LEGISLATIVE COUNCIL

Tuesday 2 December 2003

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

EDUCATION (MATERIALS AND SERVICES CHARGES) AMENDMENT BILL

Her Excellency the Governor, by message, indicated her assent to the bill.

PAPERS TABLED

The following papers were laid on the table:

By the Minister for Agriculture, Food and Fisheries (Hon. P. Holloway)—

Reports, 2002-03—
- Adelaide International Film Festival
- Police Superannuation Board
- South Australian Alpaca Advisory Group
- South Australian Cattle Advisory Group
- South Australian Deer Advisory Group
- South Australian Equal Opportunity Commission
- South Australian Goat Advisory Group
- South Australian Horse Industry Advisory Group
- South Australian Sheep Advisory Group

Regulation under the following Act—
- Public Corporations Act 1993—Land Management Corporation Board
- Summary Offences Act 1953—Annual Statistical Returns—
- Authorisations Issued to Enter Premises
- Dangerous Area Declarations
- Road Block Establishment Authorisations

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

Reports, 2002-20—
- Occupational Therapists Registration Board of South Australia
- Office for the Ageing—Department of Human Services
- South Eastern Water Conservation and Drainage Board

State Electoral Office of South Australia—Report for the South Australian Local Government Elections—May 2003

Regulations under the following Act—
- Road Traffic Act 1961—
  - Expiation Fees
  - Taxis in Bus Lanes

Child Protection Notifications and Child Welfare Issues pertaining to children in immigration detention in SA—Memorandum of Understanding between the Department of Immigration and Multicultural and Indigenous Affairs and the SA Department of Human Services

Providing access for immigration detainee children in South Australia to education in South Australian Government Schools—Memorandum of Understanding between the Commonwealth of Australia and the State Government of South Australia

Unaccompanied Humanitarian Minors—Memorandum of Understanding between the Commonwealth of Australia and the State Government of South Australia.

ROAD SAFETY REFORMS

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I lay on the table a ministerial statement on the commencement of road safety reforms made by the Hon. Michael Wright, Minister for Transport.

QUESTION TIME

BUSINESS ENTERPRISE CENTRES

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make an explanation before asking the minister representing the Minister for Industry, Trade and Regional Development a question about business enterprise centres.

Leave granted.

The Hon. R.I. LUCAS: As members will know, 96 per cent of all South Australian businesses can be characterised as small businesses based on the employment of fewer than 20 persons. Members will be aware that in September I asked a question relating to the operation of business enterprise centres (BECs) which are structured in the metropolitan area significantly to provide assistance to small businesses. The business enterprise centres' submission to the recent review of the Department for Business, Manufacturing and Trade highlighted a 1999 survey of start-up businesses that had received assistance from BECs which revealed that 96 per cent of them were still in operation after 12 months. This submission noted that it compared very favourably with other research which indicated a success rate of approximately 40 per cent for new business start-ups; that is, 40 per cent of small businesses were still in operation after 12 months.

In my question in September I highlighted the fact that about 25 000 metropolitan micro and small businesses had accessed BEC services to some degree or other, and I also highlighted the fact that a number of reviews had been conducted of the department and business enterprise centres and that business enterprise centres were concerned that they were receiving only monthly funding pending the results of the latest review being conducted by them. I am advised that last week the minister met with business enterprise centre representatives and indicated that, instead of funding business enterprise centres on a monthly basis, he was pleased to announce that he could guarantee their funding for a further seven months (until the end of June 2004).

BECs had previously been funded triennially and their funding concluded with the last triennium which ended in June 2003. Significant concern has been expressed to me about the minister's decision. One board member of a business enterprise centre expressed strong opposition to the minister's decision and the government's position, indicating that there is a widespread view that the minister is unable to make decisions in relation to not only business enterprise centres but a whole range of areas that are important to small businesses with respect to economic development.

Business enterprise centres have further indicated that the minister's most recent decision will mean that BECs will not be able to lock in funding contracts for staff beyond June next year. BECs have also indicated that they will not be able to lock in lease arrangements for longer than seven months (until June next year), and a number of those BECs are in the position of having to make important decisions for their future relating not only to staff but accommodation. My questions to the minister are:

1. Given that the operation of BECs has already been reviewed on at least two occasions in recent years, what further information and reviews does the minister require before he will decide one way or another about the long-term operation and financial viability of BECs, and at what stage will the minister advise BECs of his decision?

2. Does the minister acknowledge that his inability to make a decision in this area has meant that BECs are not able to take long-term decisions in relation to both accommodation and staffing which will impact on their capacity to be able to provide services to small and micro businesses in the metropolitan area?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will take those important questions to the Minister for Industry, Trade and Regional Development and bring back a reply.

PRISONS, MENTAL HEALTH SERVICES

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Minister for Correctional Services a question about mental health services in prisons.

Leave granted.

The Hon. R.D. LAWSON: In the latest report of the Correctional Services Advisory Council, which was tabled in this place last week, it was stated:

> Information gained by council members during visits and consultations has again confirmed council's view that the level of mental health services available to offenders, both at the prison and community corrections level, is inadequate. This is further reinforced by the fact that the council is aware that there are no dedicated mental health workers in any of the prisons or community correctional centres, notwithstanding the department is managing an increasing number of offenders with mental health issues.

The same report quotes respected forensic psychiatrist Dr Ken O'Brien as saying:

> Despite the high incarceration rates of offenders with mental health issues, the prison system actually has no dedicated mental health positions in any prisons.

In the same report, Dr O'Brien is reported as commenting on the absence of so-called exit screening of prisoners with mental health problems. He says:

> There may be better outcomes if prisoners exited from mental health beds.

I heard the minister on ABC Radio, as did other members, saying that there were ample psychological services in the prisons. My questions are:

1. What mental health treatment is provided by psychologists?

2. Does the minister acknowledge that there is a distinct difference between the services provided by psychologists, on the one hand, and psychiatrists, on the other? If so, will the minister explain to the council the difference between the services provided by mental health professionals—mental health nurses—on the one hand, and psychologists, on the other?

The Hon. T.G. ROBERTS (Minister for Correctional Services): I also heard the honourable member making claims on radio that I thought had been answered adequately in this council to clarify the situation, but obviously not. I have replied to the honourable member's question in this council on previous occasions. The government has provided and is continuing to provide mental health services to those who find their way into the prison system who have either diagnosed or undiagnosed mental health problems. There are a number of reasons why mental health services dealing with community mental health are stretched in this state, just as the level of services is stretched inside the prison system.

I have said before that more services and funding must be apportioned to mental health services within government in the foreseeable future because of the increased diagnosis of people requiring mental health services and the increased difficulties that they will suffer. I have made other statements in this council to support that view. From reading the transcript, I understand that the honourable member agrees with my assessment, because he has used some of the terminology that I used in his interview on 5AA.

Psychology services have been provided to prisoners at Mobilong Prison. There is one servicing psychologist at Yatala Labour Prison; 2.2 servicing psychologists at the Adelaide Remand Centre; and one at the Adelaide Women's Prison and so on. So, there are servicing psychologists.

As the honourable member points out in his possible trick question, there is a difference between services being provided by psychologists and those being provided by psychiatrists. If psychiatric treatment is required, I would expect that a psychologist—if there is a treating psychologist—would recognise that and call in a psychiatrist to support those services the psychologist is providing. Psychologists do have the ability to prescribe medicines and to offer advice on how prescriptions are to be filled and serviced within the prison system. If the honourable member is suggesting that the Correctional Services Department sets up a separate psychological servicing department, which I understand—

The Hon. Caroline Schaefer interjecting:

The Hon. T.G. ROBERTS: Well, psychiatrists can be called by psychologists. If the treating psychologist requires a psychiatric support service provided by a psychiatrist, and if there are problems with certain drugs that some prisoners have been prescribed outside and those prescriptions must be refilled within the prison services system, I am sure that the hospital services system and the psychiatric services system would fill those prescriptions and provide that continuing treatment. There are some cases where, from time to time, drug cocktails and mixtures upset the levels of prescribed medication, not only with respect to prisoners but also with respect to people in the community, and the patient must go back to their treating psychiatrist or GP to have those prescriptions either changed or altered.

There are a number of calls on psychiatric services within prisons; and I am sure that the psychologists can make recommendations for the fulfilment of those services. I am also aware that we did have a treating doctors' service within the prison system, which ran into all sorts of problems when it was being applied under the previous government. The shadow minister is probably aware of the difficulties the system experienced in using the service provided by correctional services employees within the prison system. We can throw our hands in the air and say that there are not enough psychological or psychiatric services in prisons.

That statement generally would probably be accepted by most community members because they do not know exactly what is being provided. I am saying that psychological services are being provided, and that there is provision for prisoners to be taken out of the system and housed in James Nash House under the memorandum of understanding with the health services department. However, as I have already indicated, if we were to set up another bureaucracy within correctional services, I am sure that members opposite would be the first to criticise the government for duplication in terms of putting together a bureaucratic structure to administer psychological or psychiatric services to the prison system separate from the broader community.

The support services required within correctional services are supplied under that memorandum of understanding with the Health Commission. I will not make any recommenda-

tions with respect to building up a separate bureaucracy. As I have said, if the health services department, together with the correctional services people, feels that the level of servicing is inadequate, that we are failing with our support services generally (and there may be some individual cases that fall through cracks) or that they are not of a level that would be expected of any government services, I am sure that we will have a look at it. But I am sure, from the information provided to me, that that is not the case.

The Hon. R.D. LAWSON: Sir, I have a supplementary question. Is Dr Ken O'Brien wrong when he says there is no exit screening of prisoners with mental health problems?

The Hon. T.G. ROBERTS: On the evidence proffered to me (and I am not quite sure how he has made his assessment), I would say that there are gaps in his information to make that assessment.

NATIONAL LIVESTOCK IDENTIFICATION SCHEME

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about the National Livestock Identification Scheme.

Leave granted.

The Hon. CAROLINE SCHAEFER: Mr President, you will recall that I have asked a number of questions on this matter over the year. NLIS involves using electronic tags to provide lifelong identification for cattle. These tags provide for market and quarantine assurance that will maintain and enhance export markets. The NLIS is due to be implemented nationally by 1 July 2004. It is intended to exempt some livestock groups from having to use NLIS tags due to the low risk these livestock groups present to Australia's cattle industry.

One such group identified by the economic impact study into the NLIS as being exempt from using NLIS tags is 'livestock consigned directly from the property of their birth to an abattoir for immediate slaughter'. Recently, a constituent informed the member for MacKillop in another place that he had been advised by a member of the NLIS implementation committee that no such exemptions would be given to South Australian cattle producers. As well as that, South Australian abattoirs that rely on interstate cattle in months of low domestic supply would not be able to accept cattle from other states if they did not have an NLIS tag, regardless of their place of origin.

Can the minister confirm that exemptions for NLIS tags will be given to South Australian cattle producers in low risk circumstances—such as livestock consigned directly from their property of birth to an abattoir for immediate slaughter—and can the minister confirm that abattoirs will be able to accept low risk interstate cattle that are consigned directly from their property of birth to a South Australian abattoir for immediate slaughter without NLIS tags?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): It was certainly my understanding that it was the case that exemptions would be given. A committee has been looking into this and, if there are any reasons why it might have changed the recommendations, as I understood them, I will make inquiries and find out. But it was certainly my understanding that the identification would not be required, at least in the first of the situations indicated by the honourable member. I will find out for the honourable member whether the thinking on this has changed and bring back a reply.

The Hon. CAROLINE SCHAEFER: Sir, I have a supplementary question. Given that this is the last week of sitting and that such a decision could signal the closure of some of our abattoirs, will the minister undertake to bring back an answer as a matter of urgency?

The Hon. P. HOLLOWAY: That is a reasonable question. I will seek to do so. If I cannot get it by Thursday, I will certainly let the honourable member know as soon as I find out. Hopefully, I will be able to get an answer back before Thursday.

ABORIGINES, ACTION ZONES

The Hon. G.E. GAGO: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question about action zones progress.

Leave granted.

The Hon. G.E. GAGO: Earlier this year, the minister informed members about the government's 'doing it right' policy initiative on action zones. The minister indicated that the first action zone was being set up on Eyre Peninsula and would be known as the West Coast Action Zone. My question is: will the minister inform the council of what progress has been made with respect to action zones, specifically the West Coast Action Zone?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for her question and for her continuing interest in matters relating to regional areas and Aboriginal people. An action zone can be described as an area in which there will be concentrated effort to provide centrally coordinated across government action to respond to issues identified and prioritised by the community. The West Coast action zone has been set up because of the continuing problems experienced by Aboriginal people within that area accessing services of a consistently good nature such as health, education and housing.

A number of attempts have been made to fix the housing problems that exist within the Ceduna area in particular. Previous government policy, along with those of ATSIC and others, was to set up homelands outside Ceduna to deal with the problems associated with urban living and to try to come to terms with what was regarded as a bush camp just outside Ceduna. A proposal was put to expend funds on a housing project in close proximity to Ceduna that would house those Aboriginal people in the area who were either moving through or semipermanent and, in some cases, itinerant. There was also a belief that that housing program would fix the problems associated with bush living, which was a major problem, and alcohol and violence was a key aspect of that settlement.

Local government, the ATSIC regional body and the state government, through coordination of our human services activities, have made the area an action zone and are now concentrating on picking up some of the issues associated with the deterioration of the standard of living of many Aboriginal people in that area, in particular, those people in and around Yalata. We are also trying to deal with the movement of people from the north and the west into that action zone, which is putting pressure on many of the human services there.

The Wangka Wilurrara Regional Council will be holding a meeting at Streaky Bay to further develop the plans that it sees as basic requirements within the region. I am sure that the service providers will listen to the leaders within that group when they make their recommendations to implement changes and to continue the establishment of better services within that area. I would like to pay tribute to those people who have forged a formal agreement with the local government people. The Wangka Wilurrara Regional Council and the District Council of Ceduna have worked together to try to deal with these problems. Moves are afoot to formalise that agreement on 10 December in Ceduna between the Wangka Wilurrara Regional Council and the District Council of Ceduna.

I would like to mention just a few of those people who have brought that about. I pay my respects to the Chairman, Harry Miller. He is a very energetic individual and was the Wangka Wilurrara Regional Council representative for ATSIC. He is somebody who not only talks about issues but gets out there and makes sure they are implemented. Mayor Ken McCarthy, the Mayor of the District Council of Ceduna, has done a very good job in bringing together these groups. The department, through Peter Buckskin, who has been coordinating on behalf of the government through the cross agencies, has also made a valuable contribution to the assessments and reassessments of what we do with service provisioning within that area. The Minister for Housing has also played a role in putting together service programs within that area.

That agreement will be signed. It does not mean that once the agreement is signed the facilitation of human services stops: it means that greater cooperation that will be required in relation to the funding regimes between ATSIC and the state government will become more formalised. We will certainly monitor the issues associated with the new housing program and the problems of movement of Aboriginal people for traditional, social and human contact purposes in terms of the pressures that are applied on a seasonal basis to a lot of the human services provisioning in the western region.

SEX EDUCATION

The Hon. KATE REYNOLDS: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries, representing the Minister for Education and Children's Services, a question about an alternative sex education program.

Leave granted.

The Hon. KATE REYNOLDS: My office has obtained a copy of a sex education curriculum being taught in some South Australian independent schools by the Research Officer of the Festival of Light (Mrs Roslyn Phillips). I am sure members are already aware that the Festival of Light is a Christian organisation which has been aggressively campaigning to have the Sexual Health and Relationships Education program (known as SHARE), currently being trialled in 15 state high schools, withdrawn by the Department of Education and Children's Services. Mrs Phillips' own outline of the curriculum includes theories about girls having babies because they want a 'cute pet'; highlights the benefits of becoming (are members ready for it?) a 'recycled virgin'; and she describes how she draws freehand what she calls the 'human plumbing system'.

After arguing against the use of condoms and hormonal methods of contraception, natural family planning is promoted, with recommendations that both husband and wife receive training before marriage in the only family planning method approved by the Roman Catholic Church. Mrs Phillips counsels against sex before marriage and shows a 1988 video called 'It's okay to say no', which apparently shows that married couples are happier and experience less domestic violence than do de facto couples.

Mrs Phillips then discusses how students should decide whom to marry. She asks the class to list the qualities they are looking for in a husband or wife (and I suggest that honourable members take note of this), which could include: a sense of humour; sex appeal; lots of money; a good job; good looks; mutual respect; blonde hair; intelligence; being good with children and a good cook; and possessing good table manners.

The Hon. J.M.A. Lensink interjecting:

The Hon. KATE REYNOLDS: I note that the Hon. Michelle Lensink suggests that that is what has been missing in all her former boyfriends. Sadly, Mrs Phillips does not describe details of how she defines sex appeal or how one goes about finding this ideal spouse. But, she does discuss with students why the marriage of Prince Charles and Princess Diana did not work out, and she says—

Members interjecting:

The Hon. KATE REYNOLDS: For those who may have missed that, she discusses why Prince Charles' and Princess Diana's marriage did not work out. She says: Prince Charles' previous affairs would not have helped; and Diana's lying to Charles before their engagement about her likes and dislikes, saying only what she thought he wanted to hear, would not have helped, either.

Mrs Phillips notes that students are curious about homosexuality, and she advises them that genes are not involved (that is g-e-n-e-s, in case any member missed it), although some personality types may be more open to this type of attraction. However, Mrs Phillips offers some explanations for homosexuality such as early family experiences and first intercourse experience, and she explains options to help homosexuals change back to being heterosexuals. She assures students that help is available and directs them to the US-based Exodus International web site.

I understand that a copy of the Phillips curriculum has been provided to the Department of Education and Children's Services, so my questions to the minister are: what is the government's view of the Phillips sex education program; and will the minister be encouraging those state schools that are not yet able to access the SHARE program to take up the Phillips sex education program?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I thank the honourable member for her question. I will refer the question to the minister in another place for her response. The only comment I would make is that the minister has made it clear throughout the debate that it is a matter of parental choice as to whether they make these programs available to their children. That is something that appears to have been overlooked in this discussion. I thank the honourable member for providing advice about alternative schemes to those which we have heard in the past.

PEDESTRIANS

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries, representing the Minister for Emergency Services, questions about walking against red lights.

Leave granted.

The Hon. T.G. CAMERON: I was waiting to cross at the lights at the corner of King William Street and Rundle Street this morning. I was waiting at a red light to cross King William Street. However, the red light did not change. Having walked around the streets of Adelaide, I realised that there was a fire engine coming. Standing there, waiting for the fire engine to go through, I observed a number of things which I found a little disturbing. People were ignoring the red light. You could hear the fire engines' sirens approaching; in fact, you could even see the fire engines. Yet, people continued to scurry across the road against the red light. One individual decided to try his luck and get across with his trolley before the fire engine reached the intersection. The fire engine tooted its horn, he scurried up, they missed each other, and an accident was avoided.

This is a real concern because fire engines, when there is an emergency, are nearly always driven through the streets of Adelaide at fairly high speeds. They go through intersections at fairly high speeds. They are being driven by people who are forced to drive at high speeds, often risking their own lives and the lives of their passengers. The last thing they need is irresponsible pedestrians scurrying across in front of their vehicles as they are on their way to a fire. We can only imagine the consequences if the driver of a fire engine had to take emergency action to avoid hitting someone. He would either have to brake suddenly—risking a collision with the fire engine behind him—hit the pedestrian, or swerve risking other pedestrians. I just cannot believe the irresponsibility of some people. My questions are:

1. During 2002-2003, how many accidents have emergency vehicles been involved in that were a result of pedestrians illegally crossing the road at an intersection?

2. How often does SAPOL monitor city intersections to ensure the fire brigade has a safe passage when attending fires and to curb the rampant jay-walking of pedestrians who ignore red lights on city streets?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I thank the honourable member for his question. I understand his concern with that behaviour. I think we all know that, when there are emergency vehicles, particularly fire engines, travelling through the city, the lights are red for a considerable time to give them a clear passage. Of course, we have all observed people who get impatient and attempt to cross the road against the lights.

I will refer the question to the minister to see whether there are any statistics about it. I will also refer to the minister issues of monitoring and perhaps policing those lights more effectively when they are being used by emergency vehicles. The problem would be that we do not have any advance warning of when there are going to be emergencies. If the police were to monitor they would have to be ready to react to any particular incident. I will refer the question to the minister. I think the point made by the honourable member is a very serious and sensible one and I will see what can be done about it.

STATE ECONOMY

The Hon. D.W. RIDGWAY: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about South Australia's economic performance.

Leave granted.

The Hon. D.W. RIDGWAY: While pursuing the state ALP web site (despite the credit for knowing your enemy going to my honourable colleague the Hon. Angus Redford) I noticed that the Premier made a statement entitled, 'Just the beginning'. He talks about the Adelaide to Darwin railway line and says:

> South Australia has set itself a target to nearly triple the state's annual export income over the coming decade from $9 billion to $25 billion.

Based on my expert mathematical knowledge, this requires a compound rate of 10¾ per cent per annum. This seems to be a courageous target, given that the recent Australian Bureau of Statistics growth rate figures for the state show that the gross product in 2002-03 grew by a miserly 0.1 per cent; and in 2001-02 by 3.4 per cent (downgraded from 3.7 percent). My calculations suggest that $9 billion at a growth rate of 2.5 percent will deliver only $11.5 billion; at 4 per cent (a very healthy and optimistic outlook) it would grow to $13.3 billion; at an outrageous 6 per cent it would be $16.1 billion; and at a probably unbelievable 8 per cent, it would get to only $19.4 billion in the 10-year period. In the 2002-03 financial year, the annual export income fell to $8.3 billion. My questions are:

1. Will the minister disclose how the state set itself a target of $25 billion?

2. Which industries under the minister's responsibilities does he expect will treble their export income in the next 10 years?

3. What programs has the minister put in place to ensure that South Australia's exports treble over the next decade?

4. What indications does the minister have that South Australia is currently meeting the trebling target?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): It is true that the Australian Bureau of Statistics released, for the first time, its estimate for the 2002-03 gross state product. In fact, I was asked a question about this by the Leader of the Opposition several weeks ago. It was a question asked of the Treasurer. I provided several explanations at the time as to why I believe one should treat the figures with caution. If the answer has not yet been received by the Leader of the Opposition, it will be very shortly. It confirms the comments that I made.

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: Well, no; several years ago, as was pointed out, when the Liberals were in power, the figure was set at about half a per cent. It was later upgraded to about 3½ per cent. One has to be very mindful of the fact, as I explained in the answer to my question, that, given the drought—which had a significant impact—the grain industry alone would have taken almost $1 billion off GSP (roughly $40 billion; about 2½ per cent as a rough calculation). It was reported that the GSP growth was estimated at 0.1 per cent in 2002-03. Obviously, the key reason behind that low estimate of GSP was the effect of the drought on agricultural production. I could also mention the SARS epidemic and other events in Asia that impacted on our seafood and other exports.

Even so, that result does appear to be strange given the extremely strong outlook that is provided by many of the other leading indicators. I will list some of the key indicators of the state's economy at the moment. In real terms, state final demand in South Australia has risen by 6.5 per cent over the past year; South Australia's unemployment growth was 3.2 per cent for the year to October 2003; and the state's unemployment rate is 6.1 per cent with an additional

22 000 jobs having been created in the 12 months to 2003 when these figures were compiled. More importantly, private new capital expenditure (business investment) in the June 2003 quarter was 28 per cent higher than in the corresponding quarter of the previous year—an increase of $250 million. Household consumption spending was up by 4.2 per cent, and new motor vehicle sales for the year to September 2003 were up by 14 per cent.

The Australian Bureau of Agriculture and Resource Economics forecasts that the gross value of production for the Australian farm sector—this should give us some measure of what will happen in this state as weather conditions have been fairly similar—will rise by 13 per cent in 2003-04. If one puts those figures together, I think one will get a much better perspective on the state of the economy at the moment.

Regarding the second question, obviously the department has a number of targets. Some of the growth areas within the Department of Primary Industries include: aquaculture, which is a strong and growing industry; the mineral industry; and the food industry, for which there has been an ongoing target for some years. Under the state food plan—which, as I have said before, was begun under the previous government and which we have continued; it was one of the more useful and successful initiatives of the previous government—there are a number of sub-plans such as the dairy plan (which the government has introduced) and others that will underpin growth in those sectors.

An honourable member interjecting:

The Hon. P. HOLLOWAY: Well, the restructuring of the River Murray is partly what this is all about. The honourable member says that there are several things that we need if we are to achieve that sort of export growth, if that is to be sustainable—

The Hon. T.G. CAMERON: I rise on a point of order, Mr President. I am listening intently to the Leader of the Government, but I cannot hear him.

The PRESIDENT: Order! There is no point of order, but there is too much audible conversation which is disrupting the council. The member makes a good point.

The Hon. P. HOLLOWAY: I was perhaps unwisely responding to an interjection about the Murray. I point out that part of the restructuring of the Lower Murray swamps is to improve the productivity of the region, because the only way in which the state can meet its objectives is by increasing productivity. I add in conclusion that one of the key elements of the government's policies is to improve the skills base of our state. That is why we have given priority to education and innovation, because innovation will drive our economic performance over the coming years.

FISHING REGULATIONS

The Hon. R.K. SNEATH: I am disappointed for the minister that I have to ask him a difficult question following the opposition's dorothy dixer. I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about fishing regulations.

Leave granted.

The Hon. R.K. SNEATH: With summer here and with Christmas approaching, more people will be going fishing. Inevitably, this will lead to an increased need for compliance, which is very important to keep fish available for recreational fishermen. My question is: what action has been taken to address the issue of compliance?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I thank the honourable member for his very important question.

Members interjecting:

The Hon. P. HOLLOWAY: Members of the opposition may laugh, but our fish stocks are very important, and it is very important that we preserve them. Referring to the previous question, this is another area in which we need to increase our export performance through value adding, and we can do that for our fishing industry only if we can ensure that we preserve the stocks.

My advice is that, in the lead-up to the summer fishing season, all recreational fishers should do the right thing regarding the bag catch and size limits. There has been a disturbing increase in fishing offences detected by fisheries officers recently. Certainly, I ask all recreational fishers to stick to the rules that apply to recreational fishing, or to face the consequences if they do not do so.

Summer is the peak fishing season, and the numbers of fisheries officers along the metropolitan and nearby coastal areas will be bolstered over this period to encourage anglers to fish responsibly. I also encourage members of the community to report any suspected illegal fishing activity to the Fish Watch number, which is 1800 065 522. Calls to this number result in illegal fishers being apprehended and successfully prosecuted, and there have been a number of cases recently.

Some of the reports include: a man was apprehended at Port Gawler, north of Adelaide, in possession of 228 blue swimmer crabs, which is well over the bag limit of 40. Of the 228 crabs seized, 227 were undersized. Two men fishing at Port Gawler were fined $320 each for being over the bag limit and in possession of undersized blue swimmer crabs. A man was fined $110 for fishing in the Aldinga aquatic reserve, and fisheries officers, responding to a call to Fish Watch, apprehended two men using a fish net in the Onkaparinga River, which is an area closed to netting.

I encourage people to enjoy the benefits that recreational fishing offers. However, rules are associated with this pursuit, and those who choose to break them will be prosecuted. Information regarding fishing rules is readily available from the PIRSA web site, or from the 24-hour, seven-day a week Fish Watch hotline on the number I have already given, or from fisheries officers and Fish Care volunteers. In the coming season, I hope that recreational fishers enjoy their pursuit but also ensure that stocks are protected for future generations by observing the guidelines.

The Hon. A.J. REDFORD: I have a supplementary question. Given that answer, my question to the minister is: has there been an increase in the number of detected offences and convictions over the last two years? That is probably a harder question than the honourable member's, but I would not want to be—

The PRESIDENT: We do not need commentary.

The Hon. P. HOLLOWAY: Commensurate with the increase in the number of fisheries compliance officers since 2001, one can expect that there has been an increase. I do not have the figures in relation to the success of the prosecutions, although I have indicated in answers to questions in this place earlier this year that the department is certainly looking at means of increasing its success rate in relation to launching prosecutions. Of course, a review of all fisheries legislation and regulations is very important because, as we found with a case upon which I commented in an answer about abalone

earlier this year, sometimes it is very difficult to achieve convictions under some of those regulations. That has been part of—

The Hon. A.J. Redford: The review.

The Hon. P. HOLLOWAY: Well, it has been part of the Fisheries Act review, but it has also been part of the armoury the department is using to try to ensure that people are detected. Certainly, as I say, there have been a number of recent reports and high profile cases, which appears to indicate that we do need to increase our effort, and we will do that over summer. I will try to get some long-term figures for the honourable member that will better answer his question.

The Hon. J.F. STEFANI: As a supplementary question, given the reported depletion of the King George whiting stocks, will the minister advise the council what he knows about the research being undertaken by the Playford Memorial Trust in relation to the breeding of King George whiting?

The Hon. P. HOLLOWAY: I did answer a question the other day in relation to the depletion of the King George whiting stocks. I think that the research work done by the Playford trust has been largely related to the breeding cycle of King George whiting. I know that if one goes down to SARDI aquatic at West Beach one can see King George whiting, which have been successfully bred from fish taken from the wild, swimming around in the tanks. The problem is that, as far as aquaculture is concerned, whiting, although it is a highly sought after fish, are relatively slow growing. They take a number of years to reach maturity relative to a species such as kingfish, which is the preferred species for aquaculture. Kingfish can reach maturity within a much shorter time frame and therefore, obviously,—

The Hon. T.G. Cameron: It means more money.

The Hon. P. HOLLOWAY: Well, it is viable, and that is the point. So, notwithstanding that King George whiting, as a product, would be worth more, the fact that it takes so much longer to breed successfully is, obviously, an impediment. It is my understanding that more work is being undertaken and that the research work of the Playford group has been useful in terms of the knowledge that it provides. I will see whether I can get some more information for the honourable member.

The Hon. T.J. STEPHENS: As a supplementary question, given that he has a history of providing compliance officers but no boats, will the minister tell the council whether he has rectified the situation and is serious about fishery compliance over the Christmas period?

The Hon. P. HOLLOWAY: In fact, the Whyalla compliance officers did have a small boat; they did have access to a boat. I can inform the honourable member, because I have asked regular questions in relation to this matter, that a purchase order has been recommended for a replacement boat. There is a somewhat longer lead time in relation to the completion of that boat than I would like. A significant amount of money is involved with respect to boats that are suitable for that work. They are worth something between $50 000 and $100 000.

The boats that are suitable for this type of work are not cheap, but I am pleased that a boat has been on order for some time and, hopefully, it will be available in the new year. However, in the meantime, that Whyalla group has access to trailer boats that are available from other parts of the fisheries network.

CLIMATE CHANGE

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Minister for Aboriginal Affairs, representing the Minister for Environment and Conservation, a question about action on climate change.

Leave granted.

The Hon. SANDRA KANCK: I regularly receive emails from a group called International Trade Strategies Pty Ltd. The emails are called 'Climate change backgrounder'. This group pours scorn on scientific arguments which show that the world is experiencing rapid climate change. They prefer instead to take the advice they can buy from flat-earth scientists. They clearly do not want to see Australia meet its moral and environmental obligations by signing the Kyoto Protocol. I note favourably the statements of the minister for environment that the South Australian government believes that the protocol should be signed.

The principal item in *Climate Change Backgrounder* issue No. 7 was an article with the title, 'Regulating CO_2—why states shouldn't go it alone', in which the claim is made that 'uncoordinated measures are costly', although they fail to back this claim. I sent a copy of the backgrounder to friends in the environment movement and received an email back, which states in part:

> My take on this is that the Howard government's 'energy and greenhouse' policy is—up to 2012: no need to do anything. A generous target and stopping land clearing means no need to reform the energy sector. After 2030: no need to do anything. Geosequestration will fix everything. No need to reform the energy sector. This leaves the 'problem' of what to do between 2013 and 2030.

There had been a proposal before the federal government for an emissions trading scheme, but the big greenhouse polluters have successfully lobbied to prevent that happening. The following observation was also made in the email that I received from people in the conservation movement:

> The lobbyists for the major greenhouse polluters now feel like they have successfully headed off the risk that the Howard government might actually announce a greenhouse policy for the 2013 to 2030 period. They now realise that the next risk is that the states might actually introduce a policy that would drive some change in the energy sector.

New South Wales has initiated state wide emission trading permits, and Victoria is looking at it and has also considered setting in place a target of 10 per cent renewables in electricity generation into its own power grid. My questions are:

1. Does the minister believe that geosequestration is an adequate substitute for a comprehensive policy to limit greenhouse gas emissions?

2. Given that the federal government is not prepared to take action to reform the energy sector, is the state government prepared to take action?

3. Given the minister's statement to parliament on 14 October about the prospect of hotter weather and more heat-related deaths, increased flooding, increased drought and damage to biodiversity, what recommendations will the minister be taking to the next meeting of the environment ministers council in April 2004 for reform of the energy sector?

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

CHILD ABUSE

The Hon. A.L. EVANS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Attorney-General, a question about the investigation of child abuse.

Leave granted.

The Hon. A.L. EVANS: Yesterday I asked the Minister for Social Justice a number of questions concerning the deaths of 10 children while they were in the care of the Department of Family and Youth Services between 1998 and 2002. I also understand that another five deaths have occurred since March 2002, and that these deaths are now being investigated by FAYS. In an article that appeared in *The Sunday Mail* of 30 November 2003, it was reported that prosecutions had occurred in some of the child death cases. My questions are:

1. Will the Attorney-General advise of the current status of any of the cases currently being prosecuted?

2. Will the Attorney-General advise whether there is a strong possibility of any further prosecutions other than those currently being pursued?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I will refer that question to the Attorney-General and bring back a response. In relation to the first question, I think the honourable member asked for details of cases that were currently being prosecuted. The amount of information that can be given in relation to that obviously would be relatively limited, given that those matters are before the court. But I will see what information can be provided and bring back a response for the honourable member.

The Hon. KATE REYNOLDS: As a supplementary question, given the increasing community concern about this issue and the nature of some of the recommendations in the Layton report, can the Attorney-General advise when the government will release its response to the Layton report?

The Hon. P. HOLLOWAY: I will pass that question on to the Attorney and bring back a reply. However, the government has already indicated a number of initiatives it has taken to improve resources in this area and deal with the matter. Significant resources have been set aside to try to address what has been many years of neglect in this area. Obviously, there will be more to come, and there needs to be more to come.

REPLIES TO QUESTIONS

GRAIN CROPS

In reply to **Hon. T.J. STEPHENS** (12 November).

The Hon. P. HOLLOWAY: The Minister for Infrastructure has provided the following information in response to Hon. T.J. Stephens' supplementary question:

The Government regards the development of Outer Harbor, the State's key export/import port, as an infrastructure project of the highest priority for this State.

The development of Outer Harbor has many elements, including the Port River Expressway and the deep-sea grain port and the Government is quite rightly devoting a great deal of effort to ensuring all aspects are coordinated and undertaken properly.

Unfortunately, this has involved the time consuming task of correcting the mistakes of the former Government, such as the need to abandon the flawed PPP delivery scheme.

The Minister for Infrastructure has overall responsibility for the project but works closely with other relevant Ministers, including the Minister for Agriculture, Food and Fisheries and the Minister for Transport, to ensure the project is delivered in the best way possible for the State.

In reply to **Hon. CAROLINE SCHAEFER** (12 November).

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

1. As I have explained in a Ministerial Statement to the House of Assembly on 13 November 2003, the Government and most stakeholders have been aware for many months that the completion time for the Port River Expressway is 2006. This is a departure from the former Government's timetable for very sound reasons.

Earlier this year it became apparent to the Government that the financing model proposed by the former Government was seriously flawed. It was necessary to abandon the model and devise a new one. This resulted in the need to create a public non-financial corporation, the details of which appear in this year's budget papers.

This has been known for some time. The timetable for the new form of procurement has been understood for some time and the only substantial delay for the project was the need to abandon the flawed PPP scheme of the former Government.

2. The parties that have contracted with the Government are the grain handler, AusBulk Ltd, and the port operator, Flinders Ports. Both of these parties have known for some time about the 2006 timetable for the Port River bridges.

The 2006 timing of the bridges will not compromise the contracts between the Government and AusBulk and the Government and Flinders Ports and will therefore not result in any compensation claims by these parties against the Government.

3. As I have already indicated the only substantial delay for the project was the need to abandon the flawed PPP scheme of the former Government.

In reply to **Hon. R.D. LAWSON** (12 November).

The Hon. P. HOLLOWAY: The Minister for Infrastructure has provided the following information in response to the Hon. R.D. Lawson's supplementary question:

The timetable is for construction of the bridges to commence in late 2004 with completion of the rail bridge in mid 2006 and the road bridge later in the second half of 2006.

In reply to **Hon. A.J. REDFORD** (12 November).

The Hon. P. HOLLOWAY: The Minister for Infrastructure has provided the following information in response to the Hon. A.J. Redford's supplementary question:

The timetable is for the rail bridge to be completed by mid 2006 and the road bridge to be completed later in the second half of 2006.

As the road bridge is to be constructed over the existing freight line it is necessary to complete the rail bridge and link the new track to the existing freight line prior to completing the road bridge.

In response to Hon A.J. Redford's further supplementary question:

The Hon. P. HOLLOWAY: The timetable is for construction of the bridges to commence in late 2004.

In reply to **Hon. J.S.L. DAWKINS** (12 November).

The Hon. P. HOLLOWAY: The Minister for Infrastructure has provided the following information in response to the Hon. J.S.L. Dawkin's supplementary question:

The Office for Infrastructure Development, along with Transport SA, meets regularly with representatives of the grain industry, in particular AusBulk Ltd, and also with the port operator, Flinders Ports, with respect to the proposed deep-sea grain port development at Outer Harbor.

Regular updates on the progress of the Port River Expressway, including the bridges, are provided at those meetings.

The Grains Council of the South Australian Farmers Federation is also kept informed of progress through briefings provided by the Office for Infrastructure Development.

In addition, I have met from time to time with some of the key stakeholders including the South Australian Farmers Federation to discuss the deep-sea grain port and the Port River Expressway.

AUDITOR-GENERAL'S REPORT

In reply to **Hon. KATE REYNOLDS** (12 November).

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

1. I am advised that the Department of Education and Children's Services is not aware of any payments being made to non-bona fide employees.

2. The Auditor-General's comments relates to his check of process rather than any discrepancies being found. To address the matter of process regarding payments to bona fide employees, my department has delivered training. All payroll officers have recently undertaken training in respect of the processing and checking of bona fide certificate reports to ensure that all those officers understand the department's obligations in this area. I understand that this was further reinforced with payroll supervisors.

Secondly to address the matter of process to ensure that only authorised data has been processed, the Auspay payroll system, which is an old system, is being replaced.

3. There is no evidence, of which my department is aware, to indicate that unauthorised data has been processed.

TRANSPORT MINISTER, COMPUTER

In reply to **Hon. D.W. RIDGWAY** (24 September).

The Hon. T.G. ROBERTS: The Minister for Transport has provided the following information:

1. This matter has been investigated and no factual basis for it has been found.

2. With regard to computer equipment provided to the Minister for Transport by the Parliamentary Network Support Group (PNSG), it is the practice of the PNSG to dispose of surplus equipment without a hard disc—hard discs are removed, physically destroyed and disposed of (incinerated) through a confidential waste management agency. Further, the previous Laptop that the Minister for Transport used, which was upgraded along with those of all other members by PNSG, is still physically in PNSG's possession.

3. In respect of equipment issued to the Minister for Transport by his Department, the standard practice for equipment is for the disks to be physically destroyed.

Further, the standard practice for faulty disks is for them to be destroyed rather than replaced under warranty.

Asset System records indicate four PCs have been marked to the Minister for Transport over time. One is currently in the Minister's Office, one is currently at his home, another was upgraded and reallocated to a staff member within his Office and remains there. Another was the previous Minister's and the PC was reused within the Agency, after appropriate wiping of the disc.

In reply to **Hon. CAROLINE SCHAEFER** (24 September).

The Hon. T.G. ROBERTS: the Minister for Transport has advised the following:

Transport PCs are procured via the Whole of Government Panel Contract and the majority are leased via a financial arrangement. Upon completion of leases, equipment is wiped of information and returned to the owning lease company. Non-leased equipment is normally disposed of via the existing Whole of Government Smart PC Donation program, with 'non-functional' and 'under-specification' (older) equipment salvaged after being wiped of information.

MEN'S HEALTH

In reply to **Hon. T.G. CAMERON** (20 October).

The Hon. T.G. ROBERTS: The Minister for Health has provided the following information:

1. Medical research has traditionally focused on diagnostic groups rather than gender. In the recent past there was an increasing focus on women's health issues and now more effort is being made in the area of men's health. Nevertheless, many projects of interest to men's health are funded as part of a diagnostic group, prostate cancer being one example.

The vast majority of medical research in Australia is managed and funded through the National Health and Medical Research Council (NHMRC), a national body with Professor Brendon Kearney as the South Australian representative. The NHMRC funds specific research according to established guidelines. State government expenditure on health research is limited because of the existence of NHMRC and the nature of other medical research funding through research institutions. The State government supports and encourages collaborations between South Australian hospitals and universities for health and medical research.

It is difficult to identify the exact funding amount provided to both men and women's health research across the Department of Human Services (DHS), as most of the funding provided to these areas is used for evaluation of health programs and services, or to conduct consultations. Additionally, health is often incorporated into a study as a sub-topic and does not form the primary focus of the research.

DHS is pleased to be a partner involved in a joint initiative with the University of Adelaide and the Royal Adelaide Hospital to study the health of men in north-western Adelaide. This important study will address a wide range of men's health issues and will influence the future planning and delivery of men's health care and policy formation in South Australia.

Projects such as the North-West Adelaide Health Study and the SA Burden of Disease Study enable specific data to be collected about the health status of both men and women. These general projects allow data on both genders to be collected and analysed. These results provide important information about the South Australian community and the issues faced by both men and women in relation to their health. For example, the prevalence amongst men of chronic illnesses, such as cardiovascular disease, hypertension and diabetes means that medical research necessarily takes account of issues for men.

DHS is aware of a number of health research projects addressing men's health, including:

- the 'Health in Men' (HIM) project currently being run by the Health Promotion unit of the Royal Adelaide Hospital;
- The AIDS Council of SA research being undertaken through the Gay Men's Health Project;
- The HIV/AIDS, Hepatitis C And Related Programs (HARP) biennial survey of gay and homosexually active men;
- Clinic 275 research into the prevalence and extent of sexually transmitted disease;
- Research by the O'Brien Street GP practice, through the DHS funded Care and Prevention Project, into depression and psychosocial issues for men.

Specific examples of pieces of work funded through the DHS Men's Health and Wellbeing Program and focusing on men's health which began in the 2002-03 period include:

- a consultation in the northern metropolitan region with gay and bisexual men to determine their specific health needs. This project received $29 000, and is being completed by the Northern Women's Community Health Centre, who had previously established links with the gay and bisexual community in the northern metropolitan region;
- a study being conducted by the Adelaide Central Community Health Service into 'blue collar' men and men from culturally diverse backgrounds to determine their health needs and required services. This received $30 000 funding; and
- significant funding provided in the southern region to a project team responsible for conducting consultations with Aboriginal men and boys to discuss their specific health needs and ways in which the services in the community could be improved.

A lot of the work in the area of men's health is completed by community health services, using action/research approaches as distinct from clinical trials. However, it is difficult to track and cost these activities because they form part of the everyday responsibility of the community health services. For example, Noarlunga Health Services has evaluated the effectiveness of domestic violence groups for men and groups for fathers.

Social Environment Risk Context Information System (SERCIS) surveys conducted by DHS also provide important information relating to the health status of men and women in South Australia, with particular components of surveys focusing on the health of men and/or women.

2. Prostate cancer research is on-going. Issues of sensitivity, specificity and management are being determined by clinical trials in South Australia and elsewhere. It is important that approaches to dealing with prostate cancer are co-ordinated and promoted nationally, and this is the responsibility of the Commonwealth government. In July 2003 the NHMRC provided $2.5 million for research into the prevention of common diseases, including prostate cancer. This research is being undertaken by a team from the University of Tasmania. Significant long term clinical research trials are currently being carried out in Europe and internationally. The results of these trials will inform future programs to address prostate cancer and there is little benefit in the State government duplicating these trials.

The issue of tests and screening for prostate cancer is controversial, and is frequently raised by men and some health professionals. Current Australian guidelines recommend against routine prostate cancer screening, primarily due to the lack of evidence of

benefit. Use of the Prostate-Specific Antigen (PSA) test for prostate cancer screening has not yet been shown to lead to improvements in mortality from prostate cancer.

Screening can find prostate cancer before it spreads. However, many more men have small, slow growing prostate cancers than have deadly ones. Treating these "harmless" cancers offers no benefit, but can be costly both in economic terms and in side effects and complications. Furthermore, there is no sure way to tell one from the other before surgery. Thus, we could cause more harm in treating several men whose cancer never would have hurt them than we would prevent in curing one man whose cancer would have. There is no clear medical evidence base that a population based screening program would confer similar benefits to all men. The evidence to support population-based screening for prostate cancer is being assessed.

3. I am committed to better health for men, as I am for all South Australians.

Even though men generally have poorer physical and mental health in some areas, it is important to acknowledge that the majority of men's health status is equivalent to women's. However, particular groups of men have significantly poorer health outcomes, e.g. Indigenous men, homeless men, disabled men, male prisoners and men living in poverty. Future research, from a population health perspective addressing the social determinants of health, is required to address associated issues of men's health and wellbeing. The Generational Health Review and Primary Health Care Policy both reflect the government's commitment to this approach.

A recent communiqué from the Fifth National Men's and Boy's Health Conference held in Cairns in September 2003, states 'that initiatives must not support the promotion of one gender at the expense of the other and that it is necessary to recognise partnerships in dealing with the complexities of men's and women's health'.

SOCIAL POLICY COUNCIL

In reply to **Hon. KATE REYNOLDS** (15 September).

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

1. The Government provided its response to the Social Development Committee's Poverty Inquiry Report and tabled the response in Parliament on Monday 10 November 2003.

2. The Government has set up the Social Inclusion Board in order to address pressing social issues and at this stage does not intend to establish a social policy council.

In undertaking its role, the Social Inclusion Board provides expert advice to the government on social policy issues, potential policy directions and strategies for dealing with the causes of social exclusion.

3. The Government's Social Inclusion Initiative recognises that issues such as poverty, poor health, low educational attainment, unemployment, problem drug use and homelessness are all interconnected and their causes usually stem from social exclusion. Therefore the Government is committed to establishing innovative, whole of Government, joined up programs in partnership with the community in order to effectively address social exclusion.

Further, the Social Inclusion Initiative, together with the work of the Economic Development Board, the Science and Research Council and the proposed Sustainability Roundtable is part of a whole of Government drive to make a decisive impact on poverty and social exclusion in South Australia.

Specifically in relation to the Social Development Committee's Poverty Inquiry Report, the Government's response demonstrates its commitment to addressing the issues of poverty in South Australia. In respect to almost every recommendation the Government has been able to report on plans or strategies that are in place or planned to address the issues identified.

BABIES, PREMATURE

In reply to **Hon. J.M.A. LENSINK** (22 October).

The Hon. T.G. ROBERTS: The Minister for Health has provided the following information:

1. The Pregnancy Outcome Unit reported a 15 per cent increase in the number of premature births over the fifteen-year period 1986—2001, where a pre-term baby is one less than 37 completed weeks of gestation.

Health issues facing premature babies include lung immaturity, bleeding in the brain and infection, but most babies escape experiencing long-term complications of these conditions.

An equipment allowance is included in the budget provided to every public hospital. Each hospital decides how to allocate their equipment funds based on priority for clinical need and replacement of inferior/superseded equipment.

In addition to the equipment allowance to individual hospitals, the DHS Medical Equipment Program provides a centrally funded annual program for purchasing major or particularly expensive pieces of equipment (eg. a neonatal cot or ventilator, with the most recent style of ventilator costing $48 000). Hospitals place bids for items late each calendar year for the next financial year. Each hospital prioritises their item/s against a common scale. Most priority 1 and 2 items are purchased, for example a $172 000 neonatal unit monitoring system has just recently been approved for Flinders Medical Centre.

2. There is an Australia-wide shortage of neonatologists and registrars relative to current and projected staffing demands. The high workload and lower remuneration than private practice, are disincentives for working in the public hospital system.

A new Enterprise Agreement for salaried medical practitioners has recently been agreed with the SA Medical Officers Association and is subject to approval in the SA Industrial Relations Commission. The increased remuneration coupled with some improvements in work conditions (eg. special teaching and research opportunities) in the new Agreement will go some way to attracting more trainees to highly specialised medical areas such as neonatology.

There is also an Australia-wide shortage of midwives. The DHS has developed The South Australian Nursing & Midwifery Recruitment and Retention Strategic Directions Plan 2002-05 and established a Midwifery Advisory Committee to address the recommendations from the plan. The Committee will be reviewing all issues related to midwifery, including workforce issues and links to nurse practitioners.

3. The projected increase in premature births should be considered within the context of the declining birthrate in South Australia. Pregnancy Outcome Unit data for the five calendar years 1997 to 2001 show that the number of births in SA has decreased by 970 or 5.2 per cent (from 18 674 in 1997 to 17 704 in 2001).

Planning for neonatal beds is based on the projected births in South Australia and those from towns/cities in the border areas generating inflows to SA. The two Level 3 Neonatal Intensive Care Units (NICUs), located at the Women's and Children's Hospital (WCH) and at Flinders Medical Centre (FMC), cater for the whole of South Australia including receiving premature babies from private hospitals.

The 1999 Metropolitan Clinical Services Planning Study review of obstetric and neonatal services in South Australia reported the projected neonatal bed requirement for 2006, with estimated projected births of 18 270 for SA, to be 26 Level 3 NICU cots. There are 28 beds currently available. It is worth noting that the 2001 actual birthrate for SA (17 704 births) was already less than the projected number for 2006 (18 270).

The estimated number of Level 2 cots (high and low dependency) required in metropolitan hospitals, including cots in private hospitals, in 2006 is around 60, assuming a 30 per cent inflow from rural areas. Level 2 high and low dependency care is provided at the WCH, FMC and the Lyell McEwin Health Service.

Currently there are 83 Level 2 cots in the public hospital system. These cots are of world class standard for neonatal care. There are sufficient to cater for the projected increase in premature births and the often lengthy stay of pre-term babies.

4. Hospitals have a number of strategies to assist parents of premature babies, not all of whom have complications following their birth. The gestational age of the baby is a significant factor in terms of complications, with babies born after 31 weeks having a 95 per cent survival rate and fewer complications.

At both FMC and the WCH, parents of premature babies are able to speak with a doctor every day, if they wish, in relation to the care of their baby. The primary nurse caring for an individual baby is also able to discuss with parents the care, treatment and management of their baby. A hospital social worker is available to work closely with NICU staff and parents, as needed.

FMC has a Parent Support Group for parents of premature babies that meets fortnightly. Clinicians (speech therapist, physiotherapist) attend this group to provide information to parents on how to care for and manage their baby after they go home. Parents of children who were premature also attend the group to share their experiences with new parents and to talk about the strategies they used in coping with their premature baby.

At the WCH, the social worker sees all mothers of premature babies and formally meets with parents once a week. The Growth Development Coordinator (audit program) follows up the baby's progress after discharge from hospital, with the child's growth and development being followed for seven years. There are weekly coffee mornings for parents of premature babies which provide information and education. Parents have access to other clinicians involved in their baby's care, for example the physiotherapist, mental heath worker and speech therapist.

STATUTES AMENDMENT (INTERVENTION PROGRAMS AND SENTENCING PROCEDURES) BILL

Second reading.

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): 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.

This is a Bill to provide a formal statutory backing for two practices that have developed in the courts. One is the practice of directing defendants to undertake programs of intervention that help them take responsibility for the underlying causes of their criminal behaviour. The other is the use of sentencing conferences in sentencing Aboriginal defendants.

The legislative framework for these practices is to be provided by amendments to the *Bail Act 1985*, the *Criminal Law (Sentencing) Act 1988*, the *District Court Act 1991*, the Magistrates *Court Act 1991* and the *Supreme Court Act 1935*.

The previous Government consulted on legislative models for these practices in 2001. The people consulted included the Solicitor-General, the Chief Justice, the Chief Magistrate, the DPP, the Department of Correctional Services, the Department of Human Services, the Attorney-General's Department, the Courts Administration Authority, and the Magistrates who work in courts that use the practices. There was unanimous support for the practices and their need for a statutory basis.

I have continued to consult with the Minister for Police, the Minister for Health, the Minister for Social Justice, the Minister for Aboriginal Affairs and Reconciliation, Regional Affairs, and Correctional Services, the DPP, the State Courts Administrator, the Chief Magistrate and some individual magistrates, and with those responsible in the Attorney-General's Department for the establishment and the operation of the various programs.

I will speak first about intervention programs.

Intervention programs

In appropriate cases, the Magistrates Court will arrange for a defendant to be assessed for and, if suitable, to undertake a program of intervention (sometimes called diversion). This is an intensive program of treatment or rehabilitation or behaviour management designed to help the defendant deal with the underlying causes of his or her criminal behaviour.

There are presently three programs used by the court—the Drug Court Program, the Magistrates Court Diversion Program (dealing with mental impairment), and the Violence Intervention Program.

In the words of Justice Gray in the South Australian Court of Criminal Appeal decision of R v McMillan (2002) 81 SASR 540:

> The coordination of [these] programs requires a range of expertise. The programs are undertaken in conjunction with government agencies and non-government professionals. Ideally all involved work together towards a common purpose—to address the specific needs of the individual and achieve a result which benefits not only them but provides protection for the community from further offending.

The justice and human services systems have developed the programs collaboratively. The programs do not divert people away from the courts, like the shop-theft program and the police drug-diversion program. They are court-directed programs under which criminal proceedings, already begun, are held over while the person undertakes treatment or rehabilitation or is connected with appropriate support services. The programs are rigorous and demand considerable commitment from the participant. An order to undertake a program is usually made as part of a bail agreement before trial or sentence. Satisfactory progress in a program will be reflected in the sentence.

The kind of treatment and rehabilitation offered in a program will depend on the circumstances of the defendant and the scope of the program. For a drug-addicted defendant the program will usually include detoxification and urinalysis. For a defendant whose offending takes place in a situation of family violence, there is a range of behaviour management therapies. For some defendants, particularly those with a combination of behavioural problems, the program may include managed intervention other than treatment or rehabilitation in the strict sense—for example help in obtaining supervised lodging or acquiring independent living skills.

The Bill does not establish particular intervention programs or set guidelines for the approval or delivery of programs, this being the function of executive government. It is the government, not the courts, that should decide what, if any, programs it will provide, and how these programs should be accredited and funded.

The legal framework

The Bill provides a legal framework within which the courts may direct eligible defendants into whatever suitable programs exist at the time and take account of their progress. In doing so it does not create a separate intervention jurisdiction in any court, nor confine the authority to make an intervention order to any one court.

It is true that intervention is usually offered in Magistrates Courts, because it is here that a defendant first comes into contact with the court system. But the Bill does not preclude a higher court ordering and supervising intervention (other than mental impairment intervention, and I will explain this later) if the infrastructure is in place and such orders are appropriate for a particular defendant.

At present, only a few selected Magistrates Courts offer intervention. This means it is not available to every eligible defendant. The Bill makes intervention possible, ultimately, for all eligible defendants by allowing intervention to be arranged by any criminal court. But it does not create a legal entitlement to intervention, because it makes the court's ability to order intervention subject not only to the eligibility of the defendant but to program services being available at a suitable place and time. The Government of the day, not the courts, will determine how many eligible defendants have access to intervention by deciding how and where programs will be offered. The Bill does not confine the intervention to one cause of a defendant's criminal behaviour, even though this is the practice now. At present, each program deals with a single cause of criminal behaviour, and only a specially designated court may direct a defendant to undertake that program. The court making the intervention order does not assess for or direct defendants into more than one kind of intervention, such as mental impairment as well as family violence intervention, even though this may be suitable. The Bill will allow but not compel a court to approve a defendant's participation in a combination of separate programs or in a program that combines more than one kind of intervention. A court's ability to make such an order will of course depend on whether the necessary assessment and intervention services are available to it.

Another important feature of the Bill is that a person's legal rights and access to intervention options are determined by a judicial officer, while the programs themselves are administered and delivered by non-judicial officers under the direction of the court. The court determines a defendant's compliance with an order to be assessed for or to undertake an intervention program.

The Bill gives the court the ability to include as a condition of bail or of a bond a requirement that the defendant be assessed for or undertake an intervention program. It may defer sentence to enable a defendant to be assessed for or undertake a program, or pending the defendant's completion of a program.

When determining sentence, the court may take a defendant's participation and achievements in an intervention program into account. Equally, it is important not to deter people from undertaking intervention by penalising them for failing in their attempt. There is a strong public interest in maintaining an incentive for people who come before the court to overcome the underlying causes of their criminal behaviour, because the programs themselves are rigorous and demanding. Without specific provision for sentence credit for participation in a program, there may be challenges to disparate sentences given to co-offenders or to different offenders charged

with like offences on the basis of participation. Without specific provision that not participating in or not having the opportunity to participate in an intervention program is not relevant to sentence, defendants may claim that it is unfair for their sentence to be higher than that of an equally culpable co-offender who has undertaken an intervention program. This is consistent with the principles in section 10 of the *Criminal Law (Sentencing) Act.* It is particularly important in reinforcing that the Bill does not create an entitlement to intervention nor oblige courts to offer it, and that the Bill is not intended to change sentencing principles about the weight to be given to the rehabilitation of offenders.

Of course, if a person fails to meet the requirements of a program, this will be reported to the court. The court may treat it as a breach of bail or of a bond, but has the discretion not to do so in appropriate circumstances, for example when all that may be necessary to ensure a defendant's continuing participation is an adjustment to program conditions and a warning from the court.

A court may make an order for intervention only if the defendant agrees to it. The court must also be satisfied that the defendant is eligible for the services offered by the program and that the services necessary to deliver the program to the defendant are available at a suitable time and place. This is important because, although the legislation will generally allow any court to order intervention, intervention programs are not now available through all courts.

The person advising the court about a defendant's eligibility for a program and the availability of services will be the intervention program manager, a person employed by the Courts Administration Authority to coordinate the orders of the court with the delivery of program services to defendants and to have oversight of all intervention programs. He or she will also let the court know when a person has not met the requirements of a program.

I now turn to some specific provisions within this general framework.

Deferral of sentence

The first is the proposed section 19B of the *Criminal Law (Sentencing) Act*. This clause allows a court to adjourn proceedings after finding a person guilty and release the defendant on bail before determining sentence. The purpose is to assess the defendant's prospects for rehabilitation, or allow the defendant to demonstrate that rehabilitation has taken place, or arrange for the defendant to be assessed for or undertake an intervention program. This kind of procedure is known as a Griffiths remand, and is used routinely by the Drug Court. When proceedings resume on a specified date set, as a general rule, no later than 12 months after the finding of guilt, the court may take into account the defendant's rehabilitation during the adjournment when determining sentence.

Because an intervention program may last longer than 12 months, the Bill allows a court to defer sentence for longer than 12 months if satisfied that the defendant's participation or agreement to participate in an intervention program has shown a commitment to deal with the problems out of which his or her offending arose, and if satisfied also that unless proceedings are further adjourned the defendant cannot complete or participate in the program and his or her rehabilitation will be prejudiced.

Mental impairment

The Bill contains some special provisions about mental impairment. For the purposes of intervention, a person's mental impairment is such as to explain and extenuate, at least to some extent, the conduct that forms the subject matter of the offence. It is a less serious level of mental impairment than that to which Part 8A of the *Criminal Law Consolidation Act* applies. Part 8A establishes procedures for determining whether a mental impairment renders a person mentally unfit to stand trial or mentally incompetent to commit an offence. By contrast, intervention is not offered to people who are intending to contest the charge on any ground, including mental impairment.

An admission of guilt is not a pre-requisite for a court ordering mental impairment intervention (or any other form of intervention, for that matter). It could not be so in the case of mental impairment without a test of the defendant's mental capacity to admit or deny guilt (fitness to plead) under Part 8 of the *Criminal Law Consolidation Act* also having to be a pre-requisite. This would make the process of intervention unduly cumbersome and capable of manipulation, and defeat its purpose—to help minor offenders (often those who have been de-institutionalised and have no-one supervising their medication or activities) to keep out of trouble.

To emphasise this, the Bill limits the court's powers of dismissal and release under the mental impairment provisions to summary offences or minor indictable offences, and allows these powers to be exercised only by the Magistrates Court or the Youth Court or a court prescribed by regulation. Such a court may, if it finds a mentally impaired defendant guilty of a summary or minor indictable offence, release him or her without conviction or penalty or dismiss the charge in certain circumstances. This provision has been included at the instance of the magistrates who preside over mental impairment intervention. They say that without such authority, they have no option but to make a formal finding of guilt where police have not withdrawn charges. In some cases that finding may carry with it criminal sanctions that will negate valuable progress made by the defendant in learning to live independently and responsibly and to have regular and reliable access to medical and other support services.

Of course, a mentally impaired person who undertakes an intervention program will not automatically be released without conviction or penalty, or have charges against him or her dismissed. For a start, not all mentally-impaired defendants are eligible for intervention (there being criteria for entry to the mental impairment intervention program that bar violent or repeat offenders), and of those who are eligible, not all will qualify for consideration for release or dismissal of the charge.

Before releasing the defendant or dismissing charges against him or her, the court must be satisfied that the defendant understands that he or she has a mental impairment, understands that it affects his or her behaviour, and has made a conscientious effort to address this by completing or participating to a satisfactory extent in an intervention program.

The court must also be satisfied that the release or dismissal of the charge will not endanger the safety of a particular person or the public. It may not dismiss charges if this would have the effect of denying a victim compensation by the defendant under the *Criminal Law (Sentencing) Act*.

A victim who suffers personal injury as a result of conduct the subject of a charge dismissed under this part of the Bill is in the same legal position in making a claim against the Crown for compensation for criminal injuries as a victim of the actions of a non-impaired person against whom charges are not proceeded with or are dismissed for any other reason. The Bill makes no special provision for this.

There is another option available to the court before it decides whether to dismiss charges against a mentally impaired defendant. If the defendant has begun but not yet completed an intervention program the court may release him or her on an undertaking to complete the program. The defendant must come back to court after completing the program, or if he or she fails to complete it, so that the court can decide whether to dismiss the charge in the way I have described, or whether to make a finding of guilt and proceed on that basis. If there is a finding of guilt, the court has a number of options. It may release the defendant without conviction or penalty under clause 19C(1) of the Bill or proceed under other provisions of the *Criminal Law (Sentencing) Act* that come into operation after a finding of guilt (like placing the defendant on a bond) or defer sentence under clause 19B of the Bill to assess the defendant's prospects of rehabilitation.

Accessibility of evidence

The Bill also amends the *Magistrates Court Act*, the *District Court Act* and the *Supreme Court Act* so that reports prepared to help the court determine a person's eligibility for or progress in an intervention program may only be inspected by the public with the permission of the court. These reports are part of the court record and are taken and received in open court. But they should not be available freely to the public, because they are relevant neither to guilt, nor, necessarily, to sentence.

Aboriginal sentencing procedures

I now turn to the other court practice for which this Bill provides a legislative backing. The Magistrates Court has for some time used culturally-appropriate conferencing techniques when sentencing Aboriginal offenders. These techniques are designed to promote an understanding of the consequences of criminal behaviour in the defendant, an understanding of cultural and societal influences in the court, and thereby to make the punishment more effective.

The Bill formalises this process. It allows any criminal court (not just the Magistrates Court), with the defendant's consent, to convene a sentencing conference and to take into consideration the views expressed at the conference. The conference must comprise the defendant (or if the defendant is a child, the defendant's parent or guardian), the defendant's lawyer (if any), the prosecutor, and, if the victim chooses to attend, the victim (or if the victim is a child, the victim's parent or guardian) and the victim's chosen support person. The court may also invite to the conference, if it thinks they may

contribute usefully to the sentencing process, one or more of the these people:

- a person regarded by the defendant and accepted within the defendant's Aboriginal community as an Aboriginal elder, or
- a person accepted by the defendant's Aboriginal community as a person qualified to provide cultural advice relevant to the sentencing of the defendant, or
- a member of the defendants' family, or
- a person who has provided support or counselling to the defendant, or
- any other person.

An Aboriginal Justice Officer employed by the Courts Administration Authority helps the court convene the conference and advises it about Aboriginal society and culture. The Aboriginal Justice Officer also helps Aboriginal people understand court procedures and sentencing options and helps them comply with court orders.

An Aboriginal offender's sentence, whether given using a sentencing conference or using standard sentencing procedures, may include a requirement to participate or continue in an intervention program. Using a sentencing conference procedure does not change the matters to which a court must have regard when determining sentence under section 10 of the *Criminal Law (Sentencing) Act 1988*, or any other aspect of sentencing. It is just a way of informing the court and the defendant and his or her community about matters relevant to sentence in a more comprehensive and understandable way than is possible using standard procedures.

Administration

Because this Bill formalises practices that already exist in the Magistrates Court, that court already has administrative procedures in place for both intervention programs and sentencing conferences.

The Courts Administration Authority has appointed an officer to manage and co-ordinate mental-impairment intervention, drug and family violence programs. This position is described in the Bill as that of intervention program manager. The position includes a delegate of that person.

For each defendant who undertakes a program, there is a case manager, whose role is also mentioned in the Bill.

Additional administrative arrangements by the Courts Administration Authority include authorising Registrars of metropolitan and country Magistrates Courts that use these programs to arrange services to these courts, drawing on existing, retrained registry staff, and transferring Aboriginal Justice officers who are now attached to the Fines Payment Unit to the Aboriginal Court, reporting to the Registrar of that Court.

Because these are joint agency programs involving teams of professionals operating under different regimes, an inter-departmental senior executive group will be established to co-ordinate and oversee the service delivery and funding of the various programs, to make formal partnering agreements between the Justice and Human Services portfolios, and to monitor unmet need to inform future government funding of court diversion programs.

Giving legislative backing to these programs and procedures recognises their value to criminal justice and to the public. Intervention programs help people learn to take responsibility for the underlying causes of their behaviour and to live in a law-abiding way. Sentence conferencing helps to reduce the alienation of Aboriginal offenders that so often impedes their rehabilitation and compliance with court orders.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

This clause provides that the Act will come into operation on a day to be fixed by proclamation.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *Bail Act 1985*

4—Amendment of section 3—Interpretation

This clause inserts into the interpretation section of the *Bail Act 1985* ("the Act") a number of new definitions necessary for the purposes of the measure. A *case manager* is a person responsible for supervision of a person's participation in an intervention program. An *intervention program* is a program designed to address a person's behavioural problems, substance abuse or mental impairment and may consist of treatment, rehabilitation, behaviour management, access to support services or a combination of these components, all of which are supervised. An *intervention program manager* is a person who has oversight of intervention programs and coordinates the implementation of relevant court orders.

5—Insertion of sections 21B and 21C

This clause inserts two new section into the Act. Under proposed section 21B, a court may make participation in an intervention program a condition of a bail agreement. Before imposing such a condition, the court must be satisfied that the person entering into the agreement is eligible for the services to be included on the program and that those services are available at a suitable time and place. A court cannot impose a condition that a person undertake an intervention program if the person does not agree to the condition. A court may, in order to determine an appropriate form of intervention program, and a person's eligibility for the services on the program, make appropriate orders for assessment of the person. The person may be released on bail on condition that he or she undertake the assessment.

A person released on a bail agreement that contains a condition requiring the person to undertake an intervention program (or an assessment for the purpose of determining his or her eligibility) must comply with the conditions regulating his or her participation in the program. A failure to do so may be regarded as a breach of the bail agreement. A person released on bail on condition that he or she undertake an intervention program may apply to the court for an order revoking or varying the condition.

If an intervention program manager considers that a person has failed to comply with a condition regulating the person's participation in an assessment or program, and that the failure suggests the person is unwilling to participate in the assessment or program as directed, the manager is required to refer the matter to the court, which is then required to determine whether the failure to comply amounts to a breach of the bail agreement.

A certificate signed by an intervention program manager as to the availability of particular services and the eligibility of a person for services to be included on a program, is admissible as evidence of the matter certified. A certificate signed by a case manager as to whether a particular person has complied with conditions regulating his or her participation in an assessment or program is also admissible as evidence of the matter certified.

Proposed section 21C provides that an intervention program manager may delegate a power or function under the Act to a particular person or to the person for the time being occupying a particular position. A delegation may be by instrument in writing, may be absolute or conditional, does not derogate from the power of the delegator to act in a matter and is revocable at will. A power or function delegated may, if the instrument so provides, be further delegated.

Part 3—Amendment of *Criminal Law (Sentencing) Act 1988*

6—Amendment of section 3—Interpretation

This clause inserts into the interpretation section of the *Criminal Law (Sentencing) Act 1985* ("the Act") a number of new definitions necessary for the purposes of the measure. A *case manager* is a person responsible for supervision of a person's participation in an intervention program. An *intervention program* is a program designed to address a person's behavioural problems, substance abuse or mental impairment and may consist of treatment, rehabilitation, behaviour management, access to support services or a combination of these components, all of which are supervised. An *intervention program manager* is a person who has oversight of intervention programs and coordinates the implementation of relevant court orders.

7—Insertion of section 9C

Proposed Section 9C provides that a sentencing court may, before sentencing an Aboriginal defendant, convene a sentencing conference and take into consideration views expressed at the conference. A sentencing conference can only be convened under this section with the defendant's consent. An Aboriginal Justice Officer will assist the court in convening the conference. An *Aboriginal Justice Officer*, as defined in subsection (5), is a person employed to assist the court in sentencing of Aboriginal persons and convening of

sentencing conferences. An Aboriginal Justice Officer also assists Aboriginal persons to understand court procedures and sentencing options and to comply with court orders.

Subsection (2) lists the persons who must be present at a sentencing conference and subsection (3) persons who may be present. A person included in the list under subsection (3) may be present if the sentencing court thinks the person may contribute usefully to the sentencing process.

A person will be taken to be an Aboriginal person for the purposes of section 9C if the person is descended from an Aboriginal or Torres Strait Islander, regards himself or herself as an Aboriginal or Torres Strait Islander (or, if a young child, at least one of the parents regards the child as an Aboriginal or Torres Strait Islander), and is accepted as an Aboriginal or Torres Strait Islander by an Aboriginal or Torres Strait Islander community.

8—Amendment of section 10—Matters to which sentencing court should have regard

This clause inserts two new subsections into section 10 of the *Criminal Law (Sentencing) Act 1988.* Proposed new subsection (4) provides that a court may treat a defendant's participation in an intervention program, and his or her achievements in the program, as relevant to sentence. Under proposed new subsection (5), the fact that a defendant has not participated in, or has not had the opportunity to participate in, an intervention program, is not relevant to sentence. The fact that a defendant has performed badly in, or failed to make satisfactory progress in, an intervention program is also irrelevant to sentence.

9—Insertion of sections 19B and 19C

Proposed section 19B provides that a court may, on finding a person guilty of an offence, adjourn proceedings to a specified date and grant bail to the defendant in accordance with the *Bail Act 1985*. The purposes for which a court may adjourn proceedings under this section include assessment of the defendant's capacity and prospects for rehabilitation, allowing the defendant to demonstrate that rehabilitation has taken place, and allowing the defendant to participate in an intervention program. As a general rule, proceedings may not be adjourned under section 19B for more than 12 months from the date of the finding of guilt. However, proceedings may be adjourned for more than 12 months if the defendant is, or will be, participating in an intervention program. Before adjourning the proceedings for more than 12 months, the court must be satisfied that the defendant has, by participating (or agreeing to participate) in the program, demonstrated a commitment to addressing the problems out of which his or her offending arose. The court must also be satisfied that if the proceedings were not adjourned for such a period, the defendant would be prevented from completing, or participating in, the intervention program and his or her rehabilitation would be prejudiced.

In considering whether to adjourn proceedings for more than 12 months, a court is not bound by the rules of evidence and may inform itself on the basis of a written or oral report from a person who may be in a position to provide relevant information. That person may be cross-examined on matters contained in his or her report.

Proposed section 19B does not limit any power a court has to adjourn proceedings or to grant bail in relation to a period of adjournment.

Section 19C(1) provides that a court (as defined for the purposes of this section) may, on finding a defendant guilty of a summary or minor indictable offence, release the defendant without conviction or penalty if satisfied that the defendant suffers from a mental impairment that explains and extenuates, at least to some extent, the conduct that forms the subject matter of the offence. The defendant must have completed, or be participating to a satisfactory extent in, an intervention program, recognise that he or she suffers from the impairment, and be making a conscientious attempt to overcome behavioural problems associated with it. The court must also be satisfied that the release of the defendant would not involve an unacceptable risk to the safety of a particular person or the community.

Under subsection (2) of proposed section 19C, a court (as defined) may, at any time before a charge of a summary or minor indictable offence has been finally determined, dismiss the charge if satisfied as to the same matters about which a court must be satisfied in order to release a person without conviction or penalty under subsection (1). Additionally, the court must be satisfied that it would not, if a finding of guilt were made, make an order requiring the defendant to pay compensation for injury, loss or damage resulting from the offence. If the defendant is participating in, but has not completed, an intervention program, the court may, instead of dismissing the charge under subsection (2), release the defendant on an undertaking to complete the intervention program and to appear before the court for determination of the charge either following completion of the program or in the event that the defendant fails to complete the program.

In deciding whether to exercise its powers under section 19C, the court may act on the basis of information it considers reliable without regard to the rules of evidence. The court should, if proposing to dismiss a charge under subsection (2) or release a defendant on an undertaking under subsection (3), consider any information about the interests of possible victims that is before it.

Court is defined for the purposes of this section to mean the Magistrates Court, the Youth Court or any other court authorised by regulation to exercise the powers conferred by the section.

Mental impairment is defined to mean an impaired intellectual or mental function resulting from a mental illness, an intellectual disability, a personality disorder, or a brain injury or neurological disorder (including dementia).

10—Amendment of section 42—Conditions of bond

This clause amends section 42 of the Act. Section 42(1) lists the conditions a sentencing court may include in a bond under the Act. This amendment has the effect of allowing a court to include a condition requiring a defendant to undertake an intervention program. This clause also makes a number of consequential amendments to section 42. The court must, before imposing a condition requiring a defendant to undertake an intervention program, satisfy itself that the defendant is eligible and that the services are suitable. The court may make orders for assessment of a defendant for the purpose of determining an appropriate form of intervention program and the defendant's eligibility for the services included on the program. The defendant may be released on bail on condition that he or she undertake an assessment as ordered.

Under subsection (8), a certificate apparently signed by an intervention program manager as to the availability of particular services and the eligibility of a person for services to be included on a program, is admissible as evidence of the matter certified. A certificate signed by a case manager as to whether a particular person has complied with conditions regulating his or her participation in an assessment or program is also admissible as evidence of the matter certified.

11—Insertion of section 72C

Proposed section 72C provides that an intervention program manager may delegate a power or function under the Act to a particular person or to the person for the time being holding a particular position. A delegation may be by instrument in writing, may be absolute or conditional, does not derogate from the power of the delegator to act in a matter and is revocable at will. A power or function delegated may, if the instrument so provides, be further delegated.

Part 4—Amendment of *District Court Act 1991*

12—Amendment of section 54—Accessibility of evidence etc

Section 54(2) of the *District Court Act 1991* provides that a member of the public may inspect or obtain a copy of certain material only with the permission of the Court. This clause amends that section by adding to the list of such material any report prepared to assist the Court in determining a person's eligibility for, or progress in, an intervention program.

Part 5—Amendment of *Magistrates Court Act 1991*

13—Amendment of section 51—Accessibility of evidence etc

Section 51 of the *Magistrate Court Act 1991* provides that a member of the public may inspect or obtain a copy of certain material only with the permission of the Court. This clause amends that section by adding to the list of such material any report prepared to assist the Court in determining a person's eligibility for, or progress in, an intervention program.

Part 6—Amendment of *Supreme Court Act 1935*
14—Amendment of section 131—Accessibility of evidence etc
Section 131 of the *Supreme Court Act 1935* provides that a member of the public may inspect or obtain a copy of certain material only with the permission of the court. This clause amends that section by adding to the list of such material any report prepared to assist the court in determining a person's eligibility for, or progress in, an intervention program.

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

HIGHWAYS (AUTHORISED TRANSPORT INFRASTRUCTURE PROJECTS) AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 27 November. Page 754.)

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank members for their contributions to the second reading debate on the bill. I particularly acknowledge the support of the Hon. Sandra Kanck. The government shares her enthusiasm for moving freight on to rail where possible. Rail is not only an environmentally efficient mode of freight transport but it also results in fewer heavy vehicles on our roads. While heavy vehicles will always play a vital role in freight transport, the government believes the share of freight transported by rail can and should be increased.

As has been noted, the primary reason for bringing forward this legislation is that the crown solicitors have advised the government that it does not presently have powers to undertake rail projects. Therefore, this legislation has been framed in a way that not only facilitates completion of the Port River Expressway but also allows the government to undertake further rail projects in the future.

Before moving to the committee stage, I would like to deal with a number of questions asked by honourable members. In her second reading contribution, the Hon. Caroline Schaefer touched on several matters.

Scope of powers. The opposition claims this bill gathers unprecedented and unnecessary powers for government and takes away from parliamentary scrutiny. Parliament always has the right to question government business in the parliament and scrutinise government spending via the estimates committees and, should it ever wish to do so, to block funding for projects via the annual appropriation bills. These are the normal mechanisms by which parliament scrutinises all activities of the government. None of the powers in this bill is unprecedented: they all exist already in many other areas of state law. Transport SA already can compulsorily acquire land, prohibit vessels from using specified tidal waters, enter land for construction purposes, open and close roads and transfer property in its ownership. Even State Opera can compulsorily acquire land for opera purposes. So the opposition's claim that this is about the government gathering unprecedented powers is both unfounded and absurd, which is fairly—

The Hon. Caroline Schaefer interjecting:

The Hon. T.G. ROBERTS: Yes, it is a fairly condemnatory statement.

Public Works Committee. The Hon. Caroline Schaefer questioned whether the Public Works Committee has the powers under this act to veto a transport infrastructure project. The Public Works Committee never has had the right to veto government projects, even very large projects. Section 16A of the Parliamentary Committees Act will continue to apply to projects undertaken under this proposed legislation. This means that, for projects costing $4 million or more, the project cannot proceed until the Public Works Committee has reported to parliament. This bill goes even further. All transport infrastructure projects being undertaken under this proposed legislation must be referred to the Public Works Committee regardless of their cost. This is a higher bar than is normally the case for transport projects.

Revenue collected from tolls. Finally, the opposition has speculated that the public non-financial corporation that will have control of the Port River Expressway project is a back-door method of diverting revenue. Details of the public non-financial corporation were set out in the budget papers back in May 2003. The public non-financial corporation will be responsible for the construction, maintenance and operation of the road and rail bridges and will collect the tolls that will finance the majority of the cost of the bridges. The previous government was happy to provide the money to a private company. Under the government's proposal, the moneys will be retained by a public entity. Section 39J of the bill requires that revenues be dealt with in accordance with the project description proclaimed by the Governor—in other words, the fate of any revenues must be stated publicly. There is nothing back-door about it. In the case of the road and rail bridges, the public non-financial corporation will be able to expend its moneys only for the purpose for which it is established—namely, to build, maintain and operate the bridges over the Port River.

Questions from the Hon. David Ridgway. I also understand that in preparation for this bill the Hon. David Ridgway asked several questions. I can advise the honourable member that, providing this legislation is passed, actual construction of the road and rail bridges is expected to commence in late 2004 or very early 2005. Construction is obviously preceded by the tendering and contracting process. The rail bridge would be completed in mid 2006 and the road bridge would be completed in September or October 2006. Tolls will be applied only to the road and rail bridges. Land on the eastern side of the river between Minnipa and Moorhouse roads is owned by the Land Management Corporation and there are presently no firm plans for this land, although various development options will be considered in the longer term. I again thank honourable members for their contributions.

Bill read a second time.

In committee.

Clauses 1 to 4 passed.

Clause 5.

The Hon. CAROLINE SCHAEFER: I move:

Page 3, lines 7 and 8—
Delete heading to Part 3A and substitute:
Part 3A—Port River Expressway Project

My understanding, without the assistance of parliamentary counsel, to whom I have sent a message, is that virtually all of my amendments are contingent in that they all seek to limit the powers of the minister to the Port River Expressway Project. However ridiculous my speech may have seemed to whoever wrote the minister's speech, I have outlined the opposition's position previously. I have had it confirmed that, under this particular bill, an authorised project—and I outlined the vast scope of an authorised project under this bill—includes many things including tourist projects, for instance, and gives the minister almost unfettered powers.

The only restriction on the minister is that such projects need to be referred to the Economic and Finance Committee. Although I already knew this, I have had it confirmed that that committee has no right of veto. Since we were exchanging insults, I found somewhat ridiculous the explanation that we, as the opposition, have the right to block such projects through the Appropriation Bill, when it has been a time-honoured tradition in this place not to deny supply to the government and not to block money bills via appropriation. Had the opposition gone down the path of blocking projects via the Appropriation Bill, this state would have ground to a standstill on many occasions prior to this. I persist with—

The Hon. R.I. Lucas: Who wrote the speech?

The Hon. CAROLINE SCHAEFER: I do not know but I will find out.

The Hon. R.I. Lucas interjecting:

The Hon. CAROLINE SCHAEFER: Perhaps you would like to ask that. I am sure the minister wrote the speech himself. I will be persisting with our amendments, as soon as I have finished speaking to this particular amendment, which is to limit the title of the bill to the Port River Expressway Project. I will be confirming this with parliamentary counsel, but my understanding is that this is the only amendment that I need speak to since virtually all of the amendments seek to limit the powers of the minister to the Port Expressway Project and seek to have him come back to the parliament to seek its scrutiny and the publicity that goes with that for any future projects of such magnitude. I have previously expressed the desire of the opposition not to stand in the way of the Port River Expressway Project.

The Hon. T.G. ROBERTS: The government does not support the amendment. The amendment would mean that the state would have no powers to undertake rail works. The range of powers that are required for an authorised project are not extraordinary and generally exist elsewhere in the Highways Act or other legislation and are brought together here in the context of transport generally other than roads. Additionally, there are strong checks in the form of requiring the Governor's proclamation of a project and its referral to the Public Works Committee, irrespective of the project's estimated cost. Restricting the bill to the Port River Expressway would mean that the government would need to come back to parliament for each major non-road infrastructure project. In particular, to undertake any future rail projects would be impossible.

The Hon. SANDRA KANCK: I indicate that the Democrats will oppose the amendment. I think I made it clear in my second reading speech our support for this whole concept of more rail for freight, or for that matter it could be rail for tourism, as the honourable member has suggested, or rail for passengers. I cannot see that there will be a sudden outbreak of rail construction in this state, given that it took nearly 100 years for us to get some sort of momentum up to have the Adelaide-Darwin line completed, so there is not likely to be any other rush of rail projects. In fact, I can only say that I wish. It seems to me to be a silly system where government can undertake road construction without coming to parliament for approval. However, with the opposition amendment, any time that rail construction was envisaged, the government would have to come to parliament with another bill, and I do not see why rail should be disadvantaged compared to road in this particular way.

The Hon. NICK XENOPHON: I share a similar understanding to the Hon. Sandra Kanck that if the minister wanted to deal with road infrastructure then it would need specific further legislative authorisation. My understanding is that, if this amendment is passed, it would fetter the minister in a way that he is not now fettered in relation to road infrastructure projects. However, I note that, in terms of the point that the Hon. Caroline Schaefer has made, this bill is quite specific in some respects, particularly in relation to the raising of tolls for this particular Port River project. Can the government indicate whether there is some tension, if you like, in terms of being general in some respects and specific in others?

I am not inclined to support the amendment of the Hon. Caroline Schaefer, although I can understand why she has moved it. I am also comforted by the fact that the government proposal to increase the threshold at which the Public Works Committee can look at such works was not successful, which means that there still is a threshold that is much lower than was proposed. I would have thought that that would provide a safeguard in terms of parliamentary scrutiny for other rail infrastructure projects. With those comments, I will not support the amendment, but I would like to hear from the minister in relation to the matters raised.

The Hon. CAROLINE SCHAEFER: With regard to the Hon. Sandra Kanck's comments, it is not my position—and particularly not my position when debating this bill—to argue whether or not the minister has too many powers regarding the construction of roads since that is not part of this debate. This debate is about making the best possible legislation out of what was purported by the government to be a bill put up to facilitate the quickest possible conclusion to the Port River Expressway Project. Certainly, the powers of the minister under this bill are not restricted to rail infrastructure—far from it.

I actually read the definition of 'authorised projects' as I was briefed in my second reading speech, but I will go through it again. They include: railway construction and light rail; freight interchanges; grain and mineral transport facilities (that could be anything, including silos); tourist transport facilities (it is not limited to rail); export centres (that could be warehouses, marketing facilities or any number of things); intermodal facilities; public transport interchanges; and other logistics infrastructure. It could be anywhere in the state and not limited to the Port River Expressway project. I maintain that this bill gives the Minister for Transport far greater powers than ever before under previous legislation and far greater powers than extend to the construction of rail projects.

The Hon. T.G. ROBERTS: The government sees the application of tolls to projects other than the Port River Expressway as a matter of variation which would warrant a return to parliament for debate. In contrast, the other powers in the bill that the Hon. Caroline Schaefer objects to exist elsewhere in other road legislation. They are not extraordinary powers being granted.

The Hon. CAROLINE SCHAEFER: I rest my case. If they already exist in other legislation, why do we need to overwrite them in legislation that is meant to be for the facilitation of the Port River Expressway project?

The Hon. T.G. ROBERTS: You nearly had a good point there but, unfortunately, the powers exist for road and for other reasons but they do not exist for the taking up of a specific rail construction project. We need to have the powers for rail specifically set out.

The Hon. R.I. LUCAS: Can the minister confirm that senior officers within Treasury and the transport department (or whatever it is currently named) have, over recent months,

been having confidential discussions with merchant bankers and accounting firms about a major public/private partnership project involving rail down Port Road and an extension through the CBD? If that is the case, would the additional powers that the minister is now seeing apply to any such project?

The Hon. T.G. ROBERTS: I thank the honourable member for his question. The information that the honourable member requires is not available at the moment.

The Hon. R.I. Lucas: Rubbish! You know that.

The Hon. T.G. ROBERTS: I do not know that. I am certainly not the minister in the chair driving the project. If the nature and scale of the project were such as demanded it, it would have to go through the same rigorous investigation as any other project. If it exceeded the $4 million threshold, for example, it would have to go before the Public Works Committee; this bill says that all projects have to go to Public Works. I will endeavour to get that information, although I am not sure if it will be available within the time frame that we require. Could you indicate whether you are saying that we should go out of committee and wait for those replies or whether you would accept the replies post the passing of the bill?

The Hon. R.I. LUCAS: Depending on the minister's answers, it probably will not require the delay of the bill. Is the minister indicating that he and his advisers are unaware of any discussions that Treasury and senior officers within the transport department have had in recent months with senior people from accounting advisory firms from around Australia about a major PPP project involving the extension of light rail through the CBD and down Port Road?

The Hon. T.G. ROBERTS: It appears that the honourable member may have more information than either I or my advisers at the table.

The Hon. R.I. Lucas: Are you saying that you do not know?

The Hon. T.G. ROBERTS: I do not know anything about any projects or discussions presently occurring about finance and future projects. I probably know through reading the paper as much as the honourable member. New proposals are being projected almost weekly for light rail and the movement of passengers from the metropolitan area into the western suburbs. I am only aware of those proposals via the media. I am certainly not involved in any PPP process or discussions. I will endeavour to get that information for the honourable member within a reasonable time frame.

The Hon. R.I. LUCAS: I am happy to accept the minister's assurance that he will get an answer for me. I do not seek to delay the committee stage. Can I move the minister on from his lack of knowledge of any discussions and ask that if the information is correct, that is, should the government consider options for a major PPP project through the CBD and down Port Road, would the envisaged additional powers in this particular legislation be able to be used for such a project?

The Hon. T.G. ROBERTS: If any project comprised of any of the combinations to which the honourable member refers were to be authorised, this legislation and these powers would apply.

The Hon. CAROLINE SCHAEFER: I ask the minister, for the record, to outline the process necessary to authorise a project, because on my reading of this bill an authorised project requires no scrutiny of this parliament whatsoever.

The Hon. T.G. ROBERTS: The honourable member is correct: a project will have to go to cabinet for a recommendation to be made to the Governor to make a proclamation.

The Hon. CAROLINE SCHAEFER: What the minister is saying is exactly what I am suggesting: that, under this bill, an authorised project is any project approved by the cabinet and that the only scrutiny that it would have to undergo would be by the Economic and Finance Committee, which has no right of veto. When we talk about major infrastructure projects (not related to rail) for anywhere in the state, we are not talking about minor amounts of money. So, I maintain what I said previously, that this bill gives wide-reaching powers to the minister which he has never had before, powers which he does not need to progress the Port River Expressway Project, to which this bill refers.

Our understanding of the minister's explanation is that this bill will progress the Port River Expressway Project. If the minister wants to give the Minister for Transport new powers, should he do so in connection with the progression of one project? It seems to me that he has seen a window of opportunity to give the minister additional powers of which only one small part relates to rail infrastructure and an even smaller part to the Port River Expressway. I maintain, as I have from the start, that, if my amendments are not carried in this place, the Minister for Transport will have powers which no previous minister for transport has had in this place and which very few ministers for transport would have anywhere in Australia. All we are seeking is to limit the minister's powers so that major infrastructure projects are open to the scrutiny of the parliament.

The Hon. T.G. ROBERTS: We have stated our case regarding the powers that are required. It is the government's view that the powers that generally exist in other legislation to do with transport (such as the Highways Act) should be transposed to rail. The word 'napoleonic' has been used a number of times in relation to the Minister for Transport's powers. I suspect that the intention of this measure is to apply the principles relating to highways to rail projects. The government does not believe that this will put into the hands of the minister any more power than he already has in relation to roads and highways.

The Hon. R.I. LUCAS: In terms of any proposed project to extend rail through the CBD, will the existing powers, rights and responsibilities of the Adelaide City Council be reduced as a result of the passage of this legislation?

The Hon. T.G. ROBERTS: I am advised that section 2 of the Highways Act provides:

> This act does not apply to or in relation to the City of Adelaide.

So, the Highways Act does not apply to the City of Adelaide.

The Hon. R.I. LUCAS: This is an important issue. For the sake of the committee, can we clarify that the minister is saying that, because there is this specific provision in the Highways Act, the minister will not have increased powers in terms of any project relating to the Adelaide City Council?

The Hon. T.G. ROBERTS: I am advised that that is correct: this act does not apply.

The committee divided on the amendment:

AYES (9) AYES t.)

Cameron, T.G.	Dawkins, J. S. L.
Evans, A.L.	Lawson, R.D.
Lucas, R. I.	Redford, A. J.
Schaefer, C. V. (teller)	Stefani, J. F.
Stephens, T. J.	

NOES (8)

Gago, G. E.	Gazzola, J.
Gilfillan, I.	Kanck, S. M.
Reynolds, K.	Roberts, T. G. (teller)
Sneath, R. K.	Xenophon, N.

PAIR(S)

Ridgway, D. W.	Zollo, C.
Lensink, J. M. A.	Holloway, P.

Majority of 1 for the ayes.

Amendment thus carried.

The Hon. CAROLINE SCHAEFER: I move:

Page 3, (new section 39A), lines 15 to 18—Delete definition of authorised project and substitute 'authorised project means the Port River Expressway Project'.

The amendment is consequential, as are all but two of the remaining amendments. I will move those amendments, but I will not speak to them unless required.

Amendment carried.

The Hon. CAROLINE SCHAEFER: I move:

Page 4 (new section 39A), lines 9 to 21—Delete definition of project

This amendment is consequential.

Amendment carried.

The Hon. CAROLINE SCHAEFER: I move:

Page 4 (new section 39A), lines 23 and 24—Delete 'an authorised project or any part of an authorised project' and insert 'the authorised project or any part of the authorised project'

This amendment is consequential.

Amendment carried.

The Hon. CAROLINE SCHAEFER: I move:

Page 4 (new section 39A), lines 26 and 27—Delete 'an authorised project or a particular part or aspect of an authorised project' and substitute 'the authorised project or a particular part or aspect of the authorised project'

This amendment is consequential.

Amendment carried.

The Hon. CAROLINE SCHAEFER: I move:

Page 4 (new section 39A)—
Lines 32 and 33—Delete 'an authorised project' and substitute 'the authorised project'
Line 35—Delete 'an authorised project' and substitute 'the authorised project'
Line 38—Delete 'an authorised project' and substitute'the authorised project'
Lines 39 and 40—Delete 'an authorised project' and substitute 'the authorised project'.

These amendments are consequential.

Amendments carried.

The Hon. CAROLINE SCHAEFER: I move:

Page 5 (new section 39B), lines 22 to 35—Delete subsections (1), (2) and (3) and substitute:

(1) A project outline must be published by proclamation for the authorised project—

(a) containing—

(i) reasonable particulars of the principal features of the project; and

(ii) any information about the project required under the regulations; and

(b) specifying the land to which the project applies.

This amendment is consequential.

Amendment carried.

The Hon. CAROLINE SCHAEFER: I move:

Page 5 (new section 39B), line 38—
Delete 'a particular project' and substitute 'the authorised project'
Page 6 (new section 39B), lines 5 to 8—Delete subsection (6)
Page 6 (new section 39C—
Line 10—Delete 'an authorised project' and substitute 'the authorised project'
Lines 18 and 19—Delete 'an authorised project, or a particular part or aspect of an authorised project,' and substitute 'the authorised project or a particular part of aspect of the authorised project'
Page 6 (new section 39D)—
Line 33—Delete 'an authorised project' and substitute 'the authorised project'
Line 35—Delete 'an authorised project' and substitute 'the authorised project'
Page 7 (new section 39E), line 3—Delete 'an authorised project' and substitute 'the authorised project'

Amendments carried.

The Hon. CAROLINE SCHAEFER: Amendments 18 and 19 refer to the opening bridge. In another place, the opposition sought to insist on an opening bridge because we believed that, at that time, the reference to a permanent obstruction allowed the government to get out of its commitment to an opening bridge. We have since been given crown law opinion that that in fact is not the case and that any obstruction to navigation can be construed as permanent navigation. Therefore, it would be inappropriate for us to proceed with those amendments and I withdraw those two amendments. I will not move amendments 18 and 19. I move:

Page 9 (new section 39I)—
Line 13—Delete 'a proposed' and substitute 'the'
Line 15—Delete 'an authorised project and substitute 'the authorised project'
Page 9 (new section 39J), lines 23 and 24—Delete 'Port River Expressway Project and substitute 'authorised project'

Amendments carried; clause as amended passed.

Remaining clauses (6 to 8) and title passed.

Bill reported with amendments; committee's report adopted.

Bill read a third time and passed

NATIONAL ENVIRONMENT PROTECTION COUNCIL (SOUTH AUSTRALIA) (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 1 December. Page 774.)

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank members for their support of the bill. I cannot thank members for their contributions but I can thank them for their support. This bill is a piece of template legislation that, I think, has general agreement across parties. It is a matter of form for us to ensure that the National Environment Protection Council and the 1995 act mirror the provisions in the commonwealth act. I will not delve too much into any of the details. I would like to proceed to committee forthwith.

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

STATUTES AMENDMENT (INVESTIGATION AND REGULATION OF GAMBLING LICENSEES) BILL

In committee.

Clause 1.

The Hon. A.J. REDFORD: I rise to make a small contribution, which might assist other members in dealing with the amendments that are currently on file, and I couch these comments in general terms. The opposition has filed two amendments that can fall into two categories: the first

amendment relates to the setting of fees for investigations; and the other amendment relates to freedom of information.

Staff from the minister's office have been negotiating with me regularly about these issues, and we have come to an agreement. Before I make any comment about that, can I go on the record as saying that I am extraordinarily grateful to the minister's staff. They have been very helpful and very open in their dealings with me and they could certainly pass on some of those lessons to others in the government. The only real clause that will be agitated through the committee stage will be the opposition's amendment to bring the IGA under the freedom of information regime. That may well assist members when we are dealing with this legislation.

Clause passed.

Clause 2 passed.

Clause 3.

The CHAIRMAN: I have an indicated amendment No. 1 to clause 3, page 2, line 18 in the name of the Hon. Mr Redford.

The Hon. A.J. REDFORD: In accordance with what I said earlier, I will not be proceeding with this amendment.

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

Page 2, line 18—
Delete 'meet' and substitute:
pay the required contribution towards

Amendment carried.

The CHAIRMAN: The next indicated amendment is also to clause 3 in the name of the Hon. Mr Redford.

The Hon. A.J. REDFORD: I will not be proceeding with my amendment. I think I should (and I have not done so thus far during this committee stage) explain the difference between what we were proposing and what the government has made in terms of a counter proposal and why the opposition is accepting what the government's counter proposal has been. During the course of my second reading contribution, I suggested that amendments be made so that the fees set for the recovery of investigations be done by way of regulation.

The government has indicated that that would be cumbersome and, indeed, could subvert the very intent of the act in terms of providing timely investigations and reports. The government accepted, however, that there is an important principle of accountability in some way, shape or form to the parliament in terms of the setting of the fees. The government put to the opposition that that could easily be accommodated by making the minister sign off on the fees and, under our system of responsible government, the minister would be accountable, or at least in a position to answer questions about the setting of fees to this parliament. The opposition accepts the force of the government's arguments in that respect.

The second issue about these amendments, in general terms, was the issue of transparency. Of course, regulation making, as you know Mr Chairman, is quite a transparent parliamentary process. In order to achieve a transparent outcome, the government put the suggestion that the process be disclosed in the annual report, and that addresses the opposition's concerns in that respect. So, I will not be proceeding with my amendments 1 to 11.

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

Page 2, after line 20—
Insert:

(2a) Section 25(2)—delete 'payments towards the costs of the investigation' and substitute: part payments towards the required contribution

(2b) Section 25—after subsection (2) insert:

(2a) The Authority must, when first requiring a part payment under subsection (2), provide the applicant or licensee with a written estimate, approved by the Minister, of the total cost of the investigation.

(2b) If the Authority has required a part payment under subsection (2), the Authority may, from time to time during the course of the investigation, provide the applicant or licensee with a revised written estimate, approved by the Minister, of the total cost of the investigation.

(2c) The total of part payments towards the required contribution under subsection (2) must not exceed the amount specified in the estimate provided under subsection (2a) or, if a revised estimate has been provided to the applicant or licensee under subsection (2b), the final estimate provided to the applicant or licensee in respect of the investigation.

Amendment carried.

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

Page 3, lines 3 and 4—
Delete subclause (4) and substitute:

(4) Section 25(4) and (5)—delete subsections (4) and (5) and substitute:

(4) At the end of the investigation, the authority must notify the minister of the cost of the investigation.

(4a) The minister must then determine an amount, which must not exceed the amount notified by the authority under subsection (4), that he or she considers to be a reasonable contribution by the applicant or licensee towards the cost of the investigation.

(4b) If the required contribution is less than the amount (if any) paid by the applicant or licensee towards the cost of the investigation, the authority must, within 1 month of the minister's determination under subsection (4a), refund the amount of the difference to the applicant or licensee.

(4c) If the required contribution is greater than the amount (if any) paid by the applicant or licensee towards the cost of the investigation, the applicant or licensee must, within 1 month of receiving notice of the underpayment, pay the unpaid balance to the authority.

(4d) If the whole or a part of an amount payable to the authority under this section is not paid to the authority as required, the amount unpaid may be recovered from the applicant or licensee as a debt due to the authority.

(5) In proceedings for recovery of an amount under subsection (4d), the authority's certificate is to be regarded as conclusive evidence of the amount owing by the applicant or the licensee.

(5) Section 25—after subsection (6) insert:

(7) In this section—

required contribution towards the cost of an investigation means the amount determined by the minister under subsection (4a) to be a reasonable contribution by the applicant or licensee towards the cost of the investigation.

Amendment carried; clause as amended passed.

Clause 4 passed.

Clause 5.

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

Page 3—
Line 24—
After 'written estimate' insert:
, approved by the minister,
Line 30—
Delete 'provide the licensee with a certified account for' and substitute:
notify the minister of
After line 31—
Insert:

(3a) The minister must then determine an amount (the *required contribution*), which must not exceed the amount notified by the Commissioner under subsection (3), that he or she considers to be a reasonable contribution by the licensee towards those administration costs.

Line 32-37 and page 4, lines 1-6—

Delete subsection (4) and (5) and substitute:

(4) If the required contribution for a particular financial year is less than the amount specified in the estimate provided under subsection (1) in respect of that year, and an overpayment has been made by the licensee, the Commissioner must, within 1 month, refund the amount of the overpayment to the licensee.

(5) If the required contribution for a particular financial year is greater than the amount specified in the estimate provided under subsection (1) in respect of that year, and the total amount of the required contribution has not been paid by the licensee, the licensee must, within 1 month of receiving notice of the underpayment, pay the unpaid balance to the Commissioner.

Page 4—

Lines 10-12—

Delete subsection (7) and substitute:

(7) In proceedings for recovery of an amount under subsection (6), the Commissioner's certificate is to be regarded as conclusive evidence of the amount owing by the licensee.

Line 22—

After 'written estimate' insert:

, approved by the minister,

Line 31—

Delete 'provide the licensee with a certified account for' and substitute:

notify the minister of

After line 32—

Insert:

(3a) The minister must then determine an amount (the *required contribution*), which must not exceed the amount notified by the Commissioner under subsection (3), that he or she considers to be a reasonable contribution by the licensee towards those administration costs.

Lines 33-44—

Delete subsections (4) and (5) and substitute:

(4) If the required contribution is less than the amount specified in the estimate provided under subsection (1), and an overpayment has been made by the licensee, the Commissioner must, within 1 month, refund the amount of the overpayment to the licensee.

(5) If the required contribution is greater than the amount specified in the estimate provided under subsection (1), and the total amount of the required contribution has not been paid by the licensee, the licensee must, within 1 month of receiving notice of the underpayment, pay the unpaid balance to the Commissioner.

Page 5—

Lines 4-6—

Delete subsection (7) and substitute:

(7) In proceedings for recovery of an amount under subsection (6), the Commissioner's certificate is to be regarded as conclusive evidence of the amount owing by the licensee.

Amendments carried; clause as amended passed.

New clause 5A.

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

New clause—

After clause 5 insert:

5A—Amendment of section 90—Annual report

(1) Section 90—after subsection (1) insert:

(1a) The Commissioner's report must include any written estimate of administration costs provided to the licensee under Part 2 Division 10 in respect of the relevant financial year and the required contribution by the licensee towards those administration costs.

(2) Section 90(3)—after paragraph (c) insert:

(ca) for investigations completed during the relevant financial year—any written estimate of the total cost of the investigation provided to the applicant or licensee under section 25 and the required contribution by the applicant or licensee towards that cost; and

New clause inserted.

Clause 6.

The Hon. NICK XENOPHON: I do not intend to delay the passage of this bill, but in my second reading contribution I raised a concern about what appears to be a discrepancy, or a fettering of the powers that the Liquor and Gambling Commissioner may have in terms of the exchange of information between the Commissioner of Police and the Liquor and Gambling Commissioner in terms of the TAB and the casino, and there appears to be a distinction between that and gaming machine licensees in hotels and clubs. Whilst I appreciate that this is not subject to the bill, I note that there was a response, in terms of the government's response to members with respect to second reading contributions. I am still concerned that there is a discrepancy—or, at least, the Commissioner's powers do not seem to be as broad or, rather, the information that the Commissioner of Police can pass on to the Liquor and Gambling Commissioner does not seem to be as broad as it is under this proposed legislation, which I support.

At this stage, I simply want to get a commitment from the government that it will look into the distinction between the flow of information and how that information can be acted on and confidentiality provisions vis-a-vis these provisions in relation to the casino and the TAB, as distinct from gaming machine licensees. My reading indicates that there is some fettering of the commissioner's role. I am concerned—and I know it is not the subject of this bill, but it is still part of the broad policy consideration—that we have had the Premier and others talking about outlaw motorcycle gangs and their influence in the security industry. I am not in any way suggesting that there is an influence in the gaming machine industry. If, for instance, the commissioner was alerted to that, are there equivalent or as fulsome powers in line with what this bill is proposing to deal with it so that it can be acted on? Clause 6 allows for the authority to keep under review the continued suitability of the licensee and the licensee's close associates and carry out the investigations it considers necessary for that purpose. It is not only the Liquor and Gambling Commissioner but also the authority's role.

The Hon. T.G. ROBERTS: I am authorised to give the undertaking to the honourable member that we will give it our fulsome consideration.

The Hon. NICK XENOPHON: Fulsome consideration is a beautiful thing, but it does not mean that I will get a fulsome response. Will the minister give an undertaking that there will be a fulsome response?

The Hon. T.G. ROBERTS: I am authorised to indicate that there will be fulsome consideration and the honourable member will get a fulsome response.

The Hon. NICK XENOPHON: Will this fulsome response be in the life of this parliament, my lifetime, my child's lifetime? Will it be in the next six months?

The Hon. T.G. ROBERTS: The undertaking I can give the honourable member is that he will receive a fulsome response in a reasonable time frame, acceptable to the honourable member. We have had fulsome praise being heaped on the minister's staff. I will not have any influence

on the time frame or the timetable for the replies. However, I am sure that those staff members on whom you have heaped fulsome praise will give you a fulsome reply in the fullness of time, which will be in a time frame acceptable to the honourable member.

The Hon. NICK XENOPHON: How about by March of next year? Is that a reasonable time frame?

The Hon. T.G. ROBERTS: We were going to make it quicker but, seeing as March has been indicated by the honourable member, we will hold the reply up and get it to him by March.

Clause passed.

Clause 7 passed.

Clause 8.

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

Page 6—
Line 10—
Delete "meet the costs" and substitute:
pay the required contribution towards the cost
After line 12—
Insert:

(2a) Section 25(2)—delete "payments towards the costs of the investigation" and substitute:

part payments towards the required contribution

(2b) Section 25—after subsection (2) insert:

(2a) The Authority must, when first requiring a part payment under subsection (2), provide the applicant or licensee with a written estimate, approved by the Minister, of the total cost of the investigation.

(2b) If the Authority has required a part payment under subsection (2), the Authority may, from time to time during the course of the investigation, provide the applicant or licensee with a revised written estimate, approved by the Minister, of the total cost of the investigation.

(2c) The total of part payments towards the required contribution under subsection (2) must not exceed the amount specified in the estimate provided under subsection (2a) or, if a revised estimate has been provided to the applicant or licensee under subsection (2b), the final estimate provided to the applicant or licensee in respect of the investigation.

Lines 15 and 16—
Delete subclause (4) and substitute:

(4) Section 25(4) and (5)—delete subsections (4) and (5) and substitute:

(4) At the end of the investigation, the Authority must notify the Minister of the cost of the investigation.

(5) The Minister must then determine an amount, which must not exceed the amount notified by the Authority under subsection (4), that he or she considers to be a reasonable contribution by the applicant or licensee towards the cost of the investigation.

(6) If the required contribution is less than the amount (if any) paid by the applicant or licensee towards the cost of the investigation, the Authority must, within 1 month of the Minister's determination under subsection (5), refund the amount of the difference to the applicant or licensee.

(7) If the required contribution is greater than the amount (if any) paid by the applicant or licensee towards the cost of the investigation, the applicant or licensee must, within 1 month of receiving notice of the underpayment, pay the unpaid balance to the Authority.

(8) If the whole or a part of an amount payable to the Authority under this section is not paid to the Authority as required, the amount unpaid may be recovered from the applicant or licensee as a debt due to the Authority.

(9) In proceedings for recovery of an amount under subsection (8), the Authority's certificate is to be regarded as conclusive evidence of the amount owing by the applicant or the licensee.

(10) In this section—

required contribution towards the cost of an investigation means the amount determined by the Minister under subsection (5) to be a reasonable contribution by the applicant or licensee towards the cost of the investigation.

Amendments carried; clause as amended passed.

Clause 9.

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

Page 6
Line 23—
After "written estimate" insert:
, approved by the Minister,
Line 29—
Delete "provide the licensee with a certified account for" and substitute:
notify the Minister of
After line 30—
Insert:

(3a) The Minister must then determine an amount (the *required contribution*), which must not exceed the amount notified by the Commissioner under subsection (3), that he or she considers to be a reasonable contribution by the licensee towards those administration costs.

Lines 31-36 & page 7 lines 1-6—
Delete subsections (4) and (5) and substitute:

(4) If the required contribution for a particular financial year is less than the amount specified in the estimate provided under subsection (1), and an overpayment has been made by the licensee, the Commissioner must, within 1 month, refund the amount of the overpayment to the licensee.

(5) If the required contribution for a particular financial year is greater than the amount specified in the estimate provided under subsection (1), and the total amount of the required contribution has not been paid by the licensee, the licensee must, within 1 month of receiving notice of the underpayment, pay the unpaid balance to the Commissioner.

Page 7—
Lines 10-12—
Delete subsection (7) and substitute:

(7) In proceedings for recovery of an amount under subsection (6), the Commissioner's certificate is to be regarded as conclusive evidence of the amount owing by the licensee.

Line 22—
After "written estimate" insert
, approved by the Minister,
Line 31—
Delete "provide the licensee with a certified account for" and substitute:
notify the Minister of
After line 32—
Insert:

(3a) The Minister must then determine an amount (the *required contribution*), which must not exceed the amount notified by the Commissioner under subsection (3), that he or she considers to be a reasonable contribution by the licensee towards those administration costs.

Lines 33-44—
Delete subsections (4) and (5) and substitute:

(4) If the required contribution is less than the amount specified in the estimate provided under subsection (1), and an overpayment has been made by the licensee, the Commissioner must, within 1 month, refund the amount of the overpayment to the licensee.

(5) If the required contribution is greater than the amount specified in the estimate provided under subsection (1), and the total amount of the required contribution has not been paid by the licensee, the licensee must, within 1 month of receiving notice of the underpayment, pay the unpaid balance to the Commissioner.

Page 8, lines 4-6—
Delete subsection (7) and substitute:

(7) In proceedings for recovery of an amount under subsection (6), the Commissioner's certificate is to be regarded as conclusive evidence of the amount owing by the licensee.

Amendments carried; clause as amended passed.

New clause 10.

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

After clause 9 insert:

10—Amendment of section 71—Annual report

(1) Section 71—after subsection (1) insert:

(1a) The Commissioner's report must include any written estimate of administration costs provided to the licensee under Part 5 Division 3 in respect of the relevant financial year and the required contribution by the licensee towards those administration costs.

(2) Section 71(3)—after paragraph (b) insert:

(ba) for investigations completed during the relevant financial year—any written estimate of the total cost of the investigation provided to the applicant or licensee under section 25 and the required contribution by the applicant or licensee towards that cost; and

New clause inserted.

New part 4.

The Hon. A.J. REDFORD: I move:

Page 8, after line 11—

Insert:

Part 4—Amendment of Independent Gambling Authority Act 1995

10—Amendment of section 17—Confidentiality

Section 17(3)—delete subsection (3).

My amendments 11 and 12 are consequential upon each other. This is a simple and straightforward amendment, where we seek to remove the confidentiality provision that applies to the Independent Gambling Authority. Section 17(3) of the Independent Gambling Authority Act 1995 provides:

The Freedom of Information Act 1991 does not apply in relation to the authority.

There does not seem to me or to the opposition any reason why that blanket exemption should remain. As currently stands in the legislation, there are quite significant ways in which agencies can avoid the disclosure of documents, either legitimately or, in some cases, illegitimately. The issues that are set out in the schedules to the Freedom of Information Act would apply to the Independent Gambling Authority, so that personal information would not be disclosed, and information of a confidential and sensitive nature such as commercial and in-confidence issues would not be disclosed.

Issues arising from or leading to investigations under the criminal law would not be disclosed. But there have been a number of matters over the last 12 months in relation to the conduct of the Independent Gambling Authority which, in my view, need the attention of this parliament, and I will give some examples—indeed, an example that was alluded to at the AHA luncheon today. When the Independent Gambling Authority issued its draft codes of conduct (which was a spectacular success in terms of advertising the very existence of this body), one of the recommendations was that you are not allowed to have a drink and a bet on a racehorse. That is a bit like having a shower without soap: it just does not work.

One has to question what processes such a body might be undertaking to lead to the release of a public document with those sorts of suggestions. Indeed, it was of great concern to me, and I know to other members, that when these codes of conduct were released it was as if the Independent Gambling Authority was actually imposing these codes on the public. Mr Chairman, I know that you know, but some people do not, that it is for parliament to pass laws and regulations, not for the Independent Gambling Authority to do so. So, for a whole range of reasons, and particularly to ensure an increased level of accountability of this body, one small step towards achieving that outcome is to bring the IGA within the freedom of information regime as it exists today.

The Hon. T.G. ROBERTS: I understand the honourable member's trepidation when people have approached him and he is unable to have a beer with a bet.

The Hon. A.J. Redford: There is a certain lack of reality about that, you would have to concede.

The Hon. T.G. ROBERTS: I do have to concede that. In my family background, the sight of the *Sporting Globe* produced an almost Pavlovian response. When the pink pages of the *Sporting Globe* came out, the top would have to come off a VB and the radio station would have to be turned on to 3LK and 3DB (they were Victorian based stations, of course).

The Hon. R.I. Lucas: It's not as if you have a problem!

The Hon. T.G. ROBERTS: No. I understand the honourable member's problem. The government does not support this amendment, even though we have similar views on lots of things in relation to the formation of this bill. The authority has been exempt from FOI since its inception, and this reflects its role and function. The authority is a quasi-judicial body and performs a range of sensitive and commercially confidential functions. It also conducts private and personally sensitive processes with individuals who are problem gamblers.

The government considers that it is appropriate for the authority to remain exempt from the freedom of information provisions. A range of similar agencies are exempt from FOI in South Australia, including the Parole Board, the Ombudsman, the Auditor-General, the Police Complaints Authority and particular functions of and information about the Motor Accident Commission, the Public Trustee, the Essential Services Commission and SA Police. The government considers the Independent Gambling Authority should retain its FOI-exempt status.

The Hon. NICK XENOPHON: I indicate support for the Hon. Angus Redford's amendment. I have concerns regarding confidential information in relation to people who go to the authority (either family members or problem gamblers seeking assistance from the authority in relation to barring orders, because the authority has powers in respect of that), and also other sensitive information. There are occasions when I am requested to write to the authority on behalf of a problem gambler about a particular issue they wish to raise, and perhaps this is a question for the Hon. Angus Redford. My understanding is that in those circumstances the current exemptions that apply under the Freedom of Information Act would still apply. That is a question that I also put to the government.

On the concerns raised by the government, my understanding is that commercially sensitive information, information relating to a possible prosecution or general information in relation to assistance for a problem gambler or a family member would be exempt from an FOI request. I put that question to the Hon. Angus Redford, who has moved this amendment, and also to the minister and ask him to confirm that, because it is my clear understanding that problem gamblers and their families certainly will not be prejudiced by the authority being subject to FOI.

The Hon. A.J. REDFORD: I think I have already answered the honourable member's question but, if the honourable member wants me to be more specific, I draw his attention to Part 2 of Schedule 1 of the Freedom of Information Act. Clause 6, under the heading 'Documents affecting personal affairs', provides:

(1) A document is an exempt document if it contains matter the disclosure of which would involve the unreasonable disclosure of

information concerning the personal affairs of any person (living or dead).

(2) A document is an exempt document if it contains allegations or suggestions of criminal or other improper conduct on the part of a person (living or dead) and the truth of those allegations or suggestions has not been established by judicial process. . .

(3a) A document is an exempt document if it contains matter— . . . (b) the disclosure of which would be unreasonable having regard to the need to protect that person's welfare.

So, all those provisions, in my view, would cover the concerns of the honourable member in relation to disclosure.

Finally, there is a public interest test, of sorts, which is rarely applied, as noted in the Ombudsman's report tabled the other day. And even in relation to the public interest test, you would not need to be a Rhodes scholar to come to the conclusion that it is in the public interest for people to be open and frank in admitting whether or not they have a particular problem and that disclosure of that information to the public or to third parties via freedom of information would be contrary to the public interest. There are many different measures to ensure that the sort of information the honourable member is concerned about would not get out.

The Hon. NICK XENOPHON: I did not doubt the honourable member in relation to that but I thought it was important to place on the record, for that hard core band of *Hansard* aficionados, that there are safeguards built into the FOI legislation, and I would be grateful to hear from the minister in relation to that because I think that the argument is unassailable.

The Hon. T.G. ROBERTS: There are exemptions to FOI and I have named some bodies for the record but if the amendment is rejected it puts the proposal beyond doubt and it does not become an issue.

The Hon. KATE REYNOLDS: The Democrats' views about exemptions from the Freedom of Information Act are well-known—they have been talked about in this place on many occasions. I briefly indicate our support for the amendment.

The committee divided on the new part:

AYES (14)

Cameron, T. G.	Dawkins, J. S. L.
Evans, A. L.	Gilfillan, I.
Kanck, S. M.	Lawson, R. D.
Lucas, R. I.	Redford, A. J. (teller)
Reynolds, K.	Ridgway, D. W.
Schaefer, C. V.	Stefani, J. F.
Stephens, T. J.	Xenophon, N.

NOES (5)

Gago, G. E.	Gazzola, J.
Holloway, P.	Roberts, T. G. (teller)
Sneath, R. K.	

PAIR(S)

Lensink, J. M. A.	Zollo, C.

Majority of 9 for the ayes.

New part thus inserted.

Long title.

The Hon. A.J. REDFORD: I move:

Delete 'and the Casino Act 1997' and insert:
,the Casino Act 1997 and the Independent Gambling Authority Act 1995.

Amendment carried; long title as amended passed.

Bill reported with amendments; committee's report adopted.

Bill read a third time and passed.

NATIONAL PARKS AND WILDLIFE (INNAMINCKA REGIONAL RESERVE) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 24 November. Page 615.)

The Hon. T.J. STEPHENS: I rise to indicate that the Liberal opposition will support this bill but we do have concerns, which have been raised by my colleagues in the other place. Before we proceed, let me brief the council on the history of this bill. This bill deals with the Innamincka Regional Reserve which is a 13 800-square kilometre area of land located in the Far North-East of the state. It was constituted under the National Parks and Wildlife Act 1972 to provide a framework to protect a significant area of natural habitat, while allowing use of the natural resources through petroleum extraction and pastoral production. The Innamincka Regional Reserve contains a diverse range of arid and wetland ecosystems. The Cooper Creek and the Coongie Lakes wetland district are listed as wetlands of international significance under the Ramsar convention.

The reserve is underlaid by the largest and most prolific hydrocarbon province in onshore Australia (the Cooper and Eromanga Basins), which members will be aware is vitally important to the economic future of this state. Coongie Lakes is part of the Innamincka Regional Reserve, which was created in 1988 to protect a significant area of natural habitat whilst still allowing the use of natural resources through petroleum and pastoral production. Prior to the election, the Conservation Council had detailed negotiations with Santos regarding the proposed boundary for the non-mining area. These negotiations were not completed prior to the election.

In June 2002 the Labor government began negotiations with various environmental groups to give the area greater protection. In July this year the government approved the creation of a new national park covering an area of 27 900 hectares that will exclude all mining operations and grazing. This bill aims to create new management arrangements for the Coongie Lakes area of the Innamincka Regional Reserve. The new management arrangements aim to give a high level of legislative protection to the areas considered to have the greatest environmental value and to establish a management regime over the balance of the area that will facilitate petroleum exploration.

The minister's second reading explanation and the bill itself make clear that the arrangements will involve: first, a new national park of 27 950 hectares over the core wetlands, and there will be no mining and no grazing in that portion; secondly, a permanent 'no mining' zone of 87 740 hectares over areas of high water bird habitat significance in the Innamincka Regional Reserve; and, thirdly, a special management zone of 25 938 hectares for walk-in geophysical surveys and subsurface petroleum/mineral exploration access created through a management plan for the Innamincka Regional Reserve. The bill will enable the permanent exclusion of mining rights from these areas by removing the rights for exploration, prospecting and mining under the Mining Act 1971 and the Petroleum Act 2000.

The opposition's concerns lie primarily with the fact that, to our knowledge, there has been very little consultation with the other key petroleum explorers outside of Santos. I assure the minister that we will raise this issue with him in committee. The Liberal opposition has no desire to hold up this legislation—far from it, as we are very strong supporters of

appropriate environmental protection—however, we also realise that it is important that all players in the debate are consulted and listened to. It is my understanding that Santos and the Conservation Council were consulted and that, in fact, the final shape of the new control zone for petroleum activities was the result of a proposal from those two organisations. However, consultation throughout this process has been lacking.

The minister in the other place was asked to guarantee that the companies would be consulted by the time the bill was debated in this place. That time is now upon us, and I sincerely hope that the government has followed through on its promise. The key companies (other than Santos) have expressed concerns to the opposition regarding not only the level of consultation but an issue arising out of the lack of consultation: namely, what the impact of this bill will be on future operations.

In answering questions on this bill in the other place the minister stated that lateral subsurface mining was permissible from outside the exclusion zone to a point underneath the exclusion zone. The opposition is aware that technology is currently available that would allow a process of mining from a point outside the zone to a point deep beneath the zone to be possible without affecting the surface environment. In a ministerial statement on Monday 24 September the minister corrected himself and advised that, in fact, the mining I have described will not be permissible. I therefore signal the opposition's intention to move an amendment to allow for lateral subsurface mining in the exclusion zone. It is the opposition's belief that, if the technology is available to mine beneath the surface of the zone without affecting the environment of the surface, provision should be made to allow for it. The opposition is not against conservation; in fact, we are very strong supporters, which is why we will not oppose the bill regardless of the outcome of our amendment.

The Hon. T.G. ROBERTS (Minister Assisting the Minister for Environment and Conservation): I can inform members that some progress has been made. We can progress the bill into committee to the point where the honourable member moves his amendment, and then we will report progress, because the Democrats would like to examine the amendment. I thank members for their contributions. There has been a fair amount of discussion on the bill, but the amendment has only recently arrived. During the debate on the bill in the House of Assembly the Hon. John Hill indicated to the opposition that he had arranged for a letter to be sent to four companies and others with an interest in petroleum exploration in this area to invite them to contact the Department for Environment and Heritage should they require information about the bill. The minister also indicated that he would provide a summary of any contact that occurred when the bill is considered in the Legislative Council.

I am advised that on 20 November 2003 the Department for Environment and Heritage sent letters to 14 companies with an interest in this area, including the four companies mentioned by the opposition. Enclosed with these letters was an explanation of the new protection measures for the Coongie Lakes wetlands and a map showing the area covered by the proposed new national park; the 'no mining' zone, which is the subject of the current bill; and the special management zone where only walk-in geographical surveys and subsurface exploration can occur. Also attached was a copy of *The Government Gazette* notice dated 14 July 2003, which describes the areas accessible for petroleum exploration.

The companies were invited to contact the departmental officer by 28 November 2003 should they wish to be briefed on any aspects relating to the new management arrangements for the Coongie Lakes area. The Department for Environment and Heritage has advised that there has been no contact from any of those companies that were identified. Having said that, I propose that we move into committee to the point where the honourable member moves his amendment and then report progress.

Bill read a second time.

In committee.

Clause 1.

The Hon. T.J. STEPHENS: Was there any consultation with the South Australian Chamber of Mines and Energy (SACOM), which is a peak body in the mining industry?

The Hon. T.G. ROBERTS: I am told that the minister had discussions with the chamber.

The Hon. T.G. CAMERON: When did the minister contact SACOM; where did the meeting take place; and what did they discuss?

The Hon. T.G. ROBERTS: I do not have those details.

The Hon. T.G. CAMERON: I have come in on the end of this but, if I heard the minister correctly, he stated that the minister has met personally with SACOM regarding this bill. Is that correct?

The Hon. T.G. ROBERTS: That is my advice.

The Hon. T.J. STEPHENS: That advice is contrary to the advice that I believe we have received with regard to consultation with SACOM.

The Hon. T.G. ROBERTS: I can only advise that the minister has indicated in another place that he has had some discussions with SACOM, but, as the honourable member pointed out (and it was inherent in his question), I have no detail about the contents of the discussion. As we are going into committee and reporting progress, I can get more information when we report back, after the honourable member has moved his amendment and an explanation has been given.

I have part of the contribution by the minister on 11 November. I also had a couple of conversations with the representatives from SACOM in which I pointed out that, whilst we were happy to talk to them, this was a decision that had been made in opposition; that it was a commitment that we had made; and that we were on the record as agreeing to this decision. That was the extent of the conversation that I had with SACOM. I will have to read back to find out the decision.

The Hon. T.J. STEPHENS: Is what the minister has just read consultation, or is it dictatorial? I thought that consultation was dialogue and trying to find a meaningful resolution.

The Hon. T.G. ROBERTS: I suspect that it depends on the previous understanding that both parties had of the subject matter that they were discussing. If it is brief contact without explanation, then there would be some room for criticism. However, if indeed it was a continuation of dialogue, which I would expect the minister to have with SACOM over a wide range of issues from time to time, you build up an understanding. It may not have been just a short, sharp exchange. It may be that, over time, there was some understanding of the subject matter and what they were discussing. I am in no position to be able to decide that.

The Hon. T.J. STEPHENS: When we continue the debate at the committee stage tomorrow, will the minister

come back with an accurate assessment of his level of consultation? We will go back to our source and discuss it further tomorrow.

The Hon. SANDRA KANCK: I wonder whether this is terribly productive. It is public knowledge that this memorandum of understanding between the oil companies and the conservation groups took place over a number of years. In fact, I have copies of publicly issued media releases that the ACF and the Wilderness Society released on a couple of occasions, when some of the negotiations were breaking down, so it was that public. That memorandum of understanding was signed in March last year and Santos, the Conservation Council and the Wilderness Society put out media releases at that time.

The minister issued a media release about six months ago to say that this legislation is happening. I would have thought that SACOM would have seen that there were enough signs there that, if they wanted to make contact, the door would have been open. SACOM has not contacted me either. It does not mean that their point of view should not be heard just because I have not been contacted by them. I think that this is a fairly unproductive discussion.

Clause passed.

Clauses 2 to 4 passed.

Clause 5.

The Hon. T.J. STEPHENS: I move:

Page 2—

Line 20—Delete 'rights' and substitute 'subject to subsection (2a), rights'

After line 23 insert:

(2a) However, mining rights may be acquired and exercised in respect of a zone created under this section if—

(a) the rights will only be exercised from land contiguous to the zone; and

(b) the exercise of the rights will not result in a disturbance of the surface of land within the zone.

(2b) A mining right acquired in respect of a zone created under this section may only be exercised in accordance with any conditions or directions given by the Minister responsible for the administration of this Act.

The Liberal Party fully supports the conservation of the Coongie Lakes region. This amendment seeks to allow for the exploration and possible extraction of oil and gas through the process of lateral subterranean mining from a point outside the excised zone to underneath the zone. The surface environment will still be protected by this amendment.

The government has previously been supportive of lateral subsurface mining, and except that this was not addressed in the original bill this amendment would not be necessary. This bill allows for the best of both worlds. The pristine environment of the Coongie Lakes will be protected and, at some point in the future, exploration will be possible for areas underneath the excised zone.

It is important to look at this now, because the technology is available and the demands upon our state's resources are somewhat unpredictable. The government is committed to trebling the state's exports. This amendment keeps the option open for the Coongie Lakes region to contribute to this goal. It changes clause 5 to allow the subsurface mining which will, of itself, not damage the surface including, I am advised, water or vegetation. This is consistent with the definition in the original bill of land as described. The amendment has the added protection of providing ministerial approval to any mining rights acquired.

Progress reported; committee to sit again.

VICTIMS OF CRIME (CRIMINAL INJURIES COMPENSATION REGULATIONS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 1 December. Page 786.)

The Hon. T.G. ROBERTS: Mr Acting President, I draw your attention to the state of the council.

A quorum having been formed:

The Hon. A.J. REDFORD: The opposition supports the second reading of this bill and, given the government's indication that it is a priority bill, we will do everything in our power to assist the swift passage of this legislation. The opposition will be moving amendments to the bill concerning one aspect. It is a short bill, but it is preceded by some history which I will touch upon. I am grateful, in speaking on behalf of the opposition, for the work done by the shadow attorney-general, the Hon. Rob Lawson, who presented quite a detailed summary and paper to our party room in relation to this issue.

Indeed, given that the Labor caucus is now leaking like a sieve (and I have seen a copy of what the Attorney-General presented to the caucus), it pales by comparison. The bill does two things: first, it enables legal practitioners to claim higher fees which, incidentally, have not been increased since 1987 (some 15 or 16 years) under the now repealed Criminal Injuries Compensation Act for work done under that act; and, secondly, it makes certain changes to the way in which criminal injuries claims are managed. The bill seeks, during any period of negotiation prior to the issue of proceedings, to restrict access to medical reports. It does that by denying payment for certain reports unless prior permission is granted by the Crown.

That is a summary of the effect of the provisions; they are quite detailed. The bill also restricts payments for the cost of reports from allied health practitioners. Before dealing with the arguments and issues surrounding this bill, I should deal with the history relating to the introduction of this bill. The issues were dealt with by the Legislative Review Committee earlier this year. For those members who are not familiar with it, I should say that the criminal injuries scheme operates, first, by collection of a criminal injuries compensation levy or by confiscation of profits where persons are convicted of certain offences or pay expiation fees.

Secondly, victims of crime can claim from this fund by issuing proceedings in the courts and serving those proceedings on the perpetrator of the offence and on the Crown. Theoretically, any moneys recovered from the fund by a victim can be recovered from the perpetrator. In reality, very little money is recovered because, generally speaking, criminals do not have much money. As such, the burden for paying victims falls on the state, or so it is said, rather than the perpetrator. Certainly, the state has a responsibility to be a careful steward in the management of the fund.

On 19 February the government sought to introduce regulations concerning criminal injuries compensation. In a report to the Legislative Review Committee in relation to those regulations, the Attorney, who signed the report, said that those regulations were to deal with three matters: first, to set out the information and documents that must be provided by the victim to the Crown; secondly, to fix the scale of costs payable to legal practitioners; and, thirdly, to fix the levy payable to the Victims of Crime Fund on conviction for or expiation of an offence. The matter came

before the Legislative Review Committee; and, very quickly, the Legislative Review Committee started to receive submissions.

The first and most significant submission the committee received was a general submission from a legal practitioner, Matthew Mitchell. Not only is Mr Mitchell a well regarded legal practitioner but also he plays a significant role in local government, and he does have the interests of his community and the broader community at heart. Mr Mitchell raised a number of issues in relation to victims of crime generally. I will not go through them all, but he does raise a number of issues; and, in certain parts of this document, he praises some aspects of some of the reforms that have taken place over the past couple of years.

The first significant issue that he raised at that time was that, pursuant to schedule 2, the legal practitioner was not entitled to reimbursement for the costs of specialist reports and that a report be obtained from a general practitioner. In that respect, Mr Mitchell said that it was unsatisfactory to request an applicant to attend upon a general practitioner when, perhaps, they had not even seen a general practitioner at all in relation to the injuries sustained as a result of the criminal conduct. That can happen, particularly where people present themselves following criminal conduct to out-patients sections in our public hospitals.

The second concern raised by Mr Mitchell was that, under regulation 4 of part B of schedule 1, there was a requirement that an application must be accompanied by a letter from the employer. He did point out that there are occasions when a claimant would not be entitled to compensation for economic loss unless he could persuade his employer or former employer to provide such a letter. From my experience, albeit some time ago, there are occasions when former or current employers are reluctant to issue such letters, even at the request of the client or the employee, which is unfortunate, but that, in fact, is a reality.

Mr Mitchell also raised the point that the increase in costs applied only to new matters and not matters that were already in existence. He also raised some other important issues, which I will not go into at this juncture because they certainly gain legs later on in the process. On 23 May, the Hon. John Gazzola, as Presiding Member of the Legislative Review Committee, received correspondence from the Law Society; and, given its current stance on this matter, I think it is important that that be put on the record. The Law Society, in directing its submission, was referring to the regulations then before the committee. In its submission, the Law Society states:

> Practitioners have reported some problems since these regulations came into operation:
>
> 1. The regulations require that a medical report be obtained from a victim's usual or treating general practitioner. In some cases a victim has not sought treatment with respect to psychological injury following a crime and therefore does not have a usual or treating general medical practitioner from whom a medical report can be obtained. This does not mean that the victim has not suffered a mental injury. It is often the case that a victim may not have discussed their psychological deterioration with a medical provider until a medico-legal assessment is sought.
> 2. When a victim does not have a usual treating general practitioner, the Crown Solicitor's Office should authorise a medico-legal assessment by an appropriate psychiatrist/psychologist.

It is further stated:

> 3. In some cases, solicitors have obtained reports from medical practitioners who have indicated that they are not in a position to provide an assessment of mental injury. The Crown has insisted that the medical practitioner refer the victim to an appropriate psychiatrist to obtain a report. This indirect approach places a burden on general medical practitioners to refer patients to a psychiatrist and then obtain a report from that psychiatrist before preparing a report to the solicitor. . .
>
> It is not clear how Medicare will respond to this procedure, given that the referral to the psychiatrist is being requested by the general medical practitioner for the purpose of completing a report.

The letter further states:

> 4. On some occasions where incomplete medical reports have been obtained from general medical practitioners,(who have not been able to provide a medical diagnosis and prognosis of a mental injury) the Crown has made an offer for settlement. Solicitors have reported that in these instances they are unable to adequately advise their clients about these offers because the medical evidence obtained is incomplete. There is a risk that this may expose them to potential negligence claims.

Indeed, there is also a risk that they might not do justice on behalf of their clients, and I draw to the attention of members that there is a clause in this bill that is headed (and it is not disingenuous, it is up front) 'Legal practitioner not negligent if relies on certain reports'. So, what we have here is, in fact, a piece of legislation that says, 'We are going to bring, in effect, certain measures. We anticipate that, in the normal course of events, that would lay a legal practitioner open to assertions that they are negligent. But what we will do is encourage negligent practices through the passage of this legislation.'

The Hon. Nick Xenophon: So, there is a lower standard of care amongst professionals for victims of crime.

The Hon. A.J. REDFORD: Yes. The honourable member said it much more succinctly than I did, and I apologise to the chamber for not being as succinct as he is.

The PRESIDENT: I think that he should apologise for interjecting, anyhow. He was out of order.

The Hon. A.J. REDFORD: Yes, but it was a good out of order. Paragraph 5 of the letter from the Law Society states:

> 5. Solicitors working in this field understand that the Crown may have access to hospital records of victims admitted to public hospitals, without authorisation from victims or without the victim having the right to obtain a copy of same. If this is in fact the case there may be a breach of the victim's rights privacy principles.

It continues:

> In summary, the society considers that the new regulations have introduced unjustified restrictions.
>
> · Solicitors have been prevented from obtaining the necessary medical evidence to substantiate their clients' injuries and to protect themselves from potential negligence claims.
> · The regulations have increased the time that solicitors spend on each file as considerable time is being spent in seeking appropriate authorisation from the Crown.
> · There have been unnecessary delays in obtaining medical evidence in many cases.
> · Some cases where a victim has no usual or treating general medical practitioner have been left in limbo.

What we have there is a letter, from as late as 23 May this year, in which the Law Society has raised some pretty significant criticisms of the regulatory regime that was put before the Legislative Review Committee.

We subsequently received correspondence from Jamison and Associates. Mr Jamison is a former chair of the South Australian civil liberties section and, I have absolutely no doubt, shares very little in common, in terms of any beliefs, with the current Attorney-General. One would understand it if anything that Mr Jamison said might be viewed with some suspicion on the part of the current Attorney-General. In his letter, he pointed out that he is the chairman of the board of

management of Victim Support Service Incorporated. He is involved, and has a substantial practice, in criminal injuries compensation and, indeed, is the author of *Social Work and the Law*, which is published by Butterworths. He is also a member of the Law Society, and he generally advises it on matters relating to criminal injuries compensation. In his letter he stated:

> I am deeply concerned by the provision in both regulations which prohibits legal practitioners from obtaining reports from any person other than the claimant's usual or treating general medical practitioner.

He then indicates in his letter that he understands that what might be driving the government towards these amendments is a consideration of cost and the integrity of the fund—and I know that all members here would be conscious of the importance of that. In relation to that matter, he said:

> I return now to my response to what I have anticipated would be the manager's arguments as to why they feel it is necessary to stop victims of crime from obtaining reports from their treating psychologists, psychiatrists, social workers and other helpers. On the question of the cost to the compensation fund, I say that if the Crown was genuinely concerned about the cost of the reports, then they could put a limit on the amount that they would pay for the report. They have not put a limit on the amount that the general practitioner can charge for the report. They have not put any restraint on the number of reports that they can order. Perhaps the cost is not really the reason why the compensation fund does not want victims to obtain proper assessments and be fairly compensated.

Indeed, he went on—in relation to a suggestion on the part of some that general practitioners are pretty experienced and can make full and proper assessments, particularly in relation to psychological and psychiatric injuries—and stated:

> I find that less than half of my victims who have suffered psychological injuries have general practitioners and less than half of them have discussed their psychological injuries with their general practitioners. Most of the victims of crime that I see with major physical injuries go to hospital where they are treated.

He then stated:

> Sometimes, the patients report psychological distress to the general practitioners but never ever do the general practitioners assess their patients, generally preferring to treat them with a sympathetic ear or an anti-depressive medication without really investigating the proper diagnosis of the psychological injury and never having the time to provide therapies of a personal nature.

He then stated (and, Mr President, as you would be aware, these regulations come into operation before they are dealt with, so he has had some experience in relation to the effect of the regulations) as follows:

> Six months into the new regulations I have not yet found a general practitioner willing to fully assess a victim of crime. Most have refused my request for an assessment admitting that they lack the ability.

What he is saying there is: if, as a lawyer, I want to explore this issue of psychological or psychiatric loss and I go to the general practitioner and say, 'Look, can you give me an indication or some assessment', they have refused. He said:

> Most have refused my requests for an assessment admitting that they lack the ability.

In relation to his request to the Crown he stated:

> They have not always agreed and as a result, many cases will now proceed to court, at great expense, so I can order proper reports.

What he is suggesting there is that, in order to properly represent a client, he has to in fact take the matter to court in order to obtain a recovery for a specialist report.

I want to return to this extraordinarily Orwellian schedule 2 contained within this bill, which is entitled 'Legal practitioner not negligent if he relies on certain reports'. It is a very interesting clause, and I would invite members to consider it carefully. It states:

> A legal practitioner who relies on a copy of a victim's hospital report or a report of the victim's general medical practitioner or dentist in the course of giving advice about a claim in respect of the victim will be not taken to have acted negligently in so doing.

But what it does not say is that a court may well find a practitioner is not negligent in not taking the matter further into the arena to ensure that he has the opportunity to properly explore the consequences of the injury. Indeed, this protection that a legal practitioner is not negligent if he decides to seductively take up or not take up the matter may well not be any protection to the legal practitioner at all. There may well be some argument that lawyers are immune from liability in relation to their conduct before a court. However, the decision and advice to a client as to whether or not a matter should go to court is a matter for which a legal practitioner can be held negligent.

Following receipt of those documents and discussion, the Legislative Review Committee resolved to recommend to the parliament that these regulation be disallowed. Indeed, on 16 July 2003, in a very wise decision on the part of the Hon. John Gazzola, who could see through the negative impact of these regulations to victims, he moved that the regulations be disallowed and he gave a very short but pithy and direct speech. He said:

> The committee noted that these regulations do not ensure that victims of crime who apply for compensation are given adequate assistance in obtaining a medical assessment in relation to their claim.

He then proceeded to support the disallowance of the regulations. Following that disallowance, in July this year, the then attorney-general (because we were dealing with the revolving door attorney-general at that stage, the Hon. Paul Holloway) moved regulations, again entitled 'The victims of crime regulation.' The report states:

> On 16 July 2003, on the recommendation of the Legislative Review Committee, the Legislative Council passed a motion disallowing the Victims of Crime Regulations 2002. Those regulations, among other things, prescribed the particulars that a victim of crime must supply to the Crown Solicitor when applying for compensation, prescribed the scale of fees for legal practitioners acting for victims, fixed the amount of the victims of crime levied payable on conviction or expiation of an offence, and fixed the proportion of the aggregate amount paid into general revenue by way of fines, that is, to be paid to the Victims of Crime Fund.

We considered the regulations and we found that they were in identical terms to the regulations that were disallowed by the parliament within a week of that disallowance—no change whatsoever. That did not bring forward anything but what we would have anticipated. Firstly, I received a letter from Matthew Mitchell. In that letter, he says:

> I note that the new regulations under both the Criminal Injuries Compensation Act and the Victims of Crime Act were disallowed by parliament some weeks ago and right to confirm that the government has with respect to the Victims of Crime Act proclaimed regulations identical to the ones previously disallowed.

He then says:

> It may be suggested that the failure to increase costs under the Criminal Injuries Compensation Act may be regarded as a pay-back for the political agitation of the plaintiffs' solicitors involved.

So members understand what I am saying, there were two aspects to the regulations: one increases the lawyers' fees and the other does something which the lawyers find objectionable. So, when the parliament disallows those regulations at the insistence of those lawyers, the government comes back and says, 'You will put the fees back and exactly the same

objectionable material.' Not surprisingly, Matthew Mitchell concluded that that could be seen as pay-back.

I am a man who likes to think that sometimes these things happen through inadvertent conduct. I am a person who would not think that this government would seek to pay-back those who might seek to put submissions to a committee. So, on 29 August I wrote to the then new Attorney-General, the Hon. Michael Atkinson. I said that I understood that there needed to be some regulations. In my letter, I said:

> I understand that the government's reason for this is the need to have some regulations in place in order to ensure the collection of the criminal injuries compensation levy from offenders. The regulations repeat the provisions which prevent solicitors acting for plaintiffs from obtaining payment of the costs of obtaining independent medical assessments of a plaintiff's claim, without prior authorisation of the Crown Solicitor. I also note that no regulation has been proclaimed pursuant to the Criminal Injuries Compensation Act. Consequently, the old regulations exist.

I go on and I say this—and I put it fair and square:

> The perception created as a consequence of this is that the failure to increase costs under the Criminal Injuries Compensation Act is a 'pay-back' for the political agitation of the plaintiffs' solicitors involved. I have to say, in the absence of some logical and cogent explanation, that is an entirely reasonable conclusion at which to arrive. If that were the case, I have no doubt that you would understand the seriousness of the situation and the likely response of the majority of the Legislative Council. This is particularly so if the council was to come to the conclusion that this government would seek to prevent or discourage open and frank submissions to its committees through devices such as this.

The Attorney responded to my letter, as follows:

> As for the second, you suggest that the failure to remake the Criminal Injuries Compensation Regulations represents some form of revenge by the government against the parliament's decision. I disagree.

He then goes on and says that the problem he had was that the Criminal Injuries Compensation Act had been repealed, and it was not possible for the government to make the regulations and that he was considering introducing legislation. That was nearly three months ago.

Following that, we received another round of submissions. The first was from Jamison and Associates in a letter to me dated 10 September, as follows:

> If there is a thin end of the wedge argument to be put, then it would just be a matter of time before WorkCover and the Motor Accident Commission and Nominal Defendant would demand legislation like this for themselves.

I have to say that that does have some force. Also on 16 September I received a letter from Matthew Mitchell. He raised a series of issues. They are important issues, and I will go through them for the benefit of the Hon. Nick Xenophon who said in today's paper that this government is keen on victims' rights. This is what Matthew Mitchell raises in relation to this government's keenness on victims' rights:

> Victims of an assault where the offender has pleaded self-defence and the court have found that there was a reasonable doubt that subjectively the offender believed he was being attacked even if this was clearly not the case. These people feel a triple grievance. Firstly they suffer an injury, secondly they are unsuccessful in the police prosecution and thirdly they are unsuccessful in a claim for compensation. The Attorney-General has traditionally not exercised his discretion under the Criminal Injuries Compensation Act to make a payment to such people.

The letter goes on to deal with the victims' rights credentials of this government and says:

> Many child victims of sexual abuse are unable to successfully sustain a prosecution because of difficulties of proving the matter beyond a reasonable doubt.

It continues:

> The Attorney-General has traditionally not exercised his discretion in favour of child victims of sexual abuse unless the offence can be made out beyond reasonable doubt.

The question that I was asked to ask the Attorney is: would the Attorney give some consideration to accepting counsellors' reports and reports from Yarrow Place and other professionals as corroborative evidence of the commission of a crime against victims who are unable to satisfy the test of proving a crime beyond reasonable doubt? Indeed, I will be interested to know the government's response to that. He goes on and talks about the Attorney's discretion. Again, I remind members that this is a government that says it is pretty strong on victims' rights.

In that letter it says that the Attorney-General and the previous Attorney-General have traditionally declined to give any reason for the exercise of their discretion under the Criminal Injuries Compensation Act. As such, Mr Mitchell (quite correctly, in my view) points out that in such circumstances it is difficult to advise people whether or not they should apply for an ex gratia payment. He goes on and says that there does not appear to be any consistent policy in relation to recoveries under WorkCover legislation and, indeed, talks about how he was out of pocket.

Another issue that he raised in this correspondence in relation to the credentials of this government regarding victims was:

> The present procedure of the Crown Solicitor's Office is to delay payments of compensation until the conclusion of the police prosecution. In many cases this is essential to ensure the cooperation of the victims and to ensure that an offence has been made out. In other matters it causes considerable hardship.
>
> In the case of the Snowtown murders the Crown would not make payments of compensation awaiting the outcome of the trial. As it appears there may be a separate trial for one of the offenders next year will the Attorney-General consider making payments to victims of this crime which is now several years old?

He also raises some other issues about medical reports and the amount that is paid to solicitors, both of which I have already referred to.

Mr President, you might be interested to know that, as a consequence of that letter, on 17 September 2003 I raised this issue of victims of crime—and I am sure the Hon. Nick Xenophon will be interested in this because he signed a letter which is in this morning's paper about how this government has credentials regarding victims of crime, and I assume he did so unknowingly and unwittingly, because I know that when he gets his mind across this he will change his mind about this government's credentials when it comes to victims of crimes.

The Hon. R.D. Lawson: They don't have credentials: they've only got form.

The Hon. A.J. REDFORD: The Hon. Robert Lawson comes up with a terrific interjection that I can only endorse. In relation to the matter, I asked a question of the Leader of the Government in this place as follows:

> Will the Attorney-General ensure that he exercises any jurisdiction he might have in favour of these tragic victims?

I was referring to the victims of the bodies in the barrels case and their families. This was on 17 September. Following your suggestion, Mr President, that I had expressed an opinion in my question but you were convinced of my concerns (and they were genuine concerns), the Hon. Paul Holloway said:

> I will pass on the question to the Attorney-General and bring back a reply.

If this government has any credentials in relation to victims—and they must claim some because I read about it in the paper

this morning—they certainly do not have any when it comes to answering my questions, because it will be nearly three months by the time we resume and I suspect they will not give me an answer to my question this week. It probably will be six months of inaction on the part of the government in dealing with those poor victims of the bodies in the barrels case. So much, in my view, for the credibility of this government when it comes to dealing with victims of crime!

Mr Jamison sent me another letter in relation to this issue on 17 September and stated:

> The issue is about who can prepare reports. Practitioners do not take issue with the fact that reports can be very expensive and there might have to be a cap on how much money the Compensation Fund is prepared to pay in the first instance for formulated claims. We won't disagree that perhaps there should be a cap on the initial report from the psychiatrist/psychologist/social worker or general practitioner of the victim, but it is not for the Defendant to dictate which practitioner provides the report.

So what Mr Jamison is saying (quite reasonably, I might add) is that we can put a cap on the cost of psychiatrists' and psychologists' reports when they become unreasonable. It is a suggestion that has been put repeatedly and, for the life of me, I cannot understand why it has not been taken up by the government or rejected by the government.

The Hon. the Attorney-General then came along and gave evidence to the Legislative Review Committee. Before I make any comment about the evidence which was discussed when we subsequently disallowed these regulations, can I say that, first, I acknowledge the fact that the Attorney fronted up to the committee, a situation which has been all too rare in the nearly 10 years that I have been a member of this parliament. I do not recall more than a handful of occasions on which ministers have fronted up to parliamentary committees and, for that, the Attorney deserves some accolades.

In his evidence he made this confession—and I describe it as a confession because there is no other way to describe it. He said:

> The Crown has been refusing permission for practitioners to obtain psychiatric reports or allied health professional reports, such as psychologists. We do not think those reports are necessary, and we know that they are very expensive. Some, but not all, practitioners in this area complained about that change.

And this is the important bit. He said:

> What I do know is that during the period the regulations were in force, the Crown Solicitor's Office took an unbending attitude to this regulation and did not allow psychiatric reports or allied health professional reports to be funded. I think the best gesture we could make is to say that the unbending attitude will be relaxed should these regulations come in.

So, we have a statement on the part of the Attorney to the effect that these regulations have not been used appropriately or adequately by those charged with looking after the interests of the taxpayer and those who had responsibility for the fund.

So, in fact, it made it extremely difficult for the Legislative Review Committee to say, 'We will trust the Crown with this new set of regulations not to be naughty again.' You know, Mr President—and I am sure you would agree with me—that we do not legislate in that fashion. We legislate as if there is a good minister or a bad minister: we legislate for the fact that there might be good bureaucrats or not so good bureaucrats, and that, in a nutshell, is why we did not allow those regulations. Indeed, this exchange took place. I asked:

> How is a litigant, a victim of crime, someone who has suffered at the hands of another, to protect themselves against some zealous Crown officer in these circumstances?

The honourable the Attorney replied:

> I will endeavour to get the Crown Solicitor's Office to have a more gentle and generous approach to granting permission for a specialist's report to be obtained. I think we can say that about half the practitioners in this area are keen to get an increase in the fee, and this point we have been discussing is not important to them. . .

So, the Attorney acknowledged it. Mr Hanna took up exactly the same issue that I raised in relation to punishment of lawyers, and this exchange took place. Mr Hanna said:

> It looks very much like government punishment of lawyers who have spoken up in relation to an issue of principle regarding medical reports. What do you say to that?

This might surprise you, Mr President, but I made no contact with Mr Hanna. He came to that conclusion all by himself, which was pretty much the same conclusion that I had arrived at. So, a man of the left and a man of the right came to that same decision. So there is some force there. The response to that assertion by the Attorney-General was:

> We will do what we can to reach a compromise over medical reports.

Mr Hanna said:

> In other words, you are saying to lawyers they will get their increased fees if they buckle on the medical reports issue.

The following is the Orwellian response from the Attorney:

> It is not a question of their buckling only. There is ground that we may have to give also to reach a sensible solution.

I acknowledge that the Attorney made some compromises in relation to this bill, but it is our view that he has not gone far enough.

Following the evidence of the Attorney-General, I think it was that afternoon, motions were moved to disallow the regulations. I think we lost the motion in the other place because one of our members missed the division. It was one of those days when everybody was happy to have the Legislative Council, because none of us missed the division, and so we saved the day—we disallowed the regulations. What we have now is this bill which is in response to the two sets of disallowed regulations. Before I turn to that, I should point out that, interestingly enough, the budget papers indicate that the compensation fund has been pretty stable over the past five years.

I refer to page 411 of the budget papers, which indicates that in 1997 there were just under 1200 compensation claims. The following year was about the same. In 1999, they hit 1200. In 2000, it was close to it. There was a drop in 2001, to a little over 1000, probably as a result of a drop in crime due to Liberal Party policies. It jumped back up, when this government was elected, to 1200 claims. It has been pretty level—we have not had any massive increase in claims. If we look at the figures in dollar terms, in 1997 $10 million was paid out in payments and claims. Again, presumably because of the enlightened law and order policies of the former government, that dropped down to $8 million—a 20 per cent drop. Then, we saw the figure charge back up to $10 million under this government for the 2002 financial year. For the past five years, it has not gone above $10 million. According to the figures presented to the parliament early this year, there has not been any spike in the level of payments.

Members should also be mindful of the significant increase in the victims of crime levy and, although there is no chart, of the income that comes from that. I note that recoveries from the criminals themselves have dropped in the past couple of years from $640 000 for the 2000 financial year to $550 000 for the 2002 financial year. There may well

be some stress there, but not when you are looking at figures of $10 million or $11 million and the increase in levy recoveries—at least those that have been presented to this parliament—that would indicate that this scheme is not under any significant financial pressure.

I now turn to the government's response. The government introduced this bill and, as I have said, we will facilitate its passage. In putting in this bill, the government has indicated that the Law Society now agrees and says it is a fair compromise. I have copies of letters to the Attorney-General and to his chief of staff, dated 3, 4 and 20 November. With the greatest of respect to the Law Society, I would be most interested to know why the Law Society has changed its position so drastically, given that the compromises in this bill do not address the issues of principle outlined in the letter sent to the Legislative Review Committee on 23 May. It seems to be a big change in approach and it may well be that Mr Hanna's suggestion for the government's approach might be working.

In any event, I will now turn to the debate in another place because I believe it warrants comment. I appreciate that the second reading speech in another place was delivered by the Hon. Kevin Foley but I understand that that was because the Attorney was absent on that day so I will assume that they are the Attorney's words. In the second reading he said that it was a good idea, for several reasons, not to be able to recover for specialists' reports. In an Orwellian statement he says:

> The assessment of compensation is not usually a difficult exercise and the vast majority of cases settle by negotiation without the need for a trial. This is a good thing because it spares the victim the distress of an unnecessary court hearing.

I will not argue with that, but there are cases where that is not the case. Indeed, victims always have a choice in these matters: 'Do we go through the distress of making a claim or do we go through the distress of not being compensated?' They are not great choices and, ultimately, the choice of the victim would probably be to turn back the clock and not be the victim of the crime in the first place. He states that victims do not like to go over the case again and again and that going to see specialists would cause them distress. All I can say is, how patronising. 'Don't you worry about that,' is the effect of what the Attorney is saying. It is almost like saying, 'We will take the distress of making a good and proper claim to the fund away from you by letting you avoid seeing the doctor.' I am surprised that, in his second reading, he did not say, 'Look, we are doing the victims a favour here; we are saving them the bus fares, the taxi fares or the petrol costs of going to see a medical practitioner; aren't we terrific?' That is just palpable nonsense put to the other place by the Attorney.

It is hard to find a more patronising comment than the following:

> Some find it tiresome to have to repeat their experiences first to police, then lawyers, then doctors, then courts.

If they do not want to make a claim they do not have to; but if they do want to make a claim they ought to be entitled to do so. In a 21st century democracy and a first world country, it should be their right. He continues with another patronising comment:

> Victims may be distressed by long delays in bringing a claim to conclusion because they feel that they cannot put the offence behind them and get on with their lives while the legal proceedings are still on foot.

I am looking forward to a bill. There is an easy way to deal with that issue: we guarantee each victim of crime a maximum payment of $200 but we will make sure they get it within 48 hours. That will save time. That is the sort of quality of argument we get in support of this legislation. In relation to allied health practitioners he says that they ought to be excluded. It is not common and I do not think it ought to be allowed all that often that allied health professionals should claim.

Dealing with psychologists who are allied professionals can be extraordinarily useful in understanding people's problems; in some respects, they provide a more useful service (albeit a different one) than a medical specialist such as a psychiatrist. Mr Hanna in another place recognised that the bill was a compromise and better than anything proposed earlier. He referred to a letter (of which I do not have a copy) in which the Victim Support Service states:

> It is our submission that these regulations represent a dilution of crime victims' ever-reducing capacity to gain compensation for the harm done to them. Indeed, we argue that crime victims may well be re-victimised by some aspects of this bill. It is clearly the case that legal practitioners who act in the interests of crime victims will be restrained in presenting their client's case by the directions of representatives of the crown.

It states further:

> With crime compensation lawyers' hands tied, the crown can have a free rein to offer paltry sums of compensation without risk of challenge in court.

The Hon. Nick Xenophon is no doubt thinking of ringing *The Advertiser* and finding out how he can withdraw the first sentence of the letter that was published in that newspaper today. But, as they say in the classics: there's more! However, I will not go on in any more detail other than to say that this measure is ill-conceived.

Matthew Mitchell sent a similar letter to the Hon. Robert Lawson, who has given me a copy, for which I am grateful. It goes through much of what he has said repeatedly for the past 12 months. What I find extraordinary is that we in this place often laugh at lawyers and say that they are avaricious and only looking after themselves. However, the Matthew Mitchells and the Russell Jamisons of this world have said to me, 'Yeah, sure, we haven't had a fee increase since 1987'—I think members of parliament were getting about $32 000 a year back in 1987—'Yes, it is a substantial part of our practice, but we are prepared to delay receiving proper remuneration to get this right.' That is more power to them; and that attitude engenders my respect.

We have amendments on file (in the name of the Hon. Robert Lawson) which we think improve the bill, and hopefully we will secure the support of other members. It was only late today that I had a close look at this measure. Regarding the clause which provides that a legal practitioner is not negligent if they rely on certain reports, I will speak with the Hon. Robert Lawson about what impact that clause may have and whether or not it ought to remain. I am interested to hear from the government about whether there is any need for this clause at all. If this bill gets through, it may well be worse for the legal profession if this clause remains than having no clause at all, because at least a lawyer can say, 'All I did was comply with the act.' This clause provides protection for a legal practitioner, but it is narrow protection and I think it offers false comfort to the legal profession.

I am sorry I took so long, but this matter does have a chequered history, and it is important that we on this side of the council try to come to grips with the government's sensitivities towards victims of crime, what they say and what

they do, and explain it to those who do not pay as much attention as we to the government. That is why I took longer than perhaps I might have otherwise.

The Hon. R.K. SNEATH secured the adjournment of the debate.

FEDERAL COST SHIFTING REPORT

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I lay on the table a ministerial statement relating to the federal cost shifting report made today by the Hon. Rory McEwen.

ELECTORAL COMMISSION REPORT

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I lay on the table a ministerial statement relating to the State Electoral Commission report on South Australian local government elections in May 2003 made today by the Hon. Rory McEwen.

ADJOURNMENT

At 6.21 p.m. the council adjourned until Wednesday 3 December at 2.15 p.m.