LEGISLATIVE COUNCIL

Tuesday 23 March 2004

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

ASSENT TO BILLS

Her Excellency the Governor, by message, assented to the following bills:

Liquor Licensing (Miscellaneous) Amendment,

Statutes Amendment (Computer Offences),

Summary Offences (Consumption of Dogs and Cats) Amendment,

Zero Waste SA.

ROYAL VISIT

The PRESIDENT: I rise to draw to the attention of the council that this day, 23 March 2004, represents the 50th anniversary of the opening of the second session of the thirty-fourth parliament by Her Majesty the Queen. I understand that the occasion was considered of major significance by the people of South Australia.

I have arranged a small exhibition of photographs and documents, which may be of interest to members. Standing orders at the time were amended to provide for the opening by our sovereign, as well as to provide for the position of Usher of the Black Rod, who is the escort in the upper house of the sovereign or the sovereign's representative. Apparently, members had to vacate certain offices to enable the royal administration to assist with the organisation of the event. Special carpet was commissioned for the front steps and the table was removed to enable a dais to be placed in a position below the chair in which Her Majesty was seated. In her opening speech, Her Majesty said:

> It is now 97 years since your citizens first enjoyed the benefits and privileges of responsible government. During that time, you and your predecessors have faithfully maintained the traditions, the spirit and the practices which you inherited from the mother of parliaments at Westminster.

I am happy to be able to now report to the Legislative Council that those traditions have been faithfully maintained for the past 50 years. We continue to enjoy the security and prosperity of a system which has delivered to South Australia a stable government in a peaceful and law abiding community.

To mark the importance of the occasion, I would like the council to join with me in adopting a draft address to Her Majesty, to be forwarded through Her Excellency the Governor, which I will now read. It states:

> To the Queen's Most Excellent Majesty,
>
> May it Please Your Majesty,
>
> We, the Members of the Legislative Council, desire to convey to Your Majesty our allegiance on the occasion of the Fiftieth Anniversary of the Visit by Your Majesty and His Royal Highness Prince Philip, Duke of Edinburgh, to South Australia and of the Opening of the Parliament of South Australia by Your Most Gracious Majesty.
>
> Your Majesty's Visit was an occasion for great rejoicing and is fondly remembered by the people of South Australia to this day.
>
> We take this opportunity of reaffirming our loyalty and devotion to the throne and to the person of Your Majesty.

I ask honourable members to join me in moving that the address as read by me be presented to Her Excellency the Governor, praying that Her Excellency transmit the message to Her Most Gracious Majesty the Queen.

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I move:

> That the draft resolution be adopted.

I join with the Premier in the comments he made in another place on this motion and commend the Queen's representative, Her Excellency the Governor, Marjorie Jackson-Nelson, on the magnificent job she has performed in that role in this state over the past few years. Our Governor has served with great distinction and dedication, and we greatly appreciate the work that she has undertaken for our state.

The Hon. R.I. LUCAS (Leader of the Opposition): I rise to second the motion. I listened with much interest to the debate in the House of Assembly and noted that the Premier, on behalf of the government, spoke eloquently in support of the motion. I must admit that I was intrigued to note that the Premier was speaking in support of the motion. On behalf of Liberal members, I am pleased to note that he did so and that the Leader of the Government in this chamber has risen to not second the motion but to formally move the motion on behalf of the Labor caucus.

I understand that the events of the past few minutes in the House of Assembly, when the Premier eloquently seconded the motion on this issue, may well be the subject of much interesting discussion at the next caucus meeting. There are no such problems for members of the Liberal Party, given that the Leader of the Government has moved the motion. On behalf of Liberal members, I am pleased to support the motion that has been moved and to also support the comments that have been made by members of the government in this chamber and in another chamber about the excellent service Her Majesty's representative, the Governor of South Australia, has given to the people of South Australia in her period of office.

The Hon. SANDRA KANCK: I am old enough to remember the Queen visiting Australia. It was quite a traumatic occasion, because in Broken Hill, where we all lined up either side of the road as the car came out from the airport, preceded by a group of police on their motor bikes, one of the motor bikes ran over my cat.

I think it sowed the seeds of my republicanism. Nevertheless, I indicate on behalf of my colleagues support for the motion. I regard it as something of a formality. I know that we all pledged allegiance to the Queen when we were sworn in and we have our own understandings and definition of what allegiance means. Because I have been able to come to terms with my own understanding of allegiance, I am able to support this motion.

The Hon. A.L. EVANS: Family First supports the motion that has been moved. I was a teenager when this occurred and I stood in Hindley Street and, with the crowds there, peered across as she drove through our city. Over the past 50 years the world has changed dramatically, yet she has remained a stable influence through the world and through our nation. I appreciate that and I have great respect for her representative, Marjorie Jackson-Nelson, so I support the motion.

Motion carried.

ABBOTT, Hon. R.K., DEATH

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): By leave, I move:

That the Legislative Council expresses its deep regret at the recent death of the Hon Roy Kitto Abbott, former minister of the Crown and member of the House of Assembly, and places on record its appreciation of his distinguished public service, and as a mark of respect to his memory that the sitting of the council be suspended until the ringing of the bells.

Roy Kitto Abbott was born in Jamestown in 1929. Roy, affectionately known as Bud, was educated at the Jamestown High School and entered parliament in 1975, winning the lower house seat of Spence. Upon entering parliament, Roy recognised the rapidly changing world in which he lived. In his maiden speech he said:

The quality of life is changing rapidly and we have an important role to play if this is to be for the good. We must continue to recognise that our society is not to be based solely on the pursuit of material wealth, but it must also be based on the pursuit of a better quality of life for all. We must recognise the finer characteristics of people in their endeavours for inner contentment and fulfilment and the self-respect and dignity whatever their station in life. . . We must be flexible in approach if our government is to be effective and we must be of open mind if our government is to be wise.

Roy also recognised the need for continued advances in social welfare because he also said:

The social reforms undertaken by the Labor governments, both state and commonwealth, are the most significant in the history of this nation, and this fact will be recognised by all future generations. However, we cannot rest on our laurels, as there is much work to be done in the pursuit of social equity for all. We must put an end to discrimination in all forms, whether by sex, colour or creed.

Called a 'compassionate man' by the then premier, Des Corcoran, Roy understood the plight of the unemployed, saying in a newspaper report just after his appointment:

I was once unemployed myself when I worked in the motor industry. I appreciate the circumstances and the feelings that the family suffer. I think the worst thing that can happen to any person is to take away their livelihood.

As a minister, Roy held a number of portfolios—community welfare, marine, lands, forests and transport. As transport minister, Roy oversaw the sealing of the Stuart Highway, a major infrastructure project for the state. He announced a plan to install the first red light cameras in South Australia.

Roy entered parliament having come from a strong union background. In the early 1960s, Roy held a number of positions with the Vehicle Builders Union, becoming state secretary in 1970 and federal vice-president in 1974, having been a shop steward in what was then Chrysler for eight years.

Roy became president of the United Trades and Labor Council in 1975 and was five times a delegate to the ACTU. Roy, of course, was well-known for his passion for football, having played for the South Adelaide Football Club. Roy played 73 league matches for the Panthers between 1947 and 1954, mainly at centre-half back. Roy was the club's number one ticket holder from 1984 to 1992 and was club president from 1992 to 1996. The club remembers him as a dedicated and loyal South Adelaide supporter. The Panthers will honour Roy's commitment to the club during their first home round game against West Adelaide on 3 April.

Roy retired from parliament in 1989 after 14 years of service. He was a regular visitor to the parliament after his retirement, and I certainly had the pleasure of a number of interesting and stimulating conversations with him over those years. Roy died peacefully at his home last Friday at the age of 74. Our sincere condolences go to his wife Lois, his three children and seven grandchildren.

The Hon. R.I. LUCAS (Leader of the Opposition): I rise on behalf of Liberal members to second and support the motion. I do not know exactly when it was, but I suspect that I first met Roy (Bud) Abbott some time during the late 1970s or early 1980s. As the Leader of the Government has just indicated, Bud was a centre half-back on the football field and, if I might characterise him this way, he was a centre half-back in political terms, too. He was a dour, no-nonsense sort of person who saw a straight line and, generally, went straight for it. Certainly, I think most people who had dealings with Bud Abbott during that period respected him and knew what he stood for on all the issues and the portfolios on which he was working.

As I said, he generally had a no-nonsense style in his political handling of the difficult issues he confronted as a minister. The Hon. Terry Roberts will correct me, but I suspect that Bud Abbott was the minister in charge of the timber corporation during one of the more exciting times in the history of the Legislative Council. In and around the mid 1980s, the Hon. Terry Roberts, myself, Legh Davis, the Hon. Michael Elliott and, possibly, the Hon. Trevor Crothers had the rare privilege of serving on the select committee on the South Australian timber corporation and, in particular, on its investments in things such as scrimber. The Hon. Legh Davis was wont to quote the corporation's interest in subjects such as Africar, which was going to be the world's first timber-framed car, and we in South Australia were going to be the world leaders in that area. I make no specific criticism of Bud Abbott in relation to that but, in the end, he had to accept ministerial responsibility, as we all do, for what goes on within our portfolios.

At the time, the timber corporation under the then government had some bold ideas—to make an understatement—about how we might use our timber resource in South Australia, and those involved some investments in timber activities in New Zealand. During that period, minister Abbott had a difficult case to defend, if I can put it kindly but, again, in his no-nonsense style he did the best he could in presenting evidence to the select committee, where he defended the decisions that he, the government, or his senior officers had taken in relation to the timber corporation.

Whilst obviously politically we were on the other side of that argument, as an opposition member I nevertheless respected the fact that he was prepared to attend the select committee and defend his position and his government's position on many of those decisions in which the timber corporation and the government had been involved.

The Leader of the Government has referred to many of the other initiatives that Bud Abbott was involved with, particularly in relation to the transport portfolio. He has talked about the initiatives in relation to red light cameras. The press clippings that the table staff have been kind enough to provide to both the leader and me are full of a series of stories on initiatives that minister Abbott undertook on behalf of his government in the area of the transport portfolio, with a particular emphasis on road safety issues.

In latter years, after his retirement, I saw Bud Abbott on a number of occasions at the football, whether at Noarlunga or at Richmond, when South Adelaide played my team (West Adelaide) or, indeed, at Adelaide Oval where he attended a number of football games between South Adelaide and West Adelaide. I think he was also, if my memory serves me correctly, actively involved with the club's association at varying stages. I am not sure whether it was in an official capacity and I know that South Adelaide, on a number of

occasions, lobbied members of parliament, including me, in relation to issues which were of importance and still are of importance to the clubs industry in South Australia. On behalf of Liberal members, I support the comments that have been made by the Leader of the Government and pass on our condolences to members of his family and friends.

The Hon. SANDRA KANCK: The Hon. Mr Abbott, I think, from what I can deduce, made his biggest contribution in the area of transport law reform. I think that there would be some people who would not thank him for being the minister responsible for introducing red light cameras to this state, although I imagine that it would have happened eventually. He was also responsible for, ultimately, the implementation of photos on our driver's licences and for repealing the two-plate taxi system that we used to have.

One of the things that I did not thank him very much for, back in the early 1980s, was what he was doing with tow-truck drivers and the regulations because, at that stage, I was employed by the Hon. Ian Gilfillan, and I was in the firing line from lobbyists, answering phones and replying to letters and so on. It was an extraordinarily well-organised lobby that the tow-truck drivers and their companies led against that particular change in the regulations.

Possibly, I think the one really negative thing that will stay on his record is the role that he played in removing the passenger transport link with our trains up to Aldgate. I think that that was certainly one backward step. Overall, though, it would appear that Mr Abbott made a strong contribution as a minister in a variety of portfolios. He felt very strongly about a lot of things, obviously. I indicate the Democrats' support for this motion and we extend our condolences to his family and friends.

The Hon. IAN GILFILLAN: I would like to briefly add my contribution to this motion, because I remember Roy Abbott as being a warm and friendly person in my first introduction to this parliament, where that was more the exception than the rule. I felt that his humility and natural grace in dealing with people were hallmarks that I would like to acknowledge in this formal sense. From time to time, I had cause to visit him in his ministerial office, and I always found it a friendly and cooperative situation.

The Hon. T.G. Roberts: Did you have a beer with him?

The Hon. IAN GILFILLAN: No. He did not go so far as to offer me a beer. I think it was in the morning. He did, however, make up for that by giving me a very large aerial photograph of the part of Kangaroo Island which is my home. I certainly have kept an enduring sense of gratitude to him for that. Those honourable members who have come into my office will have seen it, and now you know that its origin was from the generosity of Roy Abbott. My contribution is not to add to, but to endorse, the acknowledgments already made of his achievements. I think that the most enduring memory that I have of him is of an essentially likeable man who I always was pleased to see and talk to. I am sure he must be sadly missed by his family.

The PRESIDENT: I will make a short contribution. I knew Bud Abbott for some 25 to 30 years when he was mixed up in the vehicle builders, as all aspiring young politicians did in those days. You went and talked to the secretary, looking for support. I found him to be a very easygoing man with whom to deal—a man of great honesty. He told me straight away that he was not going to support me, and I respected him for that. On a number of occasions I had discussions with him when he was a minister but, by the time I had arrived at parliament (after his exceptional services as minister), he was then the convenor of the 'mushroom club'. That club comprised a number of backbenchers. The Hon. Terry Roberts is smiling. We would vacate this place to Gouger Street and one of the fish cafes. Bud had this system whereby we would all put in a tarry, buy the grog and pay for the tea.

I quickly learnt that it was a bad policy because Bud and a colleague used to drink all the red wine and I got to pay for it; but, that was Bud. He was always a likeable chap. Over the years he often returned for the 'old buffers' club', as we call it. That is the club for retired Labor members. I am sure that all Bud's colleagues in the retired members' club would be desirous of my expressing their sadness at the loss of Bud Abbott. If there are no further contributions, I ask all members to stand in their place and carry the motion in silence.

Motion carried by members standing in their places in silence.

[Sitting suspended from 2.42 to 2.57 p.m.]

PAPERS TABLED

The following papers were laid on the table:

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

Jam Factory Contemporary Craft and Design Inc.—Report, 2002-03.

Regulation under the following Act—

Police Act 1998—Medical Assistance for Prisoners.

Rule of Court—

Supreme Court—

Supreme Court Act 1935—E-filing.

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

Reports—

Abortions Notified in South Australia for the year 2002—Addendum.

Department of Human Services, Family and Youth Services Workload Analysis Project.

Regulation under the following Act—

Wine Grape Industry Act 1991—Production Area.

Rule under Act—

Authorised Betting Operations Act 2000—24 Hour Sportsbetting Licence.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE

The Hon. G.E. GAGO: I bring up the report of the committee on wind farms.

Report received.

SCHOOL CARD

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I lay on the table a ministerial statement made by the former minister for education and children's services on Thursday 26 February 2004.

CITY WEST CONNECTOR

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I lay on the table a ministerial statement relating to the City West Connector made yesterday by the Minister for Transport.

FAMILY AND YOUTH SERVICES WORKLOAD ANALYSIS PROJECT

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I lay on the table a ministerial statement relating to the Family and Youth Services Workload Analysis Project made by the Hon. Jay Weatherill, Minister for Families and Communities.

QUESTION TIME

ANANGU PITJANTJATJARA LANDS

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question about the Anangu Pitjantjatjara lands.

Leave granted.

The Hon. R.D. LAWSON: A Perth-based mining company Acclaim Exploration NL, formerly Austral Nickel, recently announced that it has exploration rights over portion of the AP lands and that it proposed to commence exploration activities this month. The company claimed that it was having difficulty in negotiating with the chairman of the AP executive. One of the difficulties of mining exploration on the lands has been the sensitive legal and anthropological aspects of identifying the particular traditional owners who are entitled to receive payments in respect of such exploration. These matters are described as law and culture issues. On 10 March there appeared in *The Transcontinental* newspaper an employment advertisement seeking applications for a new position with the AP executive, called law and culture coordinator.

The job description describes it as a 'position responsible to the chairperson of the governing committee', that chairperson being Mr Gary Lewis. The opposition has been informed that this position was, in fact, funded through the office of the Minister for Mineral Resources Development. My questions are:

1. Can the minister assure the council that no representations were received from any mining interests requesting that the government take action against the AP executive?

2. Did the government provide any financial assistance to AP for the appointment of the law and culture coordinator to which I have referred? If so, did the government approve of the proposed reporting arrangements, namely, that the coordinator report not to the board but to its chairperson?

3. If so, can the minister explain why the government was able to take prompt action to advance mining interests but failed to act in relation to the health and welfare issues on the lands?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): As the Minister for Mineral Resources Development, I will take on the question as my responsibility. As the deputy leader said in his question—

Members interjecting:

The PRESIDENT: Order! The minister has the call. He has claimed responsibility for it, and I think he is right. He is entitled to be heard.

The Hon. P. HOLLOWAY: As we saw yesterday, my colleague certainly does not need any protection in relation to these matters. After an unprecedented number of about 18 supplementary questions in a row yesterday, my colleague is more than capable. However, this question happens to be about mineral resources, so I am happy to answer it. The Department of Primary Industries and Resources has been in discussion with the AP executive for many years, well before this government took office—

The Hon. R.D. Lawson interjecting:

The Hon. P. HOLLOWAY: Well, no. I completely reject the suggestion made by the deputy leader. What has been made completely clear by the AP executive is that the leaders—the tribal elders and the APY executive within the APY lands—are very keen, in order to deal with some of the social problems they have in their area, to advance economic development in that area. Some time half way through last year, officers of my department arranged for some of the tribal elders in that region to visit a gold mine at Tanami, where about 25 per cent of the employees are indigenous people from that region. Those elders were so pleased they actually put on an inma, which is a corroboree, near the Festival Theatre, to thank the officers of the department and me for the work we had done with them.

In relation to any mining or exploration that might take place in the AP lands, that is, of course, completely a matter for the tribal elders in that region. What was made clear during those ongoing discussions over many years is that it is the cultural traditions of the people in that land they are particularly interested in. Over a long period, my department has been very pleased to support the people in that area to deal with those issues so that, if mining companies do come to them, as they do from time to time, they are provided with that information. My department has been very forthcoming over a number of years in terms of assisting the APY to deal with these issues.

The Hon. R.D. LAWSON: I have a supplementary question. Did the minister receive representations from Acclaim Exploration or any other company relating to mining exploration on the lands and, in particular, did it receive complaints about the activities or inactivity of the chairperson of the AP executive?

The Hon. P. HOLLOWAY: I am certainly not aware of any complaints in relation to the chairperson of the executive in relation to these matters. In fact, I think most of the companies that have applied for and been involved in the past in exploration licences within the AP lands well know the complexities and difficulties in relation to those particular issues. I believe that most of the mining industry would be greatly encouraged by the attitude that the APY has shown towards the prospects that economic development in the area could have to enable those people to deal with their problems.

Let me totally rule out any suggestion that mining or mining issues have in any way whatsoever been involved in any decisions that might have been taken in relation to the executive. The APY, of course, is also responsible for approvals in relation to many of the opal fields in the north of this state. Again, the mineral and energy sector of my department, PIRSA, has had relationships with the APY people at the executive level and with elders over many years to negotiate those issues. They have been negotiating, for

example, the Mintabie lease for some significant time. That is also an issue in relation to other opal fields which are ongoing with the APY executive.

There is certainly no shortage of approaches made to my department from miners, whether opal miners or larger explorers in relation to issues. My department has always sought to maintain a good relationship with indigenous people of the APY lands and will continue to do so. We certainly have not been put under any undue pressure in relation to those matters.

The Hon. R.D. LAWSON: I have a further supplementary question. Did the minister's department provide financial assistance to the AP executive for the appointment of the law and culture co-ordinator, and did the minister approve the reporting arrangements under which that co-ordinator would report solely to the chairperson of the executive board?

The Hon. P. HOLLOWAY: I am not aware of the reporting relationships, but certainly my department is supportive of the development of the culture, as indeed we ought to be.

The Hon. R.D. Lawson: Did you fund it?

The Hon. P. HOLLOWAY: We do support them. What is amazing about this?

Members interjecting:

The Hon. P. HOLLOWAY: What is surprising? Let us be clear that one of the requests which we had and which came as a result of the meetings that I had last year with the APY elders when they put on the inma here in the city was in relation to just that. The point that came through from all those indigenous people was that they wished for support from government for this law and culture committee. Their priority is to protect the law and culture and that is why the government will be supporting it.

The Hon. R.D. Lawson: How much money?

The Hon. P. HOLLOWAY: I have not got those figures at my disposal. I will take that on notice. But we certainly make no apology whatsoever for supporting the AP people in relation to those matters.

TRADE OFFICES, OVERSEAS

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make an explanation prior to directing a question on the subject of overseas trade offices to the Minister for Industry, Trade and Regional Development.

Leave granted.

The Hon. R.I. LUCAS: Prior to the state election the then Labor opposition put out its definitive Industry and Innovation Jobs for Our Future policy. In that policy, the Rann Labor party promised that a Rann Labor government would do the following:

> . . . review our overseas trade offices to eliminate waste and duplication while opening new offices and targeting resources where they can do most good to South Australia. . .
> Labor would close at least two offices in Asia—one of the four Chinese offices and one of the two Indonesian offices. . .
> Labor would open an investment and trade office in the United States. Labor would consider the need to enhance our investment and trade resources in continental Europe.

My question is: does the minister support the Rann Labor Party policy to open an investment and trade office in the United States, as announced prior to the last state election?

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): We know the background to the Labor Party's policy as far as the old DIT was concerned, and we know some of the disgraceful conduct that occurred in that department under the Leader of the Opposition's rule of that department, which led, of course, to the claimed resignation of the CEO with a $250 000 payout. We well know the sort of culture that existed within that department, where the former CEO spent something in the order of $250 000 on his credit card in a couple of years. That sort of culture will not continue under this Labor government.

This government has examined, and is still in the process of examining, its policy in relation to exports, and we have established an Export Council. Some of the overseas offices, such as those in New York and Jakarta, have been closed. Shortly, I will take a submission to cabinet on what we propose to do in relation to remaining overseas offices. What I can say is that what this government wants from its policies on those overseas offices, or whatever form of representation we might have as an alternative to those offices, is to get the best value for money—unlike what occurred prior to the last election.

The Hon. R.I. LUCAS: I have a supplementary question. Will the minister explain why he no longer supports Labor policy to open an investment and trade office in the United States?

The Hon. P. HOLLOWAY: What I said the government is doing is examining all its trade opportunities and, along with other matters, it will look at that issue. We are looking at how the overseas offices perform, because we want to move away from—

Members interjecting:

The Hon. P. HOLLOWAY: Well, two years. What I am saying is that the one thing you can be sure of is that we will end the sort of disgraceful behaviour that existed in the Department of Industry and Trade under the previous government.

FLYING DOCTOR SERVICE

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for Industry, Trade and Regional Development a question about the Royal Flying Doctor Service.

Leave granted.

The Hon. CAROLINE SCHAEFER: Today I received a very disturbing call from a constituent at Port Augusta, where rumours are running rife that the Royal Flying Doctor air ambulance service is to be cancelled and transferred to Adelaide. We know that call centres on York Peninsula at Port Pirie have been closed today and that they will be moved to Adelaide, and so on across the state, to a centralised ambulance service. We also know the great work that the Royal Flying Doctor Service does across inland South Australia in providing all air ambulance services across the state.

The Royal Flying Doctor Service is using euphemisms such as it will 'continue health care services', that is, the provision of clinics. There is no mention, however, of emergency ambulance services. My questions to the Minister for Industry, Trade and Regional Development are:

1. Is he concerned, as Minister for Industry, Trade and Regional Development, about such a proposition at Port Augusta?

2. Has he been made aware of the likelihood of the closure of those emergency services?

3. What is he likely to do about them?

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I am not aware of the issues that have been raised by the honourable member. Obviously, they are matters that the honourable member herself described as rumours. I would like to get some informed advice on that matter and respond to the council accordingly.

MAWSON LAKES

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I table a ministerial statement made by the Minister for Transport today in relation to a new $26 million public transport hub for Mawson Lakes.

BUILDING POSITIVE RURAL FUTURES PROGRAM

The Hon. R.K. SNEATH: I seek leave to make a brief explanation before asking the Minister for Industry, Trade and Regional Development a question about development in the Murraylands and the Riverland.

Leave granted.

The Hon. R.K. SNEATH: These parts of our state make an important contribution to our economy. They are also growing in tourism as destinations with a particular emphasis on the emerging eco-tourism industry. My question to the minister is: what measures is the government undertaking to improve the local economies in these regions?

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I thank the honourable member for his question and for his continuing interest in these very important regional areas of South Australia. An important part of the government's approach to developing the economies in this state's regional areas is the Building Positive Rural Futures program. The next Building Positive Rural Futures study tour will be held this week from 25 to 28 March, and it will visit Murray Bridge, Karoonda and the Riverland over the four days. The study tour will focus on local regional success stories. The study tour program has proved to be a very successful way of spreading good ideas and showing people practical examples to help advance their own communities. The state government recognises the importance of local economic regional activity and it wants to acknowledge their contribution and encourage others to learn from their experiences.

Building Positive Rural Futures is an initiative of the Office of Regional Affairs. Its prime purpose is to strengthen regional communities and develop their capacity to find local solutions to local concerns. The tour will visit nine communities and several projects or businesses in each area. Centres to be visited include Murray Bridge, Karoonda, Loxton, Berri, Barmera, Renmark, Waikerie and Kingston on Murray. A community economic development workshop will be held in Loxton on Friday 26 March from 8.45 a.m. to 12 p.m. It is open to the community and attendance is free. Issues to be raised include succession planning in community organisations and the recruiting of new volunteers.

The tour leader is Kristine Peters who runs her own company that has been providing social research, strategic planning and regional development services since 1994. Kristine is actively involved with economic development in the Port Adelaide area. She is currently undertaking a PhD in regional economic development. The study group will participate in a community arts event in Loxton and will take part in Rivafest which is a community event in Renmark. I am very pleased that my department is able to contribute in this way to the economic development of our important regional areas.

The Hon. D.W. RIDGWAY: I have a supplementary question. Will the Office of the Murray based in Murray Bridge be utilised in this four-day program?

The Hon. P. HOLLOWAY: The program is organised out of the Office of Regional Affairs. It will be up to the office whether or not it uses the Office of the Murray. I will find that out specifically from the department.

ANANGU PITJANTJATJARA LANDS

The Hon. KATE REYNOLDS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation questions about the Pitjantjatjara Land Rights Act.

Leave granted.

The Hon. KATE REYNOLDS: Last week in a news release the Deputy Premier announced a full review of the Pitjantjatjara Land Rights Act and said that he would amend the act to give the necessary powers and authority for the coordinator to deliver state government services to people on the APY lands. Yesterday, in the other place, the Deputy Premier indicated the role of the coordinator was temporary and not a permanent solution. The Deputy Premier assured the house that, as soon as the government had confidence in the delivery of essential services in the region, the role of the coordinator would cease. Yesterday I met with Mr Gary Lewis, chairman of the APY executive and two councillors. Mr Lewis was concerned, to put it mildly, about the Deputy Premier's intention to amend the land rights act, because the executive had not been consulted about any such amendment. My questions to the minister are:

1. Why does the act require amending to allow the provision of services to the lands?

2. Will any amendments diminish the existing powers of the AP Lands Council?

3. When will the APY executive be consulted in a 'respectful and meaningful way' before any action is taken as agreed to in the government's own policy 'Doing it Right', which was launched in September 2003?

4. Will section 22 of the act relating to royalties be amended in any way to alter the royalties paid to the Anangu Pitjantjatjara people?

5. Will the Anangu Pitjantjatjara still have power to make by-laws as prescribed by section 42 of the Pitjantjatjara Land Rights Act?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for her well-constructed questions. Indications from the government to amend the land rights act relate only to the extension of time for the APY Executive to exist as an executive without the full legal cover of an election. We must amend the act if we are to provide legislative—

The Hon. R.D. Lawson interjecting:

The Hon. T.G. ROBERTS: I did say yesterday that if the act were to be amended it would be to extend the term. I mean, that would be the intention. The amendment of the land

rights act relates only to those issues associated with the management of land. The powers of the AP Council will not be challenged at all in relation to the amendment: in fact, it is to give it legal certainty. The issues—

Members interjecting:

The PRESIDENT: Order! Members on my left will cease to be amused.

The Hon. T.G. ROBERTS: —of royalties, which are indicated in the Aboriginal land rights act, will not be subject to any change. The only amendments we are making, as I said, are to give parliamentary approval, through legal recognition, to the extension of the act to cover the way in which the election was held. I have explained that, over time, the APY Council has evolved as a land management body, and it has been taking responsibility for some service delivery. Clearly, the APY is not questioning the government's position in relation to separation of powers, if you like, and land management and service delivery.

We were indicating that we would change the act to incorporate a coordinator of activities who would be able to coordinate all of the state government's activities in relation to the way in which services were being provided by state agencies. It is to assist partnership and discussing these issues with the APY Council and the service providers within the area. The issues around where we place government services must be discussed through the APY because it is a land management body. We need to be able to get clearances on land if we are to put in place clinics, for instance, or community centres.

They are land management issues over which, through consultation, the government needs to have some say. We certainly would not be putting buildings down in places where they were sensitive. We would be going through those processes with the APY Executive given that it has responsibility over land management. We have no intention of interfering with the by-laws; and, as I have said, royalties is not a subject that we are negotiating. We do not have any issues associated with royalties. I am sure that members on both sides understand that, with respect to the proposal we are putting forward, all options are being looked at, including legislative options, and they all involve negotiations, discussions and engagement.

We cannot do anything on the lands, given that it is private land. The act confers unique rights on the Anangu Pitjantjatjara in terms of ownership. We are not interfering with that, although some people are mischievously putting it out there that it is our intention to change the act to interfere with land rights. Of course, that is the first thing that would upset people, if they felt that that was to be done. So, we are considering changing the act to engage the APY Council but, as far as any other service provision is concerned, we hope to be able to do that without legislation. However, if a coordinator is to be put on the lands, new legislation may have to be looked at.

An honourable member interjecting:

The Hon. T.G. ROBERTS: It may be that, through discussion and negotiation, other ways can be looked at.

An honourable member interjecting:

The Hon. T.G. ROBERTS: It is what negotiation is about. I am not saying that there will be any change to the plans that the government has at the moment but, through negotiations and discussions—

The Hon. Kate Reynolds interjecting:

The Hon. T.G. ROBERTS: I spoke to the chairman, Gary Lewis, on a number of occasions last evening, which is the normal thing to do. I have left messages for him this morning but I have not spoken to him, because he has been in transit between Port Augusta and Umuwa. However, I have spoken to the administrative officers in Umuwa. We are opening up dialogue around a number of outstanding issues, and we hope to engage them in a meaningful way until the general meeting is held on Friday. We would hope that there is an understanding by the AP Executive and the broader community about how we wish to proceed, and we hope to be able to head off the rumours and innuendo about the interference that might come with some of the changes that we envisage.

The Hon. SANDRA KANCK: Sir, I have a supplementary question. Will the minister confirm that the interim coordinator, Mr Litster, cancelled three meetings with Mr Gary Lewis that were scheduled for last Thursday?

The Hon. T.G. ROBERTS: Mr Litster does not answer to the Minister for Aboriginal Affairs. But I do know that Mr Gary Lewis had a number of meetings scheduled for the week, and he was very busy. I understand that Mr Litster also had a number of meetings scheduled. So, they may not have been able to coordinate their time frames. If it turns out that they were unable to meet, I may be able to ascertain those reasons and bring back a reply.

The Hon. R.I. LUCAS (Leader of the Opposition): Sir, I have a supplementary question. What powers will the coordinator (or the administrator, as Mr Foley has referred to him, but the coordinator at the moment) have in relation to any actions that he might undertake on the lands?

The Hon. T.G. ROBERTS: If there are to be actions or activities revolving around a coordinator, that will be the power to deliver state government services.

The Hon. R.I. Lucas: What power does he have now?

The Hon. T.G. ROBERTS: Without an act of parliament?

The Hon. R.I. Lucas: Yes. What power does he have now?

The Hon. T.G. ROBERTS: The only negotiated power he would have would be those powers worked out in relation to what APY and the government could negotiate.

The Hon. R.I. Lucas: He does not have any power?

The Hon. T.G. ROBERTS: Until you have an act of parliament presenting powers to him—

Members interjecting:

The Hon. T.G. ROBERTS: I think the honourable members misunderstand the role of the coordinator. The coordinator—

Members interjecting:

The PRESIDENT: Order! There is too much background noise.

The Hon. T.G. ROBERTS: —is currently meeting with a wide range of people to familiarise himself with the issues. Those meetings will probably go on for at least another week to a fortnight while those briefings are occurring. The coordinator named has indicated that he will not be taking the position long term, but he is still meeting with people to familiarise himself with the problem. If there is to be a transfer over to another individual, the information he has collected will be transferred over. I indicated yesterday that there will be three police plus an inspector on the lands tomorrow, and a mental health assessor was placed on the lands immediately we found out the circumstances in which young people were finding themselves. It is not as though the

government has done nothing: there are people in place. The coordinator's job is not vital until state government services start to unroll, and that will have to be in consultation with the AP communities generally.

The Hon. R.I. LUCAS: By way of supplementary question arising from the minister's answer, given that the parliament only sits for next week and then is up for one month, and given that the coordinator will be there for, as I understand it, only one month, will the minister confirm that for that period the interim coordinator has no power to act in any way in relation to resolving the issues that the Deputy Premier on behalf of the government identified early last week?

The Hon. T.G. ROBERTS: You do not need legislative powers to get results as a coordinator of state government services if the Anangu and the APY executive are in existence. At the moment we have an indicated position—

Members interjecting:

The PRESIDENT: Order! We are dealing with matters of some importance. The Leader of the Opposition has asked a very pertinent question and the council is entitled to hear a responsible answer. There is too much interjection today, it is getting out of hand and I will warn people.

The Hon. T.G. ROBERTS: It does not take legislation for the coordinator to act as a coordinator in talking to government bodies in the metropolitan area, but when it comes to delivering services at a local level within the lands you need the cooperation of those people to whom you are delivering the services in talking to them about the key issues they find important in dealing with some of the emergency circumstances in which they find themselves in relation to petrol sniffing, drug and alcohol abuse, family violence and so on. If the coordinator were to reside on the lands—we could not move somebody in without permission of the executive—there would have to be discussions and indications of what the powers required were and how effective they would be in assisting the delivery of those services. Those negotiations are continuing.

We do not have any legislation to consider as yet because the discussions between the APY, the government and myself are still continuing and the job Mr Litster has accepted is continuing as we speak. He is having meetings with a wide range of people in relation to service provisioning on the lands. When his contract expires that information will be handed over to another coordinator, and it may be that in the time frames required Mr Litster will be able to go to the lands and talk with the Northern Territory government or go to Alice Springs. That is not part of my organisational brief, but there are those options for him to consider in the time lines in place—it will not be wasted time. The government still has the services it has been unrolling since day one in trying to deal with those problems across agencies.

The Hon. KATE REYNOLDS: By way of supplementary question arising from the answer, what process will be used to select the replacement for Mr Litster and will the APY council be involved in that?

The Hon. T.G. ROBERTS: The process is that a number of people are being approached to make their intentions clear as to whether they are able to deal, or capable of dealing, with this issue. It is a special task, and it will take a special person or persons; it might not be one person coordinating activities. It should not be rocket science to imagine that whoever goes on the lands will have to be supported by a secretariat or an executive support group, which we are doing through tier one. That person or persons will have to be relieved from time to time, because no-one can work 24/7 in the remoteness of those regions without some sort of backup. So, they are the considerations of the government in relation to how we do it. A team of people will be coordinating activities, both in the metropolitan area back into the lands and on the lands, and regarding the issues of housing and backup support within the communities. Those members who have been up there know and understand that the availability of suitable housing and accommodation is a difficult issue in itself. We are starting to deal with those issues in relation to housing for professional people and support staff for AP, but those questions will be and are subject to consideration and are being discussed in a wide range of forums.

The Hon. J.F. STEFANI: I have a supplementary question. Can the minister advise the council whether the government intends to appoint the replacement coordinator before the expiration of the current coordinator's appointment to enable an orderly transition of the matters and the administration that is foreseen by the current coordinator?

The Hon. T.G. ROBERTS: To have a seamless transfer of activity around the reporting process would make good sense, and I suspect that is what the process we are trying to develop will do.

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: I am not part of the negotiating process. I do not send out—

The Hon. A.J. Redford: And you're the minister!

The Hon. T.G. ROBERTS: Perhaps I will explain it again. The situation is that the Premier and Cabinet, along with DAARE, are the lead agencies for coordination in this operation. The situation in relation to the naming and choosing of the task force is not the responsibility of the Minister for Aboriginal Affairs and Reconciliation, because that has to come from a wide range of agencies. I am not going to be able to go around tapping people in health, education, housing and police on their shoulder: that will be done by senior bureaucrats, and honourable members know exactly how that all works.

The Hon. A.J. Redford: What's your job?

The Hon. T.G. ROBERTS: My job will be to liaise and negotiate with APY to make sure that the role that DAARE plays, in conjunction with the Department of the Premier and Cabinet, supplies on-the-ground, accurate information so that the coordination plans match the human resource requirements we have to put together to make it all happen.

The Hon. R.D. LAWSON: I have a further supplementary question, arising out of the previous answer. In relation to the negotiations between the minister and the APY executive, and Mr Lewis in particular, has Mr Lewis stated to the minister that the executive would refuse—

The Hon. P. HOLLOWAY: I rise on a point of order, Mr President. Quite clearly, this supplementary question does not arise out of the previous answer. What we are seeing here is a gross abuse, again, of the standing orders in question time.

The Hon. R.I. Lucas: That's a reflection on the President.

The Hon. P. HOLLOWAY: It will only be a reflection if—

The PRESIDENT: Order! The problem we have here is that there have been about seven or eight supplementary questions and, on every occasion when the minister has

answered, he has gone into other areas of the discussion. On the last occasion that he answered a supplementary question, I cannot recall his canvassing some of the issues raised by the Hon. Mr Lawson. He has, on about three previous occasions, on the same subject so, under the circumstances, it is very difficult to rule the question out of order.

The Hon. R.D. LAWSON: Thank you for your protection, Mr President. In the negotiations—

Members interjecting:

The PRESIDENT: Honourable members will remain silent.

The Hon. R.D. LAWSON: —to which the minister referred, did Mr Lewis state that the executive would refuse Mr Litster, or any coordinator, a permit to go onto the lands?

The Hon. T.G. ROBERTS: There were indications that under certain circumstances, if the coordinator's powers exceeded those powers that they thought necessary to muster the human resources that we are talking about—if they thought those powers were extraordinary—they would have made the decision at the time. However, some clarification is required through negotiations to bring about a reasonable understanding of what the coordinator's position was and is.

The position that was relayed to me by Gary Lewis was that, because they did not know or understand what the position of a coordinator or anybody else was, they were going to take the right to look at that. That is a fair and reasonable suggestion. They also indicated that further negotiations need to be held around a whole range of issues, including land management, in relation to how resources were to be placed and where they were to be placed on the lands—just as people in Salisbury, Elizabeth, Mona Vale or anywhere would like to have some consideration made of their views—but they do not want to take responsibility for delivering those services. That is the responsibility of government.

The mustering of human resources, which the government is going through—not a very complicated situation as far as drawing pictures goes—within the metropolitan area and on the lands, is taking place at the moment and the position of coordinator is being examined. There are people who are being spoken to. There are some people indicating that they would like to be involved. That is continuing at the moment.

SPEED CAMERAS

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Transport, questions regarding signs for speed cameras.

Leave granted.

The Hon. T.G. CAMERON: I recently received a letter from the former transport minister regarding the minister's undertaking, as part of the Statutes Amendment Road Safety Reforms Act 2003, in respect of the installation of speed enforcement advisory signs in selected areas. The letter states:

> I now advise that signs notifying motorists that they are entering an area where speed cameras are regularly used have been installed in selected areas including known accident black spots. The signs appear with the message 'Speed Cameras used regularly in this area.' The South Australian police were consulted on the concept and to identify areas for the advisory signs. Both SAPOL and the Department of Transport and Urban Planning agreed to install signs at 10 locations. It then lists 10 city and country locations.

My questions to the minister are:

1. On what criteria were these 10 locations selected?

2. How many motor vehicle accidents and road deaths occurred at each of the 10 locations selected in the previous 12 months?

3. For each of the 10 locations, how many times were speed cameras placed there in the previous 12 months, how many speeding infringement notices were issued and how much revenue was raised as a result?

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): As the minister representing the Minister for Transport I will refer those questions to the minister in another place and bring back a reply.

DISTINGUISHED VISITOR

The PRESIDENT: I draw to the attention of honourable members the presence in the gallery of Mrs Sitti Nurhajati Daud, Secretary-General of the House of Representatives of the Republic of Indonesia, who is accompanied by other members of a delegation which is visiting our state parliament, studying the debate about the reform of parliamentary practice. On behalf of all members, I extend a warm welcome to our state parliament and trust that your stay with us proves both interesting and informative.

HERITAGE BUILDINGS

The Hon. J.M.A. LENSINK: I seek leave to make a brief explanation before asking the minister representing the Minister for Environment and Conservation a question about heritage matters.

Leave granted.

The Hon. J.M.A. LENSINK: The *City Messenger* (and, more recently, *The Advertiser*) has carried a number of stories regarding the potential demolition of some of the historic buildings of North Adelaide and other suburbs to make way for a proliferation of Tuscan terracotta townhouses. State heritage listing is required to protect historic properties, and it is a function of the State Heritage Authority and Heritage SA to determine the heritage value of applications. Thereafter, the minister has responsibility for final approval. Properties under threat include Edgehill, at 157 Strangways Terrace, and one located at 224 to 225 East Terrace. Another building at 47 to 37 Wellington Square has already been rejected for listing by the State Heritage Authority, which has deemed it of no value.

The state government's Heritage Fund provides funding of $250 000 per annum for conservation work. The Adelaide City Council, however, provides four times that amount, namely, $1 million per annum. In fact, in this financial year, it will spend five times the amount of funds as the state government, as it chips in an additional $250 000 for the Victoria Park racecourse. The city council's fund is for work on properties on its own streetscape listing but, because it is so much more generous than the state government, it is also frequently called upon for properties on the State Heritage Register.

In an article in the *City Messenger* dated 18 February 2004, which featured the former lord mayor and the member for Adelaide, Dr Jane Lomax-Smith, and the North Adelaide Society, I note that shots were fired at the Adelaide City Council for being 'apathetic about heritage matters'. My questions are:

1. Will the minister accept responsibility for the non-

listing of the aforementioned properties as it falls under his portfolio responsibilities?

2. Has the minister had any 'heated discussions' with the member for Adelaide (as she claims to have had with the Attorney-General regarding Barton Road) about the heritage listing process and whether it effectively protects historic properties in a timely fashion?

3. What are the outcomes of the government's paper, 'Future directions: a future for built heritage in South Australia'?

4. When will we see some concrete results, instead of ministers Hill and Lomax-Smith touring the streets of North Adelaide wearing their most concerned frowns?

5. When was this issue last discussed in cabinet?

6. When will government ministers stop blaming the Adelaide City Council and other councils for the outcomes that are within its own jurisdiction?

The PRESIDENT: There was a great deal of opinion and presumption in that question.

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

INDUSTRIAL RELATIONS BILL

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Industrial Relations, a question about the industrial relations bill.

Leave granted.

The Hon. J.F. STEFANI: Much publicity has been generated by the proposed industrial law reform fair work bill, circulated by the government. Many employers represented have condemned the measures in the bill as having a serious impact on economic and employment growth in South Australia. All major employer associations have stated that the changes in the proposed legislation will make South Australia a less attractive place for business to operate and employ people. The proposed legislation has been described as a system which has focused on the minority, when the case for such change has not been clearly demonstrated. My questions are:

1. Has the minister referred the proposed legislation to the Economic Development Board for comment, given that the board was established by the Rann Labor government to provide advice on the future economic development of our state?

2. If so, has the Economic Development Board provided comments and advice to the government?

3. Will such advice and comment be made public? If not, why not?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will refer those important questions to the minister in another place and bring back a reply. The bills are out for discussion and that is what is occurring.

The Hon. A.J. REDFORD: I have a supplementary question. When will that discussion process end? When will we see a bill?

The Hon. T.G. ROBERTS: I will pass those questions on to the minister in another place and bring back a reply.

ABORIGINES, LOCAL GOVERNMENT PARTNERSHIPS

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

Leave granted.

The Hon. J. GAZZOLA: The minister has informed members of the working relationships that are being developed between local government and Aboriginal communities. The groundbreaking work that is being undertaken by southern councils and the Kaurna community is particularly heartening. I am confident that there will be long-term benefits for those involved in this program, the broader community and the state. Given this, my question is: will the minister inform the council of any other local government Aboriginal partnerships that are being progressed?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): Governance of Aboriginal communities is uppermost in this government's mind in dealing with and engaging with local communities within this state. I inform members of the excellent work being done by the Tangglun Piltengi Yunti (TPY) in the rural city council of Murray Bridge. TPY is one of the three peak Aboriginal organisations within Murray Bridge. The other two are Kalparrin Community and the Lower Murray Nungas Club—both of whom have TPY's close association.

The rural city council of Murray Bridge employed a community development officer and received advice from its Community Cultural Development Advisory Committee. I congratulate those councils that are engaging Aboriginal communities in a sensitive way and paying due respect to Aboriginal leadership within those communities. Since 1995, TPY has been able to establish the Pomberuk Cultural Centre, open self-funded business such as MBT Engineering and Construction, and taken on horticultural ventures including supplying bush tucker to Outback Pride.

Again, the establishment of relationships with local government as a resource and linking local Aboriginal communities to joint projects through employment opportunities is one way of breaking the poverty cycle in which many Aboriginal people find themselves. MBT Engineering and Construction runs a truck and car repair business and a sheet metal fabrication program and employs four mechanical apprentices. Again, one of the government's aims is to train young Aboriginal people in the skills required to join in the local economy. MBT incorporates a building and construction team and currently has building contracts with the Aboriginal Housing Authority and ATSIC to build three houses. That group employs six building apprentices. TPY is recognised as a preferred builder by AHA and the rural city of Murray Bridge, so it has the respect of the local community, which is something else that we have to work hard on to make sure that it can happen in partnership.

The success of these projects has sealed the region's standing as one of the most influential and progressive Aboriginal communities within this state. TPY has the largest CDEP within the Patpa Warra Yunti regional council area with 163 CDEP participants. Where CDEP can be used as a resource base and an education and training base then the government will encourage that to occur. Some CDEPs work better than others in training and education programs. Where they are working, we need to encourage better results and more participation. Where they are not working, other

avenues of introducing young Aboriginal people into rural, regional and outer-metropolitan communities need to be examined to get the required results.

In the case of Anangu, that is the message that we will be sending when we set up our internal structural programs—setting up a regional government structure and engaging, in a meaningful way, education and training so that we can try to break the poverty cycle, and so that they can join in the mainstream economy. If that includes mining, environmental tourism, and culture and heritage protection, then they are the issues that need to be discussed with communities. This government is doing it and I congratulate all local government bodies that are successfully engaging Aboriginal communities and bringing them on board.

SEXUAL ASSAULT COUNSELLING SERVICES

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for the Status of Women, a question about sexual assault counselling services.

Leave granted.

The Hon. SANDRA KANCK: It was reported in the most recent edition of *The Sunday Mail* that, in the past few days, Yarrow Place has experienced a flood of inquiries from women resulting directly from recent media reports surrounding incidents of sexual assault involving Australian Rules and National Rugby League players. Many of these inquiries will, no doubt, have come from women who have experienced sexual assault both recently and in the near and not so near past.

In response to a question I asked in this place last year, the minister confirmed that women who report an assault more than six weeks after it has occurred cannot access immediate counselling due to staffing shortages and a policy to prioritise clients according to the length of time since the sexual assault took place. My questions to the minister are:

1. Given that Yarrow Place has only 6.2 full-time staff and is already in the position of having to refuse immediate counselling for women who need help and who reported the sexual assault six weeks or more after it occurred, how will the recent flood of inquiries impact on the ability of Yarrow Place to deliver services to clients?

2. Will the government commit to extra funding to cope with this increase in demand for Yarrow Place services?

3. Does the minister agree that it is important that all women who have experienced a sexual assault be able to access immediate counselling upon reporting an assault?

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

PARENTING CLASSES

The Hon. A.L. EVANS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Families and Communities, a question about parenting classes.

Leave granted.

The Hon. A.L. EVANS: On Monday 27 August 2002 *The Advertiser* reported that the federal government is considering introducing a scheme that will require new mums and dads to attend parenting classes, the idea being to provide information and skills to assist them as new parents. Then, in December 2003, the Minister for Social Justice (Hon. Steph Key MP), in an article published in *The Advertiser* of 7 December 2003, stated that parenting classes would be offered to people wanting to improve their parenting skills. Recently, parental roles and responsibilities was again discussed in the media in relation to a number of underage adolescents found to be frequenting licensed venues, such as Heaven nightclub.

Understanding that parenting classes are already offered by some organisations in the community (for instance, classes are currently offered to new parents as part of the anti and prenatal care system), I ask the minister:

1. Will he advise the most likely commencement date for a program or programs?

2. Will he advise as to the funding that has been allocated to ensure the development and implementation of the program or programs?

3. Will he advise as to the content of the program, including the stages of child and adolescent development to be addressed in these parenting classes?

4. Will he advise the name of each organisation consulted in the development of the parenting program and programs?

5. Will the program or programs be accessible to parents living in country and metropolitan South Australia?

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

INDUSTRIAL RELATIONS BILL

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I would like to clarify a statement I made in reply to a question from the Hon. Angus Redford relating to the fair work bill. Submissions closed on 4 March. The minister is now considering those submissions.

REPLIES TO QUESTIONS

ELECTRICITY TARIFFS

In reply to **Hon. J.F. STEFANI** (25 November 2003).

The Hon. P. HOLLOWAY: The Minister for Energy has provided the following information:

1. The Government has no intention of making the Chairperson of the Essential Services Commission of South Australia (ESCOSA) a 'sacrificial lamb' for the price inceases South Australian electricity consumers are experiencing. In fact, in the ESCOSA's Price Inquiry final report of October 2002, as ordered by the Minister for Energy pursuant to his legislative powers, the ESCOSA indicated that South Australia's higher prices are primarily driven by higher network charges, which were locked in by the pricing arrangements established to maximise the privatisation proceeds by the Liberal Government.

'In view of the recent debate regarding the electricity price setting process and the decision by the Chairperson of the ESCOSA that standing contract prices for 2004 should remain at their current level, the Chairman of the NSW Independent Pricing and Regulatory Tribunal, Dr Tom Parry, has been engaged to examine the ESCOSA's methodology for setting prices in South Australia.

'2. The most recent ten year demand and supply forecasts prepared by the Electricity Supply Industry Planning Council (ESIPC), established under the Electricity Act 1996, estimate underlying increases in demand. Such increases are due to a range of factors, including investment in dwellings, population and economic growth. Supply forecasts are based on information provided by generators and the proponents of new supply projects. These projections are in turn included in the National Electricity Market Management Company's (NEMMCO) Statement of Opportunities document,

which is prepared on an annual basis.

NEMMCO forecasted a small reserve surplus of energy for the 2003-04 summer.

This Government has taken numerous steps to address the issue of adequate supply for all South Australian electricity consumers both in the short and longer term.

Foremost amongst these has been the Government's efforts to secure a second source of gas into South Australia, with the SEA Gas pipeline from Victoria having come into operation on 2 January 2004. Had it not been for the Government's efforts to ensure the pipeline was built, the effects of the recent fire at the Santos gas processing facility at Moomba may well have been catastrophoic.

The Government has also negotiated with the NSW and Victorian Government's to facilitate an upgrade of the NSW–Vic electricity interconnector. The upgrade will increase the amount of power available for transfer from Victoria to South Australia at times of high demand.

Further the Government believes that demand side management strategies, particularly during periods of high demand, will ultimately reduce the level of generation investment required particularly with respect to peaking generation plants and will continue to investigate and implement these strategies from the local through to the national level.

3. The Government is tackling the issue of electricity price increases by ensuring that the supply of electricity to South Australia is sufficient to avoid excessive price hikes at times of high demand. As mentioned in the previous section, the Government has worked with energy companies to ensure the completion of the SEAGas pipeline from Victoria. The new pipeline, operating as of 1 January 2004, will permit increased competition in the gas and electricity markets and improve the security of supply.

The Government has also played a key role in developing massive reforms of market institutions and regulatory processes in the National Electricity Market. The reforms were agreed at the Ministerial Council on Energy in Perth on 11 December 2003. They will help to improve the security and affordability of power supplies for South Australian consumers; and

The upgrade of the NSW-VIC electricity interconnector will also increase the amount of power available for transfer from Victoria to South Australia at times of high demand.

Although the electricity industry is now operated by private companies, as I have mentioned, the Government has taken a number or steps to reclaim a significant role in protecting the interests of the public as it has promised. These include:

- Established the ESCOSA as a strong regulator to protect the long term interests of South Australian consumers;
- Amended the Electricity Act to empower the ESCOSA to ensure that electricity retailers justify price increases to small customers;
- Legislated for penalties of up to $1 million for companies that breach licence conditions;
- Negotiated an agreement with other States to support harsher penalties for electricity generators who spike prices in the electricity market by using inappropriate rebidding strategies. Tough new penalties of up to $1 million and $50,000 for each day that a breach continues, came into effect on 18 December 2003;
- Announced $2.05 million over 2 years to fund an energy efficiency program for low-income households, which will be run in partnership with local community based organisations. The program includes free energy audits for low-income households which identify how the householder can reduce the cost of heating and cooling without reducing their own comfort;
- Boosted the energy concession by over 70%. From 1 January 2004, the concession increased from $70 to $120 per annum. Also, in a first for South Australia, the energy concession has been extended to self-funded retirees who hold a Commonwealth Seniors Health Card; and
- Offered energy concession holders a once-off $50 payment when transferring from the AGL standing contract to a market contract by 30 June 2004. the Government believes that savings of between 5 per cent and 8 per cent can be achieved by transferring to market contracts.

EQUAL OPPORTUNITY COMMISSION

In reply to **Hon. R.D. LAWSON** (3 December 2003).

The Hon. P. HOLLOWAY: The Attorney-General has received this advice:

1. In the period 2002-03 the Equal Opportunity Commission received 2,674 enquiries about alleged discrimination in employment. About 20 aper cent of those callers were encouraged to supply information in writing because their allegations might have met the requirements of the Equal Opportunity Act (1984). A large proportion of the remaining 80 aper cent of callers claiming unfair treatment in the workplace, called the Commission about unfair treatment in the workplace that they thought either could or should have had a legal remedy. In reality only a small percentage can seek legal recourse. Examples of common complaints in this category include general bullying, workplace conflict, nepotism and failure to secure positions or promotions. Employers and employees often call the Commission's advice line at the early stage of a workplace issue to seek information and advice about their rights and options for resolution. Enquiries Officers endeavour to explain to callers the difference between unfair and unlawful behaviour, identify an appropriate remedy or strategy for dealing with the issue or refer the caller to a more appropriate organisation.

2. The Commission is aware that employees often do not know where to direct their concerns about general workplace matters—whether they involve unfair dismissal, bullying, terms and conditions of employment or discrimination. To help inform the public, the Commission has collaborated with the Department of Workplace Services, the WorkCover Corporation, industrial bodies and advocacy agencies to produce and disseminate joint publications, to link information on websites, to give joint information sessions for new employers and newly arrived migrants and provide in-service education sessions to staff. In some cases of alleged discrimination in which there are concurrent claims in the industrial and workers compensation or both jurisdictions, it is appropriate under current legislative arrangements that these matters proceed at the same time. However, the Commissioner has raised the potential for duplication in the recent reviews of the Industrial Relations System and Occupational Health, Safety and Welfare and said their is a need for better collaboration.

3. The Full Bench of the Equal Opportunity Tribunal sat on seven occasions during the year under review. The actual sitting time was eight hours. In addition to this actual sitting time, the members are entitled to reading time. This time is not recorded and has not been taken into account for the purpose of this question.

There was an additional five hours of Judge-only time in dealing with preliminary matters prior to the Full Bench of the Tribunal sitting.

The cost of maintaining the Tribunal for the period was $6,350. However, the presiding member of the Tribunal is a District Court Judge. The cost of the Judge is not included in this expenditure as that is part of the Judge's normal salary.

There are currently four matters waiting to be dealt with by the Tribunal. Only one has a hearing date, that being in May for one to two days. The other three matters are in preliminary stages only.

4. The Equal Opportunity Act (1984) provides for lawful discrimination in certain circumstances. Our schemes or undertakings are aimed at assisting groups overcoming previous disadvantage. Examples include schemes set up to help older people gain employment or to improve the skills of certain groups. If employers or organisations wish to rely on these provisions in the Act in the event of a complaint being lodged with the Commission, they would need to establish a defence of providing a special measure. The alternative approach is formally to apply for a specific, temporary exemption through the Equal Opportunity Tribunal, which, if granted, makes the discrimination lawful. The Commissioner may support or oppose the application as an independent party.

If the function of granting exemptions were to be transferred to the Commissioner, there would be no access to advice from an independent third party. In addition there may be perceptions of bias if an exemption is not granted and a complaint is subsequently lodged with the Commission. No other State jurisdiction has taken on this role. If such a scheme were to be contemplated, then appeal rights to the Equal Opportunity Tribunal would be advisable.

CONSENT TO MEDICAL TREATMENT AND PALLIATIVE CARE (PRESCRIBED FORMS) AMENDMENT BILL

Second reading.

The Hon. T.G. ROBERTS (Minister for Aboriginal

Affairs and Reconciliation): 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 this Bill is to amend the *Consent to Medical Treatment and Palliative Care Act 1995* to remove the forms prescribed by Schedules 1 and 2 from the Act and prescribe them by regulation.

Schedule 1 of the Act prescribes the form of a medical power of attorney, and of the certificate witnessing the signing of the medical power of attorney.

Schedule 2 of the Act prescribes the form of a direction about the medical treatment a person wants or does not want if, in the future, he or she is in the terminal phase of a terminal illness, or in a persistent vegetative state, and is incapable of making decisions about medical treatment. It also prescribes the form of the certificate witnessing the signing of the direction.

Some families have expressed concern that they face difficulties bringing together all medical agents in one place at one time in the presence of an appropriate witness to sign a form appointing medical agents. The forms are not being widely used due in part to the restrictions they place on individuals trying to complete them.

Currently the forms cannot be altered without an Act of Parliament. This has caused delay in amending the forms and consumers have had to cope with a difficult and inefficient resource for some years.

This Bill will allow for easier alteration of the forms, whilst not altering the intent, to make it easier for individuals to appoint medical agents and give directions about medical treatment.

It will also enable the forms to be more comprehensively and efficiently packaged by being attached to explanatory notes, thus maximising their consumer usability.

The Bill promotes self-determination regarding health care and contributes to meeting individual and family needs.

I commend the Bill to the House.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

Clauses 1 to 3 are formal.

Part 2—Amendment of Consent to Medical Treatment and Palliative Care Act 1995

4—Amendment of section 4—Interpretation

This clause updates the definition of ***dentist*** and is consequential on the commencement of the *Dental Practice Act 2001* in June last year.

5—Amendment of section 7—Anticipatory grant or refusal of consent to medical treatment

Section 7 enables a person 18 years or older and of sound mind to give a direction about the medical treatment the person wants or does not want if, in the future, he or she is in the terminal phase of a terminal illness, or in a persistent vegetative state, and is incapable of making decisions about medical treatment.

The form of the direction, and of the certificate witnessing the signing of the direction, are set out in Schedule 2 of the Act.

This clause provides for the forms to be prescribed by regulation.

6—Amendment of section 8—Appointment of agent to consent to medical treatment

Section 8 enables a person 18 years or older and of sound mind to appoint, under a medical power of attorney, an agent empowered to make decisions about medical treatment on behalf of the person.

The form of the medical power of attorney, and of the certificate witnessing the signing of the medical power of attorney, are set out in Schedule 1 of the Act.

This clause provides for the forms to be prescribed by regulation.

7—Repeal of Schedules 1 and 2

The repeal of Schedules 1 and 2 is consequential on clauses 5 and 6.

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

GENETICALLY MODIFIED CROPS MANAGEMENT BILL

Adjourned debate on second reading.

(Continued from 22 March. Page 1170.)

The Hon. A.L. EVANS: I support the second reading. The bill has been drafted to form part of what is called a patchwork or framework scheme of gene technology regulations made up by both federal and state legislation. As a signatory to the national gene technology framework, South Australia must look at the commonwealth Gene Technology Regulator to provide a comprehensive risk assessment and a licensing process for this technology. The commonwealth regulator has been entrusted with the responsibility for the protection of human health and safety and the protection of the environment. Rightly or wrongly, the commonwealth regulator does not consider the risks posed by the various GM crop applications to agricultural systems or the ramifications for trade and markets. These are, however, critical issues for this state. Therefore, legislation to regulate the introduction of these crops for the protection of agricultural systems and market access is essential.

There is much controversy about the desirability of this technology. Many have claimed that this technology is one of the most promising yet for minimising herbicide and insecticide use while maximising soil protection for dryland farming. Others have stated that these promises are illusory and that the reliance on particular herbicide uses will ultimately create more intractable problems for the future. Many have raised a concern about the environmental impacts of the widespread introduction into our ecosystem of genetically modified organisms capable of reproducing their artificially constructed DNA forever. Field trials around the world are throwing up worrying evidence of the potential development of super weeds with multiple herbicide resistance acquired through gene stacking, or of the unplanned development of herbicide resistant hybrids between GMOs and wild relatives. Other field trials are showing how the cultivation of herbicide or insect resistant GMOs are having significant negative effects on local insect and bird life in the trial fields.

Australia is spending $3.5 billion a year trying to contain the weed problem that we already experience. A few months ago, large parts of southern New South Wales and the ACT were struggling with a massive outbreak of the weed Patterson's curse, or Salvation Jane. The paddocks look very pretty, but the plants are toxic to livestock. I am not sure how much was spent to contain the damage of that outbreak. However, urgent action was required to get rid of the plants before they set their seed.

Australia's collection of noxious weeds include a number of rye-grasses with multiple resistance to herbicides, making them extremely difficult to eradicate. These weeds have significant and negative impacts on agricultural productivity. Many of these weeds were introduced to this country with the best of intentions. As the cropping of genetically modified plants increases, we can expect to find 'volunteer' plants appearing on roadsides and in other non-GM paddocks. The proponents of GM crops such as canola have readily admitted that this is likely as pollens or seeds invariably stray on the winds or are carried by birds and humans beyond the trial fields.

Farmers in Australia and in this state have demonstrated

consistent and significant productivity gains over the past 30 years. They have demonstrated a great willingness and capacity to innovate and to adopt new technology. However, in this time they have also seen net farm incomes fall as rising input costs for such items as equipment and fertilisers and falling commodity prices have eaten away at their productivity gains. This decline in income has occurred in an economic environment increasingly dominated by powerful corporate giants. Two of the corporate players in this environment are, of course, Monsanto and Bayer Cropscience. Many critics of the push to adopt GM crops have warned that such adoption will severely erode the independence and profitability of the family farm. As owners of the patents—and, hence, the seeds—for these crops, and also as suppliers of the fertilisers and herbicides necessary for successful cropping, Monsanto and Bayer stand to gain significant dominance of the supply chain.

Whether they simply sell all the inputs to the farmers or, instead, become involved in taking a share of the crop sale, they stand to collect a growing share of farm income as input costs. The push to adopt GM crops does not yet appear to be reconciled with efforts to improve long-term sustainability of Australian agriculture. Much scientific investigation and farming endeavours have focused on sustainability issues in farming practices. There has been a growing rejection in the community of the heavy reliance on costly inputs such as fertilisers, toxic herbicides and insecticides. There has been a significant shift in favour of the principles of organic farming.

The Australian reported today that the Western Australian Farmers Federation has backed away from support of the introduction of GM crops in accordance with the views of most of its members. Market realities are fundamental to this issue. The claim about economic gains promised for GM cropping, either in trials or commercially, appears to be illusionary. Some of the market realities are that Australia's markets are presently worth billions. The Hon. Mr Xenophon yesterday alerted us to the $15 billion expected in this state in 2010. Our natural weed eradication programs are presently costing $3.5 billion. *The Australian* today pointed to a gain for Western Australia of only $135 million in added value for the introduction of commercial GM canola. There is every indication that any gains will be wiped out with a substantial loss of markets. Market preservation and the protection of the agricultural system will rest on a stringent system guaranteeing separation and identity preservation for GM and non-GM crops.

This bill presently does not of itself offer any guarantees of this. It is simply setting up a regulatory regime in which the government may establish appropriate and significant systems. We have been asked to wait on the details of regulations and declarations the minister will make once it is passed. The important questions relating to the neutrality of the advisory committee, specific segregation practices and legal liability and risks are not addressed on the face of this bill. The bill has been drafted to give effect to the recommendations of the Select Committee on GMOs that legislation be drafted to protect the state's markets and to guarantee an ongoing coexistence of GM and non-GM crops and products through the establishment of 'rigorous and cost-effective segregation and identity preservation systems throughout the total production and supply chain'.

The bill goes some way to providing protection for the integrity of the non-GM crops in designated non-GM areas. Any protection would, of course, have to be carried through the whole supply chain to end stage in overseas markets if any commercial crops were ever to be allowed in the state. Hence, growers on Kangaroo Island and Eyre Peninsula are very likely to be spared, at this stage, most of the worries and high costs that other farmers in the state will be forced to bear in areas where coexistence will be the rule. Clause 5 of the bill gives the minister power to require that the GM cultivation is an approved area within the ambit of a declaration of the minister about whether an appropriate and effective system will be in place to ensure the segregation of the GM crop and whether there is reasonable expectation of compliance with these systems. Under clause 5(c), the minister may also assess the likely impact of the GM cultivation on all the relevant markets, including the markets for non-GM foods, and whether it is reasonable, in the circumstances, to proceed with that GM crop cultivation.

The details of the regulatory framework will ultimately be a reflection of the expertise and neutrality of the advisory committee. In making recommendations or declarations under section 5, the minister must take into account the advice of the advisory committee. The minister will have the additional power to make regulations to designate the criteria the advisory committee must take into account in the provision of advice to the minister. The minister will also be able to make regulations prescribing additional requirements for GM crop cultivation or associated processes.

It is in these provisions under clause 5 that the objective of co-existence and preservation of markets access, based on segregation and identity preservation, are to be achieved in theory. In practice, a serious commitment to these goals has not been evidenced. Industry experts have typically talked about buffer zone widths in terms of kilometres to achieve a meaningful and realistic segregation of GM and non-GM crops, but crop management plans are being drawn up and approved in Australia in which no buffer zone is required or a buffer of just five metres is imposed. The pro-GM organisations have not indicated any serious commitment to identify preservation or segregation. They regard contamination of non-GM crops as inevitable.

It has been stated that GM free farmers will have to accept contamination levels of at least 1 per cent in the new agricultural world order. Doctor Phillip Salisbury, a proponent of GM crops, has stated that while 90 per cent of canola pollen will travel up to 10 metres, and a small amount can travel even further, he maintains that most field trials have shown contamination rates of 1 per cent in non-GM crops planted five metres away from GM crops. Most farmers in the business of producing GM free crops maintain that 1 per cent contamination will severely jeopardise their markets in Europe, Japan and China.

It has been suggested by the opponents of GM crops that Monsanto and Bayer will be happy to see their non-GM competition decline and capitulate to the inevitable dominance of GM crops. It has been said that eventually they would be able to make unwilling markets accept GM foods if the purity of non-GM crops could no longer be guaranteed.

The bill under consideration will allow the GM sector to shift the cost burden of ensuring segregation to the non-GM farmers. Julie Newman, a non-GM farmer advocate, has estimated this cost at 10 per cent of the total grain value. Will a requirement be placed on GM farmers to clean up contaminations sourced from their crops? The bill fails to address most of the concerns about the burden of legal liability. Other key concerns are the continuing precariousness of non-GM producers seeking to market their product as GM free or non-

GM. Under contractual obligations and trade practices law how will these producers be able to ensure that there is no detectable contamination?

The bill attempts in clause 27 to offer some protection to non-GM farmers from liability for the spread, persistence or presence of potential GM material on their land or in their crops, but this protection appears, at least partly, to be taken back in subclause 3. Paragraph (a) provides that these protections will not apply if the farmer has deliberately dealt with a crop knowing it was contaminated in order to gain commercial benefit. I am not sure how this provision would affect a farmer who was caught between needing to harvest his crop in a timely fashion and the requirement to have contamination removed, probably at his or her own cost.

I am also very concerned that the bill in clause 27(3)(b) appears to maintain patent holders' rights to sue for the innocent or accidental possession of patented materials by the non-GM farmer. There has been much controversy concerning the extent to which the interests of Monsanto and Bayer—the two principal corporations behind the development and marketing of GM crops—have been reflected in the debate about this technology and in the development of the regulatory system that manages it.

The independently chaired committee established under clause 8 is to comprise supply chain experts who will be required to advise the minister about the declaration of the area and the prescription of GM crops. The minister has noted that the composition and neutrality of this committee was a significant issue in the public debate on the draft bill. Although he has said that these concerns will be taken into account when the final appointments are made, I question whether the legislative provision of clause 9 of the bill will be able to deliver anything that is a semblance of neutrality.

It is easy to envisage scenarios in which nearly all committee members will have links to Monsanto and Bayer at one end of the supply chain and to Coles and Woolworths at the other end. In such a scenario it would not be unrealistic to suggest that pursuit of corporate profits and a lack of commitment to genuine consumer choice might colour the deliberations of the committee. There seem to be no guarantees that the committee will have members who are committed to the survival and profitability of non-GM producers.

It is interesting to note that the New South Wales advisory committee has been established with a quite different set of criteria for its membership. The New South Wales legislation provides for the nomination of members by the Network of Concerned Farmers, the Nature Conservation Council, the Australian Wheat Board, Grain Crop Limited, the New South Wales Farmers Federation, the Department of Agriculture; the CSIRO and Avcare Limited. Of course, the organisations mentioned in the latter half of the list are clearly of a pro-GM persuasion. At least there is a certain honesty and openness about this provision. At least there is a clear provision to have some representatives of the interests and expertise of non-GM producers.

The bill presently before the council is said to provide for the management of technology for the preservation of market access for both GM and non-GM farmers in this state. Given the history of gene technology regulations in this country and overseas, I fail to see how the provisions as they stand will preserve market access for non-GM production in this state.

The Hon. D.W. RIDGWAY: I support the second reading of this bill. My intention has always been to secure the best possible outcome for South Australia's farmers, to grow the economy of this state and our regional economies. The Hon. Bob Sneath looks at me across the chamber and often talks about how tough things are in the bush in South Australia. The embracing of genetically modified technology gives this state the opportunity to progress into the future.

I sent a copy of the bill to some 20 prominent farmers, seed processors and manufacturers in the South-East to get their views and comments on the bill, and 100 per cent of respondents indicated cautious support for the bill. It was interesting to note that a number were quite concerned about buffer zones, but in the end they were all relatively happy to support the bill.

I have been doing a little bit of research and noticed in an article in the *Farm Weekly* that Mr Terry Enright, the Chairman of the GRDC (Grains Development and Research Corporation), said:

> The GRDC invests about $8 million annually into biotechnology and genetically modified crops nationally. The GRDC will continue to invest in this biotechnology research because we believe it is important for the future. But, ultimately, if we can't commercialise these crops that have important traits out of this work, it will be very hard to maintain the research effort.

He went on to say:

> . . . about 90 per cent of global agricultural research was done outside Australia, which meant partnerships needed to be forged with overseas companies for farmers to get the benefits from cutting edge cropping technology.

He then went on to say:

> But those partners will not be very attracted to Australia if there is no potential to commercialise the outputs because of the expensive research. It is quite long term, and if you shut off the commercial potential of crops it is very hard to maintain the research effort. The GRDC would be concerned both with the effects and the capacity to build substantial research in this country and it has potential at least to deny us the opportunity to have some pretty important new crop traits.

He then went on to talk about not so much chemical or Roundup resistant crops but some other wonderful traits that might be of benefit to Australia. He went on to cite as an example, the development of septoria tolerant wheat being developed in Nebraska. For those who do not know what 'septoria' means, it is a fungal disease that attacks wheat. He said:

> Septoria takes about 20 per cent off our wheat crop every year, and if we could get that sort of septoria tolerance here, it would make a huge difference. . . If we are not going to be able to commercialise GM crops at all those sort of things are just not going to be available to us.

Mr Enright went on to say that he understood the concerns about GM foods in the current political climate. He then went on to say:

> Parliaments react to people's views of the world. . . but, in the world context, Australia certainly wants to be in a position where we can be at least competitive with other exporting countries.

I also noted in *The Weekly Times* magazine of 25 February that the Victorian Farmers Federation has stepped up its backing for genetically modified organisms. The article states:

> The Farmers Federation has urged the state government to back large-scale trial of genetically modified canola. Biotech companies Bayer and Monsanto are preparing, or have already lodged, applications to grow up to 5 000 hectares of GM canola in Victoria and NSW.

As many honourable member would be aware—and I know you, Mr President, are aware—I come from a farm on the Victoria-South Australia border; in fact, my back fence is a matter of only 600 metres from Victoria. So, once the

commonwealth Gene Technology Regulator decided there was no risk to human health and other states have embraced this technology, we could find that we will go down one path and not allow any trials in South Australia, yet 600 metres from my back fence there could be as much as 5 000 hectares growing, although I acknowledge not all of it will be grown in one paddock 600 metres from my back fence. However, I think, as a nation, one in, all in—we must all be in this together.

The Victorian Farmers Federation President, Mr Paul Weller, has also commented and, in that context, the article states:

> . . . the time has come for larger commercial co-existence of trials of GM canola in Victoria.
>
> 'These crops have gone through the processes, they have been deemed to be of no greater threat than conventional canola to either human health or the environment,' Mr Weller said.
>
> 'The varieties must now be examined on a case by case basis so that farmers can make an informed decision whether or not the varieties will suit them in their chosen farming system'.

I note that, in her speech yesterday, on behalf of the Liberal opposition, the shadow minister said:

> The bill sets up an advisory committee of between nine and 11 members to advise the minister on all matters within the bill. However, the minister would not be bound by that advice.

I am intrigued to know what decisions the new minister for primary industries, with his independent position and also with his outspoken position on genetically modified organisms and his ability to be independent of the cabinet, will make. There is also no provision for specific bodies, such as the Farmers' Federation or other interested bodies, to be represented on the advisory board. Again, this decision and appointment would be made by the minister. It provides the power to destroy a crop, or any material produced from the crop, with the cost to be recoverable by the minister. Again, that raises alarms with me as to how the new minister will handle it.

The bill also talks about protection of the genetic material and says that it can be sold only for research or stock food. I am concerned that this material is to be processed and made into stock pellets. I have had experience when grain has been fed to animals in a feed lot or paddock situation, where you often get rogue plants growing where the grain has been spilt or fed in a feed lot. So, I am wondering how the bill proposes to provide protection from that situation. Also, in relation to grazing, I am concerned if livestock enter a trial site, because potentially seeds can either collect on the hooves of animals or in the wool, mostly in the case of sheep, because the fluff on a cow is probably not big enough to carry too many concerns. I am concerned as to how it can be contained if animals accidentally graze in these areas.

Farmers need to look at the latest technology. I am excited not about herbicide resistant products—whether that is canola, wheat, barley, oats, or whatever—but some of the traits we might be able to introduce into plants that will help Australian farmers combat some of the major problems we have, such as drought, frost and salt. It is interesting that it is recommended that Eyre Peninsula be a GM free zone. I am sure farmers there suffer from drought more often than they would like and from frost probably more often than they would like, although the Mallee is subject to a lot more frost.

Of course, we have an increasing salinity problem. That is the exciting potential for this state: if we can embrace that technology and those traits can be introduced into some of our commercial grain crops. I am not sure whether the Eyre Peninsula farmers would want the Mallee to have crops that were resistant to drought and frost but they were unable to grow them. With those few words, I support the second reading and the opposition cautiously embraces this new technology.

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I thank honourable members for their comments on the bill. Despite frequent advice on the matter, many members appear to have failed to grasp the constraints of what can be achieved legislatively at a state level within a national regulatory framework such as that which is centred on the commonwealth Gene Technology Act 2000. Those members obviously fail to appreciate that the commonwealth act already empowers the Gene Technology Regulator to regulate GMOs on the basis of their assessed risk to human safety or to the environment.

From that point on, the Constitution applies in that state legislation that regulates GM crops on the basis of risk to human safety or the environment is invalid. So, despite the attention given to pointlessly elaborating on food safety, Lord Meacham or the even more irrelevant issues of recombinant bovine growth hormone, the reality is that two types of GM canola are now licensed for commercial use in Australia and, if something is to be done about it, it needs to be done in a manner that is constitutionally valid, legally defensible and is consistent with this country's WTO agreements. These are real constraints that cannot be simply overlooked with the catchy idea of a moratorium. What is put in place has to work.

This bill focuses very clear on the only available strategy to regulate the cultivation of GM crops, and the only valid area in which the states appear to have the capability of developing viable policy is in the area of market risk.

I was pleased to note that members recognised that market risks were a significant issue. I also wish to make quite clear that the bill does not address the zoning or status of any specific region or area, and nor does it predetermine the outcome of the select committee's recommendations in this regard. The bill only establishes the means to develop regulations, as laid down in clause 5. Certainly, the foreshadowed regulations will get a temporary and automatically extinguishing window of opportunity in the Kangaroo Island and Eyre Peninsula communities (members will recall that that was the recommendation of the select committee) to examine the issues of GM freedom, and it is then that the many pros and cons will be clearly balanced. It is then that two port loading (as mentioned by the shadow minister), the movement of farm machinery, the management of identity preservation, the level of benefit offered by the technology, and all the many other issues will be sorted out and a decision made one way or the other.

The mechanism by which that determination might be made has not yet been explored, but it will hinge upon the powers to be made available to government within this bill. When that is set, communities can and will then be engaged in whatever processes are jointly determined to be appropriate. Again, I make the point that it will be in accordance with the unanimous recommendations of the select committee. There also seems to be an assumption by some that the bill will establish the protocols necessary for the operation of coexisting supply chains. This was never to be the case, and industry would surely shrink from the idea that this is a role for government. The setting of agreed terms of trade,

segregation and identity preservation is something that industry does best itself. Government's role in this is, with the help of the expert GM Crops Advisory Committee, to be the umpire—to assess whether the system that industry develops will deliver coexistence.

That said, it is also worth noting that the Eyre Regional Development Board and PIRSA, funded by the commonwealth Department of Agriculture, Fisheries and Forestry, are currently undertaking, with the commitment of the grains industry, the development of a grain protocol for one aspect—that of non-GM grain production within a proposed non-GM Eyre Peninsula. This will help inform the debate on what will be required in some situations.

The shadow minister sought to understand the difference between the specification of a crop under clause 5(1)(b) and an exemption under clause 6. A specification under clause 5(1)(b) is a blanket specification which in practice enables the GM crop so specified to be grown thereafter by anybody on any scale and at any place. It is a blanket approval and as such it is vitally important that effective supply chain systems are rigorously judged to be in place prior to any such approval being given.

On the other hand, an exemption is a specific approval to a person to conduct limited cultivation of a specified GM crop in a specified place and to which stringent conditions and containment will be applied and monitored. This is not an avenue for commercial GM cropping. The mandated operating conditions would make it uneconomic anyway. It would enable the ministerial exemption to be granted to undertake GM trials at Minnipa—which was the case that was raised by the shadow minister—except that select committee recommendation 14(ii) establishes a policy to the contrary. That was the policy about Eyre Peninsula, so the powers that remain for the exemption are such that an exemption would be contrary to that recommendation.

The shadow minister also sought the opportunity to conduct closed loop production and supported this with a section quoted from select committee recommendation 11 which refers to 'a limited release occurring under a closed loop.' I refer the honourable member to clause 6(a)(ii) and point out that, similarly, the words 'limited or small scale' are repeated in there in the bill. 'Limited' is not code for 'commercial scale'.

The opposition also appears uncomfortable with the declaration of GM free areas on Kangaroo Island and Eyre Peninsula, which is surprising given that there was no hint of dissension with the recommendations to this effect from the bipartisan select committee, as recently as mid-2003. Indeed, it was quite the opposite. The two rural opposition members appeared to strongly endorse the proposition.

There is a suggestion that the declaration of Kangaroo Island and Eyre Peninsula as non-GM areas is contrary to WTO agreements. Our opinion is that it is not. The Department of Foreign Affairs and Trade has advised on an earlier draft of the bill. While any intervention of this kind has some risk—that it might precipitate a WTO complaint or action—if the process remains clearly science-based, is temporary and addresses market issues such as the development of segregation, product integrity and quality control, then the risk is minimal—certainly a much lower risk than the risk of damaging our export wheat market, a significant proportion of which goes to GM sensitive countries.

The call to implement a single whole of state moratorium seems so simple and appealing, so why was it not proposed in the bill? There is a serious legal risk here. If the declaration of zones in aggregate would preclude the cultivation of GM crops in South Australia, there is a real risk that a court might decide that the scope of prohibition was so wide spread as to amount to a repudiation of the existing national regulatory scheme and so fall outside the intention of the Gene Technology Act 2000, that is, the commonwealth act.

Members are asked to carefully consider the two reasons why a review period of three years is proposed, that is, by April 2007. This has been chosen to allow two significant events to occur and for the review to be conducted in the full knowledge of the outcome of these events. These events are, first, the mandated review of the commonwealth Gene Technology Act 2000, which must be tabled in the federal parliament by September 2006. This review may even go so far as to consider market issue assessment as part of the operation of the commonwealth gene technology regulator, which would have clear implications for the state act.

Secondly, the New South Wales moratorium bill expires in March 2006. That one of the nation's largest grain producing states is potentially deregulating GM cropping would also have consequences that would need to be addressed in any South Australian legislation. A five-year period would appear to add no benefit but would frustrate the orderly and timely review of the act after three years to cope with significant changes. Accordingly, regulations proclaimed under the transitional provision are proposed to expire at the same time as the review of the act.

The Hon. David Ridgway in his address also canvassed the situation on Eyre Peninsula and compared the situation of farmers in that area with farmers in the Mallee. Again, I remind the honourable member that the bill provides for separate zones to be established and the government has announced its intention that it would, as far as Eyre Peninsula is concerned, consider that a separate zone. We are acting in accordance with the recommendations of the select committee which unanimously said that the communities of Kangaroo Island and Eyre Peninsula should be able to determine their own future, as far as GM status is concerned. The government intends to honour that recommendation.

It may well be, as the honourable member suggested, that the farmers and the community on Eyre Peninsula decide that that is not in their best interests. Well, so be it. This bill seeks to give effect to the select committee recommendations to enable those communities to make their decision. The government does not wish to prejudge what that decision might be, but given that the government has announced its intention to have three zones—Kangaroo Island, Eyre Peninsula and the rest of the state's agricultural areas—there are transitional provisions which would limit the commercial introduction of GM crops in that time. The situation will then be, when those restrictions are lifted, a matter that will evolve over the coming three years.

It will really be, as far as Eyre Peninsula and Kangaroo Island are concerned, a matter for their own community. I would expect and hope that we would have an informed debate on all of those issues over that period. With those comments, I again thank members for their contribution to the debate on this important bill and I look forward to discussion in the committee stage when all the amendments have been filed.

Bill read a second time.

PROBLEM GAMBLING FAMILY PROTECTION ORDERS BILL

In committee.

The Hon. IAN GILFILLAN: Mr Acting Chairman, I draw your attention to the state of the committee.

A quorum having been formed:

Clauses 1 to 3 passed.

Clause 4.

The Hon. NICK XENOPHON: I move:

Page 3, lines 22 to 26—Delete subclause (2) and substitute:

(2) For the purposes of this Act, the respondent is to be regarded as having caused serious harm to family members because of problem gambling if the respondent—

(a) has engaged in gambling activities irresponsibly having regard to the needs and welfare of the respondent's family members; and

(b) has done so repeatedly over a period of not less than 3 months or in a particularly irresponsible manner over a lesser period.

I alluded to this amendment during the second reading stage. Obviously, I welcome this legislation, and I will not restate what I put to the council previously about how this legislation works. The legislation is intended to be a safety valve, if you like, for severe cases of problem gambling and where that is causing enormous disruption to the family. In the legislation in its current form, clause 4(2) provides the grounds, or the threshold, and the words 'the respondent is to be regarded as having caused serious harm to family members' is the trigger for action by the authority because of problem gambling. It also provides:

If the respondent has engaged in gambling activities irresponsibly having regard to the needs and welfare of the respondent's family members, and has done so regularly over a period of not less than 3 months.

I know from my experience with problem gamblers who speak to me and with the gambling counsellors I speak to on a regular basis that in some cases the devastation is caused in a lesser period. If someone goes on a binge, or something goes awry in the family, or if some other factors are involved, a three-month threshold is artificial. This amendment acknowledges that you do not become involved with these orders lightly and that the authority does not jump the gun.

However, there is a particularly irresponsible manner of gambling behaviour that is causing damage to family that ought to be a trigger. In other words, the amendment defines it as:

. . . having caused serious harm to family members because of problem gambling if the respondent—

(a) has engaged in gambling activities irresponsibly having regard to the needs and welfare of the respondent's family members; and

(b) has done so repeatedly over a period of not less than 3 months or in a particularly irresponsible manner over a lesser period.

So, this amendment still goes some way to supporting the government's position. Indeed, the position, as I understand it, that three months is the general cut-off period was supported by the opposition. However, in severe cases, if it is particularly irresponsible behaviour, there is a high threshold where the authority could act. This is not something that would be taken lightly. I have known of a severe case where someone has a medical condition, such as a brain injury, which has manifested itself in someone blowing the family savings or the family mortgage on pokies, horses, or whatever other form of gambling. If there is clear evidence that somebody has a severe gambling problem, there ought to be a mechanism to allow the authority to say that it is less than three months; that they have already spent $50 000 in the last month; that they are causing devastation to their family; and that, in those cases, the authority can look at the matter. However, it is made clear in this amendment that it must be particularly irresponsible behaviour for the authority to have an opportunity to be involved in the case.

My plea to honourable members, if they support the legislation in its current form, is that there are compelling reasons to support it in its amended form, because it clarifies the legislation. Otherwise, the farcical situation could arise where the legislation is up and running in its original form and there might be case after case of families being wrecked by problem gambling where the three-month threshold is not reached, where the devastation is long lasting, where the family home has been lost and where savings have been squandered. This is an opportunity to deal with that situation.

The Hon. T.G. ROBERTS: We have taken wise counsel on the honourable member's amendment. He will be pleasantly surprised to hear that we support it.

The Hon. KATE REYNOLDS: I indicate Democrat support for the amendment.

The Hon. R.I. LUCAS: I rise to indicate that Liberal members will not support the amendment, but I acknowledge that, with the support of the government, the Democrats and the honourable member, there will be sufficient numbers to ensure its passage.

The reason for Liberal members expressing concern is that this is a difficult and sensitive area that we are entering, and we are doing so with the support of all parties represented in the parliament. Certainly, from the opposition's viewpoint, as I indicated at the second reading stage, some in our party have concerns, and continue to have concerns, that the Independent Gambling Authority is the appropriate authority to make these difficult decisions. Some have a view that other jurisdictions, such as the courts, are more appropriate fora in which to take these difficult decisions. Nevertheless, as I said, the Liberal Party supports the proposition that is before the parliament at the moment.

In summary, with this amendment and the next one, in our view the Hon. Xenophon is seeking to lower the threshold to allow the provisions of the legislation to be utilised; that is, this proposed regime contemplated under the Problem Gambling Family Protection Orders Bill has an existing threshold which must be crossed before the provisions of the legislation can be activated.

As the Hon. Mr Xenophon outlined, that talks about a pattern of behaviour over a three-month period. Cleverly, the Hon. Mr Xenophon has introduced amendments which significantly lower, in our view, that particular threshold. That is now being supported by the government and by others within the parliament. Whilst we do not support that view, we will certainly accept that the majority supports it, and we will not divide on the amendment.

Under the scheme of arrangement that the Hon. Mr Xenophon is talking about, we are talking about someone potentially not having a pattern of behaviour, but a particular event that the Hon. Mr Xenophon, or others of a similar view, believe to be a particularly irresponsible manner—however that might ultimately be determined in a court—will be able to activate the provisions under the legislation. Under the second amendment, which we will debate (and I assume that the government and others will be supporting), it talks about deleting the concept of a pattern of behaviour for a problem gambler to that of irresponsible gambling behaviour. I will

bet my bottom dollar that as soon as these provisions are through—

The Hon. Nick Xenophon: Was that a pun?

The Hon. R.I. LUCAS: No. It was intended. The Hon. Mr Xenophon, and others of his view—Mr Xenophon knows that his views and mine are diametrically opposed on the whole gambling issue, anyway—know that as soon as this legislation is passed there will be single and isolated events that I suspect the majority of the community may well not believe to be irresponsible gambling behaviour, to which the Hon. Mr Xenophon (and others with similar views) will seek to use the legislation to implement the provisions under this bill. That is entirely consistent for the Hon. Mr Xenophon and those who support his view. I do not criticise them, given their views, for using whatever legal capacities are available to them to try to ensure that these particular provisions can be activated as often as they can, in as many cases as possible.

From my point of view, we are talking about problem gamblers. We are talking about people with a pattern of behaviour. When one goes back through the contributions of the Hon. Mr Xenophon over the years, he has talked about patterns of behaviour, being able to look at the history of individuals who get themselves into trouble and who have an ongoing problem with their families. We are now, in essence, introducing into the legislation the concept of a single isolated notion—something to which the Hon. Mr Xenophon and others will say, 'Okay, to us that is a particularly irresponsible act and we will therefore seek to activate the provisions under the legislation.'

Given the fact that I share the concerns of some within my party on the appropriateness of the Independent Gambling Authority being the appropriate body to handle all of this anyway, I thought that the balance in the original package was reasonable; that is, that we were going to allow this independent authority to have the power but to have this reasonable threshold which had to be crossed before you could activate the legislation. That is a pattern of behaviour, over a period of time, which enables you to at least say, 'Okay, we believe on the balance of probabilities that this person is a problem gambler.'

We now come back to the case where if somebody in an isolated event on one evening loses a significant sum of money, then that, in my view, will be used by the Hon. Mr Xenophon (and those with similar views) irrespective of the fact that it is not a pattern of behaviour—it may well be the only time that has occurred. It is, in the view of the Hon. Mr Xenophon and others, particularly irresponsible for that person to have lost a large amount of money on one night, which is how these particular powers will be used.

When one comes to clause 7, as to who can actually lodge a complaint, one of the issues I will be pursuing is:

> A person who satisfies the Authority that he or she has a proper interest.

Does that include the Hon. Mr Xenophon? Does the Hon. Mr Xenophon believe that he is somebody who has a proper interest in these particular issues, because if it is to be defined under clause 7 that the Hon. Mr Xenophon is a person who 'satisfies the Authority that he or she has a proper interest' or someone who might hold a similar position to the Hon. Mr Xenophon, that is, someone who is not a family member, who might not know the family at all but becomes an advocate in relation to all issues regarding the definition of a person who behaves in a particularly irresponsible manner in relation to gambling in the views of the Hon. Mr Xenophon, then one can see potentially these provisions being used by the Hon. Mr Xenophon and others (I am not just pointing to the Hon. Mr Xenophon) with similar views to grind this whole system to a standstill in relation to complaints going to the Independent Gambling Authority.

With that, I indicate the reasons why we will be opposing the amendment. We acknowledge that, on this occasion, the numbers are certainly not with us. We will watch with interest how these provisions are used by the Hon. Mr Xenophon and others, should the legislation pass both houses of parliament.

The Hon. NICK XENOPHON: I thank the Leader of the Opposition for his comments. I think that they need to be dealt with comprehensively. I think that it was the Leader of the Opposition who said some time ago, when he was in government, that one problem gambler is one problem gambler too many. I accept that he is concerned about levels of problem gambling. Whilst our views are diametrically opposed with respect to the liberalisation of gambling opportunities in this state, I would like to think that we share a common concern that we should deal with individuals and their families whose lives have been devastated by problem gambling. In fact, we ought to go a step further and have policies in place that prevent people becoming problem gamblers in the first place.

Having said that, the definition of problem gambling is set out by the Productivity Commission, by various reports and authorities and by various gambling screens such as the SOGS—the South Oaks Gambling Screen. In general terms, they talk about problem gambling as behaviour that adversely affects a person's life to a material extent. The severity of that problem gambling is another issue and, as I see this particular bill, it is there to deal with severe cases of problem gambling.

The Hon. Mr Lucas was concerned that I would be running off to the Independent Gambling Authority seeking orders. Essentially, as I understand it (given the structure of this legislation), the authority will not listen to me or to someone who is being a busy-body in someone's family. If a family member comes forward and says, 'We cannot put food on the table for our kids, and this is caused by my spouse's problem gambling', then obviously the authority will look at that. If I were to put in an application saying, 'I have heard that so-and-so down the street is gambling heavily, you should do something about it' and that family does not have a problem with it, then I think it would be laughed out of the jurisdiction by the Independent Gambling Authority. If that gives some reassurance to the Hon. Mr Lucas, I think that it is a question of common sense. In terms of officers of the department—

The Hon. R.I. Lucas: Do you believe that you can make a complaint under clause 7?

The Hon. NICK XENOPHON: The Hon. Mr Lucas asks a pertinent question. It provides:

> A person who satisfies the Authority that he or she has a proper interest.

I am not sure that I could because I need to satisfy the authority that I have a proper interest, and I think in order to have a proper interest there must be some direct relationship. For instance, a family could come to me and say, 'This is happening. Can you assist us with some form-filling?' Of course I would assist them, but while leaving it up to the authority to make findings of fact. I would not do that lightly. I would want to see some evidence that their family finances

were severely affected by problem gambling or, at least, for the authority to direct me by saying, 'This is what you need to do if you have a concern.'

The Hon. R.I. Lucas: Do you believe that, as a lawyer passing this legislation, you are entitled to lodge a complaint?

The Hon. NICK XENOPHON: The Hon. Mr Lucas is asking me for a legal opinion. My reading of it is—

The Hon. T.G. Cameron interjecting:

The Hon. NICK XENOPHON: No, it is the government's bill.

The Hon. T.G. Cameron interjecting:

The Hon. NICK XENOPHON: This relates to the government's particular clause.

The Hon. T.G. Cameron interjecting:

The Hon. NICK XENOPHON: Yes. I would have thought that it would be extraordinarily difficult for someone off the street or someone such as me to lodge an application. I would have thought that the appropriate person to lodge the application would be a family member; it would be an officer—

The Hon. R.I. Lucas interjecting:

The Hon. NICK XENOPHON: Yes, a family member or a person acting as a public advocate. The only other people who, I imagine, would have a legitimate order where the authority would deal with the complaint seriously would be a medical practitioner, a psychologist or a psychiatrist who have some direct knowledge; or, the issue has been brought to the attention of a medical practitioner, a treating therapist or one of the Break Even counsellors through the Break Even agency funded by the government and, to be fair, in part, by the Hotels Association.

They are the sorts of people I imagine will have authority. I will not accuse the Hon. Mr Lucas of trying to put ideas into my head because I had not contemplated that. I imagine my role would be that, if people had a particular issue, I would direct them to the Independent Gambling Authority to seek assistance if there is a particularly difficult case and, if it is warranted, assist them with some advocacy. I would have thought that the system is set up to deal with these complaints expeditiously. Until the Hon. Mr Lucas raised that issue, I had not contemplated it.

I saw it as a case of family members or counsellors going to the authority. So, that is that particular aspect. I can understand the concerns of the Hon. Mr Lucas, but my priority is to make sure that families are not hurt more by problem gambling. The honourable member has a concern that, if it is for a lesser period, you can jump into it. However, you need to read clause 4 in its context. You need to jump over a number of hurdles. It is not just about a lesser period or one particular period. I think that the Hon. Mr Lucas said that if there was one particular period of binge gambling then you could go and get an order.

That needs to be read in the context of the legislation. The next amendment I will be moving provides that 'irresponsible gambling behaviour will continue or recur'. So, there must be some concern that this was not an isolated incident or that there is a reasonable fear that this behaviour will be repeated. That is why I believe that, in response to the concerns of the Hon. Mr Lucas (and I thank him for raising them), a number of threshold requirements need to be in place. This is included as a last resort for families who are in distress. I just ask the Hon. Mr Lucas to consider the context of the legislation and that some other thresholds need to be considered.

This amendment (which we have yet to vote on) and the other amendment I will be moving, ensures that we do not get a farcical situation where someone is about to be thrown out of their home if this gambling behaviour continues because so much money has been lost. The three-month threshold is there to prevent the authority from acting. As I understand it, members on both sides were giving consideration to the parliament's reporting these provisions and, clearly, that is something that will need to be raised—that these particular measures will not be used capriciously or in a frivolous manner. I would like to think that that gives an added level of comfort to those who are sceptical about these particular amendments.

Amendment carried.

The CHAIRMAN: The Hon. Mr Xenophon has another amendment. My understanding is that it was a fall-back position. It is now superseded by the passing of this particular amendment. Does the honourable member have a different point of view to that?

The Hon. NICK XENOPHON: Yes; I agree that the next amendment is a fall-back position.

The Hon. NICK XENOPHON: I move:

Page 3, lines 32 and 33—
Delete 'pattern of behaviour will continue' and substitute: 'irresponsible gambling behaviour will continue or recur'.

Again, following the comments made by the Hon. Mr Lucas and the comments I made in relation to the previous amendment, I see this amendment augmenting the legislation. It does lower the threshold, and I make no apology for that. The term 'pattern of behaviour will continue' could be too narrow in some circumstances. By including the words 'will continue or recur' anticipates that there is a reasonable apprehension on the part of the authority or the family members who are making the application that there could be a problem. I think that the example given by the Hon. Mr Lucas was very legitimate where you have one particular episode—

The Hon. Kate Reynolds: Just after you have won the lottery.

The Hon. NICK XENOPHON: Just after you have won the lottery, the Hon. Kate Reynolds says. But it does acknowledge that there is some apprehension that this will be a recurring theme. For instance, you could have a person with a mental disability or a brain injury and, over the years, I have been aware of these cases. The family members know and all the medical evidence is clear that they are going to continue blowing money. It could be a particularly bad episode where several thousand dollars from the family's savings are lost. This amendment provides an opportunity for the authority to consider it.

The thresholds are still high, but my concern was that, in its current form, the legislation made it unduly restrictive. Again, in a practical sense, the Independent Gambling Authority will not issue these orders lightly, as I understand it, given the thresholds and hurdles in place in the current legislation.

Amendment carried; clause as amended passed.

Clauses 5 to 17 passed.

New Clause 18.

The Hon. NICK XENOPHON: I move:

Page 10, after line 20—
Insert:
18—Report to Parliament
(1) The minister must, at least annually, cause a report to be laid before each house of parliament on the operation and effectiveness of this act.

(2) The secretary must assist the minister in the preparation of each report.

I think that this amendment is the least controversial of all the amendments. Because this amendment, in a sense, is consequential to the operation of the act, I did ask during the second reading stage various questions about the general resources of the scheme to ensure that people were aware, particularly, of the Break Even network of agencies that deal with problem gamblers. I know that was dealt with to some extent, but could the minister elaborate on that. It is all well and good to have some new legislation in force but will there be the appropriate resources to deal with it?

If there is only a trickle of applications that may not require significant increases in resources but, if there is a flood of applications, can we be assured there will be adequate resources to deal with this so that people can receive timely assistance?

The Hon. T.G. ROBERTS: We dealt with resources in the second reading stage, but I will reiterate the relevant issues. The authority has not identified any immediate additional budget requirements arising from this measure. Requirements for any additional resources will be dependent upon how many applications there are for family protection orders. The government will monitor the need for additional resources for the IGA and, indeed, counselling and other associated services that arise from this proposal.

The Hon. R.I. LUCAS: The Liberal Party is delighted to be able to support the Hon. Mr Xenophon's amendment.

The Hon. NICK XENOPHON: I am delighted that they are delighted.

The Hon. KATE REYNOLDS: I share in everyone else's delight, and indicate our support.

The CHAIRMAN: I am getting an indication that Family First is also in concert.

New clause inserted.

Schedule and title passed.

Bill reported with amendments; committee's report adopted.

Bill read a third time and passed.

MEAT HYGIENE (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 18 February. Page 1010.)

The Hon. CAROLINE SCHAEFER: The purpose of this bill is to include the processing of meat for retail sale within the regulatory scope of the Meat Hygiene Act, from which it is currently excluded. The proposed amendments to the existing legislation would mean that all meat processing operations, whether for wholesale or retail sale, fell under a single legislative framework. Currently, wholesale meats fall under the legislative framework of the Meat Hygiene Act and most retail activities fall under the auspices of the Food Safety Act. This is consistent with recommendations following the national competition policy review of the Meat Hygiene Act.

The principal recommendation of that review was to broaden the scope of the act to cover retail meat processing operations, including those of supermarkets. Retail businesses involved only in the sale of packaged meat would be excluded, as well as retail businesses that slice and cut ready to eat meats, such as delicatessens. As an example, currently, if a bulk package of meat is ordered by a butcher—for instance, a whole rump steak—and then sliced and sold, perhaps, to the local community club, it does not fall under this act at the moment but would do so under these amendments. Similarly, delicatessens would be considered still to be retailers and fall under the Food Safety Act. Less than half South Australia's retail meat outlets are accredited under the 1994 act to cover wholesale activities. As we all know, many small retail butchers are under a great deal of stress. My understanding is that there are about 480 registered retail butchers across South Australia, about 220 of whom are accredited under this act.

As I said, it is considered a wholesale activity if a butcher supplies small quantities of meat to other retail outlets, to the hospitality/catering industries or to sporting clubs. The proposed amendments would not cover retail businesses that sell pre-packaged meat, provided they on sold the meat in the package in which it was received, nor would it cover businesses that sliced ready to eat meats: these would remain under the Food Act 2001. The bill also provides for retail meat processors to be represented on the Meat Hygiene Advisory Council.

The bill will have the effect of making accreditation compulsory for all butchers. The fee for this will be $220 per annum, and butchers will also be subject to a six-monthly audit that will cost $128 per audit. However, should an issue arise at that audit, they would be required to have more frequent audits carried out until the matter was resolved. At present, under the Food Act there is a central register and a twice yearly audit cost of $80, or $200 for a larger business.

I have taken the liberty of circulating the bill quite widely. It appears that most butchers are not concerned about it, and the opposition will be supporting the bill. However, there are a couple of questions that I would like the minister to answer in his summary. First, is any meat trade retailer caught by both acts—that is, is it possible to be required to be audited and registered under both the Food Safety Act and the Meat Hygiene Act?

The second matter relates to a query that was raised with me as late as this morning. I think that, as time goes on, most of us have concerns about the monopolies that are being set up by the major supermarket chains in Australia—and, indeed, all over the world. It was put to me today by a small butcher that large food retailers, such as Woolworths or Coles, are increasingly cutting and packaging their meat from a central point. Those of us who are unfortunate enough every now and again to buy our meat from one of those large supermarkets, as opposed to buying it from a butcher, would know that, increasingly, it comes in pre-packaged lots of, say, two chops or four chops or three slices of steak. As I understand it, that then becomes not subject to an audit at point of sale, because it is subject to an audit only at point of packaging.

I ask the minister whether that gives the large retail food outlets a commercial advantage against the smaller retail butchers, given that the audit is $220 per annum per premises? There does not appear to be anything that I can see that would preclude a store such as Woolworths or Coles from pre-packaging all their meat at one central point and undergoing one $200 audit, whereas the local butcher, who might simply slice up two beasts or half a dozen sheep a week, would have the same ongoing costs. I would like the minister to address that matter when he sums up.

Similarly, as this government—and, indeed, successive governments—go down the path of full cost recovery, it is our belief as a party that at least some of the cost of the audits

should be borne by the government, by the public of South Australia, given that this on selling is for safe food consumption and, therefore, is a matter of public good and should not necessarily be an impost on small business.

As I have pointed out, many of our butchers have very small businesses. It is my intention at this stage to move an amendment that the $128 audit fee, which is nearly double the audit fee under the current Food Safety Act, be borne by the public rather than by individual butchers. Other than that, the opposition supports the bill.

The Hon. CARMEL ZOLLO secured the adjournment of the debate.

MOTOR VEHICLES (SUSPENSION OF LICENCES OF MEDICALLY UNFIT DRIVERS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 22 March. Page 1171.)

The Hon. R.D. LAWSON: The Liberal opposition will support the second reading of this bill. The effect of this bill will be to enable the Registrar of Motor Vehicles to immediately suspend the driver's licence of a person when the registrar receives information from a legally qualified medical practitioner, a registered optometrist or registered physiotherapist or from some other source that the person is suffering from a physical or mental illness, disability or deficiency such that they are likely to endanger the public if they continue to drive.

This is an important power. The minister has indicated in another place that some 50 licences a week are suspended on the basis of information about the capacity of individuals to continue driving. However, a decision of the District Court last year, Cummins against the Registrar of Motor Vehicles, highlighted the fact that the registrar does not have the power which he considered that he did have to act in this manner. It appears that the registrar did have this power prior to amendments made to the act in 1999. However, complex changes made by those amendments, which were part of the implementation of a national scheme, resulted in the registrar's powers being diminished.

The essential provision of the bill is an amendment to section 80 of the Motor Vehicles Act. That section currently provides (leaving out unnecessary verbiage) that, if the registrar is satisfied on evidence as the registrar requires that a person is not competent to drive a motor vehicle or a motor vehicle of a particular class, the registrar may, amongst other things, suspend the person's licence or permit until the person satisfies the registrar in such manner as the registrar directs that he or she is competent to drive a motor vehicle. This is a necessary and important power which anybody in the position of the Registrar of Motor Vehicles should have.

There will always be argument as to the manner in which that power is exercised and, in particular, the notice provided to the licensed driver before he or she loses their licence. A great deal can be said for the proposition that the registrar should not exercise the power until the driver has had an opportunity to produce evidence of competence. Many people will take that view.

The act as proposed to be amended in this bill adopts a firmer approach, namely, it gives to the registrar, on his or her receipt of information from a legally qualified medical practitioner or other medical person, a certificate that the person is suffering from a physical or mental illness, disability or deficiency, such that they are likely to endanger the public if they continue to drive. The only responsible attitude one can take is that, if a registrar or any official is faced with a certificate of that kind, namely, that the safety of the public is compromised by the person continuing to drive, immediate action is warranted. The bill provides that in those circumstances of the withdrawal of licence, whilst the withdrawal has immediate effect, the person affected can apply for the restoration of the licence.

Regrettably, there have been a number of instances where persons who have not been fit to drive have been involved in accidents that have resulted in serious injury, sometimes to themselves but often tragically to others and in some cases to young children. I previously held the position of minister for the ageing and in that capacity it was impressed upon me on many occasions that it is inappropriate to have tests that are purely based on age. So, in relation to driving matters an assessment should be made of an individual's capacity to drive and we should not encourage or even countenance tests that are solely aged based. I continue to support that view.

The right and privilege to drive is very important and should not be removed lightly. However, this bill seeks to strike a balance between, on the one hand, the right of individuals to exercise that power and, on the other, the right of others to go about their business safely. Notwithstanding the reservations I have expressed and that a number of my colleagues have expressed in the party room, it was the view of the Liberal Party that this measure should be supported.

There is one other aspect of the measure worthy of note, and that is that the measure will have retrospective effect. It will seek to validate suspensions that have been made in the past by the registrar in the bona fide exercise of his powers, which it was believed he had and which, prior to the amendment in 1999, the registrar undoubtedly had. Notwithstanding our severe reservations about retrospective provisions, in the circumstances of this case it is appropriate that what has occurred in the past be validated in the manner suggested.

It is a case of the validation of bona fide acts that have been carried out. I ask the minister to indicate, when summing up, whether any cases or applications are before the courts similar to that of Cummings and the Registrar of Motor Vehicles which will, in effect, be frustrated by the passage of this measure: that is an important consideration. If people have acted to their detriment on the strength of the law as it currently stands, their rights should not be jeopardised but should, in fact, be preserved. So, I ask the minister to indicate, during the committee stage, whether or not any people are in that particular situation and, if indeed there are, it may be appropriate for an amendment to be moved to ensure that their rights, such as they are, are preserved. I indicate support for the second reading.

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

ABORIGINAL LANDS TRUST

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

That this council, pursuant to section 16(1) of the Aboriginal Lands Trust Act 1966, recommends that allotment 21 in the plan deposited in the Lands Titles Registration Office No. DP 58704 (being a portion of the land comprised in Crown Record Volume 5407 Folio 615) be transferred to the Aboriginal Lands Trust (subject to an easement to the South Australian Water Corporation

marked A in the deposited plan and to an easement to ETSA Transmission Corporation marked B in the deposited plan).

This motion comes about because of the negotiated position of transference that has been agreed to in another place and by the communities themselves. Part of the land required to build the Berri bridge was owned by the Aboriginal Lands Trust and leased to the Gerard community. The Aboriginal Lands Trust agreed to transfer to the state the land required for the bridge in return for a transfer of land at Swan Reach to the Aboriginal Lands Trust. Since then, the administrative and legal steps have been taken to create the necessary title and easements and to close a road over portion of the land. In order for the transfer to be made, the Governor must proclaim the land under the Aboriginal Lands Trust Act 1966 but, prior to making that proclamation, both houses of parliament must pass a resolution recommending the transfer. This is the role that we are playing in this house at the moment. The Aboriginal Lands Trust is eager to complete the transfer, which will be positive, in a cultural and spiritual sense, for the local Aboriginal community.

In summary, the government is now in a position to facilitate the transfer of land at Swan Reach to the Aboriginal Lands Trust and, in so doing, recognises the role played by the Aboriginal Lands Trust in bringing the Berri bridge into being. This is an administrative motion, and I commend it to the council.

The Hon. R.D. LAWSON: I rise to support the passage of this motion. Quoting the relevant words, section 16 of the Aboriginal Lands Trust Act provides:

> . . . the Governor may by proclamation transfer any Crown lands or any lands for the time being reserved for Aborigines to the Trust for an estate in fee simple or for such lesser estate or interest as is vested in the Crown:

The section goes on to provide that no such proclamation shall be made in respect of any Crown lands, except upon the recommendation of the minister and both houses of parliament; the House of Assembly has passed a resolution. The transfer of this land to the Aboriginal Lands Trust arises in the manner briefly outlined by the minister, which I will repeat. The land was previously occupied by the Gerard community, near the sight of the Berri bridge. It was required for the purposes of the construction of that very important piece of infrastructure for the benefit of the Riverland and the whole state.

A negotiated agreement was reached between the then minister for Aboriginal affairs, the minister for environment and heritage, the Commissioner of Highways, the Aboriginal Lands Trust and Gerard Reserve Council Incorporated, as well as the contractor Built Environs Pty Ltd. In so far as the Minister for Environment and Conservation was concerned, it was agreed by that minister that some 7.3 hectares of land situated abutting the River Murray at Swan Reach would be transferred to the Aboriginal Lands Trust in exchange for the land taken at the sight of the Berri bridge. The land that is to be transferred is covered with natural vegetation and is the subject of easements for sewerage purposes and for the transmission of electricity by overhead cable.

I am advised by Transport SA that a site inspection conducted by the Native Vegetation Council Secretariat indicated that, while the area has been disturbed, the site continues to support regenerating native vegetation. Transport SA understands that the Gerard community, with support from the Aboriginal Lands Trust, proposes to develop a land management plan along Landcare principles and to actively manage this site. This is a good outcome. I commend the Gerard community for their cooperation in facilitating the building of the Berri bridge, and I trust that this new land at Swan Reach, now to be vested in the Aboriginal Lands Trust, will be of benefit, in a cultural and spiritual sense, to that community and the local Aboriginal community. I commend the motion.

The Hon. SANDRA KANCK secured the adjournment of the debate.

DOG AND CAT MANAGEMENT (MISCELLANEOUS) AMENDMENT BILL

Second reading.

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

Introduction

Dogs play an important role in our community. The social and economic benefits they provide are enormous. However, the benefits come at a cost. Barking dogs, dogs roaming unattended and, especially, dog attacks are major concerns. The aim of this Bill is to provide a legislative framework that will minimise the social, environmental and economic costs of dog ownership.

Background

The Dog *and Cat Management Act* became law in 1995. In 1996, one year after implementation, the Minister directed that a review of the legislation be instigated. The Dog and Cat Management Board (the **Board**) undertook this review on the Minister's behalf. The result of the review determined that State Government, the Board, councils and the public were still coming to terms with the new Act and implementation was still in its developmental stages. Consequently, it was decided that it would be premature to consider any changes until consistency in approach had been achieved and the community had had sufficient time to learn and come to terms with the new requirements and their implications.

In April 2000, the Board undertook an extensive survey of councils, special interest groups and the broader community to develop recommendations for a review of the Act with a particular focus on dog management. An appropriate amount of time had passed since implementation and it was reasonable to expect that councils and the community had by now come to terms with the new Act and that a review could be undertaken with effective results. This review was completed in August 2000 and found that, although the Act was basically sound, there was room for improvement. In addition, social expectations, awareness and the emphasis on public safety had increased in the five years since the Act was developed. On this basis, the Board recommended that amendments to the Act be made.

These recommendations were presented to the Government of the day for consideration. The recommendations were considered and, in December 2001, a draft Amendment Bill and Discussion Paper incorporating some Board recommendations and some new initiatives were developed. The paper, released just before Christmas 2001, resulted in considerable public debate and over 100 submissions were received.

With the change of Government in 2002, came the opportunity to completely review the work previously undertaken. The Government developed a ten-point plan for responsible dog ownership, which was the basis of the Responsible Dog Ownership Strategy and associated legislative amendments. On 15 July 2002, the *Responsible Dog Ownership Strategy Discussion Paper* was distributed for public comment. In excess of 550 submissions were received. In addition, two meetings of key stakeholders were held to assist in the development of effective approaches to the issues of dog management and public safety. *The Responsible Dog Ownership Strategy Discussion Paper* received very strong support from stakeholders, community groups, organisations and individuals.

However, it should be noted that urban animal management always elicits a wide range of opposing views and priorities.

Throughout this process, it became clear that dog attacks were unacceptably common and the public demanded that the issue be addressed. According to a report by the Australian Bureau of Statistics, *Injury Surveillance Information Systems* (1998) during 1995/96, 1405 cases Australia-wide of hospitalisation resulted from dog attacks. They observed that the most common place for attacks to take place was in the home (35%). A further 24% took place in another person's home and 20% took place on roads and footpaths. The existing Act contains stringent controls on dogs that have been declared dangerous but such declarations are rare because dogs that attack are generally put down. To reduce the number of dog attacks the broader issue of dog control must be addressed to ensure that the first attack does not happen.

This Bill will provide mechanisms to improve public safety, reduce public nuisance and improve administrative processes relating to dogs while recognising the importance of dog ownership to the community. It will also amend the governance arrangements of the Board to clearly define roles, responsibilities and accountabilities. Its provisions are based on the Government's ten-point plan for responsible dog ownership and focuses on initiatives, which will reduce the frequency of dog attacks and improve the management of dogs both in public and on private land. The legislative changes will provide the foundation to implement the plan and bring into effect measures under the following categories:

- Measures to manage dangerous or menacing dogs
- Measures to control potentially dangerous dogs
- Measures to improve public safety
- Measures to improve public amenity
- Measures to address non-compliance
- Measures to improve dog registration
- Measures to improve council procedures
- Measures to clarify and improve the legislation
- Measures to improve the governance of the Board

Details of Bill

1. Measures to Manage Dangerous or Menacing Dogs

1.1 Dogs that have been declared dangerous

Current Situation and Reason for Amendment

A dog that has been declared dangerous has shown itself to be unreliable and to inflict harm. Currently, if the dog "re-offends", a series of fines for contravening orders, civil action and a destruction order are available. However, unless the dog causes harm there is no additional penalty and no provision to prevent a subsequent offence from occurring. The owners of such dogs must take additional care to ensure that the dog is not at large or in any other way presenting a threat to the public. It is recognised that prescribed breeds have the potential to do significant damage. The penalties for irresponsible management of a dog that has been proven to be a risk should at least equal.

Amendment

This Bill provides that councils may require owners of dogs and their dogs that have been deemed to be "dangerous" to undergo and pass a training course approved by the Board at the owner's expense. Dogs deemed dangerous will be subjected to compulsory desexing and microchipping at the cost of the owner in addition to the current requirements, namely wearing a "dangerous dog" collar and being restrained by a leash not exceeding two metres in length whilst in public. Information identifying the dog and owner will be placed on a register controlled by the Board. Owners of dangerous dogs found guilty of further offences will be subjected to penalties as severe as those incurred by prescribed breeds.

If owners of dangerous dogs do not comply, the Bill provides that they may be ordered to do so by a court and the dog may be removed from their keeping and disposed of as the council sees fit.

1.2 Prohibiting dog ownership

Current Situation and Reason for Amendment

Some people simply should not own a dog. *The Prevention of Cruelty to Animals Act 1985* provides that if a person has been found guilty of ill-treating an animal, the courts may order that the person cannot own an animal of a certain class (eg species) or any animal either permanently or until the order is revoked. Currently, there is nothing in the *Dog and Cat Management Act 1995* to prevent an irresponsible owner from obtaining a dog, no matter how many dogs in their possession have caused harm or nuisance in the past.

Amendment

This Bill provides that if a person has had a dog which has been declared dangerous or that has been destroyed on council orders, the council will have the ability to prevent that person making the same mistakes with another dog. Prohibition orders will allow a council to demand some action be taken, eg fencing be improved, before another dog is obtained. In extreme cases, a council will have the option of prohibiting a person from obtaining another dog at all unless the person can prove that they are prepared to be responsible for their dog's actions. If a person believes the council's demand is unreasonable, they will have legal recourse to challenge the order.

This Bill gives councils the authority to prohibit a person from owning or being responsible for the control of any dog if:

- A dog in their control was found guilty of a further offence while that dog was already subject to a Destruction or Dangerous Dog Order.
- A dog in their control was found to be a dangerous dog and during the previous 5 years that person had been responsible for the control of a different dog that was also the subject of a menacing, destruction or dangerous dog control order.

The Bill also provides that councils may apply to the court to prohibit a person from owning a dog if this is in the public interest. If the person moves to another council area, the former council will have the authority to advise the new council of the order.

Each dog owned by a person at the time of prohibition will be permanently removed from that person's ownership within one month, and will be disposed of at the council's discretion. The order may apply to either a certain class of dog, or any dog. The order may apply until a certain action is taken, for a certain period of time or until the order is reversed. A person upon whom such an order is imposed may challenge that order through the courts. A maximum penalty of $2,500 will apply for contravention of a Prohibition Order.

1.3 Menacing dogs

Current Situation and Reason for Amendment

Currently, a dog can be declared to be dangerous if it harasses or attacks but often councils know of an aggressive dog and cannot take any action until an offence has been committed. Residents are often also aware that a certain dog has the potential to do harm.

Amendment

This bill provides that these dogs will be deemed "menacing". There will be no direct financial penalty (because no offence has been committed) but councils will be able to require any or all of the following:

- Fencing standards to be adequate to confine the animal.
- Access to the area in which the dog is held is locked
- The dog is microchipped
- It is on a lead at all times in public
- The owners have warning signs at the entrances to the property and
- That the dog is muzzled in public.

There may be indirect costs, eg new fencing etc, incurred to meet the requirements of the menacing order, which must be undertaken at the owner's expense.

2. Measures to Control Potentially Dangerous Dogs

2.1 Prescribed breeds

Current Situation and Reason for Amendment

In South Australia, four breeds are currently prescribed, namely Dogo Argentina, Japanese Tosa, Fila Brazilliero and American Pit Bull Terrier. All are large mastiff types originally bred specifically for fighting. They are extremely powerful and have been bred for courage. Consequently they are not suitable pets in the average household. There are legal requirements for these dogs to be muzzled in public, desexed, they cannot be advertised, sold or given away and must be confined securely. The penalties for offences committed in relation to dogs of these breeds (eg wandering at large) are considerably higher than other dogs.

Although there is debate on the usefulness of these provisions, South Australia is about the only state not to have had a serious pitbull attack. On this basis, the provisions are worth

retaining. The Presa Canario was bred as a fighting dog in the Canary Islands in the 16th century. It almost became extinct when pit fighting was banned in the Islands but was rediscovered by the Spanish and has now appeared in the United States of America. Recently, two dogs of this breed killed a woman in the corridor of an apartment building in the USA. Given that there may be some value in prescribing breeds, the Presa Canario should also be prescribed and subject to all precautions and requirements of other prescribed breeds.

Currently there is no provision for a dog management officer to sight evidence that a dog has been desexed. Such a provision is obviously necessary.

Amendment

The Bill includes the Presa Canario as a prescribed breed and gives authorised officers the authority to sight evidence that a dog of a prescribed breed has been desexed.

2.2 Attack, Patrol and Guard dogs

Current Situation and Reason for Amendment

These three categories of dog are not necessarily dangerous but do have training and management requirements not typical of the normal dog population. Currently, there is no requirement for these dogs to be treated any differently than the rest of the dog population.

Guard dogs, which are used to protect factories, caryards and other premises without a handler, and patrol dogs that guard premises with a handler, are not recognisable from strays if they are at large. There is no requirement for the owners of such dogs or the premises they protect to carry public liability insurance in the event the dog escapes.

Often when guard dogs are loose, the owner claims the yard was subject to a break in and therefore they are not responsible. There is no provision to require evidence that this is the case. This needs to be remedied.

Amendment

The Bill includes a definition of

- An "attack trained dog" as a dog trained or undergoing training to attack a person on command;
- A "Patrol dog" as a dog that works with a handler to protect premises; and
- A "Guard dog" as a dog that protects premises without a handler in attendance.

This bill provides that dogs of these classes must be

- Microchipped;
- Wear a distinctive collar;
- Branded in a manner approved by the Board;
- Confined indoors or in an enclosure whilst on the owners property; and
- Warning signs must also be erected at all entrances to the owner's property where the dogs are kept.

The Board may exempt any dog or class of dog from any of these requirements.

It is intended that attack, patrol and guard dogs will be required to be microchipped at the owner's expense within three months from the date on which the Bill is enacted and their details held on a register by the council and the Board. Councils will provide this information to the Board for the maintenance of a central register.

Such dogs will have to be kept indoors, confined to secure yards or restrained by a lead not exceed two metres in length at all times, unless participating in an organised event such as dog obedience class.

It is intended that owners of guard and patrol dogs must ensure that their dogs are freeze branded on the left shoulder in a manner defined by the Board. The Board will also require:

- the name of the insurance company carrying the public liability risk
- the name and address of the owner, and
- the breed, sex, and age of the dog.

2.3 Greyhounds

Current Situation and Reason for Amendment

Traditionally, greyhounds have a reputation for killing cats and other small animals. Therefore, they have always had to wear muzzles in public. The evidence shows that this is not the case and that greyhounds are, in general, extremely well managed. They are very rarely found roaming at large, are almost never involved in dog attacks and cause councils very few problems. This is largely because the Greyhound Racing Authority has put a huge emphasis on improving the image and practices of the industry. The rules of the Greyhound Racing Authority are much more rigorous than the existing legislative controls.

Over the past few years, the Greyhound Adoption Program has attempted to retrain and re-home greyhounds that do not win races. They do make good pets and they are trained not to chase before being desexed and re-homed. Greyhounds bred for conformation showing have never been trained to chase and should be considered in the same manner as any other sight hound.

However, the precautionary principle demands that removal of controls should only be done with the utmost caution. Greyhounds are powerful and fast dogs. On that basis, the requirement for greyhounds to be muzzled should be retained but there should be the latitude for the Board to permit greyhounds of certain classes to be unmuzzled. If, in the future, this is validated, the requirement for muzzles could be repealed. This strategy allows a mechanism to investigate the options without legislative change.

Amendment

This Bill amends the Act such that the Board will have the ability to grant or withdraw an exemption for a greyhound to wear a muzzle.

3. Measures to Improve Public Safety

3.1 Effective control of dogs

Current Situation and Reason for Amendment

Currently, a dog can be controlled either by a lead or by command. Clearly, this has not worked. Councils are able to decide by resolution to prohibit dogs from a park or other area (eg in children's playgrounds) or permit them to be exercised off lead (eg in "dog parks") on land under the control of the council.

In some cases, eg a community fair in a park, the council may wish to prohibit dogs for the day or require that they be restrained on a lead in areas where normally they are permitted off-lead. There is no provision for such a resolution to be made at present.

Currently, there is no requirement to confine or control dogs either on the back of vehicles or in the cabin. This poses a series of dangers. Dogs on the back of utilities and tray trucks can fall off, causing a traffic hazard and they can bite people who come too close to the vehicle when it is parked. Dogs within the cabin of vehicles frequently interfere with the driver by sitting on their lap or racing around the cabin, again, creating a road safety hazard. In the event of an accident, a frightened, protective dog often guards the owner from the people attempting to assist and it can become a missile at the time of impact. Finally, dogs can, and do, fall out of the windows of vehicles. Most Australian jurisdictions either have, or are in the process of providing for, a requirement that dogs be restrained in vehicles. Such an amendment is clearly in the broader public interest.

Amendment

In the interests of public safety, dogs in public will be required to be restrained by a chain, leash or cord not exceeding two metres in length and under the control of a person capable of controlling the dog, unless the dog is in a park, garden, reserve or other similar public open space, or a foreshore area and under effective control by means of physical restraint or command. This amendment will greatly assist dog management and public safety.

Dogs being transported in vehicles will be required to be restrained in accordance with the regulations. Thorough consultation will occur before any such regulations are made.

3.2 **Dogs at Large**

Current Situation and Reason for Amendment

It is a fact of life that occasionally a responsibly owned dog will accidentally get out of the yard. It is the dogs that habitually wander that pose the real problems.

If a dog is wearing identification or is registered, council officers return the dog home without incurring the expense of impounding it. It is the owner's responsibility to ensure that such identification is worn. Currently, the penalty for repeat offenders is the same as for the first time offenders and for dogs bearing identification the same as for dogs that are not. (Failure to register is a separate offence)

Amendment

The offence of "Dog wandering at large" will be amended. An expiation fee of $80 (or $210 for prescribed breeds and dangerous dogs) will be created. If the dog is impounded, the

cost will be recovered as a common debt. Councils will have the option of either expiating or prosecuting the offence. It is envisaged that, in most instances, expiation will be the preferred option.

In the event of a dog being known to a council as a habitual wanderer, the matter can be taken to the courts. The maximum penalty for the first appearance will be $250 (increasing to $2,500 for prescribed breeds and dangerous dogs). If the owner is prosecuted for a second or subsequent offence, the maximum penalty is increased to $750 (or $5,000 for prescribed breeds and dangerous dogs).

These amendments will effectively create a three-tier penalty system. In addition, the second (and subsequent) time the owner faces the court, the dog may be confiscated.

3.3 Children on Private Property

Current Situation and Reason for Amendment

About 70% to 80% of serious dog attacks occur in the home or in a friend's home by a dog known to the victim and most of the severe attacks are inflicted on young children. No young child should ever be left unsupervised with a dog. Currently, many dog attacks are considered to be accidents, whereas in fact they are the result of mismanagement.

Amendment

The amended Act will require dog management officers to report any attack which requires medical treatment to the police for possible investigation and prosecution. The offences of allowing and encouraging a dog to attack have been strengthened to create a higher maximum penalty if the victim is six years of age or younger at the time of the attack.

3.4 Suppliers of dogs

Current Situation and Reason for Amendment

Pounds and shelters provide a valuable service to councils, communities and stray dogs. However, they also have a responsibility to ensure that the dogs they re-home are physically and emotionally stable. Before a dog in a pound or shelter is offered for sale it should pass a temperament test and physical examination.

Breeders registered with the South Australian Canine Association, pet-shops and indiscriminate "backyard" breeders comprise the other suppliers of dogs. Collectively, these groups sell thousands of dogs a month. The industry is huge, disparate, difficult to identify and almost impossible to police. However, a quality assurance program will provide a mechanism to ensure that potential buyers are aware of what they are buying and the responsibilities they are accepting in doing so.

Amendment

The Bill makes provision for the Board to be able to accredit procedures for the testing of dogs. It is intended that, in due course, the Board will not permit a pound or shelter to give away or sell a dog until it has received a health assessment for re-homing and has also passed an accredited Temperament Test as determined by the Board. Initially, the test developed by the National Consultative Committee on Animal Welfare will be adopted. This has been endorsed by the RSPCA and the Australian Veterinary Association on a national basis. If a dog does not pass the test, it will be put down. We cannot continue to recycle problem dogs.

This Bill will also make provision for the Board to have the ability to introduce minimum standards for pet shops that sell dogs through licensing of such establishments with the Board. Compliance with those standards will be a condition of license. A Code of Practice is currently under development and will be based on the Pet Industry Joint Advisory Council Code which is endorsed by industry.

The intention is that the term "Accredited Canine Enterprise" (**ACE**) will be introduced. In due course, it is planned that a breeder, pet shop or pound will apply to the Board to be accredited under this scheme, even though there will be no legal obligation to do so. A person with such accreditation would have to ensure that the dog offered for sale is vaccinated, wormed, health checked, microchipped and at least eight weeks of age. They would also be able to provide the prospective purchaser with accurate and objective information on the dog, its temperament, health and hereditary problems, its breed characteristics and other influences, which may impact, on its suitability as a pet.

The purchaser of such an "ACE" dog will buy that dog in full knowledge of its strengths and weaknesses and with legal recourse if the information is misleading.

It is envisaged that, over time and with sufficient publicity, most businesses dealing in dogs will see a commercial benefit in being able to advertise their ACE accreditation. Purchasers, over time, will realise that to buy a dog outside the scheme is a "lucky dip" and the buyer should beware. Such a quality assurance scheme, underpinned by existing legislation will provide the best opportunity to improve the standards of the providers of dogs.

4. Measures to Improve Public Amenity

4.1 Barking Dogs

Current Situation and Reason for Amendment

Barking dogs consume considerable council time and resources. The penalties have not increased since 1995 and do not reflect the cost of enforcement.

Amendment

The legislation will be amended such that on the first offence, the owner of a dog can be ordered to take steps to abate the problem. If the owner does not comply within fourteen days and the barking continues, the owner can be expiated or fined. The expiation fee for barking dogs should be increased to $105 and the maximum penalty to $750. It is subject to appeal.

5. Measures to Address Non-Compliance

5.1 Minimum penalties

Current Situation and Reason for Amendment

Currently, maximum penalties are prescribed but this gives Magistrates little guidance in determining a penalty.

Amendment

The amendment will provide minimum penalties for all offences under the Act of 25% of the maximum penalty.

5.2 Increase penalties

Current Situation and Reason for Amendment

There has been no increase in penalties and expiation's since the legislation was enacted in 1995.

Amendment

All expiation fees and maximum penalties within the Act are to be increased. This proposal received 100% support from all individuals and organisations that responded to the public discussion paper.

5.3 Failure to Abide by Orders

Current Situation and Reason for Amendment

Currently, councils may make orders against persons for various reasons. However, if the owner simply ignores that order, the matter must go before the courts. That results in the delinquent behaviour continuing until the matter is heard. However, the council pays the cost of impoundment. In some cases, councils have decided not to pursue matters because it is simply too hard.

Amendment

This Bill will amend the Act such that if a person is issued a written notice ordering the destruction of a dog they will have to take steps to comply within seven days or the dog may be seized by council. In the case of a barking dog order, if the owner does not take steps to comply with a written order within 28 days, the council will have the authority to seize the dog. After a further seven days, if the owner has not complied or issued an appeal, the council may dispose of the dog as they see fit. Appeals can be made to the court and costs awarded against the unsuccessful party.

6. Measures to Improve Dog Registration

6.1 Age of dog ownership

Current Situation and Reason for Amendment

At the time the Act was developed, it was determined that the age at which a person could register a dog should be 18 years because of potential difficulties with prosecuting minors. However, at 16 years, a person can marry, drive a car and rent property and be registered as a greyhound owner with the Greyhound Racing Board. If they live on a rural property and a parent has a firearms licence, a 15 year-old can be the registered owner of a gun. Given these facts, it is illogical to restrict dog ownership to persons 18 years or over.

Amendment

This amendment provides that a person aged 16 years or over can own and register a dog. All the requirements of the Act relating to dog ownership will apply to such minors who own or are responsible for a dog.

6.2 Registration fees

Current Situation and Reason for Amendment

Without adequate enforcement, no legislation can be effective. Without funding, there can be no enforcement. Registration fees

have not risen since the Act came into force. councils must respond to the needs of their communities.

Amendment

This amendment will allow councils to set their own dog registration fees by resolution rather than the Government prescribing the fees by regulation that apply across the State. The resolutions will require the endorsement of the Board to ensure that the proposed fee is reasonable and fair. Councils will be required to satisfy the Board that all the revenue received for dog registration is expended on dog management programs and enforcement of the Act. The regulated form of application for registration will be repealed and the form of the documentation will be determined by the Board. The Board will develop guidelines for the advice of councils to provide guidance on the matters it will consider in approving registration fees. It is envisaged that different registration fees will apply in relation to different classes of dogs, and rebates will apply for dog owners who have their dogs desexed, microchipped or properly trained.

6.3 Late registration fees

Current Situation and Reason for Amendment

Late registrations are a continual burden to councils because revenue is not received within the anticipated timeframe.

Amendment

This Bill will amend the Act such that a late registration fee will apply to registration renewals made out of time. Councils will determine the amount of this fee subject to the endorsement of the Board.

7. Measures to Improve Council Procedures

7.1 Animal Management Plans and By-laws

Current Situation and Reason for Amendment

There is a public expectation that councils will consult with their communities about the wants and needs of animal owners and non-owners. Such consultation is necessary to develop Animal Management Plans. Councils accept that such planning provides the opportunity to gauge community needs, engage in forward planning and budget appropriately for measures it could introduce. Currently, councils develop a number of management plans in accordance with the requirements of the *Local Government Act 1999*.

Amendment

The Act will be amended to require councils to develop and implement five year strategic Animal Management Plans in consultation with their local communities and in compliance with the requirements of the Board.

The process for council bylaws will remain unchanged. The *Local Government Act 1999* applies to the by-laws which must also be referred to the Board for consideration. Councils must consider any recommendations of the Board relating to the by-laws.

The process for the development of Animal Management Plans will reflect the development of a council's Strategic Management Plan. with the added requirement that the Board endorse the plans prior to implementation.

7.2 Board to oversee Councils

Current Situation and Reason for Amendment

Although the Board is established as the overseeing body for dog and cat management, there is no express ability for the Board to require councils to comply with the legislation. The only remedy is through the *Local Government Act 1999* and the Minister in whose portfolio that Act lies.

Amendment

This Bill will provide that the Board can investigate council compliance with the legislation and report to the Minister for Local Government if it considers that a council is not meeting its obligations under the Act.

7.3 Board to approve signage

Current Situation and Reason for Amendment

People take their dogs to a variety of venues in different council areas. There is generally poor understanding of local requirements and little or no consistency in the signage used. The Board could provide the appropriate mechanism to ensure such consistency.

Amendment

The Act will be amended such that the Board be empowered to approve appropriate signage in relation to the management of dogs and councils will not be permitted to erect signs relating to dog management that have not been endorsed by the Board.

8. Measures to Clarify and Improve the Legislation

8.1 Identification of dogs

Current Situation and Reason for Amendment

Currently the requirement and method to be used to identify a dog is contained within the Act under Section 40. The recognised method of identification for cats is contained within the regulations. Recent advances in the development of the microchip suggest that, in the foreseeable future, this may provide a permanent form of identification and could be used as an adjunct to registration. Prescribing the method of identification of dogs in to appear in regulations would provide the flexibility needed to introduce microchipping as a recognised form of identification if the technical issues associated with the technology can be overcome.

Amendment

The requirements of the Act referring to the identification of dogs will be removed from the Act and placed in the regulations.

8.2 Disability, Guide and Hearing Dogs

Current Situation and Reason for Amendment

Currently the legislation only allows guide dogs into certain places, such as supermarkets and restaurants. Guide dogs in training must become accustomed to such areas before they become responsible for the safety of a blind person but they are not permitted to enter such premises. Consequently, they should be afforded the same rights and privileges as trained guide dogs.

Amendment

This Bill will amend the Act to allow for dogs undergoing training as guide dogs, hearing dogs or other disability dogs accredited by the Board will be considered in the same manner as guide dogs.

8.3 Courts power to make orders

Current Situation and Reason for Amendment

Section 47 confers on the courts the power to make orders in relation to a dog under that Division.

Amendment

Section 47 will be amended to expand the sorts of orders that the court may make.**Exemption of the Crown**

Current Situation and Reason for Amendment

Section 9 states "A dog owned by or on behalf of the Crown (in right of the Commonwealth or the State) and used for security, emergency or law enforcement purposes is not required to be registered under this Act and cannot be made subject to an order under this Act". This exemption needs to be broader in its application. For example, a police officer is not going to collect faeces while pursuing an offender and a search and rescue dog will not be restrained on a lead not exceeding two metres in length. The provision should also recognise the role of dogs used in search and rescue on an occasional basis on behalf the Crown.

Amendment

The Act will be amended to exempt the Crown dogs from all aspects of the legislation.

8.4 Owner of a dog

Current Situation and Reason for Amendment

Interstate registers are recognised in other sections of the Act, but not in section 5. If a family comes to South Australia on holidays and brings their dog, they are still the owners and still have all the rights and responsibilities that involves. All other references to dog owners in the Act (eg section 33) specifically acknowledge interstate registers.

Amendment

Section 5 will be amended to recognise interstate registers.

8.5 Laying poison baits for dogs

Current Situation and Reason for Amendment

The issue of laying baits and the handling of poisons is covered by the *Agricultural and Veterinary Chemicals (SA) Act 1994* and the National Registration Authority. This matter should be left to that legislation rather than include one aspect in this Act and ignore all the other matters related to the use of poisons.

Amendment

Section 49 of the Act relating to laying poison baits for dogs will be repealed.

8.6 Recovery of destruction and detention costs

Current Situation and Reason for Amendment

Section 60 provides for the pounds and shelters that act on behalf of councils to recover costs associated with the destruction of dogs. However, there is no such provision relating to dogs that are to be re-homed.

Amendment

This amendment will ensure that shelters have the ability to recover costs associated with holding dogs, regardless of whether that dog is returned to the owner, re-homed, or destroyed. Section 60 will be amended by inserting in subsection (1)(b) "or disposal" after "destruction" and other sections relating to cost recovery of pounds and shelters will be examined to ensure that there is provision to recover costs associated with detention.

8.7 Dogs in shops and eating areas

Current Situation and Reason for Amendment

Currently, dogs are not permitted in any shop other than veterinary surgeries, pet shops and businesses based on dogs (eg grooming salons). In some cases, the owner of a shop (eg a florist or antique shop) takes their own dog to work with them. Technically, this constitutes an offence even though the person may own the shop and the dog.

In addition, the *Dog and Cat Management Act* states that dogs may not be in a place where food is prepared or offered for sale. This provision duplicates the *Food Act*. It is unnecessary in this legislation.

Amendment

The Bill will amend the Act such that a person may not take a dog into a shop except with the permission of the shopkeeper. This reflects the current requirement that a person may not take a dog into a school except with the permission of the principal.

All reference to dogs in places that sell food will be repealed from the *Dog and Cat Management Act* so there can be no conflict with the *Food Act*.

9. Measures to Improve Policy Advice and Implementation

9.1 Role and Composition of the Dog and Cat Management Board

Current situation and Reason for Amendment

Currently, the Board comprises six persons, five of whom are nominated by the Local Government Association and one by the Minister.

Amendment

This Bill will revise the provisions relating to the Board such that:

The Board will comprise nine persons; four nominated by the Minister and four nominated by the Local Government Association (the ***LGA***) with the chair jointly nominated;

Ministerial appointments will include persons who together have veterinary experience in the care and treatment of dogs or cats, a demonstrated interest in the welfare, keeping and management of dogs or cats, a health, or social work background and business or financial skills.

The LGA will nominate persons with experience in local government, the administration of legislation, financial management and education and training.

Should the Minister and LGA not be able to agree on the nomination of a person to Chair the Board, the Governor will select a person from a list provided by the Minister and the LGA.

The Board will be subject to the *Public Sector Management Act* and other legislative provisions relevant to public authorities.

The functions of the Board may be extended as the Board thinks fit to providing:

The accreditation of training programs for dogs and owners;

The accreditation of procedures for testing the behaviour of dogs;

The carrying out of any other function relating to responsible dog and cat ownership or the effective management of dogs and cats.

For example, the Board may consider implementing the following:

Providing support, guidance and assistance to councils including:

issuing guidelines relevant to their responsibilities under the Act;

facilitating training for dog and cat management officers;

advising on the appropriate standards to be met under the Act (eg facilities used for the detention of dogs and cats);

providing support, guidance and assistance to owners and the community (such as educational programs relating to dog or cat management).

Under the amendments, the Board will consider and approve council proposals with a view to promoting the effective management of dogs and cats, the consistent application of by-laws throughout South Australia (where appropriate) and enforcing the provisions of the Act by monitoring the administration and enforcement of the Act.

The Board may also undertake the various administrative functions required by the Act, such as:

· the keeping of registers;

· determining training programs required for dangerous dogs or their owners;

· developing standards and protocols for the freeze branding of guard and patrol dogs;

· accrediting temperament tests for dogs to be administered prior to re-homing;

· approving registration fees proposed by councils and determining the form of application and other forms;

· accrediting disability, guide, and hearing, dogs and such dogs in training and develop appropriate certification;

· granting exemptions from certain of the requirements of the Act where appropriate;

· providing advice and information to the Minister, LGA or any advisory committee formed under the legislation on the operation of the Act or issues directly relating to dog or cat management in South Australia;

· the carrying out of any other function assigned to the Board by the Minister or under the Act, including maintenance of the Dog and Cat Management Fund.

I commend the Bill to the House.

EXPLANATION OF CLAUSES

Part 1-Preliminary

1-Short title

2-Commencement

3-Amendment provisions

These clauses are formal.

Part 2-Amendment of Dog and Cat Management Act 1995

4-Amendment of section 4-Interpretation

This clause inserts a number of additional definitions for the purposes of the *Dog and Cat Management Act 1995 (the **principal Act***). In particular, a ***dangerous dog*** is defined as a dog in relation to which a council has made a Control (Dangerous Dog) Order, or a court has made an order the terms of which correspond generally to such an order.

5-Amendment of section 5-Owner of dog

This amendment would allow for registers of dogs kept under a ***corresponding law*** (see clause 4) in another State or a Territory to be resourced in order to discover the owner of a dog.

6-Amendment of section 6-Person responsible for control of dog

This amendment is consequential.

7-Amendment of section 7-Dog wandering at large

This amendment would mean that a dog would not be taken to be "at large" while the dog remains within a park (as defined in section 4) and under the effective control by means of physical restraint or by command.

8-Substitution of section 8

Proposed section 8 (**Meaning of effective control of dog by means of physical restraint**) would mean that a dog will only be taken to be under effective control by means of physical restraint when-

- it is restrained by a chain, cord or leash that does not exceed 2 metres in length or when it is secured; or
- it is otherwise effectively physically secured.

9-Substitution of section 9

Proposed section 9 (**Non-application of Act to certain dogs owned by Crown**) provides that the principal Act does not apply in relation to a dog owned by or on behalf of the Crown that are used for security, emergency or law enforcement purposes.

10-Amendment of section 12-Composition of Board

The Dog and Cat Management Board currently consists of 7 members. The amendment would mean that the Board would consist of 9 members. The section sets out the qualifications that the various members must together have.

11-Amendment of section 17-Proceedings

This amendment is consequential on the increase in membership of the Board.**12-Amendment of section 21-Functions of Board**

This amendment would mean that the Board may (as it thinks fit) extend its functions to include-

· the accreditation of training programs for dogs and owners;

· the accreditation of procedures for testing the behaviour of dogs;

· the carrying out of any other function relating to responsible dog and cat ownership or the effective management of dogs and cats.

13-Insertion of section 21A

Proposed section 21A (**Accreditation of disability dogs, guide dogs etc**) provides that the Board may, on application, accredit a dog (or renew the accreditation of a dog) as-

· a disability dog; or

· a guide dog; or

· a hearing dog.

14-Amendment of section 22-Powers of Board

This amendment would remove a subsection that is of declaratory effect only.

15-Amendment of section 23-Operational plans, budgets and information

This amendment would means that the Board must, from time to time, prepare and submit to the Minister various operational plans, budgets and information. (This would have to be done at least once in respect of each financial year.)

16-Amendment of section 26-Council responsibility for management of dogs

The amendments proposed to section 26 make it clear that dog registers can be kept by computer and the fees that councils may charge for the purposes of the principal Act.

17-Insertion of section 26A

New section 26A (**Plans of management relating to dogs and cats**) provides that each council must prepare a plan (covering a 5 year period) relating to the management of dogs and cats within in its area. Plans of management must be approved by the Board.

18-Amendment of section 30-General powers of dog management officer

This amendment would give dog management officers the power to require a person who owns or is responsible for the control of a dangerous dog or a dog or a prescribed breed to produce evidence that the dog is desexed.

19-Insertion of section 31A

New section 31A (**Dog management officers to report certain dog attacks to police**) provides that dog management officers must report to the police any dog attack as a result of which a person suffers a physical injury that requires treatment by a legally qualified medical practitioner or nurse.

20-Insertion of section 32A

New section 32A (**Failure on part of council to discharge responsibilities**) provides that if, in the opinion of the Board, a council fails to discharge its responsibilities under the principal Act, the Board may refer the matter to the Minister responsible for local government matters (with a view to the Minister taking action in relation to the council).

21-Amendment of section 33-Dogs must be registered

These amendments prescribe different penalties for offences against section 33 if the dog is a dangerous dog or a dog of a prescribed breed and all other dogs.

22-Amendment of section 34-Registration procedure for individual dogs

This amendment would allow a person of or above the age of 16 years to become the registered "owner" of a dog and allows for fees to be fixed for late payment of registration fees.

23-Amendment of section 35-Registration procedure for businesses involving dogs

This amendment is consequential on the amendment proposed to section 34.

24-Substitution of section 40

New section 40 (**Dog to be properly identified**) provides that it is an offence if a dog is not identified as prescribed by the regulations. This will allow for flexibility in methods to be used for the identification of dogs. Different penalties are prescribed for dangerous dogs and dogs of a prescribed breed and other dogs.

25-Amendment of section 41-Applications and fees

This amendment is consequential.

26-Amendment of section 42-Records to be kept by approved boarding kennels

This amendment would allow councils to be provided with just the information they require from a boarding kennel rather than be supplied with superfluous information they do not want.

27-Substitution of heading to Part 5 Division 1

It is proposed to rewrite most of Division 1 and the new heading (**Offences relating to duties of owners and others responsible for control of dog**) better describes the proposed changes.**28-Substitution of sections 43 to 45**

New section 43 (**Dogs not to be allowed to wander at large**) provides for an offence that is substantially the same as item 1 in the table that appears in section 43. However, it is proposed that if a person is found guilty of a subsequent offence against new section 43 that the court should make one or more of the following orders in relation to the dog:

· that the dog be disposed of in a specified manner within a specified period;

· that the order for disposal be remitted in specified circumstances.

· any other order that the court thinks fit.

New section 44 (**Dogs not to be allowed to attack etc**) provides for offences relating to dog attacks (whether or not actual injury is caused). A person may be guilty of an aggravated offence against this section if-

· the offence relates to a dog that is a dangerous dog or a dog of a prescribed breed; or

· the victim of the offence was, at the time of the offence, under the age of 6 years.

A person who is found guilty of an aggravated offence is liable to a penalty not exceeding double the penalty that would otherwise apply for an offence against new section 44. A defence to a charge of an offence against the section is provided.

New section 45 (**Transporting unrestrained dogs in vehicles**) provides that it is an offence to transport in a vehicle a dog that is not restrained in accordance with the regulations, the penalty for which is a fine of $750 (expiable on payment of an expiation fee of $105).

New section 45A (**Miscellaneous duties relating to dogs**) provides for miscellaneous offences relating to various duties of dog owners, such as, keeping dogs out of school grounds and most shops, preventing dogs from creating noise nuisance and cleaning up after dogs have defecated in public places.

New sections 45B to 45E fall within new Division 1A (**Offences relating to specific duties of owners and others responsible for control of certain dogs**). New section 45B (**Specific duties relating to dogs of prescribed breed**) provides, among other things, that such dogs must also be desexed and may not be sold, given away or advertised for sale or to give away.

New section 45C (**Specific duties relating to greyhounds**) provides for specific offences relating to greyhounds.

New section 45D (**Specific duties relating to attack trained dogs, guard dogs and patrol dogs**) provides for a number of duties relating to those particular classes of dogs. Such a dog-

· must be implanted with a microchip;

· must be branded in an approved manner;

· must, while on its owner's premises, be kept indoors or in an escape-proof enclosure;

· must wear a collar of a type that is approved by the Board;

· must, except while at home, at all times be under the effective control of a person by means of a chain, cord or leash that is less than 2 metres in length restraining the dog.

Warning signs complying with the Board's requirements must be prominently displayed warning of the dog's presence.

Section 45E (**Board may exempt persons from specific duties under this Division**) provides that the Board may, on application, exempt a person from having to comply with a specified specific duty under new Division 1A.

29-Amendment and redesignation of section 46-Interference with dog in lawful custody

It is proposed to redesignate this section as section 81A and relocate it so that it follows section 81 (in the Miscellaneous provisions).

30-Insertion of new divisional heading

A new divisional heading is to be inserted before section 47 (**Division 1B-Court's power to make orders in criminal proceedings**).

31-Amendment of section 47-Court's power to make orders in criminal proceedings

The court is to be given powers to make additional orders, such as an order that a dog be desexed, be identified in a particular manner or be seized and detained for a period. The court may also make an order that any dog owned by a particular person be destroyed or disposed of in a specified manner.

32-Repeal of section 49

Current section 49 deals with the laying of poison in baits for dogs. This section is to be repealed.

33-Substitution of heading to Part 5 Division 3

The new heading to Division 3 will be "Council powers to make destruction and control orders".

34-Substitution of section 50

The substituted section 50 deals with destruction and control orders and sets out more clearly what orders a council may make and the requirements of each order.

35-Amendment of section 51-Grounds on which orders may be made

The amendments are consequential.

36-Amendment of section 55-Contravention of order

The penalty provision is substituted for the previous penalty provision.**37-Insertion of Part 5 Division 3A**

A new Division (**Division 3A-Prohibition Orders**) is to be inserted after section 59. New section 59A provides that a council may make a Prohibition Order against a person that-

- prohibits the person from acquiring a dog; and
- requires each dog owned by the person, at the time the order takes effect, to be destroyed or disposed of in a specified manner and, until destruction or disposal, to be detained at a specified place;

Such an order may only be made if the council is satisfied that the person is a "repeat" offender in relation to dog offences.

New section 59B provides that a person who contravenes a Prohibition Order is guilty of an offence and, in the event of such contravention, a dog management officer may take reasonable steps to give effect to the order.

New section 59C provides for appeals against Prohibition Orders.

38-Amendment of section 60-Power to seize and detain dogs

This amendment is consequential.

39-Amendment of section 61-Procedure following seizure of dog

This amendment provides that a dog that is the subject of a Control (Dangerous Dog) Order may be identified in the manner specified in the Order and be desexed (if the dog has not already been identified/desexed) while being detained.

40-Amendment of section 81-Disability dogs, guide dogs etc

Current section 81 applies only to guide dogs and hearing dogs; the amendments are consequential on the introduction of disability dogs to the measure. It is also proposed to make it an offence for a person to claim that a dog is a disability dog, guide dog or hearing dog if the dog is not so accredited by the Board under new section 21A.

41-Insertion of section 84A

New section 84A provides that a court, in imposing a monetary penalty for an offence against this measure must impose a penalty of not less than one-quarter of the maximum penalty prescribed (unless there are special reasons not to do so in the circumstances).

42-Insertion of section 88A

New section 88A is a special evidentiary provision relating to offences against section 45(1) (relating to transporting dogs in vehicles).

43-Amendment of section 90-By-laws

44-Amendment of section 91-Regulations

The proposed amendments to sections 90 and 91allow for councils to set aside specified areas for specified activities relating to dogs to be carried out in a specified manner or in specified circumstances.

45-Amendment of Schedule 1

These amendments relate to transitional matters.

Schedule 1-Statute law amendments and amendment of penalty provisions

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

ADJOURNMENT

At 5.45 p.m. the council adjourned until Wednesday 24 March at 2.15 p.m.