LEGISLATIVE COUNCIL

Thursday 1 December 1994

The PRESIDENT (Hon. Peter Dunn) took the Chair at 2.15 p.m. and read prayers.

NATIVE TITLE (SOUTH AUSTRALIA) BILL AND LAND ACQUISITION (NATIVE TITLE) AMENDMENT BILL

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

That the sittings of the Council be not suspended during the continuation of the conference on the Bills.

Motion carried.

HEARING IMPAIRED

A petition signed by 899 residents of South Australia requesting that the Council urge the Government to reconsider the proposed cuts to deaf education in State schools, retain Townsend PreSchool for Hearing Impaired Children, currently the only specialist State preschool for children with hearing impairment; retain specialist principals in primary centres for hearing impaired children to ensure skilled leadership and support for students, parents and staff in deaf education; and appoint CHIC principals in secondary facilities, was presented by the Hon. Carolyn Pickles.

Petition received.

PAPERS TABLED

The following papers were laid on the table:

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

Reports, 1993-94—
- Correctional Services Advisory Council of S.A.
- Country Fire Service.
- Courts Administration Authority.
- Department for Correctional Services.
- S.A. St. John Ambulance Service Inc.
- S.A. State Emergency Service.
- South Australian Metropolitan Fire Service.

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

Reports, 1993-94—
- Foundation S.A.
- Institute of Medical and Veterinary Science.
- Physiotherapists Board of S.A.
- South Australian Health Commission.

Corporation By-law—
- Tea Tree Gully—No. 10—Moveable Signs on Streets and Roads.

District Council By-Law—
- Streaky Bay—No. 1—Permits and Penalties.

JOINT COMMITTEE ON LIVING RESOURCES

The Hon. CAROLINE SCHAEFER: I bring up the interim report of the Joint Committee on Living Resources.

COURTS ADMINISTRATION AUTHORITY

The Hon. K.T. GRIFFIN (Attorney-General): I seek leave to make a ministerial statement on the subject of the first annual report of the Courts Administration Authority 1993-94.

Leave granted.

The Hon. K.T. GRIFFIN: I have today tabled the first annual report of the State Courts Administration Council. As members are aware, the Courts Administration Act came into force on 1 July 1993. The Act established the Courts Administration Authority comprising a Judicial Council, the State Courts Administration Council, a State Courts Administrator and other staff of the council.

Under the Act the council is required to provide a report to me, as Attorney-General, dealing with:

(a) the administration of justice in participating courts during the previous financial year; and

(b) any changes to the law and procedures of the participating courts that may be necessary or desirable to improve the administration of justice in participating courts.

As members will see from reading the report, the Chief Justice advises Parliament that, at the end of the financial year 1993-94, the Courts Administration Authority was in a healthy condition, not only financially but also administratively. At the end of the financial year the authority was in the fortunate position (by comparison with other Government departments, agencies and authorities) of having a surplus in excess of $3 million in reserves. Large backlogs of cases have been virtually eliminated across all jurisdictions in all courts. Modern court administration practices, the dedication of the staff and industry of judiciary have ensured an excellent service to the public of South Australia.

The Chief Justice in his report refers to this financial year's budget allocation and the impact which he predicts this allocation will have on the efficiency of the administration of justice. I need to comment on a number of the Chief Justice's statements from a Government perspective.

It is true that the council proposed an extra $5.2 million on recurrent expenditure and sought a capital budget of $14.323 million. My understanding is that the Courts Administration Authority argues that its 1993-94 budget was a Government provision in which the Courts Administration Authority had had no say and that, as a result, it did not adequately reflect the needs of the authority and did not take into account the costs of functions conferred on it by Parliament.

It is, of course, a matter for the council to determine if it wishes to press the Government for additional resources. However, the Government has a responsibility in the current economic climate to restore the health of the State's finances and to reverse the uncontrolled growth in debt in recent years. For the Chief Justice to argue that not being given what is sought in additional, previously unbudgeted claims should somehow be considered 'a cut' is not a fair portrayal of the situation.

The Courts Administration Authority's recurrent expenditure budget for 1993-94 was $45.778 million. However, recurrent expenditure was $43.579 million for that year, representing a saving on budget of $2.198 million. In fact, due to additional appropriations during the year which also resulted in under-expenditure, the authority's balance in its deposit account increased from an opening balance of $1.697 million to $3.139 million at 30 June 1994.

The Government's savings task for the authority, as part of the overall debt reduction strategy, was for the authority to save $1.1 million in 1994-95. Furthermore, as significant savings had arisen, largely as a result of a downturn in activity in the District Court, the Government decided that it was appropriate to reduce by four the number of District Court judges, resulting in a further net reduction in the authority's budget of $643 000. The following table sets out the major components of the variation between the authority's

request and the Government's approved recurrent expenditure budget.

1. Government imposed savings, $1.744 million.
2. Outsourcing court reporting, $465 000
3. New initiatives not funded, $2.42 million
4. No policy change and accounting change variations (balance) $634 000.

That makes a total of $5.263 million. So, in total, the Government-imposed savings amounted only to $1.744 million of that $5.2 million so-called shortfall referred to by the Chief Justice. The balance of that amount is made up of new initiatives funding of $2.42 million which was sought, measures taken by the authority to enhance reserves for future years totalling $465 000, and a variety of accounting changes totalling $634 000. So, in fact, the required savings task of $1.744 million was less than actual savings on budget in the previous year, and the authority's reserve, as a result of measures taken by the authority, in fact was budgeted to increase this year above its opening balance of $3.139 million. Clearly this leaves the authority in a very healthy recurrent funding position.

The Chief Justice has referred to a cumulative savings task of $11.198 million for the authority over three years. This must be put in context. To arrive at this figure, the authority has estimated each year's inflation and wage increase provisions and added these to reductions made for having four less judges to support, and finally adding the Government's debt reduction savings requirement. It is true that in the third year I would hope that the authority would be operating on a recurrent expenditure budget of $2.794 million less than the 1993-94 budget and that they will have absorbed inflation during that period. Clearly, the cumulative savings over three years must be significant if our debt reduction strategy is to be achieved. However, with the prudent budget management already demonstrated by the authority in providing reserves to meet future years' budget tasks and the Government's desire to match the level of resources with the workload of the courts, it is my view that the authority is very well positioned to continue to provide an excellent level of service to the community.

As for the capital works program, the authority submitted its proposals in a priority format. The No. 1 priority was the building of the new Adelaide Magistrates Court. The Government accepted the authority's advice and allocated $1 million for the initial stages of development. Whilst the Government did not specifically allocate funds for the upgrading of cells as mentioned in the Chief Justice's report, sufficient funding for minor works, $500 000 million, is available to the authority to enable this upgrade to occur. Further discussion with the council has resulted in its agreement to fund the upgrade either from the Courts Administration Authority's substantial reserves or through a reprioritising of the minor works program.

I now turn to the Environment, Resources and Development Court and the issue of voluntary separation packages for four judges of the District Court as both are, in some way, interconnected. Initially, it was anticipated that the new participating court would require separate accommodation, as the Sir Samuel Way building was fully occupied. The Courts Administration Authority submitted a budget requesting $1.379 million for 1994-95 of which $878 000 was accommodation and associated costs. The acceptance of voluntary separation packages by four judges of the District Court resolved the accommodation situation and saved the Government a significant financial outlay. The Government is currently re-examining the remaining resource issues with a view to resolving them quickly.

Much has been said regarding voluntary separation packages for judges, so I will not reiterate all the issues, except to say that the overall decline in civil and criminal matters coming before the court has been significant. The authority itself indicated that $457 000 of the authority's savings plan was attributable to reductions in workload in the District Court. The Government's decision to offer voluntary judicial separation packages has been justified by the Chief Justice's comments in the annual report, indicating the virtual elimination of delays in all courts across all jurisdictions.

The next matter I would wish to clarify is in relation to funding for the purpose of extending video facilities for vulnerable witnesses to give evidence in a room separate from the courtroom. In 1993, the sum of $84 000 was outlaid on the provision of closed-circuit television facilities for one criminal courtroom in the Sir Samuel Way building. One-way mirror screens have been provided for other courts in the building, as well as for metropolitan and country court locations. The authority requested $278 316 to expand this scheme. However, statistics provided by the authority for the Estimates hearings showed that until June 1994 the closed circuit television facilities have been used only once whilst the one-way mirror screens have been used on nine occasions. Given the expense and lack of usage, the Government did not agree to expand the project at this time. The Vulnerable Witnesses Committee is currently reviewing the system and will keep me informed of future usage and directions.

I would now like to refer briefly to the issue of the Supreme Court Library. A 1993 review of library services recommended the amalgamation of the District and Supreme Court Libraries. This amalgamation would have provided the additional staffing sought through rationalisation of service and improved efficiencies. The report had the support of the previous Government and the executive of the Courts Administration Authority. The judiciary chose not to accept the professional advice of the review committee, which consisted of experts in the library field and its own executive. I did not agree to provide extra resources when the issue could have been resolved by implementing the recommendations outlined in the report.

FILM COLLECTION

The Hon. DIANA LAIDLAW (Minister for Transport): I seek leave to make a ministerial statement.

Leave granted.

The Hon. DIANA LAIDLAW: I advise the Council of decisions the Government has taken with regard to the future of the 16mm film collection following the closure of the South Australian Film and Video Centre as of 21 July 1994. Members may recall that at that time the centre was responsible for 28 318 items comprising 7 537 in video format and 20 781 in film format. The film format in turn comprised 13 040 film titles and 7 741 prints or copies.

In terms of borrowings, videos (26.6 per cent of the collection) accounted for 70 per cent of the centre's business. Borrowings of films have declined rapidly in recent years from 45 per cent of the total collection as at June 1992 to 29 per cent two years later.

A survey undertaken by the Australian Film and Video Libraries in June 1993 revealed that the centre had the second highest staff level (17), the second lowest number of registered borrowers (2 285) and the third largest collection.

This year the Audit Commission recommended that the collection be sold—a recommendation the Government did not endorse. Instead we opted for a middle course between keeping a Rolls Royce service and selling the collection. Immediately the 7 537 VHS videos were transferred to the Public Libraries Automated Information Network (PLAIN) based at Hindmarsh—a branch of the State Library of South Australia. This move provided continuity for borrowers.

I am pleased to advise that this initiative has been running extremely well, utilising the free public library network throughout the State, comprising 138 outlets. Now South Australians have access to a better video lending service—a cheaper, more convenient service for both borrowers and taxpayers. In respect of film, on 29 July I confirmed that all existing bookings would be honoured through the South Australian Film Corporation until the end of the education year, with 22 December 1994 nominated as the last day for return of borrowed films. This decision ensured that there was no disruption in service to students, teachers or their planned studies—an important consideration because, of the 138 members who had made advance bookings, 71 were schools with 782 bookings.

In the meantime, I authorised that an audit be made of the film collection and that a consultative group be established to assess the audit and to recommend future options. This group comprised Graham Hearne, the South Australian Film and Video Education Officer; Jen McCarthy, former Director of the Media Resource Centre; Gus Howard, independent film producer; and, Noel Purdon, Head of Screen Studies, Flinders University. With respect to the Government's wish to establish for the first time a collection of South Australian films to be based at the Mortlock Library, the consultative group has identified 429 film titles as appropriate for this purpose. The titles include:

1. Early films by now well-known South Australian directors;

2. The work of directors who played a part in the development of the South Australian film industry;

3. South Australian films that have contributed to the 'renaissance' of the Australian film industry, including the work of the South Australian Film Corporation and its connection with Government information and training films;

4. Commercial and industry work by independent South Australian producers and directors; and,

5. Work, best described as social documentation, that depicts everyday South Australian life.

Also, the consultative group proposed that a core collection comprising approximately 5 000 film titles identified by the group to which I have just referred be located at PLAIN. I have endorsed this recommendation. This core collection will be available for borrowing free of charge by the South Australian public through PLAIN and the public library network from 2 January 1995. It will include 367 titles that have also been selected for inclusion in the South Australian collection. The material identified for the core collection represents, first, the most used titles borrowed by primary, secondary and tertiary educational institutions over the past two years and all the titles incorporated into the curriculum. Secondly, it includes titles deemed to be essential because they are seen to represent the cultural and community values of the original collection with emphasis on uniqueness, intrinsic quality and relevance to South Australia. Thirdly, it represents classic international cinema titles generally sought by film study groups.

Overall, the core titles represent film in its many forms—as record, document, communication, instruction, artform and entertainment. The so-called non-core collection, around 7 500 titles, will be stored at the State Records Centre at Netley. This will not be catalogued, entered into the PLAIN software system or generally publicised as available for public borrowing. However, these titles will be available on specific request. When a request is received, PLAIN will contact State Records and the film will be couriered to PLAIN for dispatch to the borrower. The turnaround will be only two or three days.

Members interjecting:

The Hon. DIANA LAIDLAW: Films that have not been borrowed for two to three years. They are part of the non-core collection. As I have indicated, they will be available on request. Borrowers of non-core titles will have to pay a fee based on the fee that State Records charges for access to stored documents. Currently that is $6.50 per item. The non-core collection will be stored for 12 months—

The Hon. Carolyn Pickles interjecting:

The Hon. DIANA LAIDLAW: They pay a membership fee of $60 per year. That was the fee charged by your Government. They no longer have to pay that; the films are free through the public library system unless they are in the non-core collection. The non-core collection will be stored for 12 months initially, while the approval of distributors will be sought to give effect to the change and the distribution outlet for the films. The Department for the Arts and Cultural Development will fund the establishment and the operations of the new arrangements for film. Together with the video arrangements through PLAIN, this amounts to some $360 000. I am pleased to advise that as a result of discussions between the Department of Education and Children's Services and the Department for the Arts and Cultural Development, a cooperative approach has been developed under which DECS is to contribute two experienced cataloguers to work on the film project at PLAIN as of next Monday. I particularly thank the Minister for Education and Children's Services for his assistance in that regard.

In 1993-94, borrowings by the education sector—government and independent schools, TAFE, institutes and universities—equalled 64 per cent of total film borrowings and just over half were from government schools. Thus, next year I intend to seek a contribution from this sector for the future of the film collection. The arts budget has borne and will continue to bear the full cost of maintaining the VHS video service based at PLAIN. All the new arrangements for film and video will save taxpayers up to $500 000 per year while maintaining the integrity of this service and improving accessibility for all borrowers.

I record my thanks to all who have assisted in determining the new arrangements. I have already thanked the Minister for Education and Children's Services and members of his department, representatives of the State Library and the public library system, the Chief Executive Officer of the Department for the Arts and Cultural Development and the four members of the audit consulting committee—members who have a keen interest in the future of film in this State—and the representatives of the South Australian Film Corporation, particularly the General Manager, Ms Judith McCann and Mr Sam Harvey, who was responsible for the audit.

DEATH AND DYING

The Hon. DIANA LAIDLAW (Minister for Transport): I seek leave to table a ministerial statement made by the Minister for Health in relation to a report to Parliament on the care of the dying in South Australia.

Leave granted.

LOCAL GOVERNMENT REFORM

The Hon. DIANA LAIDLAW (Minister for Transport): I seek leave to table a ministerial statement made by the Minister for Housing, Urban Development and Local Government Relations in relation to the ministerial advisory group on local government reform.

Leave granted.

ELECTRICITY TRUST CHAIR

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I seek leave to table a ministerial statement by the Minister for Industry, Manufacturing, Small Business and Regional Development in the other place on the subject of the appointment of the ETSA Chair.

Leave granted.

NEIGHBOURHOOD WATCH

The Hon. K.T. GRIFFIN (Attorney-General): I seek leave to table a ministerial statement made by the Minister for Emergency Services in another place in relation to Neighbourhood Watch and bikie gangs.

Leave granted.

QUESTION TIME

PRESCHOOL CUTS

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services a question about preschool cuts.

Leave granted.

The Hon. CAROLYN PICKLES: On 26 October, in reply to a question that I asked, the Minister tried to brush aside his decision to cut the jobs of 30 early childhood worker positions and reduce staffing allocations in 92 preschools across the State—tough measures on the children to save the paltry sum of $400 000. The Minister said:

> . . . there will be and continue to be strong support for the Government's programs in early childhood and preschool services generally.

That was the statement of a Minister out of touch after just 12 months in the job. Parents do not support the Minister's view that the lowest common denominator is good enough. Across the State parents were outraged and arranged submissions and deputations asking the Minister to reverse these cuts. We know that members of the Minister's own Party have counselled against his decision. Liberal backbenchers in marginal seats know that cutting expenditure on education to fund economic programs will cost them their seats. The Minister then had second thoughts and approved special assistance to two preschools, Blackwood and Torrens Valley, but has continued to ignore the needs of others. My questions to the Minister are:

1. What action did the Minister take to identify the savings target of $400 000 in areas of the Children's Services Department that would not affect the delivery of services to children?

2. Following his decision to accept the special needs of two preschools, will the Minister now reverse all budget basement staffing reductions and direct his department to make savings in other areas?

The Hon. R.I. LUCAS: The answer is 'No'. South Australia has had and will continue to have from next year onwards the very best preschool services in the nation. In South Australia, even after the changes, we will have in our preschools one staff person for every 10 or 11 children. In some other States of Australia we have one staff person for every 15 children, so the nonsense that the Hon. Carolyn Pickles and other members of the Labor Party have been spouting, that in some way preschool services will be irretrievably damaged by the changes to preschool education, modest and moderate as they are, is clearly shown to be out of touch. One to 10 or one to 11, when compared with a figure in other States of one to 15, is a clear indication of our preschool services, even if you judge them, as the Labor Party would want to do, only on the basis of student teacher ratios. We, of course, look at much more than that; we look at the quality of programs that are to be offered in our preschools. But if you want to judge only on the basis of student teacher ratios, we are one to 10 or 11 compared with other States where the figure is one to 15.

The Hon. Barbara Wiese interjecting:

The Hon. R.I. LUCAS: Every one is a Liberal Government at the moment, with the exception of Queensland, so that is not much of a response from the Hon. Barbara Wiese, and it is a fair indication that the people of Australia have supported Liberal Governments because they have seen the need for reform and have seen the fact that Labor Governments continue to spend, spend, spend, so that they were spending more than $300 million a year more than we were earning. That is the simple fact of life, and that was the result of the policies being implemented by members opposite and by the Cabinet of which the honourable member was a Minister. They continued to spend and overspend to a degree that the State could no longer afford.

That is why the Labor Party was thrown out of office and that is why it has been thrown out of office in every other State. It is not much of a comparison to talk about States. The simple facts are that the people there have looked at what the Labor Party can offer and have said, 'Thank you, but no thanks. We do not want Labor Governments in this State and in other States continuing.' They have decided that we need a little bit of fiscal responsibility, and they are prepared to work with a Government that is prepared to look at the difficult decisions of the State. They are prepared to work with Governments which will take those difficult decisions but nevertheless with a sensitive heart to ensure that we maintain the quality of the services that we are offering both in schools and in preschools.

Without a doubt we will continue to have the very best preschool services in the nation. It is not just on student teacher ratios: it is in relation to the whole early year strategy. It is in relation to services on speech pathology, assessment services, early intervention programs, training and development that the Government will be providing to teachers, and assistance in trying to identify those young children with learning difficulties who need assistance and who sadly were being ignored by the Labor Governments of the past 10 or 20

years. They are the children who will get the assistance from this Government. They will no longer continue to have their needs ignored as they were for the past 10 or 20 years.

I do not have any problems at all in defending the decisions that I, as Minister, have taken in relation to preschool services. What I have said to the shadow Minister I have said to a good number of parent and teacher deputations, and I will continue to say so. The changes will not be reversed. They are important changes to put priorities where priorities have to be put, and at the same time ensure not only excellence of service but also that we can run a balanced budget in South Australia.

The Hon. Carolyn Pickles interjecting:

The PRESIDENT: Order!

PROSTITUTION

The Hon. R.R. ROBERTS: I seek leave to make a brief explanation before asking the Attorney-General a question about prostitution and prostitution law.

Leave granted.

The Hon. R.R. ROBERTS: In this place yesterday the Hon. Angus Redford raised a matter in respect of the subject that I am now addressing. In his contribution he talked about people being harassed at a city square business premises run by a particular citizen of South Australia whose name I do not need to mention. The member used language about harassment on those premises. I have had questions asked of me by a number of constituents throughout South Australia, and there seems to be a great deal of confusion in South Australia about the laws in respect of prostitution. It is a widely held view that prostitution *per se* in South Australia is illegal. It has been put to me that prostitution between consenting adults in private without causing offence is not illegal in South Australia. What is illegal are activities involving the running of brothels, living off the earnings of prostitutes and being on the premises where those things are taking place. That is an issue about which I intend to ask a question.

The issue that has been disconcerting to constituents who have spoken to me concerns the inability of the police to enforce the present laws in respect of these matters and the calls from the Police Commissioner from time to time for relief so that his officers can enforce the laws in South Australia. During the Grand Prix and at other times we read in the paper about how the police are cracking down on prostitution and harassing people running brothels.

The other consideration that has been raised on a number of occasions with me concerns why there seems to be a law for one part of the operation, that is, the people in these premises providing prostitution services, and no corresponding law in respect of clients. My questions to the Attorney-General (as the principal person in charge of the laws of this State) are:

1. In respect of the first matter raised yesterday, was prostitution taking place at the city square business premises owned by the said person, and as a result of those investigations by the police were any charges proven?

2. Is prostitution between consenting adults in private without causing offence illegal in the State of South Australia?

3. Will the Attorney-General be introducing legislation to allow the often called for reforms by, in particular, Police Commissioner Hunt so that the police can enforce the present laws in South Australia?

4. Has the Attorney-General considered introducing amendments to those laws in respect of being on premises so that all parties to the offences in these places, including the clients, are treated equally in the eyes of the law in South Australia?

The Hon. K.T. GRIFFIN: The answer to the first question is that I do not know, but I will refer that to my colleague, the Minister for Emergency Services, and if he has information which is appropriate to bring back in the form of a reply I will do so. In respect of the law relating to prostitution, a very good discussion paper was presented about three or four years ago by Mr Matthew Goode, who was then and is still a legal officer within the Attorney-General's office in relation to the current law. I will examine the detail of the question so that I cannot at some subsequent stage be misquoted and bring back a definitive response in respect of that matter.

In respect of the third question, I will give consideration to that. In relation to the fourth question, as Attorney-General I have not given consideration to that matter. Members will know that I have expressed the view that I think that at the present time the law falls unequally upon citizens and that that certainly is a matter that needs to be examined. However, I do not think it is appropriate as Attorney-General to take that matter further. What my private views are in respect of the matter will not impinge upon the advice I give in respect of the law.

ALGAL BLOOM

The Hon. T.G. ROBERTS: I seek leave to make an explanation before asking the Minister for Transport, representing the Minister for the Environment and Natural Resources, a question on algal blooms.

Leave granted.

The Hon. T.G. ROBERTS: In 1993 the New South Wales Local Government Association put out an educative pamphlet declaring war on blue green algae and improving water quality. The timing of the problems associated with blue green algae blooms is around about now. November, December, and the end of January are the worst periods, and we are having a long, prolonged drought in the inland waterways which I think will exacerbate the problems associated with nutrient build-up. It is time that we as a Government and Opposition looked in a bipartisan way at perhaps presenting a document similar to that which has been presented in New South Wales through the Local Government Association to educate the community on how to keep the nutrient loads down on our inland waterways, Murray River system, and Lakes Alexandria and Albert. The objectives of the New South Wales proposal were to try to educate people in ways in which they could, at a personal level, eliminate personal bad practices in their daily lives in relation to buying certain brands of soap powders and overloading with nutrients the sewerage treatment plants along the Murray River system.

The pamphlet is promotional and encourages people to buy low phosphorus content washing powders, and it indicates other ways in which they can keep down the domestic load of phosphorus. My questions are:

1. Is the Government prepared for a major outbreak of algal blooms in the River Murray system including Lake Alexandrina and Lake Albert?

2. Will the Minister prepare an information and media campaign to assist householders to recognise and buy reduced

or zero phosphorous brands of detergents in order to reduce the nutrient load on our inland and coastal sewage treatment plants?

The Hon. DIANA LAIDLAW: I understand that the Minister and his department have been doing a great deal of work in this area, having been alerted by near crises in the past few years. I will refer the questions to the Minister and bring back a reply. On a personal level, I am keen to see a copy of the literature from New South Wales which the honourable member possesses, and I will inquire whether the Minister has seen that literature. If he has not, I will forward it to him.

MODBURY HOSPITAL

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Minister representing the Minister for Health a question about staff numbers at Modbury Hospital.

Leave granted.

The Hon. SANDRA KANCK: Earlier this afternoon I received a copy of a media release put out by the Australian Nursing Federation about possible staff cuts at Modbury Hospital. Enclosed with that media release was a copy of correspondence from the CEO of Modbury Hospital, Mr Andrew Davis, to the Nursing Federation. Mr Davis enclosed a list of almost 300 job positions held at Modbury Hospital, and he indicated in his letter to the Nursing Federation that he is seeking approval to use targeted separation packages to get rid of that number of people.

This list, headed 'Surplus numbers', itemises almost 114 nurses, 11 from the radiology department, one from dietetics, five doctors, three physiotherapists, six from pharmacy and plenty of others from other areas such as catering, clerical, cleaning and so on. My questions are:

1. As this list is headed 'Surplus numbers', what are these numbers surplus to?

2. Will the Minister approve this loss of expertise from Modbury Hospital, and is this being done at the behest of the proposed private operators of the hospital?

3. Does the Minister consider that Modbury Hospital will be able adequately to service the needs of the people of the north-eastern suburbs of Adelaide with these sorts of staff reductions?

4. What staff numbers do the proposed private operators of the hospital propose, and will they re-employ any of these up to 300 staff who will be offered a targeted separation package?

The Hon. DIANA LAIDLAW: I will refer the honourable member's questions to the Minister and bring back a reply.

SUMMERS, MR TONY

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Attorney-General a question about Mr Tony Summers.

Leave granted.

The Hon. L.H. DAVIS: In 1989, Bennett and Fisher, an Adelaide based company listed on the Stock Exchange, purchased a building at 31 Gilbert Place, Adelaide, owned by the wife of the then Managing Director of Bennett and Fisher, Mr Tony Summers, for $4.5 million. In 1983, Mrs Summers had paid only $190 000 for this building, which was adjacent to Bennett and Fisher's head office in Currie Street. This $4.5 million sale was eventually ratified in controversial circumstances at the 1990 annual general meeting of Bennett and Fisher, due largely to the support of SGIC, which was then a major shareholder of the company.

Other major institutional holders in the company, including the AMP, the GIO and the NRMA, vigorously and publicly opposed the sale. There have been strong suggestions that when Mrs Summers purchased the building in 1983, the then board of Bennett and Fisher was not advised of that fact. There have also been suggestions that when Bennett and Fisher purchased the building in 1989 the directors were initially unaware of the transaction. There is also a very strong belief that Bennett and Fisher did not obtain an independent valuation of the property from an accredited property valuer at the time of this purchase.

Mr Summers was sacked as Managing Director of Bennett and Fisher in May 1992, and under new management and a new board Bennett and Fisher claimed $13.8 million in damages in a civil case against Mr Tony Summers which was heard in the Federal Court earlier this year. The court was told by Bennett and Fisher that Mr Summers had failed to disclose to the board of the company that his wife was the vendor of the building purchased for $4.5 million in 1989.

It was also claimed that Bennett and Fisher paid $2.2 million to Strategic Business Services, a Summers company, which was spent on items unrelated to company activities such as overseas travel for the Summers family, a nanny and expenses related to his North Adelaide house. There is also a sworn affidavit which claims that Mr Summers had instructed that documents relating to 200 000 Elders IXL shares held in his family company be backdated following the share market crash in October 1987. These shares were transferred to Bennett and Fisher for $550 000 when their true value was in fact only $370 000, resulting in a loss of $180 000 to Bennett and Fisher.

There were many other serious allegations in this 82 page statement of claim. It has also been alleged that Mr Summers, who apparently now lives in London, has been undertaking theological studies. It is claimed that Mr Summers billed Bennett and Fisher, then a pastoral company and owner of the clothing company R.M. Williams, $1 200 for religious books. That surely gives a new twist to the meaning of 'sermon on the mount'!

This case was eventually settled out of court at a cost of some millions of dollars to Mr Tony Summers. However, to date, no charges appear to have been laid against Mr Summers with respect to the allegations contained in the statement of claim. As the Attorney-General will be aware, with respect to the Australian Securities Commission, charges must be laid within a five year period, and a number of matters with respect to the statement of claim are verging on or may have crossed this threshold. My question is: is the Attorney-General aware of any investigation under Federal or State law into Mr Summers' activities as Managing Director of Bennett and Fisher; and, if so, could he advise the Council of the current status of this investigation?

The Hon. K.T. GRIFFIN: The honourable member has raised this issue on previous occasions. I have not become familiar with any action that might be taken at the State level, or for that matter at the Federal level through the Australian Securities Commission. All I can do is refer the matter to both the State and Federal authorities for a report. It may, of course, not be appropriate to bring back information about

investigations, but if it is and if such information exists I will bring back a reply.

In respect of the five year period, my recollection is that there is power under the Corporations Law as there was under the National Companies and Securities Scheme for the extension of the five year period within which proceedings may be issued, and that, if there is a matter of such significance that it would warrant an extension of time (if it was already out of time), I imagine that that extension would be granted.

Of course, if the extension relates to breaches of the Corporations Law or the old National Companies and Securities Scheme, it would be considered by the Federal Attorney-General and no longer by the State Attorney-General. Of course, if State matters are directly involved that will become a matter for the DPP and the police. However, I will have some inquiries made and, if it is possible to bring back a reply, I will do so.

WAGE LEVELS

The Hon. T. CROTHERS: I seek leave to make a briefer than normal statement before asking the Attorney-General, representing the Minister for Industrial Affairs, a question about wage levels in South Australia.

Leave granted.

The Hon. T. CROTHERS: I refer to an article on page 4 of the *Advertiser* of Wednesday 30 November 1994 headed 'Income levels fall behind other States'. Signed by Charles Miranda, the article states in its opening sentence:

> People in South Australia and Queensland have Australia's lowest incomes while sole parents are the most disadvantaged, according to a new income snapshot.
>
> The National Centre for Social and Economic Modelling report released yesterday shows—

amongst other things—

> Australians earned and average income of $585 a week.

Further, the article states:

> Incomes varied greatly between States, with the older populations in Queensland and South Australia earning the lowest income of $555 a week. Tasmanians earned only a few dollars more, while people from New South Wales and Victoria earned an average of $590 a week.

The article also reveals that Western Australians had the highest average income per week of all Australians, running into $605 per week. In other words, according to the statistics, South Australia is at the bottom of the heap when it comes to weekly wages. Yet, in spite of these undeniable statistics, we still get commentators quite regularly—indeed, even some Ministers of the Crown—complaining that South Australian workers earn far too much to make us cost competitive in the export of our goods and services to markets in the major eastern parts of Australia. Indeed, accusations were even made that South Australian unions have acted irresponsibly relative to wages being far too high in this State.

I put it to this Council that the wages statistics I have just given belie all that claptrap and spiteful innuendo. Some businessmen have told me that all this kind of erroneous statement does is to frighten off investment in this State to the point that prospective investors will not even bother to conduct the necessary research into any future involvement they might have envisaged having in the South Australian economy. As the Minister for Industrial Affairs is the person best positioned to correct this situation, I direct the following questions to him:

1. Does he accept the veracity of the NATSEM report whence these statistics were drawn?

2. Is he prepared to release a press statement spelling out information as to what wages South Australians on average really do truthfully earn, thus belling the cat of those stupid rumour mongers who, either by accident or design, get it all wrong, and in so doing put future investment in South Australia and the creation of new jobs as well in some considerable jeopardy? A statement from him could very well alter that situation.

3. Is he prepared to take some form of punitive action against people who deliberately set out, for reasons best known to themselves, to deliberately harm the economy of this State and its citizens by the use of false statistics to support their statements? If he is not prepared to do that, why is he not prepared to do that?

The PRESIDENT: Order! Before the Attorney-General answers, I point out that that question was punctuated with a lot of opinion. I am not sure that the questions, which are statement, are terribly relevant.

The Hon. K.T. GRIFFIN: I welcome your intervention in relation to that, Mr President, but notwithstanding, with respect, the matters that you have raised, I will have the questions examined by the Minister in another place and bring back a reply.

ROAD MAINTENANCE

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

Leave granted.

The Hon. CAROLINE SCHAEFER: I am aware that some $15 million a year is spent on resurfacing roads and that this is done by competitive contracts. However, as the Minister well knows, our road system is in a parlous state and urgently needs more work. Considerable savings in other States are being generated by competitive tendering for road maintenance. Has the Minister considered this scheme for South Australia? If so, how advanced are her plans? What cost savings are envisaged if competitive tendering for road maintenance is introduced to South Australia?

The Hon. DIANA LAIDLAW: I have considered the arrangements. I have done so with the department, unions and the private sector. In addition to the $15 million spent annually by the department on resurfacing roads, which the honourable member indicated is already competitively tendered, the department spends a further $36.4 million on the general maintenance of roads and bridges. In other States, particularly New South Wales and Victoria, practice in competitive tendering has confirmed that as much as 20 per cent can be saved each year. Given the $36.4 million we are spending in South Australia, that would suggest we could save some $7.28 million, which could either be put back into general revenue to help pay off the debt, or better still it could be ploughed back into the maintenance and construction of roads. There would be general rejoicing about that throughout the community.

I just overheard a remark of the Hon. Mr Elliott. I know he does not like some roads. He does want other things; the Berri bridge is one that we could probably build if we had some more money that we could—

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: Well, you still have to pay for it in the meantime; it won't pay for itself until you've found the money up front to build it. Certainly, saving 20 per cent—

The Hon. M.J. Elliott: It'll pay for itself.

The Hon. DIANA LAIDLAW: Yes, it'll pay for itself over 50 years.

Members interjecting:

The Hon. DIANA LAIDLAW: No, that is not right. That is what the South Australian Centre for Economic Studies has identified. We could do many things if we could save some money in the general budget by doing the same sort of work but more cost effectively, and that would be through competitive tendering. As I indicated, I have met with the unions. The AWU finally requested to meet with me some months ago in September. At that meeting I agreed that they we would welcome a close working relationship between that union and the Department of Transport to ensure that the department was ready for competitive tendering in this maintenance area. That is important, because in South Australia we do not have a road maintenance industry. So, the private sector accepts that we must build up a private sector road maintenance industry, and it is quite happy about the department continuing work in this area as long as it is on the basis where everything is equal.

The Hon. Caroline Schaefer: Local governments would love the chance.

The Hon. DIANA LAIDLAW: And local governments, as the honourable member indicated, would like a chance to compete as well, and they will have that opportunity. The department is hosting a seminar on this subject in mid December, and there will be people from local government and from the private sector here and interstate attending, in addition to representatives of the department and various unions. It is an important initiative in the department to save such money and my goal would be that it goes back into road funding.

AQUACULTURE

The Hon. G. WEATHERILL: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Primary Industries, a question about aquaculture.

Leave granted.

The Hon. G. WEATHERILL: I refer to the ongoing success in the field of aquaculture products and research, bearing in mind that South Australia is relatively new in this area when compared with other States like New South Wales, which has always had its oysters and so on, the Northern Territory, which deals in grand pearls, and Tasmania, which has always been a world leader in aquaculture. Will the Minister give the Parliament a report on the current research and development in aquaculture in South Australia, and advise by how much the State Government is funding these industries and what is the current value of exports from these products interstate and overseas?

The Hon. K.T. GRIFFIN: I will refer that question to the Minister for Primary Industries and bring back a reply.

LEGAL PRACTITIONERS COMPLAINTS COMMITTEE

The Hon. A.J. REDFORD: I seek leave to make a brief statement before asking the Attorney-General a question about the Legal Practitioners Complaints Committee.

Leave granted.

The Hon. A.J. REDFORD: Yesterday the Legal Practitioners Complaints Committee Annual Report was tabled in this place. In that report the Presiding Member, Greg Holland, reported that the proportion of complaints by consumers against legal practitioners, compared with the number of practitioners admitted to practice, had remained fairly constant. He pointed out that the professional conduct and ethics of the great majority of the profession in South Australia remained high.

Mr Holland, however, went on to say that professional standards were being threatened amongst other things by the fast growing size of the profession, fewer jobs being available to young practitioners, thereby forcing them into practice on their own account with inadequate support, the pressure to comply with courts administration case flow management regimes and decreased funding for postgraduate practical legal training.

In addition, he made a number of recommendations to the Law Society, including greater resources to the committee, better complaint resolution procedures on the part of law firms and the retention of the services of a psychiatrist or a psychologist to counsel and assist practitioners who experience difficulties. In so far as the question of increased resources is concerned, the report states that the Attorney has recently been approached for approval of an appropriation from the guarantee fund to enable the committee to acquire its own computer network and database.

The committee also made recommendations for legislative changes, including a requirement on the committee to report to the Attorney-General on whether an investigation has been undertaken by the committee where criminal allegations are made, a provision for the committee's legal status to sue to recover legal costs and to institute proceedings for taxation or review costs, committee recommendations being a ground for the Law Society adopting or appointing a manager/supervisor of a legal practice, and an exemption for the committee from various provisions of the Ombudsman's Act.

Finally, the committee stated that it continued to battle a public perception that was mirrored regrettably by the legal profession that it is, in effect, an arm of the society and, further, that the committee is attempting to take steps to dispel that perception. In the light of this report, my questions to the Attorney-General are as follows:

1. Does he agree that the threats outlined by Mr Holland are significantly as a result of decisions made by universities to substantially increase the law graduate intake over the past few years? Does he agree that the Courts Administration Authority ought to review its case flow management regime to ensure that legal practitioners can properly manage their practices without adversely affecting the interests of their clients? Does he agree that the recent decision by the Commonwealth to decrease funding for postgraduate practical legal training is not in the best interests of South Australian consumers of legal services?

2. Has he examined the lack of resources available to the committee and what steps are available to him to address those issues?

3. Is he aware of the legislative recommendations and, if so, what steps are being taken to implement them?

4. Finally, what does he propose to do in relation to the committee's statement that it has to battle a public perception that it is, in effect, an arm of the Law Society?

The Hon. K.T. GRIFFIN: There are a number of questions there and, if I do not answer all of them, I will ensure that an adequate reply is brought back. In terms of the last question about the committee, this year has seen a significant move away from the sharing of resources with the Law Society, which was permitted under the Legal Practitioners Act and which has been in place for a number of years since the Legal Practitioners Act was enacted when I was last Attorney-General. I think it was enacted in 1981. There certainly has been a reasonable relationship between the committee and the Law Society, but always the committee has acted independently and that has been focused upon this year in particular with some more resources being given to the committee, largely from the guarantee fund, to enable it to more effectively discharge its responsibilities.

I doubt that there is much that we need to do presently to reinforce that independence because by statute it is independent. The committee has been given some additional resources this calendar year to enable it to undertake its functions. There are from time to time suggestions about ways by which it can improve its processes and my understanding is that it takes those suggestions seriously and has made changes in the way in which it administers its affairs.

In relation to the Courts Administration Authority and case flow management, I am not sure that the assessment by the committee is correct; it may be, but it may also be a feature of the fact that there are so many younger practitioners in the profession who perhaps do not have the level of experience that some of their predecessors may have had at the same stage of their professional careers.The Law Society is endeavouring to overcome that and changes have been undertaken in relation to the graduate's certificate of legal practice which, until now, has been run by the University of South Australia, formally the Institute of Technology. It was reduced in scope at the beginning of this year and, because of that reduced level of training through the University of South Australia, the Law Society is now conducting a practical legal training course to bridge the gap between the GCLP course and the requirements for admission. The committee that oversees that practical legal training course is Justice Von Doussa of the Federal Court.

It is an issue that has caused some concern to the profession as well as to the Government and a committee meets periodically to review the operation of that training process. I have been told that the Federal Department of Education, Employment and Training has made clear that no further funds will be provided by the Federal Government for the practical legal training course. It was, to some extent, as a result of a reduction in funding that the University of South Australia decided to reduce the scope of its postgraduate training certificate.

The Hon. A.J. Redford interjecting:

The Hon. K.T. GRIFFIN: I think that is right. It is a matter of concern. The Chief Justice is involved, along with my representative, academics and the legal profession, in trying to ensure that the best possible training is in place for those who seek admission as legal practitioners. In terms of the universities increasing the number of graduates, I do not think I am in any position to make an informed comment about that. Certainly, the large number of graduates has caused a shortage of work. However, on the other hand, one has to say, 'Well, as a law course is a good grounding for many other vocations, and if young people and others wish to undertake training in that field, why should they not be given the opportunity to do it?' It is a difficult question to resolve and I do not think it is appropriate to canvass my personal views on the issue, which are for a much more flexible and open system than presently exists.

HEMP CULTIVATION

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for Health, a question about the Controlled Substances Act.

Leave granted.

The Hon. M.J. ELLIOTT: This question may also need to be referred to the Minister for Primary Industries and the Minister for Industry, Manufacturing, Small Business and Regional Development. I have received a copy of a submission that the Yorke Regional Development Board made to the Hon. Michael Armitage, Minister for Health, with copies sent to both the Hon. John Olsen and the Hon. Dale Baker. The submission sought permission to be able to undertake field trials of industrial hemp for fibre production. It also put forward a proposal for a certification process that is verifiable.

In the submission the board notes that the major impediment to proving the productive capacity of industrial hemp is its prohibition under the Controlled Substances Act. The submission goes on at some length talking about the merits of the crop. A great deal of background information is provided. However, most importantly, in relation to the question I want to ask, within the submission the board sets down a timetable for proposed trials, starting as early as January next year. The board wants to look at Government requirements for licensing, AQUIS requirements for seed importation, and any requirements or security arrangements that might be required by the South Australian Police Drug Task Force. By February it would set down the sourcing of seed varieties. It would identify a person within SARDI who could visit seed firms and producers in Europe to gather both information and seed supplies for the trials. It identifies March and April for selection of trial sites. Quite clearly, some time after that date, in the next couple of months, it foresees the first trial plantings.

This submission was dated 11 November, and I do not know what has happened since that time. However, clearly they have set themselves a relatively short time frame; in other words, they want to start by January doing some of the early work necessary for trial plantings next year. In the light of that relatively short time frame, I ask the Minister whether the Government is giving any consideration to changes in the Controlled Substances Act so that field trials can be undertaken this year, or is it likely that there will be a delay of at least a further year?

The Hon. DIANA LAIDLAW: I will refer the honourable member's question to the Minister and bring back a reply.

ENTERPRISE BARGAINING

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Minister for Education

and Children's Services a question about enterprise bargaining.

Leave granted.

The Hon. CAROLYN PICKLES: On 3 November, in response to a question asked during the Appropriation debate, the Minister indicated that he expected all employees to be informed of their rights in regard to enterprise bargaining within the next week or so. The Minister indicated that at least 14 days after advice to all employees the department would establish a single bargaining centre comprising management, union and employee representatives. My inquiries indicate that after almost four weeks staff have not yet been contacted and informed of their rights. My questions to the Minister are:

1. Can the Minister advise what is happening in relation to enterprise bargaining in his department?

2. Has the notification of staff been withheld as a result of the Government's $12 pay offer?

3. What is the timetable for negotiations to commence?

The Hon. R.I. LUCAS: As the honourable member has indicated, the Government has made what is tantamount, as I understand it, to an enterprise bargaining offer to all public sector employees, teachers included, in the past couple of weeks. I cannot remember the exact date of that particular offer. There are still continuing negotiations between the Government, its negotiators and union representatives. I would need to get a response for the honourable member in relation to how that is progressing, speak with the appropriate Minister—the Minister for Industrial Affairs—and the appropriate officers in the department, and bring back a reply.

WORKCOVER

In reply to **Hon. R.R. ROBERTS** (25 October).

The Hon. K.T. GRIFFIN: The Government Investigation Unit of the Attorney-General's Department was not involved in or consulted about investigations relating to the unauthorised release of draft legislation relating to WorkCover.

POULTRY MEAT

In reply to **Hon. M.J. ELLIOTT** (3 November).

The Hon. K.T. GRIFFIN:

1. The Minister is currently considering what action should be taken with respect to the review of chicken meat industry legislation. A white paper was released for comment and the responses are being considered. The impact of the Hilmer proposals on the legislation will also have to be assessed. The Minister has discussed the review of the legislation with the Poultry Meat Industry Committee and will hold further discussions with processors and growers before making a final decision on deregulation.

2. The Minister was not aware of any allegations of breaches to the Poultry Meat Industry Act apart from an anonymous letter alleging breaches to the contracts between one processor and contract growers. The matter has not been raised at the Poultry Meat Industry Committee which is established under the Act to, among other things, resolve disputes between processors and growers and to report to the Minister on industry matters.

As a result of the question the Minister has sought legal advice which indicates that the alleged breaches of contract would be unlikely to constitute a breach of the Act.

3. The Minister will refer the matter of the alleged breaches of contract to the Poultry Meat Industry Committee and ask the committee to consider the matter and attempt to get the parties to conciliate either using the arbitration clause in the contract or through the committee. However, the Minister points out that under the terms of the Act he has no power to conciliate disputes or enforce contracts and that, while the committee has powers to conciliate, it does not have power to take action on behalf of a grower whose contract has been breached.

O-BAHN

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Minister for Transport a question about the O-Bahn busway.

Leave granted.

The Hon. R.D. LAWSON: The Glenelg tram is one transport system that serves two purposes: use by the commuting public and as a tourist attraction. As a tourist attraction it has two natural advantages: it is well-known and publicised and its terminus in the City of Adelaide is prominent. The O-Bahn busway is also a unique attraction. It is an interesting system in itself and traverses a scenic route along the Torrens Valley. Many interstate visitors enjoy it. My questions to the Minister are:

1. Does the Minister agree that the O-Bahn busway is a tourist attraction?

2. If so, is she satisfied with its promotion as an attraction?

3. What steps can be taken to promote it?

The Hon. DIANA LAIDLAW: I agree with the honourable member that it is a tourist attraction. I also accept that it has never been promoted as such. I remember a number of years ago when the Tourist Bureau next to the Qantas building in King William Street was closed because of asbestos problems and I went with Keith Conlon to help people find the alternative services being provided. I was surprised that morning, within an hour and a half, to learn that there were five people from interstate and overseas whose reason for coming to the Tourist Bureau was that they wanted to travel on the O-Bahn bus system. Yet, they had come down King William Street, past Grenfell Street where they should have turned to get to the O-Bahn bus stop, and had arrived at the Tourist Bureau only to find that closed. However, at least I was there to point them in the right direction. But there was no signposting in King William Street at all, and nor is there any signposting at the actual stop to indicate that this is the unique O-Bahn system and that it does travel, as the honourable member said, through a fantastic linear valley to Tea Tree Gully.

We should be doing much more to publicise this system. I wrote some weeks ago to the Passenger Transport Board to see whether I could encourage the board, in cooperation with the Adelaide City Council, to prepare publications that could be distributed through the Tourist Centre, Parliament House and other places, including hotels. I have also spoken with TransAdelaide to get signs erected in King William Street. Possibly, we could look at the corner of King William Street and Grenfell Street, Gawler Place and North Terrace, as well as the bus stops themselves.

I am sure that we would then have people very keen to use the system for tourism purposes. More South Australians and people in Adelaide would be using the service, in addition to the people who have come from overseas in the past year to look at the system as a possible new initiative for their own cities. Work is being done on this matter, and I should have the designs for the signs and the brochures if not by Christmas, certainly in January. TransAdelaide, the Adelaide City Council and the Passenger Transport Board will welcome the honourable member's interest in this matter.

DOG AND CAT MANAGEMENT BILL

Second reading.

The Hon. DIANA LAIDLAW (Minister for Transport): I move:

That this Bill be now read a second time.

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

Leave granted.

The purpose of the *Dog and Cat Management Bill* is to implement the following changes:

A. A transfer of the full administrative responsibility for dog control from State Government to Local Government.

B. Amend existing regulatory provisions and include additional provisions relating to the management of dogs.

C. Include new provisions for the identification, control and regulation of cats.

A. Transfer of Administrative Responsibility

The amendments dealing with this issue are predominantly as contained in the Negotiated Agreement dated February 1994 between State and Local Government. Some additional provisions have, however, been incorporated to more specifically provide for the proper and efficient performance of various administrative functions.

1. The current *Dog Control Act 1979* (the "current Act") establishes a Dog Advisory Committee (the "Committee") whose principal function is to advise the Minister and Local Government in relation to administrative and policy issues relating to dog management in the State. This committee does not have body corporate status under the current Act and its powers are fairly limited.

A Dog and Cat Management Board (the "Board") will be established as a body corporate under this Bill. The Board will have greater powers than the existing Committee, including the power to perform the following functions:

- Contract and hold property in its own name
- Advise Local Government on a wide range of issues relating to dog and cat management, including the development of dog and cat management programs.
- Distribute funds collected on behalf of the Dog and Cat Management Fund for purposes associated with the administration of dog and cat management.
- Make recommendations on the setting of fees under the legislation.

The establishment of the Board as a body corporate is consistent with current practice to grant greater autonomy, power and responsibility on statutory organisations. The Board will be fully responsible for the proper exercise of that power and subject to the ultimate direction of the Minister.

The Board will submit an annual report to the Minister and to Local Government. This will be tabled in Parliament. The Board may also be required to present a budget and operational plan to the Minister.

The principal function of the Board will be, in essence, to assist and liaise with Local Government in the administration of dog and cat management and to achieve a high standard of quality and consistency in the management of dogs and cats in this State.

2. The Dog Control Statutory Fund has been renamed as the Dog and Cat Management Fund. An additional provision will be included in Regulations to require district councils to pay a percentage of dog registration fees to the Dog and Cat Management Fund. Currently, only metropolitan councils make payments to the Fund and district councils are exempted. However, the expanded function of the Board will result in country councils obtaining new and useful benefits from the Board in the form of advice and general assistance and it is considered appropriate that those councils make payments to the Fund. This was agreed in the Negotiated Agreement and the Board will determine the actual amount of the percentage of fees to be paid by councils.

3. The composition of the Board will be made up of six members of whom:

- five will be nominated by the Local Government Association; and
- one will be nominated by the Minister

It is therefore clear that the Board will have the representation to be able to successfully consider and act upon the requirements of Local Government, which is in keeping with the transfer of responsibility for the management of the new Act to Local Government. All nominations are to be appointed by the Governor.

B. Amend existing regulatory provisions

A large number of provisions have been amended following a very detailed examination and review of the current Act, incorporating submissions made by the Local Government Association and councils over a number of years.

The amendments include the following:

1. Definition of Effective Control

   The definition of effective control is expanded to provide that a dog will be deemed to be under effective control if the dog is:
   - effectively held or tethered by a chain, cord or leash not exceeding two metres in length;
   - contained in a vehicle or other structure, although untethered dogs will be permitted to be transported and kept in utility vehicles;
   - effectively controlled by the command of a person who is in close visible proximity to the dog.

2. Powers and responsibilities of authorised persons

   The following variations and additions have been made to the appointment, powers and responsibilities of authorised persons under the new Act:
   - Councils arrangements in relation to the appointment of dog management officers must be satisfactory to the Board. It is also intended that the Board will oversee the suitability of appointees.
   - The Board may issue guidelines and advise councils about appropriate training for dog management officers.
   - Councils or dog management officers may seek assistance from dog management officers from another council area in the enforcement of the provisions.
   - An additional power has been included to allow dog management officers to operate in areas outside their council area where it is necessary to investigate matters relating to the administration or enforcement of the Act in their own council area. This amendment simply acknowledges and authorises the practice of dog management officers crossing council boundaries in the administration and enforcement of the Act.

3. Use of pounds by councils

   Council arrangements for the detention of dogs under the Act must be satisfactory to the Board. The Board may set standards for the facilities used. It is envisaged that arrangements between councils and pounds may extend to the collection by the pound of expiation fees for dogs wandering at large, and detention and maintenance fees. It is also envisaged that in certain instances the pound may be engaged by the council as a registration agent for the council. This would greatly assist councils in the efficient administration of dog management and provide greater flexibility to councils and pounds in jointly managing dogs in a manner appropriate to the abilities and resources of particular councils.

4. Registration of dogs
   - Provision has been made for expiation notices to be repeatedly issued at fourteen day intervals if a person fails to register a dog.
   - The minimum age of registration has been lowered from six months to three months. It is expected that this will assist in decreasing the number of young, unidentified dogs impounded.
   - The owner of a dog registered interstate who brings that dog to South Australia must, on request, produce evidence of registration.
   - Breeding or training kennels and businesses using dogs to provide security or other services will not be required to individually register the dogs but will be required to pay the council a 'total' registration fee appropriate to the number of dogs kept or used. This will improve the efficiency and ease with which businesses and councils may implement the registration requirements under the Act.
   - Boarding kennels will not be required to register unregistered dogs held for boarding, but will be required to maintain records of dogs kept at the kennel and provide the records to the council.
   - Additional requirements have been included to require a dog's owner to give notice to the council in which the dog was registered if any of the following occur:
     (a) the dog is moved to different premises;

(b) the dog is transferred to another person; or

(c) the dog dies or is missing for 72 hours.

This notification will greatly assist councils in maintaining records of dogs in their areas and in administering registration requirements.

5. Collars and registration discs

The requirement to have the name and address of the owner of a dog attached to the collar of the dog has been deleted. This will be optional.

The current exemption found in the regulations that dogs need not wear a collar and disc in public if held on a slip chain collar will not be retained.

6. Seizure of dogs

The current provision dealing with the seizure and detention of dogs wandering at large has been expanded and amended as follows:

- Provision has been made for the seizure of dogs by a dog management officer if the dog has attacked any person or animal or is unduly dangerous or if it is necessary to do so to ensure that a destruction order is carried out. The current Act allows a dog to be seized if it is unduly dangerous but does not regulate procedures following seizure.
- There are more stringent requirements for the collection of dogs that have been seized to allow councils or pounds to seek proof of authorisation of a person collecting a dog.
- More detailed procedures have been specified for the detention of dogs and notification to and rights of owners of dogs which have been seized. These procedures are generally consistent with the current Act.
- Provision has been made to allow dog management officers to destroy severely sick or injured dogs in urgent circumstances where a veterinary surgeon or stock inspector is not available. This amendment is necessary in remote areas where it is not possible to follow the usual procedure of obtaining a certificate from a veterinary surgeon or stock inspector authorising the destruction of the dog.

7. Protection from dog attacks

An express power has been included to allow a person to destroy or injure a dog if that is reasonable and necessary for the protection of life or property. The existing provision does not operate this widely, although similar provisions to that proposed are contained in dog legislation in most other States. Currently, a person must notify the police if he or she destroys a dog. The Bill expands this requirement to require that the council in whose area the dog was destroyed and, where possible, the owner of the dog, are notified as well.

The right to destroy any dog found on an enclosed property where livestock are present has been expanded to provide that the reference to livestock includes all farmed animals. This is necessary as the provision in the current Act permits the destruction of a dog found, for example, on a sheep property, but does not permit destruction of a dog found on certain other types of farming properties, such as an emu farm.

Provisions in the current Act dealing with destruction of dogs in National Parks and the baiting of dogs have been maintained.

8. Dogs infested with parasites

The provision in the current Act dealing with the treatment and destruction of dogs infested with parasites has been deleted in the Bill because this is more suitably and comprehensively dealt with under the provisions of the *Prevention of Cruelty to Animals Act 1985*.

9. Muzzling of greyhounds

Greyhounds are only to be permitted to be unmuzzled whilst training, exercising or racing if they do so with the consent of the owner or occupier of the land.

10. Prescribed breeds

An additional requirement has been included to prohibit persons giving away a dog of a prescribed breed. The current provision only prohibits the advertising and sale of prescribed breeds and is considered to be too limited in its scope.

11. Dangerous dogs or dogs creating a nuisance—council orders

An entire new Division of the Bill empowers councils to issue orders relating to dogs which are dangerous or create a nuisance. An order may be made if the dog has attacked or harassed a person or an owned animal or has created a nuisance through noise. The order may comprise an order for destruction, an order to confine the dog, an order to muzzle the dog in public or an order to take steps to stop the dog barking.

Owners or persons responsible for the control of the dog must be given notice of the impending order and a chance to make submissions on the matter to the council.

The owner or person responsible for the control of the dog has a right of appeal to the Administrative Appeals Court against the issue by a council of an order or a refusal to revoke an order.

To provide councils flexibility to make the orders relevant to the particular circumstances in which the dog is kept, the Bill provides councils the ability to issue directions as to how the order may be complied with. The directions are not mandatory but if a person chooses to comply with the directions no prosecution for contravention of the order may be taken.

The purpose of this new provision is to enable councils to resolve complaints and disputes concerning dog behaviour at a local level without the need to take court action in all instances. It is expected that this system will provide for a less costly and more immediate handling of the majority of complaints. However councils will still have the option to prosecute owners of dogs or issue expiation notices if that is appropriate.

12. Court orders

The circumstances in which court orders may be made has been expanded, as has the range of orders that may be made. An appropriate order may be made in any criminal proceedings under the Bill, in any civil proceedings relating to injury or loss caused by a dog or on direct application by any person.

13. Expiation of offences

The provisions in the current Act dealing with the expiation of offences have been deleted in the Bill because these are adequately dealt with by the *Expiation of Offences Act 1987*. Expiation is provided for in all appropriate cases.

C. Cat identification and control

1. Purpose

The Bill provides legal status to owned cats which are identified. This is the minimum legislation which is likely to be effective. Without this, no other controls can be put in place. It will also provide protection for Councils who wish to control unidentified cats without threat of civil liability. Legal status and admission of ownership of cats will form an important connection between legislation and any feral cat control mechanisms developed. It is hoped that it will also decrease the overflow from the owned to the feral population. The review of the *Dog Control Act* has provided the ideal opportunity to link dog and cat legislation.

Some form of biological control is seen to be the most likely feral cat management tool to become available. It has been predicted that a suitable agent will be not be developed for at least ten years. If a biological agent is developed, responsible ownership and possibly vaccination, will be essential for the protection of owned cats. To change community attitudes to this extent is likely to take considerable time and be a gradual process. The link between feral cats, pet cats and their management will need to be monitored.

2. Education

The Dog and Cat Management Board will recommend educational and other initiatives to the Minister and the Local Government Association. The emphasis should be on responsible pet ownership.

3. Cat Provisions of the Dog and Cat Management Bill

The proposed Bill outlines cat management. This would require that all owned cats be identified by tag, collar or other means as outlined in the Regulations. It is proposed that the regulations will also recognise an "M" tattooed in the ear to indicate that the cat is microchipped.

Any cat in an area covered by the *National Parks and Wildlife Act* or the *Wilderness Act* may be destroyed by a person authorised by those Acts. Cats in designated private sanctuaries can be destroyed by the owners of the sanctuaries or their agents. Cats found in a place that is more than 1 kilometre from any place of residence may be destroyed.

Persons authorised under the *Veterinary Surgeon's Act*, the *Animal and Plant Pest Control Act*, the *Crown Lands Act* and the *Prevention of Cruelty to Animals Act*, will be permitted to trap or destroy unidentified cats in line with their normal functions.

If, in any circumstance, an identified cat is destroyed, the owner must be notified if possible.

In other cases, a person would need to trap a cat and check it for identification. If identified, it is to be released; if not, it must be delivered within 12 hours to a vet, council officer, RSPCA or Animal Welfare League where it may be destroyed, rehoused or released.

Cats can only be removed from any property with the consent of the occupier or, if there is no occupier, the owner of the land. It is an offence under the Bill to hinder a person acting in accordance with the legislation; or to remove the identification from a cat.

The Dog and Cat Management Board will receive information from or comprise representatives of State Government, Local Government Association, Australian Veterinary Association, Animal Welfare League, RSPCA, independent experts on pet promotions, a Ministerial representative, persons with expertise in wildlife issues and knowledge of current developments in feral cat control; and the Dog and Cat Breeders Associations.

5. Review

The Board will review the cat legislation on an ongoing basis. If further initiatives are considered necessary, they will be recommended to the Minister.

6. By-laws

Councils will retain the ability to pass by-laws to regulate the number of cats on a property or institute other controls deemed necessary in their area.

7. Summary

The only way any plan can be effective is through the support and co-operation of the community. An open consultative approach by all levels of Government is the best way of ensuring future success. It is apparent that no strategy will satisfy all interested parties. However, a moderate approach using minimal regulation and maximising education is more likely to produce long term results. Some interest groups will consider the Strategy "wishy-washy", others will consider it to be "draconian". Identification is a major though relatively inoffensive legislative requirement. This strategy provides a framework for addressing the cat problem which is likely to receive general public acceptance.

I commend the Bill to honourable members.

Explanation of Clauses

PART 1

PRELIMINARY

Clause 1: Short title

Clause 2: Commencement

Clause 3: Interpretation

The following matters follow from definitions contained in this clause rather than other substantive provisions of the Bill:

- As in the current Act, the Outback Areas Community Development Trust is treated as a council and so has responsibilities under the Bill (see the definitions of area and council).
- The regulations may prescribe bodies that are to be treated as councils in respect of a specified area for the purposes of the Bill. This is to allow flexibility to provide for Aboriginal management of dogs and cats on Aboriginal lands if that is considered necessary or appropriate.
- As in the current Act, police officers are dog management officers for the purposes of the Act.

Cats: Definitions that relate exclusively to Part 7 are: cat, cat management officer, identified cat and unidentified cat. The definition of dispose of is also particularly relevant to Part 7.

Clause 4: Owner of dog

Clause 5: Person responsible for control of dog

The current Act refers throughout to the person responsible for the control of the dog. Section 34 sets out that generally this is the owner of the dog, the occupier of premises at which the dog is kept and any person who has possession or control of the dog.

The Bill makes it clear on its face that both the owner and any other person responsible for the control of the dog have responsibilities to ensure that the dog is properly controlled and does not cause danger or nuisance.

The person in whose name a dog is registered or has last been registered continues to be taken to be the owner of the dog, as does a person in apparent ownership. The occupier of premises where a dog is kept continues to be held responsible for the dog.

The provisions in these clauses reflect the provisions currently contained in s. 34 and s. 46(3), including various evidentiary aids.

Clause 6: Dog wandering at large

The current offence related to a dog wandering at large is retained, as is the ability of dog management officers to seize dogs wandering at large. This section defines what is meant by wandering at large and mirrors the provisions currently contained in s. 35 except that a dog placed in the open tray of a utility or like vehicle is not to be considered to be wandering at large.

Clause 7: Effective control of dog

The equivalent provision in the current Act is s. 5(2). The new definition differs in the following respects:

- if control is by means of a leash or command, the person is required to actually exercise effective control (implicit in this is that the person must be capable of exercising control);
- any leash used for control must not exceed 2 metres;
- the dog may be under effective control if it is confined to a cage, vehicle or other structure;
- if a dog is not leashed but is responsive to command, the dog must be able to be seen by the person issuing the commands.

The expression is used in relation to—

- dogs wandering at large;
- defining the application of the offence for a dog not wearing a collar;
- defining offences relating to prescribed breeds and greyhounds;
- defining the terms of orders issued by councils under the Act (such orders are a new concept introduced in the Bill).

Clause 8: Application of Act to dogs owned by Crown

Dogs owned by or on behalf of the State or Commonwealth Crown and used for security, emergency or law enforcement purposes are not required to be registered and cannot be made the subject of a council or court order under the Bill. This provision is necessary as section 20 of the *Acts Interpretation Act 1915* now provides that generally the Crown is bound by legislation.

PART 2

DOG AND CAT MANAGEMENT BOARD AND FUND

DIVISION 1—ESTABLISHMENT OF BOARD

Clause 9: Establishment of Board

The *Dog and Cat Management Board* is a body corporate that is an instrumentality of the Crown. The Board takes the place of the *Dog Advisory Committee*. The body is differently constituted, its functions expanded and it is given control of the Fund associated with the Bill.

Clause 10: Ministerial control

Any directions given by the Minister to the Board must be in writing, must only be given after consultation with the LGA and must be included in the annual report of the Board.

DIVISION 2—MEMBERSHIP OF BOARD AND PROCEDURES

Clause 11: Composition of Board

There are to be 5 LGA nominees and 1 Minister's nominee. The LGA must consult the following bodies when making a nomination for 2 members to represent the interests of the community:

- Animal Welfare League
- RSPCA
- South Australian Canine Assoc Inc
- Australian Veterinary Assoc.

Clause 12: Deputies of members

Deputies may be appointed on the same basis as members.

Clause 13: Conditions of membership

The term of appointment is up to 3 years, though members may be reappointed.

The Minister may recommend to the Governor that a member be dismissed at his or her discretion although the Minister must consult the LGA before doing so.

Clause 14: Vacancies or defects in appointment of members

Vacancies and defects are not to invalidate acts of the Board.

Clause 15: Remuneration

The Governor is to determine remuneration of members. Payment will be from the Fund established under Division 4.

Clause 16: Proceedings

Four members constitute a quorum. The presiding member has a casting vote. In general terms the Board may determine its own procedures.

Clause 17: Disclosure of interest

A member is required to disclose potential conflicts which must be recorded in the minutes, notified to the Minister, and recorded in the annual report. The Minister may (after consulting with the LGA) direct a member to divest himself or herself of an interest or office or to resign from the Board.

Clause 18: Common seal and execution of documents

Clause 19: Immunity of members

DIVISION 3—OPERATIONS OF BOARD

Clause 20: Functions of Board

The Board has the following functions:

- to plan for, promote, and provide advice about, the effective management of dogs and cats throughout South Australia;
- to oversee the administration and enforcement of the provisions of the Act relating to dogs, including—
  - monitoring the administration and enforcement of the Act by councils; and
  - issuing guidelines or providing advice to councils about—
    - planning for the effective management of dogs;
    - training for dog management officers;
    - the appropriate level of administration and enforcement in the circumstances prevailing in the area;
    - the issuing of orders or related directions under the Act;
    - the standard of facilities used for the detention of dogs under the Act;
    - the keeping of registers under the Act and the issuing of certificates of registration and registration discs;
    - any other matter related to the administration or enforcement of the provisions of the Act relating to dogs; and
  - otherwise providing support and assistance to councils;
- to advise the Minister or the LGA, either on its own initiative or at the request of the Minister or the LGA, on the operation of the Act or issues directly relating to dog or cat management in South Australia;
- to undertake or facilitate research relating to dog or cat management;
- to undertake or facilitate educational programs relating to dog or cat management;
- to keep the Act under review and make recommendations to the Minister with respect to the Act and regulations made under the Act;
- to carry out any other function assigned to the Board by the Minister or by or under the Act.

Clause 21: Powers of Board

The powers include the power to establish advisory committees and the power to require councils to provide certain information.

Clause 22: Operational plans, budgets and information

The Minister may require the Board to present plans and budgets or other information. The Board is not to expend money outside the budget without the approval of the Minister. The Minister must consult the LGA before approving a budget or expenditure outside the budget.

Clause 23: Annual report

The annual report must be forwarded to the Minister, the LGA and each council. The Minister is required to table the report.

DIVISION 4—DOG AND CAT MANAGEMENT FUND

Clause 24: Dog and Cat Management Fund

The *Dog and Cat Management Fund* takes over from the *Dog Control Statutory Fund*. The prescribed percentage of dog registration fees received by councils will be paid into the Fund. (Currently under the regulations only metropolitan councils are required to contribute. It is intended that all councils will contribute under the Bill.) The Fund is to be the responsibility of the Board. The Fund may be used—

- towards the cost of establishing or maintaining facilities used for the detention of dogs under the Act; and
- towards the cost of research or educational programs relating to dog or cat management; and
- for the administrative expenses associated with the operations of the Board; and
- for any other purpose in furtherance of the objects of the Act.

The Auditor-General is required to audit the Fund.

Currently the money in the *Dog Control Statutory Fund* is kept at the Treasury and may be paid to the RSPCA, Animal Welfare League or a council or other organisation for maintaining a pound; for the administrative expenses of the Committee or for any other purpose approved by the Minister as being in furtherance of the objects of this Act.

PART 3

ADMINISTRATION OF PROVISIONS RELATING TO DOGS

Clause 25: Council responsibility for management of dogs

This clause sets out the responsibilities of councils in relation to the administration and enforcement of the provisions of the Bill relating to dogs and allows the Board to consider the arrangements made by councils for fulfilling their obligations. It requires payment into the Fund of a prescribed percentage of dog registration fees (as referred to above).

The clause draws together various provisions in the current Act: s. 6 placing responsibility on councils for the management of dogs; s. 7(2) and (3) about the appointment of authorised persons; s. 10 about the appointment of a Registrar; s. 11 about the maintenance of pounds or arrangements for the availability of pounds; s. 12 about accounting matters and payments into the Fund; s. 30 about registers and s. 31 about replacement of lost registration discs.

Clause 26: Appointment of dog management officers

Councils are empowered to appoint dog management officers and to impose conditions on appointments.

The current Act refers to authorised persons (see esp. s. 7(1) and (4)). The terminology has been altered in light of the need to distinguish between persons authorised in connection with the provisions of the Bill dealing with dogs and those authorised in connection with the provisions dealing with cats.

The ability to impose conditions on appointment is new and is inserted in view of the significant powers that may be exercised by officers under the Bill and to encourage councils to continue to take a responsible attitude to the appointment and exercise of powers by officers.

As in the current Act, police officers are also dog management officers for the purposes of the Bill.

Clause 27: Identification of dog management officers

Council officers are required to be issued identity cards and to produce the card on request by a person in relation to whom powers may be exercised. This is equivalent to current s. 7(5) and (6).

Clause 28: Area limitation on council dog management officers

As in current s. 8 officers are required to work within their own council area.

This clause goes further than s. 8 by—

- allowing officers to work outside the council area for the purposes of investigating an offence within the area;
- allowing officers to work in another council area pursuant to an arrangement between the councils or at the request of a dog management officer of the other council. (This will allow suitable arrangements to be made when, for example, officers are on leave.)

Clause 29: General powers of dog management officers

Officers may—

- enter and inspect premises (and break in if necessary) but only with the consent of the owner or occupier, pursuant to a warrant or to seize a dog wandering at large or in urgent circumstances;
- require a person to produce a dog in his or her possession;
- require production of certificates or documents;
- require a suspected offender to state his or her name or produce evidence of identity.

The clause draws together the powers of officers set out currently in s. 37 in relation to powers of entry; s. 38 in relation to requiring a suspected offender to state his or her name; s. 50A in relation to seizing and detaining dangerous dogs; and s. 55(2) in relation to production of dogs and certificates and documents.

The ability of an officer to require a suspected offender to state his or her name is extended to the ability to require the suspected offender to produce evidence of identity.

Clause 30: Offence to hinder, etc., dog management officers

The equivalent current provision is s. 55. The offences are expanded to those generally considered appropriate in current legislation relating to authorised persons.

Clause 31: Offences by dog management officers

This provision reflects that usually now included in legislation relating to authorised persons. It requires officers to behave appropriately when exercising their functions and powers.

PART 4

REGISTRATION OF DOGS

Clause 32: Dogs must be registered

The requirements for registration have been altered from those set out in s. 26 as follows:

- dogs over 3 months, rather than 6 months, must be registered;
- dogs travelling with a person are only excused from registration if they are registered interstate or are usually kept outside Australia (evidence of this must be presented on request to a dog management officer);
- the operator of an approved boarding kennel need not ensure that dogs boarded at the kennel are registered but must keep records of dogs boarded and provide the information to the relevant council as required by the Board (see the last clause in this Part);
- the Guide Dog Association and police officers have been added to the list of persons not required to ensure that a dog in their custody is registered.

Currently the offence of having an unregistered dog is expiable under the regulations. To ensure that expiation works effectively in relation to this continuing offence the clause provides that a further offence occurs for each 14 days that a dog remains unregistered.

Clause 33: Registration procedure for individual dogs

A dog is to be registered in the area in which it is usually kept in the name of a person 18 years or over. The certificate of registration and registration disc must conform with the requirements of the Board. The person in whose name a dog is registered must be altered on application.

Equivalent provisions are currently contained in s. 27 (1), (2)*(b)* and (3) and s. 32(1). The form of the certificate and disc is currently set out in the regulations.

Clause 34: Registration procedure for businesses involving dogs

This is a new concept introduced to take account of the practical difficulties faced in complying with and in enforcing the registration requirements in relation to kennels housing a considerable number of dogs and in relation to businesses involving dogs that are often moved between areas, such as guard dog businesses.

The clause allows for registration of the business rather than individual registration of the dogs. Dogs kept at the kennel or used in the business will be considered to be registered.

Registration discs will not be issued in respect of the dogs but the dogs will be required to wear collars identifying the business.

Clause 35: Duration and renewal of registration

As in the current Act (s. 29) registration is annual and expires if the dog is removed from the area in which it is registered with the intention that it be usually kept in another area. In those circumstances the dog is to be re-registered in the new area.

Clause 36: Notifications to ensure accuracy of registers

Information is required to be given to the Registrars about any change of ownership of a dog, or of the place at which a dog is usually kept or if a dog dies or goes missing, or in the case of a registered business, if the business ceases or is transferred or in other circumstances set out in the regulations.

Currently the regulations require notification of a change of the place at which a dog is usually kept. The new clause expands the notification requirements with a view to improving the accuracy of the registers.

Clause 37: Transfer of ownership of dog

The seller is required to give the purchaser the dog's certificate of registration and registration disc. This is a new requirement.

Clause 38: Rectification of register

This provision is equivalent to current s. 32(2) and enables a person to apply to the council for rectification of a register.

Clause 39: Collars and registration discs or other identification

Dogs are required to wear collars bearing the registration disc or identification of a registered business.

This provision is similar to current s. 34 except for the following:

- the name and address of the owner of a dog is no longer required to be marked on the collar (in practice, the existing requirement is often ignored; it could also place certain people at risk);
- the regulations may specify further requirements for collars (this provides a desirable level of flexibility);
- adjustments have been made to reflect the new provisions for generic registration of dogs through registration of a business;
- a new exception is included: where the dog is effectively confined to its owner's premises it is not required to wear a collar (this is similar to an exemption currently contained in the regulations and will be particularly helpful in relation to dogs with long hair, where a collar may cause matting);
- the defence has been rationalised: instead of a vet having to issue a 3 month certificate for a dog that is injured and cannot wear a collar, the defence requires proof that the dog was injured or sick such that wearing a collar would have been injurious to its health.

It is intended that the current exemption contained in regulation 15 for a dog with a slip chain collar attached to a leash held by a person will not be retained.

Clause 40: Applications and fees

The Board is to regulate the form of applications. The regulations, made on the recommendation of the Board, will specify the registration fee.

Currently the regulations must set out the form of the registration application (s. 27).

Guide dogs continue to be registered without charge.

The Registrar's power to require an applicant to provide evidence to enable the appropriate registration fee to be determined is elevated from the regulations to the Bill and expanded to generally encompass evidence supporting the application.

Clause 41: Records to be kept by approved boarding kennels

Where the council approves a boarding kennel for the purposes of ensuring that there is no offence if unregistered dogs are boarded at the kennel, the operator of the kennel must keep the records required by the Board and provide copies to the council as required by the Board. This is a new provision.

PART 5

MANAGEMENT OF DOGS

DIVISION 1—GENERAL OFFENCES

Clause 42: Duties of owners and others responsible for control of dog

All of the current offences directed at owners or others responsible for control of a dog are drawn together in this provision as follows:

- Dogs wandering at large: s. 35
- Dogs attacking or harassing a person or owned animal: s. 44 and s. 49(2)*(a)*
- Dogs attacking a person entering premises lawfully: s. 45
- Dog of prescribed breed not muzzled or on a leash: s. 48A (the requirement for the person holding the leash to be 18 or over is deleted as the requirement for effective control now encompasses the actual exercise of control; the leash is required to be no more than 2 metres consistent with the changes to the concept of effective control)
- Dog of prescribed breed not desexed: s. 48A
- Dog in school or pre-school centre: s. 39*(b)* (child care centres are expressly included and instead of referring to the principal the provision refers to the person in charge of the place)
- Dog in shop: s. 39*(a)* (the exceptions are expanded to include a grooming parlour)
- Dog rushing at vehicle: s. 41 (the new provision states that the offence does not apply in relation to the dog owner's property)
- Dog in place where food prepared: s. 40
- Greyhound not muzzled: s. 48 (the provision is brought into line with that applying to prescribed breeds, ie, as well as being muzzled a greyhound is required to be on a leash; the exception is rationalised)
- Dog causing nuisance by creating noise: s. 49(2)*(b)*
- Failure to remove faeces from public place: s. 43.

The defences in the current Act are retained.

The expiation fees set out in the regulations are included and added to where appropriate.

No equivalent to s. 47 relating to dogs infested with parasites is included. This matter is adequately dealt with under health legislation.

Clause 43: Dog attack not to be encouraged

It is an offence for a person to urge a dog to attack or harass a person or owned animal. This offence is equivalent to that contained currently in s. 44(2).

Clause 44: Prescribed breed not to be sold or given away

The current offence (s. 48A(5)) of selling or advertising for sale a dog of a prescribed breed is retained and expanded to encompass giving the dog away.

Clause 45: Interference with dog in lawful custody

It is an offence to release or interfere with a dog in a pound. This is equivalent to current s. 55(3).

Clause 46: Court's power to make orders in criminal proceedings

A court finding a person guilty of an offence is given a broad power to make appropriate orders in relation to the defendant or, if the defendant still owns or possesses the dog, in relation to the dog. The

orders can range from destruction or disposal of the dog, to an order to take specified action to abate nuisance and may include an order for compensation.

Currently compensation may be ordered in relation to a dog attack or harassment (s. 44(5) and 45(2)); action to abate nuisance may be ordered in relation to a dog that has created a nuisance (s. 49(3)); destruction or other more general matters may be ordered in relation to a dog shown to be unduly mischievous or dangerous (s. 50); disposal of a dog or non-acquisition of further dogs may be ordered if a person is convicted of two prescribed offences on separate occasions within 2 years (s. 59).

DIVISION 2—ACTION TO PROTECT PERSON OR PROPERTY AGAINST DOGS

Clause 47: Power to protect persons or property from dogs

The current Act allows a person who owns or is in charge of an animal to kill a dog that is attacking the animal if there is no other way to protect it (s. 46(1)). It also allows dogs found in an enclosed paddock with certain farmed animals to be destroyed (s. 46(2)). Wardens are entitled to destroy dogs attacking a protected animal in a reserve (s. 46(1a)).

This clause puts these provisions on a more consistent basis, applies them to attacks on persons or animals, and authorises injury or destruction of a dog whenever that is reasonable and necessary for the protection of life or property (this is the wording used in a defence under the *Criminal Law Consolidation Act* offence of injuring an animal belonging to another.) The requirement to inform the owner of a dog and the council of the area, as well as the police, is new. The provision for destruction of a dog in an enclosed paddock is expanded to cover all farmed animals.

Clause 48: Laying of poison in baits for dogs

This provision enables a farmer to protect stock by laying poison for dogs in certain circumstances and is equivalent to the current s. 46(4) and (5) except that the prohibition on laying baits within 20 metres of a road is not retained as it does not reflect complementary provisions in the *Animal and Plant Control (Agricultural and Other Purposes) Act 1986*.

DIVISION 3—DESTRUCTION AND CONTROL ORDERS

This Division introduces a new concept. Councils are empowered to make appropriate orders in relation to dangerous or nuisance dogs and to give directions about how the orders may be complied with. The decision to make an order or to refuse to revoke an order is subject to an appeal.

Clause 49: Classes of orders

A council may make a *Destruction Order*, a *Control (Dangerous Dog) Order*, a *Control (Nuisance Dog) Order* or a *Control (Barking Dog) Order*.

The effect of the orders is set out in this clause.

Clause 50: Grounds on which orders may be made

Basically—

- a destruction order may be made in relation to an unduly dangerous dog that has attacked or harassed a person or owned animal;
- a control (dangerous or nuisance) order may be made in relation to a dangerous or nuisance dog that has attacked or harassed a person or owned animal;
- a control (barking dog) order may be made in relation to a dog that has caused a nuisance by creating noise.

Clause 51: Procedure for making and revoking orders

The owner of the dog and other persons responsible for the control of the dog must be given an opportunity to be heard. The Board is to determine the form of orders.

Clause 52: Directions about how to comply with order

The terms of orders are set out in the Bill. However, to enable councils flexibility they are empowered to issue directions as to how orders should be complied with in their areas. This would encompass such things as a requirement to erect a gate or a higher fence to keep a dog confined to particular premises. A person may choose to ignore directions and comply with the order by some other means but if the person does comply with directions then he or she is protected against prosecution for contravention of the order (this is similar to the expiation of offences scheme).

Clause 53: Application of orders and directions

Orders are to continue to apply despite changes in ownership or control of the dog. If the dog is removed to another council area, the order becomes in effect the order of the council of the new area. Consequently the order may be revoked by that council.

Clause 54: Contravention of order

Contravention is an offence and in addition a dog management officer may take action to give effect to the order.

Orders are to apply in relation to a dog and so apply no matter who is the owner or who is responsible for control of the dog. However, it is a defence to contravention of an order to prove that the defendant was unaware of the order.

Clause 55: Notification to council

If an order is in force the council must be kept aware of any attack by the dog or if the dog is missing or dies or if ownership of the dog changes of if the place at which the dog is kept changes.

Clause 56: Notification of order to proposed new owner of dog

A prospective purchaser of a dog subject to an order must be informed about the order.

Clause 57: Appeal

An appeal to the Administrative Appeals Division of the District Court (which may be constituted of a Magistrate) is provided against a decision of a council to make an order or to refuse to revoke an order. The appeal must be made within 14 days (or within 14 days of receiving written reasons for the decision requested within 14 days of the decision).

The appeal court may make an order that the council could have made plus any order that a court could have made if the proceedings were criminal proceedings.

Clause 58: Power of court to order destruction or control of dog on application

An application may be made to the Magistrates Court for an order in relation to an unduly dangerous dog. The court may make any order that it could have made in criminal proceedings.

This is similar to current section 50 about unduly mischievous or dangerous dogs, but the orders that can be made are broader in nature, and the reference to mischievous is not continued.

DIVISION 4—SEIZURE AND DETENTION OF DOGS

Clause 59: Power to seize and detain dogs

Dogs may be seized if found wandering at large, if necessary to stop or prevent an attack or harassment, if the dog is unduly dangerous or if necessary to ensure that a destruction order is carried out.

Currently under s. 36 a dog may be seized if it is found wandering at large or under s. 50A if it is unduly mischievous or dangerous.

These powers are drawn together and expanded to provide a more rational basis for seizure.

The provision in the current Act for destruction of a dog found wandering at large if seizure is impracticable because of the dogs savagery, repeated evasion of attempts at seizure or other sufficient cause (s. 36(9)) is expanded to cover seizure on any ground but is limited to reasons of savagery or other sufficient cause. The new provision requires attempts to be made to contact the owner of a dog injured or destroyed in those circumstances.

The clause allows inspectors under the *Prevention of Cruelty to Animals Act 1985* to seize a dog found wandering at large. The current provision allows all officers and employees of the RSPCA and Animal and Plant Control officers to seize dogs found wandering at large. (s. 36(11)). The current provision is thought to be too wide and inappropriate.

Clause 60: Procedure following seizure of dog

A dog that has been seized must be taken to a pound if it is not returned to its owner. If it is detained a notice about the detention must be displayed at the council office for 72 hours and given to the owner, if known.

If the reason for seizure is that the dog has attacked or harassed a person or owned animal or is unduly dangerous, the council must proceed to consider making an order in relation to the dog or applying to a court for an order. If steps are not taken within 7 days, the dog must be returned to a person entitled to claim it.

These provisions reflect that currently contained in s. 36 in relation to dogs found wandering at large. The current Act does not contain any set procedures in relation to dogs seized because they are unduly mischievous or dangerous beyond the requirement to apply to a court for an order. This gap is filled by this clause.

In addition this clause gives a person aggrieved by the continued detention of a dog a right to have the matter heard by a Magistrate.

Clause 61: Limits on entitlement to return of dog

In order to claim a dog a person must be prepared to produce evidence that he or she is entitled to the dog and to pay outstanding charges in relation to the dog. If the dog is unregistered the person detaining the dog may require it to be registered before its release.

The current Act (s. 36) requires the dog to be registered before release. However, that does not take account of the fact that dogs may be detained and claimed at a time when it is not possible for the

person detaining the dog to check whether the dog is in fact registered.

Clause 62: Destruction or disposal of seized dog

This clause sets out the circumstances in which the dog may be destroyed or otherwise disposed of. This is 72 hours after the dog is seized if it was found wandering at large (as in current s. 36) or if the registered owner declines to resume possession, or fails to pay charges due in relation to the dog within 7 days of being requested to do so. The dog may also be destroyed if it is too ill to be maintained. The current s. 36(8) requires this to be only on the certificate of a vet or stock inspector. The clause requires that to be the usual case, but if a vet or inspector is not available and the circumstances are urgent the dog may be destroyed in any event. This is to take account of difficulties faced particularly in country areas. The clause also requires attempts to be made to notify the owner if the dog is destroyed for illness.

Clause 63: Recovery of costs of seizure and detention

This clause ensures that costs may be recovered whether or not the dog is returned.

PART 6
CIVIL ACTIONS RELATING TO DOGS

Section 52 of the current Act is not included in the Bill. The clause stated that a person responsible for the control of a dog is liable in damages for any injury or loss resulting from the actions of the dog. The Select Committee of the House of Assembly on Self Defence recommended that the section be amended so that it clearly not apply to a dog being used in self defence. Pat 1A of the *Wrongs Act* already covers the matter adequately in relation to animals generally and so the matter is appropriately left to those provisions.

Clause 64: Owner and person responsible for control of dogs in civil actions

This clause provides that the definitions under the Bill relating to owners and persons responsible for control of dogs apply in civil actions. This is equivalent to current s. 34.

Clause 65: Defences in civil actions

This clause sets out that in civil actions the general defences of a dog being removed from a person's possession without his or her consent and a dog being used in self defence apply. The first defence is equivalent to current s. 34(5). The second defence is included in light of the select committee report on self defence referred to above.

Clause 66: Court's power to make orders relating to dogs in civil actions

The court is given powers to make orders in civil proceedings that equate to the powers of a court to make orders in criminal proceedings. This is in recognition of current s. 50(2).

PART 7
MANAGEMENT OF CATS

The aim of this Part is to protect persons from civil or criminal liability for the seizure, detention, destruction or disposal of unidentified cats, and of all cats in certain remote or fragile areas, in certain circumstances.

DIVISION 1—CAT MANAGEMENT OFFICERS

Clause 67: Cat management officers appointed by Board or council

This clause empowers the Board or the council to appoint officers whose responsibilities include the seizure, destruction or disposal of unidentified cats in the area in relation to which they are appointed.

Clause 68: Identification of cat management officers

Cat management officers are required to be issued identity cards and to produce the card at the reasonable request of any person.

Clause 69: Area limitation on cat management officers

Council officers are generally required to work in their council area. The Board is to specify the area in which officers appointed by the Board are to work.

Clause 70: Offences by cat management officers

Officers are required to behave appropriately when exercising their functions and powers.

DIVISION 2—CATS IN REMOTE OR FRAGILE AREAS

Clause 71: Reserves and wilderness

Wardens are given power to destroy any cat found in a constituted reserve or wilderness area.

Clause 72: Sanctuaries and other designated areas

Owners of land in a sanctuary declared under the *National Parks and Wildlife Act* may destroy any cat found in the sanctuary.

Other areas in which all cats may be destroyed by the owner of land in the area may be declared by proclamation made on the recommendation of the Board.

Clause 73: Remote areas

Any person may destroy a cat if it is found in a place that is more than 1 kilometre from any residence.

Clause 74: Notification to owner of identified cat

If an identified cat is dealt with under this Division, reasonable steps must be taken to notify the owner of the cat.

DIVISION 3—UNIDENTIFIED CATS IN OTHER AREAS

Clause 75: Other areas

Unidentified cats may be seized, detained, destroyed or otherwise disposed of in the circumstances listed in this clause.

The following officers may deal with unidentified cats found in an area for which they are responsible:

- council or Board officers;
- crown lands rangers or district council rangers;
- officers under the *Animal and Plant Control (Agricultural Protection and Other Purposes) Act 1986*.

An inspector under the *Prevention of Cruelty to Animals Act 1985* may deal with an unidentified cat in the ordinary course of his or her duties.

Any person may seize an unidentified cat and deliver it within 12 hours to a vet, a council or Board officer or a pound. The clause does not sanction any other action in relation to the cat by the person.

A vet may deal with an unidentified cat in the ordinary course of his or her practice.

The operator of a pound may deal with an unidentified cat delivered to the pound.

DIVISION 4—MISCELLANEOUS

Clause 76: Unlawful entry on land

A person must not, in order to seize a cat, enter land without the consent of the occupier or, if there is no occupier, the owner.

Clause 77: Offence to hinder

It is an offence to hinder a person acting lawfully under the Part.

Clause 78: Offence to interfere with cat identification

It is an offence to remove or interfere with a cat's identification collar, tag or mark without reasonable excuse.

Clause 79: No liability for lawful action against cat

This is the clause that removes criminal and civil liability for actions authorised by the Part.

PART 8
MISCELLANEOUS

Clause 80: Guide dogs

This clause recognises the right of persons to be accompanied by guide dogs in public places and in public passenger vehicles and is equivalent to current s. 54.

Clause 81: False or misleading statements

It is an offence to make a false or misleading statement in an application or in a record kept under the Bill. This provision is similar to current s. 56 although the penalty is updated to current standards.

Clause 82: No liability for lawful action against dog

This clause affords protection to a person who takes action against a dog in accordance with the Bill and is similar in effect to current s. 53.

Clause 83: Immunity from personal liability

Officers and others are provided personal immunity for honest acts. The clause places liability in respect of council officers on the council.

Clause 84: Continuing offences

A few of the offences against the Act may be continuing, such as failure to have a dog of a prescribed breed desexed or failure to comply with certain orders. This provision is equivalent to current s. 65.

Clause 85: General defences

It is a defence if the act was not committed intentionally and could not have been avoided with the exercise of reasonable care. This is a modern version of current s. 60.

It is also a defence if the dog involved was taken from the person without his or her consent. This is equivalent to current s. 34(5).

Clause 86: Service of notices and documents

This clause provides for the method of service. A similar provision is currently contained in the regulations.

Clause 87: Evidence

This clause provides evidentiary aids and is similar to current s. 61.

Clause 88: Appropriation of penalties

Penalties recovered on complaint of a council are to be paid to the council. This is equivalent to s. 63.

Clause 89: By-laws

This clause provides a general power to councils to make by-laws relating to the management of cats and dogs, and in particular, to

make by-laws limiting the number of cats and dogs kept on premises subject to the issue of exemptions for kennels and the like.

The powers for such by-laws are currently found in s. 57, 65A and in the *Local Government Act 1934*. The power to make by-laws requiring registered dogs to be tattooed in s. 28 is not retained. This power has not been used and is now considered inappropriate.

The current Act expressly provides for licences for kennels where dogs are kept in excess of the limit imposed by by-laws. This is left to an exemption under the Bill. Kennels are in any event subject to planning authorisations under the *Development Act 1993*.

Clause 90: Regulations

A general regulation making power is provided. Regulations may only be made on the recommendation of the Board. This is a significant function for the Board and is given in recognition of the responsibilities for effective dog and cat management held by the Board.

SCHEDULE 1

Repeal and Transitional Provisions

The *Dog Control Act* is repealed.

Transitional provisions are included about registration, dog management officers, the Fund and current by-laws.

SCHEDULE 2

Amendment of Local Government Act 1934

The by-law making power relating to cats is deleted as the matter is addressed by clause 86.

The Hon. T.G. ROBERTS secured the adjournment of the debate.

The Hon. DIANA LAIDLAW (Minister for Transport): Mr President, I draw your attention to the state of the Council.

A quorum having been formed:

PUBLIC FINANCE AND AUDIT (LOCAL GOVERNMENT CONTROLLING AUTHORITIES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 29 November. Page 979.)

The Hon. DIANA LAIDLAW (Minister for Transport): I would like to thank members and, in particular, the Hon. Barbara Wiese, for being prepared to deal with both this and the Local Government (1995 Elections) Amendment Bill so promptly, when they were introduced into this place only two days ago. The Minister for Local Government Relations asked for both of them to be dealt with this week, if it was at all possible. I conveyed that message to the Hon. Barbara Wiese and she very kindly agreed that she would be prepared to consider them, as did the Hon. Michael Elliott. That is appreciated by the Government in the final hours of this part of the session. I simply record my thanks on behalf of the Government for dealing with this matter so promptly.

Bill read a second time and taken through its remaining stages.

LOCAL GOVERNMENT (1995 ELECTIONS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 30 November. Page 1027.)

The Hon. M.J. ELLIOTT: I support the second reading of this Bill to amend the Local Government Act. I support the content of the legislation: it is fairly straight forward. At this stage I am pleased to see that the South Australian Government has adopted a different approach from that of the Government in Victoria where amalgamations have been happening by the way of crunching of heads and straight-out sackings. I am pleased that, so far as the amalgamation agenda is proceeding in South Australia, it is happening on a basis of goodwill all round at this stage.

However, there is one issue that I wanted to raise. It makes a lot of sense that, if an amalgamation is to take place in the foreseeable future, we may want to delay the next election for a period of 12 months. One of the outcomes of that is that there will be a further election within 12 months of that. It appears a bit surprising to me, and voters would probably find it of some nuisance value because they would be going to polls twice for local government elections at the end of the 12 month period.

It would be sensible for councils affected by amalgamation, if the first election is delayed by 12 months, to have the following election cancelled so that there is an election every three years just for those two periods. That is a proposition that I put to the Government. I know it is somewhere after the eleventh hour that such a suggestion is being made on this, but I note that this legislation has not been with us for a long time. I think it would be far more sensible than having two elections in such quick succession.

The Hon. DIANA LAIDLAW (Minister for Transport): I have just conferred with the Minister for Housing, Urban Development and Local Government Relations, who said that he has considered the idea now being developed by the honourable member. The Minister, the Local Government Association (LGA) and others have not accepted it because council elections would then be out of kilter. Those councils that deferred for 12 months because of the amalgamation debate would then be out of kilter if they did not go to an election within another 12 months when all the other Councils were having the election.

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: That is right. As I say, the Minister considered that option, so—

The Hon. Barbara Wiese: The member's proposition is that you would not only defer this one until 1995, but you would then defer the next one so that councils would be there for three years.

The Hon. DIANA LAIDLAW: That's right. As I say, it was considered by the Minister and the LGA, and dismissed. There will be two elections and then they will all meet at the same time. As I said, the Minister has considered it but the LGA has not agreed to the proposal. I can indicate only that I will not be supporting the suggestion.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—Date of elections.'

The Hon. M.J. ELLIOTT: I want to take further the issue that I raised in the second reading debate. Most councils will be looking at elections in 1995, 1997 and 1999. Under the present legislation, any council which is undergoing amalgamation in the near future will have elections in 1996, 1997 and 1999. My proposal was that any council undergoing amalgamation in the short term would have an election in 1996 and the next one in 1999. There is only one election out of kilter, as there would be in either case. I think having a one year term seems to be frighteningly short.

In the South Australian Parliament we have moved to longer terms with a minimum of three years and a maximum of four years. In this case these amalgamated councils, at a fairly important time, will potentially have quite a high turnover. Every time there is an election there is the potential for turnover in councillors, which is not a healthy thing. I

think a high turnover in local government at any time is not particularly healthy because unfortunately the bureaucrats snow the new councillors every time, particularly when there is something as important as amalgamation.

I do not want to get rid of the democratic processes but if there are too many elections and too much instability I do not think that will help the amalgamation process. We do not have to resolve the issue now. I am sure the Minister can think about it and come back with a reply in the new year. I support the motion that elections for amalgamated councils be held in 1996 rather than 1995 so that the amalgamation process can proceed smoothly. I am suggesting that, rather than going to another election within 12 months (1997) and then two years later (1999), we give them a three year term through to 1999, which would make for a much healthier process in terms of the workings of those councils.

I understand that my proposal was put forward fairly late and may have already been considered elsewhere, but I simply ask the Minister to give it further consideration. I indicate that if the Government came back with such a proposal in the autumn session the Democrats would support it.

The Hon. DIANA LAIDLAW: I thank the member for his suggestions. As I indicated, the Minister and the LGA have considered it and for reasons outlined did not proceed with it but I will, as requested, ask that it be reconsidered.

The Hon. BARBARA WIESE: The proposition put by the Hon. Mr Elliott may well have some merit, and when the Minister is considering this matter again might I suggest that he go back to some of the earlier amalgamations that took place? I seem to recall that during the period I was Minister for Local Government there may have been at least one occasion when the sort of proposition being put by Mr Elliott was actually put in place whereby a newly formed council, following an amalgamation, actually was allowed to stay in place for longer than a two year period in order to ensure that the elections came back into some sequence but without putting an unfair burden on ratepayers who would otherwise have been asked to come out for an election twice in a very short period of time.

One of the benefits of doing something of that sort is that the newly created council is allowed time to attend to the numerous affairs that must be taken into consideration when two or three councils come together, as numerous new administrative and other arrangements are to be set in place. It creates a period of some stability for both the council and ratepayers if it can be there for a reasonable period of time, at least initially. As I said, I think that is what took place in at least one case, and if that was considered after the event to have been a successful measure it could well be something which the Minister might wish to repeat.

The Hon. DIANA LAIDLAW: I will convey those sentiments to the Minister. While I am on my feet I would also like to highlight the fact that earlier today the Minister in the other place made a ministerial statement on the advisory group on local government reform, and I sought leave to table that ministerial statement in the Council. I would like to alert members, while we are addressing this Bill, to the fact that the ministerial advisory group to be established by the Minister for Local Government Relations will assist the process of reform in local government.

The group comprises Mr Graham Anderson, as Chairman—he is the former Chairman of the Angaston District Council and currently Managing Director of Tarac Australia Pty Ltd; Don Roberts, who has had 25 years' service in local government as a CEO and who holds various responsibilities; Mrs Isobel Bishop, who has been active in local government, particularly on the East Torrens District Council where she served as both Deputy Mayor and Mayor between 1987 and 1993; Dr Graham Scott, a senior lecturer in economics at Flinders University and Chair of the Local Government Superannuation Board; and Mr John Dyer, Mayor of Hindmarsh and Woodville Council (recently amalgamated) and President of the Local Government Association. Mr Dyer's appointment is subject to confirmation at the LGA State Executive meeting to be held next Thursday 8 December.

I also draw the attention of members to the fact that the terms of reference for this advisory group are noted in the ministerial statement that I tabled earlier.

Clause passed.

Title passed.

Bill read a third time and passed.

PARLIAMENTARY REMUNERATION (SALARY RATES FREEZE) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 30 November. Page 1028.)

The Hon. T.G. ROBERTS: I rise to indicate to the Council that the Opposition will not oppose this Bill but it is not too enthusiastic about supporting it either, on the basis that wage freezes for members of Parliament have, unfortunately, been tied to a lack of a decent wages strategy by the Government in the public sector arena. Somehow or other the strategists have decided to complicate the matter of the independent assessment of parliamentary salaries with a political decision to put a so-called freeze on the salaries of public servants. Fortunately, public servants have access to other arenas to negotiate their wages, and there has been a determination involving three lots of $8 which will deliver to them $24 over a period of time.

The whole concept on which early statements about wage freezes were based has been altered. The economic climate has also changed since the Government made the decision and the public pronouncement. Wage determinations are being made in the private arena.

The Hon. R.I. Lucas: Have people actually been saying to you that they think you should get a pay rise?

The Hon. T.G. ROBERTS: I have not been deluged with requests for parliamentarians' salaries to be moved, but I think there is a lack of understanding by the public about what most parliamentarians do with their salary. It is certainly not all disposable income, as most of our partners would tell the public. What we are left with is a public statement in relation to the parliamentary salaries freeze to set the standards and the climate for a freeze in the public sector. As I said, the second part of the equation has already come unstuck.

The Bill amends the Parliamentary Remuneration Act 1990 and, in particular, the definition of the base salary for the purpose of that Act. The effect of this Bill is to establish a fixed base salary for the purpose of the Act, and that fixed base salary is to be $1 000 less than the amount applying as the Commonwealth parliamentary base salary as at 1 September 1994.

The proposal gives effect to the decision foreshadowed by the Premier and, as I said, the conditions for the foreshadowing of the principles have certainly been changed. Wage

freezes tend not to work at any time in any place for anybody. The only way that you can get a wage freeze to work is if you can get a price freeze to work and if you can get all other salary determinations to remain fixed so that all relativities remain the same. Unfortunately, that never happens. Whenever there has been a move by the Commonwealth to freeze wages, even if, in some cases, it has been associated with a Federal move to freeze prices, the fact is that you can never freeze prices because of all sorts of national and international pressures and competitive pricing mechanisms in the marketplace. Therefore, the proposal to freeze one section of the community's wages will be seen to be unworkable.

As I said, I rise to support a bipartisan approach to the proposition, but I rest my case in relation to the problems associated with freezing parliamentary salaries. As I have indicated to the community, the public sector needs to freeze its wages, and changes have occurred even in the time since the proposal was put forward.

The Hon. M.J. ELLIOTT: I support the Bill. The Government morally was obligated to introduce such legislation. If a Government is elected saying that the economy is in a mess and that we will have to tighten our belts, it needs to be recognised that the 'we' is not we the community, excluding the politicians, but everybody in the community must collectively tighten their belt—that is, if you take the position that the economic situation is such that drastic action is necessary. If you are prepared to decrease the numbers of teachers and health workers, to say (although it has now moved back from this) there will be no pay rises for public servants, and do a host of other things right through the community to cut back on everybody else, it would be immoral for members of Parliament in that situation to have taken a significant pay rise. At this stage it appears that the Federal Government politicians are about to get a pay rise which would have immediately flowed on to us. While it was not immediately within our control in so far as we had divorced ourselves from the determinations, just looking at it within a South Australian context, we cannot ask everybody else to tighten their belt without sharing some of that burden. I have taken that view over the past couple years with not just the present but the previous Government when already some difficulties arose.

Having said so, I will just make some comments about remuneration generally. There is no doubt that the general public, looking at the level of salary we receive, would say that politicians are on a very good stick. But it would also be true that the average member of the public would have no idea as to the hours a politician works and of some of the other consequences which flow from that. The very fact that I do not have the hours to go and paint my woodwork will mean that it is more likely I will have to replace some of it rather than simply having it painted, or I will have to pay somebody else to do it, because I do not have the time to do it myself. That is a significant and indirect cost. There is no doubt that, because of the age of my children and the unreliability of my working hours, the possibilities available to my wife to actually work are severely diminished. So that has an impact as well. I have never at any stage been critical of the level of remuneration of members of Parliament. If anyone checks the records, they will find that that is the case. However, my reaction to this measure has been simply that, while we are asking other people to tighten their belts (and I can tell you they already have it tough; we do not have it tough, but some people really do have it tough) and make things tougher, we have a moral obligation to share that.

A number of other issues on the edge of remuneration need further analysis. I for one believe that members of Parliament should get far lower electorate allowances and far more resources. The fact is that many members of Parliament spend their electorate allowance on resources but, as far as the general public is concerned, they see that you get an allowance of a certain amount—and it might be $19 000—and they assume that that is just essentially additional salary. They have no idea that most members of Parliament are employing people to work for them part-time, buying equipment for their office and doing various other things. My preference is that our allowances be much lower and we simply get an increased resource base for all members of Parliament in its place. There should not be a zero allowance, because you do need some flexibility. However, it probably could be half what it is, and that money could go into resources. The public would then be less likely to say, 'There's another $19 000 that the MPs are getting,' because that is the way it will always be presented.

That aside, I am pleased to see that the Government has taken this step. I note that there is no indication as to what might happen in the future. At this stage, the basic salary has simply become $1 000 less than the Commonwealth basic salary as of 1 September. Quite clearly, it is not intended to stay that way forever. I am rather surprised that the Government did not word it somewhat differently and just simply indicate that the annual salary would set a base rate somewhere further below the basic salary of the Commonwealth, and at some future time at that new level it would cut back in. I must say that it always surprised me that the State based salary was only $1 000 less than the Federal based salary; I would have thought it should be a few thousand dollars more than that. In those circumstances—

The Hon. R.I. Lucas: What do you think it should be?

The Hon. M.J. ELLIOTT: Several thousand dollars more.

The Hon. R.I. Lucas: Two or three?

The Hon. M.J. ELLIOTT: Three, four or five.

The Hon. R.I. Lucas: We'd have to take a pay cut to get back to that.

The Hon. M.J. ELLIOTT: No; I am saying that at some time there will have to be some further legislation which will really open things up a bit, whereas it would be more sensible to say that the basic salary will be so many thousand dollars less than the Federal salary. We do not take a cut but, as the Federal one rises, eventually we will just cut back in again and be linked to it again.

The Hon. T.G. Roberts interjecting:

The Hon. M.J. ELLIOTT: There are a number of differences; they spend a lot more days away from home than most members—even country members of State Parliament.

Members interjecting:

The Hon. M.J. ELLIOTT: Ostensibly; perhaps you'd better not start saying too much about that.

An honourable member interjecting:

The Hon. M.J. ELLIOTT: Not for me. The Democrats support the legislation. Quite clearly, the way it has been currently framed, this will have to be debated again at some future time. At this stage, I just indicate that, when there is further legislation, I would expect that there would be a greater differential between the two salaries. However, when the Government goes on a further kick of saying we have to have further cutbacks, I will say, 'We share in it.' When the

Government is not doing that I will not be saying that we should be sharing it. It is as simple as that. I am simply asking that members of Parliament abide by what they demand of others.

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I thank members for their valued contributions to this most important legislative measure, which is being debated in the dying day of this parliamentary session. I thank the Hon. Mr Elliott for what I thought was—and I do not want to put words into his mouth—his indication that he believed that members were not being properly remunerated at the moment. He was never an opponent of the levels of pay that members of Parliament were currently being paid. He then gave some very cogent reasons as to why he, as one member—and I can assure him that there are many other members who share similar views—would certainly defend that position in the public arena. As he rightly put it, there will be an opportunity at a later stage for the Hon. Mr Elliott and other members to talk about what the new level of parity should be.

From what the Hon. Mr Elliott has said, I am presuming that it will be at a level somewhat higher than that which currently exists because, as the Hon. Mr Elliott knows and the Hon. Mr Roberts has pointed out, the public servants for whom we were setting a lead are about to take a base increase in salary. I am sure that, by the end of the financial year, or the start of the next financial year, whenever it is that we debate this matter again, a number of public servants and a good number of the people in the community generally will have taken quite significant pay rises. The TWU is looking in the ball park of 15 per cent; the Hon. Mr Roberts's old union, whatever it is called now, is talking in the ball park of 10 per cent nationally; and a good number of unions and people in the community generally are looking at very significant pay rises.

The Hon. Mr Elliott has given an indication that, given that the community is taking a significant pay rise, when this matter is next debated he will be prepared to consider favourably (without locking him into any position) the fact that members of Parliament, who will go through this pay freeze and no increase for a period, will be in a position for a reasonable adjustment upwards. That level will be debated at the time. The Hon. Mr Elliott indicates that he thinks about $3 000 or $4 000 may be the ballpark figure beneath the Federal level. I am sure that some members of Parliament believe that the old nexus of $1 000 ought to be re-established and there may be some views all the way in between. That is a matter for another day.

As the Hon. Mr Elliott has rightly pointed out, the Premier has given a commitment and this legislation puts that commitment into practice and freezes the salary at the current level until the Parliament makes a determination otherwise. That debate will be for another day. I thank honourable members for their contribution and indeed thank the Hon. Terry Roberts for his support for the legislation, although I know that it must have been a very tough personal decision for him to have stood up in this Chamber, bravely on behalf of his colleagues. Bearing in mind his former and current friends within the union movement, it must have been a difficult thing for him to become the spokesperson for the Party on this issue. I commend him for his courage and bravery and thank him for his support.

Bill read a second time and taken through its remaining stages.

STATE LOTTERIES (SCRATCH TICKETS) AMENDMENT BILL

The House of Assembly intimated that it did not insist on its disagreement to amendments Nos 2 to 5 made by the Legislative Council.

[Sitting suspended from 4.21 to 5.30 p.m.]

PRINTING COMMITTEE

The Hon. BERNICE PFITZNER brought up the first report of the committee for 1994-95 and moved:

That the report be adopted.

Motion carried.

NATIVE TITLE (SOUTH AUSTRALIA) BILL AND LAND ACQUISITION (NATIVE TITLE) AMENDMENT BILL

At 5.30 p.m. the following recommendations of the conference were reported to the Council:

NATIVE TITLE (SOUTH AUSTRALIA) BILL

As to Amendment No. 8:

That the Legislative Council do not further insist on its amendment but makes the following amendment in lieu thereof:

Clause 4, page 4, lines 31 to 33, page 5, lines 1 to 3—Leave out subclause (5) and insert:

(5) To avoid doubt, native title in land was extinguished by an act occurring before 31 October 1975 that was inconsistent with the continued existence, enjoyment or exercise of native title in the land.

Explanatory note—

This subsection is intended to be consistent with principles governing the extinguishment of native title as stated in Mabo v Queensland (No 2) (1992) 175 C.L.R. 1. Examples of this principle of major public importance are—

(a) the valid grant, before 31 October 1975, of a freehold interest in land;

(b) the valid grant, before 31 October 1975, of a lease (including a pastoral lease but not a mining lease);

(c) the valid grant, assumption or exercise by the Crown, before 31 October 1975, of a right to exclusive possession of land.

However, if the grant of a freehold interest, a lease or a right of exclusive possession was made to or for the benefit of Aboriginal people, this subsection is not intended to apply to the grant unless it is a category A past act within the meaning of section 229, or a category B past act within the meaning of section 230, of the Commonwealth Act and, if it is a category B past act, this subsection only applies to the extent that the grant is inconsistent with the continued existence of native title in the land.

And that the House of Assembly agrees thereto.

As to Amendment No. 12:

That the Legislative Council do not further insist on its amendment but makes the following amendment in lieu thereof:

Clause 18, page 10, line 7—Leave out 'reasonably ascertainable' and insert 'known to or ascertainable by reasonable inquiry'.

And that the House of Assembly agrees thereto.

As to Amendment No. 14:

That the Legislative Council do not further insist on its amendment but makes the following amendment in lieu thereof:

Clause 20, page 11, line 13—Leave out 'reasonably ascertainable' and insert 'known to or ascertainable by reasonable inquiry'.

And that the House of Assembly agrees thereto.

LAND ACQUISITION (NATIVE TITLE) AMENDMENT BILL

As to Amendment No. 10:

That the Legislative Council do not further insist on its amendment but makes the following amendment in lieu thereof:

Clause 11, page 6, lines 2 to 9—Leave out subsection (3a) and insert—

(3a) The acquisition of land under this section does not, in itself, extinguish native title in the land but—

(a) if the purpose of the acquisition is stated in the notice of acquisition and that purpose is inconsistent with the continued existence of native title in the land, native title is extinguished when the Authority begins to put that purpose into effect; and

(b) in other cases, native title is extinguished when the Authority exercises rights obtained by the acquisition of the land in a way that is inconsistent with the continued existence of native title.[1]

[1]See sections 23(3) and 238 of the Native Title Act 1993 (Cwth).

(3b) If a notice of acquisition states the purpose of the acquisition and that the stated purpose is inconsistent with the continued existence of native title in the land, it will be presumed, in the absence of proof to the contrary that the purpose of acquisition is as stated in the notice and that the implementation of that purpose is inconsistent with the continued existence of native title in the land.

And that the House of Assembly agrees thereto.

As to Amendment No. 11:

That the Legislative Council do not further insist on its amendment but makes the following amendment in lieu thereof:

Clause 14, page 7, lines 6 to 9—Leave out proposed section 18 and insert:

Application of Division

18. This Division applies if an Authority proposes to acquire native title land for the purpose of conferring proprietary rights or interests on a person other than the Crown or an instrumentality of the Crown.

And that the House of Assembly agrees thereto.

Consideration in Committee of the recommendations of the conference.

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

That the recommendations of the conference be agreed to.

I take this opportunity to record my appreciation to the members of the conference as well as to the staff who have worked throughout the day to endeavour to find a compromise position on the amendments to both Bills and, as I have reported, we have been successful in achieving that objective. These Bills, along with the Bill relating to the Environment, Resources and Development Court, are important Bills for South Australia, and it was critical that they be passed before Christmas, particularly in the light of the fact that under the Commonwealth requirements we had to have in place by 1 January 1995 legislation which validated grants made since 31 October 1975.

The major issues relating to the disagreement between the two Houses focused upon clause 4(5) of the Bill. That, in the Government's view, was a critical provision because it sought to state the law as we believed it to be and that is that the grant of a freehold interest in land or the valid grant of a lease, including pastoral lease but not a mining lease, or the grant, assumption or exercise by the Crown of a right to exclusive possession of the land at any time before 31 October 1975 extinguished native title. It was important from the Government's viewpoint because we believed that there ought to be a clear signal sent not only to the people of South Australia but to people beyond our boundaries that this State, not just the Government but the Parliament, believed that native title had been extinguished by a valid grant of those interests and, in particular, a pastoral lease.

We have to remember that it is in the area of a pastoral lease that there has been the most controversy, with already two cases in the Federal Court—one in Queensland and one in the Northern Territory—and I would suggest that there is likely to be a case in this State in the foreseeable future challenging the assertion that this Government, the Prime Minister and the Federal Government have made that pastoral leases validly granted have extinguished native title. It was very important from the Government's viewpoint to have this expression of its view included in the Bill.

I recognise that there are groups within the community, particularly those representing Aboriginal interests, which believe that it was inappropriate to state our view in that way. Whilst I understand their arguments, I do not agree with them. The Government took the view that we ought to be much more up front with the expression of our view of the law. That was important also for pastoralists in the north of this State whose land is, they fear, under some threat, particularly when they see actions in the Federal Court in other States and Territories relating to this very question of whether pastoral lease extinguishes native title. It was also important from the viewpoint of the bureaucracy in this State. Already behind the scenes bureaucrats are making decisions about whether or not native title has been extinguished in particular parts of the State, and, in respect of pastoral leasehold, that mining tenements should be granted on the basis that native title rights had been extinguished. Whilst it may be arguable about whether or not subclause (5) was necessary, because the same consequences might apply to this as apply in the circumstances where a mining tenement is granted over a pastoral lease by bureaucrats, the fact is that we believe we ought to make a statement for the purpose of guiding those bureaucrats in their decision-making processes.

We recognise that the High Court may, at some time in the future (although we doubt that it will) make a decision which indicates that native title has not been extinguished completely by a valid grant of a pastoral lease. But that is for the future and the fact that we wanted subclause (5) in the Bill as an expression of the views of the Government and this Parliament would not compromise the capacity or opportunity of native title claimants to argue that pastoral lease had not extinguished native title. In fact, if the High Court did hold in that way, all that would happen to the South Australian provision is that it would be rendered nugatory.

We took the view that in those circumstances the rights of Aboriginal people are not prejudiced. I know that they put up a few arguments that if this was expressed in the legislation it may be that miners will rely upon it absolutely and not bother to make any checks of the tenure history of the pastoral lease and so on. We as a Government did not accept that view.

In the consultation process throughout the day, and even prior to that, the Government was anxious to ensure that there was in the Bill at least an expression of that position, notwithstanding the concerns expressed by representatives of Aboriginal people. We drew upon the Native Title (Queensland) Amendment Bill of 1994 and noted that in that Bill there was specific provision to remove any doubt that native title for the land or waters was extinguished by a previous Act that was inconsistent with the continued existence, enjoyment or exercise of native title rights and interests for the land or waters.

So, in Queensland there was a statement of the principle expressed, in terms of the principle recognised in the Mabo decision, in the High Court. An example was given in that subsection of the Queensland legislation where native title had been extinguished. It referred specifically to issue of pastoral leases under and within the meaning of the Pastoral Leases Act 1869, Crown Lands Act 1884, Land Act 1902, Land Act 1910 or Land Act 1962. There was clearly at the Queensland Government level and through its Parliament a recognition that pastoral leases had extinguished native title.

As a result of the consultation and discussions, the Government acceded to a consensus view that, rather than the form of subclause (5), as it was in the Bill as we considered it in the Council, we should express the principle of the Mabo decision and that is now in the amendment. To avoid doubt, native title in land was extinguished by an Act occurring before 31 October 1975 that was inconsistent with the continued existence, enjoyment or exercise of native title in the land. But then we went on to embody in an explanatory note what was intended. The subsection provides:

> It is intended to be consistent with principles governing the extinguishment of native title as stated in *Mabo v Queensland (No. 2)* (1992) 175 Commonwealth Law Reports (C.L.R.) 1.

Then it went on to give examples:

> Examples of this principle of major public importance are:
> (a) the valid grant before 31 October 1975 of a freehold interest in land;
> (b) the valid grant before 31 October 1975 of a lease, including a pastoral lease but not a mining lease;
> (c) the valid grant, assumption or exercise by the Crown before 31 October 1975 of a right to exclusive possession of land.

Then the explanatory note, which, of course, is part of the substance of the legislation by virtue of an amendment previously moved by me in the Council and supported by the House of Assembly, provides:

> However, if the grant of a freehold interest, a lease or a right of exclusive possession was made to or for the benefit of Aboriginal people, this subsection is not intended to apply to the grant unless it is a category A pass grant within the meaning of section 229 or a category B past act within the meaning of section 230 of the Commonwealth Act. If it is a category B past act, this subsection only applies to the extent that the grant is inconsistent with the continued existence of native title in the land.

That, I think, is a reasonable position for the Government, the Opposition and the Democrats to arrive at. We recognise that not everyone will be happy with that but, because of the essential nature of this Bill, the Government had to make concessions in relation to this and other matters as well as the Opposition and the Democrats. I think we have come out of it with what the Government believes is a clear expression of the intention of this Parliament, certainly the intention of the Government, reflected quite clearly in both the substantive part of the subclause as well as the explanatory note. So we are pleased that that has now been satisfactorily resolved.

In respect of other amendments to the Native Title Act, the amendments relate to clause 18 of the Bill in relation to the registration of claims to native title and the information which should be included in an application made under that clause. The Government sought to move amendments to try to limit the extent of any inquiry which applicants may have to make, because it was expressed to us that it would be unreasonable to expect native title claimants as well as non-claimants to have to go to extraordinary lengths to provide information. We thought that, by limiting the description of information to that which was known to the claimant or which was reasonably ascertainable from public records, it would have been satisfactory to limit the scope of the obligation. That was not regarded as being satisfactory to the Opposition and the Democrats, although in good faith we had endeavoured to ensure that there was a limitation on the scope of the inquiry which had to be made.

Finally, we have come down to a compromise, which I think achieves what we are all trying to achieve, and that is that the information that should be made available in the application is information known to the applicant or is ascertainable by reasonable inquiry by the applicant. I think that that probably still has some of the problems that were expressed about the Government's amendment. But, as I said privately to some members, I think, ultimately, there will have to be rules of court which seek to identify the scope of at least the initial inquiries which should be made when lodging an application. I have no difficulty with that: after all, rules of court are to be the subject of disallowance, in any event.

I turn now to the Land Acquisition (Native Title) Amendment Bill. There were only two amendments which the House of Assembly was not prepared to agree to, but nevertheless they were amendments of some substance. Let me say right from the outset that what the Government was trying to do was ensure that the principles which we interpreted were contained within sections 23(3) and 238 of the Native Title Act were embodied in State legislation, within the framework of our Land Acquisition Act, recognising that a notice of acquisition served on the proprietor of property, a notice given in the *Gazette*, automatically results in the acquisition at the same time as compensation is payable.

We had a concern that, in a sense, the Commonwealth provisions were unworkable, either in the framework of the South Australian Land Acquisition Act or otherwise. What we endeavoured to do as a Government was to accommodate what we regarded as the spirit of those provisions. That was not satisfactory to the Opposition and the Australian Democrats. We have talked around the issue. We now have a provision which I think provides much more certainty to those who have to deal with the Land Acquisition Act, remembering that there may not be a large number of native title interests affected by the Land Acquisition Act, because that Act deals specifically with freehold and some other interests—I think Crown lease perpetual (although I am not quite sure about that).

In any event, with pastoral leases if there is an acquisition, it is not done under the Land Acquisition Act but under the Pastoral Land Management Act, and it results in an excising of land from the pastoral lease. The acquisition provisions are likely to be of limited application. What we did finally agree was that the acquisition does not in itself extinguish native title, but if the purpose of the acquisition is stated in the notice of acquisition and the purpose is inconsistent with the continued existence of native title then native title is extinguished when the authority begins to put the purpose into effect. In other cases, native title is extinguished when the authority exercises rights obtained by the acquisition of the land in a way that is inconsistent with the continued existence of native title.

We have put in a footnote to refer readers to the Commonwealth Act. It was considered inappropriate, finally, to have an explanation which sought to have our provisions in the State Act construed subject to the Commonwealth provisions. That may ultimately be how it ends up but, for the sake of clarity, it was deemed appropriate to insert a footnote. We have also included an evidentiary provision: that, if a notice of acquisition states the purpose of the acquisition and the stated purpose is inconsistent with the continued existence of native title in the land, it will be presumed, in the absence of proof to the contrary—that is, a *prima facie* provision which is rebuttable on the balance of probabilities—that the purpose of acquisition is as stated in the notice and that the implementation of that purpose is inconsistent with the continued existence of native title in the land. So it is still a rebuttable proposition, and the Government is comfortable with that position. The final amendment related to the

application of Division 1. It was felt that what was in the Bill originally was not as clear as it ought to be.

We put up some amendments that we believed adequately addressed the issue, but the Opposition and the Democrats did not agree. We have come to a solution that the division applies if an authority proposes to acquire native title land for the purpose of conferring proprietary rights or interests—not just any rights or interests but proprietary rights or interests—on a person other than the Crown or an instrumentality of the Crown. There was some question mark about instrumentality of the Crown, but finally the conference agreed that that should go in because, in essence, statutory authorities are instrumentalities of the Crown. Most of them are subject to ministerial direction and control. They carry out functions of Government, whether they be trading enterprises or non-trading enterprises.

So, the conference finally agreed that an instrumentality of the Crown ought to be referred to. It also agreed that proprietary rights or interests ought to be referred to rather than just a broad range of rights or interests that may not have any property basis. That is close to the Commonwealth provision, but it accommodates some of the concerns that the Government had in relation to the application of this division to native title land in South Australia.

That is as complete an explanation as I think I need to give in relation to the amendments. Quite obviously, be other Bills will be brought into the Council dealing with issues relating to native title next year. We will be dealing with the more difficult issue of the Mining (Native Title) Bill, which is still on our Notice Paper. However, one would hope that there will be an opportunity for further consultation on that during this recess.

I have said all along that the Government is approaching this matter in a spirit of goodwill. We recognise that we may not always be agreed with or agree with alternative propositions. However, we are prepared to sit down and talk about the issues. If we have to go to a long, drawn-out debate and argument on the issue we will do so if we believe it is right. However, Aboriginal groups and, I think, the Opposition, the Democrats and others in the community have endeavoured to approach this on a mature basis so that we do make some progress in achieving an appropriate resolution of legal difficulties relating to legal title issues. That attitude of the Government will continue in the future as we work through some very thorny issues still to be resolved in relation to native title issues.

Again, I thank the members who participated in the deadlock conference for their willingness to finally reach an agreement on this very important package of legislation.

The Hon. CAROLYN PICKLES: I do not intend to go over the legal points that the Attorney has raised; I think he has covered quite adequately the discussions in the conference of managers. I just want to put on the record that the Opposition was very concerned with the original clause 4(5) and the amendments placed on the record by the Government. We felt that they were wrong and misleading, and we now believe that the amendment that the conference has agreed to—while we are not 100 per cent happy with it—goes a long way in resolving the difficulties that we had. We hope that all Parties will now feel more comfortable with this.

In relation to the other amendments, as the Attorney has indicated, the conference had numerous versions, which we looked at, and there were discussions outside the conference during the day. I felt these informal discussions were very productive and have led to a final solution to the deadlock, which I believe has been very satisfactory.

I would like to place on the record my thanks to the Attorney, in particular, and to his staff member who has assisted the Opposition. I think it has been an excellent method of dealing with very difficult and very important legislation. I am pleased that the Attorney has indicated that the more difficult Bill that will be before us next year will be dealt with in the same manner. I hope that perhaps we can have a speedy resolution of that particular piece of legislation.

I would also like to thank my own staff and everyone else, including the Australian Democrats. I believe that we have all worked together on this legislation in a spirit of compromise. The indication from the Opposition, the Government and the Australian Democrats that we have been prepared to compromise on both sides on this issue in order to try to get the best piece of legislation shows a willingness on the part of the Opposition to ensure that we have the best possible legislation that we can have.

True, we could have been dogmatic and insisted on our amendments. However, I believe that the process we have undertaken in the conference has been the best possible solution. The only sour point in the whole process, although not in this place—where the debates have been very well reasoned, thought out and sincere—is that I was very disturbed to read in the *Hansard* the comments made by the Speaker in another place in the debate. I think that those are most unfortunate comments. I wish to place on the record that I am very disappointed with his comments.

I would like to thank the Aboriginal Legal Rights Movement for the assistance that it has given to the Opposition in trying to come to a resolution. I am sure that the ALRM has given equal assistance to the Government on this legislation as it has to the Australian Democrats, and I think that the comments made by the Speaker were quite unwarranted.

Again, I do not wish to prolong this debate as we have to get this message to another place. The Opposition is pleased with the result of the conference and I thank all members involved for their sense on this occasion.

The Hon. SANDRA KANCK: I will be briefer still. For me, the major sticking point amongst the issues that we discussed in this conference today in relation to the Native Title Bill was clause 4(5). I recognise that the Government in its original drafting of the Bill was attempting to provide certainty for the pastoralists in this State. However, the certainty that it would have provided if it had been passed would have been very false. I think that the compromise that we have come to has removed that falseness. I am unsure whether it provides certainty; I guess in time we will hear about that. However, I think it more accurately reflects the truth of the situation.

I was really concerned about truth and, if I had supported that clause in its original form, I would have been lying. I had no choice in those circumstances but to vote it out. This is a compromise. I was asked when we reached the end of the conference whether I was happy with it and my response was, 'Not deliriously.' However, I think it more accurately reflects the truth and, from that point of view, I am happy to accept it and all the other compromises that were made.

Motion carried.

SITTINGS AND BUSINESS

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I move:

That the Council at its rising do adjourn until Tuesday 7 February 1995.

This is the normal adjournment motion that enables members to thank particular staff, but before thanking staff I thank the members in this Chamber for what I think has been a productive session, and certainly the most orderly end of session that I have seen in my 12 years in the Parliament. I cannot recall an occasion when we had a 6 o'clock closing on the last night. Generally it is late into the evening or, perhaps, the early hours of the morning, and on one occasion in those 12 years, as we would well remember, we went into the weekend and then into the following week. As I say, in my 12 years I cannot recall a more orderly end of session, and I thank members for that.

I thank the new Leader of the Opposition (Hon. Carolyn Pickles) for her important part in that, as well as that of her members. As Leader of the Government, I thank her for the cooperation that has existed between the Parties, particularly the two Whips, who have done a sterling job in ensuring that the business has been kept going at a relatively cracking pace. I thank the Hon. Carolyn Pickles for the preparedness she and her members have shown not to delay unduly but still to make their points on important legislation, and for the Council to be able to progress the debate on most of the important issues for this session.

I also thank the Hon. Michael Elliott and the Hon. Sandra Kanck for their part in the passage of legislation through the Parliament. When I first met with them at the end of December or early January I sought some patience from them in relation to the first session of this Parliament and indicated that there were likely to be problems at the end of that session because of the enormous amount of major legislation that had to be put through, as well as the backlog and the pressures on Parliamentary Counsel, new Ministers and new departments.

Indeed, as we all know, there was a slight problem at the end of that first session. As I said in January at that meeting I thought that a fair judge of the procedures and the processes of the new Government would be when we had our first real session, which was to be this session of Parliament and from here on in, and I asked for their patience and to reserve judgment as to how things went. I am sure that all future sessions of the Parliament will not have as orderly an end as this. We normally go into the evening or perhaps the early hours, and fairly frequently finish on the Friday. We were actually prepared for that but, because of the good work of those on the native title conference, they were able to reach an early resolution to that.

I listened to the three contributions and everyone seemed happy with the resolution to the conference so, if there was something else on the agenda, let us hope it stays there for future conferences. I thank all members for that.

The Hon. L.H. Davis: It might be that the Government is reasonable.

The Hon. R.I. LUCAS: The Hon. Mr Davis made a very pertinent interjection there: that the Government is being reasonable. We did give an indication—

Members interjecting:

The Hon. R.I. LUCAS: Exactly. I am meant to be expressing feelings of goodwill. It is the one occasion on which we can say nice things about each other with a smile on our face. So, on behalf of the Government, I thank all members for their role in ensuring the relatively smooth passage of the legislation.

Also, on behalf of the Government and Government members, I thank all the staff, in particular the Clerk and the table staff, who work under great pressure. We certainly did not want to see the staff go any greyer as a result of the end of this session, compared to the stresses they were under at the end of last session. In this respect I refer not just to the table staff but to all the staff who make for the smooth operation of the Parliament, both in the Chamber and in the general operations of Parliament House.

The staff are too numerous to mention individually, but they ought to be aware that all members in this Chamber appreciate the work they do for us to ensure that the procedures of Parliament operate pretty smoothly.

I finally thank you, Mr President, for your generally good spirit and the occasional interjection from the Chair, which is something I have found just a touch different from past practice. I thank you for your Presidency and your good humour in ensuring the smooth operation again—

The Hon. M.S. Feleppa: And flexibility.

The Hon. R.I. LUCAS: Yes, and flexibility, as the Hon. Mario Feleppa says. That has contributed to the relatively good spirit that exists in this Chamber. We have our occasional stoushes, which is part and parcel of politics and the parliamentary process, but generally the good spirit in this Chamber between all Parties and members is one of its very great strengths. I thank you for your role in that, Sir, and wish you, all the staff and all other members a happy and healthy festive season. I hope everyone will have a little bit of a break before we are back into it again for public sector management, industrial relations, mining and native title and the odd other thing or two—

An honourable member: And prawns.

The Hon. R.I. LUCAS: Yes, prawns. The Hon. Ron Roberts has returned, and it is important to point out that another member of his Caucus put his toe into the Hon. Ron Roberts's patch while he was away at the end of Question Time today. I wish all members well and look forward to seeing them in the first week of February when the Parliament next meets.

The Hon. CAROLYN PICKLES (Leader of the Opposition): I support the remarks made by the Leader of the Government. I, too, would like to place on the record my thanks to the Clerks and table staff and to the President. It is fairly unusual to get off at this hour. We should not be too quick to make that statement: we hope to be getting off at a fairly early hour tonight and to finish the session in what I consider to be a reasonable way. I hope that this will be the customary practice of the Government: that we will end sessions not absolutely exhausted. I think that the fact that we have not had overly late nights this week has assisted the deliberations and the goodwill of the conference today. I do not think that people make sensible decisions when they are exhausted and on the run and, if it is not the Government's intention to do this all the time, it should think seriously about it.

I know that the committee of which I am a member, namely, the Joint Committee on Women in Parliament, has actually looked at the issue of the sittings of the Parliament to try to come to some kind of sensible solution about the fact that members of Parliament are not always at their best when they have been sitting night after night with very little sleep.

So, it is pleasing that we are actually able to go out this evening and enjoy ourselves and to get back together with our families. I know the Hon. Mrs Schaefer will be on the plane as soon as she can, and she has a long way to travel.

I thank the Leader of the Government and his members for their assistance over the session. I think that we got through a lot of business and, as an Opposition, we have at all times tried to assist that process. I thank the Australian Democrats, and in particular the Hon. Sandra Kanck, who has worked quite closely with the managers on the native title Bills. I think it has been important to have that kind of an association. We hope it will continue and continue to be fruitful.

Last, but not least, I thank my own members of the Opposition and those who are absent, the Hon. Anne Levy and the Hon. Terry Cameron. I hope that the Hon. Anne Levy is thinking of us while she is in a colder climate than us and I wish the Hon. Terry Cameron a speedy recovery from his illness.

I hope that all members will have a nice, relaxing time over the Christmas break. I hope that you, Mr President, and the Clerks and staff will all manage to equally have a relaxing time so that we come back refreshed and ready for the fray in the New Year. I wish you all the compliments of the season and hope that the next session ends, as I said earlier, at about 7 p.m. I think that is a sensible way to go and I hope that there will be more of it.

The Hon. M.J. ELLIOTT: I, too, would like to thank the table staff, messengers and *Hansard*. If anything does work smoothly I think it is because of the staff we have here. It is one place where we do not ever see foul-ups at any time. I thank all members of the Government, the Opposition and my colleague, the Hon. Sandra Kanck. It certainly is an orderly end to a session when we compare it with the previous session, or in fact many others. It was not orderly in another sense in that when I was sitting in my office at about 11 a.m. I received a phone call suggesting that some legislation for which I had been preparing copious amounts of amendments for some time was simply not going to be debated. It is somewhat frustrating when you bust your gut for some time to be prepared for something to then be told that it will be done in about three months' time.

The Democrats had indicated a preparedness to sit next week, which had always been set aside as a potential sitting week, and we were prepared to handle the Public Sector Management Bill, among other Bills, at that time. In terms of orderly ends, we could have had an orderly end next week and completed some other business that will otherwise hang around. We might also have handled more satisfactorily, from my point of view, legislation such as the Wheat Marketing Act. Despite requests that we be given reasonable notice of legislation, that came into the Lower House just over a week ago and was expected to go through both Houses within a week. Last night I commented about the total inadequacy of an important piece of legislation being handled in that way. Whilst in some senses the end of this session has been more orderly than some others, it still has been far from ideal.

I believe that the Government's move next year to three sessions rather than two is a sensible one: I applaud that. It is something I had called for in the past, and I think that, at least as far as the autumn and winter sessions are concerned, the ends will be more orderly because the next session will not be that far away that there will be excuse to get it absolutely through here and now. The handling of business during next year should be hopefully far more orderly again than we have managed to achieve so far. So, I am pleased to see that. I wish all members of this Chamber and all staff in this place the compliments of the season and, dare I say, look forward to seeing them in the new year.

The PRESIDENT: I pay my thanks to all members in the Chamber. It has not been like school. It has been extremely well run by yourselves, not by me, but despite of me, probably. I think the proof of that is the past two weeks where we were dealing with private member's business and we got through an enormous amount because members were prepared to sit down, do the work and finish it off. I thank members for their decorum. It is very easy to look after a group when they do not object to your rulings. Ruling No. 1 is that I am always right. If there is any doubt you refer to ruling No. 1. That only happens because the Whips are very good, and I thank Jamie and George for their help. They always have on my desk the order of the day, the business we have to deal with and who is speaking to what: very rarely is it out of plumb.

The Hon. J.C. Irwin interjecting:

The PRESIDENT: That is right, but I can usually work out the hieroglyphics. My thanks particularly to Jan, Trevor, Chris, and Paul, because without them this place would not run. I think their motto is, 'We do not make mistakes.' If members look at another place they will find that they have made mistakes in the past. I pay particular praise to this group. What members probably do not understand is the background to getting legislation in the right order, and getting the amendments and so on quite correct. That is always done very easily and properly. Because the place is run so well maybe our Standing Orders Committee will have an easier task when next we meet, and maybe we can have some suggestions from the floor of the Chamber as to how that should run. I know it is something that the Leader of the Government would like to see done, and I would like to see perhaps a few changes so that the place runs even better than it was run this session.

Finally, I thank all members (and in particular Mario, who has filled in for me quite a few times) who have come up and had a short stint in this Chair when I have needed a cup of coffee or whatever. (Quite often, more whatevers than the cup of coffee). I wish members a pleasant break and a happy and blessed Christmas.

I also want to mention the messengers and the floor staff who have been diligent in looking after us very well, including putting the lovely rainwater into my water bottle. I cannot see *Hansard*, but I think we should thank them for the very good record they keep of all the blunders we make.

NATIVE TITLE (SOUTH AUSTRALIA) BILL AND LAND ACQUISITION (NATIVE TITLE) AMENDMENT BILL

The House of Assembly intimated that it had agreed to the recommendations of the conference.

ADJOURNMENT

At 6.27 p.m. the Council adjourned until Tuesday 7 February 1995 at 2.15 p.m.