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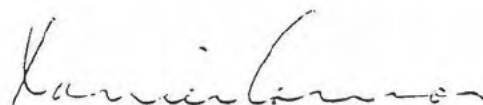
The Hon. James Kennan Q.C., M.L.A.
Attorney-General for Victoria
200 Queen Street
MELBOURNE 3000

Dear Mr. Attorney,

Re: Report on Casinos

Herewith I present the Report on Casinos which the Government requested me to prepare on 19 December 1990.

Yours sincerely,



(Xavier Connor)



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CHAPTER ONE

INTRODUCTION

1.1 TERMS OF REFERENCE

My terms of reference are as follows

- "1. The Government has decided to allow the establishment of an open casino, and has appointed the Honourable Xavier Connor AO, QC to inquire and report upon the following matters:
 - (i) the preferred method of establishment of an open casino including an outline of the tendering process and procedures to be followed by the Government and/or an independent board in selecting appropriate casino operators;
 - (ii) criteria for the location for a casino;
 - (iii) whether or not a casino may include other ancillary features such as a convention centre, entertainment facilities, restaurants, hotels or other accommodation;
 - (iv) the nature of games that may be played at the casinos, suggested hours of operation and entrance criteria;
 - (v) the content of legislation to be introduced which would be designed to provide strict control over all aspects of the operation of such casinos, including whether or not an independent authority needs to be established to oversee the operations of the casinos and if so the membership, functions and powers of the independent authority;
 - (vi) the measures to be taken to exclude criminal activity and influence from the casinos and criteria/restrictions if any for persons/bodies having a financial, ownership or other connections with the establishment or management of the casino.
2. The feasibility of establishing an unobtrusive casino prior to and in addition to the open casino, taking into account any of the above listed matters where relevant.
3. The Government will require Mr Connor to report to it by no later than February 14 1991."

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1.2 I visited the three large casinos which have been established in Australia since 29 April 1983, the date my original report was presented. They are Jupiter's Casino on the Gold Coast, the Burswood Casino in Perth and the Adelaide Casino in South Australia. I spoke with senior managers of these casinos and also with the government control authorities and inspectorates in each of these States. I also visited Sydney and spoke with government officials who are involved with the establishment of the two casinos proposed for Sydney. Without exception, all to whom I spoke were helpful and forthcoming with relevant information.

1.3 Time did not permit me to visit Tasmania, the ACT or the Northern Territory but Ms. Jan McMillen of the School of Economics and Public Policy, Queensland University of Technology, who has ably assisted me in this consultancy, has spoken to government officials in each of those jurisdictions and I have studied recent annual reports concerning casinos in Northern Territory and Tasmania.

CHAPTER TWO

REVIEW OF AUSTRALIAN CASINOS

2.1 Since 29 April 1983, the date of the presentation of my original report, four casinos have commenced to operate in Australia and there are plans for eight more. If these proceed there will be a total of 16 casinos. The most convenient way to review these developments is to set out the current position in each State and Territory.

2.2 TASMANIA

There are two casinos in Tasmania, one at Wrest Point and the other at Launceston. The history of the development of casinos in Tasmania is set out in paragraphs 8.01 to 8.05 of my original report.

Wrest Point

2.2.1 *Method of establishment.* The initiative for the Wrest Point Casino came from Federal Hotels Pty. Ltd. which persuaded the Government that it would be advantageous for tourism in Tasmania if a casino could be linked to the development of a new hotel complex in Hobart. There was no tendering process. It was in substance an acceptance by the Government of the Federal Hotel proposal on the advice of a Casino Advisory Committee. A casino licence was issued for the Southern

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Division of Tasmania in respect of the Wrest Point Hotel site, to be developed by Australian National Hotels Limited, a wholly-owned subsidiary of the Federal Group. The casino began to operate in 1973.

2.2.2 *Location.* The casino is located in Sandy Bay, a seaside suburb of Hobart only a short distance from the central business district. Hobart has a population of approximately 181,000. The Wrest Point Casino has exclusive rights in the southern division of the State for a period of 25 years, ending in 1998.

2.2.3 *Ancillary features.* The casino is conducted in conjunction with a large hotel, a convention centre and cabaret style entertainment.

2.2.4 *Nature of games.* Until a few years ago the only games played at the casino were table games, Keno, a wheel and a version of two-up. In 1986 video gaming machines were introduced. There are now 272 of them and in the financial year 1988-89 they produced 34% of the casino's revenue. The casino has both private and public gaming areas, with a total of 32 gaming tables. Access to the private gaming area is restricted to members of the Enclosure Club and to people invited by casino management.

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- 2.2.5 *Hours of operation.* The gambling hours are from noon to 3 a.m. Sunday to Thursday and noon to 4.00 a.m. on Friday and Saturday. Gaming is not conducted on Christmas Day or Good Friday except for the three or four hours which continue from the previous day. During peak holiday periods, gaming hours are sometimes extended to cater for the increased number of interstate visitors and for special promotional events or competitions.
- 2.2.6 *Entrance criteria.* Neat casual attire is required. Minors are excluded. There is power to refuse entry to persons behaving in an unacceptable manner.

Launceston

- 2.2.7 *Method of establishment.* An initial proposal for a Launceston casino was made in 1972 and legislation was passed. This proposal did not proceed, despite several extensions of time. Tenders were called for in 1978 by a Casino Advisory Committee and Tasmanian Country Club, a consortium of Federal Hotels Pty. Ltd. (61% interest) and E.N.T. Ltd. (39% interest) was the successful applicant. The casino opened in 1982, with exclusive operating rights for the northern division of the State for 15 years to conclude in 1997. In 1984 Federal Hotels bought the interest of E.N.T. in the casino. E.N.T. is

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a local media company. Some years after E.N.T. had ceased to have any interest in the casino its principal shareholder was convicted of bribery charges and is now serving a sentence of imprisonment.

2.2.8 *Location.* The casino complex is located approximately 7 kilometres from Launceston and is described as a country club.

2.2.9 *Ancillary features.* The casino has cabaret style entertainment, convention rooms, a golf course, horse riding facilities and tennis courts.

2.2.10 *Nature of games.* These are the same as at Wrest Point. The Launceston Country Club Casino has a total of 25 gaming tables and 188 gaming machines.

2.2.11 *Hours of operation.* These are the same as at Wrest Point.

2.2.12 *Entrance criteria.* These are the same as at Wrest Point.

2.3 NORTHERN TERRITORY

Darwin

2.3.1 *Method of establishment.* The setting up of the casino was supervised by the Treasury Department of the Northern Territory. An advisory and investigatory panel was formed. It investigated the applicants with the assistance of the police and the New Jersey gaming authorities. Federal Hotels (Darwin) Pty. Ltd. was recommended from amongst 19 applicants. The Government acted upon the recommendation of the panel and the casino opened in a hotel in Darwin in temporary premises on 21 September 1979. In 1983 the casino was moved to a new casino-hotel complex at Mindil Beach about 2 kilometres from Darwin. It was erected by Federal Hotels. In 1984 the Northern Territory Government compulsorily acquired the complex at Mindil Beach from Federal Hotels (Darwin) Pty. Ltd. and paid Federal Hotels \$49.5 million compensation for it. The Northern Territory Government put the complex on the market and it was purchased by a consortium, Diamond Leisure Pty. Ltd. Of that consortium, the remaining member is Aspinall, an English gaming entrepreneur. The casino licence is effective until 2003. The exclusivity arrangements are described in the 1990 Annual Report of the Northern Territory Racing, Gaming and Liquor Commission as follows:

The licence contains an exclusivity clause which gives the operating company the sole right to operate authorised casino games in that part of the Northern Territory north of 18° south latitude until 1998. The exclusivity period may continue beyond 1998 until the licence expiry date provided that the casino operation maintains a real growth (above inflation) of gross profit of at least 6.5% per annum. If any quarterly assessment between 1998 and 2003 determines that this productivity target has not been met the casino licensee loses his exclusivity. (p.18).

2.3.2 *Location.* Mindil Beach is about 2 kilometres from Darwin and, as the name suggests, is located on a beach front.

2.3.3 *Ancillary features.* The hotel has 80 rooms and 17 suites. There was originally a proposal for convention facilities but they have not been constructed. Other promised resort features have not as yet been developed. However the new operator has refurbished the high-roller area of the casino which has been upgraded to cater for international gamblers.

2.3.4 *Nature of games.* There are 35 tables, 1 two-up pit, Keno and poker. There are 264 poker machines which in 1989-90 produced about 12% of the casino revenue. There is a public gaming area and a select private area. Entry to the private area is at the invitation of management only. The private area is aimed at Asian overseas junkets from Singapore, Hong Kong, Japan and Indonesia. The games played in the private area are mainly casino table games, baccarat being the most popular.

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The success of the Asian junkets may be gauged from the fact that in the financial year 1989-90 the six Baccarat tables produced almost 80% of the revenue of the casino (Northern Territory Racing, Gaming and Liquor Commission, Annual Report 1990, p.25). In 1989 the casino introduced linked-machine jackpots which have proved to be very successful and it is proposed to introduce more of them.

- 2.3.5 *Hours of operation.* Sunday to Thursday 1.00 p.m. to 3.00 a.m., Friday to Saturday 1.00 p.m. to 4.00 a.m. In addition to these hours, approval has been given for 24 hour operation for selected junkets. This has been done with the frank intention of being able to compete better with southern casinos for junket gaming - see Annual Report 1989, p.19.

Alice Springs

- 2.3.6 *Method of establishment.* The casino in Alice Springs commenced operation in July 1981. It was initially conducted by Federal Hotels (Alice Springs) Pty. Ltd. That company was selected at the same time as Federal Hotels (Darwin) Pty. Ltd. was selected to conduct the Darwin casino. In 1984 the licence of Federal Hotels (Alice Springs) Pty. Ltd. was cancelled by statute as part of the acquisition of the two Northern Territory casinos by the Northern Territory Government. In the next

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year or two the casino was run temporarily by Territory Property Trust and Henry and Walker Pty. Ltd. on behalf of the government of the Northern Territory. In 1986 the licence was issued to Ford Dynasty Pty. Ltd. This is a local company which has since conducted the casino as Lasseter's Casino. In 1986 Lasseter's Casino was given an exclusive licence for its area of the Northern Territory for a term of 13 years.

- 2.3.7 *Location.* The casino is located about three kilometres from the centre of Alice Springs.
- 2.3.8 *Ancillary features.* There is a hotel, a sound shell, an auditorium and facilities to stage floor shows.
- 2.3.9 *Nature of games.* There are 18 tables, a wheel and a two-up pit. There are also 219 poker machines which in the financial year 1989-90 produced almost 78% of the casino revenue (Annual Report 1990, p.25).
- 2.3.10 *Hours of operation.* These vary according to the games being played. On each day of the week poker machines commence at 10.00 a.m., Keno at 1.00 p.m. and table games at 7.00 p.m. From Sunday to Thursday all games conclude at 3.00 a.m., on Friday and Saturday at 4.00 a.m.

2.4 QUEENSLAND

Jupiter's Casino - Broadbeach

2.4.1 *Method of Establishment.* The legislation was passed in 1982. The casino was opened in 1985. The establishment was handled by officers of the Queensland Treasury Department who visited the United State of America in 1981, 1983 and 1984. The aim was to build a large international standard open casino. Most of the tenderers formed into consortiums. A typical combination constituting a consortium was a large local investor, a construction company (either local or overseas), a hotel company, an international casino operator and a public instrumentality with funds available for investment. There was no independent commission. The successful tenderer was selected by Cabinet (Governor-in-Council) on the advice of a Cabinet Sub-Committee consisting of the Treasurer Dr. Edwards, Mr. Russell Hinze (who in addition to being Minister for Local Government was also the local member for a Gold Coast electorate) and Mr. Elliott, the Minister for Tourism. One of the original proposed founders (i.e. a member of the original consortium) was Genting Berhad, a Malaysian gambling entrepreneur. This company withdrew from the project during the planning stage before a decision had been made about the casino licence. Ultimately the licence was issued to Jupiter's Property Trust with Conrad Hilton, an American hotelier and

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casino operator, being the operator. Provision was made for the issue to the public of units to a total value of not less than \$25 million with priority primarily to Queensland residents. The casino was given exclusive rights in the area of Southern Queensland (that part of Queensland south of the Tropic of Capricorn) for a period of 5 years commencing in 1984, in the Brisbane region for 7 years and within a 60 mile radius for 10 years. There were visits by New Jersey casino control officials to assist with the legislation and the actual opening of the casino.

2.4.2 *Location.* The casino is located on Broadbeach Island, a former caravan park, in the Broadbeach district of the Gold Coast about 80 kilometres south of Brisbane. The Gold Coast is a resort city located in a substantial tourist area. The population of the Gold Coast is 235,000.

2.4.3 *Ancillary features.* The casino is located in a hotel-resort complex. There are 622 rooms or suites. The guest occupancy has varied from over 80% during the 1988 Expo period down to 67% during the 1989 pilots' dispute. There are convention facilities for 2,500. There is also a disco, a separate floor show, retail shops, tennis courts, a series of restaurants and a mono-

rail connecting the complex to the beach front and a substantial shopping centre.

- 2.4.4 *Nature of games.* There are the usual casino table games. The number of tables at present is 111. There is also Keno and two-up. There are about 992 video gaming machines. The break-up of revenue as between the machines and the table games has not been published but it is estimated that approximately 30% of the casino revenue comes from machines. The gaming activities are conducted on two floors. The two-up ring, some table games and some video machines are on the upper level. There is a cat-walk above both gaming floors. In May 1989 a private gaming room, Club Conrad, was opened. Only table games are installed. Members of the club and other casino patrons by invitation of management are admitted to this area. Planning is underway to introduce poker machines to the main gaming floor during the current financial year.
- 2.4.5 *Hours of operation.* The casino operates 24 hours per day except Christmas Day and Good Friday.
- 2.4.6 *Entrance criteria.* Persons under 18 are not admitted. Neat casual dress is required as a minimum. Both the operator and the police have powers of exclusion.

Sheraton Breakwater Casino-Hotel - Townsville

2.4.7 *Method of establishment.* At the stage when tenders were called there was no decision as to where the first casino in Northern Queensland (i.e. that part of Queensland north of the Tropic of Capricorn) would be. Consequently there were substantial applicants representing regional interests. The establishment of the casino was handled by Treasury officials, as in the case of Jupiter's. Cabinet (the Governor-in-Council) made the decision as to the successful tender. The licence was awarded in 1986 to a Townsville consortium, Breakwater Island Ltd. The licensee was given exclusive rights in northern Queensland for 5 years from the date of opening and for 15 years within a radius of 400 kilometres excluding Cairns. The consortium ultimately consisted of local Theiss interests represented by companies and by Sir Leslie Charles Theiss personally, a Japanese construction company Kumagai Gumi Co. Ltd. and a hotel operator, Sheraton Pacific Hotels Pty. Ltd. There was a public subscription of \$14 million confined to Queenslanders. It was oversubscribed.

2.4.8 *Location.* The casino-hotel is located on reclaimed land which is protected by a breakwater on the Townsville foreshore. It is situated one to two kilometres from the business district of

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Townsville, a city about 1,000 kilometres north of Brisbane with a population of 110,000 people.

- 2.4.9 *Ancillary features.* The casino is part of a complex comprising a five-star hotel of 192 rooms, two restaurants, a theatre, a convention centre catering for 200 to 300 people and shops.
- 2.4.10 *Nature of games.* The casino has 35 tables and 150 video gaming machines.
- 2.4.11 *Hours of operation.* Sunday to Thursday 10.00 a.m. to 3.00 a.m.; Friday and Saturday 10.00 a.m. to 4.00 a.m.
- 2.4.12 *Entrance criteria.* Persons under 18 are not admitted. Neat casual dress is required. There are the same powers of exclusion as at Jupiter's.
- 2.4.13 In late 1990 the Queensland Government announced that there would be two more casinos in Queensland, one in Brisbane and the other in Cairns. Planning is in now in progress to implement this decision. Sites on publicly-owned land will be designated.

2.5 WESTERN AUSTRALIA

Burswood Resort - Perth

2.5.1 *Method of establishment.* In the decade 1974-84 there were several enquires into gaming, culminating in a recommendation in 1984 to establish a casino. This recommendation was adopted by the Government as a strategy to encourage tourist development and to control illegal gaming. In 1984 a Casino Control Committee of four persons was authorised by statute and appointed. Its tasks included the investigation of applicants, the consideration of the merits of the various proposals and a recommendation to the Minister. The Minister was given power by statute to approve or refuse the application. In 1985 Burswood Management Limited was chosen to operate a casino in Perth. It was a consortium comprised of a Western Australian developer, Dempster Nominees Pty. Ltd., a Malaysian investment and management group (Tileska) and an associated Malaysian company involved in leisure, plantation and real estate industries, Genting (Western Australia) Pty. Ltd. There was also provision for public subscription up to \$50 million. In 1987, after the stock market crash, the hotel was sold to a Japanese company Brisney Pty. Ltd. for \$110 million. This did not affect the casino licence but it meant that the hotel was then owned and run by a company which had no direct corporate relationship with the casino operator. In the current

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arrangements there is a relationship between the hotel and the casino operator. In 1990 a Japanese company, Victoria Co. Pty. Ltd., acquired a 50% interest in the casino by purchasing virtually the whole of the interest of Genting (Western Australia) Pty. Ltd. This was done with the formal approval of the Casino Control Committee as required by the legislation. In addition to its 50% holding in the casino, Victoria Co. Pty. Ltd. now owns 100% of the hotel, having acquired it from Brisney Pty. Ltd. Victoria Co. has a two year contract with Genting whereby the latter manages the casino and the hotel. Victoria Co. Pty. Ltd. is a Japanese company whose principal activity consists of conducting a large number of retail outlets in Japan which sell sporting goods, particularly ski goods. Dempster Nominees Pty. Ltd. retains 26% share of the casino.

- 2.5.2 *Location.* The casino is located on Burswood Island on the Swan River about 4 kilometres from the central business district of Perth, a city with a population of about 1,000,000 people. The site was formerly a rubbish tip covering an area of 102.5 hectares. Of this, 12.5 hectares was acquired as freehold for the resort development. The remainder of the site was reserved for development of public amenities by the licensee.

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- 2.5.3 *Ancillary features.* In order to get the casino operating as soon as possible it was constructed on a single level without a hotel. The casino itself was constructed in 6 months but there was considerable delay in the construction of the hotel and other features because of industrial disputes. Subsequently a five-star luxury hotel was added with 417 rooms, a separate show room, cabaret facilities in the gaming area, a convention centre catering for 3,000 people and an exhibition/sporting stadium seating 21,000. There are also restaurants, shops, one indoor and one large outdoor swimming pool, a health centre, a golf course and tennis courts.
- 2.5.4 *Nature of Games.* There are 142 gaming tables, 1,290 video gaming machines, two-up and Keno. There are public and private gaming areas. Admission to the private area is by membership or by invitation of management. There are four video gaming machines in this area. There is also a restaurant. The use of the private gaming area is vigorously promoted by encouraging junkets and premium players from overseas and Australia.
- 2.5.5 *Hours of operation.* 24 hours per day, 7 days per week except Christmas Day, Good Friday and Anzac Day.

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2.5.6 *Entrance criteria.* Neat casual attire. Persons under 18 not admitted. The casino authorities have achieved some success in promoting a dress code which excludes denims, shorts, thongs and sneakers. Men are required to wear jackets in the private gaming area. There is a discretion not to admit persons or to remove them. There is also power to make written orders permanently excluding persons from the casino. In the year ended the 30th of June 1990 there were more than 80 prosecutions of persons who disobeyed exclusion orders.

2.6 SOUTH AUSTRALIA

2.6.1 *Method of establishment.* In 1973, 1981 and 1982 attempts to introduce casino legislation in the Legislative Assembly failed. In 1982 there was a Select Committee of Inquiry which reported as described in paragraph 8.22 of my original report. In May 1983 a Private Members Bill for the establishment of one licensed casino was introduced in the Upper House. It was ultimately passed by both Houses and came into effect in August 1983. *The Casino Act 1983 (SA)* established a Casino Supervisory Authority of three people. Section 6(1) of the Act provides that the Authority shall be constituted of the following members:

- (a) a legal practitioner of at least 10 years standing or a person who has held judicial office as a member of the superior

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court of this State, any other State or Territory of the Commonwealth or the Commonwealth (who shall be the Chairman of the Authority);

(b) a person with qualifications and experience in accounting;

and

(c) one other person.

A retired Family Court Judge was appointed Chairman. As required by the legislation the Authority in late 1983 held a public enquiry to investigate a site for the casino and to determine the terms and conditions on which the casino licence should be issued. In February 1984 the Authority decided unanimously that the casino should be located in the Adelaide Railway Station in North Terrace. It was part of a larger redevelopment proposal by ASER Property Trust, a joint public-private venture. In May 1984 the Authority recommended the terms and conditions on which the casino licence should be issued. It was ultimately issued to the South Australian Lotteries Commission. It was thus a State agency which held the casino licence in respect of a building which was then owned entirely by the State. The licence holder was obliged by s.16(2) of the legislation to "appoint a suitable person who is approved of by the Authority to establish and operate the Casino on its behalf". The Commission was also obliged by

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clause 3(1) of the Terms and Conditions of the Licence to conduct detailed investigations before submitting the name of the proposed operator of the casino to the Casino Supervisory Authority for approval (Casino Supervisory Authority First Annual Report for the period 12 December 1985 to 30 June 1986, p.7). The Commission called for applications for an operator by public advertisements in Australia and overseas. AITCO Pty. Ltd. was appointed as the operator in April 1985. It has a 20 year Technical and Management Services (TAMS) Agreement with Genting (South Australia) Pty. Ltd., the Malaysian based company which is also involved with the Burswood casino in Perth. Considerable capital outlay was involved in converting and redeveloping the railway station to make it suitable for a casino. I take the following description of the situation in South Australia from the Social Impact Report, Canberra 1988 p.140:

The Adelaide Casino is located in a restored public building in the central business district; redevelopment was jointly financed by private enterprise and a public instrumentality; the project was managed and developed by private investors who hold shares in the public trust owning the premises; the casino is leased to a consortium of private and public interests (AITCO Trust), which has contracted with a private Malaysian-based casino company, Genting (South Australia) Pty. Ltd., to operate a casino under a twenty-year agreement. The casino licence is held by a government authority, the Lotteries Commission.

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The effect is that the South Australian Government through various agencies is part-owner of the site. It is also the casino licensee but is not the casino operator. There have been subsequent changes to the ownership. The present holdings are somewhat complex and are set out diagrammatically in the Casino Supervisory Authority Annual Report 1989-90 p.19 which is reproduced in Appendix A.

2.6.2 *Location.* The casino is located in the Adelaide Railway Building which was erected in the 19th century. It is on the northern boundary of the central business district of Adelaide, adjacent to the Cultural Centre, the Constitutional Museum and Parliament House. The casino differs in architecture and style from other Australian casinos. "The balconies, colonnades, wood panelling, chandeliers and the dramatic marble-floored entrance hall present a Victorian ambience of luxury" (The Report of the Committee of Enquiry into the Establishment of Casinos in New Zealand, January 1989, para. 5.13).

2.6.3 *Ancillary features.* The casino is what is generally described as a "stand-alone" casino. It does have restaurants and bars and small entertainment facilities. The Hyatt, a five-star hotel, has been erected adjacent to the casino. By arrangement with the casino, this hotel is used by junket organisers and premium

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players. A large convention centre and an exhibition hall have been erected close to the casino and as part of the ASER Property Trust development.

2.6.4 *Nature of games.* There are the usual casino table games and approximately 100 gaming tables. There is a poker room, Keno, two-up, wheels and Asian games. There is a private area for members and invitees only. The high-roller market is cultivated. There are as yet no gaming machines. The casino operator has provided for the installation of 750 video gaming machines in a separate machine parlour. A regulation which would permit their use in the casino is the subject of a motion for disallowance which is still before the South Australian Parliament. In addition, approvals still have to be obtained from the Liquor Licensing Commission for the machines themselves, the suppliers and the contracts.

2.6.5 *Hours of operation.* Monday to Friday from 11.00 a.m. to 4.00 a.m., Saturday and Sunday 24 hours. Approval has been given from time to time for the private gaming area to remain open for 24 hours on weekdays. At present two public gaming areas are closed from Monday to Thursday.

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- 2.6.6 *Entrance criteria.* Smart casual dress is required. The casino operator and the inspectorate can exclude persons subject to their right of appeal to the Casino Supervisory Authority.

2.7 NEW SOUTH WALES

- 2.7.1 There is no legal casino in New South Wales but the recent history of attempts to introduce casinos is worth recounting for the lessons which can be learned from it.
- 2.7.2 There have been several enquiries concerning the introduction of casinos. In 1977 Mr. Justice Lusher recommended the introduction of club-style casinos which catered only for an unstimulated demand for casino gaming. In 1982 the Treasurer of New South Wales, The Honourable K.G. Booth, in a report recommended the establishment of three open casino-hotel complexes with the aim of increasing revenue and tourist activity. In 1985 a further report prepared by a committee of three, chaired by J. Lloyd-Jones, recommended a comprehensive revision of gaming legislation in New South Wales and the establishment of four categories of gaming licenses, including two large international standard casinos. None of these recommendations were implemented.

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2.7.3 In 1986 there was a further proposal concerning casinos in conjunction with the re-development of Darling Harbour which is located a short distance west of the Sydney business district and which was formerly a dockland. Since 1984 Darling Harbour has been substantially re-developed with restaurants, a convention centre, retail shops, a marine museum, Chinese gardens and other features. This waterfront promenade is now a substantial tourist attraction. A large hotel-casino was to have been a major attraction of this development. The casino was planned to have up to 400 tables which at that time (1986) would have been the largest number of tables in any casino in the world.

2.7.4 In 1986 the New South Wales government called for tenders for a casino-hotel to be submitted to the Darling Harbour Authority. This was before any casino legislation was in place and before any regulatory group had been selected or trained.

2.7.5 After tenders were received reports were obtained from the following:-

the Attorney-General for New South Wales

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- . a merchant banker concerning the commercial integrity and viability of the applicants and the proposed financial returns for the government
- . the Darling Harbour Quality Review Committee on architectural aspects of the development
- . the New South Wales Police Board on the integrity of individuals involved in the development and operation of the casino-hotel complex.

2.7.6 From these reports, the Darling Harbour Authority presented to Cabinet a short-list of four consortiums which had signed draft contracts for the project. These contracts outlined such things as the financial structuring of the development, income-sharing arrangements, construction deadlines and conditions of the casino lease. Applicants who were not on the short-list were so notified by the Darling Harbour Authority prior to its recommendations to Cabinet. At the last meeting of the Wran Cabinet it was announced that the casino licence had been awarded to the Hooker/Harrahs consortium.

2.7.7 Points to note, but not to copy, about this process are -

- . this round of applicants was not managed by a group with casino expertise

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- . the police investigation of the applicants had not been completed before the Darling Harbour Authority made its recommendations to Cabinet
- . at the time of the Cabinet announcement that the casino licence would be awarded to Hooker/Harrahs it was public knowledge that the Chairman of Hooker's, Mr. George Herscu, had pleaded guilty to 16 charges of paying secret commissions to a trade union official
- . Harrahs, although a respected U.S.A. entrepreneur, was at the time under routine investigation by casino authorities in New Jersey arising out of the activities of a former employee. Harrahs were subsequently exonerated.

2.7.8 During the tendering process the basic proposal which emerged was that the Government would hold the casino licence, it would rent the casino premises from the developer, it would pay a management fee to an approved casino operator and it would retain 100% of the profits and pay a management fee to the approved operator. Tenderers, however, complained that these conditions were not clearly spelt out either in the tendering brief or the briefing sessions. The government also proposed to have the casino constructed before the hotel. This meant that the successful tenderer could have subsidised the cost of developing the hotel complex from casino earnings. The

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preparation of tenders may well have cost each tenderer up to \$2 million. This experience may well have soured tenderers for casinos to be introduced by Australian State Governments. It points to the necessity for the most careful handling of the tendering process and in particular the preparation of a clear brief to finalists.

2.7.9 After Mr. Wran retired as Premier the Police Board responsible for investigating the antecedents of the tenderers reported adversely on Hooker's and a former employee of Harrahs. Mr. Unsworth, who succeeded Mr. Wran as Premier, in August 1986 reversed the decision to give the casino licence to Hooker/Harrahs and reopened the tendering process.

2.7.10 By this time, a Casino Control Division had been established and it became involved in the investigation and selection of applicants. Reports to Cabinet on the tenders were made by the Darling Harbour Authority, the Casino Control Division, the Police Board and an independent financial expert. The assessment process produced a short-list of four tenders but the Police Board was unable to give unqualified clearance for any of them. Genting Berhad, operator of the Adelaide and Burswood Resort Island Casinos, was the last applicant to be rejected in October 1987. This rejection was made on the

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grounds that the company was under investigation in Western Australia by the Western Australian Corporate Affairs Commission for a \$60 million cost overrun at the Burswood Resort. The Unsworth Government was considering re-opening tenders for a third time since 1986 when there was a change of government in New South Wales.

2.7.11 The new Premier, Mr. Greiner, announced immediately on assuming office that his Government would not proceed with a casino. By this time casino legislation had been passed. The Greiner government proceeded to repeal it. Recently the Greiner government has announced that it proposes to have two casinos in Sydney.

2.7.12 I was advised by New South Wales officials that one of the casinos proposed for Sydney would be in a designated site in Bridge Street, where there are two Government buildings protected by heritage protection. This is to be the smaller of the two casinos. It is to be aimed predominantly at high-rollers and to have boutique-style bedrooms of international quality within the building. The large open casino is to be located in City West, by which is meant the Pyrmont-Ultimo area near the Darling Harbour development. The precise site for this casino will not be designated initially, thus leaving room for

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suggestions or proposals by applicants. It is to be a casino-hotel complex. The provision of convention facilities will not be required as there are such facilities in the nearby Darling Harbour development. The Government is likely to specify that the combined table size of the two casinos is not to exceed approximately 400 tables. It is contemplated that the casinos will be permitted to have machines and private gaming facilities. It appears to be a deliberate policy to have the casinos in separate ownership, thus creating competition to attract high rollers.

2.8 AUSTRALIAN CAPITAL TERRITORY

2.8.1 There have been several proposals to introduce a casino to the Australian Capital Territory - in 1976, 1981 and 1983 - but none of these were implemented. Details of these proposals are set out in the Casino Development for Canberra: Social Impact Report 1988.

2.8.2 In 1987 there was another proposal to develop a Canberra inner-city site to include a casino, hotel and commercial offices. A professional team of consultants was engaged in March 1988 to report on the social impact of the proposed casino. They reported in July 1988 that they had not found any reason why the project should not go ahead. A Casino Control Ordinance

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1988 was made in September 1988. In October 1988 self-government for the Australian Capital Territory was introduced.

- 2.8.3 The new Legislative Assembly appointed a Parliamentary Committee to review the decision and the legislation relating to casino. Public hearings followed. The legislation was proclaimed and a Casino Surveillance Authority of five persons was appointed in January 1990. The Chairperson is a retired Supreme Court judge. Advertisements then called for tenders for the construction of the complex. It is understood that the process of considering these tenders is still under way.

2.9 CHRISTMAS ISLAND

- 2.9.1 The following is taken from a memo from the Department of Territories issued in June 1986.

Christmas Island is a small Island Territory of Australia approximately 2500 kilometres North West of Perth in the Indian Ocean. The Island's economy is wholly dependent on phosphate mining. The sole operator is the Phosphate Mining Corporation of Christmas Island, which is wholly owned by the Australian Government.

The phosphate mining activity is rapidly becoming uneconomic, and is likely to be discontinued within 1 to 3 years. The majority of long-term residents have expressed a strong desire to remain on the island, but the Australian Government has indicated it will not subsidise a community with no economic base. The Prime Minister announced in September 1985 immediate investigation into the feasibility of alternative commercial enterprises for the island.

The Department of Territories advertised in late 1985 for expressions of interest in developments for Christmas

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Island. Mr. Woodmore has proposed the hotel/casino in this context and the project is the only proposal to date with any prospect of providing long-term self-funding alternative employment on the island, and has the potential to form the nucleus of a viable tourist industry for the island.

There are approximately 200 long-term residents of Chinese and Malay ancestry on Christmas Island who have either Australian citizenship or permanent resident status. Those residents have strongly indicated their preference to remain on the island, and the Government would consequently prefer to avoid the cost and social dislocation which would arise if an alternative economic base for the island is not established.

Proposed Development. The proposal provides initially for the construction of a resort hotel of 5 star standard, approximately 170 rooms, and an international standard casino initially designed for around 450 players per day. The proposed location is at "Waterfall", on the coastal shelf of the North East portion of the island.

The resort hotel and casino is a stand alone project. However it will almost certainly lead to the development of supporting tourist developments (additional accommodation, fishing charters, restaurants, duty free shopping, rainforest tours etc.).

- 2.9.2 In 1987 the Commonwealth entered into an agreement with the Western Australian developer for upgrading the amenities of the Island including the erection of the hotel/casino. The developer has entered into an agreement with Federal Hotels which has been approved as casino operator. There was no selection process for the casino licence. An ordinance has been passed and the terms of agreement are currently being negotiated. A Casino Controller and a Casino Inspectorate will be appointed later this year.

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- 2.9.3 The construction of the casino resort has been delayed but it is expected that the casino-hotel will commence operations in October 1992.
- 2.9.4 *Nature of games.* The casino will be on two levels, with both public and private gaming areas. The games to be permitted are blackjack, roulette, mini-baccarat, baccarat, as well as poker machines and video gaming machines. There will be ten tables in the public gaming area and five tables in the private gaming area.

CHAPTER THREE

METHOD OF ESTABLISHMENT OF AN OPEN CASINO

TERMS OF REFERENCE

- 1(i) *the preferred method of establishment of an open casino including an outline of the tendering process and procedures to be followed by the Government and/or an independent board in selecting appropriate casino operators;*

3.1 In the management of casino gambling it has emerged that there are two basic functions for governments, a control function and a regulatory function, each of which is carried out best by separate sets of people.

The control function

3.2 One set of people should have power to:-

- consider applications for casino licences
- refuse such applications or grant them with or without conditions
- cancel, suspend or vary casino licences and, in the case of cancellation, grant a temporary licence to an administrator until another permanent operator is appointed
- supervise the operation and regulation of casinos
- approve the games that may be played in casinos and the rules of such games
- consider and determine appeals from persons who are refused approval be casino employees

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- . advise the Minister concerning policy in relation to supervision and inspection of casinos
- . require the regulators to report on any aspect of casino licensing or management
- . make an annual report to Parliament.

These functions may conveniently be referred to as casino control functions and the persons who discharge these functions may be referred to as the Casino Control Authority. They are principally administrative functions although some of them might be described as quasi-judicial.

The regulatory function

3.3 Another set of people should have power to -

- . supervise directly the operation of casinos and the conduct of gaming within them
- . make recommendations to the Casino Control Authority concerning the games that may be played in casinos and the rules of such games
- . supervise directly the handling and counting of money in casinos
- . detect offences committed in or in relation to casinos
- . receive and investigate complaints from casino customers concerning the conduct of gaming in the casino

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- . investigate the antecedents of applicants for licences and report on their ability to the Casino Control Authority
- . appear by themselves or legal representatives before the Casino Control Authority if there are hearings by the Authority to consider licence applications
- . check casino books and records as required
- . report generally to and assist the Casino Control Authority regarding the operation of casinos
- . inspect, test and approve gaming equipment and chips used in casinos.

These functions may be referred to as the regulatory function. If this function is to be discharged satisfactorily it will call for a Division of Casino Regulation staffed by persons with a range of highly developed skills in administration, finance, auditing, policy and surveillance.

3.4 I recommend that statutory provision be made to authorise the designation or appointment of separate sets of persons or bodies to discharge each function. Under such a scheme it would follow that a statute needs to be in place and appointments need to be made to each body before applications for casino licenses can be considered. I will therefore look at the options open to the Government in appointing or designating persons or bodies to carry out each function.

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Who should exercise the control function?

3.5 The alternatives available to discharge the control function are to designate a Minister of the Crown, as hitherto in Queensland, or to appoint a statutory body, as in South Australia. If a Minister is chosen it means that he or she, together with selected departmental officers, would carry out the control function. In practice this would mean that the Minister or Cabinet, with advice from departmental officers, would deal with all the matters set out in paragraph 3.2 above. There would be no public or private hearings. The decision-making process would be conducted privately. Those who advocate ministerial control say that in our system of parliamentary democracy, if a Minister alone is given responsibility, he or she will be seen as individually responsible to Parliament and capable of being directly questioned there as to his or her own decisions. Parliament in turn is responsible to the people. It is also said that ministerial control, exercised through departmental officers, is capable of being more efficient than that exercised by an independent statutory body which, for instance, would award a casino licence only after a formal hearing.

3.6 If a Minister is chosen there is the further question of which Minister it should be. One school of thought is that it should be the Treasurer because of the economic importance of a casino. Others say that it should be the Minister responsible for tourism on the footing that casinos or the complexes in which they appear are an important component of tourist development. Yet others say it should not be a Minister who has responsibility for revenue or tourism on the footing that either of them would have a conflict of interest in balancing the

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promotion of casinos for maximum revenue or tourist attraction with the possible cost of social and economic disadvantage to the community. In Queensland, Tasmania, South Australia and the Northern Territory the relevant minister is either the Treasurer or the Minister for Finance; in Western Australia it is the Minister for Tourism; in New Zealand, which has recently passed a casino statute, the Minister for the Interior has been designated.

3.7 If it be decided to designate a minister to discharge the control function, it is a matter of Government policy which minister it should be. On one view it may be that I should do no more than draw the attention of Government to the options available. I appreciate that the decision as to which Minister should be given an additional responsibility in a particular Cabinet at a particular time may well depend upon the existing division and burden of work in that Cabinet. Moreover the Honourable the Premier has foreshadowed extensive changes to existing gambling control structures and it may be intended that a single Minister should have responsibility for all types of gambling. I note also that the Minister for Sport and Recreation administers the Department of Sport and Recreation which presently has control of the administration of gaming industries and that one of the prime objects of the Department is to regulate and develop legal gambling activities to ensure fair play and assure financial returns to the State. Whether or not the Treasurer is chosen, there must be a Treasury input on such matters as the quantum of licence fees and taxes and the extent, if any, to which the casino operator will be required to develop facilities other than the casino itself. Whether or not the Minister for Tourism is chosen, there obviously should be a tourism

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input because an isolated casino which takes no account of convention and hotel facilities will not be of maximum benefit to the state. It is interesting to note that in jurisdictions where the Treasurer or the Minister for Finance is the Minister there is strong support for that choice; and in Western Australia there is equally strong support for the proposition that the Treasurer should not be the Minister responsible for the casino. With some diffidence I indicate that my own preference is for a Minister who is not responsible for revenue or tourism thus avoiding the potential conflict of interest referred to above. It would still be necessary to designate a responsible Minister even if a decision is made to entrust the control function to an independent body. Similar considerations would apply to a choice of Minister in those circumstances.

3.8 The alternative to the discretionary power of a Minister is an independent Casino Control Authority which would discharge the control functions as described in paragraph 3.2 above. It would consider applications for casino licences in hearings which could, at the discretion of the Authority be public or private or partly one and partly the other. If the Government wished to distance itself entirely from the process of granting or refusing licences, the Authority would perform those functions itself as well as cancelling, suspending or varying casino licences. If the government wished to retain ultimate control the Minister would perform those functions on the recommendations of the Authority. Great care would have to be taken that such an Authority was, and was seen to be, thoroughly independent. Appointment of members of high calibre commanding bipartisan respect would be crucial.

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- 3.9 Considerations in favour of an independent Casino Control Authority are that
- it would relieve Ministers from oppressive lobbying by powerful interests
 - it would promote public confidence to the extent that licence allocation hearings were public and the decisions, as well as the reasons for them, were immediately made available to the public
 - it would result in more continuity in policy for the control and regulation of casinos.

Experience in one state has shown that powerful groups lobbying different Ministers urging that casino licences should be given to them have caused serious rifts in Cabinet. In another state, police were left with the impression that they were given an unreasonably short time to investigate a powerful overseas organisation because it had promised to make substantial investments in that state.

3.10 I acknowledge that the question whether the control function should be exercised by ministerial discretion or by an independent authority is a matter of government policy. I indicate that my own preference is for an independent authority for the reasons set out above. The benefit of an independent authority is observable in South Australia; and in New South Wales and Queensland there is an expressed intention to move away from Ministerial discretion towards the establishment of such an authority. For the sake of brevity I will discuss the control functions in the remainder of the report on the footing that they will be

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exercised by a Casino Control Authority. If my recommendation in this regard is not accepted, the references to such an Authority should be taken as references to a Minister.

3.11 I am conscious that my terms of reference deal with only some aspects of casinos which themselves are only part of a review of the overall gambling activities in Victoria. The Honourable the Premier, in her news release of 19 December 1990, foreshadowed the appointment of a new independent gambling commission, financed through gambling turn-over, to oversee the gambling industry. It may become apparent, when the structure and functions of this commission are announced, that it would be a suitable body to carry out the control function in respect of casinos. In the meantime, however, I think it desirable that I should indicate my views about the composition and mode of operation of a Casino Control Authority. These matters are discussed in paragraphs 6.2 to 6.6, 7.16 and 7.18.

Who should exercise the regulatory function?

3.12 This is a critical function. An honest and highly competent regulatory team is indispensable to the proper running of a casino. The director of the Division of Casino Regulation would need to be a person with considerable administrative and leadership qualities capable of welding together a team of experts in the fields of finance, audit, corporate investigation, casino inspectorate and policing. I consider that a specially trained unit of the Victoria Police should be seconded to the Division of Casino Regulation and that it should be accommodated in the large

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casino - see also paragraph 7.19. The office of Director of the Division of Casino Regulation should be regarded as a prestige appointment and command a salary accordingly. It might be a statutory office with appointment by the Governor-in-Council. The salaries and expenses of both the control and regulating personnel should be met by levies on casino funds and would not therefore be subject to budgetary variation.

Exclusivity

3.13 A decision should be made by Government as to whether any casinos which are established in Victoria would have exclusive operating rights in point of time or place. Opponents of exclusivity maintain that it is a mistake to rule out healthy competition by creating a monopoly contrary to sound trade practices principles. This is an important consideration. On the other hand it is pointed out that the risks attendant upon the huge capital cost of constructing a large casino complex may make it necessary to attract developers, whether Australian or overseas, by giving them some security from competition in a particular area for a specified time. There is no certainty that casinos in Victoria will prosper, although I believe that they will do so. It may not be out of place, however, to record that

Nine of the 12 operating casinos in Atlantic City posted losses for the last half of 1990, with Donald Trump's Taj Mahal and Castle leading the way. Significantly, the losses, which amounted to \$5.4 million industrywide, came despite a 5.6% increase in gross gaming revenues - the clearest indication possible that huge debt service and the high cost of marketing in a sluggish economy are exacting a very costly toll. (Gaming and Wagering Business, 1990, Vol.11, No.11, p.5)

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In my visits to casinos in the course of this consultancy it was made clear that at least two capital city casinos were experiencing a downturn in expenditure by local gamblers. Exclusivity, albeit partial and temporary, prevents the proliferation of casinos before their effect on the community can be gauged. In Australia, as appears from the review of casinos in Chapter 2, the exclusivity provisions vary from casino to casino. Exclusivity is generally regarded as such an important matter that it should be decided by Parliament. One approach is to say that it ought to be decided at the outset and included in the initial control statute so that applicants for licences will know where they stand. As against that, it may be advantageous to have the matter of exclusivity available as a negotiating tool which could be used to attract a desirable applicant or to induce an applicant to improve or develop a site or associated amenities. When an applicant is selected for a licence there are then detailed and sometimes protracted negotiations about a management agreement to be entered into between the government and the casino interests. There will usually be discussions about taxes and levies, exclusivity, games to be permitted, hours of operation and so forth. When the management agreement is finalised, it should be ratified by a separate statute as in Queensland. The matter of exclusivity may therefore be determined by Parliament either at the outset or, at a later stage, in the agreement which would require ratification by Parliament (cf. para. 6.25). The latter appears to be the better course. I think that the more limited the exclusivity provisions are the better.

Initial Formal Steps

3.14 The initial formal steps in establishing a casino are -

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Cabinet decisions as to the content of casino control legislation as discussed in Chapter 6

drafting instructions to Parliamentary Counsel - the extent and complexity of their task should not be underestimated

introduction and passage of the resulting bill through both Houses of Parliament

appointments to the Casino Control Authority, if it is decided to have one

appointments of officers and staff to the Division of Casino Regulation.

Following such appointments the formal tendering process can begin.

Expressions of Interest

3.15 It is unlikely that the casino control statute would be in place much before the middle of 1991. For the reasons set out above the formal tendering process should not be commenced before the legislation is in place. It is advisable, however, to take steps before then to alert casino entrepreneurs in and out of Australia as to the casino proposals for Victoria. This will greatly facilitate the preparation of tenders when they are called for because potential applicants will by then have done their spade work. As explained in Chapter 4 it would be highly desirable, before seeking expressions of interest, to make a decision as to whether the Government is committed to a particular location or building or whether it is prepared to allow applicants to make their own proposals as to sites. While it would not be possible for an advertisement calling for preliminary expressions of

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interest to be too specific, it would be possible to convey sufficient information to interest the relevant people. Ideally the advertisement for expressions of interest should contain information about potential or designated sites, required ancillary features, proposed taxation and licence fees, proposed exclusivity provisions and financial proposals with an indication that the latter may be negotiable. I have not been asked to deal with financial or economic matters and I assume that the Government is receiving advice on such matters from Treasury officials or private consultants. This is a matter of some urgency because decisions need to be made at an early stage as to such matters as the proportion of foreign capital to be permitted, the proportion of equity capital to borrowings and whether there should be a public float and, if so, the size of it. Care must also be taken to avoid either misleading or frustrating potential applicants at this stage. This unfortunately was done in another state resulting in a substantial and successful claim for damages against the state.

Tendering

3.16 As to the tendering process itself, Victoria can learn from the experience of other states and use the best features of each. Enough has been said about the New South Wales experience to indicate certain things which should be avoided (see para. 2.7). I describe this process only in outline. I must bear in mind that by the time the tendering process is being carried out a Casino Control Authority and a Division of Casino Regulation will have been established and appointments made to them. The officials of those bodies should be in a permanent hands-on position to deal with the expressions of interest. I think it would be unwise in this

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report to burden them with detailed instructions which, in the light of events that may occur between now and then, may not be appropriate. From the expressions of interest, the Casino Control Authority would select finalists to whom a detailed brief of government requirements would be given. This is a substantial and most important document. A copy of a previous Brief to Finalists used in Queensland is available and could be used as a guide only. It would need to be adapted to local conditions and drafted to achieve the Government's objectives. The Australian Capital Territory is the most recent jurisdiction to go through the tendering process and has indicated that, once there has been a public announcement of the preferred applicant, it is prepared to make its recent experience available to Victoria.

3.17 The Casino Control Authority would then instruct the Division of Casino Regulation to investigate the finalists. The Division of Casino Regulation would be asked to investigate the following matters:

Honesty

Obvious matters to be checked would be convictions for serious crime, disciplining by a professional body for misconduct and censure or other disapproval by casino authorities in other jurisdictions. Most applicants for licences will be corporations and it will be necessary to check the honesty of any persons (and their associates) who will be in a position to exercise a significant influence over the management or operation of the casino by reason either of a financial interest or the exercise of a power.

Financial position

The Division would also be asked to investigate and report upon the financial position of the applicant and associated persons, for example, whether they have ever been declared bankrupt or been involved in the management of any company that went into receivership or liquidation or have connections with such companies. The Division would also be asked to check on the financial resources of the applicant and associated persons with a view to eliciting whether they have sufficient financial resources to launch and run the casino.

Business skills

The business skills of the applicant and senior management (and associated persons) should also be the subject of investigation, including their general business management experience and their experience in casino operation in particular.

Corporate structure

The Division would also be asked to investigate and report upon the corporate structure of the applicant, the essential object of such investigation being to expose the seat of effective control which may often be hidden.

3.18 The scope and complexity of the investigative task should not be underestimated. As will be seen from Chapter 2 the applicant for the casino

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licence is generally a consortium of three or four corporate entities, some of whom are organisations which are owned or controlled overseas. It would be a fundamental and serious mistake to give the investigators deadlines which would leave them insufficient time to carry out the investigations thoroughly. The reputation of Victoria is at stake if it gets a casino with a bad operator. These matters are not fanciful. The Herscu affair is referred to in paragraphs 2.7.7 and 2.7.9 and illustrates what can occur if there is a hasty and inadequate investigation. The avoidance of undue haste is of such importance that I refer to it again in paragraph 3.22.

3.19 When the report or reports are received, the Casino Control Authority will consider the applications, taking into account the matters specified in the statute and the response of the applicants to the Brief to Finalists. They would include the reports from the Division of Casino Regulation on the probity and suitability of the finalists and also matters such as the standard and nature of the proposed casino and associated facilities, the likely impact of the casino on tourism, employment and economic development and the extent to which Victorian and Australian equity capital was involved.

3.20 After an appropriate hearing the Casino Control Authority would decide to which applicant, if any, the casino licence should be awarded. There would then ensue substantial negotiations with the preferred applicant involving detailed consideration of every aspect of the conduct of the casino. These negotiations would culminate in a management agreement such as that reached between the

State of Queensland and Jupiter's Casino, which is reproduced in and ratified by the *Jupiter's Casino Agreement Act 1983 (Qd)*. The management agreement concerning the Breakwater Casino in Townsville is reproduced in and ratified by the *Breakwater Island Casino Agreement Act 1984 (Qd)*. The agreement between the Western Australian Government and the Burswood Resort Casino is reproduced in the *Casino (Burswood Island) Agreement Act 1985 (W.A.)*. As indicated above, any management agreement for Victoria should be made subject to its ratification by Parliament.

3.21 The casino buildings or complexes would then have to be physically established. Depending upon the sites which were selected, this would involve either construction of new buildings or substantial alteration of existing buildings. While this was going on the Division of Casino Regulation should engage and train the casino inspectors and other staff so that they would be available and competent to exercise direct control over gaming when the casinos began to operate. The casino operator should do the same for its own staff.

Avoidance of haste

3.22 In my original report I wrote:

16.04 Almost as important as bipartisanship is the quality of patience. If a decision is taken to introduce casinos the best way for Government to get into trouble is to rush its fences. In my view it is absolutely essential to have sound legislation and a well chosen licensing and investigative authority in place before inviting applications for casino licences. If Government announces a decision in principle in favour of casinos, the top of Collins Street is likely to be seething with lobbyists making bright suggestions

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such as granting interim licences to operate in temporary premises; not, of course, to enable anyone to make a quick profit, but to enable Government to get some revenue quickly. That is how it will be put. Experience in other places dictates very clearly indeed that there should be no interim licences and no consideration of applications, official or unofficial, until the legislation is in place and the appointments to the licensing and investigative authority have been made. The lobbyists should be sent packing until after those things have happened; and then they can be referred to the authority before which they can say whatever they want to say in a public hearing.

16.05 The necessity for patience continues. Once the legislation has been passed and the appointments to the licensing and investigative authority have been made it is essential to select and train staff and then give them adequate time and resources to investigate applicants for casino licences. This cannot be done overnight or, if it is, it is likely to be done inadequately. The reputation of the State of Victoria is at stake if unsuitable or unsavoury operators are chosen and casinos begin under the aegis of organised crime figures, however carefully hidden. If overseas equity or loan capital is involved, it is almost certain that Victorian investigative officers will have to go overseas to check the source of such capital - a task which takes time, skill and resources, according to those with experience of it. In this regard Mr. Brown [Mr. G. Michael Brown, a former Director of Division of Gaming Enforcement of New Jersey] made the following acute observations:-

"The regulators who are going to administer this programme, if it begins, are soon going to learn that they are the friend of few and enemy of all. The bankers want the project off the ground, the community leaders need the revitalisation of the area, the politicians are looking for the public support, the union leaders want the jobs right away, the public wants to know why it is taking so long to get this casino open after they voted to authorise it; and the operators, of course, cannot wait to get started and make money on this project that they invested much money in; and there sits the regulator and his staff of police officers and accountants. That is what you are

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going to face, everybody is going to want to get this project going those pressures must be resisted."

16.06 The occasion for patience does not pass when an applicant or applicants have been chosen. Depending on the type of casino selected there may be up to a two year lead period before the facility is constructed. During the period of construction or preparation of the premises the chosen operator should select and train staff and Government should select and train its supervising staff. Probably the only way to avoid Ministerial ulcers during the whole process is to realise before it begins that if just cannot be done well if it is done in haste or by cutting corners.

Nothing that I have seen or heard during this consultancy makes me want to change anything I wrote in those paragraphs. Indeed my recent involvement and consultations strengthen my belief in their correctness.

3.23 Apart from the selection of sites and making the decisions necessary to enable expressions of interest to be sought (see para. 3.15 above), I think there is little further that can be done until after the appointments to the Casino Control Authority and the Division of Casino Regulation have been made. It may be possible, however, to speed up the process of construction after the preferred applicant has been selected. The Western Australian authorities established a "fast-track" procedure which brought the relevant decision-making authorities together in one planning body. A Technical Committee was established to oversee the planning and construction of the Burswood Resort complex. This Committee consisted of the major planning authorities (State Planning Department, Health

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Department, Main Roads, Fire Department, Local Council and Gaming Commission). It met fortnightly during the planning and construction stages. This procedure was designed to co-ordinate all planning controls and to accelerate decision-making while, at the same time, ensuring that the construction conformed to all legal requirements such as building codes and the like. The Western Australian authorities recommend this process, claiming that it was one of the reasons why the Burswood Casino was completed within six months and ahead of schedule. The advantage of this was that the casino operator was able to begin to earn profits quickly and the Government was able to receive revenue quickly. Although the casino itself was built quickly, there was considerable delay in building the other resort facilities. There was also an alarming cost overrun of more than \$60 million which has been a great source of embarrassment in Western Australia. I am unable to say what part, if any, the "fast-track" procedure played in causing the delay or the overrun. The Jupiter's Casino complex was constructed along more orthodox lines. It took longer over all but did not experience the cost overrun which occurred at Burswood. I do not have the expertise to advise the Government about building procedures. I merely draw attention to what occurred in Western Australia to enable the Government to consider, with the assistance of architectural and building advice, a possible way of speeding up the construction process.

Bipartisan approach to casino policy.

3.24 In paragraph 16.03 of my original report I wrote:-

Sir Stanley Raymond, in his evidence given in Melbourne recounted how, as Chairman of the

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Gaming Board for Great Britain, he had served under five Home Secretaries, two from one party and three from another. He spoke of the value of the bipartisan political approach to casino gambling which he had experienced from the Ministers of State with whom he had been associated. For the sake of continuity such an approach is highly desirable. If Government and Opposition have radically opposed views about casino gambling, the system of casino control may become unstable and casino entrepreneurs may well lack the confidence to undertake the large investments and enterprises which often go with the introduction of casino gambling. The prospect of a change of Government bringing with it a change of policy towards existing casinos may discourage worthwhile people from investing in the industry or may promote undesirable lobbying for relaxation of controls.

I reiterate this sentiment and stress again the importance and desirability of having a bipartisan approach.

CHAPTER FOUR

LOCATION AND ANCILLARY FEATURES

TERMS OF REFERENCE

- (ii) *criteria for the location for a casino;*
- (iii) *whether or not a casino may include other ancillary features such as, a convention centre, entertainment facilities, restaurants, hotels or other accommodation;*

4.1 During my enquiries it became clear that relevant criteria for the location of a casino and the provision of ancillary features which may be associated with that casino were inevitably linked. For practical purposes, therefore, it seems advisable to consider these two issues together.

4.2 Factors which influence the location of casinos can be grouped into several broad categories - site availability, ownership, casino size, site characteristics and selection, design concept, site development, existing off-site facilities and land use, regional development and community benefits. These factors are inter-related and the categories overlap. Nevertheless, the categories outlined do provide an appropriate method of examining the issues. The importance of any one of these factors will depend on the type and scale of development.

Site options or availability.

4.3 The Government decision about the location for casinos and the process by which this is achieved is a difficult, important and urgent task. In this regard it is

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probably desirable that the Government have a clear view of its objectives regarding economic and urban development and strives to achieve compatibility between them. From my understanding of the current situation in Melbourne, it seems that there are two categories of sites which may be suitable for casino development. First, the re-development of a Central Business District (CBD) site, either utilising an historic building, an existing building in which a casino could be easily located or re-developing an entire inner city block. There seem to be several large and small sites which could be developed in this way, including the Regent Theatre site, the Queen Victoria site, the Exhibition Building or an area within an existing hotel. The second category of sites which seem appropriate in Melbourne's case involves large areas of land which are available for re-development on the fringe of the CBD itself. Sites which may come into this category include the dockland, the South Melbourne river-bank, the Prince Henry Hospital site and the Jolimont Railyard. It should be noted that nomination of these sites in this report is not intended to reflect any preference for or exclusion of other potential sites. They are merely representative of some of the sites which at my request were shown to me by the Major Projects Unit.

4.4 Some of these sites would obviously be more suitable for construction of the large "open" casino indicated in the Government's policy statement. Others may be more appropriate for a smaller "European" casino. Some sites would require major new construction works to be done; others are more amenable to re-development of existing buildings. Inevitably, a decision about which of the site options should be pursued will be strongly influenced by several factors, including

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the Government's desire to open the casino quickly, whether there will be two casinos and their spatial and market relationship and broader policy issues such as development and revenue objectives. The selection of a particular site and the type and scale of development will also depend on the development potential of the site. It would therefore be important to analyse the carrying capacity of each prospective site. This should form an integral part of the evaluation process.

4.5 The selection of a casino site will involve practical questions such as how to select the best site from a number of alternatives as well as a broader evaluation of the area in terms of general tourist and development potential. Casino operators and regulators around Australia suggest that there is no shortage of suitable sites for casino development in Melbourne. I was also assured that a casino proposal in a city the size of Melbourne would attract applications from a number of casino operators from around the world. It will be a rare opportunity for a casino to be established in a city of over 3 million people. There was general agreement that either a CBD or a city-fringe casino would be a profitable venture because of its access to a large local market. Sites outside these two categories seemed to be less attractive and, given the availability of several suitable inner-city sites, perhaps could be disregarded. The large open casino will require an extensive tract of land to allow development of the project as a whole, so that it can be constructed as an integral and functional unit according to specific architectural or town planning principles. In the case of a small "unobtrusive" casino, a smaller plot of land will be required, or it may even be possible to

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incorporate this casino within an existing building, for example a public building, a convention centre, a major city hotel or possibly an office block.

4.6 Two options are available for the site selection process. The first approach would be to call for expressions of interest, leaving the question of sites open to the suggestion of potential applicants. This process would generate a variety of ideas about the site, the design concept, the facilities, etc. Through a staged process of selection, a preferred site would ultimately be produced and a short-list as well as alternative designs would emerge.

4.7 The second option was the one that was preferred by most of the casino operators and regulators consulted. This process begins with the Government designating one or more preferred sites, rather than leaving the site options open to commercial nominations in the original call for expressions of interest. Before it designated a government owned site or sites the Government should seek advice as to the suitability of the various sites. Such advice should be sought from a person with expertise and experience in the architectural and town planning requirements of casinos. The advice may reveal that none or one or a number of government sites would be suitable. One operator told me that there was no problem about the Government designating one or more sites providing that the Government had done its "homework" properly and the sites were genuinely suitable. This would give the Government the information and the capacity to conduct the site selection in a rational manner. If interested casino applicants were provided with a list of suitable sites, they would have the capacity to develop a

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proposal acceptable to the Government. If the designated sites are Government-owned or controlled, this also would have the effect of reducing land speculation.

4.8 Some operators said that the Government could broaden its options by allowing interested parties to submit a proposal for a site other than those which had been nominated by the Government. This could produce ideas which the Government had not considered previously. Some casino operators would consider submitting two proposals, one on a site nominated by the Government and one on a site in which they had an interest. The Government ultimately must decide between the administrative efficiency of focussing applications on a limited number of sites and the potential for commercial innovation by opening the nomination of sites to the broader market.

Site ownership.

4.9 Developers who are interested in the Melbourne casino proposal will require information about rights to occupy a site or the purchase of land. Alternatives available to the Government include

- . accepting proposals for the purchase and development of private land;
- . nominating sites which are in public ownership and making them available for lease;
- . permitting development of private land but requiring the provision and development of large areas for public use;
- . joint public and private ownership and development;

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or a combination of these.

4.10 A variety of approaches has been taken around Australia. In Tasmania and the Northern Territory casinos are situated on private land in privately-owned developments; in Queensland and Western Australia the casino complexes themselves are on private land but there are requirements placed upon the developer for the provision of facilities for public use; and in South Australia the land and property of the Adelaide Casino and surrounding facilities are owned by a mix of private and public interests. As Australian casinos tend to be large planned projects, it is important to arrive at a speedy decision about ownership of an adequate area of land at the outset of the project. It can be expected that arrangements for land ownership and tenure would influence the commercial appeal of certain prospective sites as well as the form of the casino design itself.

4.11 *Public land.* Designation of public buildings or public land is likely to minimise the effects of land speculation and the economic leverage of private site holders and permits a more significant return to the Government on any investment. Moreover, problems associated with the acquisition of private land are frequently principal factors causing public controversy and delay in such developments, particularly if there is limited availability of private land and pressure on resources in the inner city area. It is possible that there may currently be available in Melbourne several public sites which would be suitable for development. Several sites which were shown to me are in public ownership and some are protected through their status as heritage buildings and public parks.

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Depending on their status and the level of public support for their development, some of these public sites may well be more suitable for casino development than others. Use of public land has the added advantage of allowing Government to exercise strict control over the amount and type of commercial development and other facilities associated with the casino project. If the Government decides to designate sites which are publicly owned or controlled, the sooner they are indicated the better. The New South Wales Government has decided to nominate public buildings as the site for the small inner-city casino planned for Sydney. The Queensland Government also is designating public sites as options for the casinos to be built in Brisbane and Cairns.

4.12 *Private land.* If private land is to be used, the price of land will be a major consideration. It is likely that interested developers have already taken steps to secure options on likely casino sites and that the prices being asked for these city sites will be quite high. Where the land is currently being put to other use, as in the CBD, land prices will be much higher than where land use is less dense or where the land in question is not being currently exploited. The Government would be advised to take action to limit land speculation and to ensure that a reasonably large suitable parcel of land can be obtained quickly and cheaply, thus ensuring the viability of the whole operation. In Sydney, the precise site for the large casino to be in the Pyrmont-Ultimo area will not be designated by the Government, thus leaving the site open to suggestions or proposals by commercial applicants. If private land is to be used in Melbourne, development can be

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directed by imposing certain standards and regulations and by requiring the development of specific facilities.

Site selection.

4.13 Whether the casinos are to be built on public or private land, the early selection of sites has the advantage that it concentrates the efforts of potential applicants. It has the further advantage that it would enable the sites to be included in the request for expressions of interest.

4.14 The disadvantages of proceeding in this way are that there would be no public hearing about the site as occurred in Adelaide. It seems that this public process in Adelaide helped to inspire public confidence and allay fears that the site was being selected privately without public input. There is agreement that the Adelaide Railway Station was the "right site" for an Adelaide Casino. Early Government selection of sites also has the disadvantage that the Casino Control Authority would be presented with a *fait accompli* and would have no input into the selection of the casino site. It also would exclude an innovative site proposal emanating from one or more of the applicants.

Size of the casino development.

4.15 As indicated in the Terms of Reference and in the Premier's press statement of 19 December 1990, the casino proposal under consideration is for a large open casino and possibly a second smaller European style casino. When making a decision about the size of the development, it would be necessary to take into

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account the effects on each casino of the co-existence of the other in order to ensure financial viability of both developments. If Government permits only one casino in Melbourne for example, this will allow a much larger facility to be developed. However, if there are to be two casinos of different sizes and aimed at different market segments, this will inevitably place some constraints on the optimal size of each individual development. It is worth noting that there are no major cities either in Australia or overseas which have two casinos co-existing in the manner suggested by the Victorian Government. Thus for the purposes of this report, analysis of the potential effects of this policy approach can be only speculative. A much more thorough evaluation of the financial and town planning implications of a dual casino development will be necessary before the Government makes a final decision.

4.16 It may be instructive to consider the types of developments which already exist in Australia. In terms of size, casinos in Australia can be classified into three groups: large, open casinos (as in Perth, Adelaide, and Broadbeach); medium-sized casinos (as in Wrest Point, Darwin, and Townsville); and small, "unobtrusive" casinos (as in Launceston and Alice Springs). The size of each of these casinos is closely linked to the size of the local population base and the anticipated tourist market. In each case, detailed calculations regarding size of the facility, number of gaming tables, etc. were required in the feasibility studies submitted for evaluation to the Government authorities. In some cases, these feasibility studies seemed to have been reasonably accurate, for example in Perth, Broadbeach, and

Adelaide. In other cases, the feasibility studies have over-estimated the casino market, at least in the short term (for example in Townsville).

4.17 Consideration of the size of the proposed Melbourne casinos should also take into account future market trends. Again, the experience of the existing Australian casinos may be instructive. The Townsville casino initially had difficulty developing and maintaining its expected market; attendance at the casino continues to be low on weekdays. On the other hand, the Wrest Point Casino was able to attract large numbers in its early years of operation, drawing on a combination of a local market and convention tourism. However, its market is less secure now that other casinos have been opened around the country. With the notable exception of the Darwin casino, which relies heavily on the premium player and junket markets, the smaller casinos (Townsville, Launceston, Alice Springs) have experienced difficulty in an increasingly competitive national market. The larger casinos (Adelaide, Perth, Broadbeach) have expanded their markets to the extent that they have extended facilities in a variety of ways, for example by developing new areas for gaming machines and for premium players. At the same time, several operators have commented that the New South Wales Government's size specifications for the Darling Harbour Casino in 1986 (ie 400 tables) were unrealistic, even for a city of the size of Sydney. The more prudent approach for the Victorian Government seems to be to adopt a relatively conservative approach and specify a maximum combined size for the Melbourne casinos, but to ensure that the sites and the casino designs will accommodate future expansion if required. If there are to be two casinos, it will be important to ensure that both casinos can operate profitably. Economic advice should be sought before a decision is made

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as to the precise distribution of table numbers and machines to each casino. The decision may be influenced by the site chosen.

4.18 When a casino has been given a regional monopoly, the recommended practice has been for Governments to specify a minimum table size for the casino in the guidelines provided to applicants. It is also usual practice that the size of the casino is in proportion to any other facilities specified for the development (hotel accommodation, convention centre, shops, restaurants, entertainment and sports facilities) if these are to be included as part of an integrated development.

Site characteristics.

4.19 Physical and environmental conditions are important in several aspects of casino development and will be particularly so for urban casinos such as are being proposed for Melbourne. It has already been noted that a sufficiently large site will be required to locate the open casino, its supporting facilities and necessary infrastructure. Physical site attributes such as topography, slope stability, soils, geology and aspect will have to be considered prior to construction. For example, some of the additional costs which were incurred during the construction of the Burswood Resort derived from unexpected problems with soil stability. Consideration should be given to the steps necessary to prepare the site physically for construction (for example, demolition, reclamation, restoration and preservation).

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4.20 It will also be necessary to examine existing land use to consider if there are legal or physical impediments to the development of the site or part of the site (for example, if there are local government constraints on site development, special heritage provisions, architectural or natural features such as susceptibility of the site to flooding).

4.21 Easy access and egress are critical considerations when assessing potential locations for casino development. Consideration will also need to be given to the general accessibility of the site to major arterial roads (existing and proposed) or waterways. To a large degree, access will depend on existing infrastructure (location of main roads, railways, and tram routes). It may be possible to overcome access problems to the casino site if further road construction is possible and the costs are not prohibitive. The extent to which public transport timetables and routes will service the casino location may also be important. Accessibility also involves proximity to the main markets (local patrons, tourists, convention visitors), and can be measured in terms of travel time, cost or distance.

4.22 In view of the two different types of casino development being considered by the Government, it may be that the large, open casino and small club-style casino will demand different degrees of market access. That is, if the commercial emphasis in the smaller club-style casino is on a luxury market to the exclusion of the mass market, proximity to large population centres and transport requirements may not be as critical.

Existing off-site facilities.

4.23 Access to a potential casino market is often not so much determined by distance or site characteristics as by the casino's location relative to other facilities or attractions. The Adelaide Casino, for example, has exploited its location adjacent to the major railway station in the central business district. Similarly, Jupiter's Casino has been promoted as a tourist destination close to tropical attractions such as beaches and rainforest. If a major objective of the proposed Melbourne casinos is to develop and exploit a potential tourist market, it will be important to undertake a detailed analysis of tourist preferences, the interplay of existing facilities and resources, and the capacity of the area to absorb additional visitors. In evaluating the tourist potential of the casinos, it will be important to consider the extent to which Melbourne's attractions are perceived as unique. Research undertaken by the Victorian Tourist Commission will be indispensable to identify the particular resources, development potential and possible problems of each site.

4.24 The clustering of existing resources and attractions is especially important. I have been advised that Melbourne is already well-endowed with a variety of attractions such as golf courses, cultural venues, convention facilities and high standard hotel accommodation. In other Australian casino developments, considerable attention has focused on a requirement for developers to provide hotel accommodation as part of, or adjacent to the casino. However, if the information I have been given is accurate, such an exercise may not be an important part of the planning process for the Melbourne casino as there already

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appears to be adequate hotel capacity of various forms. However, it will be necessary to examine existing accommodation facilities to ensure their proximity and access to the casino.

4.25 Evaluation should be made of adjoining land uses and broad ownership patterns (for example public and private golf courses, Council parklands, entertainment and sports venues, public and private parking facilities, convention facilities) to ensure their compatibility with the casino development. For example, it would appear that the World Congress Centre already provides international standard convention facilities which could attract visitors to a Melbourne casino and vice versa. It does not appear that it will be necessary to require the construction of convention facilities in a Melbourne casino complex. However, if the growth of tourism is to be an objective of the casinos, sites which are in immediate proximity to the convention centre would be advantageous. I am advised that with careful strategic marketing, convention facilities and casinos can be mutually supportive. However, this is less likely if convention delegates have to travel some distance to the casino site.

4.26 Not only does physical capacity of existing facilities change with the introduction of a casino, but casino operators have informed me that casino patronage is strongly influenced by levels of user satisfaction. There appears to be a limit to the extent to which people will travel to the casino on foot or by public transport or tolerate crowded conditions beyond which casino patrons will become dissatisfied. It is a byword within the industry that casino patrons should be able

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to travel from the parking area, hotel or convention centre to the casino in less than five minutes in an "unbroken journey". Undercover parking, covered walkways and mechanised "people-movers" (for example, a monorail, moving elevators, shuttle buses) have all been suggested as possible methods of facilitating public access to a casino.

4.27 Each site should also be checked for its capacity to absorb the facilities, activities and numbers associated with casinos. It can be expected that prospective casino developers will submit proposals which manage the increased number of visitors and the complex and dynamic activities which usually go to make up a casino project. However, while the main attraction (the casino) may be capable of accommodating such pressures, this may not be the case with the immediate environment. The immediate vicinity of casinos in particular, is frequently subjected to great stress from pedestrian traffic and vehicles, parking and increased commercial activity around the casino site. It will be important to undertake an analysis of the composition of the surrounding business and recreational activities, the types of activities undertaken in the casino vicinity and the capacity of existing infrastructure to absorb the flow of casino patrons and environmental degradation. Governments often find difficulty not only in ensuring that the casino meets local standards and design requirements, but also in securing the necessary infrastructure to deal with this. For example, the pronounced peaking of casino attendance on Friday, Saturday and Sunday nights exacerbates problems with traffic and on-site parking. Some casino operators are reluctant to expand parking facilities to cope with the pressures which are felt for only a short period during the week. Car

parking facilities at the Burswood Casino and Jupiter's Casino, for example, are capable of coping with mid-week patronage but are inadequate for the holiday and weekend peak periods when casino attendance often doubles. Attention also needs to be directed to the local business environment, that is the capacity of the immediate community to absorb casino patrons and the casino's activities.

Design concept.

4.28 Each of the existing Australian casinos has a regional monopoly and has been designed in such a way as to project a distinctive image. For example, although the Burswood Resort Casino and Jupiter's Casino are both in the style of large open American casinos, their overall design concept is different. Jupiter's Casino is what can be called an "integrated development" in that the casino is contained within a hotel-resort managed by a single developer to the exclusion of all other involvement. The Burswood Casino, by contrast, is a separate casino facility which was constructed as a catalyst for the development of other facilities on the site. Jupiter's Casino serves as one of many entertainment venues which are patronised by visitors to the Gold Coast region; Burswood Casino is what could be called a "destination resort" in that all entertainment and recreational facilities are contained on the site itself. The Adelaide Casino provides a different design concept altogether. Whereas Burswood and Jupiter's Casinos reflect the American approach to casino design, the Adelaide Casino is more "European" in style, projecting a quite different image although it offers basically the same gambling facilities.

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4.29 These differences in style and image owe as much to commercial decisions as they do to the sites designated for development or to government requirements. There are, however, some policy issues which the Government will need to consider before calling for design proposals from potential developers. It will be important to reach a decision as to whether the Government will require an integrated casino-hotel complex or what is called a "stand-alone" casino. An integrated development usually implies development by a single promoter or developer of a casino-hotel complex with multiple facilities as in Wrest Point, Launceston, Darwin and Broadbeach. A stand-alone casino often occurs as an initial catalyst to generate complementary developments, as in Adelaide and Perth. If the casino is to be part of an integrated casino-hotel complex, it is important to ensure that the hotel and the casino have separate entrances, so that there is no mix of activities. It is desirable, for example, that movements of hotel guests are not hampered by casino patrons. In Jupiter's Casino, hotel guests and casino patrons mingle and there is no clear delineation of activities. I was advised that there should be a buffer area in the nature of a foyer which separates the gaming area from the hotel proper. The casino should also have separate access from the street so that persons may enter the casino without having to go through the hotel and vice versa.

4.30 In the Jupiter's Casino complex, Keno runners and Keno ticket outlets are located in the hotel restaurants, so that hotel guests (including families with underage children) are confronted with gambling outlets at all times. Regulators and

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other casino operators expressed concern about this arrangement, and I recommend that it be avoided in any casinos established in Melbourne.

4.31 Some casino operators suggest that it would be unnecessary and even ill-advised to require the construction of a large amount of hotel accommodation in Melbourne. It may be more appropriate to take into account existing hotel facilities when selecting the site for the casino. Casino patrons visiting Melbourne should be able to find quality hotel accommodation in close proximity to the casino. The stand-alone casinos at Perth and Adelaide have been able to utilise adjacent hotel facilities both for interstate visitors and premium players. An alternative approach would be to leave this decision to commercial calculations, in which case the Government would not impose any specifications for accommodation in the development. However, if casino operators are to be given the capacity to attract premium players and junkets, it may be advisable to specify the provision of a minimum number of hotel rooms for premium players. I was advised that premium players often prefer to have private access to the casino floor from their rooms. Burswood Casino, for example, provides private entry to the International Room. Premium players often gamble well into the night and welcome the convenience of immediate access to their suites for themselves or their companions.

4.32 All Australian casinos have both public gaming floors and a private gaming area which is reserved for premium players, junket players or club members. Jupiter's Casino did not have a separate private gaming area until 1989. Australian

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casinos are now placing greater emphasis on their private gaming facilities. The private gaming rooms in the Darwin Casino and the Adelaide Casino have been refurbished and expanded in recent years. A private gaming area for premium players and junkets is recommended for both an open casino and a small European casino.

4.33 I was advised that distinct casino market segments were beginning to appear in Australia. Premium players, and to some extent junket gamblers, contribute significantly to casino turnover. This is reflected in the break-down of gambling expenditure on various table games. For example baccarat, which is rarely played in the public gaming areas, in some casinos is the major source of revenue. However, several casinos have identified a middle strata of casino patrons who are looking for a quieter environment, better services and higher table limits than are available on the public gaming floor. Many of the casino patrons in this category are willing to pay annual club membership which entitles them to access to the international room, but they frequently have a more social approach to their gambling than do the premium players.

4.34 All the Australian casinos provide several bars and a range of restaurants within the casino. In most cases these are located strategically around the casino complex so that gamblers have ready access to them. The restaurants are often of different standards, cuisines and price ranges so that there is a wide choice available. Although private gaming areas traditionally have not provided dining facilities, I was advised that a small, high quality, silver-service dining room was

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"absolutely necessary" for premium players and junkets. The Adelaide Casino has recently extended the International Room to include such a facility. On the other hand, it should be noted that one casino manager stressed the importance of also providing "budget fast-food outlets". In this case there had been complaints from casino patrons that the meals on-site were too expensive, and many patrons were prepared to leave the casino to obtain cheaper meals. Rather than specifying a requirement for restaurants, entertainment facilities, etc., the Government may prefer to leave such decisions to prospective developers. Again, this could best be a commercial decision. Whether or not other facilities (such as retail shops, show rooms, sporting facilities, swimming pools) are incorporated is largely dependent on whether the casino is part of an integrated development or a stand-alone project as in Adelaide. When a casino is located within a resort development, as in Burswood and Jupiter's, such facilities are provided as part of the design concept. However, as Adelaide Casino demonstrates they are not necessarily required for the successful operation of a casino.

4.35 Only one Australian casino has incorporated automatic teller machines within the casino complex itself, although patrons in other casinos can withdraw from their bank accounts using EFTPOS banking facilities at the casino's cash desk.

4.36 Consideration also should be given to the provision of other public amenities, such as sporting facilities (indoor and outdoor), theatres and cultural features, and other specific community amenities (space for public parks, etc.). We were advised that a small "function room" is often an asset to a casino, as it can be used for a

variety of activities including cabaret entertainment. Burswood Casino, for example, has cabaret facilities opening onto the casino floor. Management says that this has the advantage of creating "a lively atmosphere". On the other hand, the Jupiter's Casino complex has a separate theatre which stages floor-shows, to which patrons pay an entrance charge of \$29.00. Each show runs for several months and is well patronised, particularly by interstate and international visitors.

4.37 I have been told that prospective developers will be able to produce a number of design proposals which take advantage of local attractions, compatible with the local environment and which enhance the market appeal of a Melbourne casino. The final design concept and plan for the project will be arrived at through a lengthy and staged process of negotiation, as explained in Chapter 3.

Site development.

4.38 The actual development of the selected site should be guided by a basic philosophy for comprehensive development of the site and its integration into the urban and natural environment of the selected locality. The distinctive characteristics of existing Australian casinos and their commercial success can be explained to some extent as the result of such considerations. As well as these broad principles, there are practical considerations such as the adequacy of existing infrastructure for site services such as roads, bridges, pedestrian paths, sewerage disposal, power supply as well as the procedures and responsibility for upgrading existing infrastructure where required. It will be necessary for the Government to decide at an early stage if it wishes to have the complete complex constructed as

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a totality or will allow the developer to construct the complex in specific stages. If the Government chooses to require construction of the total complex, the delayed completion date will be off-set by benefits of achieving an integrated development. Some of Australia's existing casinos (Jupiter's, Wrest Point and Launceston) were completed as integrated complexes before they opened their doors to patrons. These casinos also have had some modifications or expansions since their opening.

4.39 The Burswood Resort, the Breakwater Casino and the Adelaide Railway Station development, on the other hand, were approved for construction in distinct stages. Staged development has the advantage of allowing the casino to be built as a separate unit before the other associated facilities and "fast-tracks" the construction process and the collection of revenue. The disadvantage is that delays with completion of supporting facilities have occurred with both Breakwater and the Burswood Resort projects. It is important that close negotiation with relevant authorities be established and maintained to avoid conflicts and consequent delays with construction.

4.40 One of the most important issues of site development involves the provision of adequate parking facilities for casino patrons and employees. Parking, circulation and movement patterns, both on-site and off-site, have been identified as major concerns by casino operators and regulatory authorities. They agree that current parking facilities at the existing Australian casinos are inadequate because the demand was underestimated. It was suggested that a formula which calculates

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parking spaces as half the average daily attendance would be appropriate, with the proviso that some account should be taken of increased demand during peak periods and seasons. The casino regulators also recommended that security procedures be provided for the casino car park, either in the form of an entry fee or token, boom gates, security patrols, and/or camera surveillance. Protection from the weather is important and covered parking is preferable. In some casinos the provision of parking facilities has been negotiated with the developer during the management contract negotiations.

Regional development.

4.41 One of the major government motivations for introducing casinos has been the potential of a casino to stimulate further regional development through the expansion of tourism and leisure activities. Therefore it seems logical to locate the casino in a locality which has already established tourism facilities as well as the potential for further growth. In the 1970s the development of Wrest Point Casino-hotel had a significant effect in attracting tourists, particularly convention visitors to Tasmania. The Jupiter's Casino development is also cited as an example of the catalytic effects that a large casino can have on regional development. The construction of the casino, in association with a number of other important economic and planning initiatives, has encouraged commercial development in the Broadbeach area as well as investment in large tourism projects along the entire Gold Coast. It should be noted that the Gold Coast region is unique in Australia as a resort city, and it would be unlikely that a casino in Melbourne would have a similar impact or appeal for tourism. However, it can be expected that the

construction of a casino will have a major impact on commercial activities and could provide a focus for development. To avoid duplicating existing facilities, technical assistance from the Victorian Tourism Commission and Chamber of Commerce may help to identify areas with the highest potential for further development.

Community benefits.

4.42 Not only do casinos involve large commitments by both developers and governments, they are notorious as socially sensitive developments. To ensure optimum benefits to the community, the planning and construction of a casino should be based on overall development goals and priorities identified by the government as being of public benefit. An attempt should also be made to mitigate general growth problems which may occur either during the construction stage or later as a result of any increase in existing levels of activity. Efforts should be made to ensure the needs of local residents are not dominated by those of the developer or tourists. Atlantic City is a sad illustration of the failure to do this.

4.43 The design and construction of the casino project should be subject to the approval and close supervision of a government department, such as the Board of Works. The Government would be advised to take an active role with respect to the standard of finishes and services, the functional groupings of amenities, the floor lay-out (particularly relating to the gaming areas, security and surveillance), circulation and movement patterns and the capacity for expansion and flexibility. Even with such supervision, problems can arise, for example, the merging of hotel

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and casino functions at Jupiter's Casino. Jupiter's Casino also has had considerable problems with the ducting of airconditioning through the catwalk, making the catwalk, in the early days of the casino's operation, almost unusable at times because of dense cigarette smoke.

4.44 A further objective of the Government should be to oblige prospective developers to offer as many benefits as possible to this casino project, to the city itself and to the community. Although the Burswood Resort concept may not be appropriate for a Melbourne casino, by tying the developer to an agreed set of staged developments (the convention centre showroom, the entertainment theatre, the superdome, the golf course and the public park) the Government has secured a number of community benefits including the transformation of a derelict area as well as enhancing the appeal of the casino itself. The view was put by an interstate regulator that greatest permanent community benefit will be achieved by requiring the developer to provide public amenities and public buildings in association with the casino complex. On the other hand these requirements should not be so onerous that they discourage applications from reputable casino operators.

The evaluation process and project control.

4.45 Planning and decision making will require the determination of priorities for development, selection of a site suitable for casino development and tourism, and evaluation and selection of the most appropriate proposal. The cost-overruns at the Burswood Resort Casino have already been referred to in paragraph 3.23. The Gaming Commission acknowledges that its preliminary investigation into the

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configuration of the site and possible construction problems was inadequate. Evaluation and control of the project development can be done in a number of ways and the Government should initiate discussions as soon as possible between Victoria's technical experts and experienced public authorities in other States. The Major Projects Unit has already been notified of planning experts in Queensland and the A.C.T. who may be able to offer helpful advice.

4.46 The Queensland authorities also produced written guidelines for applicants for the Jupiter's and Breakwater Casinos which detailed the criteria used for evaluation of casino proposals. The relevant criteria were weighted and each applicant was evaluated on these key criteria to achieve an overall score. The Queensland authorities say that they would now make some improvements on these broad guidelines to applicants, although they are satisfied with this general approach.

CHAPTER FIVE

OPERATION OF CASINO

TERMS OF REFERENCE

- I(iv) the nature of games that may be played at the casinos, suggested hours of operation and entrance criteria;*

Nature of games

5.1 In my original report I gave detailed descriptions of the games most commonly played in Australian casinos -

- . Blackjack - paragraphs 3.14 to 3.17
- . Baccarat - paragraphs 3.18 to 3.19
- . Mini Dice - paragraph 3.20
- . Two-up - paragraphs 3.21 to 3.22
- . Keno - paragraphs 3.22 to 3.25
- . Craps - paragraphs 3.26 to 3.29.

I do not think it is necessary to repeat those details here. Experience has shown that some games seem to prosper in certain casinos while others, which succeed elsewhere, fail. It is, therefore, necessary to be flexible about what games may and what games may not be permitted in any particular casino. The most satisfactory way of dealing with the matter is to have consultation between the Casino Control Authority, the Division of Casino Regulation and the operator.

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5.2 The important consideration at this stage is to ensure that proper provision is made in the casino control statute to give the Casino Control Authority the power to approve the games and the rules of all games. The Authority must also have power to impose any restriction or condition it thinks fit on the playing of any game. It must also be clearly provided in the statute that it is an offence to play or permit to be played in the casino any unauthorised game or to play any authorised game otherwise than in accordance with the rules laid down. I would expect that the Casino Control Authority would ultimately approve the six games which I have mentioned in paragraph 5.1 and perhaps others; for example, there may be a demand for games based on games played by local ethnic communities; their introduction might also discourage illegal games. I do not think, however, it would serve any useful purpose at this stage to make detailed suggestions as to games and rules as these could prove to be an embarrassment to a Casino Control Authority or a Division of Casino Regulation during their negotiations with the proposed operator. They may not wish to make final decisions about games or rules until they have had substantial consultation with casino applicants. Another matter which might also be explored is the installation of a TAB agency. This has been done in the casino in Western Australia. It was at first on a prime site within the casino. It is now outside the gaming area. This would no doubt require contractual arrangements to be made between the TAB and the casino. Also, in some Nevada casinos there are facilities for betting on all manner of sports events and these have proved popular. The casino operator may wish to consider these.

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5.3 In regard to blackjack there is the vexed question of card-counting. Card-counting consists of counting and remembering cards that have been played. In my original report I wrote -

3.16 There are very few person who appear capable of doing this. For all but a very few gamblers blackjack remains a game of chance and casinos do not lose on it. Some players have been banned from casinos for card counting. It seems to me to be wrong in principle that a player should be banned in such circumstances provided that he does not cheat and provided that he plays within the rules set down by the casino. Only skilled players can gain an edge over the bank and even they are hard put to do so when six packs of cards are dealt from the shoe. If casinos were introduced and blackjack were played it would be advisable for the regulatory authority to turn its mind to the question of how exponents of card counting techniques in blackjack should be dealt with. In my view they should not be banned, as they are in some overseas casinos.

Card-counters are excluded from Jupiter's Casino with the approval of the regulatory authorities. To my knowledge they are not excluded from the Burswood Casino in Perth. I simply mention the matter here to alert the authorities who will be appointed that there is a vexed question which should be sorted out in the negotiations with the preferred applicant.

5.4 The control legislation must be adequate to prohibit the use of electronic devices as an aid to gambling. Difficulties have arisen in this regard in at least two jurisdictions where devices were discovered but the legislation did not enable charges to be brought.

Electronic gaming machines

5.5 There is, however, one important matter concerning games which I believe the Government should address at the outset, namely the question whether electronic gaming machines should be permitted in casinos. I am not clear whether any firm decision has yet been taken about this. In any event I feel bound to draw the Government's attention to the question. There is a clearly discernible and world-wide preference on the part of casino operators to expand the number of machines in casinos. They are much more cost-effective than table games. I understand that Arthur Andersen & Co. have been asked to advise the Government concerning the integrity and security of electronic gaming machines. If it emerges that there are machines which are acceptable to the Government, there is no doubt that, from the point of view of casino regulation, they will be a good deal easier and much less costly to monitor than table games. Because machines in a casino are congregated in an area which is under constant surveillance by Government and casino staff, it should be possible to ensure their safe operation. From the point of view of the public the machines provide opportunities for small and unhurried wagers which are not always available at table games.

5.6 There is constant and intense pressure by casino operators, who do not have machines, to get them. Those who have them want more. Every casino in Australia, except Adelaide, has them. Adelaide, as mentioned in paragraph 2.6.4, is expecting to get 750 machines; and the New South Wales authorities propose to allow them in the two casinos which will be established in that State. It does seem that their advent into casinos is virtually inevitable and that it is a question of when

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rather than if. I do not have any doubt that there will be greater interest and more enthusiastic bids from applicants for Victorian casino licences if they are permitted to have machines. A number of examples have occurred where casino operators, beginning in new jurisdictions which have not allowed machines, have appeared to accept the situation willingly. Having got the licence to operate a casino they then begin almost immediately to lobby consistently for the machines. In Tasmania, Northern Territory and Queensland they have been successful. In Adelaide they appear to be about to succeed. In Western Australia they began realistically with them. In all cases, the number of machines continues to increase at a rapid rate. Because I regard it as inevitable that machines will ultimately be in the Melbourne casinos in any event, I would advise the Government to consider or, if necessary, reconsider permitting them in casinos. If they are not permitted, the casinos in Victoria and the Australian Capital Territory will be the only casinos in Australia which will not have them.

Hours of operation

5.7 From the description in Chapter 2 of the various casinos in Australia it will be seen that the hours of operation have fallen more or less into a pattern. The two largest casinos have 24 hour operation; the others operate generally from about the middle of the day until 3.00 or 4.00 a.m. Again I believe that the important consideration at this stage is to ensure that there is clear provision in the control statute for the Casino Control Authority or the Division of Casino Regulation to control the hours of operation. I do not think that it is necessary to specify precise hours in the statute. If it becomes desirable to change the hours of operation, it

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would be unnecessarily cumbersome to have to pass a Bill through both Houses to do so. Another reason for flexibility is that it sometimes proves desirable to make special provision for hours to accommodate special events. The Government may wish to specify in the statute that casinos should not operate on Christmas Day or Good Friday or Anzac Day or some part of Anzac Day. Otherwise the days and hours of operation for licensed casinos may be left to regulations or directions by the Casino Control Authority or the Division of Casino Regulation.

Entrance criteria

5.8 Insofar as entrance criteria are intended to refer to attire, I think it should be left to the casino operator in much the same way as restaurateurs and other proprietors of public entertainments exercise control in this respect. If the operator's control in this regard proved unsatisfactory the matter could be the subject of a direction to the operator by the Division of Casino Regulation. Insofar as the criteria refer to grounds other than attire, it is necessary to give casino regulators, police and casino management powers which from a civil liberties point of view may seem draconian. If, for instance, persons are detected in cheating at games or interfering with gaming equipment there must be power to remove them from the casino immediately. Similarly if persons of bad repute with a history of gaming breaches in other jurisdictions were to seek entry to a casino there must be power on the part of operators and regulators to deny such entry or to remove such persons if they gain entry. Provisions should also be made in the control statute to enable regulations to be passed controlling or prohibiting the admission of persons or classes of persons to licensed casinos eg. persons under 18. The powers

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of the casino licensee, the Division of Casino Regulation and the police are dealt with in detail in the Queensland statute discussed in Chapter 6.

5.9 It is important that the Division of Casino Control in Victoria should establish and maintain close communication with casino regulators in other states and overseas. It should also obtain access to the register of cheats maintained by the Australian Bureau of Criminal Intelligence. The incident to which I have referred in paragraph 7.15 below illustrates unfortunate occurrences which could have been avoided by the sharing of intelligence.

CONTENT OF LEGISLATION FOR CASINOS

TERMS OF REFERENCE

- 1(v) *the content of legislation to be introduced which would be designed to provide strict control over all aspects of the operation of such casinos, including whether or not an independent authority needs to be established to oversee the operations of the casinos and if so the membership, functions and powers of the independent authority;*

6.1 I have not been informed of the Government's objectives in establishing casinos. I think it is desirable that they should be stated in the legislation. For instance section 5 of the *Casino Control Act 1990 (NZ)* is couched in the following terms:

5. Object of Act - The object of this Act is to establish a system for the licensing, supervision and control of casinos with the aims of -

- (a) Promoting tourism, employment, and economic development generally; and
- (b) Ensuring that gaming in casinos is conducted honestly; and
- (c) Ensuring that the management and operation of casinos remains free from criminal influence or exploitation.

Independent Authority

6.2 If it is decided to have an independent Casino Control Authority, there should be provision in the legislation for setting it up as a body corporate with a common

seal. Its powers or functions should broadly be those set out in paragraph 3.2 above.

6.3 As to membership, subject to what I have said about a proposed Gambling Commission in paragraph 3.11 above, I suggest a President with four members to be appointed by the Governor-in-Council on the recommendation of the Minister. The Authority would have quasi-judicial and administrative functions, for example conducting hearings, in which it would be necessary to manage the proceedings in order to ensure that they were conducted in accordance with natural justice. I think the appropriate qualification for the President should be someone who has been a barrister and solicitor of the Supreme Court of Victoria or of another State or Territory for at least 10 years. I do not think that it is appropriate to choose a sitting Judge for the task. I have set out the reasons for this in detail in paragraph 16.15 of my original report. If a sitting Judge, who had already qualified for a judicial pension, could be persuaded to retire from the Bench to take the appointment, there would be no objection. In the A.C.T. a retired Supreme Court Judge has been appointed. In South Australia the first appointee was a retired Family Court Judge and the present incumbent is a Queen's Counsel. The question then arises whether there should be a provision that the members be drawn from particular categories. Once one goes down this path it becomes difficult to know where to draw the line. For instance section 26(3) of the *Casino Control Ordinance 1988 (ACT)*, in my view, goes too far in particularising categories from which members must be drawn. I prefer the formula adopted in New Zealand where the members are required to be people who, in the opinion of the

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Minister, are qualified to be members by reason of their knowledge, experience or expertise. This gives the Minister a wide and flexible choice without a requirement to look for people in particular categories when there may not be suitable persons in those categories available.

6.4 The term of office of members could be 3 years with provision that members may be re-appointed. There are various provisions with which Parliamentary Counsel are more than familiar which could be left to them, such matters as resignation, removal from office, filling extraordinary vacancies, conduct of meetings, disclosure of interests, deputies, funds, bank accounts, remuneration, accounts and audit, investment of surplus funds and so on.

6.5 I recommend that the Casino Control Authority be constituted a Board of Inquiry under Division 5 of Part 1 of the *Evidence Act* 1958. This would enable the Authority, if necessary, to take evidence on oath, to subpoena witnesses and generally to have the wide-ranging powers and immunities of a Board of Inquiry. The Authority should not be bound by the rules of evidence but should be required to observe the rules of natural justice. Parties should have the right to appear before it in person or by a legal practitioner. The Authority should have power to conduct hearings in public or otherwise at its discretion, the power to engage and pay employees and consultants and should be required to make an annual report to Parliament.

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6.6 There is an administrative problem as to whether the appointments to the Authority should be on a full-time or part-time basis. This poses some difficulty. During the initial stages the President and members would, amongst other things, have to

- . familiarise themselves with casinos
- . consider applications for casinos licences involving considerable hearing time for each finalist
- . approve games and rules of games
- . formulate and approve a casino agreement
- . exercise general supervision over the planning and construction of the casino and related development
- . have continuous liaison with the Division of Casino Regulation about all manner of detailed proposals for regulation of the casino.

This might well be a full-time task for the President, if not the members. On the other hand, once the casinos were operating and had settled down into something of a routine, the Casino Control Authority might have to meet no more than two or three times a month on a part-time basis. As I have indicated above, the practical solution may be to persuade a retired judge to take on the appointment of President. The retired judge would be able to give full-time service as required and then gradually taper off to a part-time basis. Subsequent appointments could then be made from members of the legal profession on a part-time basis. This is what occurred in Adelaide. The first appointee was a retired Family Court judge.

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His successor is a practising senior counsel who advised me that she is able to manage the present task comfortably along with her practice whereas she feels that she may not have been able to do so had she been the first appointee. It may be unnecessary to have a provision, such as appears in section 28 of the A.C.T. Ordinance, which provides that a member holds office on a part-time basis. If the Act is silent as to whether the appointment is on a full-time or part-time basis and the remuneration is by means of daily fees it would fairly represent the work actually performed.

Division of casino regulation.

6.7 I recommend that provision be made in the legislation for the appointment of a Division of Casino Regulation with the powers and functions set out in paragraph 3.3. It should be under the control of a Director appointed by the Governor-in-Council.

Queensland legislation

6.8 The *Casino Control Act 1982 (Qd.)* is based substantially on the New Jersey legislation. It differs from that legislation in an important respect namely that the Act is not only administered by a Minister but virtually all decisions of any importance are at the discretion of the Minister. There is no independent control body such as a Casino Control Authority. With this important exception, I think the Queensland legislation is in general a good model to follow although there are other provisions in it which I do not think are appropriate for Victoria and to which I shall draw attention in the course of this chapter. I append a copy of the

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Act as Appendix B. It contains a useful index. The Queensland Act is divided into 10 parts and it will be convenient to deal with each part in turn.

6.9 Part I is headed "Preliminary" and contains quite a number of definitions. On the assumption that an independent Casino Control Authority is appointed, many of these definitions would require amendment. In giving drafting instructions to Parliamentary Counsel, it would have to be borne in mind that in Queensland the Casino Control Division performs a mixture of the control and the regulatory functions which I have described in paragraphs 3.2 and 3.3. Some of the definitions are framed on the footing that there will be a casino-hotel complex. These would need to be modified if some other form of casino were chosen, for example a stand-alone casino.

6.10 Part II is headed "Administration". In substance it is satisfactory but, again, it would need adaptation if an independent Casino Control Authority were established together with a Division of Casino Regulation. Section 16 in this Part relates to secrecy. I consider that section 20 of the *Casino Control Ordinance 1988 (ACT)* is a better model.

6.11 Part III is headed "Casino Licences". Initially it deals with the grant of casino licences. In Queensland, where there is no independent body such as the Casino Control Authority, the Governor-in-Council grants licences on the recommendation of the Minister. If there were to be an independent Authority in Victoria the Minister could grant casino licences on the recommendation of the Casino Control Authority or, preferably, the Authority could itself grant the

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licences. This substantial alteration would need to be followed through in adapting this Part to Victoria. In addition to the provisions in the Queensland statute I recommend that a licence should not be granted unless 4 of the 5 members of the Casino Control Authority are in favour of the grant. I consider that if 2 out of 5 members are against granting the licence there is sufficient doubt about the suitability of the applicant. This Part also deals with the requirement for an agreement to be entered into between the Government and the proposed casino licensee. This is the type of management agreement to which I have referred in paragraph 3.20 above. It is dealt with in section 19 of the Queensland Act. I think that it would be appropriate for Victoria to provide that the Casino Control Authority should grant the licence but that it be made conditional upon the Minister for and on behalf of the State of Victoria entering into the management agreement. Section 20 deals with the investigations necessary to establish the suitability of a casino licensee and other persons. It is a satisfactory section provided that it is adapted for an independent authority. There are other provisions in this Part concerning the licence which proceed on the footing that the casino will be conducted within a hotel-casino complex. There are also other provisions which provide for the exercise of powers by a Minister. These are all capable of adaptation to the scheme I have recommended for Victoria.

6.12 Section 31 is an important provision and deals with the cancellation or suspension of casino licences and the issue of letters of censure. In substance it is satisfactory but would need to be adapted so that power was given to the Casino Control Authority rather than to the Minister or to the Governor-in-Council. In

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section 31(1) I would add an additional ground of suspension, namely that of failing to disclose relevant information in applying for the licence. To the powers given by section 31(15) to cancel a licence I would add a power to require the former licensee to sell its shares or units within a period of say 2 years. In the absence of such a power the former licensee could remain a substantial shareholder and continue permanently to share in the profits of the casino.

6.13 Section 31(23) provides:

A decision by the Governor-in-Council to cancel or suspend a casino licence or to direct the termination of a casino lease or casino management agreement is final and conclusive and shall not be appealed against, reviewed, quashed or in any way called in question in any Court on any account whatsoever.

I consider that this provision goes too far and, if applied to a Casino Control Authority, would remove all checks and balances on such an Authority. For instance, if the Casino Control Authority failed entirely to give the casino licensee a fair hearing or failed to notify the licensee of the grounds on which it was sought to cancel the licence or was guilty of fraud, this sub-section purports to make the decision impervious to review. The intention of the Queensland legislature, no doubt, was to make it clear to the casino licensee that Government control of the casino was all-powerful. In light of the volatile and potentially harmful proclivities of casinos, this is understandable. I do not suggest that there should be an appeal to any court on the merits of the decision but I consider that there should be a judicial appeal to the Full Court of the Supreme Court of Victoria by way of review on the grounds of

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- . breach of the rules of natural justice
- . failure to observe procedures required by law to be observed
- . lack of jurisdiction
- . a decision not being authorised by the Act
- . an error of law
- . fraud.

The Full Court should be given power to dismiss the appeal or to uphold the appeal, set aside the cancellation or suspension and remit the matter for rehearing with directions. I consider that pending such an appeal the power to appoint and retain an administrator should remain with the Casino Control Authority. I discuss this matter of appeal further in paragraph 7.16. The remaining provisions in Part III relate to the issue of letters of censure to a casino licensee, the appointment of an administrator to carry on the casino if the licence is cancelled or suspended, the requirement for the approval of a mortgage or assignment of a casino licence and provisions relating to the surrender of a licence. These are all capable of being satisfactorily adapted to a system in which there is an independent Casino Control Authority. For reasons which I set out in paragraph 7.16 below I recommend that the Casino Control Authority should have power to impose substantial fines on casino licensees who do not comply with directions or who fail to provide information or give false information.

6.14 Part IV of the Act is headed "Licensing of Employees of Casinos". The Part deals with licences of both key employees and other employees of casinos. The

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Part provides that only licensed persons may be employed. It also deals with the manner of application for licences, the requirement to investigate applicants, the issue, duration, cancellation or suspension of licences and various other incidental matters. I consider that the machinery applications in this part are satisfactory with the important reservation that if an independent Casino Control Authority and a Division of Casino Regulation are established the latter should deal with applications for licences for key employees and other employees and that there should be an appeal to the Casino Control Authority against a refusal by the Division of Casino Regulation to grant licences. I consider that there should also be a provision that if a key employee is promoted he or she may, at the discretion of the Division of Casino Regulation, be reinvestigated, taking into account the nature and duties of the new posting.

6.15 Part V of the Act is headed "Fees, Taxes and Levies". My terms of reference do not explicitly include the subject of fees or taxes or levies (cf. para. 3.15). It is necessary however to make some provision for such matters in the Act. In the case of fees and taxes the Queensland statute provides that the amount of them should be as prescribed by regulation. This enables the fixing of fees, taxes and levies to be done by executive action and obviates the necessity for amending the legislation every time there is a change. As a matter of constitutional principle, however, I think the prevailing view would be that taxation should be dealt with by Parliament as part of the annual budget process. There are, however, two difficulties in dealing initially with taxation rates in the Act. To do so would require the Government's taxation advisers to fix upon rates for taxes, levies and fees for each

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casino almost immediately to enable those rates to be included in the Act. This could result in the rates being fixed either too high or too low. It would also deprive the Division of Casino Regulation of the opportunity to discuss the rates with the preferred applicant. A lower rate might be seen as a desirable trade-off for an obligation by the licensee to make or contribute to other developments. On the whole I think it better for the time being to follow the Queensland model of fixing the rates by regulation. After the casinos have been running for a year or two I would be in favour of fixing the rates in the statute itself on an annual basis during the budget sittings. Notoriously, casino proprietors constitute a very influential lobby. After a casino has been in operation for a few years it seems to be par for the course that pressure is placed upon the government to reduce taxes. When that occurs I think it desirable that any reduction in tax should be as a result of a Parliamentary debate in both Houses rather than as the result of executive action. There is also provision in the Queensland statute for a community benefit levy of 1 per centum of the casino gross revenue which is payable monthly. This levy is paid into a trust for the benefit of the community to be paid out in accordance with the recommendation of the Trustee. There are similar schemes in South Australia with a Housing Trust and in Western Australia for the development of Burswood Park. It would be a matter of financial policy for the Government, on which I am not asked to advise, as to whether there should be an "up-front" payment for the casino licence payable either by lump sum or periodically. Similarly it would be a matter of financial policy as to whether or not there should be a community benefit levy.

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6.16 Part VI of the Act is headed "Casino Operation". It refers to such matters as the maintenance of casino facilities, the casino layout, hours of operation, gaming equipment and chips, a requirement on the part of the casino operator to assist patrons in relation to becoming familiar with the rules of the games, obligations of the casino operator in relation to the conduct of games, the prohibition of accepting credit wagers and the provision of training courses for employees. In section 59(d) there is reference to a catwalk surveillance system. A catwalk is an overhead system of casino surveillance which enables casino security personnel or government inspectors to observe games being played directly beneath them. The persons exercising surveillance are invisible to the players below. In my original report (see paragraph 16.46) I strongly recommended a catwalk system for a casino even though it was regarded as an architectural and financial burden. A catwalk occupies a whole floor above the gaming area. On the evidence available in 1982 it appeared to be a necessary part of proper surveillance. However with the improvement in camera surveillance, particularly with the availability of colour cameras, it has been suggested that it is no longer necessary to insist upon a catwalk provided that the camera surveillance available to the casino staff and to the government inspectorate is comprehensive and of a sufficiently high standard. Opinions differ about this but the balance of opinion still favours a catwalk. In my opinion it should be insisted upon. I was impressed by the fact that I was told that some 55% of irregularities in the Adelaide casino were detected from the catwalk. In this Part of the legislation, where the approval of the Minister is required, it would be appropriate in a Victorian statute to require the approval of the Casino Control Authority. Where the approval of the Director

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is required it would be appropriate to have the approval of the Director of the Division of Casino Regulation.

6.17 Part VII of the Act is headed "Internal Controls, Administrative and Accounting Procedures and Audit Requirements". I consider that provisions in this Part are satisfactory and readily adaptable to a Victorian Act.

6.18 Part VIII of the Act is headed "Agreements and Other Documents in Connection with Casino Operation". There is a prohibition against entering into agreements giving unlicensed persons any direct or indirect interest in or percentage or share of monies gambled at a casino. In this Part it would be appropriate to replace the powers of the Minister with those of the Casino Control Authority and the powers given to the Director with the Director of the Division of Casino Regulation. There is extensive power given to review agreements from time to time.

6.19 Part IX deals with "Directions, Powers Etc. with Respect to Casinos". This Part enables the giving of notices in writing directing a casino licensee in relation to the management, supervision or control of any aspect of the operation of a casino. It also confers extensive powers on inspectors. There is a power in the Minister to nominate "the Director or any other officer of the Division to hold an inquiry into the operation of a casino". If an independent Casino Control Authority is appointed I consider that this power of the Minister should be to appoint the

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Casino Control Authority or any member of it or any officer of the Division of Casino Regulation to hold the inquiry.

6.20 Part X of the statute is headed "General". There is a provision that no person has a right against a casino operator to enter or remain in a casino except by the licence of the casino operator. An appeal is given to the Minister against a direction prohibiting entry to or remaining in a casino. If there is to be an independent Casino Control Authority such an appeal should lie to that Authority. There is a provision excluding minors from being in a casino. Provision is made for the creation of various offences relating to behaviour in a casino. Section 105 enables a casino operator or an inspector to detain a person suspected on reasonable grounds of committing certain offences until the arrival of a member of the police force. This power can be exercised only "in a casino". This has proved unsatisfactory in practice because it cannot be exercised against a person who has moved out of the gaming area. It should be widened to enable its exercise in the environs of the casino. Similar considerations apply to section 106 which govern the powers of detention and arrest by members of the police force. In addition to creating various offences there is a provision in this part prohibiting regulatory personnel from gambling or having any financial connection with the casino. Provision is also made for granting powers to the police to enter a casino in the discharge of duty. There are a number of other incidental provisions including a power to make regulations. With the alterations I have suggested I consider this Part adequate.

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6.21 The Queensland Act does not deal with junkets but leaves them to be dealt with by regulation (see reg. 18 of the Queensland Regulations). Junkets are organised tours by means of which gamblers, usually from overseas, are brought to the casino in groups. They receive air travel and accommodation in exchange for an "understanding" that they will gamble a specified amount of money at the casino. Junket organisers should be prohibited from bringing junkets to the casino unless they have a licence from the Division of Casino Regulation to do so. They should also be required to supply the names and addresses of junketeers to the Division. I consider that there should also be a provision that the junket organiser should be required to lodge an end of junket report which records, amongst other things, the cash brought into the casino by the junketeer and the total win or loss on departure from the casino. I discuss junkets further in paragraph 7.15. I consider that they are of such importance that they should be dealt with in the Act and that the provisions in regulation 18 of the Queensland Regulations, modified by what I have written in this paragraph and in paragraph 7.14, should appear in the statute.

6.22 The Queensland Act is also silent as to members of control or regulatory bodies resigning from them and immediately taking employment with casinos. This has occurred on a number of occasions in Nevada where the persons involved have taken remunerative employment with various casinos. Recently in an Australian state a former member of a gaming commission has been appointed Chairman of Directors of a corporation which was a founder of a casino and remains centrally involved in it. I do not think that this should be permitted. It is prohibited in New Jersey. There should be a provision prohibiting a person who ceases to be a

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member of the Casino Control Authority or of the Division of Casino Regulation from taking employment with a casino or casino-related company for a period of four years after such cessation. I consider also that a person should not be appointed to be a member of the Casino Control Authority or as Director of the Division of Casino Regulation if that person has been an employee of or significantly associated with a casino company during a period of four years before such appointment.

6.23 With the exceptions, adaptations and additions I have referred to in this Chapter and, no doubt, other drafting adaptations which Victorian Parliamentary Counsel would wish to make, I consider the Queensland statute a satisfactory model for the content of Victorian legislation.

6.24 In Queensland the Casino Control Regulations 1984 have been made pursuant to the *Casino Control Act 1982*. There are six pages of actual regulations and 25 forms which together cover 147 pages. I have not appended them to this report because to do so would make the copying of the report unnecessarily cumbersome. Moreover, the Casino Control Authority and the Division of Casino Regulation should be involved in giving drafting instructions for such regulations and forms. The Queensland regulations should be made available to members of the Casino Control Authority and the Division of Casino Regulation as soon as they are appointed. It is not likely that Victorian regulations will come into existence much before the beginning of 1992. If my recommendation to have

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junkets dealt with in the Act is accepted, regulation 18, which deals with junkets, should be made available to Victorian Parliamentary Counsel.

6.25 Another complementary piece of Queensland legislation is the *Jupiter Casino Agreement Act 1983*. It is a short Act containing only five sections but, together with the Schedule containing the agreement, it covers 42 pages. As I have explained in paragraph 3.20 this management agreement does not come into existence until the preferred applicant is known and the details of the agreement have been hammered out generally with the assistance of legal practitioners representing the proposed licensee and the Casino Control Authority. It is not a matter of urgency at this stage but this legislation should also be brought to the attention of members of the Authority and the Division as soon as they are appointed. Again I have not appended this legislation to the report because it would make the copying of the report unnecessarily cumbersome. I have referred to the other management agreements and to the Acts which ratify them in paragraph 3.19.

Video Gaming Machines.

6.26 If video gaming machines were to be permitted only in casinos it would be necessary to include in the casino legislation provisions concerning the investigation, licensing or approval of the machines, the manufacturers, suppliers, maintenance technicians and so forth. It seems likely, however, that if machines are permitted in casinos they will also be permitted in other places such as hotels and clubs. The Government may intend to deal comprehensively with the control

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of machines in separate legislation. Whether provisions concerning machines would then be needed in the casino legislation would depend very much on the terms of the provisions of the other legislation. I feel that, at this stage, I cannot usefully make any recommendation concerning this matter and I do no more than draw attention to it.

EXCLUSION OF CRIMINAL ACTIVITY

TERMS OF REFERENCE

- 1(vi) the measures to be taken to exclude criminal activity and influence from the casinos and criteria/restrictions if any for persons/bodies having a financial ownership or other connections with the establishment or management of the casino.*

7.1 Most of the measures to be taken to exclude criminal activity and influence from the casinos are contained in the proposed legislation which I have described in Chapter 6. The criteria or restrictions applicable to persons involved in the establishment or management of casinos are also contained in that legislation. In addition I have described in paragraph 3.15 above the nature of the investigations which are necessary in the case of applicants for a casino licence.

7.2 In Chapter 16 of my original report I dealt with measures to control and supervise casinos and to prevent undesirable persons from being associated with them. I understand that copies of that report are not now readily available. I think that much of what I wrote then is still relevant today and, rather than try to paraphrase it, I will reproduce some of it.

Necessity for control.

7.3 In paragraph 16.02 I wrote:-

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No one disputed the proposition that, if there were to be casinos, their establishment and operation should be strictly controlled by government. The broad object of such control is to ensure that casinos are properly run. One indispensable requirement for a properly run casino is a proprietor of integrity and ability. Any legislation must provide adequate machinery for selection of such a proprietor. Another indispensable requirement is a sound system of Government control staffed by honest and capable people. To those unfamiliar with casinos, the degree of control which has been found necessary may seem at first to be somewhat far fetched. Once the dangerous and volatile nature of casino gambling is understood, however, the absolute necessity for competent ongoing strict, even draconian, control becomes clear. The degree and form of control will vary in some respects according to the type of casino which is ultimately introduced; but there are many measures of control and supervision which apply to any casino. Control may be ineffective because it is corrupt; it may also be ineffective because it is incompetent, albeit honest.

7.4 The above was written in 1983. It has now become commonplace to editorialise that since then it has been demonstrated that Australian casinos can be conducted in a way which keeps them free of organised crime. It remains a fact, however, that crime is constantly knocking on the casino door and the most stringent and sustained measures are required to keep it out. In the short history of Australian casinos the following examples suffice to illustrate the point. The Government of New South Wales in 1986, by a Cabinet decision, decided to grant a licence to a consortium which included an organisation headed by Mr. George Herscu who had by then already pleaded guilty to 16 serious charges and who is now serving a sentence for bribing a Cabinet Minister. If this decision had been implemented it would have proved an outstanding embarrassment for Government. For a period of approximately 2 years from 1983 to 1985 E.N.T. Ltd. held a 39%

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interest in the Launceston casino. That interest was acquired by Federal Hotels. A few years later the principal shareholder of E.N.T. Ltd. was convicted of attempting to bribe a member of the Tasmanian legislature. Had this occurred while he held a substantial interest in the casino, it would again have been a major embarrassment for Government. These two near-misses illustrate the problems which can arise in the selection of casino licensees. In Western Australia a Royal Commission is now conducting an investigation into a large number of matters which include the Burswood Casino. I understand that the allegation may be that improper influence was used in obtaining the casino licence. I am not aware that there are any allegations being made about the on-going conduct of the casino. In fairness to the management of that casino there should be no pre-judgment and it has to be kept firmly in mind that the casino may emerge entirely unscathed from the inquiry. Continual vigilance concerning the internal management practices of casinos is also essential to ensure the integrity of the operation. Two recent instances demonstrate that even senior management may breach regulations. The following account of an instance which occurred at Wrest Point is taken from an Annual Report of the Tasmanian Gaming Commission:-

The most serious breach of consequence necessitated a thorough and detailed investigation and related to a very senior member of management authorising an incorrect accounting practice but, more importantly, failing to rectify the matter after it was brought to his notice. This action permitted a player to receive a cheque for \$20,000, which could have been represented as being casino winnings, when a cheque was due only for the redemption of gaming chips which were not winnings. There was no query as to the amount of money involved, just the fact that the cheque should have been specifically endorsed "Not Winnings".

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At this point it is stressed that the accounting records now accurately portray the factual situation and that the Commission did not find any evidence, and it therefore does not believe, that the employee's actions were premeditated or made for personal gain. Nevertheless an extremely important accounting procedure was not adhered to and at the instigation of the Commission the company undertook an internal enquiry. At the conclusion of that enquiry the staff member concerned tendered his resignation. (Fifth Annual Report 1987-88 p.6).

Another incident was reported by the Northern Territory Racing Gaming and Liquor Commission in its Annual Report 1990 at p.21:-

One senior manager's licence was suspended for a period and he was subsequently issued a provisional licence for 12 months for failure to comply with Ministers Directions.

These incidents are known only because of the quality and frankness of the Annual Reports. In other jurisdictions where similar reports are not available this type of breach may be more widespread than is generally known. A Joint Federal Parliamentary Committee has recently undertaken investigations which, amongst other things, include an examination of the effectiveness of casino regulatory bodies. Whether or not in the long term criminal influence can be kept out of Australian casinos, in my view, remains to be seen. If it can be done, the measures which I am suggesting are essential in an effort to achieve it.

7.5 Criminal activity in relation to casinos may take various forms such as:-

cheating at games either by patrons against the casino or by patrons against each other

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- . collusion between casino operators and staff or management
- . public order offences, for example, theft, assault, offensive behaviour etc. such as are likely to occur in any crowded public place - these may occur either in the casino itself or in its environs
- . laundering money of either Australian or international currency
- . skimming, being the mis-appropriation of proceeds of the casino in such a way that they are not counted or recorded in the books of the casino
- . use of questionable funds to set up or conduct the casino which originate from the proceeds of organised crime or other questionable sources
- . association of undesirable persons with the running of casinos
- . coercion of casino authorities by outsiders
- . activities associated with junkets
- . non-compliance with the terms and conditions of the licence.

Gaming offences

7.6 In the playing of casino table games such as roulette, blackjack and baccarat, literally thousands of cash transactions occur every day. They generally go unrecorded and are incapable of being completely recorded. In this situation it is inevitable that there will be some cheating by gamblers against the casino and by gamblers against each other. The casino operator is on the alert to detect cheating of any kind. It not only defrauds the casino but, if it becomes rife, it gives the

entertainment venue for, say, an unaccompanied woman. The proliferation of street crimes which occurred in Atlantic City does not appear to have occurred in relation to Australian casinos. Statistics should be kept and published concerning the incidence of street crime in the immediate casino vicinity.

Laundering of money by casino patrons.

7.9 I dealt with this in my original report. I then expressed the opinion that laundering of any significance was unlikely to occur in a casino the size of Wrest Point. No evidence has been publicly produced that it occurs on a significant scale in Jupiter's Casino or in Burswood or in Adelaide. I do not think one can yet safely say that it does not occur. However, the likelihood of it occurring in today's casinos is lessened, I believe, both because it would be a laborious process in a casino and because there are other much easier ways to do it, such as on a racetrack - see paras. 16.38 and 16.39 of my original report. The *Cash Transactions Reports Act 1988 (Cth)* is now in place and casinos are required to report substantial or suspicious transactions. I think there should be considerable scope for government inspectors and the police unit at a casino to work closely with the Director of the Cash Transactions Reports Agency to ensure that casino management is complying with its obligations under the Act. The faithful discharge of those obligations should make the task of patrons attempting to launder money at casinos quite a difficult one. In addition, some casinos are requiring gamblers to produce proof from individual tables of their winnings before they are given a winnings cheque. The Division of Casino Regulation should authorise and require any cheque paid by the casino to a gambler to be endorsed as either a cheque for

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winnings or a cheque for non-winnings. I do not suggest for a moment that there should be any cessation of vigilance in the matter of laundering because I do not think that all the evidence is yet available.

Skimming.

7.10 Skimming consists of the misappropriation of cash by removing it before it is counted or recorded. Large amounts of cash are placed in drop boxes under the gaming tables or in the video gaming machines. This money has to be transported to count rooms where it is stored, counted and despatched from the casino. The opportunities for theft are ever present. The safeguards are surveillance by the casino security staff, surveillance by the casino inspectors, presence of a casino inspector at all counts, closed circuit colour television surveillance of counts and catwalks over count rooms. It is necessary to make sure by constant vigilance that the system of surveillance is maintained at a high level. If there are to be machines in casinos, it is important to ensure that the machine maintenance staff are licensed. Cashless video gaming machines would significantly reduce the amount of cash which had to be handled and counted and therefore would reduce opportunities for skimming. If this type of machine is otherwise acceptable, consideration should be given to them on this ground.

Use of questionable funds.

7.11 There have been many instances overseas where funds to set up or maintain casinos have originated from the proceeds of organised crime. This is a very difficult type of activity to detect particularly in the case of an overseas

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organisation. The normal precautions taken to counter such activity are the initial investigation of the organisation when it, or a group of which it is part, applies for a casino licence or seeks to purchase a significant parcel of shares. The problem is that the funds may already have been thoroughly laundered in a way which makes it difficult to detect their real origin. Investigation of the organisation at the time of applying for the licence by skilled accountants and auditors, possibly aided by criminal intelligence agencies, seems as much as can be done. This kind of laundering remains a persistent question mark with casinos where large funds are involved.

Association of undesirable persons with the running of casinos.

7.12 The principal means of guarding against this is a thorough investigation by the Division of Casino Regulation of any proposed applicant for a casino licence or any key employee of such an applicant and constant supervision thereafter. Liaison between Australian regulatory bodies is desirable as well as with overseas regulatory bodies such as those in Nevada and Atlantic City as well as Interpol. My recommendation that a licence should be granted only if four of the five members of the Casino Control Authority are in favour of the grant is an extra safeguard - see para. 6.11 above.

Coercion of casino management.

7.13 There are documented instances overseas of coercion of casino management by outsiders running protection rackets of one kind or another. Sometimes it has

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been done by persons or organisations which supply goods or services to a casino. I know of no evidence of it occurring in Australia. In my original report I wrote:-

16.26 Experience in U.S.A. has shown that considerable pressure can be exerted on casino managements by the suppliers of services or labour to a casino which is an institution particularly vulnerable to threats of stoppages of labour or vital supplies. A casino whose management is free of direct organised crime influence can in this way be subjected indirectly to organised crime influence. Consequently in New Jersey all substantial suppliers are investigated and registered and the casino is obliged to disclose copies of contracts with suppliers.

Because of the U.S.A. experience I then recommended inclusion of the New Jersey provisions in the Victorian legislation. Another problem which may be a concern is the potential for kick-backs by suppliers in return for the purchase of their products. A short time before this report was due I was advised that the Australian Bureau of Criminal Intelligence is concerned about some suppliers of certain goods to casinos. I suggest that controls over suppliers not be included in the Act but that it should be provided that the Governor-in-Council has the power to make regulations concerning suppliers of goods and services to a casino requiring their registration and the disclosure of contracts with them. If it subsequently appeared to the Casino Control Authority or the Division of Casino Regulation that control over suppliers was necessary, the appropriate regulations could be made.

Junkets

7.14 Junkets are discussed in paragraph 6.20 above. They are capable of being a source of trouble but are popular with casino operators because generally they

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mean that gamblers come to the casino and wager a great deal of money there. One attitude towards them is that if people from overseas wish to gamble large amounts of money in Australian casinos, then so be it. They have, so the argument runs, to obtain passports from their own countries and visas from Australian authorities; why should Australian casino managements have to take any further steps? Police in various states, however, are concerned about several aspects of junkets:-

- . the antecedents of some members of junkets
- . the origin of their funds
- . the disposal of their funds (wins and losses) in Australia
- . the cheque cashing arrangements permitted by casinos.

Difficulties have been experienced in overseas casinos with the granting of credit to members of junkets which has been followed by strong-arm methods of collection after the return of junketeers to their own countries. In Australia cheque cashing facilities vary from state to state. Some casinos do not present overseas cheques for cashing for up to 30 days. The following is taken from the 1988-89 Annual Report of the Casino Supervisory Authority of South Australia:

While it was claimed by the Operator that the facility to withhold cheques from presentation for a period of up to 30 days would be an added incentive for overseas players to visit the Casino it appears that the practice of accepting and holding cheques from junket players resulted in \$1.2 million being written off as bad debts with little prospect of recovery. The Lotteries Commission shares the concern of the Authority in respect of such bad debts. (p.13).

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7.15 The initial control of junkets is the licensing of junket organisers who are usually resident overseas. This process of licensing is essential but its efficacy may be limited. The investigations into potential organisers are generally done by correspondence only and there is always the suspicion that the licensed junket organiser may be no more than a front for other business interests. When, as expected in a few years time, there may be 16 casinos operating in Australia, competition to attract a finite pool of potential junketeers may become intense and standards may be lowered in various ways. This is an aspect of casino gambling that constantly worries the casino regulators and the police. It should be vigilantly supervised by the Division of Casino Regulation and the police, if for no other reason than that scams are not infrequently associated with junkets. I take the following description from the Racing Gaming and Liquor Commission Annual Report 1990 of the Northern Territory.

One noteworthy incident occurred in 1989 during a game of Baccarat at the Diamond Beach Hotel Casino. In this incident a junket patron was able to manipulate the cards in the shoe in a manner that allowed an accomplice behind the shoe to read the card index. This information, combined with dealing the second card from the shoe when required, permitted the members of the junket to exploit the game.

Legal proceedings could not be undertaken due to the departure of the participants, however the casino licensee was able to recover the majority of winnings obtained by this junket and has excluded all participants, including the junket operator. Other Australian casino control authorities were immediately notified of the incident and, upon further investigation, it was found that the same people were involved in a similar cheating incident in Perth (September 1988) and London (January, 1989).

Cancellation or suspension of licences - fines.

7.16 Some of the powers which I have recommended for the Casino Control Authority may appear to be draconian but in my view are necessary. As I have already indicated, I consider the Casino Control Authority should have power to cancel or suspend a casino licence. This is an extremely important and far reaching power which could deprive a casino operator of many millions of dollars. If the casino operator in Victoria is also a casino operator in one or more other jurisdictions, it is almost certain that any cancellation or suspension in Victoria would have repercussions in those other jurisdictions. Once a licence is cancelled there are obvious difficulties in the way of a former licensee selling its interest in a casino at a fair market price, particularly if there is a provision that it must do so within a specified time. The situation is further complicated if the casino licensee is also the owner of an associated hotel or other facilities which are linked to the gaming area. Even though I have recommended a provision in the legislation to appoint an administrator on the cancellation or suspension of a licence, there are obvious difficulties in an administrator conducting a casino for a prolonged period. Cancellation or even suspension is likely to be a very messy business and would be used with great reluctance as a last resort - cf. para. 2.3.1. It should remain, however, as the ultimate sanction and, in my view, it is a power which must be given to the Casino Control Authority even though in practice it is unlikely to be used. For this reason it should be kept in mind that the power to cancel or suspend a licence is not as effective a sanction as it seems to be on the surface. There is an enormous gap in terms of the severity of the punishment

between cancellation or suspension of a licence and a letter of censure as provided for in section 31(12)(b) of the Queensland Act. For this reason I recommend that the Casino Control Authority should have power to impose substantial fines on the casino licensee for failing to comply with any term or condition of the agreement or for refusing to comply with any direction in writing by the Casino Control Authority or failing to supply information or supplying false information. The circumstances in which such fines could be imposed are more fully set out in section 31(1)(c), (e) and (f) of the Queensland Act.

Investigations.

7.17 Thorough investigation of applicants for casino licences plays a key role in keeping criminal influences out of casinos. The type of investigation of applicants for casino licences which I have described in paragraph 3.15 should ensure an honest and competent proprietor. The investigations however need to be carried out with competence and diligence by highly skilled people. It is not, for instance, sufficient to establish that an applicant has resources with a bank. It is necessary to discover the origin of such resources. Frequently it is discovered that what appears to be equity capital, if taken one or two steps further back, is in fact borrowings. Considerable difficulty may be experienced in Asian countries in making satisfactory investigations into financial organisations which operate in those countries and apply for casino licences in Victoria. Generally, as I have indicated earlier, the applicant for a licence is a consortium of two or three or four corporate bodies. It is essential to investigate each of them and all the key personnel in each of them. I repeat what I have said in paragraph 3.16 that it

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would be a fundamental and serious mistake to give the investigators deadlines which would leave them insufficient time to carry out complete and proper investigations.

Review of decisions of the Casino Control Authority

7.18 It follows from what I have said that an essential part of proper regulation of casinos is to have an honest and competent Casino Control Authority and an honest and competent Division of Casino Regulation. If there is corruption or inefficiency in either of these bodies it will make it very difficult, if not impossible, to ensure that the casino is properly run. A further reason for requiring the highest standard of honesty and competence in casino controllers and regulators is the fact that in my view they should be given power to make decisions which are not reviewable on the merits. If, for instance, an appeal on the merits against a decision of a Casino Control Authority were to be given to a single Supreme Court judge, that decision could be the subject of an appeal to the Victorian Full Court. From that decision in turn leave could be sought to appeal to the High Court. It would not be unrealistic to find that the full appellate process could occupy up to two years. Such a delay could be very damaging to proper casino administration. It could enable a corrupt casino operator to postpone the day of reckoning unduly and undermine public confidence. On the other hand, if there were no recourse to the Courts on such important matters as the cancellation of suspension of a licence there would be no checks or balances on the probity or competence of the Casino Control Authority. I have indicated in paragraph 6.12 the type of judicial review which I think is appropriate and the suggested grounds for it.

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The role of police.

7.19 In paragraph 3.12 I have recommended that a specially trained unit of the Victoria Police should be seconded to the Division of Casino Regulation and that it should be accommodated in the large casino. Jupiter's Casino is the only casino in Australia where this occurs. The view is held by some casino operators and regulatory authorities in other states that a police presence in a casino is undesirable. I do not agree with this view. I think that it is appropriate to have a police unit seconded to the Division of Casino Regulation as an integral part of such a Division. A large casino in Melbourne may have up to 10,000 people coming through its door on many days of the year. Apart from the gaming activities there are many ordinary police functions to perform arising out of the presence of crowds of that size. It will also, in my view, be conducive to efficiency if there is a unit of police who understand and are readily familiar with the gaming activities of a casino who are available to maintain contact with the casino inspectors to ensure concerted action in respect of gaming breaches. I do not agree with the attitude that I have encountered in some quarters which would allot the police only a minor role in casino regulation. I have considered recommending provisions in the casino control legislation concerning the role, as distinct from the powers, of the police but, on balance, I think it is better to leave the matter to be dealt with by executive action.

CHAPTER EIGHT

AN UNOBTRUSIVE CASINO

TERMS OF REFERENCE

2. *The feasibility of establishing an unobtrusive casino prior to and in addition to the open casino, taking into account any of the above listed matters where relevant.*

8.1 An unobtrusive casino may take a number of forms. The Honourable, the Premier, in her press statement of 19 December 1990, referred to it as a European club-style casino. In my original report I described a casino in West Berlin which could have been so categorised. It opened in 1975. I do not know what has occurred since German unification but as of 1982 the casino operated in West Berlin, which was then a city of about two million people. The casino then had a total of 22 tables (12 roulette, 4 blackjack and 3 baccarat). It had no machines but the proprietor was proposing to apply for them. 70% of the clients were Berliners, 15% came from other parts of what was then West Germany and 15% were foreigners. Persons under 21 were not admitted. Persons seeking admission had to show an identity card. Gamblers signed cards containing their names, personal particulars and a statement that their financial position was such that they could afford to gamble. These particulars were recorded in a register so that there was a cumulative record of the gamblers' attendance. There was an entrance fee, then equivalent to \$A2.00. Jacket and tie were required for men and could be hired at the door. The attendance then was about 900 per day. The casino was housed in a prominent privately-owned office building. There was an entrance at ground

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level and the casino was on the first floor, reached by lift. There was a casino bar in the gambling area and dining facilities which provided light meals. There was little externally to attract passers-by to the presence of a casino in the building. The initial outlay to set-up the casino was the equivalent of \$A2 million. That, of course, was at pre-1975 values. The presence of the casino did not appear to create any parking problems (cf. para. 7.35-7.43 of my original report).

8.2 In my original report I also described the European casino at Estoril, a seaside resort about 40 minutes drive from Lisbon in Portugal - see paras. 7.16-7.23. I also described the casino at Baden Baden in what was then West Germany which is located in a tourist area well apart from urban population - see paras. 7.24-7.34. I also described the club casinos in Great Britain - see paras. 7.12-7.13. I have in this report chosen to concentrate on the West Berlin casino because it was a single casino situated in the Central Business District of West Berlin and seems to be more comparable with the smaller casino proposed for Melbourne.

8.3 Putting aside for the moment any commercial considerations, I consider it is perfectly feasible in a financial and administrative sense to have an unobtrusive casino before and in addition to an open casino. Such a casino could be set up in a hotel or other appropriate building; and the capital resources and the time taken to alter and adapt a building and establish the casino would be likely to be far less than for a large open casino. Both of these factors should make it feasible to have an unobtrusive casino operating well before the large open casino was ready to open its doors to the public.

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8.4 The establishment process for the unobtrusive casino could not, in my view, effectively commence until the preferred applicant was known. It would still be necessary to have the control legislation in place and to have appointments made to the Casino Control Authority and the Division of Casino Regulation. It would still be necessary to have the applicants investigated as described in Chapter 3 and to review applications and choose the preferred operator.

8.5 It would be from that time onwards that the process of establishing an unobtrusive casino could outstrip the corresponding process for the large casino. The smaller casino might have between 15 and 25 tables. In a small casino which had a colour closed circuit television camera covering every table, the Division of Casino Regulation might be prepared to dispense with a catwalk. I do not underestimate the work which would need to be done to convert some premises into a casino, such as the installation of closed circuit TV cameras, the construction of count rooms and many other matters. There is also the important matter of obtaining and training staff for the casino and the inspectorate. Even so, I would be surprised if the unobtrusive casino could not open its doors at least 12 to 18 months earlier than a large open casino.

8.6 As to the commercial considerations, during the course of this consultancy I have discussed the concept of the unobtrusive casino with a number of commercial casino interests and have received markedly different responses. Questions asked immediately were - Would the small casino be allowed to organise junkets? Would it be required or permitted to provide accommodation for junketeers? Would it

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mean that the larger casino would not be allowed to have a private room? Would it be a government requirement that each casino would have to be operated by entirely separate interests? Would the exclusivity provisions and the tax and licence payments be the same for both casinos? I was not, of course, able to anticipate the Government's answers to those questions but the fact that they were asked indicates the kind of commercial concerns generated by the proposal to have both a small and a large casino in Melbourne.

8.7 One member of a large accounting firm, who specialises in making economic analyses for casinos, was of the view that there would be little interest in the small casino because it would not be able to compete for high rollers and junkets against the superior resources of the large casino. On the other hand I spoke to an experienced administrative official of a casino company who took a different view. He considered that a small European style casino designed to attract high-rollers in a small building would be a low cost option with a high return. For that reason he thought that applicants for the licence of the small casino would not be discouraged by competition with the larger casino for the high-rollers. He thought, however, that it might be more difficult to attract the big investors who, in his view, might be more interested in the big casino.

8.8 Another view was put by a Senior Vice-President of a large casino who thought that there would be a definite place in Melbourne for a small select casino. He thought that with appropriate dress codes and perhaps an entrance fee or a club membership people who would regularly go to a theatre or a good night-club -

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people who did not want to be part of a crowd in shirtsleeves in a gambling casino might find it very attractive. It would, he thought, be a question of determining whether it would appeal to a large enough segment of the population to utilise the facility and make it profitable. He did not contemplate that such a casino would necessarily appeal to the top end gambler but thought that it could nevertheless be successful. Such a casino, accompanied by appropriately high restaurant and bar facilities, could attract steady attendance of middle class gamblers who would see their outing as something of a social occasion for which they could dress up and attend with friends in pleasant and safe surroundings.

8.9 Yet another view was put by a director of a company which is a casino entrepreneur. That view was that there should on no account be a small casino. His argument was that casino operators placed a premium value upon a single large casino with a monopoly backed by exclusivity provisions. A small casino would diminish this value with the result that the overall benefits to the State would be significantly reduced, including the ability of the open casino to act as a catalyst for major Government redevelopment projects. He considered that a small casino with lower overheads could pay more to junket organisers than a large casino. This, together with the fact that it would start to operate before the large open casino, would give the small casino an initial advantage in a competitive situation in the matter of high-rollers which might make applicants for the licence of the large open casino less enthusiastic. This casino entrepreneur has supported its view with a written submission which I will pass on to the Government.

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8.10 With such a diversity between expert commercial opinions, I hesitate to venture any opinion of my own except to say that it would be a commercial decision and, if casino entrepreneurs were prepared to make the capital outlay and abide by the rules, there seems to be no reason, other than that set out in the previous paragraph, why a small casino should not be approved. An alternative course for the Government in the matter of the small casino would be to call for expressions of interest and make up its mind whether to have a small casino in the light of those expressions of interest. If it wished to adopt this course the Government, in fairness to applicants, would have to make it known in the advertisement calling for expressions of interest that it had not finally decided on having a small casino.

8.11 In any event, it would be necessary for the kind of questions I have referred to in paragraph 8.6 to be answered. I refer to them in turn.

Would the small casino be allowed to organise junkets?

I would answer yes and permit the small casino to have a private gaming room.

Would the small casino be in a hotel where there would be accommodation for junketeers?

My answer to that question is that it should be permitted to provide such accommodation. Other options are that it could be sited in or close to a suitable hotel.

Would the existence of the smaller casino mean that the larger casino would not be allowed to have a private room?

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My answer to that question is no. To deprive the larger casino of a private gaming room would make it less attractive to large investors.

Would it be a government requirement that each casino would have to be owned and operated by entirely separate interests?

My answer to that question is yes. I think it would be monopolistic and not in accordance with sound trade practices principles to have both casinos owned and operated by the same people.

Would the exclusivity provisions, tax rates and licence payments be the same for both casinos?

I think the exclusivity provisions would have to apply to the same area and for the same period; otherwise they would be confusing. I think the revenue provisions should be considered by those advising the Government on financial aspects of casinos.

8.12 If the Government decides to proceed with an unobtrusive casino, I think that great care should be taken in drafting the advertisement calling for expressions of interest. Unless the Government has a preferred site of its own, there is much to be said for giving applicants an opportunity to come forward with their own proposals as to sites. The advertisement would need to strike a balance between giving information on the kind of matters I have mentioned in the previous paragraph and at the same time giving scope to entrepreneurs to put forward their

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own proposals as to the style of the casino and the market segments at which it was aimed.

CHAPTER NINE

SUMMARY OF MAIN RECOMMENDATIONS AND CONCLUSION

Summary of main recommendations.

- 9.1 . It is highly desirable to have a bi-partisan approach to casino gaming - para. 3.24.
- . Government should decide what are its objectives in establishing casinos and these objectives should be set out in the legislation - para. 6.1.
 - . A Casino Control Authority with a President and four members should be established with power to grant, suspend or cancel casino licences and to supervise the operation and regulation of casinos - paras. 3.2, 3.8-3.10, 6.3-6.6.
 - . A casino licence should not be granted unless four members of the Casino Control Authority are in favour of the grant - para. 6.11.
 - . There should be limited judicial review of decisions by the Casino Control Authority to suspend or cancel a casino licence but no review on the merits - paras. 6.13 and 7.10.
 - . The Casino Control Authority should be constituted a Board of Inquiry under the *Evidence Act 1958* - para. 6.5.

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- . A Division of Casino Regulation should be established to carry out direct supervision of the operations of casinos and the conduct of gaming within them - paras. 3.3, 3.10, 6.8.

- . A specially trained unit of the Victoria police should be seconded to the Division of Casino Regulation. It should be located at the large casino - paras. 3.12, 7.19.

- . Potential sites for casinos should be selected at an early stage in order to focus the attention of applicants and facilitate the negotiation process - para. 4.13.

- . A limit should be placed on the total number of casino tables to be permitted. If a decision is made to approve two casinos, their combined size should not exceed this specified maximum - para. 4.17.

- . Favourable consideration should be given to locations which can best utilise existing accommodation resources, convention and tourism facilities in Melbourne - para. 4.23-4.25.

- . Expressions of interest may be sought from interested parties as soon as the Government has made decisions in principle about certain matters but the investigation and selection of applicants for casino licences should not commence until casino control legislation is in place and

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appointments have been made to the Casino Control Authority and the Division of Casino Regulation because those bodies should be actively involved in the investigation and selection process -para. 3.15.

- . From the expressions of interest the Casino Control Authority should select finalists, to each of whom it should deliver a detailed brief of government requirements - para. 3.16.

- . The Division of Casino Regulation should thoroughly investigate finalists as to their antecedents, financial position, business skills and corporate structure - para. 3.17.

- . After an appropriate hearing the Casino Control Authority should decide which of the applicants should be awarded the licences - para. 3.20.

- . The State of Victoria should enter into a management agreement with each preferred applicant covering all aspects of the running of the casino. The agreement should not come into operation until it is ratified by Parliament -paras. 3.20, 6.25.

- . During the time when the casinos are being physically established the Division of Casino Regulation should engage and arrange for the training of casino inspectors and other staff so that they will be available and

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competent to exercise direct control over gaming activities in the casinos by the time they are ready to open their doors - para. 3.21.

- . Undue haste in the process of establishing casinos should be avoided - paras. 3.18, 3.22.
- . The Casino Control Authority should be responsible for approving the games to be played in casinos and the rules of those games - para. 5.2.
- . Electronic gaming machines should be permitted in casinos - para. 5.5, 5.6.
- . Casino legislation should empower a Casino Control Authority to determine the hours of operation of casinos. The days on which casinos should not operate ought to be specified in the statute itself - para. 5.7.
- . Initially entrance criteria which refer to dress should be left to the casino operator. If this proved unsatisfactory the Casino Control Authority or the Division of Casino Regulation should give suitable directions to the operator - para. 5.8.
- . Members or staff of a Division of Casino Regulation, police and casino management should have power to exclude or remove persons from the

casino. Persons permanently excluded by a written direction should have an appeal to the Casino Control Authority - para. 5.8.

- . Persons under 18 should not be permitted in the gaming area of a casino - 5.8.

- . The *Casino Control Act 1983 (Qd)*, subject to certain modifications, adaptations and additions mentioned in Chapter 6, is a satisfactory model for casino control legislation in Victoria - paras. 6.8., 6.22 and Appendix B. This broad recommendation contains within it many hundreds of detailed recommendations which can only be understood by reading the Queensland Act and Chapter 6 of the report. It would be counter-productive to attempt to include all these recommendations in a summary.

- . Various forms of criminal activity which may occur in casinos are considered in Chapter 7. The known means of combating them are also considered in Chapter 7 and in the proposed legislation which is discussed in Chapter 6.

- . Persons who cease to be a member of the Casino Control Authority or of the Division of Casino Regulation should be prevented from taking employment with or being involved in the affairs of a casino-related company for a period of four years after such cessation. Persons should

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not be appointed as a member of the Casino Control Authority or as Director of the Division of Casino Regulation if they have been employees of or significantly associated with a casino company during a period of four years before such appointment -para. 6.22.

It is physically and administratively feasible to establish an unobtrusive casino before and in addition to an open casino. Whether it is commercially feasible would be a decision for casino entrepreneurs. For this reason they should be given the opportunity to put forward their own proposals as to the site and style of such a casino and the market segments at which it would be aimed - paras. 8.3-8.12.

Conclusion

9.2 In my original report I wrote:

2.16 In my view the recommendation against having casinos should not deter Government from considering the pros and cons of the various options. Making an ultimate choice between the options depends a good deal on personally held values and attitudes towards social morality generally and to gambling and its stimulation in particular. In these fields it is virtually impossible that the opinion of one person will command universal assent. I believe therefore that I owe it to readers of this report to make it perfectly clear what my own views are on these matters and the reasons why I think those views are correct. It should then be possible for persons reading the report to discern the extent to which things said in it are traceable to my own set of values. In that way people who do not share such values may nevertheless obtain some benefit from the factual material in the report, even though they may arrive at conclusions different from mine as to its significance and its consequences.

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I believe that I also owe it to readers of this later report to do as I did previously.

9.3 As a matter of intellectual honesty and for the purpose of enabling the Government and other people to assess my views and recommendations, I think I should state that I am still of the opinion that Victoria would be better off without casinos. I do not have any real confidence that in the long term crime will be kept out of casinos. Only time, and perhaps a considerable amount of time, will tell whether I am correct about this. Further, and more importantly as far as I am concerned, I do not think that governments should stimulate gambling. I was requested to write an article about this aspect of the matter by "The Herald". It appeared on 6 November 1989 and I attach a copy of the article as Appendix C.

9.4 My personal views about casinos have been widely published and are well known. I have not changed them. However, the Government having announced publicly that it proposes to have a casino (for which there is bi-partisan support) I have not felt any problem in responding to the Government's request to give advice about the manner of establishing casinos.

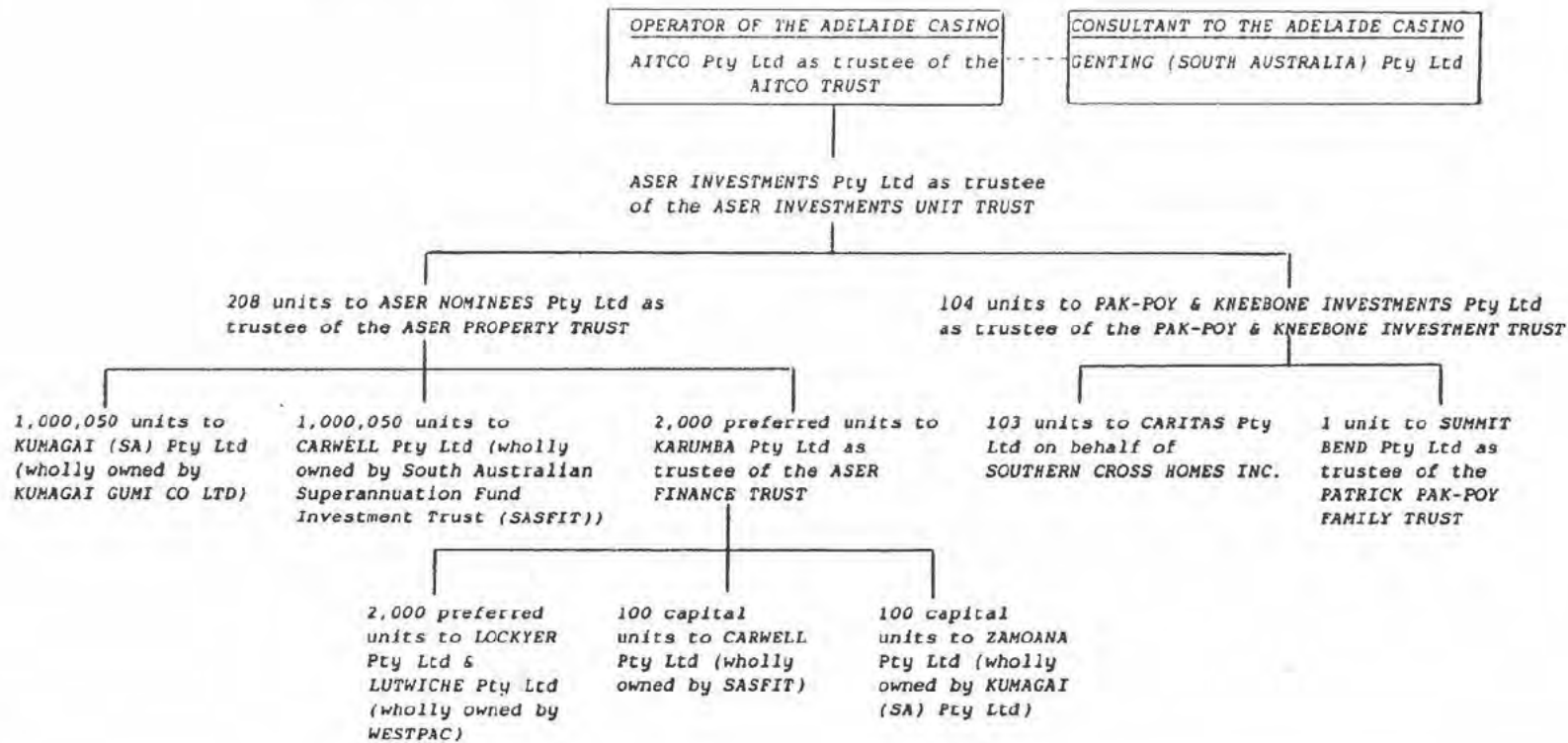
This diagram is Appendix C to the Annual Report 1989-90 of the Casino Supervisory Authority.

APPENDIX A

Paragraph 2.6.1

APPENDIX C

RELATIONSHIP OF PARTIES INVOLVED IN THE OWNERSHIP AND OPERATION OF ADELAIDE CASINO



APPENDIX B

Paragraph 6.8

Casino Control Act 1982, No. 78 (Qd.)

QUEENSLAND

CASINO CONTROL ACT 1982, No. 78

[Reprinted as at 1 May, 1985]

An Act to provide for the regulation and control of the operation of casinos and for purposes connected therewith

[ASSENTED TO 16 DECEMBER, 1982]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY

1. **Short title.** This Act may be cited as the *Casino Control Act 1982*.

2. **Commencement.** (1) This section and section 1 shall commence on the day on which this Act is assented to for and on behalf of Her Majesty.

(2) Except as provided in subsection (1), this Act shall commence on a day appointed by Proclamation.

ss. 1, 2 commenced on date of Assent.

Act (except ss. 1, 2) commenced 19 February 1983 (Proc. pubd. Gaz. 19 February 1983, p. 640).

3. **Arrangement of Act.** This Act is arranged as follows:—

PART I—PRELIMINARY;

PART II—ADMINISTRATION;

PART III—CASINO LICENCES;

PART IV—LICENSING OF EMPLOYEES OF CASINOS;

PART V—FEES, TAXES AND LEVIES;

PART VI—CASINO OPERATION;

PART VII—INTERNAL CONTROLS, ADMINISTRATIVE AND ACCOUNTING PROCEDURES AND AUDIT REQUIREMENTS;

PART VIII—AGREEMENTS AND OTHER DOCUMENTS IN CONNEXION WITH CASINO OPERATION;

PART IX—DIRECTIONS, POWERS, ETC., WITH RESPECT TO CASINOS;

PART X—GENERAL.

4. Interpretation. (1) In this Act, unless the contrary intention appears—

“casino” means those areas of a hotel-casino complex identified in a casino licence as the areas constituting the casino in a particular case. Without limiting the generality or scope of the foregoing, the term includes where so identified not only areas for the conduct and playing of games but also areas for money counting, surveillance, accounting, storage and other activities related to the operation and functioning of the casino;

“Casino Control Division” or “Division” means the section of the Treasury Department referred to in section 10;

“casino employee” means any person employed or working in a casino whose duties or responsibilities relate to or are in support of the operation of such casino. The term does not include—

- (a) a casino key employee; or
- (b) persons or persons of a class or category of persons prescribed as persons employed in casinos who are not required to be licensed as casino employees;

“casino gross revenue” means the total of all sums, including cheques whether collected or not, actually received in any month by a casino operator from the conduct of gaming, less the total of all sums paid out as winnings during that month in respect of gaming.

For the purposes of this definition, any sum received for the issue of a chip for gaming is a sum received from the conduct of gaming;

“casino key employee” means—

- (a) any person employed or working in a casino in a managerial capacity or who is empowered to make decisions, involving the exercise of his discretion, that regulate the operation of a casino;
- (b) any person associated with or employee of a casino who, in the opinion of the Minister, has the power to exercise a significant influence over or with respect to the operation of the casino; or
- (c) any person associated with or employee of a casino who, by reason of his remuneration or policy-making position or by reason of any other criteria determined by the Minister, holds or exercises or is able to exercise authority of such a nature or to such an extent in respect of the operation of the casino as, in the opinion of the Minister, to render it desirable in the public interest that he be licensed as a casino key employee;

“casino lease” means a written lease approved by the Governor in Council under which the casino licensee leases to the lessee the hotel-casino complex or the casino;

“casino licence” means a licence granted by the Governor in Council on the recommendation of the Minister authorizing

the conduct and playing in a casino of such games as may in the particular case be authorized by the Minister;

"casino licensee" means the holder for the time being of a casino licence. The term includes a person referred to in this Act as a casino licensee who, whilst not at the material time the holder of a casino licence, is a person to whom it is proposed to grant a casino licence under and in accordance with an agreement as referred to in section 19;

"casino management agreement" means a written agreement approved by the Governor in Council under which the casino licensee or the lessee under a casino lease agrees with the other party to the agreement for the management by that other party of the hotel-casino complex or the casino, as the case may be;

"casino operator" means—

- (a) where there is no casino lease or casino management agreement, the casino licensee;
- (b) where there is a casino lease and no casino management agreement, the lessee under the casino lease;
- (c) where there is a casino management agreement, the person who has entered into the agreement with the casino licensee or, where there is also a casino lease, the lessee under the casino lease, as the case may be.

The term includes a person referred to in this Act as a casino operator who—

- (i) in the case of paragraph (a), whilst not at the material time a casino licensee, is a person to whom it is proposed to grant a casino licence under and in accordance with an agreement as referred to in section 19;
- (ii) in the case of paragraph (b), is a lessee under a casino lease entered into prior to the grant of a casino licence to the casino licensee;
- (iii) in the case of paragraph (c), is a person who has entered into a casino management agreement with the casino licensee or the lessee under a casino lease prior to the grant of a casino licence to the casino licensee;

"chips" means any tokens used or capable of being used in a casino in the conduct of gaming in the place of money and approved for the purpose by the Director;

"the Deputy Director" means the Deputy Director, Casino Control Division, Treasury Department;

"the Director" means the Director, Casino Control Division, Treasury Department;

"financial year" means the period of 12 months ending on 30 June in any year or, where the Director approves some

other date as the terminating date of a financial year in a particular case, the period of 12 months ending on the date so approved. The term includes, where the Director approves some other date as aforesaid, a period longer or shorter than 12 months but not exceeding 18 months ending on the date so approved for the purpose of giving effect to an alteration to the terminating date in the particular case;

“game” means any game notified in the Gazette, together with an account of the rules for the playing thereof, by the Minister as a game that may be conducted or played in a casino pursuant to a casino licence;

“gaming” or “gambling” means the playing in a casino of any game;

“gaming equipment” means any electronic, electrical or mechanical contrivance or machine or any other physical item (excluding chips) used or for use in a casino in connexion with gaming;

“hotel-casino complex” means a hotel established within the area of which is a casino and other businesses or amenities identified in an agreement referred to in section 19;

“inspector” means—

(a) an inspector appointed under section 6;

(b) an officer who is or is appointed to be an inspector under section 6;

(c) a person who is appointed as an inspector (whether by use of that term or by use of another name containing that term) under section 7;

(d) any person who is, *ex officio*, an inspector under this Act;

“member of the police force” means member of the police force of the State;

“the Minister” means the Treasurer or other Minister of the Crown for the time being charged with the administration of this Act. The term includes any Minister of the Crown who is temporarily performing the duties of the Minister;

“person” includes any body corporate, association, firm, business or partnership as well as a natural person;

“public interest” or “interest of the public” means public interest or interest of the public having regard to the creation and maintenance of public confidence and trust in the credibility, integrity and stability of casino operations;

“quarter” or “quarter of the year” means a period of three consecutive months commencing on the first day of January, April, July or October in any year.

(2) A reference in this Act to “casino operation” or “operation of a casino” or to a like expression in relation to a casino is a reference to the operation and conduct in respect of a casino of—

(a) gaming; and

- (b) money counting, surveillance, accounting, storage and other activities in connexion with or related or incidental to gaming and its operation and conduct in respect of a casino.

PART II—ADMINISTRATION

5. Administration of Act. The Minister is charged with the administration of this Act.

6. Officers. (1) The Governor in Council may appoint a Director, Casino Control Division, Treasury Department, a Deputy Director, Casino Control Division, Treasury Department and such inspectors and other officers as he deems necessary for the effectual administration of this Act.

(2) Such officers shall be appointed and hold office under the *Public Service Act 1922-1978*.

(3) The Director and Deputy Director are, *ex officio*, inspectors for the purposes of this Act.

(4) Any appointment under the *Public Service Act 1922-1978* of a Director, Casino Control Division, Treasury Department, a Deputy Director, Casino Control Division, Treasury Department or an inspector or other officer for the purpose of or in connexion with the administration of matters relating to the regulation and control of the operation of casinos in the State that is current immediately before the commencement of this Act shall, on such commencement, be taken to be an appointment under the said *Public Service Act* made for the effectual administration of this Act.

(5) The Governor in Council may appoint an officer of the Public Service to be an inspector for the purposes of this Act, and an officer so appointed may hold his appointment as an inspector in conjunction with any other office he holds in the Public Service.

7. Appointment of other persons. (1) In addition to the appointment of officers under section 6, the Governor in Council, on the recommendation of the Minister, may appoint other persons, not being appointments under the *Public Service Act 1922-1978*, for the effectual administration of this Act.

(2) Subject to this Act, such persons may be appointed to such positions and to perform such functions and duties as the Governor in Council from time to time determines.

(3) Persons appointed under this section shall be appointed on such terms and conditions as to remuneration and otherwise, subject to subsection (4) and to any applicable industrial award or industrial agreement, as the Governor in Council, on the recommendation of the Minister, thinks fit.

(4) An appointment under this section shall be for a period not exceeding 5 years, provided, however, that the person in question may

be appointed for a second or subsequent period not exceeding 5 years in each case.

8. Assistance within Treasury Department. The Under Treasurer, Treasury Department, shall make available clerical and other staff assistance (persons made available by him being additional to appointees under sections 6 and 7) if from time to time it becomes necessary to do so for the effectual administration of this Act.

9. Good repute of persons appointed as inspectors. The Governor in Council shall, before appointing an inspector for the purposes of this Act, whether under the *Public Service Act 1922-1978* or under this Act, satisfy himself from due inquiry caused to be made in that regard that the person to be appointed is of good repute, having regard to character, honesty and integrity.

10. Casino Control Division. (1) The section of the Treasury Department established in connexion with the administration of this Act shall be referred to as the Casino Control Division.

(2) Appointees under sections 6 and 7 and persons made available pursuant to section 8 whilst rendering assistance for the purposes of this Act shall be officers of the Casino Control Division.

11. Director to organize work of Division. The Director shall be the senior administrative officer of the Division and, subject to the Under Treasurer, shall organize the work of the Division in a manner that will ensure its efficient and effective operation.

12. Deputy Director may act during absence, etc., of Director. In the event of the illness or absence of the Director or in the event of a vacancy occurring in the office of the Director and until a new Director is appointed, it is competent for the Deputy Director to exercise the powers and functions and perform the duties of the Director, and any such exercise or performance by the Deputy Director in a circumstance as aforesaid has the same force and effect as has such an exercise or performance by the Director and shall be taken to be an exercise or performance by the Director.

13. Illness or absence of Director and Deputy Director. In the event of the illness or absence of both the Director and the Deputy Director, the exercise of the powers and functions of the Director or the performance of his duties by the person who for the time being occupies or performs the duties of the office of Director has the same force and effect as has such an exercise or performance by the Director and shall be taken to be an exercise or performance by the Director.

14. Power of delegation. (1) The Director with the prior approval of the Minister may, either generally or otherwise as provided by the instrument of delegation, by instrument in writing under his hand, delegate—

(a) to a particular person; or

(b) to the holder of an office specifying the office but without naming the holder

all or any of his powers or functions under this Act (other than this power of delegation).

(2) A power or function so delegated may be exercised or performed by the delegate in accordance with the instrument of delegation.

(3) A delegation may be made subject to such conditions or such limitations as to the exercise or performance of any of the powers or functions delegated or as to time, place or circumstances as may be specified in the instrument of delegation.

(4) Subject to prior approval as referred to in subsection (1), the Director may make such and so many delegations under this section and to such number of delegates as he considers necessary or desirable.

(5) Any act or thing done or suffered by a delegate while acting in the exercise of a delegation under this section has the same force and effect as if the act or thing had been done or suffered by the Director.

(6) A delegation under this section does not prevent or prejudice the exercise or performance of a power or function by the Director.

(7) A delegation under this section is revocable at the will of the Director and shall be revoked by him if the Minister so directs.

15. Police assistance. (1) Such arrangements may be made as are agreed upon between the Minister and the Minister for the time being in charge of Police or as are determined by the Governor in Council with respect to—

- (a) the rendering of assistance by members of the police force;
- (b) the supply of information contained in the records of the Police Department;
- (c) the making available of other resources and facilities of the Police Department

to the Director and other officers of the Division for the purposes of the effectual administration of this Act.

(2) The Commissioner of Police shall ensure that effect is given to any such arrangements so agreed upon or determined.

16. Secrecy. (1) Officers of the Division shall be bound to secrecy by affidavit or solemn declaration in the prescribed form.

(2) An officer of the Division so bound to secrecy shall preserve and assist in preserving secrecy with regard to all matters that come to his knowledge in his official capacity in connexion with the administration of this Act and shall not communicate any such matter to any person save in the exercise of his powers or performance of his duties under this Act.

(3) An officer of the Division who in contravention of his affidavit or declaration of secrecy and without lawful excuse reveals or

communicates any matter in respect of which he is bound to secrecy is guilty of an offence.

Penalty: \$2 500 or imprisonment for one year or both.

(4) Notwithstanding the provisions of this section, an officer of the Division may, if authorized by the Minister to do so, reveal or communicate any matter coming to his knowledge as aforesaid to any Department of the State, body, holder of an office or person specified by the Minister; and the Minister may so authorize an officer and specify a Department, body, holder of an office or person as aforesaid in any case where he deems it to be necessary or desirable to do so.

17. Identification of inspectors, etc. (1) Every inspector shall be furnished with an identification card, signed by the Director, identifying him as an inspector.

(2) The Director may cause any other officer of the Division to be furnished with an identification card, signed by the Director and identifying the officer, in any case where, having regard to the nature of his powers, functions or duties of the officer in question, it is appropriate for him to have such means of identification.

(3) An identification card shall be in the prescribed form and shall contain the photograph and signature of the inspector or other officer concerned and any other prescribed particulars.

(4) The identification card of an inspector or other officer shall be sufficient evidence of his identity as such inspector or other officer in connexion with the exercise and performance by him of his powers, functions and duties under this Act and shall be produced by him on demand to any person who is the subject of or affected by the exercise and performance of such powers, functions and duties.

PART III—CASINO LICENCES

18. Grant of casino licences. Notwithstanding any other Act or law—

- (a) the Governor in Council may, on the recommendation of the Minister, grant casino licences;
- (b) the conduct and playing of games in a casino pursuant to a casino licence, in accordance with this Act and any other applicable Act and the agreement relating to the particular licence, is lawful;
- (c) the use of any gaming equipment or chips in the conduct and playing of games where such games are conducted and played in a casino pursuant to a casino licence is lawful.

19. Agreement to precede grant of casino licence. (1) The Governor in Council shall grant a casino licence pursuant to his power to do so under section 18 (a) where—

- (a) there has first been entered into with his approval an agreement in writing between—
 - (i) the Minister for and on behalf of the State and the casino licensee; or
 - (ii) the Minister for and on behalf of the State and some other person whom the Governor in Council considers to be the appropriate person to be a party to the agreement with a view to the issue of a casino licence to the casino licensee,
 identifying, within a hotel-casino complex or a proposed hotel-casino complex, the casino to be the subject of the licence and containing such terms and conditions as the Governor in Council thinks fit; and
- (b) those terms and conditions contained in the agreement and the provisions of this Act and any provisions of the Act ratifying the agreement to be complied with up to the time of the grant of the casino licence have been complied with.

(2) The agreement shall have no force or effect unless and until it is ratified by Parliament.

20. Suitability of casino licensee and other persons. (1) Prior to an agreement being entered into, the Minister shall cause to be undertaken such investigations as are necessary to satisfy the Governor in Council or shall require the casino licensee and all persons whether natural persons or not associated or connected or to be associated or connected, in the opinion of the Minister, with the ownership, administration or management of the operations or business of the casino licensee to satisfy the Governor in Council that such casino licensee and such persons as aforesaid are suitable persons to be associated or connected with the management and operations of a hotel-casino complex or casino having regard to the following matters appropriate to them respectively, that is to say—

- (a) that each person in question is of good repute, having regard to character, honesty and integrity;
- (b) that each person in question is of sound and stable financial background;
- (c) in the case of the casino licensee not being a natural person, that it has arranged or, as the circumstances require, has, in an appropriate case, a satisfactory ownership, trust or corporate structure;
- (d) that the casino licensee has or is able to obtain or, where constituted by more than one person, together have or are able to obtain—
 - (i) financial resources that are adequate to ensure the financial viability of the hotel-casino complex; and

- (ii) the services of persons who have sufficient experience in the management and operation of a hotel-casino complex;
- (e) that the casino licensee has or, where constituted by more than one person, together have sufficient business ability to establish and maintain or to maintain, as the case may be, a successful hotel-casino complex;
- (f) that none of them has any business association with any person, body or association who or that, in the opinion of the Governor in Council after investigation made or caused to be made by the Minister, is not of good repute having regard to character, honesty and integrity or has undesirable or unsatisfactory financial sources;
- (g) that each director, partner, trustee, executive officer and secretary and any other officer or person determined by the Minister associated or connected or to be associated or connected with the ownership, administration or management of the operations or business of the casino licensee is a suitable person as or to be such director, partner, trustee, executive officer, secretary or other officer or person in his respective capacity;
- (h) such other matters with respect to which the Governor in Council determines he should be satisfied in the particular case.

(2) Nothing contained in subsection (1) operates to require the Minister to cause investigations to be undertaken or to require the casino licensee or other persons referred to in that subsection to satisfy the Governor in Council with respect to any matter where such investigations have been undertaken or the casino licensee or any other person as aforesaid has satisfied the Governor in Council with respect to that matter pursuant to a requirement prior to the commencement of this Act.

21. Hotel-casino complex owner as licensee. (1) The person to whom a casino licence is granted shall be the owner of the hotel-casino complex in question.

(2) Save in the case of an assignment as referred to in section 32 and subject to that section, a ground for cancellation or suspension of the casino licence arises, and shall be taken to be a ground for cancellation or suspension arising pursuant to section 31 (1), if the casino licensee ceases to be the owner as aforesaid.

22. Casino licence. (1) A casino licence shall be issued by the Minister under his hand and shall be in the prescribed form.

- (2) The licence shall specify—
- (a) the date of its issue;
 - (b) the name of the casino licensee;
 - (c) the real property or other accurate description and the address of the site of the hotel-casino complex;

- (d) those areas constituting the casino; and
- (e) such other particulars as may be prescribed.

(3) Where pursuant to the agreement as referred to in section 19 a variation occurs affecting the accuracy of the matters specified in the casino licence, the casino licensee shall produce the licence to the Minister for the endorsement thereon of the variation, and the Minister shall cause such variation to be made accordingly.

23. Duration of casino licence. A casino licence remains in force until it is cancelled or surrendered pursuant to this Act.

24. Lease of hotel-casino complex or of casino. (1) Subject to this Act, a casino licensee may, subject to the prior approval of the Governor in Council, lease to another person—

- (a) the hotel-casino complex; or
- (b) the casino.

(2) An application to lease shall be made by the casino licensee to the Minister in the prescribed form and shall be accompanied by a draft of the proposed lease, full details of the proposed lessee and such other particulars as may be prescribed.

(3) The Minister may require the casino licensee or the proposed lessee to supply to him such additional information or documents or other writings as he considers necessary to enable him to make a recommendation to the Governor in Council.

25. Casino management agreement. (1) Subject to this Act, a casino licensee or a lessee under a casino lease may, subject to the prior approval of the Governor in Council, enter into a casino management agreement with another person for the management by that other person of—

- (a) the hotel-casino complex; or
- (b) the casino.

(2) An application to enter into such agreement shall be made by the casino licensee or the lessee under the casino lease to the Minister in the prescribed form and shall be accompanied by a draft of the proposed agreement, full details of the other party to the proposed agreement and such other particulars as may be prescribed.

(3) The Minister may require the casino licensee, the lessee under the lease or the other party to the proposed agreement to supply to him such additional information or documents or other writings as he considers necessary to enable him to make a recommendation to the Governor in Council.

26. Suitability of lessee under a casino lease, casino operator under a casino management agreement and other persons. (1) Prior to any approval by the Governor in Council of a casino lease or a casino management agreement, the Minister shall cause to be undertaken such

investigations as are necessary to satisfy the Governor in Council or shall require the proposed lessee under the lease or the proposed casino operator under the agreement and all persons whether natural persons or not associated or connected or to be associated or connected, in the opinion of the Minister, with the ownership, administration or management of the operations or business of the proposed lessee or proposed casino operator to satisfy the Governor in Council that the proposed lessee or proposed casino operator and such persons as aforesaid are suitable persons to be associated or connected with the management and operations of a hotel-casino complex or casino having regard to those matters specified in section 20 with respect to a casino licensee and other persons referred to therein but subject to a reference to a hotel-casino complex being read as a reference to a casino in an applicable case and subject to such other adaptations as are necessary for the purpose of their application to such proposed lessee or proposed casino operator and other persons.

(2) Nothing contained in subsection (1) operates to require the Minister to cause investigations to be undertaken or to require a proposed lessee under a casino lease or a proposed casino operator under a casino management agreement or other persons referred to in that subsection to satisfy the Governor in Council with respect to any matter where such investigations have been undertaken or a proposed lessee or proposed casino operator or any other person as aforesaid has satisfied the Governor in Council with respect to that matter pursuant to a requirement prior to the commencement of this Act.

27. Minister to make recommendation. The Minister, upon a consideration of the matters material to the application, shall make a recommendation to the Governor in Council with respect to—

- (a) the application by the casino licensee to lease to the proposed lessee the hotel-casino complex or the casino; or
- (b) the application by the casino licensee or lessee under a casino lease to enter into a casino management agreement with the other party proposed for the management by that other party of the hotel-casino complex or the casino,

as the case may be.

28. Determination by Governor in Council concerning approval. (1) The Governor in Council, upon a consideration of the recommendation of the Minister and such other matters with respect to the application as he thinks fit, may—

- (a) approve the application;
- (b) refuse the application; or
- (c) defer a determination pending the submission of further information.

(2) Where further information is so submitted, it shall be considered by the Governor in Council together with any further recommendation the Minister may make, and upon such consideration, the Governor in Council may approve or refuse the application.

(3) A determination by the Governor in Council to grant an application or to refuse an application is final and conclusive and shall not be appealed against, reviewed, quashed or in any way called in question in any Court on any account whatsoever.

29. Variation of casino lease or casino management agreement. (1)

If in any case the parties to a casino lease or casino management agreement desire to vary its provisions, they shall make application to the Minister setting out the variations proposed and such other particulars as may be prescribed or as may be required by the Minister.

(2) The Minister shall make a recommendation to the Governor in Council with respect to the application.

(3) The Governor in Council, upon a consideration of the recommendation of the Minister and such other matters with respect to the application as he thinks fit, may—

- (a) approve the application;
- (b) refuse the application; or
- (c) defer a determination pending the submission of further information,

and the provisions of subsections (2) and (3) of section 28 shall apply to an application under this section in all respects as they apply to an application referred to in the said section 28.

(4) The parties to the casino lease or casino management agreement may vary the casino lease or casino management agreement only where and to the extent the variation is approved by the Governor in Council.

30. Investigations concerning continued suitability of casino licensee, etc. (1) At any time and from time to time—

- (a) after an agreement has been entered into pursuant to section 19;
- (b) whilst the casino licence in relation to such agreement remains in force;
- (c) after approval by the Governor in Council of a casino lease or casino management agreement pursuant to section 28;
- (d) whilst such casino lease or casino management agreement remains in force,

the Minister may cause to be undertaken such investigations as are necessary to satisfy the Governor in Council or may require the casino licensee, lessee under the casino lease or casino operator under the casino management agreement and all persons whether natural persons or not for the time being associated or connected or to be associated or connected, in the opinion of the Minister, with the ownership, administration or management of the operations or business of the licensee, lessee or operator to satisfy the Governor in Council that such licensee, lessee or operator and such persons as aforesaid are suitable persons to be associated or connected with the management and operations of a hotel-casino complex or casino having regard to those

matters, appropriate to them respectively, specified in section 20 subject, in the case of a lessee or operator and other associated or connected persons as aforesaid in relation to such lessee or operator, to a reference to a hotel-casino complex being read as a reference to a casino in an applicable case and to such other adaptations as are necessary for the purpose of the application of those matters to such lessee or operator and other persons.

(2) Where the Governor in Council is not satisfied in accordance with subsection (1) following investigations undertaken and requirements made as specified in that subsection, a ground for cancellation or suspension of the casino licence thereby arises and shall be taken to be a ground for cancellation or suspension pursuant to section 31 (1).

31. Cancellation or suspension of casino licences and letters of censure. (1) A ground for cancellation or suspension of a casino licence arises if the casino licensee or, in the case of a casino lease, the lessee under such lease or, in the case of a casino management agreement, the casino operator who has entered into such agreement with the casino licensee or the lessee under a casino lease—

- (a) is convicted of any offence under this Act;
- (b) is convicted of an indictable offence, whether on indictment or summarily, punishable in the particular case by imprisonment for 12 months or more irrespective of whether the offence is also punishable by a fine, in addition to or as an alternative to the punishment by imprisonment;
- (c) fails to comply with any term or condition of the agreement as referred to in section 19 pursuant to which the casino licence was granted, which term or condition is binding on him;
- (d) or any director, partner, trustee, executive officer, secretary or other officer or person determined by the Minister associated or connected with the ownership, administration or management of his operations or business is not or ceases to be at any time whilst the casino licence is in force a suitable person to be so associated or connected as aforesaid having regard to those matters specified in section 20 or section 26 applicable to him;
- (e) refuses or fails to comply with any direction given to him in writing by the Minister pursuant to any provision of this Act and with which it is his duty to comply, and which refusal or failure to comply, in the opinion of the Minister, jeopardizes the integrity of the operation of the casino or adversely affects the interest of the public;
- (f) where required under this Act to supply information to the Minister, the Director or an inspector, supplies information to him that is, to his knowledge, false or erroneous;
- (g) fails to discharge his financial commitments, becomes bankrupt or compounds with his creditors or otherwise takes advantage of the laws in force for the time being

relating to bankruptcy or is the subject of a winding up, either voluntarily or pursuant to court order, appointment of a liquidator, appointment of a receiver or receiver and manager or is placed under official management and an official manager appointed pursuant to the provisions of the *Companies (Queensland) Code* or corresponding legislation of the Commonwealth or of any other State or of any Territory of the Commonwealth.

(2) Where a ground for cancellation or suspension pursuant to subsection (1) arises and the Minister is of the opinion that the Act or omission or other thing constituting the ground is of such a serious and fundamental nature that the integrity of the operation of the casino is jeopardized or the interest of the public is adversely affected, he shall issue to—

- (a) the casino licensee; and
- (b) in the case of a casino lease, the lessee thereunder; and
- (c) in the case of a casino management agreement, the casino operator thereunder

a notice in writing requiring him or each of them, as the case may be, to show cause why action should not be taken with respect to the casino licence or, as the case may be, the casino lease or casino management agreement pursuant to the provisions of this section.

(3) The Minister shall issue a copy of the notice to any other person who, in his opinion, has an interest in the casino licence.

(4) The notice shall set out the grounds giving rise to its issue and shall stipulate a date, being not earlier than 21 days after such issue, on or before which cause is required to be shown.

(5) Save where a form of notice to show cause is prescribed by regulations under this Act, the notice shall be in such form and contain such matters as the Minister thinks fit, subject to the provisions of this section.

(6) Each person to whom the notice is issued may give answer thereto in writing to the Minister to show cause at any time not later than the date stipulated in the notice in that respect.

(7) Any person having an interest as referred to in subsection (3) may make such submissions to the Minister as he thinks fit at any time not later than the stipulated date.

(8) The Minister shall consider the answers given in reply to the notice or notices to show cause and any submissions made pursuant to subsection (7) and—

- (a) if in his opinion satisfactory answers are given or submissions made in reply to or in respect of the notice or notices, he shall take no further action in relation thereto;
- (b) if in his opinion answers given or submissions made in reply to or in respect of the notice or notices are not

satisfactory but action to cancel or suspend the casino license or to terminate the casino lease or casino management agreement is not warranted, he may issue a letter of censure to each of them the casino licensee, the lessee and the casino operator or to any of them censuring them or him in respect of any matter connected with or giving rise to the notice to show cause;

- (c) if in his opinion answers given or submissions made in reply to or in respect of the notice or notices are not satisfactory and further action is warranted or if no answers are given and no submissions made, he may—
 - (i) by notice in writing give to each of them the casino licensee, the lessee and the casino operator or to any of them any direction that he considers appropriate to ensure that any matter connected with or giving rise to the issue of the notice is rectified within a time specified in the notice; or
 - (ii) recommend to the Governor in Council that the casino license be cancelled or that it be suspended or that the casino lease or casino management agreement be terminated.

(9) If a direction given by the Minister pursuant to subsection (8) (c) (i) is not complied with within the time specified in the notice, the Minister may recommend to the Governor in Council that the casino licence be cancelled or that it be suspended or that the casino lease or casino management agreement be terminated.

(10) Where a ground for cancellation or suspension pursuant to subsection (1) arises but the Minister is of the opinion that the act or omission or other thing constituting the ground is not of such a serious and fundamental nature that the integrity of the operation of the casino is jeopardized or the interest of the public is adversely affected, he may issue a letter of censure to each of them the casino licensee, the lessee and the casino operator as aforesaid or to any of them censuring them or him in respect of any matter connected with or giving rise to the ground for cancellation or suspension.

(11) Where the Minister makes a recommendation to the Governor in Council, he shall submit therewith such notices to show cause and answers thereto, any submissions made in connexion therewith and such other papers in his possession as are relevant to the recommendation.

(12) The Governor in Council, after giving consideration to the recommendation of the Minister, other matters referred to in subsection (11) submitted to him and to the circumstances generally, may in his absolute discretion—

- (a) take no action with respect to the casino licence or casino lease or casino management agreement if he considers action to be not warranted;
- (b) cause a letter of censure to be issued to each of them the casino licensee, the lessee and the casino operator as aforesaid

or to any of them by the Minister censuring them or him concerning any matter in respect of which the Governor in Council considers it proper to do so;

- (c) by notice in writing give or cause to be given on his behalf to each of them the casino licensee, the lessee and the casino operator or to any of them any direction that he considers appropriate to ensure that any matter connected with or giving rise to the issue of the notice is rectified within a time specified in the notice;
- (d) unless a receiver and manager has been appointed pursuant to section 32, appoint an administrator subject to such terms and conditions as he thinks fit for the purposes as referred to in subsection (14).

(13) A letter of censure issued under this section shall become a permanent part of the records of the Casino Control Division in relation to the casino licence or casino lease or casino management agreement and any person censured.

(14) An administrator appointed by the Governor in Council pursuant to subsection (12) (d) shall—

- (a) assume full control of and responsibility for the business of the casino licensee in respect of the hotel-casino complex for the casino;
- (b) conduct or cause to be conducted casino operations in accordance with this Act.

The appointment as administrator shall be determined by the appointment of a receiver and manager or an assignment of the casino licence pursuant to section 32.

(15) Notwithstanding any other provision of this Act, the Governor in Council, if he considers in his absolute discretion that the circumstances are so extraordinary that it is imperative in the public interest to do so, may cancel the casino licence or suspend it for such period as he thinks fit or direct the termination of the casino lease or casino management agreement.

(16) A decision by the Governor in Council to cancel or suspend a casino licence—

- (a) shall be effective on and from a date and time of day determined by the Governor in Council;
- (b) in the case of suspension of a casino licence, shall be for such period as the Governor in Council thinks fit; and
- (c) shall be notified in writing by the Minister to the casino licensee and, where there is also a lessee or casino operator as aforesaid, to such lessee or casino operator.

(17) Where a casino licence is suspended pursuant to this section, the Governor in Council, after first considering a recommendation by the Minister relating to the matter, may at any time cancel the balance

of the period of suspension still to run or reduce the period of suspension still to run by a period stipulated by him.

(18) A suspension of a casino licence shall, while it remains in force, have the same effect as a cancellation of such licence without prejudice to any penal or other liability actually incurred by the casino licensee, a lessee under a casino lease or a casino operator under a casino management agreement or to the exercise of the powers of the Minister, the Director or any inspector under this Act.

(19) The Governor in Council's direction referred to in subsection (15) shall be given in writing to the parties to the lease or agreement and shall specify a date on which the lease or agreement is terminated under this Act if not sooner terminated.

(20) The lease or agreement, if not sooner terminated by the parties thereto, is terminated by force of this Act on the date specified in the direction in that behalf.

(21) The termination of the lease or agreement by force of this Act does not affect the rights and obligations of the parties thereto up to the time of such termination.

(22) No liability for breach of the lease or agreement attaches to any party thereto by reason only of its termination by force of this Act.

(23) A decision by the Governor in Council to cancel or suspend a casino licence or to direct the termination of a casino lease or casino management agreement is final and conclusive and shall not be appealed against, reviewed, quashed or in any way called in question in any Court on any account whatsoever.

32. Mortgage and assignment of casino licence, etc. (1) A casino licensee shall not mortgage, charge or otherwise encumber—

- (a) the casino licence;
- (b) the hotel-casino complex to which the casino licence relates; or
- (c) the rights and benefits under the agreement in question as referred to in section 19

save with the prior consent of the Minister so to do to a person approved by the Minister (which person is hereafter in this section referred to as "the mortgagee").

(2) Where the mortgagee wishes to enforce his security under the mortgage, charge or other encumbrance pursuant to his rights thereunder—

- (a) the casino licence and the rights, benefits and obligations under the relevant agreement shall be assigned only to a person approved by the Governor in Council;
- (b) any receiver and manager appointed shall be a person approved by the Governor in Council

having regard to the provisions of subsection (5).

For the purpose of giving effect to the provisions of subsection (5), the name of a proposed receiver and manager may be submitted to the Minister at any time.

(3) As a condition precedent to the approval by the Governor in Council referred to in subsection (2) (a), the Governor in Council may require that a further agreement in writing be entered into between—

- (a) the Minister for and on behalf of the State and the proposed assignee; or
- (b) the Minister for and on behalf of the State and some other person whom the Governor in Council considers to be the appropriate person to be a party to the agreement with a view to the assignment of the casino licence to the proposed assignee

containing such terms and conditions with respect to the assignment and the proposed assignee as the Governor in Council thinks fit.

(4) Any such further agreement shall have no force or effect unless and until it is ratified by Parliament.

(5) Prior to any approval by the Governor in Council pursuant to subsection (2), the Minister shall cause to be undertaken such investigations as are necessary to satisfy the Governor in Council or shall require the proposed person and all persons whether natural persons or not associated or connected or to be associated or connected, in the opinion of the Minister, with the ownership, administration or management of the operations or business of the proposed person to satisfy the Governor in Council that such proposed person and such persons as aforesaid are suitable persons to be associated or connected with the management and operations of a hotel-casino complex or casino having regard to the matters appropriate to them respectively that are set out in paragraphs (a) to (g) of section 20 (1), subject to such adaptations of those paragraphs as are necessary for the purpose of their application to such proposed person and other persons as aforesaid, and having regard to such other matters with respect to which the Governor in Council determines he should be satisfied in the particular case.

A reference in this subsection to a proposed person is a reference to a proposed assignee or a proposed receiver and manager, as the case requires.

(6) Upon a casino licence being assigned, the assignee is the casino licensee in respect of the casino licence in question, and the Minister shall cause the licence to be amended to show the name of the assignee, the date of the assignment and such other particulars as may be prescribed; and the licence shall be made available to the Minister for the purpose of amendment accordingly.

(7) A decision by the Governor in Council to approve or not to approve of a person pursuant to subsection (2) is final and conclusive and shall not be appealed against, reviewed, quashed or in any way called in question in any Court on any account whatsoever.

33. Surrender of casino licence. (1) The Governor in Council, subject to this section, may accept the surrender of a casino licence.

(2) Application for acceptance of surrender shall be made in writing by the casino licensee to the Minister and shall set out in detail the grounds on which it is made.

(3) Upon a consideration of the application and the grounds on which it is made, the Minister shall make a recommendation to the Governor in Council to accept or not to accept the surrender.

(4) The Governor in Council may decide to accept the surrender or not to accept it after taking into consideration the recommendation of the Minister, but he shall not accept the surrender unless he is satisfied that there are circumstances existing in which the continued operation of the casino is not in the best interest of the casino licensee or of the public.

PART IV—LICENSING OF EMPLOYEES OF CASINOS

34. Unlicensed persons not to be casino key employees or casino employees. (1) A person shall not work as or be a casino key employee or a casino employee unless—

- (a) in the case of a casino key employee he is the holder of a casino key employee licence and in the case of a casino employee he is the holder of a casino employee licence;
- (b) he is of or above the age of 18 years; and
- (c) he is employed in the type of work specified in the licence.

(2) A person shall not employ or cause or suffer to be employed in a casino as a casino key employee or a casino employee any person—

- (a) who in the case of employment as a casino key employee is not the holder of a casino key employee licence and in the case of employment as a casino employee is not the holder of a casino employee licence;
- (b) who is under the age of 18 years; or
- (c) unless he employs or causes or suffers to be employed that person in the type of work specified in the casino key employee licence or the casino employee licence of which that person is the holder.

(3) A person shall not allocate or cause or suffer to be allocated to a casino key employee or a casino employee any type of work in a casino that is a type of work other than the type of work specified in the licence of that employee.

Penalty under this section: \$5 000 in the case of a body corporate and \$2 500 or imprisonment for one year or both in the case of a natural person.

35. Application for licence. (1) An application for a casino key employee licence or a casino employee licence shall be made by the

applicant and addressed to the Minister and shall, according to the application in question—

- (a) be in the prescribed form;
- (b) be accompanied by the prescribed fee in respect thereof;
- (c) specify the type of licence applied for;
- (d) specify from the prescribed list the type of work proposed to be performed by him as a licensee;
- (e) contain or be accompanied by the prescribed information and particulars with respect to the applicant;
- (f) be accompanied by such other records, reports, documents and writings relating to the applicant as may be prescribed;
- (g) be forwarded to or lodged with the Director;
- (h) be accompanied by a letter from a casino operator addressed to the Director stating that he intends to employ the applicant (subject, in an appropriate case, to the successful completion by the applicant of a training course in the type of work referred to in paragraph (d)) in the type of work referred to in paragraph (d) upon his being granted a licence as applied for;
- (i) be accompanied by a certificate in the prescribed form from the casino operator referred to in paragraph (h) that the applicant has successfully completed a training course approved pursuant to this Act or is otherwise qualified by experience (specified in the certificate) appropriate to the type of work referred to in paragraph (d):

Provided that where such a training course has not been completed at the time of the making of the application and the successful completion of the training course is to be relied on by the applicant, the application may be supported by a certificate as aforesaid forwarded to the Director upon the successful completion of the training course provided the certificate is so forwarded within the time prescribed for the forwarding of a supporting certificate in the circumstances or, if a time is not prescribed, within a time approved by the Director.

(2) It is a condition precedent to consideration of an application for a licence under this Part that the applicant is agreeable to having his photograph, finger prints and palm prints taken.

36. Requirement to apply for casino key employee licence in certain cases. (1) Where the Minister is of the opinion that—

- (a) any person associated with or employee of a casino has the power to exercise a significant influence over or with respect to the casino; or
- (b) any person associated with or employee of a casino, by reason of his remuneration or policy-making position or by reason of any other criteria determined by the Minister,

holds or exercises or is able to exercise authority of such a nature or to such an extent in respect of the operation of the casino as to render it desirable in the public interest that he be licensed as a casino key employee,

he shall, by notice in writing, require that person to apply for a casino key employee licence within 7 days after receipt by him of such notice; and such person shall so apply within the stipulated time accordingly.

Penalty for failure to so apply within the stipulated time: \$5 000 or imprisonment for one year or both.

(2) The Minister shall cause a copy of the notice to be served on the casino operator in question.

(3) Where the person required pursuant to subsection (1) to apply for a casino key employee licence fails to do so within the time stipulated in that subsection, the Minister shall cause a notification in writing of such failure to be served on the casino operator in question, and the casino operator shall on such notification being served on him terminate the association or employment of that person with the casino notwithstanding the provisions of any other Act or law or of any industrial award or agreement.

(4) Where the Minister refuses to grant a casino key employee licence applied for under this section—

- (a) the applicant shall on receipt of notification of such refusal cease to be associated with or an employee of the casino in question; and
- (b) the casino operator shall on receipt of notification of such refusal terminate the association or employment of the applicant with the casino.

Penalty under subsections (3) and (4): \$10 000 in the case of a body corporate and \$5 000 or imprisonment for one year or both in the case of a natural person.

(5) The casino operator shall not incur any liability whatsoever for or in connexion with the termination by him, pursuant to this section, of the association or employment of the applicant with the casino.

37. Consideration of application. (1) Upon receipt of an application and compliance by the applicant with the provisions of this Part in relation thereto, the Director shall—

- (a) cause the photograph, finger prints and palm prints of the applicant to be taken;
- (b) initiate and have followed through such investigatory procedures as he considers necessary in relation to the applicant and his application;

- (c) consider the application and materials and matters accompanying it together with the results of investigations made in connexion therewith and make an assessment of—
 - (i) the integrity, responsibility, personal background and financial stability of the applicant;
 - (ii) the general reputation of the applicant having regard to character, honesty and integrity; and
 - (iii) the suitability of the applicant to perform the type of work proposed to be performed by him as a licensee,

after which he shall make a recommendation to the Minister that the application be granted or that it be refused:

Provided that either of them the Director or the Minister may require the applicant to submit to him such additional information or material as he considers it is necessary for him to have before making a recommendation or decision, as the case may be; and such information or material, upon receipt, shall be taken into consideration accordingly.

(2) In a case to which the proviso to paragraph (i) of section 35 (1) is applicable, the Director shall await the receipt of the supporting certificate within the required time before making a recommendation.

38. Minister may grant or refuse to grant application. (1) The Minister, after giving consideration to the recommendation of the Director and to such other submitted and investigatory material as he thinks fit including, in an applicable case, additional information or material referred to in the proviso to section 37 (1), may in his absolute discretion grant the application for a casino key employee licence or a casino employee licence or refuse it.

(2) The applicant shall be notified in writing in the prescribed form by the Director of the decision of the Minister.

(3) The decision of the Minister is final and conclusive and shall not be appealed against, reviewed, quashed or in any way called in question in any Court on any account whatsoever.

(4) The Minister may subject the grant of a licence to such terms, conditions and restrictions as are considered by him to be necessary in the public interest.

39. Issue of licence. (1) Where the Minister grants an application for a casino key employee licence or a casino employee licence, the Director shall issue the licence under his hand.

(2) The licence shall be in the prescribed form for the licence in question and shall specify—

- (a) the name of the holder of the licence (and show his photograph thereon);
- (b) the authority given to the holder of the licence by the licence, including the type of work that may be performed by him, and
- (c) any other prescribed particulars.

(3) The licence shall be subject to any terms, conditions and restrictions as referred to in section 38 (4) and to all other terms, conditions and restrictions as may be prescribed to be implied in the type of licence in question.

(4) In the event of any proposed change in the type of work that may be performed by the holder of a casino key employee licence or a casino employee licence under his licence or in the event of any other change in any circumstance or condition under or in respect of which a licence has been issued, the Minister, on the matter being referred to him, may approve such amendment of the licence as he thinks fit or the issue of a replacement licence in lieu of the existing one.

(5) The Director, on being satisfied in such manner as he thinks fit that a casino key employee licence or a casino employee licence has been destroyed, damaged or lost, may issue to the licensee on payment by him of the prescribed fee a licence in substitution for the one so destroyed, damaged or lost.

40. Notification of commencement of employment. A casino operator shall notify the Director in the prescribed form of the commencement of employment of a casino key employee or a casino employee within 7 days of such commencement.

41. Display of identification. (1) A casino key employee or casino employee shall at all times whilst on duty in the casino wear a form of identification as prescribed on his person in such a manner as to be visible to other persons in the casino.

(2) Subsection (1) is not applicable in the case of a person exempted by the Director from the obligation to comply therewith.

(3) The Director may so exempt a person or class of person from such obligation.

42. Submission of list of licensees. (1) A casino operator shall submit to the Director once at least in every 6 months a list of the licensees then employed in the casino.

(2) The list shall show in respect of each licensee—

- (a) his name and current address;
- (b) the type of licence held by him;
- (c) the number of the licence;
- (d) any other information prescribed.

43. Duration of licence. A casino key employee licence or a casino employee licence shall remain in force until—

- (a) the licensee dies;
- (b) it is cancelled by the Minister or surrendered by the licensee;
- (c) the expiration of 12 months after the date the licensee ceases to be employed in a casino in the State.

44. Cancellation or suspension of licence. (1) The Minister may cancel or suspend a casino key employee licence or a casino employee licence—

- (a) if the holder is convicted of an offence under this Act;
- (b) if the holder is convicted of an indictable offence, whether on indictment or summarily, punishable in the particular case by imprisonment for 12 months or more irrespective of whether the offence is also punishable by a fine, in addition to or as an alternative to the punishment by imprisonment;
- (c) if the holder fails to comply with any term, condition or restriction subject to which the licence is granted;
- (d) if the licence has been granted on false or erroneous information;
- (e) if at any time after the issue of the licence the Minister forms the opinion that the licensee is not a fit and proper person to continue to hold the licence.

(2) Suspension of a licence shall be for such period as the Minister thinks fit and shall during such period have the same effect as cancellation of the licence without prejudice to any penal or other liability actually incurred by the licensee or to the exercise of the powers of the Minister, the Director or any inspector under this Act.

(3) The Minister may at any time, after considering any recommendation by the Director in relation thereto, cancel the balance of the period of a suspension of a licence still to run or reduce the period of suspension still to run by a period stipulated by him.

(4) A decision by the Minister to cancel or suspend a casino key employee licence or a casino employee licence is final and conclusive and shall not be appealed against, reviewed, quashed or in any way called in question by any Court on any account whatsoever.

45. Letter of censure. (1) The Minister, in lieu of cancelling or suspending a licence under section 44, may, if he considers the circumstances are such as not to warrant cancellation or suspension, direct to the casino key employee or casino employee a letter of censure censuring him in respect of the matter in question.

(2) The Minister shall cause a copy of the letter of censure to be forwarded to the casino operator.

(3) The letter of censure shall become a permanent part of the records of the Casino Control Division in relation to the person censured.

46. Surrender of casino key employee licence or casino employee licence. The holder of a casino key employee licence or a casino employee licence may, by notice in writing to the Minister, surrender his licence.

47. Termination of employment of employee and notification of termination of employment. (1) A casino operator shall notify the Director in the prescribed form—

- (a) that he has terminated the employment of a casino key employee or a casino employee;
- (b) that a casino key employee or a casino employee has terminated his employment with him;
- (c) that a casino key employee or a casino employee has otherwise ceased to be his employee

within 7 days of such termination of employment or cesser as employee, as the case may be.

(2) A casino operator shall terminate the employment of a casino key employee or a casino employee within 24 hours after receiving written notice from the Director of—

- (a) the cancellation or suspension of the licence of the employee; or
- (b) the employee otherwise ceasing to be the holder of the appropriate licence.

(3) The provisions of subsection (2) are sufficient authority for the casino operator to terminate the employment of the employee in question, and he is so authorized to terminate such employment notwithstanding the provisions of any other Act or law or of any industrial award or agreement and no liability at law shall attach to him by reason of such termination.

48. Provisional licences. (1) Pending a decision by the Minister in respect of an application for a casino key employee licence or a casino employee licence, he may grant to the applicant a provisional casino key employee licence or a provisional casino employee licence if he considers that—

- (a) a decision in relation to the license applied for may not be made for some time;
- (b) the operation of the casino where it is proposed the applicant will be employed will be seriously prejudiced or disadvantaged by delay in the employment of the applicant; and
- (c) the issue of the provisional licence will not prejudice the integrity of the operation of the casino.

(2) The Minister may subject to grant of a provisional licence to such terms, conditions and restrictions as are considered by him to be necessary in the public interest.

(3) Where the Minister grants a provisional licence, it shall be in the prescribed form and issued by the Director under his hand.

(4) A provisional licence shall remain in force until—

- (a) the casino key employee licence or the casino employee licence, as the case may be, is issued or until the Minister

decides to refuse to grant the application for a casino key employee licence or a casino employee licence;

- (b) it is surrendered by the holder; or
- (c) it is cancelled by the Minister.

(5) The Minister in his absolute discretion may cancel a provisional casino key employee licence or a provisional casino employee licence at any time, and the holder of the licence shall not have any right of action against the Minister, the casino operator in question or any other person in respect of such cancellation or termination of employment as a consequence thereof.

(6) During its currency and subject to the terms, conditions and restrictions imposed by the Minister in respect of it, a provisional casino key employee licence or a provisional casino employee licence shall operate and have the same effect as if it were a casino key employee licence or a casino employee licence issued under this Part.

49. Reference to employment. In this Part, a reference to "employ" or "employment" includes a reference to engage or engagement under a contract for services.

PART V—FEES, TAXES AND LEVIES

50. Casino licence fee. (1) A casino licence fee shall be paid to the Director each quarter in respect of a casino licence.

(2) The fee shall be paid prior to the commencement of the quarter in question.

- (3) When a casino licence issues during a quarter, the licence fee—
 - (a) shall be paid on or before the date of its issue; and
 - (b) shall be calculated on a *pro rata* basis having regard to the period remaining in that quarter.

(4) The amount of the licence fee shall be as prescribed from time to time.

51. Casino tax. (1) A casino tax shall be paid to the Director each month in respect of a casino licence.

(2) The casino tax shall be paid on or before the seventh day of the month next following the month in respect of which it is payable.

(3) The amount of the casino tax shall be the amount represented by a percentage, specified in the agreement as referred to in section 19 pursuant to which the casino licence issues, of the casino gross revenue for the month in question or, in lieu thereof, it may be, according to circumstances stipulated in the agreement, if circumstances are so stipulated, an amount specified in the agreement as being the amount payable in those circumstances:

Provided that the Governor in Council, if he considers circumstances have arisen as a consequence of which the percentage as aforesaid so

specified in the agreement should be varied, may by Order in Council determine that the percentage shall be varied by the substitution of a higher or lower percentage (stipulated in the Order in Council) than that so specified and, on and from the first day of the month next following the date of publication of the Order in Council in the Gazette, the percentage stipulated in the Order in Council shall be deemed to be the percentage specified in the agreement in lieu of that so specified or of that stipulated in an earlier Order in Council.

52. Community benefit levy. (1) A casino community benefit levy shall be paid to the Director each month in respect of a casino licence.

(2) The levy shall be paid on or before the seventh day of the month next following the month in respect of which it is payable.

(3) The amount of the levy shall be one per centum of the casino gross revenue for the month in question.

(4) There shall be established and maintained in the Treasury a fund called the "Casino Community Benefit Fund".

(5) The levy shall be paid into the Fund.

(6) The amount derived by way of levy in respect of each casino licence shall be the subject of the creation and operation of a trust deed appointing trustees and containing provisions, relating to expenditure of such amount for the benefit of the community, approved by the Governor in Council.

(7) A separate account shall be kept for each levy (forming the Fund) in respect of a casino licence.

(8) The trustees of each trust deed may make recommendations to the Minister as to the application of moneys, appropriate to the trust deed in question, for the benefit of the community.

(9) The Minister may cause moneys to be paid out of the Fund for the benefit of the community in accordance with the recommendations of the trustees.

53. Adjustment of payment of casino tax and casino community benefit levy in certain circumstances. (1) If the total of all sums, including cheques whether collected or not, actually received in any month by a casino operator from the conduct of gaming (hereinafter in this section referred to as "the total receipts") is less than the total of all sums paid out as winnings during that month in respect of gaming (hereinafter in this section referred to as "the total payments"), the amount of the difference between the total payments and the total receipts shall for the purpose of the assessment of casino tax and casino community benefit levy payable in respect of the next succeeding month be first deducted, to the extent it may be, from the casino gross revenue for that month.

(2) Where there is no casino gross revenue for that month or where the casino gross revenue for that month is less than the amount of the

difference as aforesaid, the amount of the difference or that part thereof that is in excess of the casino gross revenue for that month, as the case may be, shall for the purpose of the assessment of casino tax and casino community benefit levy payable in respect of the next month thereafter be first deducted, to the extent it may be, from the casino gross revenue for such next month.

(3) The operation of this section shall extend, in respect of the amount of the difference between the total payments and the total receipts as aforesaid in any month, only to the two months next succeeding that month.

54. Disposition of casino licence fees, etc. Casino licence fees, casino taxes and application fees in respect of casino key employee licences and casino employee licences shall on their receipt be paid into and form part of the Consolidated Revenue Fund.

55. Penalty for late payment. (1) Penalty at the rate of 5 per centum shall be charged and become due and payable forthwith on the amount of any casino licence fee, casino tax or casino community benefit levy remaining unpaid after the date on which it becomes due and payable.

(2) Additional penalty at the rate of 5 per centum shall be charged and become due and payable on any part of any amount specified in subsection (1) (including penalty) that remains unpaid—

- (a) upon the expiration of one month commencing on the date when the amount first became due and payable; and
- (b) upon the expiration of each month commencing on the like date thereafter:

Provided that additional penalty on that amount shall not be charged after the expiration of a period of 3 months commencing on the date when that amount first became due and payable.

(3) Subject to subsection (4), penalty or additional penalty payable under this section shall be deemed to be casino tax.

(4) The Director, for any reason that he thinks is sufficient, may remit any penalty or additional penalty (or a part of the penalty or additional penalty) payable under this section.

(5) Any penalty or additional penalty shall on its receipt be paid into and form part of the Consolidated Revenue Fund.

56. Recovery of fees, taxes and levies. All fees, taxes and levies due and payable in accordance with this Part and remaining unpaid are debts due to the Crown and may be recovered by action as for a debt in any court of competent jurisdiction.

57. Liability for fees, taxes and levies. (1) The casino licensee is liable for all fees, taxes and levies due and payable in accordance with this Part.

(2) Where the casino operator is a lessee under a casino lease, he and the casino licensee are jointly and severally liable for all fees, taxes and levies due and payable in accordance with this Part.

(3) Where the casino operator is a party to a casino management agreement with the casino licensee or a lessee under a casino lease, he and the casino licensee or he and the casino licensee and the lessee, as the case may be, are jointly and severally liable for all fees, taxes and levies due and payable in accordance with this Part.

PART VI—CASINO OPERATION

58. Maintenance of facilities, etc. A casino operator shall—

- (a) maintain all facilities and amenities of a casino in such a condition as will ensure at all times the maximum comfort for patrons;
- (b) ensure that the operation of the casino is conducted at all times in a proper and competent manner;
- (c) ensure that all casino installations, equipment and procedures for security and safety purposes are used, operated and applied at all relevant times for the preservation and maintenance of those purposes.

59. Casino layout. (1) A casino operator shall—

- (a) ensure that visibility throughout any gaming area of the casino wherein games are being played is clear and unobstructed;
- (b) submit for the approval of the Director a floor plan in connexion with the casino drawn to a scale satisfactory to the Director indicating in detail the placement of gaming tables, count rooms, cages and all other associated facilities;
- (c) submit a diagram of the closed circuit television system indicating camera positions as they relate to the floor plan and full information indicating heights of cameras from gaming tables and their scope of coverage; and
- (d) submit a plan of the catwalk surveillance system indicating the positions of communication facilities.

(2) A casino operator shall not operate a casino having the placement of gaming tables, count rooms, cages and other associated facilities other than in accordance with a floor plan approved by the Director.

60. Variation of casino layout. (1) If a casino operator proposes to vary the placement of gaming tables, count rooms, cages or any other associated facilities or the closed circuit television system or catwalk surveillance system, he shall, at least 3 days prior to the date proposed for giving effect to the variations, submit to the Director for his approval details of the proposed variations accompanied by plans and diagrams illustrating the proposals.

(2) A casino operator shall not effect any variation as aforesaid without the approval of the Director first had and obtained.

61. Hours of operation. (1) A casino operator shall operate a casino on the days and during the hours on those days approved for the time being by the Minister.

(2) He shall not operate a casino on any other day or at any other time.

(3) A casino operator shall submit for the approval of the Minister a schedule of operating times indicating the days and hours on and during which, it is proposed, the casino shall operate.

(4) The Minister may approve the schedule of operating times as submitted or with such variations as he thinks fit.

(5) If the casino operator proposes to vary the schedule of operating times he shall submit to the Minister for his approval details of the proposal showing the revised schedule of operating times.

(6) A casino operator shall not effect any variation referred to in subsection (5) without the approval of the Minister first had and obtained.

(7) (a) The Minister, for any reason considered by him to be sufficient in the circumstances, may by notice in writing require a casino operator to vary the schedule of operating hours in respect of a casino on and from a date specified in the notice.

(b) The notice shall be accompanied by or contain therein the revised schedule of operating hours to operate on and from the date specified.

(c) On and from the date so specified, the revised schedule shall be the schedule of operating hours in respect of the casino in question.

(8) A casino shall not be operated—

(a) on Christmas Day or Good Friday, between the hours of 3 o'clock before noon and 12 o'clock midnight;

(b) on Anzac Day, between the hours of 3 o'clock before noon and the time specified in section 4 of the *Anzac Day Act 1921-1981* as the time in the afternoon before which any place of public entertainment or amusement may not be open on that day.

62. Gaming equipment and chips. (1) A casino operator shall ensure that all gaming equipment in a casino is of a high standard of manufacture and is maintained in good order and condition.

(2) A person shall not possess, maintain or exhibit any gaming equipment on the premises of a hotel-casino complex except in the casino.

(3) A person shall not possess, maintain or exhibit any gaming equipment in a casino or bring into or remove from a casino any gaming equipment unless such equipment—

- (a) has been approved by the Director;
- (b) is necessary for the conduct of gaming;
- (c) has permanently affixed thereto or permanently imprinted, impressed or engraved thereon an identification number or symbol authorized by the Director;
- (d) is under the exclusive control of the casino operator or his agents or employees; and
- (e) is brought into or removed from the casino at times authorized for that purpose by the Director or at other times when prior notice has been given to and written approval granted by an inspector.

In this subsection the term "casino" means that area of the casino used for the conduct and playing of games.

(4) (a) All drop boxes and other receptacles for the depositing therein of moneys (being either notes or coins), tokens, vouchers, slips or other papers, whether actually deposited therein or not, shall be equipped with two locks.

(b) A gaming table to which a drop box referred to in paragraph (a) is affixed or attached shall be equipped with two locks securing the affixing or attaching of the drop box.

(c) All count rooms and storage areas wherein there are drop boxes and other receptacles referred to in paragraph (a) that are in use in connexion with the operation of the casino shall be equipped with two locks.

(d) The key or keys of one of the locks shall be under the exclusive control of officers of the Division and the key or keys of the other lock shall be under the exclusive control of the casino operator.

(e) Each of the locks shall be such that it cannot be unlocked by the key or any key of the other lock.

(f) A drop box or other receptacle referred to in paragraph (a) shall not be—

- (i) brought into or removed from the area of the casino used for the conduct and playing of games; or
- (ii) locked or unlocked

save at such times and according to such procedures and, in the case of locking or unlocking, in such places as are approved by the Director.

(5) Chips used or for use in a casino shall have clearly and permanently impressed, engraved or imprinted thereon—

- (a) the name of the casino or a symbol identifying the casino; and

(b) any other matters prescribed so that such matters may relate to all chips or different matters may relate to different chips.

(6) A casino operator shall submit to the Director for approval an order for the purchase of chips before such order is placed with the chips manufacturer, and shall not purchase chips from a chips manufacturer other than one approved by the Director.

(7) A casino operator shall ensure—

(a) that chips used in a casino for gaming are of such physical characteristics as are approved by the Director;

(b) that chips used in a casino for gaming are in good condition.

(8) A casino operator shall keep and at all times accurately maintain a written inventory of gaming equipment and chips used or for use in the casino.

(9) A casino operator shall not destroy any gaming equipment or chips save under the supervision of an inspector.

(10) A casino operator shall not cause or permit any person to repair or maintain any gaming equipment unless such person is a person approved by the Director for the purpose.

63. Casino games. (1) The Minister may, by notification in the Gazette, notify any game as a game that may be conducted or played in a casino pursuant to a casino licence.

(2) The notification in respect of a game shall include an account of the rules for the playing of the game.

(3) Rules for the playing of a game may be altered by subsequent notification.

(4) A casino operator shall submit to the Minister for approval a statement of the maximum number of each of the games proposed to be played in the casino.

(5) The Minister may approve the maximum number of each of the games as submitted or determine and approve in any particular case a different maximum number.

(6) The maximum number of each of the games to be played in the casino shall be the number in each case approved by the Minister.

(7) The casino operator at any time, having regard to the apparent gaming requirements of casino patrons, may conduct a number of games in any particular case less than the maximum number approved in respect thereof:

Provided that the Minister may direct that a minimum number of any particular type of game shall be played at any time and, where he does so, the casino operator shall comply with the direction.

(8) A casino operator shall ensure that each game conducted in a casino is conducted according to the rules in force for the time being in relation thereto.

64. Assistance to patrons in relation to rules of games. (1) A casino operator shall—

- (a) at the request of any casino patron, make available for his examination a copy of the rules of gaming in respect of any particular game as notified for the time being in the Gazette;
- (b) display prominently within the casino such advice or information concerning gaming rules, mode of payment of winning wagers, the odds of winning for each wager and such other advice or information to the player as may be directed by the Minister;
- (c) provide for casino patrons brochures summarizing the rules of gaming in accordance with texts approved by the Minister;
- (d) display at each gaming table or location related to the playing of a game a sign indicating the permissible minimum and maximum wagers pertaining to the game played at such table or location.

(2) A casino operator shall ensure that a minimum wager indicated in respect of a game at a table or location shall not be changed to a higher minimum unless a sign indicating the new minimum and the proposed time of change is displayed at the table or location at least 20 minutes prior to the time of proposed change.

65. Obligation of casino operator in relation to conduct of games.

(1) A casino operator shall ensure that in any game in which playing cards are used such cards are at all times dealt from an item of gaming equipment specifically designated for that purpose and known as a "card shoe".

(2) A casino operator shall not issue or cause, permit or suffer to be issued any chips for gaming unless the chips are paid for—

- (a) in cash to their value; or
- (b) by chip purchase voucher issued by the casino on payment of the amount shown on the voucher.

(3) A casino operator shall ensure that all gaming wagers are placed by the use of chips unless the rules of a game specifically permit the use of cash.

(4) A casino operator shall ensure that all winning wagers are paid in full without any commission or levy other than a commission or levy provided for in the rules of a game.

(5) A casino operator shall ensure that all winning wagers are paid in chips unless the rules of a game specifically permit payment by cash or cheque.

(6) A casino operator shall during the hours of operation of a casino, at the request of a casino patron—

- (a) exchange chip purchase vouchers or chips issued by the casino for chips or other chips, as the case may be, as requested of an equivalent total value;
- (b) redeem chips or chip purchase vouchers issued by the casino for cash of an amount equivalent to the value of the chips or chip purchase vouchers:

Provided that the casino operator, if requested by the patron, may at his discretion issue for the whole or any part of the amount to be paid in cash, in lieu of cash, a cheque made payable to the patron and drawn on a bank account approved by the Minister for the purpose.

(7) A casino operator shall not employ, engage or use or cause, permit or suffer any of his agents or employees or any other person to employ, engage or use any barker or shill to induce any person to enter a casino or play any game therein.

(8) (a) A deposit, charge or levy, not being a commission or levy provided for in the rules of a game, shall not be charged, taken or made, directly or indirectly, by a casino operator, on, from, to or in respect of any person for the right to enter a casino or play any game therein.

(b) It is immaterial that any such deposit, charge or levy is or is claimed to be refundable.

(9) A casino key employee or a casino employee shall not in a casino in which he is employed or with which he is associated—

- (a) wager at any game; or
- (b) solicit or accept any tip, gratuity, consideration or other benefit from any player or patron at that casino.

(10) A casino operator shall not sell, give or distribute intoxicating liquor to any person at a gaming table or at any other playing area within a casino.

66. Casino operator shall not accept credit wagers, etc. (1) A casino operator shall not and an agent or employee of a casino operator shall not, in connexion with any gaming—

- (a) accept a credit wager from any person;
- (b) make a loan to any person;
- (c) advance any thing of value to any person;
- (d) provide cash or chips to any person in respect of a credit card transaction;
- (e) extend credit in any form to any person;
- (f) release or discharge in whole or in part a debt owing by any person without first submitting the prescribed information and material to the Minister and the Minister approving such release or discharge.

(2) Nothing contained in subsection (1) limits the operation of the provisions of section 68.

67. Deposit advance accounts. (1) A casino operator may establish for a person a deposit advance account into which moneys may be deposited by that person in advance of any gaming by him.

(2) A casino operator shall not accept for deposit to the account a cheque, other than a traveller's cheque, unless it is—

- (a) drawn on a bank and payable on demand;
- (b) drawn for a specific amount;
- (c) made payable to the casino operator; and
- (d) dated but not post dated.

(3) A casino operator may issue to the person for whom the deposit advance account is established a chip purchase voucher or chip purchase vouchers of a value up to the amount for the time being standing to his credit in the account or may pay to him cash up to the amount for the time being so standing to his credit.

68. Exchange by casino operator of chip purchase voucher for cheque.

(1) Subject to subsection (2), a casino operator may issue to a person for the purpose of gaming by him and in exchange for a cheque from him a chip purchase voucher or chip purchase vouchers of a value equal to the amount of the cheque.

(2) A casino operator shall not accept for the purposes of subsection (1) a cheque, other than a traveller's cheque, unless it satisfies the requirements specified in section 67 (2) in relation to that section.

69. Redemption of cheques. Subject to section 71, a person who has deposited or lodged with a casino operator under section 67 or section 68 a cheque that complies with the requirements referred to in section 67 (2) in relation to that section may, with the agreement of the casino operator, redeem the cheque by presenting to the casino operator in exchange therefor—

- (a) cash;
- (b) a cheque or cheques complying with requirements as aforesaid;
- (c) a chip purchase voucher or chip purchase vouchers;
- (d) chips; or
- (e) any two or more of the foregoing in combination

to an amount or a value equivalent to the amount of the cheque so deposited or lodged as aforesaid.

70. Depositing of cheques. All cheques received by a casino operator in respect of gaming that are not redeemed in accordance with section 69 shall be banked by him within the prescribed time.

71. No redemption to delay payment. Where a person has deposited or lodged a cheque with a casino operator under section 67 or section 68, the casino operator shall not agree to the redemption by that person of the cheque pursuant to section 69 for the purpose of avoiding or delaying beyond the prescribed time as referred to in section 70 the banking of the cheque to the appropriate account of the casino operator.

72. Training courses for employees. (1) A casino operator shall provide, for persons employed or to be employed by him in a casino as casino key employees or casino employees, training courses relating to the playing of games, the conduct of games and associated activities in connexion with casino operations.

(2) All training courses to be provided pursuant to subsection (1) shall be—

- (a) conducted by the casino operator or, with the approval of the Director, by the nominee of the casino operator; and
- (b) of such content, format and duration as is approved by the Director.

The successful completion of an approved training course is a prerequisite for—

- (a) the issue of a casino key employee licence or a casino employee licence; or
- (b) the approval of the Minister to the making of an amendment (and such amendment being made) in a licence in respect of the type of work performed or to be performed by the licensee

and for the employment of the licensee in the type of work specified in the licence, either in the first instance or pursuant to amendment, unless the licensee is qualified by experience, satisfactory to the Minister, appropriate to the type of work to be performed by him as licensee.

(4) A casino operator may conduct gaming on a simulated basis for the purpose of training employees, testing gaming equipment and gaming procedures and demonstrating the conduct and playing of games provided—

- (a) he has obtained the prior approval of the Director; and
- (b) no cash is used and no chips are used.

PART VII—INTERNAL CONTROLS, ADMINISTRATIVE AND ACCOUNTING PROCEDURES AND AUDIT REQUIREMENTS

73. System of controls and procedures. (1) A casino operator shall submit to the Director for the approval of the Minister—

- (a) a description of the system of internal controls and administrative and accounting procedures proposed by him in connexion with the operation of the casino;
- (b) details of changes proposed to any such controls and procedures previously approved by the Minister.

(2) The submission shall be made not later than 90 days prior to the date for the commencement of the operation of the casino or the implementation of the proposed changes, provided that the Minister may for sufficient cause direct that a particular submission may be made not later than a date determined by him that is closer to the date for the commencement or implementation as aforesaid, as the case may be.

74. Content of submission. A submission of the description of the system of internal controls and administrative and accounting procedures referred to in section 73 (1) (a) shall contain both narrative and diagrammatic representation of the system to be utilized by the casino operator, including, but not limited to—

- (a) accounting procedures, including the standardization of forms and definition of terms, not inconsistent with this Act, to be utilized in the gaming operations;
- (b) procedures, forms and, where appropriate, formulae for or with respect to—
 - (i) hold percentages and calculations thereof;
 - (ii) revenue drop;
 - (iii) expense and overhead schedules;
 - (iv) complementary services;
 - (v) salary arrangements; and
 - (vi) personnel practices;
- (c) job descriptions and the system of organizing personnel and chain of command authority such as to establish diversity of responsibility among employees engaged in casino operations and identification of primary and secondary supervisory positions for areas of responsibility, which areas shall not be so extensive as to be impractical for an individual to supervise effectively;
- (d) procedures for the conduct and playing of games;
- (e) procedures within a cashier's cage for the receipt, storage and disbursal of chips and cash, the cashing of cheques, the redemption of chips and the recording of all transactions pertaining to gaming operations;
- (f) procedures for the collection and security of moneys at the gaming tables and other places in the casino where games are conducted;
- (g) procedures and forms for the transfer of chips to and from the gaming tables and other places in the casino where games are conducted from and to a cashier's cage;
- (h) procedures for the transfer of moneys from the gaming tables and other places in the casino where games are conducted to other areas of the casino for counting;
- (i) procedures and forms for the transfer of moneys or chips from and to any gaming area;
- (j) procedures and security for the counting and recording of revenue;

- (k) procedures and security for the transfer of moneys to and from a bank from and to the casino;
- (l) procedures for the security, storage and recording of chips utilized in the gaming operations;
- (m) procedures and standards for the maintenance, security and storage of any gaming equipment;
- (n) procedures for the payment and recording of winnings associated with any games where such winnings are paid by cash or cheque;
- (o) procedures for the issue of chip purchase vouchers and the recording of transactions in connexion therewith;
- (p) procedures for the cashing and recording of cheque transactions;
- (q) procedures for the establishment and use of deposit advance accounts;
- (r) procedures for the use and maintenance of security and surveillance facilities, including catwalk systems and closed circuit television systems;
- (s) procedures governing the utilization of security personnel within the casino;
- (t) procedures for the control of keys used or for use in casino operations.

75. Minister's approval. (1) The Director shall review each submission received by him pursuant to section 73 and, subject to subsection (2), advise the Minister—

- (a) whether it is in conformity with the requirements of this Act; and
- (b) in a case referred to in subsection (1) (a) of section 73, whether the system of controls and procedures provides satisfactory and effective control over the operations of the casino; or
- (c) in a case referred to in subsection (1) (b) of section 73, whether the system of controls and procedures as previously approved as altered in accordance with the changes proposed provides satisfactory and effective control over the operations of the casino.

(2) If the Director considers that—

- (a) the submission is not in conformity with the requirements of this Act; or
- (b) the system of controls and procedures does not provide satisfactory and effective control over the operations of the casino, either as a system in the first instance or as a system as changed in accordance with proposed alterations,

he shall, before advising the Minister, inform the casino operator accordingly and specify the steps to be taken for the submission to be

in conformity with the requirements of this Act or for the system (in the first instance or as changed) to provide satisfactory and effective control over the operations of the casino.

(3) The casino operator, in order for his submission to proceed, shall take the steps to be taken as specified by the Director.

(4) Where the Director advises the Minister that the submission is in conformity with the requirements of this Act and that the system of controls and procedures provides satisfactory and effective control over the operations of the casino, either in the first instance or as changed in accordance with proposed alterations, the Minister shall approve the system or proposed changes, as the case may be, accordingly.

(5) (a) The Minister may by notice in writing require a casino operator to alter any part of the system of controls and procedures on and from a date specified in the notice.

(b) The notice shall stipulate the alteration to be made.

(c) On and from the date so specified, the system as required to be altered shall be the system of controls and procedures in connexion with the operation of the casino.

(6) A casino operator shall not—

(a) conduct gaming in a casino unless the system of controls and procedures as aforesaid has been—

(i) approved by the Minister; and

(ii) implemented by the casino operator;

(b) change the system approved by the Minister unless any changes proposed by him are first approved by the Minister.

76. Books, etc., to be kept on premises. (1) All books, records and documents relating to the operations of the hotel-casino complex or the casino, as the case may be, shall be kept by the casino operator on the hotel-casino complex premises.

(2) The Director may by writing under his hand—

(a) exempt the casino operator from compliance with subsection (1) either in respect of all books, records and documents or some of them as specified by him for reasons considered by him to be sufficient;

(b) approve generally or in particular cases that books, records and documents otherwise kept on the premises as aforesaid may be removed temporarily to another place or other places.

(3) Subject to any other Act or law relating to the retention or destruction of books, records and documents, all books, records and documents as referred to in subsection (1) shall be retained by the casino operator for a period of 7 years after the completion of the

transactions to which they relate, provided that the Director may, on the application of the casino operator, approve—

- (a) the retention of books, records or documents in an alternative form or manner;
- (b) the destruction of any of the books, records or documents not considered to be essential at a time prior to the expiration of the period as aforesaid.

77. Keeping of bank accounts. A casino operator shall keep and maintain separate bank accounts as approved by the Minister in a bank in the State for use for all banking transactions relating to the operations of the hotel-casino complex or the casino, as the case may be.

78. Accounts to be kept. A casino operator shall—

- (a) keep such accounting records as correctly record and explain the transactions and financial position of the operations of the hotel-casino complex or the casino, as the case may be;
- (b) keep his accounting records in such a manner as will enable—
 - (i) true and fair financial statements and accounts to be prepared from time to time;
 - (ii) his financial statements and accounts to be conveniently and properly audited.

79. Financial statements and accounts. A casino operator shall prepare financial statements and accounts giving a true and fair view of his financial operations in respect of the hotel-casino complex or the casino, as the case may be, which statements and accounts shall include—

- (a) trading accounts, where applicable, for the financial year;
- (b) profit and loss accounts for the financial year;
- (c) balance sheet as at the end of the financial year.

80. Director may determine financial year period. It is competent for the Director in a particular case on application made to him to approve a date other than 30 June as the terminating date of a financial year.

81. Submission of reports. (1) A casino operator shall submit to the Director, at such times as are prescribed, reports relating to the operations of the hotel-casino complex or the casino, as the case may be, containing such information as is prescribed.

(2) Where in the opinion of the Director any such report is deficient in information required to be provided, he may instruct the casino operator to submit to him information to supply the deficiency within a time nominated by him; and the casino operator shall supply the additional information within the nominated time accordingly.

82. Audit provisions. (1) A casino operator shall at his own expense cause his books, accounts and financial statements relating to the

operations of the hotel-casino complex or the casino, as the case may be, to be audited by a person who—

- (a) is registered as a public accountant under the *Public Accountants Registration Act 1946-1975*; and
- (b) is approved by the Minister.

(2) The auditor shall complete the audit within 4 months of the close of the financial year and immediately upon completion thereof submit a report thereon to each of them the casino operator and the Director.

83. Wider application of certain provisions of this Part. (1) In this section, reference to "person other than the actual operator" is a reference to a casino licensee or a lessee under a casino lease or to each of them a casino licensee and a lessee under a casino lease, as the case requires, where there is a casino lease or a casino management agreement or both a casino lease and a casino management agreement.

(2) The provisions of section 76 to 82 apply to and impose obligations and liabilities on a person other than the actual operator in respect of all matters relating to the operations of the hotel-casino complex or the casino, as the case may be, according to his interest therein or association therewith to the same extent in all respects as they do in the case of the casino operator under a casino management agreement.

PART VIII—AGREEMENTS AND OTHER DOCUMENTS IN CONNEXION WITH CASINO OPERATION

84. Restriction on certain agreements, etc. (1) Casino leases referred to in section 24 and casino management agreements referred to in section 25 are not subject to the provisions of this section.

(2) None of them—

- (a) a casino licensee;
- (b) a lessee under a casino lease; or
- (c) a casino operator under a casino management agreement

shall, unless the approval in writing of the Minister is first had and obtained, enter into or be a party to any lease, contract, agreement or arrangement, written or unwritten, with any other person for such person to lease, let, lend or otherwise provide any thing or to furnish any service in return for—

- (i) any direct or indirect interest in or percentage or share of moneys gambled at the casino; or
- (ii) any direct or indirect interest in or percentage or share of the revenues, profits or earnings from or of the casino.

(3) If the Minister considers that it is desirable or appropriate to do so in any particular case, he may, upon application made to him in that behalf, approve in writing a lease, contract, agreement or arrangement referred to in subsection (2).

85. Review of agreements, etc. (1) Casino leases referred to in section 24 and casino management agreements referred to in section 25 are not subject to the provisions of this section.

(2) Any of them—

(a) a casino licensee;

(b) a lessee under a casino lease; and

(c) a casino operator under a casino management agreement

shall, if directed by the Minister to do so, furnish to the Minister within the time stipulated by him such information as he thinks fit with respect to any lease, contract, agreement or arrangement (hereinafter in this section referred to as "the agreement") written or unwritten, with any other person relating to the hotel-casino complex or the casino.

(3) Without limiting the generality of subsection (2), matters concerning which the Minister may direct the furnishing to him of information include—

(a) names of persons entering into the agreements;

(b) description of any property, goods or other things or any services provided or to be provided;

(c) value, type or nature of consideration; and

(d) operative period of the agreement.

(4) Any of them a licensee, lessee or operator as referred to in subsection (2) shall, if directed by the Minister to do so, furnish to the Minister within the time stipulated by him a copy of the agreement if it is in writing.

(5) If the Minister, upon a review of any information or documents furnished to him under this section, is of the opinion that the continuance of the agreement is not in the public interest or jeopardizes the integrity of gaming having regard to its terms and such other factors as to the Minister appear relevant, he may issue to the licensee, lessee or operator as referred to in subsection (2) who is the party to the agreement a notice in writing requiring him to show cause why the agreement should not be terminated.

(6) The notice shall set out the grounds giving rise to its issue and shall stipulate a date, being not earlier than 21 days after such issue, on or before which cause is required to be shown.

(7) Where the Minister issues a notice, he shall issue a copy thereof to the other party to the agreement.

(8) The licensee, lessee or operator to whom the notice is issued may give answer thereto in writing to the Minister to show cause at any time not later than the date stipulated in the notice in that respect.

(9) The other party may make such submissions to the Minister as he thinks fit at any time not later than that stipulated date.

(10) The Minister shall consider any answers given in reply to the notice to show cause and any submissions made by the other party and—

- (a) if in his opinion satisfactory answers are given or submissions made in reply to or in respect of the notice, he shall take no further action in relation thereto;
- (b) if in his opinion answers given or submissions made in reply to or in respect of the notice are not satisfactory or if no answers are given and no submissions made, he may direct the termination of the contract.

(11) The Minister's direction referred to in subsection (10) (b) shall be given in writing to the parties to the agreement and shall specify a date on which the agreement is terminated under this Act if not sooner terminated.

(12) The agreement in question, if not sooner terminated by the parties to the agreement, is terminated by force of this Act on the date specified in the direction in that behalf.

(13) The termination of the agreement by force of this Act does not affect the rights and obligations of the parties thereto up to the time of such termination.

(14) No liability for breach of the agreement attaches to any party thereto by reason only of its termination by force of this Act.

PART IX—DIRECTIONS, POWERS, ETC., WITH RESPECT TO CASINOS

86. Directions as to operation of casino. (1) The Minister may, by notice in writing, give directions to a casino licensee, a lessee under a casino lease or a casino operator under a casino management agreement in relation to the management, supervision or control of any aspect of the operation of a casino.

(2) Each casino licensee, lessee or casino operator as aforesaid shall comply in all respects with a direction so given by the Minister.

Penalty: \$10 000 in the case of a body corporate and \$5 000 in the case of a natural person.

(3) If a person, convicted of an offence for failure to comply with a direction under subsection (2), persists in the failure to comply that constitutes the offence, he shall be taken to commit a separate offence on each day on which the failure continues and he may be prosecuted and shall be liable to a penalty of \$1 000 in the case of a body corporate and \$500 in the case of a natural person for each such offence accordingly.

87. Inspectors may be and remain on casino premises. Inspectors may at any time enter, be and remain on the premises of a casino for the purpose of—

- (a) viewing the operations of gaming;
- (b) observing other activities associated with the operation of the casino;
- (c) ascertaining whether the operation of the casino is being properly supervised and managed, and whether the provisions

of this Act and the terms and conditions of the applicable agreement referred to in section 19 are being observed;

- (d) in all other respects, exercising their powers and performing their duties under this Act.

88. Other powers of inspectors. (1) An inspector may—

- (a) require any person who has in his possession or under his control any gaming equipment or chips or any books, accounts, records or documents (which books, accounts, records or documents are hereafter in this Part referred to as records) related to the operation of a casino or otherwise relevant to the administration of this Act to—
- (i) produce for his inspection any such gaming equipment or chips or records;
- (ii) attend before him at a time and place named and then and there to answer any questions or supply any information with respect to any gaming equipment or chips or any records referred to in this paragraph or any entry therein;
- (b) inspect any gaming equipment or chips or records referred to in paragraph (a) and take such notes or copies of or in relation to such records or extracts therefrom as he deems necessary;
- (c) where he deems it necessary so to do for the purpose of obtaining evidence for production in possible subsequent proceedings against any person for an offence committed against this Act or any other Act or law, impound or retain any gaming equipment or chips or records inspected by him pursuant to paragraph (b), provided that the person entitled thereto in the case of records shall, in lieu thereof, be entitled within a reasonable time to a copy certified as correct by the inspector, and such certified copy shall be received in all courts as evidence of and as of equal validity to the original;
- (d) with the prior approval in writing of the Minister and subject to subsection (3), enter any premises or place in or at which he believes on reasonable grounds any gaming equipment or chips or records as aforesaid is or are present in order to search for such equipment, chips or records;
- (e) in a casino or other premises or place search for and seize and retain any gaming equipment or chips or records as aforesaid that he considers will afford evidence as to the commission of an offence against this Act or any other Act or law suspected by him on reasonable grounds to have been committed;
- (f) require any casino licensee, lessee under a casino lease, casino operator under a casino management agreement, casino key employee, casino employee or any other person associated with the operation or management of a casino

to attend before him at a time and place named and then and there to answer any questions or supply any information with respect to the operation of a casino;

- (g) examine and test any gaming equipment or chips and order the destruction of gaming equipment of chips considered by him to be unsatisfactory for use;
- (h) receive and investigate complaints from casino patrons with respect to any aspect of the operation of a casino and advise such patrons the results of his investigations;
- (i) call to his aid—
 - (i) another inspector or a member of the police force where he is obstructed or believes on reasonable grounds that he will be obstructed in the exercise of his powers or performance of his duties;
 - (ii) a person who he thinks is competent to assist him in the exercise of his powers or performance of his duties.

(2) Any gaming equipment or chips or records impounded or retained pursuant to subsection (1) (c) or seized and retained pursuant to subsection (1) (e) may be detained for such period as the inspector thinks fit and, where any proceedings are commenced for the purpose of which the equipment, chips or records was or were retained, shall be detained until the final determination of those proceedings including any appeal in the matter of those proceedings.

(3) (a) Before an inspector enters any premises that are used or any part of premises that is used exclusively as a dwelling-house, he shall, save where he has the permission of the occupier thereof to his entry, obtain from a justice a warrant to enter in the prescribed form.

(b) For the purposes of this subsection, premises used as a dwelling-house do not include the curtilage of those premises.

(c) A justice who is satisfied upon the complaint of an inspector that there is reasonable cause to suspect that any gaming equipment or chips or records related to the operation of a casino or otherwise relevant to the administration of this Act is or are on premises or a part of premises used exclusively as a dwelling-house and that—

- (i) in respect thereof an offence against this Act or any other Act or law has been, is being or is likely to be committed; or
- (ii) it or they are likely to be or provide evidence for production in possible subsequent proceedings against any person for an offence committed against this Act or any other Act or law

may issue his warrant, directed to the inspector, to enter the premises or part of premises specified in the warrant for the purpose of exercising therein the powers conferred upon an inspector under this Act.

(d) For one month from the date of its issue, a warrant shall be sufficient authority for the inspector and any person acting in aid of him—

- (i) to enter the premises or part of premises specified in the warrant; and
- (ii) to exercise therein the powers conferred upon an inspector under this Act.

(4) For the purpose of gaining entry to any place that he is authorized under this Act to enter, an inspector and all persons acting in aid of him may use such force as is necessary.

(5) A person who is acting in aid of an inspector under this Act shall have and may exercise all or any of the powers conferred upon an inspector under this Act.

(6) Any requirement under this section may be made—

- (a) verbally; or
- (b) by writing addressed to the person to or on whom it is made and delivered to him personally or sent by post to his address last known to the inspector.

(7) A person is not required, in respect of any matter within the application of this Act, to answer any question or give any information tending to incriminate himself.

89. Offences relating to inspectors. A person shall not—

- (a) assault, obstruct, hinder, threaten, abuse, insult or intimidate an inspector or person acting in aid of an inspector who is exercising his powers or performing his functions or duties under this Act or attempting so to do;
- (b) when required under this Act to produce for inspection any gaming equipment, chips or records referred to in this Part, fail without lawful excuse to produce such gaming equipment, chips or records in accordance with such requirement;
- (c) when required under this Act to attend before an inspector, fail without lawful excuse to so attend in accordance with such requirement;
- (d) when required under this Act to answer any question or supply any information with respect to any gaming equipment, chips or records referred to in this Part or with respect to any entry in any such records or with respect to the operation of a casino, give an answer or supply information that is false or misleading or, knowing or being in a position to know the answer or information required, fail to answer that question or supply that information;
- (e) retake any gaming equipment, chips or records seized, impounded or retained under the authority of this Act;
- (f) refuse or fail to destroy any gaming equipment or chips considered by an inspector to be unsatisfactory for use when ordered by the inspector so to do;
- (g) prevent, directly or indirectly, a person from attending before an inspector, producing to an inspector any gaming

equipment, chips or records or answering any question of or supplying any information to an inspector when that person is required so to do under this Act.

90. Bank may be required to furnish particulars. (1) The manager or other principal officer of a bank in which a casino licensee, a lessee under a casino lease or a casino operator under a casino management agreement keeps and maintains an account in relation to the operation of a hotel-casino complex or a casino shall, when so required in writing by an inspector, furnish to the inspector a statement of account and any other particulars required by the inspector to be so furnished, including copies of cheques or records relevant to the account; and no liability shall be incurred by the bank or the manager or other principal officer thereof in respect of any breach of trust or otherwise by reason only of the furnishing of any statement or particulars or copies pursuant to this section.

(2) An inspector shall not make a requirement in writing under subsection (1) unless he has the prior approval in writing of the Minister so to do.

91. Inquiry into operation of casinos. (1) The Minister may if he thinks fit nominate and appoint in writing the Director or any other officer of the Division to hold an inquiry into the operation of a casino.

(2) In the holding of the inquiry the Director or appointed officer shall have and may exercise all the powers, authorities, rights, privileges, protection and jurisdiction of a Commission of Inquiry under *The Commissions of Inquiry Acts, 1950 to 1954*, save such as are by those Acts reserved to a chairman of a Commission when that chairman is a Judge of the Supreme Court.

(3) Nothing contained in this section affects any other powers that the Director has as an inspector under this Act or, where the appointed officer is an inspector, that the appointed officer has as an inspector under this Act.

PART X—GENERAL

92. Entry to and exclusion of entry from casino. (1) Save as is provided in this Part, no person has a right against a casino operator to enter or remain in a casino, except by the licence of the casino operator.

(2) A direction, either verbally or in writing, prohibiting a person from entering or remaining in a casino may be given to that person by the casino operator or the person who at the time in question is in charge of the operation of the casino.

(3) A person to whom a direction is given may, if it is not in writing, request that it be given to him in writing, whereupon the casino operator or person in charge as aforesaid shall give the direction in writing.

93. Appeal to Minister. (1) A person receiving a direction in writing pursuant to section 92 prohibiting him from entering or remaining in a casino may appeal against the direction to the Minister.

(2) The appeal shall be made in writing and shall detail the grounds on which the appeal is made.

(3) The minister may cause such inquiries to be made by the Director in relation to the direction as he thinks fit and the results of the inquiries to be reported upon to him.

(4) Upon a consideration of the grounds of appeal detailed by the appellant and any matters reported upon to him by the Director in relation to the direction, the Minister may—

- (a) reject the appeal; or
- (b) allow the appeal.

(5) The decision of the Minister shall—

- (a) be communicated in writing to the appellant and the casino operator;
- (b) be final and conclusive and shall not be appealed against, reviewed, quashed or in any way called in question in any court on any account whatsoever.

(6) The allowance of the appeal by the Minister revokes the direction without prejudice to the right of the casino operator or person in charge of the operation of the casino at a particular time, acting in good faith, to give a further direction to that person for a reason considered by him to be a sufficient reason.

(7) An appeal against a direction does not prejudice the effectiveness of the direction pending the Minister's decision thereon.

94. Commissioner of Police may exclude entry. (1) The Commissioner of Police may, in writing, direct a casino operator to exclude a specified person from the casino, and the casino operator shall comply.

(2) Where the Commissioner of Police gives a direction, he shall, where practicable—

- (a) make available to the casino operator a photograph of the person to be excluded; and
- (b) give notice of the direction to the person to be excluded.

95. Copy of direction to Director. A copy of a direction in writing given under section 92 or section 94 shall be given to the Director by the casino operator or other person who has given the direction pursuant to section 92 or the Commissioner of Police, as the case may be.

96. Duration of direction. A direction given under section 92 or section 94 shall, subject to section 93, remain in force unless and until

revoked by the casino operator or the Commissioner of Police as the case may be.

97. List of names of excluded persons. (1) A casino operator shall maintain a list of the names of persons who are for the time being prohibited from entering or remaining in the casino pursuant to a direction in writing referred to in section 92 or excluded from the casino pursuant to a direction in writing referred to in section 94.

(2) The casino operator shall make available to the Director or an inspector nominated by the Director, either by name or description of office, a copy of the list of names referred to in subsection (1) that is current from time to time for the use by and information of inspectors on duty at the casino.

98. Casino operator may exclude or remove excluded person. (1) It is lawful for a casino operator and an employee or agent of a casino operator employed in or acting in connexion with the casino and any person acting by the authority of the casino operator, employee or agent to use such force as is reasonably necessary in order to prevent any person who is the subject of a direction under section 92 or section 94 from entering the casino or in order to remove any such person who remains in the casino, provided that he does not do bodily harm to such person.

(2) In subsection (1) the term "bodily harm" has the meaning assigned to it in *The Criminal Code*.

99. Excluded person not to enter or remain in casino. A person who is the subject of a direction in writing under section 92 or section 94 shall not enter or remain in the casino to which the direction relates.

Penalty: \$2 000.

100. Excluded person not to be allowed in casino. A casino operator or employee or agent of a casino operator employed in or acting in connexion with the casino shall not allow or suffer any person who to his knowledge is the subject of a direction in writing under section 92 or section 94 in respect of that casino to enter or remain in the casino.

Penalty: \$2 000.

101. Powers of inspectors, etc., unaffected. Nothing contained in sections 92 to 100 operates to prevent any inspector or any other person from exercising any power conferred on him by this or any other Act or law to enter, or to do any other act in relation to, a casino.

102. Provisions relating to minors in respect of casinos. (1) Persons under the age of 18 years shall not be, and shall not be permitted to be, in a casino during the hours of operation of the casino on any day.

(2) A person under the age of 18 years who is found in a casino during the hours of operation of the casino on any day is guilty of an offence.

Penalty: \$500.

(3) A casino operator or employee or agent of a casino operator employed in or acting in connexion with the casino—

- (a) shall not allow or suffer any person under the age of 18 years to enter or remain in the casino at any time during the hours of operation of the casino on any day;
- (b) shall remove or cause to be removed from the casino any person under the age of 18 years who is found in the casino during the hours of operation of the casino on any day.

Penalty: \$1 000.

(4) (a) If a casino operator or employee or agent of a casino operator employed in or acting in connexion with the casino suspects that any person attempting to enter or who is in the casino may be under the age of 18 years, he may request that person to furnish him with a certificate in the prescribed form signed by that person, specifying the true age of that person.

(b) If a person, on being requested to furnish a certificate under this subsection—

- (i) fails to furnish such certificate and attempts further to enter the casino;
- (ii) fails to furnish such a certificate and fails to leave the casino voluntarily; or
- (iii) furnishes a certificate that is false or misleading in any material particular,

he is guilty of an offence.

Penalty: \$1 000.

(5) It is a defence in any proceedings for an offence under subsection (3) to establish—

- (a) that the defendant believed, on reasonable grounds, that the person in question was of or above the age of 18 years; or
- (b) that at the time of the contravention of or failure to comply with subsection (3), the defendant had obtained from the person in question a certificate referred to in subsection (4) that indicated that person was of or above the age of 18 years.

103. Cheating. Any person who in a casino—

- (a) by any fraudulent trick, device, sleight of hand or representation;
- (b) by any fraudulent scheme or practice;
- (c) by the fraudulent use of any machine, equipment or other thing; or

(d) by the fraudulent use of any instrument or article of a type normally used in connexion with gaming or appearing to be of a type normally used in connexion with gaming obtains for himself or another person or induces any person to deliver, give or credit to him or another person any money, chips, benefit, advantage, valuable consideration or security is guilty of an offence.

Penalty: \$20 000 in the case of a body corporate and \$10 000 or imprisonment for two years or both in the case of a natural person.

104. Unlawful use of certain equipment, etc. Any person who in a casino uses or has in his possession—

- (a) any chips that he knows are bogus or counterfeit chips;
- (b) any cards, dice or coins that he knows have been marked, loaded or tampered with; or
- (c) for the purpose of cheating or stealing, any equipment, device or thing that permits or facilitates cheating or stealing

is guilty of an offence.

Penalty: \$20 000 in the case of a body corporate and \$10 000 or imprisonment for two years or both in the case of a natural person.

105. Detention of persons by casino operator, etc., in relation to offences under sections 103 and 104. (1) Any of them—

- (a) a casino operator;
- (b) an employee or agent of a casino operator;
- (c) an inspector

may in a casino detain in a suitable place therein any person who is or whom he suspects on reasonable grounds to be contravening or attempting to contravene section 103 or section 104, using such force as is reasonably necessary for that purpose, until the arrival of a member of the police force at the place of detention.

(2) The person so detaining shall take such steps as are necessary to ensure the summoning and arrival of a member of the police force with as little delay as possible.

106. Detention, arrest, etc., of persons by member of the police force in relation to offences under sections 103 and 104. (1) Any member of the police force may in a casino detain in a suitable place therein for a reasonable time any person who has or who is suspected on reasonable grounds to have contravened or attempted to contravene section 103 or section 104.

- (2) A member of the police force, in so detaining a person, may—
 - (a) search that person and the possessions of that person;
 - (b) seize anything found as a result of the search that may afford evidence of the commission of an offence;
 - (c) use such force as is reasonably necessary for the purpose of detention and search.

(3) A member of the police force may arrest without warrant any person who has or whom he suspects on reasonable grounds has committed or attempted to commit an offence against section 103 or section 104.

107. Offences relating to revenue. Any person who wilfully—

- (a) evades the payment of any fee, tax or levy payable by him under the provisions of this Act;
- (b) furnishes to the Director or an inspector any return in respect of any fee, tax or levy payable under the provisions of this Act that is false in any material particular;
- (c) makes any false statement or report to the Director or an inspector in respect of any fee, tax or levy payable under the provisions of this Act

is guilty of an offence.

Penalty: \$20 000 in the case of a body corporate and \$10 000 or imprisonment for two years or both in the case of a natural person.

108. Offences relating to unauthorized games. A person shall not conduct in a casino any game unless the game is permitted to be conducted in a casino pursuant to section 63.

Penalty: \$10 000 in the case of a body corporate and \$5 000 or imprisonment for one year or both in the case of a natural person.

109. Offences relating to cheating by casino operator, etc. Any casino operator or employee or agent of a casino operator who in a casino conducts any game in such a manner as to win or attempt to win from any person to himself or any other person any money, chips or other valuable thing by any fraud, unlawful device or ill-practice is guilty of an offence.

Penalty: \$20 000 in the case of a body corporate and \$10 000 or imprisonment for two years or both in the case of a natural person.

110. Forgery and like offences. A person who—

- (a) forges or counterfeits any chip purchase voucher, licence, identification card or other form of identification authorized to be issued under this Act;
- (b) knowingly utters any such chip purchase voucher, licence, identification card or other form of identification so forged or counterfeited;
- (c) personates any person named in any such licence, identification card or other form of identification;
- (d) falsely represents himself to be an inspector or an officer of the Casino Control Division;
- (e) connives at any such forging, counterfeiting, uttering, personating or representing as aforesaid;

- (f) knowingly makes a false statement in any application made under this Act

is guilty of an offence.

Penalty: \$5 000 or imprisonment for one year or both.

111. Bribery of officers of the Division. (1) Any officer of the Division who corruptly asks for, receives or obtains or agrees to receive or obtain any money, property or benefit of any kind for himself or any other person—

- (a) to forego or neglect his duty or influence him in the performance of his duty as an officer of the Division;
- (b) on account of anything already done or omitted to be done or to be afterwards done or omitted to be done by him in the discharge of his duty as an officer of the Division;
- (c) to use or take advantage of his office improperly to gain a benefit or advantage for or facilitate the commission of an offence by another person

is guilty of an offence.

Penalty: \$10 000 or imprisonment for two years or both.

(2) Any person who corruptly gives, confers or procures or promises or offers to give or confer or procure or to attempt to procure to, upon or for any officer of the Division or any other person any money, property or benefit of any kind—

- (a) for the officer to forego or neglect his duty or to influence him in the performance of his duty as an officer of the Division;
- (b) on account of anything already done or omitted to be done by the officer in the discharge of his duty as an officer of the Division;
- (c) for the officer to use or take advantage of his office improperly to gain a benefit or advantage for or facilitate the commission of an offence by such firstmentioned person or any other person

is guilty of an offence.

Penalty: \$20 000 in the case of a body corporate and \$10 000 or imprisonment for two years or both in the case of a natural person.

112. Officers of the Division not to gamble, etc. (1) An officer of the Division—

- (a) shall not gamble in a casino save to the extent that it may be necessary for him to do so in the course of his duties as an officer;
- (b) shall not knowingly have, directly or indirectly—
 - (i) any business or financial association with; or

- (ii) any business or financial interest in any matter in conjunction with a licensee under this Act;
 - (c) shall not be an employee in any capacity of a licensee under this Act;
 - (d) shall not solicit or accept employment from or be an employee or business or financial associate in any capacity of a licensee under this Act within a period of one year after he ceases to be an officer of the Division.
- (2) A licensee under this Act—
- (a) shall not employ in any capacity or have as an employee a person who is an officer of the Division;
 - (b) shall not employ in any capacity or have as an employee or business or financial associate a person who was an officer of the Division within a period of one year after that person ceased to be an officer of the Division.
- (3) An officer of the Division who knowingly has, directly or indirectly—
- (a) any business or financial association with; or
 - (b) any business or financial interest in any matter in conjunction with
- a person who becomes an applicant for a licence under this Act shall, immediately upon becoming aware that such person has become an applicant—
- (i) notify the Minister of such association or interest; and
 - (ii) if directed by the Minister, terminate the association or relinquish the interest within a time specified by the Minister.
- (4) The expression "licensee under this Act" occurring in this section includes a lessee under a casino lease and a casino operator under a casino management agreement.

113. Entry to casino by members of the police force. (1) Any member of the police force may, in the discharge of his duty, enter any area of a casino to which, subject to section 92, the public has access.

(2) Any such area is a public place for the purpose of the exercise by a member of the police force of powers and the discharge by him of duties exercisable or, as the case may be, to be discharged by him in a public place under any Act or law.

(3) A member of the police force may, on being authorized so to do by an inspector on duty at a casino, enter any other area of the casino in the discharge of his duty, provided that this provision does not limit or prejudice the exercise by a member of the police force of any other power he has pursuant to law to enter a casino or any part of it.

(4) When an inspector gives an authorization to a member of the police force in accordance with subsection (3), he shall, where practicable, give notice of the authorization to the person who is for the time being in charge of the operation of the casino.

114. Power to require name and address. (1) Any member of the police force, in connexion with the exercise by him of any powers or the discharge by him of any duties under this Act in relation to any person, may require that person to state his name, address and date of birth or any of those particulars, and, where he suspects on reasonable grounds that any of the particulars stated is false, may require evidence of the correctness thereof.

(2) A person required under this section to state his name, address and date of birth or any of those particulars who—

- (a) refuses or fails to state forthwith any such particulars; or
- (b) states any false particulars

is guilty of an offence.

Penalty: \$1 000.

(3) A person required under this section to produce evidence of the correctness of any particulars who—

- (a) refuses or fails to produce that evidence; or
- (b) produces false evidence with respect to those particulars

is guilty of an offence.

Penalty: \$1 000.

(4) A member of the police force may arrest without warrant any person who, when required under this section to state his name, address and date of birth or any of those particulars or to produce evidence of correctness of any such particulars, refuses or fails to do so or states a name, address or date of birth or produces evidence that in the opinion of the member of the police force is false.

115. Finger prints and the like. (1) Where a person has been arrested for an offence or an attempt to commit an offence against section 103 or section 104, a member of the police force at the police establishment to which he is taken after arrest or where he is in custody may take all such particulars as he considers necessary for the identification of that person, including his voice print, photograph, finger prints, palm prints, foot prints, toe prints and handwriting, and in taking those particulars may use such force as is reasonably necessary for the purpose.

(2) A court that convicts a person who appears personally before it of an offence or an attempt to commit an offence against section 103 or section 104 may in its discretion order that person into the custody of a member of the police force for the purpose of obtaining any particulars referred to in subsection (1), and that member and any member acting in aid of him shall take (using force as is reasonably

necessary for the purpose) that person to a place where those particulars can adequately be taken and take those particulars.

(3) Where a person is found not guilty of an offence or an attempt to commit an offence against section 103 or section 104, any voice print, photograph, finger prints, palm prints, foot prints, toe prints or handwriting previously taken pursuant to this section in relation to the offence in respect of which he was found not guilty shall be destroyed in his presence or in the presence of a person nominated by him.

116. Source of information or reports. A prosecutor for the prosecution or a witness on behalf of the prosecution in a proceeding under this Act shall not be compelled—

- (a) to disclose the fact that he received information or the nature of such information or the name of a person who gave such information; or
- (b) where he is a member of the police force or an officer of the Casino Control Division, to produce a report or document made or received by him in his official capacity or containing confidential information or to make a statement in relation thereto.

117. Effect of casino licence. (1) The operation of a casino pursuant to a casino licence, in accordance with this Act and any other applicable Act and the agreement as referred to in section 19 relating to the particular licence does not, in itself, constitute a public or private nuisance.

(2) Subject to subsection (3), nothing contained in section 18 operates to validate or render enforceable a contract related to gambling that would, apart from that section, be invalid or unenforceable.

(3) A contract to which subsection (2) refers and to which the casino operator is a party is enforceable against the casino operator.

118. Protection of officers, etc. (1) No liability shall be incurred by the Crown, the Minister, the Under Treasurer, the Commissioner of Police, the Director, any inspector or any other officer of the Casino Control Division or any member of the police force or other person acting in aid of an inspector pursuant to this Act on account of anything done for the purposes of this Act or done in good faith and purporting to be for the purposes of this Act.

(2) No liability shall be incurred by any person referred to in section 105 or section 106 who, acting pursuant thereto or acting in good faith and purporting to act pursuant thereto, detains any person or exercises any other power thereunder.

119. General penalty. A person who contravenes or fails to comply with any provision of this Act is guilty of an offence and, save where a specific penalty is otherwise provided, is liable, in the case of a body corporate, to a penalty of \$5 000 and, in the case of a natural person, to a penalty of \$2 500.

120. Proceedings for offences. (1) Subject to subsections (3), (4) and (5), offences against this Act may be prosecuted in a summary way under the *Justices Act 1886-1980*.

(2) A prosecution for an offence against this Act may be commenced within one year from the time when the matter of complaint arose or within 6 months after the matter of complaint comes to the knowledge of the complainant, whichever is the period later to expire.

(3) Offences against sections 103, 109, 110 and 111 may be prosecuted in a summary way under the *Justices Act 1886-1980* or upon indictment.

(4) Where proceedings for an offence against section 103, 109, 110 or 111 are taken with a view to summary conviction of the defendant, the court, if it forms the opinion that the matter should not be determined summarily or if the defendant requires that the matter be dealt with upon indictment, shall abstain from determining the matter summarily and shall instead deal with the proceedings as proceedings with a view to the committal of the defendant for trial or sentence, as the case may be, and may exercise in respect of the defendant for the purpose of such proceedings all the powers conferred on it by law as though the proceedings were proceedings with a view to committal in the first instance.

(5) Where the court abstains from determining a matter summarily pursuant to subsection (4), a plea of the defendant, if taken at the outset of the summary proceedings, shall be disregarded and, before committing the defendant for trial or for sentence, it shall address the defendant in accordance with the provisions of section 104 of the *Justices Act 1886-1980*.

(6) A conviction upon indictment for an offence against section 103, 109, 110 or 111 shall be and have effect in law as a conviction for an indictable offence.

121. Institution of proceedings. (1) Without limiting the provisions of subsection (2), proceedings for an offence against section 103, 104 or 114 may be instituted by a member of the police force, and a member of the police force is entitled to appear before a Magistrates Court on behalf of and act for the complainant.

(2) Proceedings for an offence against this Act may be instituted by the Director or by a person authorized in writing by the Minister to institute the proceedings in a particular case.

(3) In any case where power is given to arrest an offender, the power and authority to proceed against an offender by way of complaint and summons under the *Justices Act 1886-1980* also lies and shall have full force and effect.

122. Attempt to commit offence. (1) A person shall not attempt to commit an offence against this Act.

(2) A person convicted of the offence of attempting to commit an offence against this Act is liable to the same penalty as an offender

convicted of the offence itself unless he proves that he desisted of his own motion from the further prosecution of his intention without its fulfilment being prevented by circumstances independent of his will, in which case he is liable to one half of the penalty to which he would otherwise be liable.

(3) Section 4 of *The Criminal Code* applies with respect to an attempt to commit an offence against this Act.

(4) A person may be convicted of attempting to commit an offence upon a complaint charging him with that offence.

123. Liability for offence by body corporate. (1) Where a body corporate commits an offence against this Act, each of the following persons shall be deemed to have committed the offence and, notwithstanding section 23 of *The Criminal Code* or any other rule of law or practice, to be criminally responsible for the act or omission concerned therein and may be charged with the offence and punished accordingly:—

- (a) the person who at the time of the commission of the offence was the chairman of directors, managing director, manager or other governing officer by whatever name called and each member of the governing body by whatever name called of the body corporate; and
- (b) every person who at the time of the commission of the offence managed or acted or took part in the management, administration or government of the business in the State of the body corporate.

(2) This section applies so as not to limit or affect in any way the liability of a body corporate to be proceeded against and punished for an offence against this Act committed by it.

(3) It is a defence to a charge for an offence against this Act brought against a person specified in subsection (1) (a) or (1) (b) to prove that the offence was committed without that person's knowledge or consent or connivance and that he exercised due diligence to prevent the commission of the offence.

124. Forfeiture. (1) The court that convicts a person of an offence against this Act may order to be forfeited to Her Majesty—

- (a) anything seized under section 106;
- (b) any gaming equipment, chips, books, accounts, records or documents (impounded or retained pursuant to section 88 (1) (c) or seized and retained pursuant to section 88 (1) (e)) detained pursuant to section 88 (2)

relating to or connected with the commission of the offence of which the person has been convicted.

(2) Where a person charged before a court for an offence against this Act is not convicted of any offence, the court may order to be forfeited to Her Majesty any bogus or counterfeit chips, any marked,

loaded or tampered with cards, dice or coins and any device or thing that permits or facilitates cheating or stealing that were found in the possession or under the control of that person.

(3) Anything forfeited to Her Majesty pursuant to this section shall be dealt with or disposed of in such manner as the Minister directs.

(4) A forfeiture, dealing with or disposal of anything under this section does not confer upon any person a right to compensation.

125. Service of notices, documents, etc. (1) Save where any other provision of this Act otherwise provides, any direction, order, requisition or notice in writing or any other document or writing (hereafter in this section referred to as a document) required or authorized by this Act to be given to or served upon any person shall be taken to have been duly given or served if—

- (a) it is served personally on the person to whom it is directed or on a person authorized by that person, either generally or in a particular case, to accept service of documents on his behalf;
- (b) it is left at the place of residence or business of the person to whom it is directed last known to the person who gives or serves it;
- (c) it is sent by post to the place of residence or business of the person to whom it is directed last known to the person who gives or serves it;
- (d) where a manner of service is prescribed by any other Act or law in relation to a person or class of person, it is served in the manner so prescribed.

(2) Where any document is given or served, the person who gives or serves it may attend before a justice and depose on oath and in writing endorsed on a copy of the document to the manner of service thereof showing therein the date of personal service, leaving, posting or service in other manner prescribed as aforesaid, as the case may be, of such document.

(3) Every such deposition shall upon production in court be evidence of the matters contained therein and shall be sufficient proof of the giving or service of such document to or on the person to whom it is directed.

126. Evidentiary provisions. In proceedings under this Act—

- (a) it shall not be necessary to prove the appointment of the Minister, the Commissioner of Police, any member of the police force, the Director, any inspector or any officer of the Casino Control Division;
- (b) a signature purporting to be that of any person in any capacity referred to in paragraph (a) shall be taken to be the signature it purports to be until the contrary is proved;
- (c) a document or writing purporting to be a copy of any direction, notice, requirement, order or requisition given or

made under this Act or of any licence (including any provisional licence) granted or issued under this Act shall be evidence of the direction, notice, requirement, order, requisition or licence of which it purports to be a copy and, in the absence of evidence to the contrary, shall be conclusive such evidence;

- (d) a document or writing purporting to be made by an inspector and to be a copy of or an extract from a list of names of persons referred to in section 97 shall be evidence of the particulars in the list of which it purports to be a copy or extract and, in the absence of evidence to the contrary, shall be conclusive such evidence;
- (e) a certificate purporting to be signed by the Director certifying that at a specified time or during a specified period there was or was not in force under this Act a licence of a specified kind shall be evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained in the certificate;
- (f) the authority of a person to accept service of documents on behalf of another shall be presumed in the absence of evidence to the contrary;
- (g) the averment that any person is of a specified age or is under or over a specified age shall be sufficient evidence of the fact until the contrary is proved.

127. Regulations. (1) The Governor in Council may make regulations, not inconsistent with this Act, for or with respect to—

- (a) the types of work a casino key employee or casino employee may be licensed to perform and the compilation of a list or lists with respect thereto;
- (b) arrangements and procedures for the taking of finger prints and palm prints of an applicant for a casino key employee licence or a casino employee licence;
- (c) forms to be used for the purposes of this Act and prescribing such forms and by whom prescribed forms or any particular prescribed forms shall be printed;
- (d) any matter or thing in relation to the administration of this Act in respect of which a fee is payable and prescribing the amount of such fee;
- (e) the control of advertising by casino licensees, lessees under casino leases and casino operators under casino management agreements in relation to casinos and their operation;
- (f) offences against the regulations and prescribing the amount of any penalty for an offence against any regulation, provided that any such penalty shall not exceed \$500;
- (g) all matters required or permitted by this Act to be prescribed where such matters are to be or may be prescribed by the

regulations or where the method of prescription is not otherwise provided;

- (h) all matters that may be convenient for the administration of this Act or that may be necessary or expedient to achieve the objects and purposes of this Act.

(2) The power to regulate conferred by this section includes the power to prohibit.

128. Publication of Orders in Council. Section 28A of the *Acts Interpretation Act 1954-1977* applies in respect of Orders in Council made under this Act as if they were regulations and, for the purpose of such application, that section shall be read as if a reference to the term "regulation" were a reference to the term "Order in Council".

By Authority: S. R. HAMPSON, Government Printer, Queensland

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By Authority: S. R. HAMPSON, Government Printer, Queensland

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Why casinos are a bad bet

THE introduction of a major form of gambling into an existing gambling structure inevitably stimulates gambling generally and is well calculated to persuade non-gamblers to become gamblers. The process is well documented.

The new entrant to the gambling scene has to be marketed aggressively in order to capture as much of the "gambling dollar" as it can from the existing forms of gambling. This situation creates an appetite on the part of the public for the new form of gambling.

Faced with this development, the other forms of gambling react by promoting themselves more aggressively in an attempt to prevent any flow of gamblers from them to the newcomer.

In reply to this, those responsible for the new form of gambling exert great pressure on the government to relax, one after another, the various safeguards (for example, no poker machines in casinos) which accompanied its introduction, claiming that such relaxation is now necessary to enable it to survive against the recent marketing aggression of its elder competitors.

No government seems able to resist the gloriously soft notion of receiving from gamb-

The Opposition leader wants a casino for Victoria. But XAVIER CONNOR says governments can't be trusted with one

ling enterprises large slabs of revenue which are not the product of unpopular taxes.

Because every advertising avenue is used to stimulate gambling, the so-called "gambling dollar" soon becomes \$1.25.

As governments become more and more dependent on gambling revenue they become locked into a policy (never publicly acknowledged) of either stimulating gambling themselves or taking legislative or administrative measures to enable others to do so.

If anyone doubts that this is the Victorian pattern they should read the debates in *Hansard* in 1953 and 1959, when Tattersalls and the TAB respectively were introduced. They both illustrate in a compelling way how a new form of gambling is introduced, pious-

ly plied with safeguards, and how in the space of a decade or two they are all abandoned.

I do not think that people who gamble within their means are doing anything wrong, and, for my own part, I am prepared to gamble if I encounter someone who wishes to back the team playing Essendon.

Moreover, I think it is impracticable to try to turn the clock back by significantly cutting down the gambling facilities presently available in Victoria.

Even so, I do not think it is necessary to be a so-called wowser or killjoy to be concerned at the extensive and indiscriminate stimulation of gambling that is now occurring, a process which would be considerably aggravated and accelerated by the introduction of a new major form of gambling.

I would not be prepared to encourage one single person who is not a gambler to become one. I could not know in advance how that person would handle gambling; and it is notorious that there are many people who, once they begin to gamble, cannot control the urge, often to the detriment of themselves and their families.

I believe virtually every

member of Parliament would adopt the same attitude. I question, therefore, the soundness of any group of parliamentarians doing collectively what few, if any, of them would do individually.

It is one thing for a government to provide legal gambling facilities to meet an insatiable demand for a particular form of gambling which would otherwise be pursued illegally. It is quite another thing for a government to stimulate gambling artificially for revenue purposes without there ever having been an inquiry into the social effects of their actions.

Two things are clear. No government, nor Parliament itself, can be trusted to keep the promises that are made when a new form of gambling is introduced; and the introduction of a new form of gambling stimulates gambling generally.

The extent of the social cost has not been established. The onus of proof that there will be no appreciable harm must rest firmly on those who seek to introduce a new form of gambling, be it casinos, poker machines or whatever.

Xavier Connor is a former Supreme Court judge. As head of an inquiry in 1982/83, he recommended against a casino in Victoria.