

**THE LEGISLATIVE COUNCIL SELECT COMMITTEE ON THE IMPACTS OF GAMING MACHINES MET IN COMMITTEE ROOM 2, PARLIAMENT HOUSE, HOBART ON WEDNESDAY 17 APRIL 2002.**

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**Mr DONALD CHALLEN**, CHAIRMAN, TASMANIAN GAMING COMMISSION, WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

**CHAIR** (Mrs Silvia Smith) - Mr Challen or may I call you Don?

**Mr CHALLEN** - You may call me Don.

**CHAIR** - Thank you very much for appearing today because you were not expected and we are pleased to see you here. We have a submission in front of us and we would like you to speak to that submission and perhaps we could question you as we go along. If we run out of time, again we will do exactly the same as with the previous two persons and ask you if you will come back.

**Mr CHALLEN** - I will happily do that, Madam Chair. I'm here today as Chairman of the Tasmanian Gaming Commission and I bring the apologies of Mr Clive Eastoe and Professor Kate Warner who would have very much liked to have been here today but unfortunately both have other commitments that prevent them from being here.

There is an important procedural matter that I would like to raise with the committee if I may, but I think it would be appropriate to do so in camera.

**CHAIR** - Are other committee members agreeable to that? Five minutes we need in an in camera session.

**The In Camera hearing was not recorded.**

**CHAIR** - If you would like to speak to the submission, we can get this under way.

**Mr CHALLEN** - Thank you, Madam Chair. I will just talk you briefly through the submission. It's reasonably comprehensive. There are, I think, one or two important issues that you might like to question me about and I emphasise I am more than happy to come back at a later time and, hopefully, another time would be convenient to the other members of the commission.

The commission is responsible under the Gaming Control Act essentially for the administration of the act and it operates within the framework of the legislation. I think it is very important to understand that the commission doesn't see itself as having a role in shaping the direction of gaming in the State. We see that as probably the role of Parliament and while, from time to time, we've made recommendations to the minister for changes to the act to improve the way in which we administer it, we haven't

questioned any of the fundamental issues in the act. So we don't see it as part of our role to ask the question: should there be gaming machines in the State? We don't see it as part of our role to question how many gaming machines there should be in the State; what the limits on the number of machines in individual venues should be; what the tax rates should be; what should be the broad criteria that are used for deciding whether a person should be licensed as an employee or an operator in the industry, nor whether a particular venue should be licensed for gaming machines.

I think that's very important because there is a tendency in debates around gaming to say the Gaming Commissioner should do this and should do that but the Gaming Commissioner is there with a rather limited and constrained role to administer the act and it's the proper role of Parliament in a committee like yours to determine that framework within which the Gaming Commission should operate. So while we, as individuals, may well have opinions on these subjects - and I confess I do but I won't air them today - we don't see it in our statutory role as appropriate for us to delve into those sorts of issues.

You have a specific term of reference that goes to the role and membership of the commission and I think that's an important element of your terms of reference and I think it's very timely eight or so years down the track that the role and membership of the commission and indeed its functions under the act are subject to a review. I think that's a very healthy part of the process.

The commission is an independent body. It is very clear from the act that it has statutory responsibilities quite independent of the influence of government or the minister to undertake the functions that are set out for it in the act and, as we've pointed out in our submission to you, there's only one way in which any outside party can bring any influence to bear on a decision of the commission and that's through section 127 of the act which provides an explicit power for the minister to give the commission any direction that the minister considers necessary. That is quite a wide power but of course the minister would have to give that direction in writing and were such a direction to be given, the commission would report it in its annual report because it would obviously be a significant matter that the community would need to understand that the commission has made decisions under a direction from the minister.

**CHAIR** - It notes here in your submission that this power has never been invoked under section 127.

**Mr CHALLEN** - That's correct; it has never been invoked in what is now nearly nine years of the operation of the act. I think that's a fairly significant fact in itself because it demonstrates that the successive ministers that have been responsible for the act have been willing to leave it to the commission to exercise their statutory powers without intervention. I think it's important that we all understand that at the time the act was first passed, Parliament felt it appropriate to give the minister that opportunity to tell the commission to do something if he felt it appropriate and the commission is well aware that the opportunity is there for the minister to give a direction if he chooses to.

I think it's also important to understand the kinds of activities the commission is involved in. There has been some public comment that suggests that somehow or other the activities of the commission could have a link to the amount of revenue that the Government receives from the operation of gaming machines. In fact when you look as

we have done in the submission at the activities that actually occupy the commission you find that there isn't really a link between the commission and what revenue ultimately the Government receives from the operation of gaming machines.

Our ordinary activities are all about the licensing of people; the licensing of venues; the rule-making activity that goes on to make sure there is a high degree of clarity about when people will be paid - the rules of the game and so on - and, of course, game fairness and procedural fairness; aspects of player protection to ensure that that small proportion of people who are not good at looking after themselves when they're in a gaming environment are not exploited; and, very importantly, disciplinary matters.

If you look at the ordinary activities of a monthly meeting of the commission and the activities that the staff of the commission operate under delegation on, the vast majority of our time is actually put into the licensing activities and the disciplinary activities. Neither of those activities has any influence on the numbers of machines, the amount of activity in licensed venues, tax rates are quite beyond us because they're set down in the act, and at the end of the day the amount of revenue that the Treasurer takes into the Budget from gaming machines is totally unlinked from the activities of the commission.

I think that's a very important point because when you think about the questions of the independence of the commission and the questions of potential conflicts that members of the commission might have with their other activities, I think it is very important to understand that there isn't a link between what we do and what revenue comes out of gaming machines at the other end. The commission has deliberately taken -

**Mr SQUIBB** - I accept what you're saying is the case up to next financial year, but after that - and I'm just trying to find it and can't - any applications for increased numbers is to be determined between the commission and Network Gaming?

**Mr CHALLEN** - Yes, the deed that's attached to the -

**Mr SQUIBB** - Yes, in accordance with the deed.

**Mr CHALLEN** - It provides that the last increment of increases of the venue machine number limits goes to 30 for hotels and 40 for clubs from 1 July 2003 and in fact it stays there until such time as agreement is reached between the commission and Australian National Hotels as the operator to go to different numbers. There's a requirement in the deed that the commission and Australian National Hotels consult, and that consultation has to occur in the six-month period between 1 January 2003 and 30 June 2003.

The point I am sure is in your mind is that if the commission agreed with Australian National Hotels for a substantial increase in those numbers that might lead to an increase in turnover of machines which in turn might lead to an increase in the tax take. I think it's a long bow. It's possible, but it's a long bow because the numbers of machines -

**Mr SQUIBB** - It's going to be market driven.

**Mr CHALLEN** - Indeed, it is market driven. The numbers of machines have a very weak link to the total turnover and the total tax take and, indeed, if you look at the detailed statistics you can see already that the market is showing signs of saturation of the

machine numbers so I think it's very unlikely that an increase in those venue machine number limits would lead to an increase in the tax taking. Even if it led to an increase in turnover I think it's very unlikely to lead to an increase in gross profit which is what determines the tax take.

I might say on that subject there's been some interest in how the commission will conduct that consultation process and what the commission's views are about the desirability or otherwise of an increase in machine numbers. We have had a formal discussion of that issue at a commission meeting and have communicated to external stakeholders who are interested in the issue that at this time we haven't determined how we're going to conduct our affairs. But we have come to two preliminary conclusions: one is that we would take a lot of convincing to increase the venue limits beyond 30 and 40 until we've had at least a year of operation at that level, so although there is the opportunity under the deed to go beyond 30 and 40 from 1 July 2003 it's not an issue that we would be easily persuaded on before 1 July 2004 at the earliest. Secondly, while we are obliged under the deed to consult with Australian Nationals Hotel and of course we will do so, we also believe that there are other stakeholders who will be interested in the issue and we would propose before moving on those limits to consult fairly widely with community stakeholders on the issue. Beyond that, we haven't made any decisions about how we'll conduct that review.

**CHAIR** - Are you happy with that?

**Mr SQUIBB** - Yes.

**CHAIR** - Thanks, Don.

**Mr CHALLEN** - I think probably the other issue that I ought to address under this term of reference heading on the role and membership of the commission is my own position as secretary of the Treasury. People may well put to you that there is an inherent conflict in the two roles. I'd make my submission in two parts: the first part is the point I've already made that the link between the activities of the commission and the revenue that the Treasurer takes from gaming machines is extremely weak, if not non-existent. The second part of my submission would be that there are advantages to the operation of the commission from having an individual like me in my departmental role as a member of the commission and that derives from the fact that all over the place in government we have a model where you have statutory bodies who don't actually have their own resources to carry out their functions but via a departmental link of one sort or another are provided with resources from within the department to get their job done. And there are many examples of this. The State Grants Commission is one. It's a model that works very well and the alternative is to have stand-alone statutory bodies with their own resources. The difficulty with that is that by definition there are always small groups and you can't provide the leadership in a small group of people at the level that gives the statutory bodies access to intellectual grunt and the resources and the powerhouse that comes from being resourced within a departmental structure.

I am pretty confident that this model we currently have for resourcing the Gaming Commission is a better model than the one that existed a decade and a half ago where the Gaming Commission sat out at arm's length from departmental structures. By providing

the full resources of the Department of Treasury and Finance to support the commission we can do things that I think would not be possible if they were separately resourced.

**Mr SQUIBB** - Could that be done through another government agency which is seen to be at arm's length?

**Mr CHALLEN** - It could be. The reason that I think the Department of Treasury and Finance was chosen to provide those resources to the commission is that we are the agency that has the natural regulatory functions within us, so that we do have people who think about regulatory activities. This is not the only one we've got: we've also got liquor licensing; the Commissioner of Taxation; the Government Prices Oversight Commission; and the electricity and gas regulators. We also have responsibility for the Subordinate Legislation Act and the regulation review unit so there is actually quite a lot of regulatory activity going on.

**Mr SQUIBB** - Not that that's a good example.

*Laughter.*

**Mr CHALLEN** - I know that's one very dear to your heart, Mr Squibb.

It doesn't have to be the Department of Treasury and Finance. I think historically part of the reason is that I've had a personal interest in the regulation of gaming and with my colleagues who assist the commission we've put a lot of effort into trying to provide leadership nationally on issues like player protection standards, for instance, in which I think we've done a lot of good work in influencing the national debate. I would say that I would be sorry to see this activity go to another agency because I think we do it well and I think our track record of performance is pretty good in administering the act but at the end of the day these are issues for the Government and for Parliament and not for me to call.

**CHAIR** - Just following on from that, you've heard the comments obviously in the public arena about the role of yourself as head of Treasury heading up this commission and the potential for conflict of interest. Are you reassuring us that in your view and Treasury's view there really is no conflict of interest there and it is only a perceived one?

**Mr CHALLEN** - That is my view and I think those people who have engaged me in the debate - and there have been a few over the years - have lost the perception once they've heard the counter-argument.

**Mr SQUIBB** - Putting that aside, though, there was a commitment given by a previous minister that your role would be an interim one as chair of the commission.

**Mr CHALLEN** - I think if you read the exact commitment the Government honoured, it was that I would carry the function of corporation sole for an interim period of no more than a year. I don't think a commitment was ever given that I personally would be out of it for all time.

**Mr SQUIBB** - I am just going on what we've been told, what has been said to us.

**Mr CHALLEN** - That issue was addressed in the submission the Government put to you, from memory.

**CHAIR** - I have a piece from the 1993 *Hansard* that you might be referring to, where the minister of the day commented that to allow for the appointment of the commissioners and to ensure a smooth transition from the current arrangements, the amendment provides for the secretary of the Department of Treasury and Finance who is also the current Commissioner for Gaming to carry out the functions of the commission for the first 12 months, but he will cease to do so as soon as the new commission is appointed. I think that's what you're referring to.

**Mr SQUIBB** - That may well be it. That's really saying he would cease to be the sole commissioner at the end of the 12 months and would be one of the three commissioners.

**Mr CHALLEN** - That's right. The precise wording of the commitment was that the Secretary of the Department of Treasury and Finance would function as the Tasmanian Gaming Commission for a period no longer than 12 months and would cease to do so as soon as a new commission was appointed. But, as I say, at the end of the day this is a matter for government and if I've got less work to do I've got less work to do. As I said, it is part of my job that I'm personally interested in and I'm more than happy to continue doing it but equally if government wants to decide that it's more appropriate for it to be done elsewhere, that's equally fine with me.

I think probably they're the major issues on the role and the membership of the commission. I suppose the only other thing just to remark on peripherally is the size of the commission. It's a three-person body. I think it works well at that level. I think it works better than the old corporation sole model but I don't think you need a bigger commission. The activities of the commission, as I said earlier, are very much involved with the licensing and disciplinary activities and three persons is about the right sized tribunal to do those sorts of things.

**CHAIR** - Of those three persons - I'm very much aware and you've explained your expertise that you bring to the commission - the other two members, can you explain if they have any specific expertise that they bring in your view?

**Mr CHALLEN** - Mr Eastoe was initially appointed as someone who brought good community connections and didn't have any particular expertise in gaming but he's been a member of the commission for the entire time I have, so in the nine years he's been there he's built up a lot of expertise.

**CHAIR** - So he works within the community?

**Mr CHALLEN** - Yes. He's a valuer and a company director based in Devonport.

**CHAIR** - I'm unaware, I don't live in that neck of the woods.

**Mr CHALLEN** - Well, I think he's quite well known in Mr Squibb's neck of the woods and I think very well respected in the community and has now over a period of time built up a lot of expertise in gaming matters.

**CHAIR** - Certainly over nine years he would have done.

**Mr CHALLEN** - He makes a major contribution to the commission. Professor Warner is relatively new. She's been on the commission I think around a year.

**Mr SQUIBB** - In May 2001 Mrs Trethewey ceased so I assume she followed her.

**Mr CHALLEN** - It's the same date so a little under a year. Professor Warner is a professor of law at the university and was chosen because we felt that the deliberations of the commission would benefit from having a lawyer there. She's someone who has taken an interest in the activities of the Gaming Commission from way back and indeed had indicated, through an expression of interest a long time ago, that she would be willing to be appointed to the commission and when Mrs Trethewey retired the Government essentially contacted her and said, 'Are you still interested?' and she said, 'Yes'. Again, she's rapidly building up a lot of knowledge and expertise in gaming and is already making a very good contribution to the commission.

Mrs Trethewey her predecessor who had been on the original commission that was appointed back in 1994, I think it was, again was someone with good community connections and, as you know, had been a member of the Legislative Council and involved in the earlier Council select committee on gaming machines.

**CHAIR** - I wasn't even here then.

**Mr CHALLEN** - Way back - and she came to the commission with a lot of expertise based on the work of the committees that she'd been involved in and I think she'd probably been a major influence in the debates in the Council on the Gaming Control Act when it was first going through. Over the years, she made a very good major contribution too.

Mrs Trethewey also played a very important role in bedding down the operation of the community support levy. She brought to the commission first-hand knowledge of the debates that had gone in the Legislative Council at the time and, if you will forgive the euphemism, was able to keep us honest to make sure that in the implementation of the arrangements for the spending of the community support levy funds we actually delivered on the commitments that had been made to the Council - the understandings that had grown up - and I personally found that a very helpful contribution because although I'd also been involved in the debates around Parliament, I wasn't actually there when the discussions were occurring in the members' rooms and so on - very important as you would all agree, I'm sure.

**Mr SQUIBB** - They were always transparent.

**Mr CHALLEN** - I think it's interesting that in the allocation, for instance, of the charitable funding component of the community support levy we've seen structures evolve over time that have led to the funds being allocated to bodies that were, if you like, a bit at the more professional end of charities and initially the charitable component of the community support levy had been earmarked really for those smaller bodies whose fundraising was likely to be affected by the advent of gaming machines. And one of the things that Mrs Trethewey had been very strong on over the years was that we have to make sure that the little charities who lost their opportunities for cake stalls and raffles

and bingo nights and so on are looked after, and this is an issue that the commission had repeatedly raised and it got to the point where towards the end of last calendar year we felt there was a need to do something more specific to fill in that gap. You've probably seen that recently a new program has been created called the Small Grants Program in which the smaller charities can apply for funding under the community support levy without a specific purpose in mind. So they can just say, 'This is what we're on about. We need a bit of help to provide us with some general support, please give us some money' and there's \$50 000 now allocated for small grants which I think, from memory, are limited to \$2 000. That really came from Mrs Trethewey pushing and pushing that.

**CHAIR** - Just following that a little bit, those sorts of grants in that Small Grants Program that are being funded out of this levy, do they have to be linked back in any way, shape or form and do others have to be linked in any way, shape or form to gambling?

**Mr CHALLEN** - No.

**CHAIR** - Right. They just make an application to that particular levy or grants program, they don't have to actually link back?

**Mr CHALLEN** - As you know, there are three main heads of expenditure under the community support levy: one's research and the services for problem gamblers, the second one is for sport and recreation and the third is for charitable organisations. The second and the third don't need any link of any kind to gambling and over time those two programs have evolved in a way that's designed to support community activities generally both in the charities and the sport and recreation. I think they're very well administered and good programs and there seems to be a fairly high degree of satisfaction from the stakeholders -

**Mr SQUIBB** - There is some criticism that in some years - and I'm talking about in particular years, looking at the thing overall it has probably balanced out - charitable organisations, for instance, have received less than 25 per cent and sporting bodies greater than their 25 and vice versa?

**Mr CHALLEN** - It would just be an accident of the lumpiness of funding applications. The intention is to spend all that money over time -

**Mr SQUIBB** - Well, all the money hasn't been and that was going to be my next question because all that money hasn't been spent.

**CHAIR** - You pre-empted that one, didn't you?

**Mr CHALLEN** - That's true, it hasn't been spent but it just reflects the timing of funding rounds and the desire of the expert bodies that give the advice through the commission to the Treasurer to make sure that when there are larger needs they don't miss out simply because there isn't enough money this year. So there's a bit of building up of a bit of a balance to make sure that -

**Mr SQUIBB** - Two and half million.

**CHAIR** - I'd like the balance.



**Mr CHALLEN** - But most of the balance is driven by the fact that we just haven't been able to get enough money out the door in the research and problem gambling section. That's where the large balance exists. The balances in the charitable and the sport and rec are not so large.

**Mr SQUIBB** - But within that 50 per cent component, I know that the legislation doesn't allow for it, does the commission have any criteria for the way that's broken up because we have had reported to us from a number of organisations - I know it's going back to charities - well there's been a couple of organisations who've indicated that the public awareness and the education and even research falls short of what it should be.

**Mr CHALLEN** - They are debatable points. They might be right. I think the critical issue is that we have been focusing mainly on services to problem gamblers. We have been trying to build those up and to make sure that we are properly servicing problem gamblers. I think it is important to remember that it is the Treasurer who has responsibility for allocating those funds and the commission just has an advisory role in this area, and indeed what the commission has done is to pass one step down the line the advisory role to the experts. So there is a group that has been built up within the Department of Health and Human Services that is dealing with the coordination of services to problem gamblers, and they are coordinating it with other sort of non-counselling style services within the health and human services area. And the commission takes advice from them on what services are needed for problem gamblers and in turn we essentially just endorse it, pass it on to the Treasurer, and generally speaking - well, in fact, always, I think - he agrees to it.

One of the things the commission has been insisting on, though, is that we structure ourselves so that there is no unmet demand for services to problem gamblers, and the way we have done that is to enter into contracts with service providers like Relationships Australia and Anglicare and GABA and so on in which we fund them at a base level which is geared to, if you like, a target level of servicing. But in all the contracts, if the actual level of servicing goes above the target level we pay the initial amount, so we are making certain that if there are problem gamblers out there that need services they do not go without it because there are not funds available or the contractual arrangements with the service providers prevent it, and that has been our number one priority. So we have been a bit reluctant to recommend spending that allocation of funding too hard on pure research and those sorts of things until we were very confident that we had the servicing of problem gamblers right. I am personally pretty comfortable with the way we have got that working now, but it is really only with the review of those service provision arrangements that we have just done in the last six months that has got us to the point where we are comfortable with that.

We have had, of course, obligations in the original commitments to Parliament to do baseline surveys just to find out about the level of gambling activity in the community, and in particular whether there are any trends in the number of problem gamblers. Those surveys have been funded from that component as well, and the issue that you raised, Mr Squibb, that is now very high on our list of priorities, and we are working with people in the Department of Health and Human Services on this community education and information, and you will see very soon some of the output of that. The Treasurer has approved a \$200 000 program which is already being spent for awareness initiatives, but

that forms part of an overall community education budget of about \$370 000, so although you have not seen it in the past, it is probably an issue that could be further explored in Estimates committees. But we now have a multifaceted program of community education which has a substantial budget which includes, as I say, this \$200 000 for awareness initiatives in the community. At the meeting only last week the commission approved a brochure that is going to be put out for this, designed to help people recognise problem gambling characteristics in themselves. It is a brochure that is advocating that gamblers take a break. That is the focus of it: take a break.

**CHAIR** - Is that a household brochure, to every household?

**Mr CHALLEN** - I am not absolutely certain what the plan is there.

**Mr SQUIBB** - Why the brochure? Have you carried out any research to determine which is the best way of getting the message across?

**Mr CHALLEN** - The research has been done by the experts in the Department of Health and Human Services -

**Mr SQUIBB** - Right, so that has been done.

**Mr CHALLEN** - so they have developed all this and put a lot of energy and effort into it and, I might say, a lot of enthusiasm. It is a very good professional group.

**Mr SQUIBB** - The reason I asked is because we have had a number of witnesses who have indicated that they haven't seen brochures that are currently in the marketplace and in the past dropped to each household and they were talking about other forms of getting the message across. I was just wondering whether in fact any research had been done in that regard.

**Mr CHALLEN** - Not by us.

Obviously we've got quite a few strings to our bow in terms of making people aware of the availability of services and we do that through media advertising particularly in the print media, through notices in gaming venues, particularly in the toilets which the research tells you is a good place for these sorts of notices and warnings. The service providers in this area are very active in terms of promoting the availability of their services. So there's quite a few strings to that particular bow.

**Mrs SUE SMITH** - Whilst we're talking about the finances of the community service levy, my understanding is that there's a 24 hours 7 day a week process for inspectors for all the venues and yet the gambling areas where you go for self-help, certainly there has been some criticism of them, that if you have a problem on Saturday you may have your appointment on Monday and they just do not have the capacity to fund after-hours, weekend assistance. There are some people making the honest assumption, I think, that when you've suddenly lost \$4 000 in the hand you may recognise at that time you need help. If you make that appointment and go home on Sunday you think about it, you get to your bank manager Monday morning and you start the process again.

The gambling services tell us that it is finances that is the problem in providing virtually a 24-hour capacity. Is that something the commission has looked at or has had concerns expressed to them about? I think the Australian Hotels Association gave a similar indication that it was a bit concerning to them, the contact points after hours.

**Mr CHALLEN** - It's not an issue that's been brought to my attention before, I would have to say. We have a 24-hour help line. So there's somebody at the end of a telephone who is available 24 hours a day 7 days a week. We would look carefully and favourably at a submission from a service provider to provide a 7 day a week service and I think you make a good point that particularly a Friday and Saturday evenings service would be a valuable addition.

**Mr SQUIBB** - Just on inspections, are you able to tell us now or else to provide the information at a later stage of the number of inspectors and their frequency of visits to non-casino venues?

**Mr CHALLEN** - We have a total of about 15 gaming inspectors. Some are based in the casinos and some are based externally. The way in which we achieve compliance differs a little bit. If anything, the methods that are used in the casinos are a little bit old fashioned and we rely a bit more, though not totally, on the physical presence of inspectors. That's a bit of a historical anachronism and it's something that we've been away from a little bit over time but because the external gaming venues have been relatively recently set up we rely very heavily on electronic means of compliance. So through the central monitoring system and the reports that our gaming inspectors get we have a very good handle on what's going on in the venues around the State.

We have a system that allows our duty inspectors who are generally sitting in the two casinos to be notified of significant events that occur in the external venues and they can and often do immediately visit a venue if there's a significant event. For instance, if one of our inspectors was to see from the computer monitoring say sitting at Wrest Point a very high level of keno turnover occurring in a particular gaming venue - this is not a hypothetical example I'm telling you about -

*Laughter.*

**Mr CHALLEN** - the likelihood is that they would jump in the car and go straight out to the venue and have a look at what is going on, and that happens frequently. It is usually through that process that we find breaches in venues.

**Mr SQUIBB** - What type of breach would occur?

**Mr CHALLEN** - Now I am speaking hypothetically. It might be a venue in which things are pretty quiet and an employee on duty is allowing a patron to gamble without putting any money across the counter which of course is the most heinous no-no in the eyes of the commission; we are very hard on credit betting. It could be a licensed employee betting on his or her own account. Both of those things have been subject to disciplinary action I might say not recently because we have come down pretty hard on those sorts of breaches and we have been very active in communicating around the industry the outcomes of disciplinary actions so people get to understand pretty quickly that we will take a very dim view of things like that. They are the major things that occur and if you

read between the lines a bit in our annual reports, you would be able to work out the sorts of incidents that occur.

**Mr SQUIBB** - So that sort of monitoring is on keno. Can you do similar monitoring on -

**Mr CHALLEN** - Sorry, that was just an example. We are doing exactly the same monitoring on gaming machines, yes. We also have a program of regular visits to all the external venues. Peter might be able to say what frequency we get around.

**CHAIR** - Yes, I was going to pre-empt that question because you said you had 15 inspectors and I was just wondering how they spread out over the State to be able to cover the numbers of venues. I think we were told some -

**Mr CHALLEN** - 110, roughly; something in that order.

**CHAIR** - Up to 110 it could be, yes.

**Mr CHALLEN** - I will take the question on notice and let you know but we do have a regular program of getting around and the inspectors have a standard set of things they check in each of the venues making sure log books are up to date; making sure the licensed employees are properly identified, that PIN numbers for their access to machinery and so on have not been shared; that they do reconciliations of the cash, so they will check that the cash that is meant to be in the keno till or in the cash drawers of the machines is the amount that is meant to be there. Not that there is much risk because we have electronic monitoring of that anyway. But they will go through a standard set of things and we typically find that the vast majority of venues just get a clean bill of health. Most of them have well-trained staff and comply to a very high standard with the commission's requirements and the requirements of the act. We did have a few venues where there tends to be a history of repeat breaches. Typically our first approach is the issue of what is called a rectification order. It is a bit like a parking ticket. It just says we have found these things are not right and they should be. It is just a list of things and it says get them fixed within seven days or 14 days, depending on how important it is. It might be a sign on the side of the machines that tells minors they are not allowed in that area might be missing or something like that, in which case we would probably give them a few days to fix it. Then, after whatever the prescribed time is, the inspectors will go back there and make sure that things have been fixed. If we find more serious breaches - and typically these are the breaches that are found by the jump in the car and do the on the spot, ad hoc inspections rather than the regular ones which we tend to find the more tame breaches - we can take disciplinary action under the act and we would normally have three or four pieces of disciplinary action at each monthly commission meeting to deal with, some not very serious, some quite serious.

The process there, the act requires us to give a notice which requires the licensed person, it might be a venue or it might be an individual, to show cause why we should not take disciplinary action under the act. They then have 28 days to make submissions to the commission and these are brought together and the commission considers all the evidence and submissions and makes a decision.

We, over time, have taken a lot of legal advice on how we have to conduct our affairs and one of the very important things that I am sure your committee will be conscious of

is that procedural fairness is regarded as very, very important. Consequently we generally complete the investigation of an incident before we begin the show cause process, so that when we give a notice to show cause to a licensed person we also tell them what evidence the commission will be using to determine the matter, and that provides them with an opportunity to rebut, clarify, explain, and most people do.

Under the act we have a range of outcomes from a disciplinary process. The commission can choose not to take any action if it wishes, and it sometimes does. We can issue what is called in the parlance of the commission a 'stern letter', and that is a bit like a rap over the knuckles, but it is a written thing and draws attention to the fact that something has occurred that should not have occurred, but carries no penalty and is not reported in the commission's annual report. And from there we can do things like suspension of licences or cancellations of licences or fines, and any of those sorts of disciplinary measures are reported in the commission's annual report and you can see them. And indeed when you look at the statistics in the report we do not have a lot of disciplinary matters, and I think that reflects the fact that it is a well-trained industry. We require all licensed persons to have completed the responsible service and gaming course that is run by the Australian Hotels Association and the TAFE, and that raises awareness of the importance of issues like how you deal with a problem gambler, not allowing credit betting, importance of the security issues, maintaining probity through time, looking after your own financial affairs as a licensed employer, not allowing people who are intoxicated to gamble. All those sorts of things are dealt with, and over time we have found a good degree of compliance in the industry.

**CHAIR** - I just wondered, coming back to the 15 - I know you are going to supply me with figures and details of this first dispersal of those people - is that the uppermost figure that we need in this State to oversee these venues, and do those inspectors work on, well, not quite a 24 hour basis, we do not need them, but do they work on a relatively good span of time? They are not 9 to 5 workers, in other words? And what about public holidays and those sorts of things?

**Mr CHALLEN** - No, these inspectors are all shift workers, so they are paid under a slightly different award to what I am paid under, for instance. We do have a couple of 9 to 5 inspectors and they can either be used in the casino during the day or more likely doing standard sorts of inspections out in the casinos. But essentially we have inspectors on duty whenever gaming is occurring.

**CHAIR** - And you have enough?

**Mr CHALLEN** - Well, how long is a piece of string? People who are in the compliance game would always tell you we can do more compliance. I am reasonably happy with the total resourcing that we have at the moment between gaming and liquor licensing, but I think we can make more efficient use of our resources. One of the things that has been an issue of debate at Estimates committees in the last couple of years is this question of getting the synergies from getting the compliance activities in gaming and liquor licensing together. It is something that we have been working on in the last six months or so with the staff, and we have actually now triggered a process with a lot of staff involvement that is going to take us through that. My expectation at the end of that is that we will with the same level of resourcing over gaming and liquor licensing be able to deliver better compliance outcomes in both areas. Essentially we have the same set of

regulated entities, clubs and hotels plus the casinos, in two separate regulatory activities, one focused on gaming and one focused on liquor licensing, and if you look at the things we do, we do licensing and we do support activities to the statutory bodies, and we do compliance and disciplinary activities. Whether it is liquor licensing or gaming the sorts of things we do are pretty much the same. There are some significant issues involved in bringing them together because the backgrounds and the training of the staff are fairly different. They are under different awards which complicate matters, and there are some cultural issues that need to be sorted out with the staff, but within the department the decision has been made to integrate these activities. Actually this was recommended by the last Legislative Council select committee report, which must be a decade ago now, but we finally got around to doing it and it will take a little while because there are some non-trivial issues to be sorted, but we will get there. But if the Government was willing to provide me with some further resources for gaming compliance I could certainly use them. That is always the way.

**CHAIR** - Yes, with every area.

**Mrs SUE SMITH** - It is interesting that in evidence we were told that in 1992 there was a total of 19 staff, and then when we move on to 2000 we have many more machines, 7 inspectors in Launceston and 6 in Hobart and 14 support staff, so to speak, and yet the machines have certainly increased, so is there an argument?

**Mr CHALLEN** - If I may, we have 27 staff on deck at the moment, about 30 positions I think from memory. The 14 support staff are not support staff. They are the people that do the licensing and the investigation of the disciplinary issues, and provide us with the support we need on the development of problem gambling and player protection strategies and so on, so there are no support staff in this area. They are all people who are actively working on gaming issues, and in addition to that none of these people are involved in the policy work, so the people who provide the advice to the minister on the act and so on are in another area of the department. They work direct to the minister. So this 27-odd staff that we are talking about here are purely administering the Gaming Control Act. That is all these people do. So we have a lot more resources than we had pre-gaming machines. This is a good operation. It is a very good quality group of staff there, very committed people -

**CHAIR** - And built up a lot of expertise.

**Mr CHALLEN** - They have got a lot of expertise, they are well regarded amongst their peers nationally, and typically people work in this kind of area because they care, and they take a pretty strong line on protecting the punter. That is where they see their role. So if perhaps when Mr Farrell is next before you you were to ask him about this, you would find there is just the slight hint of adversary relationship between this group of staff and the operators, because their culture is to protect the gambler.

**Mrs SUE SMITH** - I noticed in your report there were four cancelled licences to date this year. Is that cancelled because they are handed back in or because of disciplinary processes usually?

**Mr CHALLEN** - They would all be disciplinary.

**Mrs SUE SMITH** - And when those licences are handed back in, somebody else can take them up? What is the situation there?

**CHAIR** - What happens to them?

**Mr CHALLEN** - No, licences are not transferable. They basically get burnt. We have electronic methods of making sure that once a licence is cancelled it is worthless.

**Mrs SUE SMITH** - So the same establishment could perhaps pick it up with somebody else's management?

**Mr CHALLEN** - We license a venue, but we actually license the operator of a venue, so if the particular operator's licence was cancelled to the venue, someone else could take over that venue and apply for a licence, but they apply afresh. The licence does not attach to the venue. In fact it was a bit of an issue when we first started the process of implementing the extension of gaming machines to hotels and clubs, because the industry likes to feel that the licence attaches to the property, a bit like a liquor licence, and we were pretty insistent early on that we were going to license the operator. The fact that they happen to sit in a venue is interesting but it does not determine who gets the licence.

**Mrs SUE SMITH** - So I could have a licence in Ulverstone and move and take that licence with me to Port Arthur?

**Mr CHALLEN** - Yes, though the way we operate the licence is for an operator to operate in a particular place, so you actually have to reapply, though it would be a reasonably simple process if you had been licensed at another time.

**CHAIR** - Had you not breached the licence.

**Mr CHALLEN** - That is not true of employees, of course. Not all but most employees have a licence that allows them to operate anywhere in Tasmania. We have small numbers of employees who for one reason or another have a condition imposed on their licence that attaches to a particular venue or a particular employer. We call them venue specific or employer specific licences. Generally speaking that arises when we do the probity investigation of the individual before we license them and we discover a few little question marks, maybe not serious enough to refuse the licence but something that you would only be comfortable with if the employer that they are working for is aware of all the circumstances. Generally in those cases we would require a letter from the operator that says that they are aware of these circumstances and are willing to have an employee working in their establishment. Then we will tie the licence to that particular establishment so that if they move they have to reapply. Generally speaking, we would then go through the same process with the new location. In fact we had one of these only last week. Provided they show us evidence that the new employer is aware of the circumstances and is happy to have them working then the condition would be changed to the new location. It is a very small number of licensed employees but it just allows us to track them as they work their way in the system.

**Mr SQUIBB** - Not on that matter.

**CHAIR** - Are there any further comments you wish to make on other matters?

**Mr CHALLEN** - I think in the process we have covered most of the people, we trust. I think the other important part of the submission that we have touched on is the section on player protection measures. I mentioned earlier that this is an issue that the commission has been very interested in right from the very beginning. We work very hard to influence the national standards in this area.

Peter Cohen, on my right, has been our representative in the working parties that have worked nationally to develop various arms of player protection. We have in particular been a significant player in the development of what is known as the AUS model, the Australian Uniform Standards for the Regulation of Interactive Gambling. We have recently adopted that model ourselves for Internet gaming licences in Tasmania and we are going to continue through that interjurisdictional activity to try and influence the national standards to continue the improvement of player protection standards.

We have done a lot of work over the years on player protection for gaming machines and keno and casino operations. We have given a couple of examples in the submission on note acceptors and the provision of cash for gaming which have been major issues with the industry. I think what that does is illustrate the importance that the commission puts on player protection. It is an issue that we see as very, very important and an issue in which we are interested in developing our thinking, working with the industry to improve the quality of player protection over time.

**CHAIR** - On the issue of player protection - I cannot find the dates here - you made a decision to ban EFTPOS machines in hotels and clubs.

**Mr CHALLEN** - To limit.

**CHAIR** - To put a limit.

**Mr CHALLEN** - Back in September 1999.

**CHAIR** - Thank you very much. I am glad you have the dates in front of you. That decision was overturned. Are you able to give this committee the reasons for the overturning of that decision? Was there pressure brought to bear? What happened because that was a very good decision?

**Mr CHALLEN** - No, I would have to disagree.

**CHAIR** - Just listening to some of the evidence we have, it could have been a very good decision, I think.

**Mr CHALLEN** - I think our objectives were good objectives and we have never moved away from the objectives. I think we were probably guilty of not enough consultation with the industry before we decided how we would implement our objectives. It is certainly an issue that got the industry very excited indeed. It was originally provoked by a piece of espionage that came to our attention from within the industry about a number of venues that were on the point of installing ATMs, automatic teller machines, in licensed gaming premises. There are a couple of ATMs in the casinos, although not in



the gaming areas, and the commission got very, very concerned about the possibility of ATMs appearing in licensed venues generally around the State. We investigated and became aware that there was a promoter who had found a relatively low-cost way of putting ATMs in what could have been a large number of licensed venues.

The commission's view was that that would have been a serious rearguard step and we took advice and considered the issue of ATMs. In the course of investigating what we would do in relation to these ATMs we asked our staff to consider the related issues of availability of cash in gaming venues. Of course this raised the question of EFTPOS access to cash and cheque cashing which on investigation we found was pretty commonplace in gaming venues in part I subsequently discovered because in a lot of smaller centres the hotel is actually the only easy place to get cash through the week and particularly at weekends.

**CHAIR** - Especially after hours.

**Mr CHALLEN** - A lot of small towns now do not have ATMs, in fact some substantial not tiny towns by any means, and there was quite a practice around the place of cheque cashing over the bar at the local hotel and EFTPOS cash-outs. It is just your standard way of getting access to cash at the weekends. We subsequently found that a lot of people in towns like Cygnet, Sheffield and so on were just in the habit of using EFTPOS to get access to their pay cheques.

What we did initially was to prohibit ATMs, EFTPOS cash-outs and cheque cashing in licensed venues. Just bang. That produced a howl and we investigated more carefully and began to discover some of the community practices that were out there. I confess if we'd done this particular job better in the first place we would have become aware of that and I take personal responsibility for that.

We were then faced with either imposing a degree of inconvenience on a lot of people who might have had a perfectly reasonable attitude to gambling and people who weren't interested in gambling at all but were simply using the local hotel as a means of getting access to cash. So we did what we probably should have done in the first place and we sat down with the industry, the Australian Hotels Association and the Registered Clubs Association and I think Australian National Hotels participated in the activity with us as well.

Out of that we got agreement to an industry code of practice. The industry all signed up to this code of practice and subsequently we've locked the code of practice into our rules so that a breach of the industry code of practice triggers a disciplinary action under the Gaming Control Act.

Since we've put that place we've had very few issues with this. We've had a couple of complaints in the last couple of years from individuals who have a concern with their own gambling behaviour who have claimed that this particular code of practice has been breached and we have found a couple of breaches but only a couple and on each occasion on investigation it became reasonably clear to the commission that someone had gone to a lot of trouble to engineer the breach and so an individual had gone into a large venue with five or six people serving behind the bar and a couple of EFTPOS machines and

over a period of hours had gone up when different people were behind the bar and deliberately got \$20 and \$20 and \$20 and went back to the machines to create a breach.

We haven't taken very severe action in either of those cases but we've gone back to the operator and said, 'Look what's happened. This says to us that your procedures for administering this code of industry conduct are not good enough' and we've worked with them to improve their procedures to prevent those sorts of recurrences.

I think what that tells you is that the industry is serious about supporting us in this kind of activity and I've taken a lot of encouragement from that. While this was a pretty difficult issue back in September 1999 for me personally and for the commissioner and the commission staff and created quite a bit of angst out of it I think we've learnt two things: one is that we ought to consult a bit better before we act. Good advice for everybody, I'd have to say.

**CHAIR** - Other people are learning that, aren't they?

**Mr CHALLEN** - A mistake I probably won't make again.

**Mr SQUIBB** - We've suggested it on a number of occasions, not necessarily for your department.

**Mr CHALLEN** - But also when you go to the industry and tell them what your objective is they are, generally speaking, pretty supportive in helping you achieve that. I think that is probably all I need to say.

**Mr SQUIBB** - I just have a couple of quick questions. One relates to the 1999 Anglicare report which I think you assisted in the commissioning of. There is some criticism from stakeholders that that has not been released.

**Mr CHALLEN** - It is a matter you need to put to the minister. It was commissioned by a consultative group that the minister put together. We were involved in the group but only as one of a number of players with the industry.

**Mr SQUIBB** - So that is a ministerial thing. So the future of the consultative group is lies with the minister?

**Mr CHALLEN** - Yes.

**Mr SQUIBB** - That fact that that was formed and has not met for -

**Mr CHALLEN** - That is entirely a matter for the minister. There is a separate industry group which the commission helped get created which is essentially all the operators in the industry, so it is people like Australian National Hotels, the AHA, the Registered Clubs, the TOTE and Tattersalls, all the players in the gaming industry that are operating in this State. They sit down with staff of the commission on a regular basis and deal with the sorts of issues that are the commission's bread and butter. But that other group that you were talking about is a consultative group that the minister put together.

**CHAIR** - Right, we have sent a request to you for that report. We will now redirect a second request on to the minister.

**Mr CHALLEN** - It is okay, we will make sure it ends up in the right place.

**CHAIR** - Thank you.

**Mr SQUIBB** - The other body was the Community Development Board. Would you like to comment on the demise of that?

**Mrs SUE SMITH** - It operated I think until 1999. That was the board that was utilised to disburse the funds -

**Mr SQUIBB** - The community support levy, yes. It overviewed the spending of the levies.

**Mrs SUE SMITH** - Yes.

**Mr CHALLEN** - My memory on this is hazy; I think you will have to put the question somewhere else. I think it was a body created by the Minister for Health. The way that the disbursement of the community support levy works is the Treasurer has the responsibility for approving the expenditure of the money. The commission sits below the Treasurer and gives him advice. Below the Treasurer is a set of advisory bodies that deal with the different bits and that Community Development Board, if my memory serves me correctly, was created by the Minister for Health to deal with the charitable organisations bit of it and a different body was subsequently set up. I think it is a question that is best put to the Minister for Health.

**Mr SQUIBB** - Finally, the champion that you are on the National Competition Policy -

**Mr CHALLEN** - I cannot imagine where you received that idea. Me, as chairman of the Gaming Commission, not even interested.

**Mr SQUIBB** - So you are not interested?

**Mr CHALLEN** - Not with the hat on I am wearing today.

**Mrs SUE SMITH** - One of our submissions put forward the community support levy breakdown of spending and in the dot points they noted \$841 123 from the inaugural Tasmanian Health and Well Being Grants Program in 2000-01. I cannot find anything in the Gaming Commission's report or anywhere else, I might say. I am trying to either support that that is correct or presume that they have made an error because it has gone into a table they have put in in 2000-01 for Services, Research, Treatment, Education. It comes up to \$1.595 million and it differs substantially from anything else I might see which tends to support one another.

**Mr CHALLEN** - Probably the best thing we can do is to provide you with the budgets for the various components of the community support levy. I have a bit of it here but if I may I will take it on notice and give you the whole lot.

**Mrs SUE SMITH** - Thank you.

**Mr CHALLEN** - The Tasmanian Health and Well Being Fund is part of the activities that are administered through the Department of Health and Human Services. So they deal with problem gambling services, community education, research and the Tasmanian Health and Well Being Fund is another part of that and then the Charitable Grant Program is another arm of it. It is covered under the other health services bit in the act.

**Mrs SUE SMITH** - Right, I do not have problem except I could not balance it up anywhere else and I thought -

**Mr CHALLEN** - It is a bit of a nightmare trying to manage the movements through those trust accounts.

**Mrs SUE SMITH** - When you look at your community support levy here and then I am trying to prove or disprove people's evidence of course and -

**Mr CHALLEN** - It has happened since the date of that annual report so that is why you cannot make any sense of it there. But why don't we give you the budgets for the various components.

**CHAIR** - Yes, that will help. Right, any other questions?

**Mrs SUE SMITH** - The only other issue from wearing your hat of commissioner again on the community support levy, there have been some concerns raised that the community is really not aware sometimes when these grants go out that it has come from that particular sector, from contributions through hotels, clubs, et cetera, to the community in the way of a support levy on the gaming machines. In fact if you look at some of the sport and rec, for instance, they say a politician waves his hand and the Government has been gracious and given you a contribution, never tagging it to the area that it is coming from. From the sake of transparency, et cetera, do you have a concern, as a commissioner, that the community is not aware of the good news stories, perhaps, coming from this taxation base?

**Mr CHALLEN** - It has been a bit of an issue for us. We have gone to what I would say are reasonable lengths to make sure the grant recipients are well aware of where the money comes from. So we insist that the initial advertising of the programs when people are calling for submissions for grants makes very clear the source of the funding and the advice to recipients of grants makes clear the source of funding. But beyond that it is a bit difficult for us to do much more.

**CHAIR** - At this point I thank you for appearing before us today and take up your offer of the door being continually open if we have any further questions that we need to ask you.

**Mr CHALLEN** - Yes, we are very supportive of your committee's work and, as I said at the outset, I think it is very timely that some of these issues are now reviewed, nearly a decade down the track. The commission wrote to you right at the outset of this and said we stood ready to assist you in any way we can and we are certainly very happy to do that. I am personally happy to come back as often as you want me.

**CHAIR** - Thank you very much and I am sorry we kept you so late.

**THE WITNESS WITHDREW.**