LEGISLATIVE COUNCIL

Tuesday 25 May 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:

Authorised Betting Operations (Betting Review) Amendment,

Consent to Medical Treatment and Palliative Care (Prescribed Forms) Amendment,

Local Government (Flood Mitigation Infrastructure) Amendment,

Meat Hygiene (Miscellaneous) Amendment.

PAPERS TABLED

The following papers were laid on the table:

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

Reports, 2002-03—
- Australian Crime Commission.
- Electricity Industry Superannuation Scheme.
- Tandanya.

Reports—
- Interim Operation of Campbelltown (City) Development Plan—Tranmere and Poets Corner—Character Policy Areas Plan Amendment.
- Interim Operation of the City of Burnside—Local Heritage Places Number 2 Plan Amendment.
- Interim Operation of the City of Unley Development Plan—Hillsley Avenue, Everard Park Plan Amendment.
- Interim Operation of the Hills Face Zone (Interim Operation) Plan Amendment.
- Interim Operation of Port Pirie Regional Council—Heritage Plan Amendment.
- Interim Operation of the Town of Gawler—Residential 1 Zone—Orderly Development Plan Amendment.

Regulations under the following Acts—
- Liquor Licensing Act 1997—Goolwa.
- Motor Vehicles Act 1959—Provisional Licence Exemption.
- Travel Agents Act 1986—Travel Agent Exemptions.
- Victims of Crime Act 2001—Victim Compensation.

Rules of Court—Magistrates Court—Magistrates Court Act 1991—Scale of Costs.

Summary Offences Act 1953—
- Section 83B—Dangerous Area Declarations.
- Section 74B—Road Block Establishment Authorisations.

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

Reports, 2002-2003—
- Citrus Board of South Australia.
- Medical Board of South Australia.
- North Western Adelaide Health Service.
- Gene Technology Activities in 2003—South Australian Government Report.

Regulations under the following Acts—
- Industrial and Employee Relations Act 1994—Chief Executive.
- Workers Rehabilitation and Compensation Act 1986—Scales of Charges.

CHILD DEATH AND SERIOUS INJURY REVIEW COMMITTEE

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I lay on the table a copy of a ministerial statement relating to the Child Death and Serious Injury Review Committee made earlier today in another place by my colleague the Minister for Families and Communities.

QUESTION TIME

MITSUBISHI MOTORS

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make a brief explanation before asking the Leader of the Government a question about Mitsubishi.

Leave granted.

The Hon. R.I. LUCAS: Yesterday in response to a series of questions on Mitsubishi, the Leader of the Government, when referring to the government's corporate assistance package to the Mitsubishi company, said:

> . . . my advice is that the government paid Mitsubishi $35 million in support and this commitment remains in place. This funding is effectively a loan which will be repayable if certain production hurdles are not met between 2007 and 2012.

Under the agreement the government also has the capacity to seek repayment if Mitsubishi Australia substantially reduces the scale of its operations in South Australia. The government will not seek repayment of the $35 million already paid. Mitsubishi still has a number of benchmarks to meet in terms of future production between 2007 and 2011. So, it is premature, I would suggest, to speculate on whether these targets will be met. My questions to the Leader of the Government are as follows:

1. Is the minister indicating that the performance or production benchmarks to be met between 2007 and 2011 were elements of the original funding corporate assistance package provided to Mitsubishi by this government in 2002?

2. Has the government renegotiated the corporate assistance package of 2002 with Mitsubishi in any way and, if so, what changes have been made to that corporate assistance package first negotiated in 2002?

3. If the government has not renegotiated the corporate assistance package of 2002, how has the government been able to indicate, as it did yesterday, that it would not make a payment promised under that corporate assistance package to Mitsubishi of $5 million to be paid in 2005-06?

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): It is quite extraordinary that, at a time when every other politician, except perhaps those in the state Liberal Party—I exclude their federal colleagues—is concentrating on trying to ensure that the Mitsubishi car company is in good health, the Leader of the Opposition should be concentrating on such things as details in a particular package. I make no apology for the fact that my attention has been much more devoted to ensuring the health of Mitsubishi rather than going through the fine detail of what might have been in a package a couple of years ago.

An honourable member interjecting:

The Hon. P. HOLLOWAY: Exactly. It is quite extraordinary. I gave details of the original package negotiated with Mitsubishi in question time yesterday. It is my understanding that there are certain targets under that package and therefore it was not necessary to renegotiate that part. The Premier indicated in relation to the $35 million already given to

Mitsubishi that the government would not regard that part—as far as any scaling down of operations, as has been announced by Mitsubishi—as applying to the package that was negotiated.

The Hon. R.I. Lucas: Has it been renegotiated?

The Hon. P. HOLLOWAY: My understanding of his statement last week was that conditions would not apply in relation to the engine plant closure, but I understand that the original bits as far as targets are concerned still apply. Given that those targets relate to the period 2007 to 2011, it is entirely premature that we should be worrying about it at this stage. It is more important to ensure that Mitsubishi returns to health as quickly as possible. At some stage in the future, as we move towards 2007, Mitsubishi will be producing its new model in Adelaide at Tonsley Park and at that stage it would be entirely appropriate for the government of the day to consider the matter. The government has made it quite clear that at this stage of the operation our priority is to ensure that Mitsubishi returns to health as quickly as possible.

The Hon. R.I. LUCAS: By way of supplementary question, how does the Leader of the Government reconcile his answer yesterday and again today in relation to production targets in the agreement with the answer provided to the parliament by minister McEwen when he said, 'There are no obligations in the agreement relating to levels of employment or export sales targets.'?

The Hon. P. HOLLOWAY: Minister McEwen was talking about export targets and employment targets. The Leader of the Opposition asked a question about that some time ago, and I indicated to him on that occasion that obligations were not related to those performance measures.

Members interjecting:

The Hon. P. HOLLOWAY: I provided information about the package that was offered, and that was my advice.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Well, he was referring to targets in relation to particular matters. I will examine—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: No—neither. I will look at the statement that Mr McEwen has made and I will clarify it.

The Hon. R.I. Lucas: Have a look at your own statements.

The Hon. P. HOLLOWAY: The Leader of the Opposition has asked about employment targets. If you give an assistance package, you can put benchmarks on a whole lot of things, whether they be sales or volumes. I will seek the information from the department about what was in that package. It was negotiated well before—

Members interjecting:

The Hon. P. HOLLOWAY: As I said, the priority of the government is to get Mitsubishi up and operating. At this stage, we are not really concerned about what may or may not have been in the package several years ago. What is important is the future of Mitsubishi and the future of South Australian workers and, unashamedly, the priority of this government is to look after the interests of those people. We will look at the fine print at some stage in the future.

The Hon. J.F. STEFANI: I have a supplementary question. Will the minister advise the council whether the loan made to Mitsubishi is subject to any interest, or whether it is an interest-free loan?

The Hon. P. HOLLOWAY: As I indicated yesterday, my advice is that it is, effectively, a loan. The $35 million has been given to Mitsubishi, and I understand that it is repayable at some stage after 2011-12, but I will clarify—

Members interjecting:

The Hon. P. HOLLOWAY: That is the advice that was provided to me.

COLLINS REPORT

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 Collins report.

Leave granted.

The Hon. R.D. LAWSON: On the 4th of this month the Premier made a ministerial statement during the course of which he said:

> I am also convinced that in the recently appointed Coordinator of State Services, the Hon. Bob Collins, we have found the right person to give the direction and clarity required to enable us to make positive change and overcome some of the problems that have been so apparent and so longstanding on the APY lands.

He went on to say:

> He is not just telling us what is wrong; he is also finding solutions.

He also said:

> Collins has provided us with a number of clear and strong recommendations and today I commend them to the house.

Mr Collins' report was tabled in both houses on that day, and in part that report states:

> APY Land Council: There are fundamental structural problems in the current operations of the land council that are impeding the progress of important community initiatives to the great frustration of Anangu in the region.

He went on to say:

> The COAG trial—

that is, the trial established by the Council of Australian Governments—

> is completely stalled for reasons we have previously discussed with Commonwealth officers. The COAG trial in South Australia is in the worst position of any COAG trial in Australia.
>
> This is completely unacceptable in view of the great need that exists in the region and must be redressed immediately.

Mr Collins went on to refer to the disagreement between commonwealth officers and the APY council (which is, in fact, the AP executive board) over the role of the council in receiving and distributing funding for the COAG trial. He stated:

> I believe that the insistence of the council that all COAG funding be directed in the first instance through the APY Land Council is not only unreasonable but goes well beyond the mandate of the council under division 2 of the Pitjantjatjara Land Rights Act 1981.

My questions to the minister are:

1. Was he aware of the fact that the COAG trial in South Australia has stalled?

2. Is he in a position to deny that the COAG trial in South Australia is in the worst position of any COAG trial in Australia?

3. What action has he taken to ensure that the COAG trial is implemented in this state?

4. Does he agree with the statement of Mr Collins that the insistence of the APY executive board that all COAG funding be directed to it in the first instance is unreasonable?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for his continuing interest and questions in relation to the APY and the differences that the government is trying to

make in relation to the situation in which people on the lands find themselves. Bob Collins was invited to participate in the presentation of a report to government to make recommendations, as the honourable member has said, as well as find out for himself the situation existing on the lands in relation to governance and service delivery. He was brought in after a short term by another coordinator, who made one visit to the lands and made some important observations and recommendations that basically lined up with the government's position.

Bob Collins is an experienced operator within Aboriginal lands and the Northern Territory; he has a vast understanding and knowledge of many of the problems that Aboriginal people have to put up with in remote regions; his wife is an Aboriginal person; and he has Aboriginal children. When Mr Collins was engaged it was envisaged that he would, through first-hand knowledge and observation, be able to make recommendations and coordinate service delivery within the region. One of the problems we had as a government was coordinating the cross-agency energies and directing into actions the programming that is required to change the circumstances in which people on the lands find themselves.

An honourable member: That's something you couldn't do.

The Hon. T.G. ROBERTS: The honourable member says that is something I couldn't do. There were a lot of attempts over a 25 year period to deal with the issues associated with the APY lands, and there were failures. We had a serious situation on our hands, which the honourable member is aware of, whereby conditions on the lands deteriorated markedly. I had been warning that the circumstances in which people found themselves would be harder and harder to change. They face not just poverty but also the deprivation of services that most people would regard as a right. Many people in the APY lands struggle to have those basics (such as nutrition, etc) incorporated as part of their daily lives.

I do not want to go over those issues. Bob Collins was brought in to coordinate the cross-agency efforts. The first major problem that we found related to housing. The housing stock was not available to house cross-agency support—that is, non-Aboriginal cross-agency support teams—to be able to work with the communities and, on that basis, the people that would have to be employed did not have enough housing stock available. So, the first problem was a very basic one that is not easily solved, not only for the cost of housing in the lands (a two-bedroom dwelling can cost up to $300 000) but the sheer remoteness was proving to be a problem.

Mr Collins reported on this and other matters. The government had confidence that he was the person with the qualifications to become the cross-agency coordinator and it was an appointment that was well-received across the board. Subsequently, he delivered a report and, as the honourable member read out, a couple of recommendations that the government is working its way through. The legislation that we have before the council (the two bills) has been drawn up after consultation with Bob Collins.

As I said yesterday, the information that has been drawn up by the select and standing committees will go a long way towards putting together the platform for the service delivery that is required. As there was no coordinator or any individual coordinating the activities of the cross-agencies on the lands, Bob Collins filled that position. He said that he would take on the job for a certain period of time and that eventually we would have to take over the responsibility for those cross-agency deliveries as a government at a later date.

In relation to the COAG trial, the APY executive signed off on a framework with the state government six months prior to the trial commencing and was to sign off in the lands or in Alice Springs to start the COAG trial. However, because of the differences in setting priorities and the differences in views and opinions, my understanding is that the APY did not sign the agreement with the commonwealth. My office does not play an active role in the formation and execution of the administrative aspects of COAG but, certainly, we had a special interest in getting commonwealth funding aggregated to a point where the state's funds and the organisations for non-profit would make a difference.

We certainly had an interest in the commonwealth joining with us and with the Anangu people—not just the APY executive but the communities as well. The trial stalled and, as I understand it, the funding is now flowing through to programs; one is the funding to the transaction centres by the commonwealth and the other is the funding for Nganampa Health to incorporate the continuation of the change to the stores policy. The stores policy was progressing. Some changes and improvements had been made to the stores policy, but the extra funding that the commonwealth applied was being put into Nganampa Health to continue that.

I understand that those two aspects of the COAG trial are now in place. I share the honourable member's disappointment that the COAG trial was not working. There was an emergency situation, and I assumed that I, as minister in this state, the commonwealth and the APY executive would be able to work out our differences through consultation much quicker. We were in a position to work collaboratively with the APY through the framework on which we had signed off, but unfortunately the executive did not sign off on the COAG trial because of an argument about priorities and administrative procedures in relation to the funding process. I was disappointed about that. When I heard that the process had stalled, I contacted Gary Lewis, the secretary. I did not contact him directly; I contacted an executive member and asked him to pass a message on to Gary Lewis that, in order to facilitate the process, it would be wise to sign off on that process. That was the only influence that I could bring to bear, so I tried to use my influence to get that cooperation. As I said, the process is now up and running.

Regarding the statement that this COAG trial is in the worst position of any in Australia, my information is that a number of COAG trials are running in various states and that many of those have struggled on the same basis as has ours in South Australia in getting the priorities of the commonwealth and the communities lined up and, in terms of the administration of those programs on the lands by Aboriginal organisations or on-site administrations, getting them to accept the priorities that have been negotiated with the commonwealth. I do not accept that it is the worst in Australia. It was certainly one of the slowest to get off the ground, but we did at least have in place a process by which we could engage the commonwealth.

Regarding the honourable member's final question about Bob Collins' statement in relation to direct funding going through the executive, he stated that it was his view that all money should not have to go through the executive. It is my belief—and I have stated this quite often in this house—that the APY executive (as it is currently constructed) does a very good job in relation to lands management and policy setting for the APY lands in respect of some of the human services

administration. Certainly in terms of the management of heritage and culture, they do as good a job as any underfunded, under resourced executive can.

As I have said, since the land rights act was enacted in 1981, the APY has picked up extra responsibilities through evolutionary processes, but I have always argued that we now need a different form of governance, and that is what we are working towards. When the select committee hands over its report to parliament (hopefully next week) with the recommendation that the standing committee pick up its recommendations and carry them out, I hope that we will get the same cooperation from members as we have had to date and that everyone will work towards the changed circumstances to improve the lives of people on the lands.

MINISTERIAL CODE OF CONDUCT

The Hon. A.J. REDFORD: I seek leave to make an explanation before asking the minister representing the Premier a question about the Ministerial Code of Conduct.

Leave granted.

The Hon. A.J. REDFORD: The Ministerial Code of Conduct states that, if a minister engages in conduct which is prima facie a breach of the code, the Premier shall decide the course of action that should be taken. The courses of action include an apology, a reprimand or being asked to stand down. Over the past seven months, I have been seeking access to notes of some 17 meetings between the former chair of WorkCover and the current chair of WorkCover and the minister during a period in which WorkCover's financial position deteriorated by more than half a billion dollars. During the initial stages of the process, the response to my FOI application varied from the assertion that there were no notes, that they were personal notes and another extraordinary statement to the effect that 'no such document is considered to exist', whatever that might mean.

Following that round of inconsistent statements, the minister's office stated that any notes taken at that meeting or at those meetings would 'have been destroyed.' The destruction of documents is an issue that is addressed by section 17 of the State Records Act in which an offence is created if records are destroyed. The offence carries a two year gaol term and a fine of $10 000—a serious offence.

I recently received correspondence from the Ombudsman that, in the light of the conflicting answers and the admission that documents were or might have been destroyed, he would be investigating this matter and that he would be using his royal commission powers. On 24 April, the government was made aware of these issues and so far has said nothing publicly on this issue. Indeed, the government has been uncustomarily silent. In the light of that, my questions are:

1. Has the Premier made any inquiries regarding the destruction of state records in the office of the Minister for Industrial Relations?

2. Can the Premier rule out any breach of the Ministerial Code of Conduct?

3. If he has not, what action does he intend to take, pending the outcome of the royal commission-type inquiry by the Ombudsman?

4. Will the minister, or any of his staff, be represented by anyone from the Crown Solicitor's office in relation to this inquiry?

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I congratulate the honourable member on his recent marriage, but I am pleased to see that it has not in any way dented his enthusiasm for his task in here. I will refer the question to the Premier and bring back a reply.

MANUFACTURING INDUSTRY

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Minister for Industry, Trade and Regional Development a question regarding manufacturing.

Leave granted.

The Hon. CARMEL ZOLLO: I understand the minister recently attended a meeting of state manufacturing ministers in Melbourne to discuss issues of vital importance to the growth of Australian manufacturing industry. Can the minister provide the council with details of the meeting and any decisions arising from those deliberations?

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I thank the honourable member for her interest in this important area. Yes, it is true that on 19 May I attended a meeting in Melbourne with the Victorian minister for manufacturing and export, Tim Holding, the Queensland minister for state development and innovation, Tony McGrady, the New South Wales minister for regional development and minister for small business, David Campbell, and representatives from Tasmania, Western Australia, the Northern Territory and the ACT also attended the meeting.

We discussed a range of manufacturing industry issues. This of course is a sector which employs more than one million people nationally and contributes $78 million to Australia's gross domestic product. All states and territories came to the meeting fully aware of the importance to Australia's economic growth of exporting value-added manufactured goods. Advanced manufactured goods are the fastest growing sector of national exports, but the domestic market for them is only 1 per cent of the global market.

The meeting noted with some concern that the growth of exports and advanced manufactured goods had declined nationally from 14.5 per cent in 1996-97 to 5.3 per cent in 2002-03 and agreed that this decline is the most significant threat to Australia's long-term economic growth. The communique issued by all ministers attending the meeting identified a decline in business expenditure on research and development (BERD) as a key to this decline. Australian BERD, central to building an innovative and competitive manufacturing base, has fallen continuously since the 1995-96 peak to around half of the OECD average level today, and Australia is presently ranked 19th out of 29 OECD countries in terms of its BERD performance. The ministers attending the meeting believe that the federal government must dramatically step up its support for industry research and development, local content and export growth if this decline in the growth of manufacturing exports is to be arrested.

We also called on the federal government to cooperate with the state and territory governments and Australian industry to lift the level of our advanced manufacturing exports in a number of ways by:

- increasing R&D tax concessions and other R&D incentives;
- removing the cost recovery regime for the commonwealth industry capability network coordinating body; and
- attracting greater foreign direct investment and reinvestment in manufacturing.

The communique also called on the federal government to boost export manufacturing growth by providing local companies with increased opportunities to demonstrate their strengths in the Australian market. The communique considered the federal export market development grants (EMDG) scheme was also too focused on larger exporters, leaving smaller sized manufacturers behind. The belief was that, unless the EMDG scheme is significantly overhauled, many new and growing and small and medium sized exporters could miss out on developing new export markets.

The meeting was attended by industry ministers from Australia's four biggest manufacturing states, and we were all keen to highlight growing concerns about how these and other issues are eroding the industries' international competitiveness. The states are highly committed to the manufacturing sector, as it is the key to our export success as a nation. Given the good recent working relationship developed between the commonwealth and state governments on the Mitsubishi situation, along with my other state ministerial colleagues I look forward to working with federal minister Macfarlane to address these concerns.

The Hon. R.I. LUCAS (Leader of the Opposition): I have a supplementary question. Given the minister's professed support for the manufacturing industry in South Australia, why is he pursuing a policy of gutting the old Centre for Innovation, Business and Manufacturing within the Department for Trade and Economic Development and, in particular, seeing the release or movement away from his department of key people from the Centre for Innovation, Business and Manufacturing with expertise in manufacturing industry in South Australia?

The Hon. P. HOLLOWAY: The Leader of the Opposition would be well aware that we had an economic summit in this state over 12 months ago. He was present and, as I understand it, helped draft the communique for that summit. He is well aware that following that summit a number of recommendations—some 71 or so—came from the Economic Development Board. There has been a review of the former department for business, manufacturing and trade—and that has been put in place. As part of that, there has been a restructure of all the industry services operated by the government. One of the main changes is to move away from giving handouts to individual companies and to give more assistance along the lines of providing infrastructure and other support for business.

As a consequence, under my colleague the previous minister, already there has been some restructuring of the services that support local industry. I will be announcing further restructuring in the near future. However, what is changing is the way in which the services are delivered and the nature of those services. We are moving away from large cash handouts to individual companies towards more strategic support, which will improve the infrastructure and environment in which industry operates.

The Hon. R.I. LUCAS: I have a supplementary question. Does the minister realise that the old Centre for Innovation, Business and Manufacturing was not responsible for large corporate assistance packages and handouts to industry but, rather, worked with industry to provide assistance and services, in particular to small and medium sized enterprises? Given that, will the minister retract what he has just said and look again at the restructure of the old Centre for Innovation, Business and Manufacturing arrangements within his department?

The Hon. P. HOLLOWAY: As I indicated, there has been significant restructuring of the old department, of which CIBM is just a part. One of the ways services will be changing is that many of the services that will be provided, particularly to smaller businesses, will go through a regional network. In the next few days I will be announcing a restructuring. I have already been asked a question by, I think, the Hon. John Dawkins, some time back about business enterprise centres. The Leader of the Opposition will then see how many services previously delivered under the old CIBM will be provided in a different way. In addition, some of those services previously at CIBM have been devolved to other agencies. For example, the food program has been transferred to the Department of Primary Industries and Resources, as indeed has the part that serviced the wine industry. I have also indicated other changes on previous occasions. The way in which business support services will be delivered in this state certainly has been changed as a result of the recommendations made in the review of the previous department. We are moving away from the culture that existed under the previous government.

PROTECTIVE BEHAVIOURS CURRICULUM

The Hon. KATE REYNOLDS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Education and Children's Services, a question regarding the protective behaviours curriculum.

Leave granted.

The Hon. KATE REYNOLDS: I understand that recently the minister took the very positive step of replacing the 1970s American protective behaviours program with a South Australian based curriculum. Child protection advocates have told me that this step was long overdue, and certainly my own experience in the community sector would validate that comment. South Australian research in 1990 and 1994 showed that it was seriously flawed as a tool to protect children from the risks of sexual assault. Research has shown that without a school based child protection program all students are highly vulnerable to sexual assault, including abduction and assault by strangers. Child protection experts believe that the stranger danger concept is too complex to be understood by children under the age of eight years, because children think that a stranger is a monster who wears a black balaklava, and experts believe that the concept of stranger danger has failed to protect children from assault by people they know.

I understand that DECS is proposing to pilot the new curriculum over only a two month period, which has caused concern to child protection advocates who believe that a more appropriate period for evaluation would be six months to a year. These experts and advocates have told me that independent research is needed to evaluate the program and the teaching resources in consultation with child protection practitioners, teachers, parents and students. My questions to the minister are:

1. Have funds been allocated for evaluation of the new program, and who will be invited to undertake this evaluation?

2. How will the minister ensure that all teachers are trained to use the entire program which we believe will cater for preschoolers through to secondary school students and

which is, we believe, intended to empower children and young people to protect themselves against sexual assault by both strangers and people known to them?

3. How will the minister ensure that the program is included in the South Australian university teacher education curriculum?

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

SCHOOLS, BUSES

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 Education and Children's Services, a question concerning school bus operators.

Leave granted.

The Hon. A.L. EVANS: Recently I received a letter from a constituent concerned and disappointed at the situation facing operators of school bus services. The constituent concerned deals mainly with the indexation of certain costs for operators, such as wage increases, the increasing cost of fuel, increases in other fees and charges and the increased cost of insurance premiums.

The consultant has raised the concern that DECS has not provided the opportunity for negotiation over rising costs and that operators are having to absorb significant cost increases in the delivery of the contracted service. For example, I understand that since 1999 insurance premiums alone have increased by 30 per cent. My questions are:

1. Will the minister advise the council of the level of funding that has been provided to the school bus operators over the past five years to enable the industry to provide transportation for school-age children?

2. Will the minister advise whether the level of funding allocated to the Department for Education and Children's Services to provide the delivery of school bus services across the state by bus and coach operators has been increased to reflect any or all the increased cost of delivering services under the school bus operators' contract?

3. Will the minister advise whether the Department for Education and Children's Services has a view of contractual management in the context of rising cost structures?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): Like many other members of parliament, I received a letter, today or yesterday, outlining the very issue that the honourable member presents here on behalf of his constituents. I will refer those questions to the appropriate minister in another place and bring back a reply.

The Hon. KATE REYNOLDS: I have a supplementary question. Will the minister consider reviewing the section of the act that relates to the provision of transport for school students, which would include reconsidering the procurement of transport services and the provision of funding to schools for the coordination of school buses?

The Hon. T.G. ROBERTS: I thank the honourable member for her continuing interest. I will refer that important question to the minister in another place and bring back a reply.

BUSINESS ENTERPRISE CENTRES

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for Industry, Trade and Regional Development a question about Business Enterprise Centres.

Leave granted.

The Hon. J.S.L. DAWKINS: On 1 April this year, I asked the minister whether the network of Business Enterprise Centres, undergoing a review by the Department of Trade and Economic Development, would be funded beyond 30 June this year. The minister said that decisions would need to be made as soon as possible and well before the start of the next financial year. On 6 May, as a supplementary question, I asked the minister whether the review of BECs would be completed before Mr Stephen Hains' term as acting CEO of DTED concludes. The minister responded:

> I believe that report has been completed. It is really now up to me to make the decisions in relation to that matter.

My information from within DTED is that the review of BECs has not been completed and, indeed, will not be completed before 30 June. My question is: will the minister confirm that his answer to my supplementary question on 6 May was incorrect?

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): A review was undertaken of BECs some time ago, but there is obviously need for ongoing negotiation. As I indicated earlier, I will, hopefully, tomorrow make a statement on the issue. Indeed, today I have prepared some letters that will be going out to BECs and providing them with some information.

The Hon. J.S.L. DAWKINS: I have a supplementary question arising from the answer. Given that the minister has said that he will make a statement (hopefully, tomorrow), will that statement deliver some level of certainty to BECs and their staff by providing funding beyond 30 June 2004 and for what period of time?

The Hon. P. HOLLOWAY: The answer is: yes, that information is exactly what will be in my statement tomorrow.

MOVING ON PROGRAM

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 Disability, a question about disability funding.

Leave granted.

The Hon. J.F. STEFANI: On 14 May 2004 I received a letter from Mr David Holst, who is a parent of a 20-year old daughter with severe disabilities who shortly will be forced to leave St Ann's Special School. I am advised that his daughter will be unable to access a meaningful day program known as the Moving On program because of lack of government funding. In his letter, Mr Holst informed me that the government contributes $6.2 million per annum to this program, which is currently under-funded by an amount of $3.2 million a year in order to meet the current needs of disabled young people.

I have been informed that approximately 450 young adults in our community suffer from severe disabilities. However, only a small percentage of these disabled people receive assistance through attendance at a meaningful day program on a five day a week basis. I have been further informed that

more than 300 young people with disabilities are able to access programs partially on a two to three day a week basis. Also, there are currently more than 70 young people who are not able to access the program at all and, in addition, approximately 90 students will next year reach the age of 20 years and therefore be forced to leave the special schools that they are currently attending.

In an article headed 'Cash woes hit aid for disabled' in the *Sunday Mail* dated 23 May 2004, the lack of government funding for severely disabled young adults was highlighted by political reporter Ms Heggen. My questions are:

1. Why did the minister instruct the CEO of the Intellectual Disability Services Council to refer any queries and inquiries about this matter to his office?

2. When did the minister issue such a direction?

3. Will the minister advise the parliament of the accurate number of young disabled people who are presently able to access the Moving On program on a five day a week basis?

4. Will the minister also provide accurate details of the number of disabled people who are currently accessing the Moving On program on a basis of fewer than five days a week because of the shortage of government funds?

5. Will the minister provide details of the number of people who are presently unable to access the Moving On program because of the lack of funding by the government?

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. I am sure the participation rates can be accurately collected, but the unmet demand is difficult to quantify. However, I am sure the minister will try his best to satisfy the requirements of the question.

CORRECTIONAL SERVICES, REHABILITATION

The Hon. G.E. GAGO: I seek leave to make a brief statement before asking the Minister for Correctional Services a question regarding rehabilitation.

Leave granted.

The Hon. G.E. GAGO: The minister has previously informed this chamber of the new rehabilitation programs being implemented in our correctional system. I understand that much of the program identification work has been completed and that staff programs are now being implemented. My question is: what are the latest developments in relation to the introduction of new rehabilitation programs to our prisons and community correctional systems?

The Hon. T.G. ROBERTS (Minister for Correctional Services): I thank the honourable member for her question and her continuing interest in the subject, and I am sure others who have an interest in the subject will be interested in the reply. As members of the council are aware, last year the government did allocate funds to the Department of Correctional Services for a series of rehabilitation programs. These included a sex offenders' program, a violent offenders' program, and Aboriginal-specific programs. All three programs will be provided in prisons and community correctional centres. Funding was provided to assist offenders who had been sentenced for these offences to address their offending behaviour and prevent reoffending. I am pleased to advise that the department has made significant progress in evaluation. The government certainly wants to act as quickly as possible on these issues as they have been around for some considerable time. There is a lot of unmet demand that we will have to fix.

A number of professional administrative staff have already been recruited to administer the program and will start work today. This is fresh news. These staff have been recruited from the private and public sectors and, when all positions have been filled, the team will include a clinical program manager, four senior psychologists, four senior clinicians, three senior Aboriginal programs officers, two senior evaluation officers and an administrative officer. All staff, except for the clinical program manager and one of the senior evaluation officers, have been selected. That was done very quickly.

In addition, the department has identified the type of sex and violent offender programs that it wants to deliver. As I have mentioned before in this council, these programs are currently available in the Canadian correctional systems and have been used as models in other correctional systems around the world. It is intended that the sex offender program will involve all sex offenders assessed as being at a high risk of re-offending and will include high, moderate and low intensity treatment varying in duration to 12 months depending on the level of intensity.

Maintenance programs will also be available to provide follow-up support for offenders who have completed the program. Negotiations are currently well-advanced to enable the delivery of these programs in South Australia, and staff training is planned for July and October this year. A number of international experts will be delivering this training. I am pleased with the progress to date and it is my intention to keep the council informed as the project proceeds as I know that there is a thirst for knowledge and a lot of inquiring minds in this council regarding the rehabilitation programs that we have set up and are running in cooperation with the Canadian correctional services.

QUEEN ELIZABETH HOSPITAL

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Health, questions about birthing services at the Queen Elizabeth Hospital.

Leave granted.

The Hon. SANDRA KANCK: Almost two weeks ago, the government announced the closure of birthing services at the Queen Elizabeth Hospital due to a lack of resident obstetricians and subsequent safety issues. These arise because uncomplicated births can occasionally become more complex and require the presence of an obstetrician. Birthing services had already been downgraded to level 1 at that hospital as a result of decisions taken by the previous government. Since that initial downgrading, women who are likely to have complications for such reasons as other medical conditions or multiple births, for instance, have not been able to register their name to give birth at the Queen Elizabeth Hospital. Instead, they have had to put their name down at other hospitals such as the Women's and Children's Hospital, Lyell McEwin Health Services or Flinders Medical Centre.

At the time of the downgrading, midwives and members of the public expressed concern at protest meetings that the public would assume that the Queen Elizabeth Hospital was not a safe hospital at which to have a baby and expectant mothers would choose to by-pass that hospital in favour of other public hospitals. This most recent decision to completely shut down birthing services until new obstetricians are able to be recruited has raised questions about the ability of the

hospital to restart the service some six or 12 months down the track, given that women of the western suburbs might have lost confidence in the Queen Elizabeth Hospital being able to offer a birthing service. The Queen Elizabeth Hospital midwives are, in the main, not interested in working in other parts of the hospital and, in order for them to maintain their competencies, are most likely to move to other hospitals where they can be involved in birthing. My questions to the minister are:

1. Since the downgrading of birthing services to level 1 at the Queen Elizabeth Hospital, how many women expecting level 1 births and living in the feeder area have by-passed their local hospital and had their babies instead at other public hospitals?

2. When and if at least two suitable obstetricians are able to be recruited, how does the government propose to restart birthing services at the QEH?

3. If the midwives have taken up employment in other hospitals, how will they be attracted back to the QEH?

4. What other RMOs, registrars and anaesthetists will be required to once again make this service viable for the women of the western suburbs?

5. How does the government propose to win back the confidence of expectant mothers in the western suburbs?

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 Hon. KATE REYNOLDS: Will the minister consider extending the program currently operating out of the Women's and Children's Hospital—its name escapes me at the moment; I think it is the Midwifery Group Practice—which could offer services to women in the western suburbs if it was resourced to cover that catchment area?

The Hon. T.G. ROBERTS: I will refer that important question to the minister in another place.

CORRECTIONAL SERVICES, GAMBLERS' REHABILITATION

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Minister for Correctional Services questions about gamblers rehabilitation services in the correctional services system.

Leave granted.

The Hon. NICK XENOPHON: The Productivity Commission's Report on Australia's Gambling Industries and other research notes that some 60 per cent of pathological problem gamblers have admitted committing a criminal offence as a result of their gambling addiction, with some 20 per cent facing the courts. The Australian Institute of Criminology in research published last year indicated that gambling was the second-largest cause of embezzlement in this country. Over 2½ years ago, His Honour John Doyle, the Chief Justice of the Supreme Court of South Australia, in sentencing a young woman who embezzled $672 000 from her employer to finance her poker machine addiction stated that it was regrettable that treatment aimed at this person's gambling disorder was not available in prison. His Honour drew attention to the prison authorities' doing all that they could to facilitate this person's receiving ongoing appropriate treatment while in prison.

When I asked the minister about the availability of such programs on 27 March last year, he acknowledged that there were no follow-up programs to identify gamblers and their problems for special intervention in the correctional services system. He also acknowledged that this issue along with the treatment of sexual offenders should be prioritised within the correctional services system for special intervention programs. Indeed, we have just heard from the minister about new intervention programs for sexual offenders. My questions are:

1. Since the minister's answer on 27 March 2003, what steps have been taken to prioritise problem gamblers' screening, evaluation and assistance within the correctional services system? Further, what steps have been taken to assess the link between problem gambling and criminal activity?

2. Will the minister advise the extent to which problem gambling counsellors in the Break Even Network now have regular access to inmates and parolees in terms of counselling and specific intervention programs?

3. What representations has the minister made to the Treasurer for funding specialised problem gambling intervention programs and, as there is funding for programs for sexual offenders, why have problem gambling programs missed out to date?

4. Does the minister consider that the government has a special obligation to assist problem gamblers who have offended given the $1 million a day that the government receives in gambling taxes?

5. Will the minister consider a pilot program to assess new inmates in the prison system in terms of their problem gambling and to screen for other problems such as drug and alcohol abuse and the link between such problems and their offending and their potential to reoffend?

The Hon. T.G. ROBERTS (Minister for Correctional Services): There are many questions involved, so I will have to take some of them on notice. I agree with the honourable member in relation to the analysis he has made of how many people find themselves in the justice system through being attracted to gambling but using other people's money generally to drive their habit.

The Hon. Nick Xenophon: There's no program for them.

The Hon. T.G. ROBERTS: I understand that. The honourable member asks why when we have put in place other preventative and treatment programs there is not a priority for gambling. I can say that we are tackling rehabilitation as an important issue within our prison system. Gambling is emerging as a major problem. The honourable member has a whole range of statistics that he has obviously collected internationally and nationally to show that for many gamblers there is a link between alcohol abuse and drug abuse; and certainly many people who are associated with gambling are in, and are major players in, the drug trade itself. I will endeavour to find what the department's evolving position is in relation to screening potential problem gamblers and their relationship to drug and alcohol abuse and any other causal linkages that may be able to be treated in intervention programs designed—

The Hon. Nick Xenophon: Is there screening?

The Hon. T.G. ROBERTS: As far as I know, no screening is done. I will endeavour to place it on the priority list of those programs that the government needs to put in place if we are to keep up with the problem of reoffending.

The Hon. J.F. STEFANI: I have a supplementary question. Will the government consider the involvement of

family members in the process of intervention with, and rehabilitation of, incarcerated problem gamblers?

The Hon. T.G. ROBERTS: Yes.

REPLIES TO QUESTIONS

GOVERNMENT ADVERTISING

In reply to **Hon. R.D. LAWSON** (21 October 2002).

The Hon. P. HOLLOWAY: The Premier has provided the following information:

No.

SCHOOL FEES

In reply to **Hon. KATE REYNOLDS** (17 February).

The Hon. P. HOLLOWAY: The Minister for Education and Children's Services has provided the following information.

I am happy to provide the honourable member with a copy of the Administrative Instruction Guideline (AIG) and the circular issued to schools in relation to school fees.

As a new initiative, this year all government schools were required to forward their invoices to the department by 31 March 2004 for auditing. This process ensures that parents are not charged inappropriately. To date, 409 schools have complied with this instruction.

Many schools sought advice from the Department of Education and Children's Services to ensure their invoicing for school fees complied with legislation and the administrative instructions and guidelines issued by the chief executive.

Currently, there are 46 schools that have not issued compliant invoices and in all of those cases the schools concerned did not seek advice from the department in the preparation of their invoices prior to them being sent. These schools are being provided with information and support on how to correct their invoices.

Instructions, a circular and resources for school support officers were provided to schools on 10 December 2003. Support and advice are available on-line, and over the telephone. Additionally, schools are encouraged to provide information on school fees, new invoicing and parent rights to families through school newsletters.

The charging and collection of school fees remains a local activity. Local school fees arrangements are applied according to individual school community and family circumstances. Local polling of parents, was introduced as a non-government amendment to the legislation, and serves to reinforce the local focus of school fee administration.

SMALL BUSINESS

In reply to **Hon. CAROLINE SCHAEFER** (3 May).

The Hon. P. HOLLOWAY:

2. The Australian Bureau of Statistics has advised that there is no regional breakdown of data on the characteristics of small business. I am therefore unable to provide details on the percentage decline of small business operators in the regions compared to that of the city.

PITJANTJATJARA LAND RIGHTS (EXECUTIVE BOARD) AMENDMENT BILL

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation) obtained leave and introduced a bill for an act to amend the Pitjantjatjara Land Rights Act 1981. Read a first time.

The Hon. T.G. ROBERTS: I move:

That this bill be now read a second time.

Successive of governments, both Liberal and Labor, have struggled to address social problems on the Anangu Pitjantjatjara lands. Issues of unemployment, the alienation of individuals from their families and communities, illness, chronic substance abuse, petrol sniffing and violence, in particular domestic violence, have taken a terrible toll on the community. Tragically, mortality rates are high. In September 2002, the Coroner, in his inquest into the death of three young people living on the lands from petrol sniffing, noted the devastating harm of this problem, including approximately 35 deaths in 20 years in a community with a population of between 2 000 and 3 000 people. Government responses to these issues, while made with the best intentions and with a genuine political will to make a difference, often deliver poor results. Now is not the time to go over that history. No doubt that exercise will be done. Suffice to say, the approaches have been bureaucratic, slow to respond and not sustained over time.

Under governments of both political persuasions the levels of disadvantage of the people of the AP lands have improved at best only marginally. State government services are not being delivered quickly enough or effectively enough. The services are being held up by a lack of coordination and by a lack of capacity and capability of service providers on the lands.

The communities themselves have been under pressure to deal with remote bureaucracies and bureaucratic processes. We have expected too much from them and placed too many responsibilities on the local leadership, without ensuring that it has the capacity to meet these responsibilities. The almost constant background of communal division on the lands poses its own problems in finding effective responses.

Since the Coroner released his report into petrol sniffing deaths on the lands, which occurred in 1999 and 2001, significant additional resources have been allocated for use on the lands. Police have responded by the deployment of additional officers to the lands. Over $2 million of extra funding was allocated in the financial year 2003-04 for health service programs, including mental health services, programs to combat petrol sniffing and respite care programs. Despite the availability of this money, delivery of these services has stalled. In the meantime conditions on the lands have worsened. Recent events, including the loss of a number of young lives together with the escalating level of violence and social dislocation, call for a new approach to grapple with these almost intractable problems. What is needed now is immediate, direct, coordinated and properly funded action. The government responded by appointing a coordinator to ensure that state government services and services funded by the state government are delivered. Mr Jim Litster was initially appointed as coordinator of state government services. More recently, Mr Bob Collins has been appointed by the state government to undertake that role. Mr Collins brings to that role an exceptional understanding of the needs and aspirations of indigenous Australians. He has already visited the lands and established a cooperative relationship with individuals and indigenous organisations on the lands that provide human services.

Mr Collins has delivered an interim report to the government which includes recommendations for the provision of immediate services and a recommendation that elections be held for the executive board of AP. The coordinator is supported by a task force. The priority for the coordinator and the task force will be to urgently identify programs that can be delivered now or can be fast-tracked for delivery. The government is confident that the coordinator of state government services can fulfil that role without the need for coercive

powers. The indications to date are that the coordinator will receive the necessary degree of cooperation from the executive board. The role of the coordinator is limited to the provision of state government services or services funded by the state. The government believes that the coordinator should be able to perform his functions in partnership with, and with the full cooperation of, the executive board. The government understands that in an ideal situation the services should be provided on the lands through cooperation and consultation and in partnership with the traditional owners.

The bill now before the council also deals with governance arrangements on the AP lands. Under the existing provisions of the act, the executive board of AP is, subject to its constitution, elected annually. The present executive board was elected on 7 November 2002. In July 2003 a special general meeting of Anangu Pitjantjatjara resolved to amend its constitution to provide for three year terms. The existing board had been advised by its lawyers that one effect of that amendment was to extend the term of office for the existing board, which was elected under the old rules, from one to three years. There was some concern, including on the part of government, as to the validity of that extension.

In an attempt to address that concern, a proposal was developed to submit a resolution to the annual general meeting of AP to be held on 15 December 2003 for the purpose of endorsing the existing board for the extended term. Government observers from the Crown Solicitor's office and the Department for Aboriginal Affairs and Reconciliation attended the annual general meeting. The meeting on 15 December 2003 was abandoned with no resolution of that issue.

The validity of the current board is far from clear. From any perspective that situation is undesirable. The bill deals with the uncertainty by providing for the current board's term of office to be from 7 November 2002 until the next election. The bill also removes any uncertainty about the validity of any otherwise lawful acts or decisions of the executive board. In coming to his recommendation that fresh elections be held on the lands, Mr Collins found that there is a serious dispute among Pitjantjatjara people about the validity of the constitutional change that extended the term of office of the executive board from one to three years.

In his report Mr Collins records that he was lobbied heavily on this issue and was presented with a petition signed by a large number of Pitjantjatjara people calling for fresh elections. Mr Collins notes that his recommendations for elections is made solely in order to end the serious disputation, distraction and weakening of the capacity of the executive board to do its job.

Importantly, he reports that the recommendations do not imply that any member of the executive board has taken any improper or inappropriate action. The election of members of the board must, under the terms of the bill, occur no later than four weeks from the date of assent. The elections will be held in accordance with rules forming proposed schedule 3 of the principal act, and the rules were drafted in consultation with the Electoral Commissioner.

The bill also provides for scope to amend the rules by regulation. While there is no present intention to make any amendments, the provision is considered highly desirable and will be used in the event that the Electoral Commissioner identifies a need to make alterations or additions to the rules. The executive board elected under the provision of this bill will hold office for one year. The government also proposes to conduct a review of the act in consultation with Anangu Pitjantjatjara and other recognised indigenous bodies with a direct interest in the administration of the lands. The review will include consideration of the reformed electoral process. The review will examine governance arrangements on the lands. In the meantime the service coordinator will be able to establish a collaborative relationship with the executive board and other indigenous organisations on the lands.

A reformed electoral system for Anangu Pitjantjatjara must be appropriate to the circumstance of the people on the lands, having regard to their values and culture. Above all it must be fair and not operate to disenfranchise sections of the community. Under the reformed governance arrangements members of the executive board will hold office for three-year terms, consistent with the wishes of the Pitjantjatjara people. The government believes that this is an issue about which the opposition can and should make a positive contribution. We welcome its constructive input. I commend the bill to the council. I seek leave to have the detailed explanation of the clauses of the bill inserted in *Hansard* without my reading it.

Leave granted.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Pitjantjatjara Land Rights Act 1981*

3—Amendment of section 4—Interpretation

This clause inserts the definition of ***Electoral Commissioner*** into section 4 of the principal Act.

4—Amendment of section 9—Constitution of the Executive Board of Anangu Pitjantjatjara

This clause amends subsection (2) of section 9 of the principal Act, separating the holding of an election of the Executive Board of AP from the holding of the AGM of Anangu Pitjantjatjara. The clause also amends subsection (4) by providing that a member of the Executive Board holds office from the date of the member's election until the next election of members, and makes a consequential amendment to subsection (5).

The clause also inserts a number of new subsections into section 9 of the principal Act. The proposed subsections provide—

- that such an election must be conducted in accordance with the rules set out in proposed Schedule 3, and, if those rules fail to address a matter that the Electoral Commissioner thinks necessary for the proper conduct of the election, the Electoral Commissioner may make rules in relation to that matter and must act in accordance with those rules;
- when such an election must occur;
- the mechanism for disputing returns.

5—Insertion of section 9A

This clause inserts a number of offences relating an election under section 9 of the Act. These offences are offences such as bribery, or the use of intimidation with a view to interfering with an election, that may affect the outcome of an election and thus may give rise to the voiding of an election by the Court of Disputed Returns established by this measure. The clause also inserts offences which may not alter the result, such as divulging certain information relating to the way a person voted, and also prevents a scrutineer from acting as an assistant to a voter.

6—Amendment of section 14—The approved constitution of Anangu Pitjantjatjara

This clause inserts amends section 14 of the *Pitjantjatjara Land Rights Act 1981* by providing that an amendment to the approved constitution of Anangu Pitjantjatjara must be approved by the Minister rather than OCBA, and deletes the requirement that an amendment must be approved if it complies with the law of the State.

7—Amendment of section 19—Unauthorized entry on the lands

This clause amends section 19 of the principal Act to enable the Electoral Commissioner, and a person assisting the

Electoral Commissioner, to enter the lands in relation to an election of members of the Executive Board under section 9.

8—Insertion of Schedule 3

This clause inserts new Schedule 3 into the principal Act. The proposed Schedule 3 sets out the rules pursuant to which an election of Executive Board members and chairperson under section 9 must be conducted.

The rules, based on the *Local Government (Elections) Act 1999*, address numerous matters, including the electorates for an election, the method of voting, eligibility, nominations, counting of votes, declaration of results and means of appealing disputed returns. The Electoral Commissioner is the returning officer and will conduct any election under section 9.

The Schedule also establishes a Court of Disputed Returns in relation to an election.

The Schedule is able to be amended by the Governor by regulation.

Schedule 1—Transitional provisions

The Schedule consists of 5 transitional provisions. The Schedule requires a new election of the Chairperson and all other members of the Executive Board to be conducted not later than 8 weeks after the date of assent to the Bill, unless such an election is, in the opinion of the returning officer, impracticable or culturally inappropriate. The returning officer must then fix a new date for the election, which must be conducted as soon as is practicable and appropriate (and the ability to refix the election date extends to a subsequent date fixed under the Schedule). The Schedule also clarifies the current Board member's terms of office, and validates certain acts or decisions of the Board done or made during the terms of office of current Board members.

The Hon. R.D. LAWSON secured the adjournment of the debate.

PITJANTJATJARA LAND RIGHTS (REGULATED SUBSTANCES) AMENDMENT BILL

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation) obtained leave and introduced a bill for an act to amend the Pitjantjatjara Land Rights Act 1981. Read a first time.

The Hon. T.G. ROBERTS: I move:

That this bill be now read a second time.

Recent press coverage of conditions on the AP lands graphically illustrates the misery the practice of petrol sniffing inflicts not only on those who participate in it but on all community members. The coordinator of state government services and the task force are developing a range of responses to assist those people who are sniffing or have long-term health problems as a result of sniffing, as well as identifying and addressing the reasons people resort to this form of abuse. Measures designed to stem the illegal supply of regulated and legal substances coming into the APY lands is one response this government will instigate.

This bill recognises the seriousness of the conduct of those persons who traffic in petrol and other substances to the detriment of the people on the APY lands. The bill introduces a new offence to the act, substantially increasing the penalties for a person caught on the lands selling or supplying a regulated substance, taking part in the sale or supply of a regulated substance, or having a regulated substance in his or her position for the purpose of selling or supplying the regulated substance, knowing or having reason to suspect that the regulated substance will be inhaled or otherwise consumed.

The maximum penalty of a $50 000 fine or imprisonment for 10 years is severe and, in keeping with the provisions of the Controlled Substances Act, this bill includes provisions for the forfeiture of the vehicle used to traffick in the regulated substance where appropriate. The government believes that the trafficking in petrol, and possibly other substances, is no less serious than conduct caught by the Controlled Substances Act; that is to say, trafficking in illicit drugs.

It is important that we continue to tackle the problem of petrol sniffing and the consumption of other illegal substances from every angle. I commend the bill to the council.

The Hon. R.D. LAWSON secured the adjournment of the debate.

STATUTES AMENDMENT (INTERVENTION PROGRAMS AND SENTENCING PROCEDURES) BILL

Consideration in committee of the House of Assembly's message.

The Hon. P. HOLLOWAY: I move:

That the Legislative Council do not insist on its amendments.

I move this motion for these reasons. The amendments would include, as schedule 1, a requirement for an independent review of services included on intervention programs. There are good reasons to oppose this, which reasons have been given in the other place and which I repeat here. There is no precedent for a review of this kind in South Australian legislation and no reason to establish one now in this measure.

Unlike the requirement in this amendment, requirements for independent investigation and review in other South Australian acts are concerned with a statutory regime, body or regulatory system established by that act, or with the operation of the act itself. This act establishes no statutory regime, body or regulatory system that could be reviewed, and the amendments do not require a review of the operation of the act. Instead, they require an investigation and review of services provided to support programs to which a court might direct a defendant under the authority of the act. The provision of such services is not the subject of the act and not, with respect, its business. It may help if I explain the subjects of independent reviews required by other South Australian acts.

In its transitional provisions the Shop Trading Hours Act required an independent investigation and review of the operation of the amended act, after the third anniversary of the commencement of a particular section of the act. The review was to look at the transition between one regime and another. The Gene Technology Act requires an independent review of its operation four years after commencement. The aim is to review the way South Australia applies a nationally consistent scheme of regulating certain dealings with genetically modified organisms by the states and the commonwealth.

By national agreement, there are equivalent provisions in the gene technology legislation in all other states and territories and in the commonwealth legislation. The Construction Industry Trading Fund Act requires an independent review of the effectiveness of the statutory board it established and the attainment of the objects of the act over a period of three years. There is no equivalence between these subjects and the subject of the independent investigation and review proposed in the amendments to the bill.

Another point I wish to make is that, even if an independent review of these services were a proper subject for statutory review (and it is not), the review proposed by the

amendment is too early. Most reviews of the operation of acts occur after three years. Finally, an independent review of these services, were they a proper subject for statutory review, is unnecessary. The services are under constant scrutiny through the routine evaluation of the programs themselves.

Each intervention program has been evaluated at least once, and a model is in place for the current and future evaluation of each program by the Office of Crime Statistics and Research (OCSAR). Detailed reviews of OCSAR's evaluations are published in OCSAR Information Bulletins that are available on its web site (and I refer to www.ocsar.sa.gov.au). For example, an evaluation of the mental impairment program was published this way in 2001. (I refer to Hunter, N. and McRostie, H., 'Magistrates Court Diversion Program: Overview of Key Data Findings', OCSAR Information Bulletin Number 20 of July 2001.)

The report of the evaluation of the Drug Court program is still being prepared and is expected to be made available on the OCSAR web site in the same way as the report into the mental impairment program. The final report on the independent review of the Violence Intervention Program in South Australia, entitled 'The Whole Box and Dice', is not online but was released to stakeholders by the then Attorney-General, the Hon. Trevor Griffin. It was prepared by independent consultants Morgan Disney & Associates with Leigh Culpitt & Associates in June 2001.

The previous government (like this government) supported and maintained evaluations of intervention programs. But the need for an external independent investigation and review of services provided to support such programs, in addition to evaluation of the programs themselves, has not been demonstrated. Any independent review would rely heavily on past and current program evaluations in coming to its conclusions. Its findings would be predictable—along the lines of those evaluations. It would be a waste of money. It would be a more effective use of public funds for the government to commit to triennial evaluations of each program and its services by OCSAR and commit to issuing overviews of the key data findings online in OCSAR Information Bulletins. The Attorney-General has offered to do this in the other place.

All parties support this bill and recognise the need for the legislative framework for intervention that it proposes. It should not be defeated by the opposition's mischievous insistence that taxpayers' money be used to fund additional independent reviews of aspects of programs that are already routinely and comprehensively reviewed. I say 'mischievous' because the opposition has not challenged the appropriateness or transparency of existing review mechanisms, the objectivity of previous reviews or their assessment of the value and effectiveness of programs and services provided to offenders undergoing intervention. Therefore, I urge honourable members of the Legislative Council to support my motion that the committee do not insist further on its amendments to the bill.

The Hon. NICK XENOPHON: I am not sure whether the minister has covered this but, in relation to the schedule of amendments that the minister does not want us to insist on, I note that the amendments to clauses 4 and 6 inserting problem gambling as one of the behavioural problems to be considered are amendments to which the House of Assembly has disagreed. Given that the government supported those amendments, as I understand it, can the government indicate whether there has been a change of policy or attitude in terms of those specific amendments to do with problem gambling?

The Hon. P. HOLLOWAY: I will answer that in a moment.

The Hon. R.D. LAWSON: I will speak briefly against the motion of the minister. These considered amendments were not a mischievous attempt by the opposition to insist upon a regime that is unreasonable. The minister's own statement has acknowledged that the government does evaluate a number of programs, and the argument of the government appears to be that, because these programs are already evaluated, it is entirely unnecessary to have a statutory requirement that they be evaluated. We take a different view and, regrettably, a rather more cynical view—that is, there should be an insistence by this parliament that the executive government conduct a review, and that that review be independent.

These are important programs. They are programs that everybody in this parliament wants to see succeed but, unless there is an independent form of oversight, it is quite possible that the programs will not succeed or that they will not be improved in the fullness of time if improvement be required. If, as the government assures the committee, similar programs are already evaluated, what is the harm in having a statutory prescription laying out a time frame and also insisting upon an independent review? The minister suggests that there is no precedent in South Australian law for systems of independent review and evaluation of this kind. If it is the case that we have never insisted on similar requirements in the past (and, incidentally, I do not accept that it is the case), that is no argument as to why we should not insist upon it now. This government has trumpeted its accountability and the fact that it is determined to succeed in making changes. Well, let the government live by its own rhetoric.

When the Ipp recommendations were before the parliament and other measures in relation to changes to our system of compensation were before this council, mechanisms were inserted in the bills for an evaluation of the effectiveness of those measures. There were many members (the Hon. Nick Xenophon for one) who expressed a great deal of scepticism about the measures to address the so-called insurance crisis. Frankly, he was wise to express scepticism. We ourselves were sceptical about some of them, but we were prepared to allow the measures through on the basis that, at an appropriate time in the future, there would be an evaluation of the effectiveness of these measures. Unless you have mechanisms of this kind in place, things will just go on and on; there will never be an evaluation. Issues may well be swept under the carpet and not come to the attention of this council. It is never in the interest of any government to bring to the attention of either house of parliament or the public any possible deficiencies about any programs that they are conducting.

Governments are very good at making announcements about how wonderful and successful their programs are. They are less good at providing the public with information about independent evaluations of those programs. That is why it is important that we do commit to this process of investigation and review concerning the value and effectiveness of the services which will be provided under this measure. Accordingly, we are surprised, frankly, that the government should be so pig-headed as to reject the very sensible amendments made in this place to enhance the effectiveness of this bill. We oppose the government's attempt to have the Legislative Council back down from these important amendments.

The Hon. P. HOLLOWAY: The Hon. Nick Xenophon asked me a question. Unfortunately, the adviser has not arrived yet. I think the honourable member deserves an answer so, at this stage, I would like to report progress. Perhaps we should come back to this later this afternoon so that I can give him an answer to his question.

Progress reported; committee to sit again.

GAS (TEMPORARY RATIONING) AMENDMENT BILL

Consideration in committee of the House of Assembly's message.

The Hon. P. HOLLOWAY: I move:

That the amendment be agreed to.

During debate on this bill, the Leader of the Opposition, I believe on behalf of his colleague the shadow minister, raised some matters in relation to the confidentiality of information. I gave an undertaking that the government would look at that matter between the houses. That has happened, and as a consequence the amendments in the message before us were moved by the Minister for Energy in the House of Assembly. I urge the committee to accept those amendments.

The Hon. R.I. LUCAS: Mr Chairman, you will be delighted to know that I do not intend to respond to some statements made about me and my character by the minister in another place.

The CHAIRMAN: That is not the habit of this council.

The Hon. R.I. LUCAS: It obviously is in another house, Mr Chairman.

The CHAIRMAN: I cannot speak for them.

The Hon. R.I. LUCAS: Mr Chairman, I would only respond if I had moved a substantive motion. I might well have to do that at some stage in the future, but not on this occasion. The opposition supports the proposition put by the government. It is as outlined by the minister. An amendment was moved—

The Hon. Caroline Schaefer interjecting:

The Hon. R.I. LUCAS: In spite of being personally wounded—

An honourable member interjecting:

The Hon. R.I. LUCAS: —or viciously attacked, as my colleague says, I will soldier on. The government has moved an amendment in another place. It was supported by the opposition in another place. We indicate our support for the proposition in this chamber.

Motion carried.

DOG AND CAT MANAGEMENT (MISCELLANEOUS) AMENDMENT BILL

In committee.

Clause 1.

The Hon. T.G. ROBERTS: I thank all honourable members for their contributions to the debate. The government has considered all the issues that have been raised and has certainly taken into account the contributions that were made in raising those issues. I understand that there are a number of amendments on file. The government will favourably consider amendments that contribute to the bill's capacity to improve community safety and encourage responsible pet ownership.

When this bill is enacted, councils will be able to serve orders on the owners of dogs commensurate with the level of threat they pose. Guard and patrol dogs will be required to be identifiable and their owners traceable. Dogs on public roads will be required to be leashed, but in other public places councils will be able to determine whether dogs can run free or be exercised on leash, or whether they should be prohibited. Council management plans will be developed in consultation with the community to establish local arrangements, while penalties for allowing or encouraging a dog attack will be increased. Importantly, this bill balances the need to guard against dog attacks with opportunities for dogs to recreate.

This bill is a significant step forward in dog management. The bill enjoys broad community and stakeholder support, including the Local Government Association. I thank members for their contributions and commend the bill to the committee.

The Hon. NICK XENOPHON: Mr Acting Chairman, with your indulgence, I did not have an opportunity to speak to the second reading, and I just wanted to make some very brief comments in relation to the overview of the bill. I will focus my remarks in relation to concerns that have been raised by Mr Michael Noblett, who has corresponded with my office and that of the minister and the opposition, and I think that his concerns ought to be taken into account. Mr Noblett has a particular interest in this issue in that he was attacked by dogs, I think last year, and the issue received some considerable media attention. Mr Noblett made some comments which I will raise in the course of the committee as we consider the bill.

He is concerned about the three years for councils to develop an animal management plan. He is also concerned that, unless these plans are developed and unless there is an onus on councils to develop them, the status quo will remain and the public safety will be compromised in some cases where there is a dog that is dangerous. He is concerned that the new proposal in the bill seems to require going backwards to the 1995 act, rather than arranging a new system that may assist children and small dogs before they sustain serious injury or are even killed, as Mr Noblett said.

He believes that it simply will not work, requiring councils to develop animal management plans and that there is not sufficient enforcement of the current system, and that the new system will not improve that. That, I think, is a fair summary of his concerns. He believes that the only answer is for all dogs to be on a leash, except dogs in a special area approved by the council and that these areas should be blocked off so that dogs cannot go beyond that area. He has also raised the issue of muzzling dogs that are known to be sometimes vicious.

There has been a lot of media attention in the past two or three days about a terrible incident that occurred, I think, in New South Wales, about an owner being savaged by her dogs and the police had to be called, and the ambulance service had to be backed into the house, because the dogs were wandering at large. So, in extreme cases, there are some very real concerns. I think that the concerns of Mr Noblett, not only for small children and for the public at large but also for small dogs that can be savaged by larger dogs and dogs that have a propensity to be vicious, are matters that ought to be considered. My concern is that the bill, whilst having an overall management regime for dogs, will not deal sufficiently with some of the quite legitimate concerns raised by Mr Noblett.

Clause passed.

Clauses 2 to 6 passed.

Clause 7.

The Hon. IAN GILFILLAN: I move:

Page 5, line 10—Delete this line and substitute:

(1) Section 7(1)(b)—delete paragraph (b) and substitute:

The intention of this and my other two amendments to clause 7 are to take away the new presumption that a dog must always be under effective control by means of physical restraint in a public place unless it is a designated dog park. It is not accepted, and I do not believe that dogs running around are automatically a danger to the general public. The current presumption where councils can specify areas as being 'on leash' is our preferred position.

The complication sometimes in sorting out how amendments will affect the legislation is quite a challenge, but I will refer to the bill to make it a little clearer. For honourable members who have the bill before them, clause 7 provides:

Amendment of section 7—Dog wandering at large

(1) Section 7(1)(a) and (b) delete paragraphs (a) and (b) and substitute:

(a) The dog is in a public place other than a park or private place without the consent of the occupier, and no person is exercising effective control of the dog by means of physical restraint; or

(b) The dog is in a park and no person is exercising effective control of the dog either—

(i) by means of physical restraint; or

(ii) by command, the dog being in close proximity to the person and the person being able to see the dog at all times.

My amendment, if successful, will delete paragraph (a) in its entirety, that is:

The dog is in a public place other than a park or private place without the consent of the occupier, and no person is exercising effective control of the dog by means of physical restraint; or

My amendment also deletes the first eight words of paragraph (b), as follows:

The dog is in a park and no person is exercising effective control of the dog. . .

The intention of these amendments is to acknowledge to a large extent the current process, where, in quite reasonably extensive areas, both dogs and owners can enjoy the freedom which they currently do. We believe that this provision is a draconian measure if it remains in the bill without my amendment. On that basis, I recommend this first amendment particularly as being an indication of the first three of my amendments, which will successfully counteract that unnecessary restraint.

The Hon. CAROLINE SCHAEFER: With some reluctance, the opposition does not support this amendment. The Hon. Mr Gilfillan has a series of amendments which would lessen the onus to have dogs on leashes in public areas. In fact, the amendments would lift what was a compromise agreement in the other house, that is, the necessity for councils to prepare dog management plans. It is my understanding that a dog management plan prepared by a council could make that entire council an area which did not require public leashing. The opposition and the government, I believe, agreed in another place that sufficient safeguards were built into these clauses to allow those of us who enjoy the company of our dogs to find areas where they can be safely exercised, while acknowledging that there are people in the public who are frightened of dogs, who have been attacked or who, generally, find them a nuisance. We believe that the agreements reached in another place are probably as close to a compromise as will be found. I think the definition of a compromise is something which no-one actually likes very much.

The Hon. NICK XENOPHON: I oppose the amendment. I think that the Hon. Caroline Schaefer set out reasonably the concerns about the amendment of the Hon. Ian Gilfillan. I am concerned that it will weaken the legislation. I think the legislation is a fair balance of the concerns of dog owners, members of the public and those owners of small dogs who are concerned about their safety. For those reasons, I do not support the amendment.

The Hon. T.G. ROBERTS: I do not have to be eloquent or persuasive on this occasion. It appears we are lining up on the same side on this amendment.

The Hon. Caroline Schaefer interjecting:

The Hon. T.G. ROBERTS: I am not sure what the interjection meant, but I took it as a compliment. In order to allay the fears of the honourable member that it is a draconian piece of legislation, a freeballing anarchistic dog might find it draconian but, in keeping with the spirit of the legislation, which is to maintain public safety and ensure that some of the breeds of dogs are kept in the control of their owners, the Onkaparinga council has had a by-law requiring leashes on streets and roads since the late 1990s and there has been no lack of free exercise available. More recently, Salisbury council introduced a similar by-law and dog attacks in the Salisbury area have dramatically reduced. If there was going to be any outcry, I am sure it would have come from the Salisbury residents if they thought that any draconian legislation was being brought in.

The Hon. IAN GILFILLAN: I am disappointed with what appears to be the logistics of being unsuccessful with my first amendment. I cannot take that lying down without making the point that this is a very misdirected shot at fixing a so-called perceived mischief. Some 80 per cent of dog attacks are in private homes where this particular activity, and some others in the bill, will have absolutely no effect. I think we have become swept over by a phobia. I have said this before, but it is not surprising to me that the government tends to look for the camouflage which it presents as if it is dealing with a major public mischief. The fact is that this will not be the case.

The extension of restrictions in respect of freedom of dog movement will not create in dogs the psychological attitude which minimises their irritation or aggression to human beings. It is not my intention to divide on this amendment and, if I am correct and it is unsuccessful, I will not formally move either my second or third amendments (which are on file). I must repeat that I believe that there is a knee-jerk reaction which is totally unnecessary and which will cause a lot of dissatisfaction with both owners and dogs.

Amendment negatived; clause passed.

Clauses 8 to 12 passed.

Clause 13.

The Hon. T.G. ROBERTS: I move:

Page 7, lines 32 to 34—Delete subsection (4) and substitute:

(4) Accreditation of a dog remains in force for the life of the dog unless it is earlier revoked by the board or surrendered by the owner of the dog.

The Hon. CAROLINE SCHAEFER: The opposition supports the amendment.

Amendment carried.

The Hon. T.G. ROBERTS: I move:

Page 7, after line 38—Insert:

(6) The board may only revoke the accreditation of a dog if the board is satisfied that—

(a) the dog's ill-health, injury or advanced age prevents the dog from carrying out its functions as a disability dog, guide dog or hearing dog (as the case may be); or

(b) the dog is temperamentally unsuitable to continue to be accredited as a disability dog, guide dog or hearing dog (as the case may be); or

(c) the owner of the dog is unable to maintain effective control of the dog (whether by command or by means of physical restraint).

Amendment carried; clause as amended passed.

Clauses 14 and 15 passed.

Clause 16.

The Hon. CAROLINE SCHAEFER: I move:

Page 8, line 17—Delete 'board' and substitute:
minister

This amendment seeks to delete the word 'board' and substitute the word 'minister'. Currently, the registration fee is effectively set by the minister at the recommendation of the board. Under this proposal the dog registration fees would be set by the board. While this is not in our view a large issue, we believe there is some problem in respect of conflict of interest. The board actually makes quite a large percentage of its income from registration fees, because it gets a percentage of the registration fee. I am sure this would never happen, but the incentive is there for the board to achieve a budget outcome rather than agreeing or advising on a reasonable fee. We do not believe this is an appropriate mechanism, where the board that is funded through a percentage of the registration fee actually sets that fee.

The Hon. IAN GILFILLAN: The Democrats support the amendment, because I am sure the Hon. Caroline Schaefer has thought long and hard on this. With her criticism of the temptation of the board, would that same temptation not fall on the minister?

The Hon. CAROLINE SCHAEFER: I guess the temptation for any government is always to raise revenue. We believe that this amendment is more appropriate because there is some system of checks and balances in that the board would still be advisory to the minister as to the fees set.

The Hon. NICK XENOPHON: Mr Chairman, you are always praying to lead us from temptation each day. I agree with the Hon. Caroline Schaefer that at least it is at arm's length. The point made by the Hon. Mr Gilfillan is valid, but there is some further distance between the mechanism of raising revenue and the board by being in the minister's hands. For that reason I support the amendment.

The Hon. T.G. ROBERTS: If this amendment succeeds, dog registration fees will be set by councils and approved by the minister rather than the board. This would politicise the issue and is firmly opposed by the government and key stakeholders. The minister can direct the board or reduce the regulated percentage of fees paid to the board if the board became greedy. There is a mechanism in there to prevent that from happening. I am not sure about the arm's length statement—arm's length from whom? It is the government's view that we would be better off with the government's position rather than what appears to be the majority of the opposition's position, but I do not seem to have their ears or eyes at the moment.

The Hon. CAROLINE SCHAEFER: As always I am eternally grateful to parliamentary counsel in this position. It has been pointed out to me that councils set the fees on the advice of the boards. However, I intend to proceed with my amendment, given that the end result is the same.

Amendment carried; clause as amended passed.

Clause 17.

The Hon. IAN GILFILLAN: I move:

Page 9, lines 1 to 22—Delete this clause.

I do not have my usual determined enthusiasm to move this amendment, because it was partly contingent on the success of the first series of amendments, which would have retained the healthy freedom that we believe strongly should exist. As drafted in the bill, this now throws the onus back on the particular council as to whether it will prepare a plan that allows more freedom or more restriction. I am uneasy about it, because I am not sure how much restraint the clause that I was unsuccessful in amending will have on the flexibility of a council to make a plan.

A council which sees the wisdom of the Democrat amendments and wishes to follow that pattern may be frustrated by the stubbornness of the government in not accepting my earlier amendments. In spite of that and because I feel it is important that the debate be put into *Hansard*, I therefore move this amendment because on balance it may well be a better form of legislation than where individual councils are not locked into outdoing each other to show that they are more savage in restraining the freedom of dog and owner to move about in their areas.

The Hon. CAROLINE SCHAEFER: There seems to be two sorts of people in the world: those who like dogs and those who do not. I fall firmly into the group with Mr Gilfillan that likes dogs. I will not support his amendment, but for contrary reasons. My hope and faith is pinned on these animal management plans and the belief that a large number of people who fall within the category who like dogs will pressure their local governments into developing sensible animal management plans that are appropriate to their location. For instance, animal management plans that are appropriate in the inner city would be totally draconian in a small country town. My reason for opposing Mr Gilfillan's amendment is that I think this is the clause that will give some freedom and flexibility to dog ownership throughout the state.

The Hon. T.G. ROBERTS: The government's position is almost the same as that stated by the Hon. Mrs Schaefer. She has stated the case quite well. Just as dog is man's best friend, it appears that the Hon. Mr Gilfillan is going to shake that adage and become the man that is dogs' best friend. It is not that we are opposed to or dislike dogs. I fall into the middle category in that there are some dogs I like and some I dislike, particularly those looking longingly at my leg. We will stick to our position, and I hope that the honourable member does not see us as being draconian or short sighted about this legislation.

The local government plans are necessary. People will cooperate with them once they are in place and once the rules are known. There will be a few breaches from time to time through ignorance, but once the rules are known people will be able to take children for walks more safely. Once those council plans are in place they will be the arbiters, prescribers and front contacts and will educate their ratepayers as to how they are operating.

The Hon. IAN GILFILLAN: The problem is that this clause stipulates the bogey that emerged when the legislation was first promoted of the dog gulag, where there will be these sternly fenced, confined areas into which furtive dog owners will take their dogs, with bunches of them scooting around in these enclosures and perhaps with those who are not quite so fondly regarding dogs hanging on the fence watching, yahooing and stirring them up. Out of that confinement will come a bunch of dogs pretty bloody determined to get at people they have been stirred up by from the outside.

I think that, although there may be some logic in a council looking at the numbers of cats and dogs in certain locations, the main thrust of this bill is to minimise unfortunate dog incidents. That is really what it is about, and a few peripheral issues have been raised in the slipstream. Even though the logic of knocking out this clause is not as strong as it would have been had we been successful in the first instance, I think we need to have a consistent voice throughout the debate on this legislation that it is fatuous and that, in fact, it will backfire. I believe the reduction in the incidence of dog attacks will be virtually zilch and, if veterinarian predictions are right, we will have circumstances that could certainly increase the incidence of dog attack.

Clause passed.

Clause 18 passed.

Clause 19.

The Hon. IAN GILFILLAN: I move:

Page 9, lines 30 to 39 and page 10, lines 1 to 6—Delete new section 31A and substitute:

31A—Medical practitioner must notify Board of certain injuries resulting from dog attacks

(1) A registered medical practitioner who treats a victim of a dog attack for physical injury must, if of the opinion that the injury is one that should, because of the nature of the injury, be brought to the attention of the Board, notify the Board of the injury and the circumstances surrounding the injury.

(2) The Board must include a report of information received under this section in its annual report.

Previously, the situation was that the dog management officer was the authority for reporting, but we do not believe that to be the case, particularly as there is a penalty attached to non notification. The government's clause relies on dog management officers being aware of a dog attack. Since most dog attacks take place on private property, it would appear that this notification would rarely take place. The Democrat amendment puts the onus of notification on the medical practitioners, who already manage notification regimes. I suggest that the committee take note that 'serious injuries' were defined by the government as those requiring intervention by medical practitioners or registered nurses.

The Hon. CAROLINE SCHAEFER: Will the minister explain the situation under the current bill? There was considerable debate in relation to this provision in another place. My understanding is that, if the government amendment to remove the penalty for a dog management officer failing to report a dog attack is removed, by implication it would be a requirement for the dog management officer to report only a serious dog attack. I am not absolutely sure of the situation under the bill proposed by the government. Under the current legislation, is there a requirement for a dog management officer to report any dog attack? I require a more detailed explanation.

The Hon. T.G. ROBERTS: Apparently, the problem is the definition of 'serious'. There is a requirement to report in this bill. The reporter would be a council officer and, if it is a prescribed attack, the council would report that to the police.

The Hon. CAROLINE SCHAEFER: I am probably going to labour this, because it is really not clear to me what the current act requires in regard to reporting dog attacks; what the bill as it has come from another place requires in relation to reporting dog attacks; whether it requires a dog management officer to report any and every attack; and to whom they have to report the attack—whether it is a police officer, the board or the council. I am afraid that I do require a more detailed explanation.

The CHAIRMAN: It would assist if the Hon. Mrs Schaefer could sort out where she is going with the Hon. Mr Gilfillan's amendment, and then we can deal with the minister's amendment.

The Hon. CAROLINE SCHAEFER: It has been explained to me that the current act is silent on this matter, and so the clauses that we have before us are a result of debate in another place. It seems to me that, in removing the penalty, there will be a certain amount of latitude for dog management officers. It also seems to me that, by prescribing that duty, we are putting an onus on the dog management officer to decide what is a prescribed injury and on the police officer to whom the attack has to be reported. It is therefore my intention to support Mr Gilfillan's amendment, which would require the medical practitioner to report a prescribed injury because they would, in the end, be the person who would decide the seriousness of the injury.

The Hon. T.G. ROBERTS: I guess the only question that remains is: what if the attack is not reported to anyone? It may be a serious attack but not reported because of isolation or the non-availability of a medical practitioner on a weekend.

The Hon. IAN GILFILLAN: That problem still exists in your draft, because a 'prescribed injury' has to be treated by a medical practitioner.

The Hon. T.G. ROBERTS: But you could then report it to the council.

The Hon. CAROLINE SCHAEFER: My understanding of a prescribed injury is that it requires medical treatment, so that simply would not occur. In fact, one of my concerns is that, the more prescriptive we become about reporting dog attack injuries, the less likely it is that a misguided owner of a savage animal will report such an injury.

The Hon. T.G. ROBERTS: We are swayed by the eloquence of the argument.

The Hon. IAN GILFILLAN: I would make one other comment in favour of my amendment, and that is that a medical practitioner may, from time to time, treat a relatively minor injury which really does not deserve mandatory reporting, and that is the effect of the amendment. There would be the option that not every trifling injury would need to be reported. I accept that there appears to be support for the amendment, and am grateful for it.

Amendment carried; clause as amended passed.

Clauses 20 to 22 passed.

Clause 23.

The Hon. T.G. ROBERTS: I move:

Page 11, lines 15 and 16—Delete these lines.

Amendment carried; clause as amended passed.

Clauses 24 to 27 passed.

Clause 28.

The Hon. T.G. ROBERTS: I move:

(New section 44), page 13, line 30—

After ', at the time of the offence,' insert:

a child

This amendment clarifies that an aggravated offence of dog attack applies only to children under six years, not animals under six years.

The Hon. CAROLINE SCHAEFER: We support this amendment but, if my amendment succeeds, the reference to aggravated offences, as I understand it, will be removed and therefore the amendment would not be applicable.

The Hon. NICK XENOPHON: My question to the minister is in relation to the penalties for a first offence. If a

dog is a dangerous dog or a dog of a prescribed breed the penalty is $2 500 and, in any other case, $250. My concern is that the penalty of $250 is particularly low in the event that a dog is involved in an incident of menacing or attacking another dog or person. Could the minister explain what other penalties are in place, and does he concede that the $250 penalty is low? Would that be the maximum penalty that applied in the case of an incident involving a dog and another animal or a member of the public where there was an appreciable risk of harm?

The Hon. T.G. ROBERTS: Apparently there are various categories of biting. If one urges a dog to bite, the penalty is much higher than if a dog attacks by itself. The penalty depends on how the attack occurs.

The Hon. NICK XENOPHON: What about the scenario of a first offence where the owner has not controlled the dog—it is not a question of the owner's encouraging the dog to attack but, rather, that the owner has not controlled the dog? It might menace and terrify a group of young children who are not physically attacked but who might sustain injury from falling backwards, or something similar, to get out of the dog's way. Is $250 the maximum penalty, and does the government agree that that could be too low? Given that we are talking about maximums, that may not be an incentive for people to do the right thing. Princess Anne was fined $A1 400 and ordered to pay $A703 in compensation and $A400 in costs when one of her corgies bit two children. How does it compare with that sort of penalty that we know was imposed in the UK not so long ago?

The Hon. T.G. ROBERTS: There are several actions that can be instigated against an owner. In the Dog and Cat Management (Miscellaneous) Amendment Bill, as it stands, there is a maximum penalty of $10 000. Under this act Princess Anne could have had two years in the cooler, because there is a maximum penalty of $10 000 or imprisonment for two years. A person who owns or is responsible for the control of a dog is guilty of an offence if the dog attacks, harasses or chases or otherwise endangers the health of a person, animal or bird owned by or in charge of another person whether or not actual injury is caused. There is a maximum penalty of $2 500 or an expiation fee of $210. The range of fines is quite substantial.

The Hon. NICK XENOPHON: Perhaps we are not reading from the same song sheet, because my understanding is that, if someone urges a dog to attack, the penalty is $10 000 or imprisonment for two years but, where a person is responsible for the control of a dog if a dog attacks or harasses a person, the maximum penalty is $2 500 or an expiation fee of $210. The minister is not suggesting that there is a potential term of imprisonment or a $10 000 fine if a dog harasses in the absence of somebody urging the dog to attack?

The Hon. T.G. ROBERTS: No; your assessment is correct.

The Hon. CAROLINE SCHAEFER: Would the minister clearly define what is an aggravated attack as opposed to any other sort of attack?

The Hon. T.G. ROBERTS: A person who is guilty of an offence against this section is guilty of an aggravated offence 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 six years.

The Hon. IAN GILFILLAN: I want to make one observation on the subclause that the minister just referred to. The victim of the offence was, at the time of the offence, a child under the age of six years—that is how I believe the wording would be. I find it very difficult to support the nature and character of an offence of quite distinctly different significance purely on an age factor. I would like that observation to go into *Hansard*. Let us face it: neither the owner nor the dog is likely to have access to the birth certificate of the victim. I think any circumstance where a child is attacked is deplorable and that this is pedantry taken to an almost ludicrous extent. That is my view.

The Hon. CAROLINE SCHAEFER: I agree with the Hon. Mr Gilfillan. I understand that, if my amendment is not successful, the government will move another amendment which removes what I would call an age barrier and discusses particular vulnerability. That might mean that someone in a wheelchair or someone who is aged and frail is equal to someone who is under the age of six. If this concept of an aggravated attack is pursued that would be my preferred stance, but the opposition queries the concept of an aggravated attack, because it appears to me to have connotations of someone actually setting a dog upon another person. If that is what it is, I would have thought that that was common assault unless that person was using that dog as a guard dog. I am sure that it would be common assault under common law or some other piece of legislation. I move:

New section 44(3)(b), page 13, lines 30 and 31—Delete paragraph (b).

The Hon. IAN GILFILLAN: I think we need to be crystal clear about this because, in my humble view, it is slightly confusing. I see it as swinging on the interpretation of the government's proposed new subclause (3)(a) because, as I understand it, both the Hon. Caroline Schaefer and I are opposed to paragraph (b) in the bill, but the government's amendment would wipe that out anyway and replace it.

The CHAIRMAN: You have to take into consideration that the minister is not leaving any of the existing subclause (3) in; he is substituting the lot of it.

The Hon. IAN GILFILLAN: You are absolutely right, Mr Chairman. The insertion of proposed new subsection (3a) embraces in part paragraph (b), to which the Hon. Caroline Schaefer and I object. However, I find this far less objectionable because it states 'whether because of the person's age or physical or mental ability' without specifying a particular age. Although I was offended by the text in the bill, I suggest to the Hon. Caroline Schaefer that we may be able to accept the government's proposed new subsection (3a).

The Hon. CAROLINE SCHAEFER: The Hon. Mr Gilfillan is quite right. I now find this quite confusing. I have said that if my amendment is not successful I will accept the government's amendment, but my understanding of my amendment is that this subsection would provide:

A person who is guilty of an offence against this section is guilty of an aggravated offence if the offence relates to a dog that is a dangerous dog or a dog of a prescribed breed.

To my way of thinking, the offence would no longer relate to frailty, age, sex or anything else; it would simply mean that the offence would relate to a dangerous dog or a dog of a prescribed breed.

The Hon. T.G. ROBERTS: There is an omission from the government's original amendment of a second paragraph. which probably complicates the situation. I will read the amendment as it stands with both paragraphs:

An offender will be guilty of an aggravated offence against this section if—

(a) the offender committed the offence knowing that the victim was, at the time of the offence, a person in a position of

particular vulnerability, whether because of the person's age or physical or mental ability; or

(b) the offence relates to a dog that is a dangerous dog or a dog of a prescribed breed.

If this amendment is agreed to, I think it fixes the concerns of both members.

The Hon. CAROLINE SCHAEFER: It does not fix my concerns. I have a number of concerns with this. I understand that the penalty we are talking about here is a maximum of $10 000 or two years imprisonment. So, we are not speaking about something which is of minimal concern; we are talking about a savage attack. The amendment that I seek to move provides:

A person who is guilty of an offence against this section is guilty of an aggravated offence if the offence relates to a dog that is a dangerous dog or a dog of a prescribed breed.

I think there are only seven prescribed breeds in this state or a dog may be declared a dangerous dog. So, we are talking about a serious aggravated offence. To me, it is a little bit pedantic to stipulate whether such an offence is committed against a child or an adult or anything else. The second part of this proposal relates at the moment to a child under the age of six years. Under the government's amendment, it would relate to any person—I find this more acceptable than the original, I must admit—whom the person who owned the dog knew at the time to be in a position of particular vulnerability. I cannot comprehend someone actually urging a dog to attack someone of particular vulnerability. So, at the very least I see this as an unnecessary amendment. I find it unnecessarily draconian. As I have said, if my amendment is unsuccessful, I will support the government's amendment but, at this stage, my amendment stands.

The Hon. IAN GILFILLAN: Supporting the Hon. Caroline Schaefer's amendment is probably the simplest way to deal with this rather complicated issue. There are questions that are not clear as to whether someone will be convicted of an aggravated offence only if that person has urged the dog. I do not believe the wording is particularly specific that clarifies this. I agree that we are defining quite a serious offence on the scale of matters. I indicate Democrat support for the Hon. Caroline Schaefer's amendment.

The Hon. T.G. ROBERTS: Would the member reconsider if the clause did not relate to 'urging' but to 'fails to prevent'?

The Hon. IAN GILFILLAN: Probably not.

The Hon. CAROLINE SCHAEFER: No, I would not, because to me 'failure to prevent' is again a negligence. I am sure we have all heard of horrendous injuries by savage dogs—or unsuitable dogs I would prefer to call them—which have attacked a family child in the back yard. The tragedy of that is probably sufficient punishment in most cases. Even if it is not, my understanding is that there are other laws which could be brought into play to do with care of a child and which would cover this. If the dog was urged to attack and seriously injured a child, then clearly you would have a case of assault.

The Hon. T.G. Roberts amendment carried; the Hon. Caroline Schaefer's amendment carried.

The Hon. T.G. ROBERTS: I move:

Section 45(1), lines 2 and 3—

Delete, 'while being transported in a vehicle, is not restrained in accordance with the regulations,' and substitute:

is not physically restrained while being transported in the open tray of a utility, truck or other similar vehicle,

The Hon. IAN GILFILLAN: After analysing the latest batch of government amendments, which to me are much more enlightened, it is our intention to support them and not proceed with mine.

The Hon. CAROLINE SCHAEFER: Likewise, the government's amendments are as a result of some common-sense thinking between the two houses. Thank God once again for the two houses, and we will support the government amendment.

Amendment carried.

The Hon. T.G. ROBERTS: I move:

New section 45, after line 14—

Insert:

(4) For the purposes of this section, a dog is physically restrained while being transported in the open tray of a utility, truck or other similar vehicle if—

(a) the dog is being transported within a cage or other like enclosure; or

(b) the dog is securely tethered to the vehicle so that the dog cannot fall or escape from the vehicle.

(5) This section does not apply to the transport of a dog that is being used in the droving or tending of stock or is going to or returning from a place where it will be, or has been, so used.

The Hon. IAN GILFILLAN: I indicate that we believe that the mandatory restraining of dogs within a vehicle was a ludicrous, very dangerous process and we are very strongly opposed to it. However, sensible restraint of dogs on the trays—flat tops—is a sensible move which quite a lot of people have already adopted. Internal restraint, though, we feel strongly should not be applied.

The Hon. CAROLINE SCHAEFER: I support the amendment.

Amendment carried.

The Hon. IAN GILFILLAN: I move:

New section 45C, page 16, lines 14 to 31—Delete new section 45C.

It is about time we got rid of this ridiculous discrimination against greyhounds. The dog owner community is virtually unanimous that greyhounds are one of the most amiable and least aggressive and hostile breeds of dog. Responsible ownership of any breed of dog is necessary. Several of our sheepdogs on the farm are muzzled, because that is a practical, sensible move to prevent their biting livestock. A measure discriminating specifically against the greyhound is archaic and should be removed. This does not compel those who wish to have their greyhounds muzzled to cease that discipline or restraint, nor compel clubs or organisations which in their rules want to require that to happen. I do not see that there is any restriction on their imposing conditions that they fear are inappropriate. However, it is long overdue that this so-called specific duty relating to greyhounds should be removed from the legislation.

The Hon. CAROLINE SCHAEFER: I have some sympathy with Mr Gilfillan's amendment, but I have been advised by parliamentary counsel and by the government adviser that Mr Gilfillan's amendment would in fact have the opposite effect to that which he wishes to achieve. My understanding is that the bill as it currently stands allows for the board to exempt greyhounds which have been retrained and therefore they are no longer required, if they receive that exemption, to be muzzled.

I caution against not muzzling greyhounds that are in training for racing, because their entire instinct is to run very fast and to grab small things. Those small things may not be

just rabbits but small animals or whatever. I would not support demuzzling racing greyhounds in training. My understanding is that the effect of the Hon. Mr Gilfillan's amendment would be to require all greyhounds to be muzzled at all times—which is the opposite effect to that which he desires. I am sure the Hon. Mr Gilfillan has been informed that that is the belief, and I seek his further explanation.

The CHAIRMAN: I need to apologise to members of the committee. It has been brought to the attention of the table that we have a problem with something we have just dealt with. It has not done what members believed was going to happen, as I understand it. I ask members to look back at the minister's amendment to clause 28 (new section 45) after line 14. That amendment was agreed to.

This is particularly vexing, but I am advised that this is what we propose to do. I refer to the minister's amendment to clause 28 (new section 45), lines 10 to 14. We need to delete subclause (3) and substitute new subclauses (3) and (4), which in the original amendment were a different number. We need to put back in '(a) an accredited guide dog'.

The Hon. CAROLINE SCHAEFER: My understanding is that the effect of the amendment would be to say that any dog is not restrained in a vehicle, that is, within a vehicle. However, they must be physically restrained, and physical restraint is defined as 'on the back of an open tray of a utility truck or other similar vehicle'. We all have agreed to that. There is an exemption from that requirement for a working dog, that is, a dog employed (for want of a better word) in the droving or tending of stock. We inadvertently missed out the exemption for guide dogs and we are now adding that.

The CHAIRMAN: Yes, I believe that is correct. I am advised that it concerns line 11 to line 14. I have explained it and I do not want to go through it again. The question before the committee is: that the amendment be agreed to.

Amendment carried.

The CHAIRMAN: Now we need to go back to where we were. We were discussing greyhounds.

The Hon. IAN GILFILLAN: I have heard that there is an opinion that my amendment would have the reverse effect to that desired. I find that hard to accept because the clause in the bill provides 'specific duties relating to greyhounds'. Those specific duties relating to greyhounds involves slapping muzzles on them. If that clause is deleted surely the specific duties relating to greyhounds per se no longer exist in the bill. The board in section 45E has the power to do certain things, either on its own motion or on application—which I think is interesting and I do not have a particular problem with that.

The purpose of our amendment is to remove the specific across-the-board in toto requirement that greyhounds of whatever age in any circumstances are muzzled. I can understand that there are circumstances where a dog—and it does not necessarily have to be a greyhound—may be a threat to someone's pet cat. That is not a specific and unique attribute of the greyhound. Lots of dogs under those circumstances would qualify for muzzling.

The Hon. CAROLINE SCHAEFER: I cannot support the Hon. Mr Gilfillan's amendment. I think there is a particular application for greyhounds which are being raced and which are in full training. My understanding is that it is becoming common practice for greyhounds which are no longer being raced to be retrained. My understanding is that they make very nice pets. I think an exemption from muzzling those dogs is almost automatic by the board. I seek clarification of that. If that is the case, I do not think the Hon. Mr Gilfillan's amendment is necessary. However, if the honourable member wanted to make that a duty of the board under section 45E, 'the board may exempt a person from specific duties', I would look at it as a separate amendment, automatically allowing for retrained greyhounds to be treated the same as any other dog.

The Hon. IAN GILFILLAN: I do not intend to extend the debate further except to point out that it is rather ironic that, in subsection (2) of this clause that I wish to delete, this requirement does not apply to 'greyhounds being raced, exercised or trained on land with the consent of the owner or occupier or is participating in a show, trial or class under the effective control of a person. . . '. The clause itself is allowing exemptions in rather strange circumstances. My interpretation of it is that, first, it is discriminatory against greyhounds and, secondly, if people are so concerned about the possible chasing of a cat—

The Hon. Caroline Schaefer: Or a Jack Russell.

The Hon. IAN GILFILLAN: A Jack Russell would handle itself extremely competently. I do not think many greyhounds I know would attack a Jack Russell. I rest my case.

The Hon. T.G. ROBERTS: I am told that, with racing greyhounds trained to chase, the Greyhound Racing Board requires members to muzzle them in public. Retrained greyhounds or show dogs not trained to chase can be exempted by the board from the requirement to wear a muzzle. If they are not successful in that they can be reclassified. If the dog is not retrained successfully, the board can reclassify it.

The Hon. IAN GILFILLAN: How does an owner of a rescued greyhound satisfy the board that in fact that dog will not chase a cat or a Jack Russell without putting it to the test? It seems that, if it is an arbitrary decision of the board on each individual dog, we have a farcical situation.

The Hon. T.G. ROBERTS: The Greyhound Adoption Board will trial a series of dogs to test the theory of the proposal. A number of test cases will show the honourable member how or if it can be done. They will choose dogs of a particular temperament and, if successful, they will get a collar and probably a certificate.

The Hon. Ian Gilfillan: Are you asking for volunteers?

The Hon. T.G. ROBERTS: I am not sure.

Amendment negatived; clause as amended passed.

Clauses 29 to 40 passed.

Clause 41.

The Hon. CAROLINE SCHAEFER: I move:

Page 24—Delete this clause.

This clause is supported by the Local Government Association. However, we believe as legislators that the introduction and concept of a minimum penalty into any act is quite dangerous. This clause introduces a new section, which introduces the concept of a minimum penalty into the act and provides that when a court is imposing a monetary penalty for an offence against this act it must be a penalty of not less than one quarter of the maximum penalty prescribed for that offence, unless there are special circumstances to justify a lesser penalty. This sets a minimum sentencing criterion and we do not believe that principle should be supported in any legislation, hence we move to delete this clause.

The Hon. IAN GILFILLAN: We support this amendment as we have a similar amendment on file. It is tantamount to mandatory sentencing, which in principle the Democrats

have opposed up hill and down dale and we will not cease doing so.

The Hon. T.G. ROBERTS: If the amendment succeeds it will remove minimal penalties from the bill. As it stands the court must impose a penalty of not less than a quarter of the maximum penalty, unless there is a special circumstance justifying a lower penalty. I understand that there is a philosophical hang-up with that with honourable members, and the numbers will make the final determination.

Clause negatived.

Clause 42.

The Hon. IAN GILFILLAN: It appears that there is no point in moving my amendment as the government cleverly distilled the earlier parts of the bill to separate 'within vehicle' and 'on tray top', and I have been assured that this new measure is necessary for the proper implementation of what we all passed unanimously.

The CHAIRMAN: I do not think we will go on with your amendment, because of the agreements reached.

The Hon. CAROLINE SCHAEFER: I understand that mine is a consequential amendment and we have agreed with the government.

Clause passed.

Clauses 43 and 44 passed.

Clause 45.

The Hon. T.G. ROBERTS: I move:

Page 27, after line 4—Insert:

3A—Renewal of registration

Despite section 36(2), if an application for renewal of registration that expires on 30 June 2004 is made after the commencement of this clause but before 30 November 2004, the renewal operates retrospectively from 30 June 2004.

This amendment provides councils with time to change their computer systems and to advise their local communities of the new registration scheme. It is purely administrative.

Amendment carried.

The CHAIRMAN: I draw to the committee's attention a clerical alteration on page 27, lines 6 and 17. Section 33 should read 'section 34'. The bill will be amended accordingly.

Clause as amended passed.

Schedule and title passed.

Bill taken through committee with amendments; committee's report adopted.

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

That this bill be now read a third time.

The Hon. IAN GILFILLAN: I indicate that I have contemplated not supporting this bill at the third reading stage, because I believe that the restriction placed on leashed and unleashed areas is quite profound in its effect on the dog pet-owner relationship, particularly in the metropolitan area. It seriously concerns me that this legislation, although it contains some assets, carries such an impact on the community's enjoyment of the open spaces of the city.

My other regret, which may be more readily redressed, is the continuing requirement for greyhounds to be muzzled. We will have to explore energetically ways in which the board can look more tolerantly on that issue so that that requirement can be removed. I voice my opposition to the third reading, but I do not seek to divide. However, I put this on the record again: I believe that it is a most unfortunate and retrograde step to have now emphasised the need for confines and that the quite widely enjoyed freedom of dog and owner to move freely amongst others, with minimum damage to either animal or people, is being lost. I believe that we will regret that profoundly over the years to come.

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank all the stakeholders who have worked very hard on this very contentious issue. Anything to do with cats, dogs or pets is emotive, as the honourable member has indicated. The stakeholders have worked on ways in which the interests of the dog, the dog owner and particularly children can be protected as much as possible. It is a matter of balancing the rights of the dog, the dog owner, the family pet confines and the environment. The stakeholders have worked very hard to achieve a balance that appears to be practical, but time will tell. If local government plays its role, I am sure that the bill will make a contribution to a safer and more enjoyable environment for everyone.

Bill read a third time and passed.

STATUTES AMENDMENT (INTERVENTION PROGRAMS AND SENTENCING PROCEDURES) BILL

In committee (resumed on motion).

(Continued from page 1577.)

The Hon. P. HOLLOWAY: In the schedule of amendments made by the Legislative Council to which the other place has disagreed, there are three separate amendments, two of which relate to a change that was moved by the Hon. Nick Xenophon. On behalf of the government, I supported the amendment to clauses 4 and 6 of the bill, which provided

After 'behavioural problems' insert: (including problem gambling)

When the amendments were put before the other place, they were dealt with as a block, and, as a block, it disagreed to those two amendments and also, of course, the new schedule. The comments that I made earlier today were that the government's position related to the new schedule and, in particular, the review of intervention program services. I suggest that, whereas the government, in accordance with the undertaking I gave earlier, supports the first two amendments made by the Hon Nick Xenophon, if we can put them separately on behalf of the government I will support that we insist upon those amendments. However, as indicated, on behalf of the government I will put the position that we do not insist upon amendment No. 3.

The CHAIRMAN: The first question is: that the committee insist on its amendments Nos 1 and 2.

Question carried.

The CHAIRMAN: The second question is: that the committee insist on its amendment No. 3.

The committee divided on the question:

AYES (10)

Dawkins, J. S. L.	Evans, A. L.
Lawson, R. D. (teller)	Lensink, J. M. A.
Lucas, R. I.	Redford, A. J.
Ridgway, D. W.	Schaefer, C. V.
Stefani, J. F.	Xenophon, N.

NOES (8)

Gago, G. E.	Gazzola, J.
Holloway, P. (teller)	Kanck, S. M.
Reynolds, K.	Roberts, T. G.
Sneath, R. K.	Zollo, C.

PAIR

Stephens, T. J. Gilfillan, I.

Majority of 2 for the ayes.

Question thus resolved in the affirmative.

GAMING MACHINES (EXTENSION OF FREEZE) 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 current freeze on gaming machine numbers expires on 31 May 2004. Equally the current provisions in relation to the Roosters Club Incorporated require it to cease trading at its current location as at 31 May 2004.

These matters are to be addressed in debate on the *Gaming Machines (Miscellaneous) Amendment Bill 2004* which would provide for the long term position with respect to gaming machine numbers in South Australia and provide additional flexibility and options for clubs in the movement and operation of their businesses. This would include the establishment of Club One to provide assistance to the club sector.

The passage of this Bill by 31 May would simply maintain existing arrangements for all parties until 15 December 2004. This would provide time for the Parliament to consider and pass the *Gaming Machines (Miscellaneous) Amendment Bill 2004*.

If the *Gaming Machines (Extension of Freeze) Amendment Bill 2004* Bill is not passed by 31 May the current freeze would expire and it would be open for new gaming machine licences and increases in gaming machine numbers at existing venues to be approved. This would clearly undermine the recommendations of the Independent Gambling Authority and the proposals in the substantive Bill.

I commend the Bill to the House.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Amendment provisions

Clauses 1 and 2 are formal.

Part 2—Amendment of *Gaming Machines Act 1992*

3—Amendment of s 14A—Freeze on Gaming Machines

Clause 3 provides that the current freeze on gaming machine numbers will continue in operation until 15 December 2004.

4—Amendment of Schedule 3—Special provision for licence for Roosters Club Incorporated

Clause 4 extends the Roosters Club licence until 15 December 2004.

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I support this legislation, which extends the freeze that was applied several years ago and is due to expire at the end of May this year. This bill will extend the freeze until the end of this year to enable the parliament to consider other legislation which has been foreshadowed. I think all members of the council will understand what that foreshadowed legislation is about. The Independent Gambling Authority has made certain recommendations about the reduction in the number of gaming machines, and I think that legislation will deserve some detailed consideration by the council. I will make my views known when that legislation comes forward. I am prepared to support the extension of the freeze in order for that more detailed legislation to be given proper consideration in an environment that is not subject to external pressures.

The Hon. R.I. Lucas interjecting:

The Hon. T.G. ROBERTS: Yes. I have made my views known. I supported the extension last time. I will make my views known about what will happen in the future when we debate that bill; however, I think it is appropriate that any decision in any debate of the parliament should be undertaken in an environment where we are not facing the imminent ending of this particular cap. So, for that reason and that reason alone, I will support this bill.

The Hon. CARMEL ZOLLO: Consistent with my views on previous legislation, I add my support to this bill. It is very much a holding motion. I have supported a freeze in the past and believe it to be an important measure in sending the message that the state has more than enough poker machines. At this time, because not all harm minimisation measures are in place, I think it is an important measure that assists in tackling problem gambling. During the time that we have had a freeze in place, we have seen some important initiatives recommended by the Independent Gambling Authority to address problem gambling.

During another debate in July last year, I responded at some length to private members' legislation concerning the IGA outlining those initiatives and further consultation that was anticipated. Since that time the IGA has further delivered on some strong codes of practice as part of efforts to minimise the harm caused by problem gambling as well as legislation, particularly the family protection orders scheme that was passed in this council. The IGA has found that at least two per cent of the adult population is made up of problem gamblers which equates to some 15 per cent of gamblers who, in turn, apparently represent 40 per cent of gambling expenditure and turnover.

I have spoken on the issue of gambling on several occasions; some of the amendment bills of the Hon. Nick Xenophon over the years come to mind. I am not surprised to see that the IGA found that 70 per cent of problem gambling relates to gaming machines. Gaming machines by their sheer numbers and location have introduced gambling to many people (especially women) who would not, in the past, have dreamed of placing bets with the TAB, for instance, but who routinely find themselves playing poker machines and being unable to control the habit. It is also an addiction that has the potential to affect so many other people in the addict's life, both emotionally and economically. Often the person will not admit to the problem for many years. The signs of physical deterioration that are evident with drug abuse or alcoholism are not so readily obvious when a person gambles.

Members are obviously aware that other legislation will be coming before us to put in place further recommendations made by the IGA. I will not continue as it is more appropriate to address some issues in other legislation. The legislation before us now is necessary to extend the freeze so as to enable us to debate, amongst other initiatives, the reduction of poker machines. As in the past, I indicate my continuing support for extending the freeze. It is important for the South Australian community to see greater debate to achieve a fairer balance—a balance of interests between the industry that provides employment and those who gamble responsibly, as well as the interests of those who regrettably do not and the many other people who are affected by their addiction.

The Hon. NICK XENOPHON: I support this bill. In terms of a very brief history of poker machine legislation in this parliament over the past few years, members would

remember a very powerful speech that the Hon. Mr Olsen gave as premier in 1997 about the impact of poker machines in the community, the devastation that it caused, how it was unexpected and how the proliferation of poker machines had caused enormous damage to the community. Since then we have had a number of freeze bills in place—not since 1997, I add. In terms of the general context of this, I acknowledge that the Productivity Commission says that a cap on poker machine numbers is a blunt instrument in dealing with problem gambling.

Nevertheless, the corollary of that is that, if you continue to increase poker machine numbers, given that one of the key findings of the Productivity Commission report is that there is a very clear link between accessibility, the number of venues and the number of machines with levels of problem gambling, if we do not take the step of extending this freeze in the context of other legislation that will be considered in this parliament in due course, if this legislation is passed, then we will lose an opportunity to debate and to consider what has been given over a number of years and to, at least, begin to tackle the issue of problem gambling in this state.

In August 2001, the South Australian Centre for Economic Studies published a very comprehensive report that was prepared for the Provincial Cities Association of South Australia entitled 'The Impact of Gaming Machines on Small Regional Economies'. That report was prepared by Dr Michael O'Neil and others from the University of Adelaide. It is his report that has been highly respected for the rigour of its analysis, for looking comprehensively at the impact of poker machines in South Australia and its overall methodology. I remind honourable members that that report—a very respected report with rigorous analysis—found that there were some 23 000 South Australian problem gamblers because of poker machines in the state.

The Productivity Commission tells us that for every problem gambler there are at least seven others affected by that problem gambler; so, this is a very significant social issue in the community. The parliament, in 2001, as a result of a process of review initiated by the previous government (the Hon. Graham Ingerson chaired that review process) made certain recommendations to the former government. One of those recommendations was to establish an independent gambling authority, and that is something for which I have long been an advocate. That authority has a statutory responsibility in its charter to tackle the issue of problem gambling and to deal with problem gambling in this community. Section 11 of that legislation refers to the functions of the authority (amongst other things) to minimise the harm caused by gambling and to recognise the positive and negative impacts of gambling on communities. There is a statutory obligation on the part of that authority to deal with problem gambling.

That enabling legislation for this authority was passed in a bipartisan sense and passed with the support of members from all sides of politics, because it was acknowledged that something had to be done to take a further step to tackle the issue of problem gambling head-on and to give clear statutory responsibilities to the Independent Gambling Authority to research, to investigate and to make recommendations to reduce the level of harm caused by problem gambling. Some would say that it has been a tortuous process, but that would be expected. It is a complex issue. It is an issue that has been a vexing one for many in the community.

The Independent Gambling Authority undertook a comprehensive inquiry process and I do not believe that it can be faulted for giving an opportunity to all sides of the debate to consider the issue of problem gambling and the management of gaming machine numbers as a consequence of the former gambling minister (Hon. Mr Hill) initiating a process for the Independent Gambling Authority to look at poker machine numbers in this state. As a result of that process, the Independent Gambling Authority published a very comprehensive report in December 2003, where recommendations were made with respect to reducing poker machine numbers in the manner in which that could be effected.

I do not want to preempt the legislation which hopefully we will deal with in the not too distant future, but it ought to be acknowledged by members that we have a body of independent research, which was commissioned by the Independent Gambling Authority and relied upon to deal with problem gambling in this state. Clause 8.2 of the report states that reductions were required. It states:

> The authority believes that, as a standalone measure, a reduction of one-third of machines is, on present indications, likely to be necessary to have an impact on problem gambling.

However, it noted the progress made in other areas with respect to codes of practice for harm minimisation, and it states that the recommended immediate reduction in the number of gambling machines is 20 per cent. That is an issue for debate further down the track. I am not apologetic about my views. The surefire way to slash problem gambling on poker machines in this state is to get rid of them; I do not resile from that view at all. If I have a choice between having 15 000 poker machines in 600 venues in hotels and clubs or 1 500 machines in a much smaller number of clubs, 80 or 90 rather than 600, the latter would be my preferred option.

I urge members to support this bill so that we can have a robust debate in the coming months to deal with the issue of what we do with poker machine numbers. For those members who are ambivalent about extending the freeze, I urge them to consider supporting this legislation so that we can at least deal with this comprehensive report and the analysis and independent research that was carried out in the context of the inquiry into poker machine numbers in this state. Let us not lose this opportunity to further this debate, because my fear is that, if this bill is defeated in this chamber, we will lose the momentum for making further reforms which I believe will make a real difference to problem gambling in this state. I believe that we do have some common ground with those members who unapologetically support the poker machine industry in that all members are concerned about the impact of problem gambling and the devastation that it can cause to families. The Hon. Mr Lucas quite wisely said some time ago that one problem gambler is one too many. So, in the light of this common ground let us at least support this legislation—

Members interjecting:

The PRESIDENT: Order! I can accuse both of you of being disorderly.

The Hon. NICK XENOPHON: I draw the attention of members to the Productivity Commission's report. Thank goodness the federal Treasurer the Hon. Peter Costello commissioned that report a number of years ago, because it became a gold standard. It is a comprehensive report of more than 1 000 pages, and it concluded the most comprehensive survey yet undertaken on community attitudes to gambling. According to table 15.1 of the report, South Australia's attitude to gambling machine numbers, 20.7 per cent of those surveyed—I understand the survey sample was close to 1 000 in South Australia (about 10 000 nationally)—said 'the same', 14.3 per cent said 'a small decrease', 61.3 per cent

said 'a large decrease', and for 'a large increase' the figure was 0.0 per cent. Obviously, they did not survey the Hon. Mr Lucas, because then it would have been 0.01 per cent. 'A small increase' was selected by 0.6 per cent while 3.2 per cent said that they could not say. Based on this Productivity Commission survey—conducted with rigorous methodology and using a relatively large sample in this state—96 per cent of South Australians effectively oppose any increase in numbers and something like 75 per cent of South Australians want to see some decrease in poker machine numbers.

The Hon. R.I. Lucas interjecting:

The Hon. NICK XENOPHON: In response to the Hon. Mr Lucas's interjection, I think pulling the plug on a poker machine is quite different from electrocuting or hanging a human being.

The Hon. R.I. Lucas interjecting:

The Hon. NICK XENOPHON: I'm just reflecting on community attitudes and what the Productivity Commission's report says. The Productivity Commission's report makes the point that, of all players of electronic gaming machines, something like 4.67 per cent were reported as suffering a gambling problem under the SOGS (South Oaks Gambling Screen) test. So, there is a much higher prevalence of problem gambling on poker machines than on other forms of gambling. Again, I refer to table 5.7 of the report which found that 42.3 per cent of gambling losses on poker machines were derived from problem gamblers compared to something like 33 per cent on wagering and as low as 5.7 per cent, as I recollect, on lotteries.

So, I urge those members who are ambivalent about continuing the freeze not to let this opportunity for further debate on the work that has been done by the Independent Gambling Authority be lost. Obviously, this can be subject to scrutiny and criticism by members down the track, but at least we have a foundation for continuing the debate in a meaningful way. I urge my colleagues on the other side of the chamber to heed the words of the Hon. Mr Olsen when he commented a number of years ago on the damage and the devastation caused by problem gambling in this state. At least we have an opportunity with the continuation of this freeze to consider a number of measures that will, I hope and believe, lead to a meaningful reduction in the number of people in this state hurt by problem gambling.

The Hon. KATE REYNOLDS: It is the Democrats' view that it would be inappropriate for the current freeze to expire opening up new opportunities for new gaming machine licences and increases in numbers at existing venues, which are both outcomes that we could not support before some of the other debates, as mentioned by previous speakers, have been had. Given that our concerns about the lack of an expiry date for this latest extension have been addressed in the other place and we now have an expiry date of 15 December this year, I can indicate the Democrats' support for this short bill, but I also note that we look forward to full and robust debate in this chamber on the other gambling bill currently being considered elsewhere.

The Hon. A.L. EVANS: I support the freeze. I am not a problem gambler. However, I did gamble on a poker machine when I was about 20 years of age and I tried a one-armed bandit on a ship when we came from Western Australia. I instinctively felt there was a problem. So, in 1991 when about 1 000 people stood on the steps of parliament, I stood there with them. Dean Brown led the charge against it, so I supported it.

The Hon. R.I. Lucas: Mike Rann voted for it.

The Hon. A.L. EVANS: That's right.

Members interjecting:

The PRESIDENT: Order!

The Hon. A.L. EVANS: I never realised the power of the addiction to gambling until it hit someone close to me, a charity worker who was going around Australia raising money for an orphanage in the Philippines. He had raised something like $3 000. He was put into a hotel in Townsville, because he was speaking around the place in that area, and he went and browsed through the gaming area. He did not believe in gambling—he hated gambling—but as he browsed through that area he thought, 'I will give it a go; just $1.' So, he put in his $1 and he lost it. The thought came into his mind, 'Get it back.' So, he put another dollar in, lost it and thought, 'Get it back.' He said it was almost like a compulsive addiction that was forcing him to try again and again. He kept going until the $3 000 had been spent. That is the power of the addiction. Here is a man who does not believe in it, who hates it, and all his life he has been opposed to it.

The Hon. R.I. Lucas: Did he raise another $3 000?

The Hon. A.L. EVANS: Yes, he did. To his credit, he resigned from the organisation he was with, went out and worked very hard, and paid it all back. It just highlights to me the incredibly addictive power, when you have a man who has never gambled in his life, who hates gambling, who opposes it with a passion, and yet who found himself trapped.

That is happening all over the city of Adelaide and in South Australia. My local deli owner told me the story of his friend who has lost his family, his wife, his business—everything that he has worked for all his life. I think that, as a parliament, part of our job is to protect people against themselves. Therefore, I am supporting this freeze and hope it gets through. It got through by only one vote last time, and I hope we do better this time.

The Hon. R.I. LUCAS secured the adjournment of the debate.

ADJOURNMENT

At 6.22 p.m the council adjourned until Wednesday 26 May at 2.15 p.m.