR FITZGERALD:** That's fine. All right. Just a final question. You say loan sharking is illegal, in that it is a breach of the Consumer Protection Provision of the Consumer Credit Code. Our report basically I think could be read as saying there is some but not a high level of loan sharking - and then the other issue money laundering and so on - which we would have thought was a plus of our current probity and regulatory arrangements. You're saying here that there is some activity still going on but you're saying that our draft report hasn't acknowledged this particular aspect of loan sharking, the - - -

**MR BRADING:** Simply that your report, as coming out of that round table, says, "Look, you know, it's legal" - somewhere along the line, the words "it's legal". In fact, it is illegal, it's just that its illegality is really a minor problem for people at risk of their bodily safety. I don't personally think that loan sharking is a huge issue and clearly there have been some very positive steps, certainly in this state, towards minimising it.

**MR FITZGERALD:** Right, okay. So that's the point you're making there. That's fine. Good.

**MR BANKS:** Well, unless there's anything else - - -

**MR BRADING:** No, thank you.

**MR BANKS:** - - - thank you again for participating and providing a submission for us and also the submission that's attached to it. Thank you. I'll break now, just before our next participants.

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**MR BANKS:** The next participant today is the Public Interest Advocacy Centre. Welcome to the hearings. Could you please give your names and your positions.

**MR KIRK:** Greg Kirk, principal solicitor, Public Interest Advocacy Centre.

**MR MORAN:** Simon Moran, solicitor, Public Interest Advocacy Centre.

**MR BANKS:** Good, thank you. Thanks for coming along. You have got a number of issues you want to raise. We have got a very brief outline of those. Why don't we let you just go through them and we will ask questions along the way, perhaps.

**MR KIRK:** Thank you. We welcome the opportunity, and thank the commission for it, to attend today and we also welcome the commission's report. We think it went a long way to identifying the range of problems that there are in relation to gambling services and identifying some of the ways that they might be redressed. Our involvement in relation to gambling has essentially been as a casework service, so that we have been looking at running test case litigation to try and establish certain rights for people who have suffered loss or damage through irresponsible provision of gambling services. That's really the position we come from in terms of expertise and understanding of the industry.

We certainly can't say that we have a huge number of clients and that we have seen many, many people, but we have certainly had quite a number of clients. We have contact with other agencies such as financial counselling and Wesley, who were just here, who do provide those services. I guess in response to the report, we want to highlight our focus on gambling - which is seeing it as a particular type of consumer transaction, one that has particular dangers inherent both in the product and the industry, but also has got problems because of the history of gambling and the general attitude to it within the community - and make some suggestions about how they might be redressed.

**MR MORAN:** Most of our experience has been in terms of actually running cases. I think we want to highlight that that's not an easy process. It's extremely expensive. There is very little precedent, not just in Australia but throughout the world. We looked through numerous resources or case bases to try and find legal precedents; there's very few of them. So to some extent, a lot of the litigation that we are involved in around gambling is quite exploratory and it's a new field. As such, it is very expensive, very time-consuming, the cases are very complex and they're quite novel arguments requiring a great deal of research.

There are many technical difficulties involved in the cases. Primarily I suppose for us has been evidentiary difficulties - obtaining details of specific transactions, specific credit transactions, difficulties in records from organisations where the gambling takes place and also from our own clients' records. So I think we want to highlight the fact that it's a very difficult, complex and expensive process and we don't necessarily see litigation as the answer to resolving our clients' difficulties - maybe specifically for our individual clients, but not systemically.

**MR KIRK:** The litigation essentially relies to some extent on gambling-specific regulation - the Registered Clubs Act, the provisions against provision of credit for gambling - but more so on traditional consumer protection laws like the Contracts Review Act, the Fair Trading Act, the Trade Practices Act - so the normal, generic consumer protection laws. One of the difficulties we face is that I think both within the community but also certainly within the legal system, there isn't an acceptance that gambling transactions are just consumer transactions and should be looked at in the same way, so that there tends to be a reaction that has a bit of the flavour of "these people are engaged in what's only a semi-moral activity anyway and they should be left to their own devices."

Now, certainly both from other legal practitioners and from judges, you get great surprise at the notion that you could treat a gambling transaction as a contract which may be - in the particular circumstances in which it occurred - unfair. You apply the same principles in relation to, say, you know, a home loan, and there's no difficulty in the courts or legal practitioners having that accepted. But it's regarded as extremely novel and - they're not looked at as consumer transactions and that's part of the problem.

Once you do look at it as a consumer transaction, you can see that there's the same general range of needs. It's a product which people obviously want but which, provided in the wrong hands or provided irresponsibly, can be a dangerous product for the consumers that use it and lead to problems. There hasn't been the range of - as again with credit, by comparison - laws providing mandatory disclosure, in terms of information about what you're buying and what the risks are. The comparison between disclosure of interest rates and disclosure of your probabilities on poker machines - there's virtually nothing at all about that at the moment.

So there's the problem in the courts but there's also a problem in terms of getting clients who understand that they might have rights, and that's partly because they have taken on board the same attitude that it's their own fault. Particularly people who have got addictions tend to go through that cycle of having binges and then being terribly guilty and blaming themselves, and that can bring on another binge. But also the problems for them, even once they're through that, to run litigation involves them going to court and saying in public, "I'm an addicted gambler." That can bring problems in terms of their current work position - if they start saying, "I'm an addicted gambler and was so badly addicted that I was cashing cheques, bouncing cheques." It has such a flavour of unreliability and dishonesty about it that people are reluctant to come forward and admit to those things.

**MR MORAN:** It's difficult getting those clients to start with. I think that's a crucial issue for us and that probably reflects the number of cases that we have actually been able to run.

**MR KIRK:** Then the cases that do run, to date, inevitably settle at the last minute, after huge amounts have gone into them. The industry is very reluctant to have any

established legal precedent against them, in terms of setting some standards beyond which they can't go, in terms of how they provide the service.

**MR BANKS:** Are you going to talk at all about particular cases, or characterise them? I would be interested to get a flavour of the sort of cases you have been involved in.

**MR KIRK:** Yes, both the major ones we're running at the moment involve registered clubs and poker machines. Certainly that seems to be the main ones that present to us, as poker machine problems. One of them had some element of sort of provision of alcohol tied in with the gambling, but the other didn't at all, it was all soft drinks. Both involved cashing cheques, and not only cashing cheques of the gambler but cashing third party cheques, where the payee is either the gambler or the gambler's business, so providing funds that way, and a tendency for that to happen in - the gambler will be going along, regularly spending large amounts, but perhaps within what you would consider a reasonable range for people on those sort of incomes, and then going to periods where they really were binge gambling and spending huge amounts and cashing cheques up to 10 or 12 thousand dollars in a day, each day, for a period of time.

**MR MORAN:** These binges happen after the clubs have actually had the knowledge that there is perhaps a gambling problem there. There's extensive gambling before these binges as well.

**MR KIRK:** And some evidence of inability to pay and gambling beyond their means, in terms of cheques regularly bouncing, having to ask for time to pay. So they are relatively long-term indicators of a problem. Both the current ones involve exclusion orders, or attempts to have the person banned as well, so self-banning efforts, which weren't successful.

**MR MORAN:** They have extensively relied upon the individual to keep themselves out. It hasn't really been a reciprocal arrangement, where there has been a mutual acknowledgment of a problem here and an attempt to at least discuss it themselves when the gambler comes back. He has really been accepted back into the fold.

**MR BANKS:** Okay, thank you.

**MR MORAN:** But I think the cases that we have had reflect to some extent the way that the industry is fragmented, it's dispersed into different ways of dealing with problem gambling. The clubs that we have had dealings with, there has been probably - from our perspective, it's a lack of professionalism in dealing with the problem gambling. It hasn't really been discussed at length. There hasn't been an initial recognition of the problem and an attempt to deal with it with both parties involved. It has simply really been an acceptance of that level of gambling, which was initially a very high level of gambling, and then with the binges on top of that. So the response from the industry, the examples that we have had, hasn't been an attempt to deal with the problem.

**MR KIRK:** I guess we raise that against the background of the ideas of voluntary codes of practice and whether they would be workable. This seems to be an industry where there's a great deal of disparity between different sizes and styles of service provision and some of the members in the industry seem to be much closer to the industry body and acknowledging problems and trying to do something about it, but there seems to be a very big fringe area where that doesn't happen. We're concerned that if a voluntary code-type approach is adopted, the people who will comply with the code are those who are already probably doing the right thing and you won't get compliance from the people who are really the target, in terms of the main areas of the problem.

Though against that background, it seems the whole industry is reluctant to accept, or to risk any consideration in the courts of these cases, so that although they're against smallish clubs, the ones we have been running, even the sort of casinos' lawyers have an interest and ring up and say, "What's the claim and can we get copies of this?" So there's a sort of broad concern about that. It seems unlikely that litigation is going to be the route through which clear law is established that addresses some of the sort of balancing standards that have to be set in relation to service provision in the industry. Given the current rate, it would take an awfully long time before there are sufficient cases determined by the courts for the courts to sort of consider how to balance the rights and responsibilities of both the clubs and the patrons.

I guess in addition to that, it doesn't seem to be - the legal process is not providing a solution at the moment for people who have complaints, for consumers with problems, consumers who have lost money. That's certainly one of our other proposals, is that there needs to be some sort of more accessible dispute scheme, as there is in many other industries now, where those complaints can be addressed and there is some right of redress. It may be with limitations on its jurisdiction and the amount of money that it will deal with, but something less formal and time-consuming than court cases, because certainly just to run a single case seems to take at least 18 months to three years, at the moment.

**MR MORAN:** In terms of other options for clients, our experience is that the regulators that have the power to actually make changes within specific industries just haven't really been effective. Where we see that there is a problem, they have failed to perceive it that way. Perhaps there are some changes that they recommend but they're not the substantial changes that we would recommend, particularly in terms of I suppose the vexed issue of a cash advance, which is probably poorly defined at the moment or not defined. We'd perceive cash advances to be in terms of personal cheques, third party cheques, the provision of credit at establishments. This has taken place in our cases and we've seen evidence of regulators investigating that but not really perceiving that it's a major problem or that it's something that should be addressed or there's a general vagueness in dealing with what we perceive as a real problem and it's in great detriment to our client that this practice has been maintained.



**MR KIRK:** Yes, it seems the industry-specific regulators, the Department of Gaming and Racing, doesn't really consider themselves a consumer protection type body and clearly they have many other functions. Even where they take a complaint from consumers in terms of how a gambling service had been provided, they look at it in terms of their licensing of that outlet and tend to ignore it in terms of what redress that particular consumer is entitled to for what's happened to them. So there seems to be a failure certainly in terms of consumer protection there and also to some extent in terms of enforcement of their own legislation, especially the provision of credit stuff, and it's a hard industry to enforce that in because there's so many outlets and it would take a huge amount of resources to cover them all.

But in terms of finding out what's going on, there's not an accessible point at which consumers can complain. The department doesn't have a sort of complaints handling branch that's not advertised to people so that complaints about the industry don't get through to them and there's nowhere for consumers to go. By the same token, the sort of generalist consumer protection department, the Department of Fair Trading, because there's a particular regulator, don't see it as their territory either. So they don't seem to have had much focus on consumer protection stuff in gambling to date.

**MR MORAN:** So essentially for the consumer it's just the option of going through the court process which is extremely complex, very expensive, or seeking some action from the regulator which, in our experience, just hasn't been covered. So that's why we would see that another mechanism which would actually address consumers' losses or consumers' problems would be effective, not only I think for addressing the consumer's particular issue but maybe for regulation, for self-regulation of the industry throughout. So that if there are enforceable codes, enforceable standards and it's enforced by the consumers themselves, then there is perhaps a general push for better standards throughout the industry and it's not simply relying on a government department or a regulator to enforce.

**MR BANKS:** When you say enforced by the consumers themselves, what do you mean?

**MR KIRK:** Well, I guess in two potential ways. One is the sort of industry specialist complaints handling body that we would recommend similar to the banking ombudsmen or the ones in the insurance industry or telecommunications or energy, so that there's a place for complaints to be made; they're dealt with. That body produces annual reports saying these are the sort of problems that are being identified in the complaints. To the extent that codes of practice are in place and they're being breached and that's identified in the complaints brought forward by consumers, that's fed back into the monitoring of the codes of practice process. I think the strongest provision is through that but in addition, in relation to the specific gambling regulation at the moment, things like the credit provision, there is no right of enforcement of that section for anyone but the department, so to the extent that they

don't enforce it, it doesn't get enforced because there's no-one else outstanding to bring actions under it.

**MR MORAN:** So I suppose that's addressing one of the issues raised in your report. In looking at codes of practice we'd see that codes of practice have to be mandatory and have to be enforceable if they're to be of some use in the industry. Because Greg was saying earlier there are these fringe dwellers perhaps, which is a very large group in this industry or may be a very large group in this industry, which may or may not be part of a voluntary code of practice and if they are to be used through an industry scheme, a consumer industry scheme whereby they might get redress, then that must be mandatory to be of any effectiveness at all. It can't simply be a matter of clubs or hotels signing up to this codes of practice.

**MR KIRK:** A voluntary code might be more suitable if it was an industry that had a small number of providers, was relatively tightly knit, had a very strong central industry body that was going to provide the impetus. The other thing in terms of the regulatory structure that we wanted to enforce was the need to have an independent commission separate from the department that is supposed to promote and encourage the industry, a commission which looks at these issues in terms of enforcement and monitoring of consumer protection laws without - it seems at the moment those two roles are compromised by being combined in the one place, and certainly subject to political compromise as well to the extent that it's a department in the direct control of the minister.

**MR BANKS:** So the model that we - I don't know whether you've had enough time to look at the broad dimensions of the model that we were putting forward at the end of our report. Did you see that? I mean, it seems to accord with what you're saying.

**MR KIRK:** Yes, I think that does accord with what we're saying. We certainly would emphasise the need to take that approach rather - there seems to be a lot of support for other models or a model that had less independence and we certainly wouldn't advocate that.

**MR MORAN:** In addition to that though, we're saying also that there needs to be somewhere that the consumer can actually get redress as well. So I think that's an addition.

**MR FITZGERALD:** When you're talking about consumer redress generally, what sort of redress were you generally talking about here? One of the issues - and I don't know if it's in New South Wales or in other jurisdictions, they tend to merge a little bit - there are some complaint handling arrangements, and I think even in New South Wales there are theoretically complaint handling arrangements available. But it's also true in most jurisdictions no - I haven't met anyone yet who has used them, you know, in the last 12 months, but the sort of things you would see that body dealing with would be largely what? What do you think is the area or the issues that are not currently being handled that could be handled in terms of a complaint handling body? Not in terms of regulation and codes and that, I understand that, but what would

pumping up a complaint handling body actually do, do you think, or what would it seek to address that isn't being addressed at the moment?

**MR KIRK:** I think it would be mostly those transactions which, because of the circumstances in which they took place, were considered to be unfair, so the sort of provision of gambling services at a time when the provider knows the person is gambling way beyond their means, is fairly clearly addicted and gambling compulsively.

**MR MORAN:** One example just might be the use of inducements. I think there's probably a range of complaints which may be set out or may become apparent through the use of a code of practice as well, a code of practice which would prohibit things like the use of inducements - - -

**MR KIRK:** Failure to observe banning orders.

**MR MORAN:** Yes, and so in those situations where the code is breached and there is substantial loss on the consumer's part.

**MR FITZGERALD:** And there's no models around the world that you're aware of where that's working effectively?

**MR MORAN:** No.

**MR FITZGERALD:** No, neither am I.

**MR MORAN:** Not in this industry.

**MR FITZGERALD:** No. Well, if you come across them we'd be keen to know before the end of September because we're not aware of them either. Just going a little bit further, at the moment in New South Wales you've got also the Department of Fair Trading and you've got - not that it's an area that I understand all that well - you've got various consumer appeals tribunals and what have you, or what are they now called, Fair Trading Tribunals or something or other. Are any of the current arrangements that give some protection for consumers suitable? None of your recommendations actually talk about changing the role or the scope or the jurisdiction of the existing consumer tribunals, consumer trading tribunals to cover this area, rather, you see it being done through all new mechanisms.

**MR KIRK:** Yes, I think it goes back to some of the problems we were talking about in running cases at the outset, is that essentially the - certainly the Consumer Claims Tribunal or its now replacement, the Fair Trading Tribunal - - -

**MR FITZGERALD:** Yes, that's it.

**MR KIRK:** - - - could deal with these sort of complaints but for perhaps the fact that consumers don't know that they could go there, that it's a subject that they can

complain about and that these are consumer transactions, they're contracts like any other one. I don't think the tribunal would realise - given the reaction of courts to it, I think you wouldn't expect a much better reaction within those tribunals in terms of not identifying it as a consumer transaction where there should be standards of fairness and there shouldn't be unconscionable conduct and the like. Then there's the sort of fact that they're reasonably complex cases in terms of the amount of information you'd have to bring and a consumer is not going to be able to - in order to run them in the courts certainly you need to subpoena a lot of bank records and the like and get all that material there to prove that all these transactions happened because otherwise, particularly with poker machines there's no record and - well, an awful lot of gambling transactions there's no paper record of the individual transaction.

**MR FITZGERALD:** So even within that level, those tribunal levels which are slightly less formal and difficult to deal with, you think that there would still be substantial problems on behalf of the consumer.

**MR MORAN:** I think also there's - we're at the moment running fairly novel arguments with the court and I'm not sure that they've been accepted yet by the courts. So it would be perhaps when there is more accepted - or there's examples of bad practice, where that's been found against that in the courts - then perhaps. But that's still perhaps, it's not that that could then be transferred down to the tribunals as well.

**MR KIRK:** I guess if you had a code which set out some of those things more clearly in terms of standards of service provision, then that might provide some assistance to a non-specialist tribunal in dealing with it.

**MR MORAN:** I think there's also an advantage with a complaints handling body that deals with these type of complaints all the time, so there's a specialisation of knowledge about the industry, about the types of practices which are good practice and bad practice, so there's also a working experience of any code of practice that may come up as well.

**MR FITZGERALD:** You made a comment earlier about the courts not - or being surprised that this transaction would be seen as a contract to which therefore you could apply fair or unfair conditions or circumstances. If they're a bit startled that you see it as a contract, what do they actually see it as? How do you think they characterise this transaction that's occurring, given that the industry for many years has maintained this is no different from any other entertainment, the provision of entertainment? If you take that, in the provision of entertainment there is a contract obviously. So how do you think the courts are characterising these sorts of transactions or conceptualising them?

**MR KIRK:** Well, you could also say that there's a contract in relation to the provision of prostitution services but you would have great difficulty going to a court and trying to say what was promised and, you know, what's a reasonable standard of

service, all of those sort of things. So it's not so much a legal characterisation, it's more that it's seen either as a not entirely legal activity or a not entirely moral activity and there hasn't been much thought about what standards there should be and there's a reluctance to put much thought into that. There's a reaction against people who are gambling too much and ruining their own lives and that of the family.

**MR FITZGERALD:** Right.

**MR MORAN:** I suppose there's also a difficulty there when there's a large number of transactions which has been the case with our clients, of establishing each particular contract, looking at the circumstances around the formation of each contract, and that's extremely complex and very time consuming.

**MR BANKS:** Especially on poker machines, do you mean? Is that what you're talking about?

**MR KIRK:** Yes, poker machines.

**MR BANKS:** You'll notice that in there we've talked about ways of generating paper trails. I mean, currently some members have loyalty cards which they use. I don't know whether they apply in the case of your clients but that provides information which currently is only used by the provider, by the venue. It's not available to the client, to the patron. There may well be scope for generalising that. We've argued that at the very least that information should be made readily available to the client - information about how much spent, spending rates, machines used and things like that. It just seems a reasonable beginning but you could imagine that building up to something that would solve one of your problems anyway.

**MR KIRK:** Yes.

**MR BANKS:** What sort of sums were involved? When you talked about cheques and third party cheques and so on, what sort of sums were involved? Was it a sort of frequent occurrence or were fairly substantial sums being involved in single cheques?

**MR MORAN:** With one of our current cases there was a period of perhaps six to eight months of smaller amounts, around - I'm talking hundreds of dollars. Then there would be particular binges as well and those could add up to 7000, 8000, 9000 dollars a day.

**MR BANKS:** A day?

**MR MORAN:** Those would only happen for reasonably short periods but we're talking very large amounts of money.

**MR BANKS:** Was this in a large venue or a smallish venue?

**MR KIRK:** I think it had about 50 machines.

**MR MORAN:** I'm not sure.

**MR BANKS:** Okay.

**MR MORAN:** A small venue then.

**MR KIRK:** Yes, relatively small. An earlier case that we ran there was a cheque that was the proceeds of the sale of a house that was - either 30 or 40 thousand dollars that was held by the club over a period of a week and spent during that time.

**MR BANKS:** Okay. I don't know whether we may have stopped you in midstream. Were there other points you were wanting to make? I didn't have any other actual questions.

**MR FITZGERALD:** No, even though they're dot points they're helpful, you know, in giving us a bit of curry as to where you think it needs to go. I just want to clarify something - cash advances must be clearly defined. At the moment in New South Wales certain transactions, as I understand it, are prohibited within gaming venues. Is that correct or is it industry by industry - are they all different - or are you not aware?

**MR KIRK:** It's industry by industry, yes. So the one that's applicable to clubs is in the Registered Clubs Act.

**MR FITZGERALD:** And they're all different. There's no sort of uniformity.

**MR KIRK:** No uniform standard.

**MR FITZGERALD:** Here you talk about - I just need to clarify precisely what you mean, the provision of cash through credit facilities. Clearly therefore you're not saying that access to ATMs and EFTPOS is not covered by that. It's only where it's actually a credit facility itself, a credit card per se or are you defining that in terms of some other sort of credit arrangement?

**MR KIRK:** No, this relates more to credit arrangements under the existing prohibition.

**MR FITZGERALD:** Credit arrangements rather than credit card?

**MR KIRK:** Yes. Well, credit cards are different from EFTPOS. I think credit cards would still be a provision of credit and that certainly happens seemingly regularly, that it's put down as food and drinks and it's actually cash for gambling. But we would also support some restrictions on the availability of ATMs, certainly within gaming rooms or relatively nearby.

**MR FITZGERALD:** That's fine, good.

**MR BANKS:** Thank you very much for that. That was quite valuable. If you have any other thoughts and if you get time in between your cases to delve back into our report, we would be glad to hear from you.

**MR KIRK:** Thank you.

**MR BANKS:** Thanks very much. We'll just break now for a moment, please.

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**MR BANKS:** Our final participant today is the Society of St Vincent de Paul, the GAME program. Welcome to the hearings. Could I ask you to give your name and your position please.

**MR BORHAM:** Dennis Borham, and I'm a gambling counsellor.

**MR BANKS:** With GAME?

**MR BORHAM:** With GAME. I deal with the financial aspects of people's problems as well as the gambling itself.

**MR BANKS:** Thank you. Thanks very much for taking the time and trouble to come here and see us. You provided a brief submission. We had a good talk with you in the first round I seem to recall as well.

**MR BORHAM:** Yes, that's right.

**MR BANKS:** And visited your premises as well. So why don't you simply go ahead and go through the points you want to make.

**MR BORHAM:** The first point I want to make is congratulations on the report. It was something that needed to be done and it made gambling become an issue that people spoke about. The second point is it's bugged my social life. I cannot tell people that I'm a gambling counsellor without being barraged by personal justification and inquiries into how to fix somebody else who has a problem. I think that is significant because gambling awareness is about now. Whether people see it as a good thing or a bad thing, the jury is still out. And whether the people see they're doing a good thing or a bad thing, the jury is still out. But they are aware that they're gambling and that's an interesting factor because prior to the report I don't think people looked at gambling as gambling. They looked at a night at the club, and I think it became reality. So that's all I want to say on that at this point.

I've headed my paper, "Gambling: does it create or degenerate crime, domestic violence and violate and discolour the picture of the domestic economy". We were led to ask our clients had their gambling led them to crime? There was a lot of debate within the agency. It's a very heavy question to ask people, "Has your gambling, previously seen as a social activity, led you to become a criminal?" - pretty hard-hitting stuff. We had a lot of debate on it and agreed to try it for one week. We had an incredible response. More than 60 people in the first month said yes, it had led them to commit crime. This crime could be stealing from their partner, their children, their employer, doing frauds with Bankcard and MasterCard etcetera or social security fraud.

Most people had not been caught and most people who had admitted, particularly to employers, of breaking the law, were not charged. There were three reasons for that, in talking to employers, and I've spoken to a lot of employers where this has happened. One is it does bring a bad name to the employer and to the



company. But a lot of employers see that if they say the employee was tea-leaving from the till they virtually cut off the income for that employee who may, apart from robbing the company, have been a decent and good employee and a valued employee, except for the fact that they stole money. So often they find out how the person did it, pay them up, and disburse them. Otherwise the guilt that the employer feels in actually cutting off somebody's income so they're on the dole for the rest of their life - and this seems to be a common picture of what they interpret - so action is not taken for that reason. The other reason is legal costs and criminal compensation is just not worth the effort.

The robbery and stealing from family members is absolutely prolific. We often talk about disposable income. To a problem gambler, and probably to moderate gamblers as well - there's no such thing as disposable income. All income is disposable. Many people who don't see that they have a gambling problem that I speak to socially are behind with credit card repayments or car repayments or house repayments or rent. The pattern seems to be to the non-problem gambler that this happens at least once every six months - a big night out; spending a little bit more; somebody comes over. They all go to the club and be the perfect host or hostess but they spend more than they can afford to spend on the poker machines. I think that's the first thing that we really need to bring people's awareness to and I did an interview with a newspaper yesterday - one I hope it gets in - until the people take note, that problem gambling doesn't necessarily mean somebody who is gambling every week.

So in a lot of ways the depriving of paying slips from crime into domestic violence which is another - it is crime but it's another form and under another prelude. We have the taking from the family. We have the physical assault if somebody won't either hand over the housekeeping money or won't co-sign for loans. A lot of the clients I see are co-borrowers in loans that they really got no benefit from except they didn't get their block knocked off. The gender doesn't matter. Sometimes it's females and sometimes it's males. It doesn't seem to be gender based, unfortunately. I have two clients who are male clients who are absolutely petrified of their wives who are the gamblers and I felt that was frightening as well as revealing.

I gave two case studies of a very simple case of domestic violence. One was husband and wife married 13 years ago. They lived together quite happily up until five years ago and the wife for some reason or other developed a gambling problem. They both had a relatively good income. He was on around 45,000, she was on 60,000. She would go out often and gamble. He was aware she was going out with the girls and didn't take any notice of it and these are his words. But the whole household savings, which was around \$125,000, was spent. Credit cards, personal loans started to build up to the degree where there needed to be a consolidation loan to pay back all the debts.

The husband thought he was helping his wife and he co-borrowed with her against the house for the first 105,000. Two years later there was another consolidation loan, 125,000. All the savings gone, the two loans gone. Ill-health hits

the wife. The repayments can't be met. So what happens is they have to sell the house. The house was valued at \$400,000 . After the debts and everything else that were taken out of it, it left about \$185,000. The other by-product of the gambling problem was the health insurance money went into the poker machines. That went in for more than a year before the husband knew that. He was very against payroll deductions because he didn't like other people touching his bank account. When she got sick there was no health insurance so they had to pay a large percentage of it. We are talking heart surgery; we're talking very expensive.

Now she is - whether she'll be able to work again or whether she's just in respite care is not known at this time. They're in rented accommodation and the whole lifestyle has changed. Regardless of what happens, they still love each other. Gambling seems not to break the love bond as often as it does say a alcohol or drug - that's an observation, not a law that I've discovered. But they're still very much together. The conflicting messages that the son picks up from what's happened and what's good and what's bad is just beyond comprehension and he tends to take sides with mum and take sides with dad and sometimes he can take note of that because he's also suffered - change of school, change of accommodation, change of status with his whole life.

The other situation is a story which I wish I could say is very uncommon. It relates to a person who migrates to Australia, the land of plenty, so that he could send home money to his family. The family saved up for two years - father, mother and sister and himself, to send him to Australia. He landed a job. He works about five minutes' walk from here. He earns \$900 a fortnight clear. He does a lot of overtime. It's not a particularly high-paid job but he works a lot of hours. The first six months he was sending money home to his family and they were starting to have respect in their community. They had food etcetera. He saw a jackpot on a poker machine was three months' pay in his country so he thought he'd win it. He's been chasing it ever since.

Within six months he stopped sending money back to home and when he came to see me it had been 11 months since he had sent any money home - even though there were pleas from the parents via people who had been to his country and come back here and found him for him to send something because the family was totally impoverished - another form of domestic violence and not the sort of situation that I can sit down and read the riot act to like I did when I was a truck driver. Now, we have to be caring and loving and understanding of these things. I find that particularly hard.

There is, as I said, the physical violence that comes with the hidings and the beatings and the bashings if money is not handed over. I don't become aware of a lot of that and I know I don't. Even if I ask clients, "Do you belt your wife or your husband up," they're not going to answer me truthfully. But 4 per cent of our clients admitted, without being asked, that they have been involved with that. We do refer them. I haven't found out a way and I haven't developed a way of finding out how

much domestic violence is involved with gambling and I don't know anyone else who has and if there is a way I'd love to see it in the report.

But whereas I can ask people do they commit crime, they say yes; they bottle up if there's domestic violence and we know the reflection in society for somebody to admit that. A lot of people believe that what other problems they have will be alleviated if they stop gambling and that's what we've got to help people work on. That is what I get paid to do. But it is frightening. There is a lot of problems out there that we're not identifying and we won't be able to for a long time and I think that's one of the harsh realities of gambling, just like gambling has been in our society for many years. There were a lot of hidden problems and there still are.

Violating and discolouring the picture of the domestic economy: over the last couple of months I've heard two sets of figures. (1), that \$11 billion is spent on gambling. (2), there's \$11 billion in debt and consumer debt. Because of the way money is gained for gambling, which is from the pay packet to the poker machines or horses or whatever, from the credit card, from the EFTPOS, from personal loans, there doesn't appear to be a real way of determining how much money is really going to gambling and how much is going to consumer goods. What we do know is the purchasing of domestic goods and products seems to be down, and yet consumer credit is still very, very high. We know that I think it's every adult or every worker owes \$700 or some such thing, or \$7000, I forget the figure. But everything is so discoloured, and I think the gambling industry has piggy-backed on the retail industry as far as getting funds.

Sometimes I'm obliged socially to go to clubs. I don't like it, but I can't let my girlfriend go on her own. It would be socially unacceptable, but I don't have to play the poker machines. What I like to do, because I consider I'm at work, is watch the EFTPOS machine. It's very interesting. On the first withdrawals that people make, it appears to be a rational and sensible withdrawal that they make. It's money that they can afford to lose. It appears this way. But around 9.30 to 9.45, the line starts to get bigger, and we're looking at the second round of withdrawals.

It's quite interesting, and I've seen this in a number of clubs, in clubs ranging in size from 50 poker machines to 400 poker machines, that the EFTPOS line starts to grow around 9.00. At 10.15 the start of the insufficient funds in the account starts to appear. Then you see the person coming back, standing beside the partner. Again it doesn't appear to be gender mixed. Sometimes it's the bloke who's used up the card, sometimes it's the girlfriend or the wife. They go around again. On Saturday night there's more insufficient funds than Friday night. Thursday night there's quite a number, and on Monday you only see two, generally speaking, and again I'm producing a very narrow case study.

If there was a ceiling on credit cards for one use, I think we would save society a huge amount of problems, if we could do that. One use per customer, per session, per venue. We would save a lot of money. The greater the number of transactions on the machines, the EFTPOS machines or the credit card machines, the more

irrationality there is. \$50 first; \$100 to chase the 50, second; 200 to chase the 100, third; anything that's left, fourth. It's not uncommon to see \$10 come out of the machine - it's not uncommon - but never in the first transaction. I find working with gamblers makes me more emotional than anything else I've worked with. I've worked in Long Bay Gaol, I've worked in age care, I've worked with handicapped children, but it's gamblers that I get most emotional about, and the reason is very simple: I don't believe any of us know what we're fighting, and we know we're only reacting to what's already happening, and I think that's one of the great cruelties of gambling. Thank you.

**MR BANKS:** Thanks, Dennis.

**MR FITZGERALD:** Good, thanks very much.

**MR BANKS:** Did you have - - -

**MR FITZGERALD:** Just a couple of questions. The domestic violence issue that you talk about - - -

**MR BORHAM:** Yes.

**MR FITZGERALD:** We had a submission, I'm sure it was in Melbourne, that also talked about the level of domestic violence. Was it Melbourne? There was a particular one - - -

**MR BANKS:** Yes.

**MR FITZGERALD:** I asked the same question there, in the domestic violence in the terms that you're using it here, you've taken a broader definition of violence than physical violence. Is that right?

**MR BORHAM:** Yes, I have.

**MR FITZGERALD:** It seems to be a trend that's emerging within the welfare sector, or social sector. Can you just explain to me what encompasses violence for the purposes of this submission.

**MR BORHAM:** Being hungry is not violence, or being violated against. All of us at times have been hungry, but if we have to continue and constantly be hungry, we're being violated against. One of the things that really hit me was I work with a lot of street kids, or street adults. They're not kids. They were once. One of the things that comes across time and time again is, "When I was little, we didn't have, because dad or mum or both drank and gambled and did these other things." So there's no socialisation, and this is where the real cruelty of the gambling happens.

Where the gambling is depriving the children particularly of the parents, or even the partners from the other partner, but more so where they lose out on the

socialisation of normal society and being either kept at home or in a very tight environment - because there's no funds to go anywhere else or there's not the clothes to go somewhere else. It costs a lot of money to bring up a child now, to be social enough to buy the CDs, to buy the records, to go to the movies to see whatever. I mean, look at Star Wars when it was out, the amount of money that could cost any individual parent just to get all the paraphernalia attached to Star Wars. Gambling prevents that in a very detrimental and violent way, because the child is not able to relate at school in the playground and so forth. So that's why I've used violence, because it is a violence.

**MR FITZGERALD:** In that sense, yes, okay. The other thing is, just in the end of your submission, with bankruptcies.

**MR BORHAM:** Yes.

**MR FITZGERALD:** Could you just highlight the point that you were making there. Obviously we're aware that there is a, you know, reasonable correlation between gambling and bankruptcy, notwithstanding the difficulty in the legal interpretations. But your last point, just illustrate to me, what are you saying there? Is it increasing, or what's happening with that area from your practice point of view?

**MR BORHAM:** I can safely say that for the next six months I'm going to do seven bankruptcies. That is definitely increasing. What is also increasing is the amount of gambling involved, even though I've spelt out that sometimes the gambling won't cause the bankruptcy but will accelerate the process. But gambling certainly is becoming more involved in bankruptcies, and it's also bringing issues on a lot faster.

**MR BANKS:** One thing I was going to ask - this came up when we were in Adelaide, I think it was last week.

**MR FITZGERALD:** This week, Monday.

**MR BANKS:** Was it?

**MR FITZGERALD:** Yes.

**MR BANKS:** Okay, that's true, it was too. That is the question of, I suppose, people using cash converters and pawnbrokers and so on to dispose of goods, is this something that's been a feature, or something that's come to your attention?

**MR BORHAM:** Yes.

**MR BANKS:** What's been raised with us, particularly in Adelaide, because of one submission in particular, is that it's been seen as a trend that is in a sense coincident with the expansion of gambling in that particular town.

**MR BORHAM:** I'll draw the parallel of drinking. Somebody might start drinking and they start with Scotch and Bourbon on Friday night at the local hotel or club. As the problem gets worse, the venue becomes more laid back and cheaper alcohol and eventually we get to metho. With hock shops, you get people who can borrow using credit cards and finance companies or banks. As their borrowing ability reduces, they have to start to liquidate what they have got and probably what they have bought previously. The only place they're going to get money, whether they've stolen it or whether they've just used up their borrowing capacity, is to start to employ hock shops.

Now, what's frightening, if you walk from central station to Kings Cross here, have a look at one, how many hock shops there are, and you'll find in the last five years there's about eight extras that I know about, but, two, the hock shops now are like boutiques. There's carpet on the floor laid out. They've even got proper racks for the jewellery and everything now. Hock shops used to be a place where everything was gathered on the counter like a mad dog's breakfast. There's a lot of money going through hock shops, and I know all the hock shop dealers within three miles of Sydney, by name. It is very much increased. There are three creditors you will have on every sheet where somebody's got debts. Bankcard or Mastercard or Visa card, a personal loan to AGC, and a hock shop. It's very much increasing. I would not be surprised if the hock shops got together, they could buy out the National Bank, but I won't put that up as a speculation for fear of a run on the hock shop.

**MR BANKS:** Okay, that's fine. All right, well, thank you very much for that. Were there any other comments you wanted to make?

**MR BORHAM:** No.

**MR BANKS:** Thank you very much. We'll just adjourn proceedings today, and we'll resume tomorrow morning at 9 o'clock. Thank you.

AT 4.37 PM THE INQUIRY WAS ADJOURNED UNTIL  
FRIDAY, 17 SEPTEMBER 1999

## INDEX

	<u>Page</u>
CHRISTIAN DEMOCRATIC PARTY: REVEREND FRED NILE	1391-1401
AUSTRALIAN HOTELS ASSOCIATION: DAVID CHARLES	1402-1428
UNITING CHURCH BOARD FOR SOCIAL RESPONSIBILITY: REVEREND HARRY HERBERT	1429-1436
STAR CITY CASINO: JIM HOGGETT PETER GRIMSHAW	1437-1459
WESLEY COMMUNITY LEGAL SERVICE: RICHARD BRADING JANELLE FORD	1460-1472
PUBLIC INTEREST ADVOCACY CENTRE: GREG KIRK SIMON MORAN	1473-1483
ST VINCENT DE PAUL: DENNIS BORHAM	1484-1490