LEGISLATIVE COUNCIL

Tuesday 17 February 2004

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

ASSENT TO BILLS

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

Criminal Law Consolidation (Identity Theft) Amendment,
Highways (Authorised Transport Infrastructure Projects) Amendment,
Legal Practitioners (Miscellaneous) Amendment,
National Environment Protection Council (South Australia) (Miscellaneous) Amendment,
National Parks and Wildlife (Innamincka Regional Reserve) Amendment,
Passenger Transport (Dissolution of the Passenger Transport Board) Amendment,
Southern State Superannuation (Visiting Medical Officers) Amendment,
Statutes Amendment (Bushfire Summit Recommendations),
Statutes Amendment (Expiation of Offences),
Summary Offences (Vehicle Immobilisation Devices) Amendment,
Survey (Miscellaneous) Amendment.

PAPERS TABLED

The following papers were laid on the table:

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

Reports, 2002-2003—
Courts Administration Authority.
Final Budget Outcome.
Legal Practitioners Disciplinary Tribunal.
South Australian Apiary Industry Advisory Group.
South Australian Pig Industry Advisory Group.
Regulations under the following Acts—
Country Fires Act 1989—Bushfire Summit Recommendations.
Criminal Law (Forensic Procedures) Act 1998—Variation.
Fisheries Act 1982—Rock Lobster Northern Zone—Clarification of Quota.
Gas Act 1997—Rationing.
Judges' Pensions Act 1971—Remuneration.
Juries Act 1927—Remuneration.
Legal Practitioners Act 1981—Fees.
Liquor Licensing Act 1997—
Blackfriars Priory School Exemption.
Long Term Dry Areas—
Millicent.
Port Augusta.
Short Term Dry Areas—
Alexandrina Council, Glenelg.
Beachport.
Peterborough.
Robe.
Livestock Act 1997—Cattle Identification.
Meat Hygiene Act 1994—Food Standards Code.
National Electricity (South Australia) Act 1996—Penalty.
Parliamentary Superannuation Act 1974—Non-Member Spouse Entitlement.
Police Superannuation Act 1990—Non-Member Spouse Entitlement.
Plumbers, Gas Fitters and Electricians Act 1995—Exemptions.
Public Corporations Act 1993—
Austrics Dissolution.
SA Infrastructure Corporation.
Retail and Commercial Leases Act 1995—Minimum Term Variation.
Senior Secondary Assessment Board of South Australia Act 1983—Subjects and Fees.
Southern State Superannuation Act 1994—Non-Member Spouse Entitlement.
Superannuation Act 1988—Non-Member Spouse Entitlement.
Victims of Crime Act 2001—Compensation.
Rules of Court—
District Court—District Court Act 1991—Mediation Court.
Magistrates Court—Magistrates Court Act 1991—Correction of Numbering Error.
Supreme Court—Supreme Court Act 1935—
Affidavits and Errors Corrected.
Probate Rules.

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

Reports, 2002-2003—
Ceduna/Koonibba Aboriginal Health Service Inc.
Controlled Substances Advisory Council.
Department of Human Services under the Public and Environmental Health Act 1987.
Drug and Alcohol Services Council.
Hills Mallee Southern Regional Health Service.
Julia Farr Services.
Juvenile Justice Advisory Committee.
Mount Gambier and District Health Service Inc.
Noarlunga Health Services.
Noarlunga Health Services' Financial and Business Statements.
Royal Adelaide Hospital.
Wakefield Regional Health Service Inc.
Independent Gambling Authority, Inquiry concerning Advertising and Responsible Gambling Codes of Practice—First Supplementary Report, December 2003.
Industrial Relations Commission of South Australia—Guide for Unfair Dismissal Matters—Report.
Regulations under the following Acts—
Development Act 1993—Swimming Pools.
Lottery and Gaming Act 1936—Instant Lottery.
Motor Vehicles Act 1959—
SAPOL Motorcycles.
Testing and Demerit Points.
Passenger Transport Act 1994—
Conduct of Passengers.
Fares and Charges.
Minister Replaces Board.
Prevention of Cruelty to Animals Act 1985—Dog Tail Docking.
Prohibition of Human Cloning Act 2003—Warrants and Compensation.
Radiation Protection and Control Act 1982—Transport.
Rates and Land Tax Remission Act 1986—Maximum Remission.
Reproductive Technology (Clinical Practices) Act 1988—
Ethical Clinical Practice Code.
Revocation of 1995 Research Code.
Research Involving Human Embryos Act 2003—Warrants, Compensation and Research.
Road Traffic Act 1961—Photographic Detection Devices.
By-laws—
Regional Council—
Port Pirie—
No. 1—Permits and Penalties.
No. 2—Moveable Signs.
No. 4—Roads.

FISHERIES, COMPLIANCE OFFICERS

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I seek leave to make a ministerial statement.

Leave granted.

The Hon. P. HOLLOWAY: Yesterday in question time I indicated that I thought there were 30 fisheries compliance officers. I have checked with my department and can advise the council that the correct number is 49 full-time compliance officers.

Members interjecting:

The Hon. P. HOLLOWAY: Of course, we have increased the number greatly in recent times. I can advise the council of the correct number of compliance officers and boats. There are 49 full-time fisheries compliance officer positions including the fish care volunteer coordinator and a project officer. Currently there are six contract staff used to cover vacancies and to maintain operational coverage. There are 22 fisheries compliance boats around the state, including the Whyalla boat which is under construction. In the near future I will provide further details about the question I was asked yesterday.

NIGHTCLUBS

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I lay on the table a copy of a ministerial statement made by the Premier in the house today about nightclubs and reforms.

FORESTRY

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I lay on the table a ministerial statement made by the Hon. John Hill about forestry in the South-East.

QUESTION TIME

DEATHS IN CUSTODY

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

Leave granted.

The Hon. R.D. LAWSON: In response to calls from the opposition for an independent inquiry into the death in custody of John Trenorden on 1 February, the government rejected the call, saying that two inquiries were already under way and that a further inquiry would be an unnecessary duplication and a waste of money. These statements were made on radio by the Premier and by the Attorney-General and were implicit in statements made by the Minister for Correctional Services. Indeed, yesterday, in his ministerial statement on this subject, the minister described such calls as no more than a political stunt. Yesterday, the minister also conceded that the South Australian Ombudsman has decided to conduct his own investigation into these incidents. My questions are:

1. Does the minister regard the expense that the Ombudsman will be undertaking on his inquiry as an unnecessary duplication and a waste of money?

2. Did the minister have any discussions with the Ombudsman regarding the inquiry?

3. Did the minister or anyone on his behalf have any discussions with the Ombudsman relating to this matter?

The Hon. T.G. ROBERTS (Minister for Correctional Services): When the question was asked about the necessity for any further inquiries to be conducted, my reply was that there was none because two inquiries have been undertaken as a matter of course, one by Correctional Services and the other by the police. There is a third inquiry, which is the Coroner's report, which will be much longer. If the government is to act on the reports, because the Ombudsman's report will take much longer, action will be taken before that is tabled.

I am aware that the Ombudsman intended to inquire into at least one of the deaths. I am not sure of the details of the Ombudsman's inquiry, so I will not make any comment as to whether that inquiry, running alongside the other three inquiries, would be worthwhile. Inquiries are conducted by the Ombudsman either of his own volition or at the behest of others. I did not make any request to the Ombudsman to conduct an inquiry in tandem with the other inquiries. I am not sure who made the application or whether the Ombudsman made that decision himself, but I will endeavour to find out and bring back a reply.

TRADE AND ECONOMIC DEVELOPMENT DEPARTMENT

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make an explanation before asking the minister representing the Minister for Economic Development a question about the Department of Trade and Economic Development.

Leave granted.

The Hon. R.I. LUCAS: In October last year, the minister responsible for the department appointed the city manager of Salisbury Council, Steven Haines, to undertake an urgent six-month project to overhaul what was then the Department of Business, Manufacturing and Trade, now known as the Department of Trade and Economic Development (DETED) in its latest incarnation. This was an urgent task to implement all the major recommendations and the overhaul of the department.

As I have outlined previously, in almost two years under this government this department has been through three major restructures: it was originally split into two and it has now been reunited; it has had three name changes in just under two years; and it still does not have a permanent chief executive. Mr President, as you will know, a number of people within this department at middle and senior level still have not had their positions confirmed; they are in acting positions and they do not know whether or not they will have positions in the new streamlined and restructured department. There is much concern amongst long-serving and competent staff members within that agency about not only their own positions but the position of the department and the work that it must undertake.

In the past month and a half there have been advertisements for senior executive positions in the local newspaper and national newspapers, together with an advertisement for a chief executive. I am informed that at this critical stage—as I said, this was an urgent six-month task—the interim chief executive appointed by the minister is currently on a cruise somewhere for a period of three to four weeks and there is no chief executive in the Department of Trade and Economic Development managing this critical restructuring process.

I hasten to say that I make no criticism of the interim chief executive because, if my information is correct, when he was offered the appointment he made it clear to the minister that he had a longstanding requirement to take leave for up to a month at about this time. So, I hasten to say that the opposition is not being critical of Mr Haines or his family. My questions to the minister are:

1. Is it correct that the interim chief executive of the Department of Trade and Economic Development, who was appointed on an urgent six-month contract to overhaul the department, is currently on a three to four week holiday cruise?

2. If that is correct and if the minister was advised of this by Mr Haines prior to his appointment in October last year, why did the minister appoint him to this position, given the urgency of the task that confronts the minister and the government?

3. Is it correct that critical decisions about senior executive positions within this department have still not been completed and will now have to be delayed until after Mr Haines returns from the cruise?

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

LICE, OFF SHEARS TREATMENT

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about off shears lice treatment.

Leave granted.

The Hon. CAROLINE SCHAEFER: Point No. 13 of the Labor agriculture policy, which was released before the last election, states that Labor will, in consultation with industry, introduce legislation to have compulsory off shears lice treatment reintroduced in South Australia? My questions are:

1. What rationale can the minister give for reintroducing compulsory off shears lice treatment in South Australia?

2. What consultation has taken place?

3. When will the legislation be introduced?

4. Is this another example of the Rann government over-regulating primary industries?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I gather the honourable member is referring to the policy put forward at the last election. I was not the shadow minister for primary industries immediately prior to the election, so I was not responsible for developing that particular part. Therefore, it is a bit difficult for me to comment on the background to that. I will endeavour to find out what information I can in that regard.

The Hon. CAROLINE SCHAEFER: As a supplementary question, is the minister telling me that two years on from the election he has not perused his own party's policy, produced prior to the election, and is he also telling me that that policy was developed in isolation from the whole of the caucus?

The Hon. P. HOLLOWAY: The honourable member's original question specifically asked why that was being introduced and why it was specifically put there as part of the policy, and I just explained to her that I was not the shadow minister responsible for initiating that matter at the time and therefore it was difficult for me to comment on it.

The Hon. CAROLINE SCHAEFER: As a further supplementary, I also asked what consultation is taking place and when the legislation will be introduced, and I would like an answer to that part of my question.

The Hon. P. HOLLOWAY: I will re-examine the policy in relation to that and bring back a response.

ABORIGINAL PRISONERS, ART

The Hon. G.E. GAGO: I seek leave to make a brief explanation before asking the Minister for Correctional Services a question about the involvement of prisoners in the Adelaide Fringe Festival.

Leave granted.

The Hon. G.E. GAGO: Members would be aware of the Adelaide Fringe Festival of 2004. Since evolving in the 1970s as an alternative to the more established Adelaide Festival, the Fringe has become a mainstay in the arts calendar and is now one of the world's biggest and most vibrant arts festivals. This unique festival provides an opportunity for a wide range of artists to display their talents. However, members may not be aware that this year Aboriginal prisoners will have works of art on display. Could the minister advise the council on Aboriginal prisoner involvement in this significant event?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): It is quite clear that members on the other side do not understand my role and responsibility in relation to the Festival and the Fringe. One of the bookings I made some time ago at the Fringe—and I will not make the mistake again—was going to a one-person show and finding out that I was the only person at the show! The performer apologised for not being able to perform her side of the contract, but being a one-person audience at a one-person show generally means that you are going to be a participant. I choose my venues more scientifically now.

In relation to the important question asked, members who have read the Visual Arts section of the Adelaide Fringe Festival 2004 program will have discovered that Aboriginal prisoners are represented. As part of my portfolio I take a genuine interest in promoting the arts, which is an alternative form of economic support for Aboriginal artists. And it is not all Aboriginal artists who contribute to exhibitions throughout South Australia. I attended an exhibition in the Adelaide Hills that included a wide range of artists. Some 260 prisoners are represented in two displays, which is quite a significant number. The department supports Aboriginal artists and assists them with art supplies to further their talents, and there are a number of programs running to encourage that.

The Adelaide Fringe Festival 2004 is a great opportunity for much of this work to be on public display. There are two exhibitions in which Aboriginal prisoner artwork is displayed. 'Beyond the gate' is an exhibition of contemporary and traditional themes by Aboriginal prisoners. These works will be on display at the Adelaide University during the latter half of February through to the middle of March, and I hope that the honourable member will take time out to attend. Many of the items in this exhibition are for sale, and I hope that he has long arms and short pockets when he goes along. The other exhibition that involves Aboriginal prisoners is 'Brick.'

In this display, each of the Aboriginal prisoners is represented by a single painted canvas joined together with others, reminiscent of a brick wall. The individual themes explored include issues about aboriginality, culture, ambition, emotion, feelings, dreaming and family in isolation. This

work will also be on display at the University of Adelaide during the last half of February through to the middle of March.

I am pleased that my department, particularly staff from the Aboriginal Services Unit, are able to support Aboriginal prisoners in their artistic endeavours. I have visited the Aboriginal section for prisoners in Darwin, and there are good links not only with the local community and some of the artists and their works but also works are exported overseas for batik printing and alternative ways of acquiring income before prisoners leave prison with some finances obtained by gainful employment within prison through their art and culture.

ROUNDUP READY CANOLA

The Hon. IAN GILFILLAN: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question relating to Monsanto's 2004 Roundup ready canola crop management plan.

Leave granted.

The Hon. IAN GILFILLAN: This plan of some 12 or 13 pages is now publicly available and, as I indicated in my introduction, the title is Roundup Ready Canola 2004: Roundup Ready Canola Crop Management Plan. The minister may or may not have seen it, but I intend to ask him, first, whether he has seen it. Secondly, what is currently in place in South Australia to prevent a farmer planting the 2004 Monsanto Roundup ready canola, because clearly from the document the company expects the canola to be planted in 2004? If the minister has read the document he will be quite conversant with the questions I am asking but, if not, I will give my brief explanation and ask a question, rather than wait to the end of my explanation.

The document talks first about the crop management plan forming part of the conditions of the technology user agreement that a grower is required to sign before growing Roundup ready canola. The details of the crop management plan will be included as part of the accreditation course and the technical manual for Roundup ready canola. This is attached to the resistance management plan, which is a critical component of the CMP. The RMP—the resistance management plan—has been developed by Monsanto in consultation with leading Australian weed researchers. Does the minister know which Australian Weed researchers who were consulted, were there any in South Australia, and what is the background of these researchers and their accreditation?

There is a requirement for the TSPs to complete a paddock risk assessment management option guide, known as PRAMOG, and the document says 'upon completion of the PRAMOG the TSP (the technology support person) will provide a confirmation report to Monsanto detailing the outcomes for each paddock to be planted to Roundup ready canola. On the minister's understanding, is this detail to be provided to PIRSA for its scrutiny? There is a requirement for two years documentation of the history of the crop after the harvest, with various details to be recorded. Does the minister know whether there are any penalties for non-compliance with these requirements and are they expected to be only in the hands of Monsanto, or is it expected that the department will have a hand in that?

A resistance management plan compliance levy may be charged to allow additional audits. Does the minister know whether that levy is expected to be imposed by the government, or is the company using the word 'levy' as a charge it is intending to apply? If a dispute occurs between the farmer, the technology service provider and Monsanto regarding implementation of the resistance management plan, the dispute will be referred to independent arbitration for resolution.

Does the minister know whether the independent arbitrator for resolution is one appointed by the company or by the government? Has he had any consultation with Monsanto about that? Finally, the document says that the minimum distance for managing the adventitious presence of GM grain is to be less than 0.9 per cent between GM canola and non-GM canola; for all other canola it is to be five metres. For foundation seed canola, or farmer-safe seed, it should be 400 metres. Does the minister have confidence that these distances will be effective? I must say that, with recent research with bee movement of pollen, the distance of five metres between GM grain and non-GM canola would appear to be totally ineffectual, but I ask the minister to give his opinion on those questions.

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): Firstly, in relation to the question about whether I have seen the document, the answer is no, although I am sure the key officers in my department would have seen it. One of the other questions asked by the honourable member—and there were certainly a number of them—was: 'Who were the weed researchers referred to?' Obviously I will have to obtain that particular information. The honourable member then asked a series of questions about penalties for non-compliance, levies and so on in relation to whatever document Monsanto may have put out. The point needs to be made that once the Office of the Gene Technology Regulator, the commonwealth agency, approves a GM crop for introduction into this country, then of course it is that body which, in the trial phases, fully regulates and controls the conduct of those trials. However, once approval is given, the OGTR then removes all roles in relation to how those commercial crops might be cultivated because, in that sense, they are treated the same as every other approved crop.

The point is that, in relation to the legislation in this state, the honourable member is well aware that I have prepared some legislation which I will be introducing into this chamber within a matter of days which will seek to regulate any commercial introduction of GM crops into this state because there is no legislation. As the honourable member well knows, there is nothing preventing the commercial introduction of GM crops into this state; and the honourable member is well aware of that through the number of questions that he asked in the previous session. I note that the Hon. Ian Gilfillan was critical of me when we had the discussion paper on GM crops out for public consultation. He was quite critical of the short time frame I had. I have explained to this council and the public that the reason why there was a consultation period last year during the harvest and why it was so short was due to the need to introduce that legislation to parliament as quickly as possible so there could be some regulation of any commercial planting of GM crops within this state because, if we do not put that regulation in, there is nothing that would prevent that from happening.

The honourable member would also be well aware of the constitutional restraints upon any legislation that this state might introduce because of the fact that we are a signatory to the commonwealth-state gene technology agreement and the various constitutional limitations that flow from that. The honourable member finally asked me about whether the distances were effective in relation to the separation of crops.

The only point I would make—and I am repeating points I have made on previous occasions—is that it is the Office of the Gene Technology Regulator, the commonwealth agency, which determines the health and environmental effects of GM crops. It is that body and that body alone which has the constitutional power to determine whether a GM crop should be grown commercially in this country, and it provides the technical requirements for the introduction of such crops.

The state can regulate GM crops only in relation to marketing purposes: that is part of the commonwealth-state agreement. The sole ground on which this state can legislate and the ground on which we will be legislating in the very near future will be marketing purposes. The growth of commercial GM crops in this state and their impact on marketing are the only criteria that we can use for the future regulation of GM crops, and that will all be revealed certainly by next week, if not sooner, when that legislation is introduced.

I hope that I will have the cooperation of all members of this parliament in passing that legislation quickly so that we can prevent the premature introduction of commercial GM crops into this state and address some of the issues that have been raised by the honourable member. Of course, one of those key issues is our capacity to be able to segregate GM crops from non-GM crops to ensure that there is no cross-contamination and, therefore, no impact upon the marketing of crops for this state.

The Hon. IAN GILFILLAN: I have a supplementary question. Is the minister indicating that it is beyond the authority of the state to determine what should be the acceptable buffer zones between GM and non-GM canola crops? Are we locked into accepting what is the statement in the Monsanto document, or can we determine what we believe to be adequate in South Australia?

The Hon. P. HOLLOWAY: If the legislation to be introduced next week is supported, there will be no commercial GM crops grown in this state for a period of some years until the issues of segregation can be determined.

The Hon. NICK XENOPHON: I have a supplementary question. Can the minister assure us that any experimental GM crops grown will not be sold, as is now being proposed in New South Wales?

The Hon. P. HOLLOWAY: In broad terms, yes. It has always been the government's policy, and I think the policy of the majority of members of this parliament, that, as a state that has one of the world's leading plant research centres in its midst, we would not wish to prevent genuine research in the plant area. However, there is a clear distinction between research and commercial operations, and that is why I have carefully chosen my words in answer to those questions.

What our bill seeks to do is to prevent commercial planting, that is, planting for sale as opposed to research. However, I indicate that some work has been undertaken in this state by one of the two companies on the preparation of seed, but that is for other trials. I do not regard that as being commercial crops as such. In any case, any trials that would be undertaken in this state would be relatively small scale. It is my understanding that any proposals for this state would be about 50 hectares or less and would certainly not be on the scale that other states may consider.

The Hon. J.F. STEFANI: I have a supplementary question. Will the minister give an assurance to parliament that he will provide parliament with the detail of the location where experimental crops are likely to be undertaken in South Australia in the future?

The Hon. P. HOLLOWAY: The point is that, in terms of experimental crops, once the Office of the Gene Technology Regulator provides approval for the commercial use of crops, its role finishes. The OGTR provides a significant amount of information on those trials. Once the OGTR's role has finished, which has now happened in relation to the InVigor brand of canola that Bayer CropScience has produced, and also the Monsanto Roundup Ready canola, and approval is given, of course any regulation will come under state legislation.

It is the state's view that we would monitor any trials under similar conditions to those that the commonwealth imposes. Of course, that will become state responsibility and can be performed with legislative backing only when the legislation we will be introducing becomes law. However, certainly at this stage we are planning to put in place similar controls as those that were applied previously by the commonwealth Office of the Gene Technology Regulator.

TAXATION, LAND

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries, representing the Treasurer, a question about land tax.

Leave granted.

The Hon. NICK XENOPHON: Late last month I received an email from a constituent in relation to land tax. Perhaps the best thing to do would be to quote from that email. The constituent said:

> I wonder if you are aware that a section of the community is being charged land tax on their principal place of residence. I refer to people, like myself, who have purchased a share in a South Australian Housing Trust property.
>
> Having been a Housing Trust tenant for a few years, I responded to a promotion by the Housing Trust encouraging people to purchase a share in their home. I purchased a 50 percent share of the property, this being as much as my income could service, and continue to pay rent to the Housing Trust on the remaining 50 percent. The Housing Trust pays council rates, I pay water rates and I am responsible for the cost of all maintenance. I would love to own the whole property but unfortunately cannot afford to do so.
>
> In December 2002, I received a land tax bill for the first time of $56. The bill came addressed to 'The SA Housing Trust and Another'. In November 2003, the bill arrived again, but this time was for $280, an increase of 500 percent.
>
> It would appear that although I am a 'natural person' and the property is my 'principal place of residence', the fact that I am not wealthy enough to purchase 100 percent of the property means that I am not entitled to the exemption from land tax, which is allowed to persons who are fortunate enough to own 100 percent of their principal place of residence.

I note the remarks quoted by *The Advertiser* journalist Leanne Craig, referred to by my colleague the Hon. Mr Stefani yesterday, that Treasurer Kevin Foley and Acting Economic Development Minister, John Hill, described the targets of the tax as 'wealthy, property accumulating opportunists'. My questions to the minister are:

1. Does the Treasurer consider that the constituent referred to—who is purchasing a Housing Trust home—and indeed all those who are in that position are 'wealthy, property accumulating opportunists'?

2. The constituent was advised eventually, after an appeal to the Commissioner for Land Tax, that the land tax would

be waived. How many notices for Housing Trust tenants, who are in a similar position, have been issued for land tax?

3. Can the Treasurer assure us that he will instruct the Commissioner for Land Tax to amend notices for all those in the same position as the constituent referred to, or issue a refund? In other words, it will not be a case of individuals having to appeal for a refund or amended notice but that this will happen automatically for those Housing Trust tenants purchasing their homes.

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): The situation the honourable member has indicated in his questions is clearly an anomaly, if the decision was subsequently reversed on appeal. I think that indicates that that particular person, the constituent of the honourable member, is not the person for whom land tax is charged. It is my understanding that most of the money comes from the commercial sector rather than individuals, in any case. I will get some further information from the Treasurer, but certainly it is quite clear that the rules in relation to land tax have not changed for many years—not since the early 1990s when the Brown government, I think, reduced the tax threshold, which effectively increased the take of land tax in this state.

The rates have remained since then. Of course, as I indicated yesterday, during the budget process the government will look at all of its revenue raising measures and indeed all of its expenditure measures and, if there are anomalies that need to be addressed, that will be done in that process. So, I will seek advice and answers to those specific parts of that question from the Treasurer.

WORKCOVER

The Hon. A.J. REDFORD: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Industrial Relations, a question on a topic dear to his heart, WorkCover.

Leave granted.

The Hon. A.J. REDFORD: I have been approached by a WorkCover claimant about his ongoing dealings with WorkCover over many years. My constituent was injured in 1994 while at work as a commercial diver. As a result of poor occupational health and safety practices by his former employer, my constituent suffered a serious case of the bends, leaving him with major depression, a pain disorder cerebral decompressive illness—which I understand is very serious—organic neuropsychological disorder, fatigue and limb dysfunction. All of these are very serious and extremely long-term injuries.

My constituent was offered redemption as recently as 2001. It was not taken up because of difficulties with estimates of future medical treatment. The activities of WorkCover since the rejection of the redemption offers has significantly stepped up. So much so that my constituent submitted a series of freedom of information applications. Since his accident WorkCover records have indicated that, apart from direct payments to my constituent for lost wages, WorkCover has spent money on medical reports, investigators, legal services, claims agents and so on as follows: 1994, \$395.40; 1995, \$3 93.30; 1996, \$548.55; 1997, \$2 133.75; 1998, \$175; 1999, \$488.92; 2000, \$9 064.20; 2001, \$13 777.85; 2002, \$31 569.73; and 2003, \$20 341.22. This makes a grand total of \$81 592.92. One item attracted my attention, as follows:

Chubb Protective Services INV fraud \$18 614.62.

Apparently my constituent, with the knowledge and the approval of WorkCover, decided to take his wife on a holiday to Europe. He sold the block of land he owned to pay for the trip. It turns out that WorkCover or its agent sent private investigators to France to surreptitiously and secretly film my constituent and his family—

An honourable member interjecting:

The Hon. A.J. REDFORD: The Hon. Bob Sneath interjects and says, 'Looking after the workers'. The cost of investigations—

The Hon. R.K. SNEATH: I rise on a point of order, Mr President. I did not make that interjection; the Hon. Mr Ridgway did.

The Hon. A.J. REDFORD: I withdraw that. The cost of the investigations was nearly twice that which my constituent and his wife spent on their overseas trip. More seriously, the use of video surveillance in France, according to advice I have received, is a serious criminal offence. Under article 226 of the French penal code it is an offence to record without his or her consent the picture of a person. It is also an offence to use those pictures or show them to others. It is punishable by one-year's imprisonment and a significant fine.

My constituent complained to the French authorities. In January this year the Minister for Justice wrote to him and advised him that, in the absence of the actual film, they cannot further investigate the conduct to determine whether a criminal act was committed. Not surprisingly, my constituent wants to get a copy of the film so that he can provide a copy to the French authorities. Unfortunately, WorkCover will not give him the film. I am prepared to advise the minister of the name of my constituent, and his reference in recent correspondence is WCK2003/00105M03/02990. In light of this, my questions are:

1. Does the minister approve of the fact that his agency, WorkCover, has, prima facie, or through some other representative, gone to another country and flagrantly committed a criminal offence in that country?

2. Did WorkCover approve of this operation and, if so, was it aware that this operation would constitute a criminal offence?

3. Will the minister instruct WorkCover to release the film to my constituent so that he can send it to the French authorities for their consideration?

4. How many other overseas film expeditions have been undertaken by WorkCover and how much did each of them cost?

5. Does the minister approve of the handling of a WorkCover case in which a total cost of nearly \$82 000 is spent on matters such as investigations and the like?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will refer those important questions to the minister in another place, together with any documentation provided by the honourable member, and bring back a reply.

The Hon. NICK XENOPHON: I have a supplementary question. Will the minister assure the council that the minister will cooperate with the French authorities in any investigation they launch?

The Hon. T.G. ROBERTS: I will refer that question to the minister in another place and bring back a reply.

TOXIC WASTE

The Hon. D.W. RIDGWAY: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Environment and Conservation, a question about toxic waste in South Australia.

Leave granted.

The Hon. D.W. RIDGWAY: The Bracks Labor government in Victoria is presently coming under fire over the issue of toxic waste. Industry in Victoria is demanding that the Victorian government find storage solutions for the massive amounts of toxic waste, some of which includes dangerous products such as chromium, lead, asbestos and other known carcinogens and some of which may never break down, produced in that state each year. The Victorian government has attempted to use the 'out of sight, out of mind' approach by trying to send this waste to proposed toxic storage dumps in rural farming areas.

Victoria produces some 50 000 tonnes of industrial toxic waste each year. The South Australian economy is about one third of the size of that of Victoria, therefore it probably produces somewhere in the vicinity of 15 000 tonnes of industrial waste (approximately 300 tonnes per week) per year. Of course, we all know of the Economic Development Board's and the Premier's wish to treble South Australia's economic output, so one could accurately estimate that we could approach 45 000 to 50 000 tonnes of industrial waste over the next 10 years. Some of this waste (such as PCBs) is sent to Queensland for incineration and disposal, some is sent to France and, I believe, although I am not sure, some is stored in South Australia because no solution has been found. My questions are:

1. What are the 10 most hazardous waste products produced and stored in South Australia and what are their side effects?
2. What is the current government policy in relation to toxic waste?
3. Does the government have a current plan to minimise, treat and safely dispose of this toxic waste?
4. If not, does the government intend to follow the Victorian example? Incidentally, the Victorian government has stated that it is leading the nation in its attempt to create a toxic waste dump in a rural or remote area.
5. Are there any plans to build a high temperature incinerator in South Australia?

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

INDUSTRY STRATEGIC PLANS

The Hon. R.K. SNEATH: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question regarding industry strategic plans.

Leave granted.

The Hon. R.K. SNEATH: The South Australian government has been assisting primary industries to develop strategic plans for various industry sectors, such as the food, dairy, goat and egg industries.

An honourable member interjecting:

The Hon. R.K. SNEATH: The opposition naturally interjects on this question because they do not like anything that might help the farmer or the person in the bush. My question is: can the minister advise how the development of the strategic plans for these industries is proceeding?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I thank the honourable member for his question and for his ongoing and sustained interest in the rural communities of South Australia. The honourable member actually puts his money where his mouth is by living in a rural community and supporting the rural industries of this state.

Last year, the government allocated $320 000 over three years towards further development of the South Australian dairy plan, which aims to double annual milk production to 1500 million litres by 2010. I gave details of that last year. I also launched a strategic plan for the state's egg industry last year which has gone through a decade of change since deregulation in 1992. Also last year I launched the state's goat industry plan, which set a target of quadrupling annual goat production to $24 million by the year 2010.

Members interjecting:

The Hon. P. HOLLOWAY: That's right. Overall, the state's food score card report released in September last year indicated we were still performing well compared with the national average, despite the drought, global unrest and the impact of the strong Australian dollar. Anyone who is concerned about the health of the rural economy would not feel comfortable with the prospect of the Australian dollar going over the US80¢ mark, but that is another story. In spite of that, we are still well-placed to achieve the 2010 State Food Plan target of $15 billion.

In addition to these existing industry strategic plans, last week I had great pleasure in launching the South Australian pork industry strategic plan for 2010. This will be an important and useful tool for this industry. Agricultural industries such as pork production are often faced with fluctuating costs and returns. At times, it is difficult to see a clear way forward in the short term. However, an industry that has carefully assessed its position and developed a common vision is more likely to succeed in today's global environment. By the year 2010, the pork industry strategic plan envisages more than 76 000 South Australian sows producing pork worth $668 million at gross food revenue level—an increase of $250 million from today's level.

In production terms, such industry expansion will mean a 50 per cent increase in volume with a farmgate value, growing by $116 million to $273 million, in addition to the multiplier effects for employment and service industries. In addition, by minimising the interstate slaughtering and boning of South Australian pork, the added value on that production will increase by another $25 to $30 per head. This new pork industry strategic plan is ambitious, but I believe it is realistic. It is ambitious because it will involve sustained production base expansion at a rate not seen before. However, it is realistic because there is so much to support South Australia's potential as a pork production processing centre.

I will cite some examples of that. We have Australia's two newest export accredited processing plants: namely, Big River Pork at Murray Bridge and Primo at Port Wakefield. Both are able to increase export and domestic processing capacity, and of course the Port Wakefield Primo plant is close to the new Adelaide to Darwin railway line. South Australia is already established as a significant supplier to national and export markets. In addition to supplying our state's butchers, smallgoods manufacturers and supermarkets, our two plants send produce to the Asia-Pacific region, to processors in New South Wales and Victoria, and to super-

markets throughout the eastern mainland states. The other advantage that we have is that feed grain access for our main production regions is consistent and secure. That was demonstrated during the 2002 drought. Also, much of our climate and geography is very well suited to pig production. Appropriate land is affordable, and the industry now has software that can analyse the whole state's suitability for pork production.

A final point is that local government and regional development boards, particularly in the Mid North and the Murraylands region, are actively seeking to smooth the way for prospective pork production facility developers by simplifying planning approval processes. So, when you put all those together, that is what makes this South Australian pork industry strategic plan realistic although ambitious.

With those advantages and more, and with hard work and cooperation between government and industry, by 2010 the plan would see South Australia achieving four main goals. First, we would be producing 50 per cent more pork. Secondly, with refined processing and product specification, that pork will have a higher real-term value when it reaches its markets. Thirdly, there will be a tighter relationship between all levels of the industry from farming to marketing, as a clear industry direction becomes evident and carcasses are more closely tailored to market specifications. Fourthly, the pork industry will develop a close and positive relationship with the community through humane and environmentally responsible farming practices and the presentation of rewarding and progressive career opportunities.

I am pleased to say, and the honourable member can tell his many rural constituents, that rural South Australia stands to gain a great deal from the development of this industry, which already has its feed mills and abattoirs located regionally. With the number of marketed pigs rising from 18 000 to 27 000 per week, there will be hundreds of extra jobs in farming alone and many more in the processing sector. Most importantly, industry expansion will not occur for its own sake but will be driven by the need to service market demand. In this regard, the plan closely aligns with the strategic directions of the national industry, with the industry's representative body (Australian Pork Limited) determined to develop export and domestic markets and expand Australian fresh pork consumption patterns.

I would like to conclude by commending the pork industry for developing this strategic plan, with its industry vision for change and expansion. The state government has a strong focus on developing our food industries, particularly those that bring revenue and investment from interstate and overseas and, as such, the government supports this strategic plan and looks forward to working very closely with the industry during this journey towards 2010.

SCHOOL FEES

The Hon. KATE REYNOLDS: I seek leave to make a brief explanation before asking the minister representing the Minister for Education and Children's Services a question about school fees.

Leave granted.

The Hon. KATE REYNOLDS: In recent weeks, many concerns have been raised by parents about school fees and, in particular, about the way invoices are set out. I speak from experience, because my son's school, a school of which I am a member of the governing council, has issued invoices to parents that do not meet the criteria set out in the legislation. When I queried both the lack of detail about items to be charged for and the lack of information about my choice to pay only part or the full amount and the consequences of this, I was told that the school had at the earliest opportunity sought and gained approval for that invoice from the finance section of the Department of Education and Children's Services.

My office has also been told that, apparently, a memo was circulated that indicated that, given the short time frame for schools to prepare invoices and despite the legislation requiring this, it need not conduct a poll of the school community if the school wanted to charge more than the standard fee. You, Mr President, will remember that this legislation was not debated until the final days of parliamentary sitting last year and that I sought clarification from the minister that schools would be given assistance to introduce the new system in time for the 2004 school year. My questions to the minister are:

1. Will she make available to our office a copy of all the instructions issued to schools by DECS that set out the requirements schools needed to meet to comply with the legislation?
2. How many schools issued invoices that were not checked or approved by the department?
3. How many schools issued invoices that were checked or approved by officers from the finance or other departments of DECS but which in fact failed to comply with the legislative requirements?
4. How many schools have issued invoices that did not comply, and how many of these improperly charged more than the standard fee?
5. What assistance is being provided to schools to remedy the problem?
6. Will the minister table a breakdown of the fees charged by all schools at the commencement of the 2004 school year according to the different categories allowed for in the legislation?
7. Will the minister act immediately to launch a consumer awareness campaign for parents to help them understand the fee regime, the new invoices and their rights in relation to the payment of all or part of the charges, particularly in relation to the recoverable amount?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I will pass those questions to the Minister for Education and Children's Services and bring back a response.

CHILD ABUSE

The Hon. A.L. EVANS: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries, representing the Minister for Police, a question concerning the reporting of child abuse.

Leave granted.

The Hon. A.L. EVANS: In 2003 the law in South Australia concerning sexual child abuse and certain sexual offences committed prior to 1982 was changed. Today the law allows victims of abuse committed prior to 1982 to report their crime. Late in 2003 South Australia Police held a Crimestoppers phone in. The phone in was held to fast track the reporting of pre-1982 crimes. It is my understanding that approximately 540 cases have been reported to South Australia Police. The organisation Advocates for Survivors of Child Abuse assisted South Australia Police by actively referring victims to the referral service.

In its report summary to the South Australian parliament, the select committee noted that, because of the long passage of time, the chances of obtaining a conviction in a trial for sexual crimes dating back more than 20 years are not considerable. The committee went on to explain that evidence may have been lost or destroyed or there may be a lack of corroborating evidence supporting the complaint of the alleged victim. ASCA has advised that statistically over 80 per cent of prisoners have experienced some level of child abuse in their childhood. There are over 1 400 prisoners in South Australia. My questions are:

1. Will the minister advise whether prisoners have been provided with information by the South Australia Police hotline concerning sexual assaults committed before December 1982 and, if not, why not?

2. Will the minister advise whether the change to South Australian law was promoted in other states and territories and, if not, why not?

3. Will the minister advise whether promotion of the Crimestoppers phone number was carried out in other states and territories and, if not, why not?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I will seek answers to those questions from the Minister for Police and bring back a response.

SEAFORD MEADOWS

The Hon. T.J. STEPHENS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs, representing the Minister for Urban Development and Planning, a question regarding Seaford Meadows.

Leave granted.

The Hon. T.J. STEPHENS: Reports in last week's *Southern Times Messenger* indicated that the Land Management Corporation would be releasing some 2 400 housing blocks in Seaford Meadows. A report commissioned by that corporation stated that there was a growing need for the area to be better serviced with basic infrastructure, such as schools and hospitals. The *Messenger* also stated that the report found that the costs of providing infrastructure were not justified. My questions to the minister are:

1. Has the Department of Urban Development and Planning undertaken a report specifically into existing gaps in services in the Aldinga and Sellicks Beach area?

2. Will the minister detail to parliament whether the forward estimates include infrastructure development in the Aldinga-Sellicks-Seaford area? If not, given the Land Management Corporation report, will this year's budget contain specific proposals regarding infrastructure in this area?

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

WATER SUPPLY, ADELAIDE HILLS

The Hon. J.M.A. LENSINK: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Urban Development and Planning, a question regarding SA Water holding tanks in the Adelaide Hills.

Leave granted.

The Hon. J.M.A. LENSINK: On 2 January 2004 an SA Water storage tank located at Hillcrest Road, Crafers West ran out of water. The tank is required to be filled if local residents are to have a reliable supply and adequate water pressure, as it is their mains supply. I understand that this tank ran dry during the second Ash Wednesday bushfires in 1983. Local residents were promised then that this would never be allowed to happen again.

Crafers West residents who have contacted me had to call SA Water several times as the problem persisted from the evening of 2 January and through the day and evening of 3 January, which happened to be one of our first hot summer days for the season, with a predicted temperature of 37 degrees. At 5 p.m. on 3 January residents' water was restored, but by 7.45 p.m. it was lost again, and the explanation on offer was that the Adelaide Hills present a problem to tank refilling, with a tendency towards the formation of air locks. Apparently the tank had been filled to the first air lock, which was insufficient to properly fill the tank and rectify the problem.

Residents who called SA Water about their lack of supply were told a variety of things. Each time one household called, which was about nine times over approximately a 30-hour period, they were told that it would be another hour. Another household was told to call someone else as this was not, in fact, SA Water's problem 'as it is in the Hills'.

For those people who saw the flames of the Ash Wednesday bushfires, a lack of water supply on a very hot day is terrifying, let alone the lack of drinking water and all the hygiene problems, such as being unable to wash dishes, take a shower, or even flush the loo. Furthermore, I am told by these residents that a similar incident happened about 12 months ago. My questions to the minister are:

1. Is the minister aware of the problem and the consequential risks to residents? Will he guarantee that this problem will not occur again?

2. How does SA Water detect when supply tanks are likely to run dry, and what action does it take?

3. Is SA Water willing to consider installing a larger capacity tank?

4. Are SA Water and the government prepared to consider compensation to residents should a serious situation arise from their negligence?

5. Has SA Water breached any of the conditions of its charter through this incident?

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

REPLIES TO QUESTIONS

HINDMARSH SOCCER STADIUM

In reply to **Hon. J.F. STEFANI** (12 November 2003).

The Hon. T.G. ROBERTS: The Minister for Recreation Sport and Racing has provided the following information:

1. I have met with the South Australian Soccer Federation (SASF) to discuss their financial circumstances and to understand their long-term intentions with respect to payment of the debt.

I have asked the Office for Recreation and Sport (ORS) to examine the financial arrangements of SASF, taking into account the potential changes that may emanate from the newly established Australian Soccer Association Limited (ASA) chaired by Mr Frank Lowy and the advent of the Adelaide United Football Club.

I envisage that the outcome of these two matters in particular, over the next 6-12 months will provide a clear direction with respect to SASF's financial obligations.

2. In relation to the government's loan guarantee, the Auditor-General reported that unless sufficient evidence can be provided to indicate that SASF will meet (all) future loan repayments, the

outstanding loans should be recognised as a liability in the balance sheet of ORS.

ORS responded to the Auditor-General that the loans falling due up to 2003-04 would be recognised as a liability as there is a reasonable degree of certainty that SASF will not be able to meet its obligations to the National Australia Bank in the current financial year.

While ORS will recognise SASF liability in 2003-04, it does not mean that the requirement for SASF to meet its obligations is removed.

The recognition of a liability requires a reasonable degree of certainty regarding the capacity to make a payment. Where there is not a reasonable degree of certainty, a contingent liability should be disclosed.

ORS has advised the Auditor-General that it will continue to disclose the future payments past the 2003-04 financial year as a contingent liability. This is based on the belief that due to major projected improvements in the manner in which soccer is managed not only within South Australia but Australia wide that the environment is created whereby it is reasonable to expect SASF to be able to meet its obligations. The improvements that are anticipated stem from:

- Changes to the National body emanating from the Crawford Report.
- The establishment and success of the Adelaide United Football Club in the National Soccer League competition, and
- The potential changes to all State soccer associations in line with National frameworks.

The Auditor-General has accepted ORS advice and has not raised the issue as constituting a potential qualification to ORS accounts.

PUBLIC TRANSPORT TICKETING SYSTEM

In reply to **Hon. J.M.A. LENSINK** (26 November 2003).

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

1. There are always technical risks in such large, complex projects. These arise from different system architecture and the customisation needed to meet different fare structures and concession systems.

Smart Card systems also require customer account keeping (which current systems do not) and these require stringent privacy provisions. The systems being proposed for Brisbane and Perth buses are 'swipe-on/swipe-off' systems which are not used overseas. The use of Smart Card systems in Adelaide may also require a different ticket distribution sales system.

2. No, I am not simply awaiting evaluation of the system in other states prior to considering its adoption in South Australia. Rather, I am waiting for when it would be most advantageous for South Australia to make such a change, given the significant cost of a replacement system and the current satisfactory performance level of the existing system.

3. I expect that the Office of Public Transport will re-examine the cost benefit of such a system in 2004/2005, by which time any issues with the implementation of Smart Card systems in Perth and Brisbane will be known and costed.

4. Yes.

5. Any system procurement will be in accordance with State procurement guidelines. It would be inappropriate for me to single out any one supplier. Various suppliers of such systems periodically contact the Department.

SCHOOLS, RACISM

In reply to **Hon. J.F. STEFANI** (27 November 2003).

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

Racist behaviour on school premises is completely unacceptable to this Government and the Department of Education and Children's Services (DECS) has numerous policies, programs and strategies in place that support an ongoing and strategic commitment to countering racism.

My department's *Antiracism policy (1990)*, *Multiculturalism in schooling and children's services policy (1995), Languages Plan 2000-2007,* and the *Reconciliation Statement 2000* is designed to provide schooling environments that counter racism and foster respect for cultural, linguistic and religious diversity.

All care and education sites are required to consult with and provide information to parents and caregivers about all aspects of their child's education and to promote and develop the roles of families in their decision-making. All sites are expected to develop and promote, in collaboration with students and their parents, clear grievance procedures to deal with incidence of racial discrimination and harassment.

In addition specific education workers, including Bilingual School and Pre-school support officers, English as a Second language teachers, Aboriginal Education Workers and Community Liaison Officers (DECS has Community Liaison Officer's for Spanish, Vietnamese, Arabic, Cambodian, Serbian and Bosnian language groups) support and facilitate improved communication and cultural awareness between parents and sites.

Multicultural and Aboriginal Education is a vital part of the South Australian Curriculum Standards and Accountability (SACSA) Framework. Through the Essential Learning's and Equity cross-curriculum perspectives, especially the Aboriginal and Multicultural perspectives embedded across all learning areas in the SACSA Framework, learners are able to develop accurate understandings about the history, lives and cultures of Indigenous and non-English speaking background peoples and the contribution of all cultures to the development of our nation.

Through particular learning areas such as Languages, students develop deep understandings about diverse languages and cultures. In Society and Environment, students analyse situations to enhance their understanding of the democratic and human rights of individuals and groups, and to counter prejudice, racism, harassment or oppression.

There are also a vast number of curriculum resources being used by educators to support countering racism. The Languages and Multicultural, and Aboriginal Education Resource centres are widely accessed by teachers across the State. The Racism No Way website and the SACSA website also contain downloadable teaching guides and student activities. In addition, DECS strongly participates in the national Harmony Day initiative, an initiative to celebrate diversity and promote respect for our individual differences.

The DECS Multicultural Education Policy Officer provides advice, support and professional development to metropolitan and country sites and districts in Countering Racism, Human Rights, Refugees and Multicultural perspectives.

The Aboriginal Education Unit has trained educators in country and metropolitan areas on a range of topics including Aboriginal History in South Australia, Countering Racism, Cultural Awareness and Aboriginal Perspectives across the Curriculum. My department's International Education Services unit also provides important opportunities for our students to develop respect for and to engage with diverse cultures.

The Multicultural Education Committee, which reports directly to me, has undertaken significant work on teacher professional development and has provided grants for schools to address issues including Reconciliation, Countering Racism, and Human Rights Education.

The State Government understands the importance of teaching our children the values of tolerance, equality and racial goodwill and this Government will continue to work to stamp out racially motivated behaviour.

Supplementary Question:

On 24 November, I made a Ministerial Statement on the racially motivated campaign being undertaken against Parafield Gardens High School and the school principal. On 1 December 2003, a meeting was held at Parafield Gardens High School, specifically for Asian parents. This meeting was attended by a significant number of Cambodian, Vietnamese and Filipino parents.

During this meeting, parents were reassured of the strong concern and commitment of the school, DECS and Police to countering racism and to address any violence in the school and local community. Ways to improve communication and collaboration between all parties was discussed.

Parents had the opportunity to ask questions about their children's general safety in the community and about the actions of racist groups such as National Action. The parents were also given the facts regarding recent incidences, which was important given the high media attention on the issue.

This year the School will employ a Cambodian Youth Worker (Cambodians are now the largest group of Asian students at the school), to provide another point of contact between the school and Cambodian parents and students. The Youth Worker will also support preventative measures and intervention strategies aimed at addressing issues of conflict resolution, attainment, attendance and career pathways.

Apart from a small but vocal minority of anti-Asian group members living close to Parafield Gardens High School, the School has a proud record of developing harmonious and inclusive practices and relationships with students and parents of all cultural backgrounds.

GROUNDWATER INFORMATION SERVICE

In reply to **Hon. CAROLINE SCHAEFER** (3 December 2003).

The Hon. P. HOLLOWAY: The Minister for Environment and Conservation has provided the following information:

In 2004, groundwater information will be available through the Department for Water, Land and Biodiversity Conservation website.

SURF LIFE SAVING

In reply to **Hon. IAN GILFILLAN** (24 September 2003).

In reply to **Hon. KATE REYNOLDS** (24 September 2003).

In reply to **Hon. J.F. STEFANI** (24 September 2003).

The Hon. P. HOLLOWAY: The Minister for Emergency Services has provided the following information in response to the Questions asked by the Hon. Ian Gilfillan:

1. The Minister for Emergency Services is proud to recognise and greatly values the efforts of the surf lifesavers who volunteer their time to patrol the beaches and who risk their lives to save others. That is why Surf Life Saving South Australia (SLSSA) will receive $470 000 (GST exclusive) for operational costs from the Community Emergency Services Fund for 2003-04. This is an increase of 6 per cent over last year's funding and 7.3 per cent more than the year prior to that.

2. The Government wrote to Surf Life Saving SA on 11 October 2003 advising their status was unchanged under the *Emergency Services Funding Act 1998* and this will not be affected by the establishment of the SA Fire and Emergency Services Commission nor the alterations to the other related Acts. In this respect they are in exactly the same position as other groups that also receive funds from the Community Emergency Services Fund but are not in the Fire and Emergency Services Commission, including the SA Ambulance Service. The Minister for Emergency Services will continue to allocate funds from the Community Emergency Service Fund for the benefit of all the organisations named under this Act and for the greatest benefit to the community.

3. Funding for SLSSA comes from the Emergency Services Levy and this fund is managed by the Fund Manager who will continue to be directly responsible to the Minister for Emergency Services. With regard to the recent Emergency Services Review, the objectives of the review were to examine the administration, management and governance of the South Australian Metropolitan Fire Service (SAMFS), SA Country Fire Service (CFS), State Emergency Service (SES) and the Emergency Services Administrative Unit.

In response to the supplementary question asked by Hon. Kate Reynolds, I undertake that the Government's position regarding reference to Surf Life Saving SA and its appropriate recognition in publications and documents will not alter and we will continue to recognise the importance of SLSSA in the appropriate manner.

In response to the supplementary question asked by the Hon. J.F. Stefani, SLSSA publishes the number of minor and major rescues undertaken in South Australia each year in their Annual Report.

NUCLEAR WASTE STORAGE FACILITY

In reply to **Hon. D.W. RIDGWAY** (18 September 2003).

In reply to **Hon. A.J. REDFORD** (18 September 2003).

In reply to **Hon. J.F. STEFANI:** (18 September 2003).

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

Please see the response made by the Minister for Environment and Conservation to the question asked by the member for Torrens on 17 September, 2003 on page 74 of the House of Assembly Hansard.

The Minister for Environment and Conservation has provided the following information:

The Environment Protection Authority's Audit of Radioactive Material in South Australia was tabled in Parliament on 4 December 2003.

JAMESTOWN SALEYARDS

In reply to **Hon. L.M.A. LENSINK** (4 December 2003).

The Hon. P. HOLLOWAY:

1. In Jamestown on 27 October 2003 the Department of Primary Industries and Resources (PIRSA) Chief Executive resolved with the Jamestown Council and the Mid North Regional Development Board that the feasibility study would focus only on the Jamestown district, and would be carried out by appropriate government officers rather than engage private consultants.

2. PIRSA will provide resources to the level of $10,,000 and the Department of Business Manufacturing and Trade (DBMT) similar support. This excludes any contribution from the local council and the Mid North Regional Development Board who were originally going to provide similar amounts.

3. It has been agreed that the study will focus on the Jamestown district as the appropriate centre for the north of the state. However, the question of viability will still need to be addressed, as significant costs are involved in developing saleyards, and any potential investors will want to have some information on viability before proceeding with an investment plan. It is also essential that the local council is fully aware of both the benefits and the risks associated with such an investment.

4. Firstly, may I draw attention to the fact that 'fat stock' is a term not used in the livestock industry as it provides a false impression about the quality of the meat. The appropriate term is 'prime stock'. The study recognises that the focus of the Jamestown saleyards is 'store' sheep sales, i.e. sales of stock that are being used for breeding and grow-out rather than to abattoir.

The users of the facility (sheep producers, buyers and agents) will ultimately decide its patronage and they will be consulted as to their future intentions for selling stock. The operators of the Dublin saleyard are a competitor and while the study will not consider Dublin as an alternate site, it will be necessary to report on their future intentions with respect to store stock sales.

Government officers from PIRSA and the DBMT have met, discussed the procedures and resolved that action on the study should commence early in 2004.

STATUTES AMENDMENT (INTERVENTION PROGRAMS AND SENTENCING PROCEDURES) BILL

Adjourned debate on second reading.

(Continued from 2 December. Page 803.)

The Hon. R.D. LAWSON: I rise to indicate the support of the Liberal opposition for the second reading of this bill. As the minister mentioned in his second reading contribution, this measure will provide statutory backing for two practices that have developed in the courts. In a very general way, it might be suggested that this bill will give statutory backing to so-called diversionary courts which currently operate within the magistrates courts in South Australia. However, that rather generalised description is inaccurate. A more correct and accurate description is that this bill will authorise certain intervention programs which are offered in those courts, generally, but inaccurately, known as diversionary courts.

It is timely that we should be debating this bill today because the Courts Administration Authority annual report for 2003 was today tabled in this council. It contains an up-to-date description of what is happening in the courts to which I refer. As I mentioned, these are all courts within the general magistrates court.

There is already in existence, and has been for some time, the Central Violence Intervention Program which operates out of the Adelaide Magistrates Court. The court is described as the Adelaide Magistrates Court Family Violence Court. Over the year under review in the latest annual report, that

court referred 60 men to the program. It is noted that the program accepts referrals from other sources, and it received a total of 148 referrals for assessment overall.

The report mentions that the family violence court has had 325 contacts with men who have been charged with domestic violence offences and 241 women who are appearing before the court in regard to domestic violence orders. The program also works with the partners and ex partners choosing to participate, and their children, and this accounts for 80 women and 33 children.

It is recorded that, with the work of Mr Newman SM and other court officers, two information sheets on restraining orders (and these are standard restraining orders, being attached to orders processed in the state) have been prepared as part of strategies to inform both the community and those involved in the justice system on matters associated with domestic violence. This program is an integrated program funded by the Attorney-General's Department and administered by the Department of Human Services, and service provision is by the Salvation Army.

There is another violence intervention program, called the Northern Violence Intervention Program, which operates in the Elizabeth Magistrates Court. Seventy men were referred from the court between July 2002 and June 2003. The processes of the court are being developed, with a number of protocols and procedures being formalised.

It is noted that the Northern Violence Intervention Program has seen an increase in the number of families being referred by the court from culturally diverse backgrounds, such as Vietnamese, Bosnian, Laotian and Persian. So, these are the violence intervention programs, which, although still at a fairly modest stage, are innovations that are worth encouraging and ought to have appropriate statutory backing.

Another of these courts is the so-called indigenous court, and the court at Port Adelaide is specifically called the Nunga Court. It was first established in June 1999 during the term of the previous government. It sits every second Tuesday at Port Adelaide, and this court and those which have subsequently been established at other centres are designed to recognise the integral role of the family and community in the lives of indigenous people and to create a venue that is less intimidating for offenders and their families.

There is a degree of informality in the manner in which the court sits, and one of the signal achievements of the Nunga Court has been the very much higher attendance rates by defendants at these courts as opposed to indigenous defendants attending other courts. Simply for completeness, I mention the establishment in March 2001 of an indigenous court at Murray Bridge and the initiation of a court at Port Augusta. Although I have not heard the latest report on this, it was mentioned in the report that it was intended to establish an indigenous court at Ceduna.

These courts depend heavily upon the support of local communities and without that assistance they cannot function appropriately. I certainly commend all those people, especially in relation to the Nunga Court, from the indigenous communities who have supported their establishment. Those are the first two categories of court. The next is the Drug Court, which was once again an initiative of the previous government and an initiative which has been adopted in other jurisdictions. It recognises the fact that there are offenders in the criminal justice system who have drug issues which mean that if those issues are not addressed the criminal justice system is really an inappropriate tool to address them.

Persons who have a significant drug habit admitted to prison without these issues being addressed are unlikely to be released in a better condition than when they were sentenced. The revolving door syndrome evidenced with so many drug offenders is an issue that has to be addressed. The previous Liberal government established the South Australian Drug Court as a trial, and at the so-called Drug Summit held by this government funding for the program was continued, and I commend the government for that continuation of funding.

Another somewhat different form of intervention program which is being presently conducted and which will be specifically authorised by this statute is the Mental Impairment Court which operates within the Magistrates Court. Once again that is a very worthwhile program which ought to receive the sanction of specific legislative backing.

That said, however, it must be acknowledged that this bill does not establish particular intervention programs or even set guidelines for the approval or delivery of those programs, as that is a function of executive government. That is obviously something that has budgetary implications and priorities which will dictate the availability of programs. However, the bill will authorise and regularise the programs which exist and which will be established into the future. The way in which these programs have largely worked in the past is reliance on bail conditions, and the effect of this bill will be specifically to authorise the granting of bail on conditions which relate to the bailed person undergoing assessment and intervention, which may include treatment and rehabilitation designed to address behavioural problems, substance abuse or mental impairment.

It is important to note that a person who is granted bail on the basis of such conditions must consent to the terms of that bail. If not, the offender will be sentenced in the ordinary way. The way in which Aboriginal defendants are dealt with under the bill is that a special scheme under the Criminal Law Sentencing Act for the sentencing of Aboriginal offenders is established. The essential elements of that scheme are that, before sentencing an Aboriginal defendant, the court may convene—and I emphasise that it is not a mandatory convening but a discretionary power—a sentencing conference and may take into consideration the views expressed at that conference. The sentencing conference must be attended by the defendant and his or her lawyer, the prosecutor and the victim, if the victim is willing. The court may allow others, including an Aboriginal elder, family members, counsellors, etc., to attend.

Aboriginal persons are defined to include persons who regard themselves as an Aboriginal and if they are of Aboriginal descent and are accepted by an Aboriginal community. Although this way of categorising people has been questioned by some, this is the nomenclature used in other legislation and is appropriate here. For those offenders who require rehabilitation, the mechanism adopted by the so-called diversionary courts is to defer sentence to enable rehabilitation to take place. The present mechanism is the so-called Griffin Remand, under which a court, after finding a person guilty, remands the offender on bail for up to 12 months to allow participation in a rehabilitation program. That scheme will now have statutory backing.

In relation to mental impairment, after a finding of guilt of an offence by a person with a mental impairment carrying a maximum penalty of two years or less, the court may release the defendant without conviction if he or she is participating in an intervention program. Before a charge is

determined, the court may dismiss the charge and release the defendant who is participating in the intervention program. Instead of dismissing the charge, the court may release the defendant on a bond to participate in or complete an intervention program.

In order to achieve these objectives, the bill establishes the positions of a case manager and intervention program manager. A case manager is defined as a person responsible for the supervision of a person's participation in an intervention program. The intervention program manager is defined as a person employed by the South Australian Courts' Administration Authority to have general oversight of intervention programs and to coordinate the implementation of relevant court orders.

The expression includes a delegate of that person. There are no particular qualifications, expertise or experience for either of those positions. Given the early stage of the evolution of these programs, it is probably appropriate that there be no prescriptive job descriptions or specified qualifications for those positions.

I should mention that the intervention programs that are included within that expression include those that provide supervised treatment, supervised rehabilitation, supervised behaviour management, or supervised access to support services, or a combination of any one or more of the above. The thing to emphasise is that they are all supervised programs. The degree of supervision will vary but, in order to enable these programs to effectively function without compromising the integrity of our criminal justice system, it is necessary that there be appropriate supervision of treatment, rehabilitation, etc.

One thing about these new programs that concerns the opposition is the fact that there has been little in the way of independent, objective evaluation of the South Australian experience. From my own experience in government, I know that the drug court had some difficulties in being established and staffed in its initial period. That meant that a complete evaluation of the initial trial was fraught with some difficulty. It is important that these programs be evaluated independently. It is noted in the Courts Administration Authority's report that Mr Newman SM and others have been to China to present to a conference on the Violence Intervention Program. This is excellent and it is good to see that South Australian industry initiatives are being widely discussed. Often for new programs of this kind, because of the support that they receive from the sector and the bipartisan political support they attract and because they are the sorts of programs that we all want to see succeed, there is a tendency to not subject them to the sort of scrutiny that they ought to be subjected to. Accordingly, the Liberal Party is proposing that there be a mechanism for the evaluation of these programs. I will put an amendment on file to achieve that result. That amendment is motivated by a desire to ensure that the programs succeed and that they are of value to the community.

It is unfortunate that the government did not use the occasion of this bill to provide statutory authorisation to some of the principles that are now described as restorative justice principles. These involve conferencing in the sentencing of offenders. In South Australia there is a very active movement for restorative justice. It is interesting to note that the Attorney-General resisted attempts by some at the annual general meeting of the Australian Labor Party to introduce restorative justice principles. *The Advertiser* reports that the motion was watered down to enable the government to explore the issues. It is clear from the comments of the Attorney-General that he is not interested in pursuing restorative justice principles. That said, however, the opposition will support the bill. On the second reading of the bill, during the course of the committee stage, we will explore some of the technical clauses of the bill and the issues that arise.

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

ZERO WASTE SA BILL

Adjourned debate on second reading.

(Continued from 4 December. Page 892.)

The Hon. D.W. RIDGWAY: I rise to speak to the Zero Waste SA Bill, which is largely administrative. It deals with the formation of Zero Waste SA as an entity. It creates the board and it deals with the appointment of the chief executive. The bill provides for a funding stream for Zero Waste SA by channelling the solid waste levy into the Zero Waste SA budget. The budget for Zero Waste SA is to be between \$5.5 and \$5.6 million per annum. The opposition has been assured that the solid waste levy has already been increased as of 1 July 2003, to \$10.10 in the city and \$5.10 in the country, to create the funding for Zero Waste. There will be no need to increase the funding under the new bill. The principle behind this authority is user pays: those who dump more, pay more. It is interesting to note the government's election promise that they would not put up any levies, charges or taxes. Apparently they forgot this election promise in relation to this levy when it was increased in July 2003.

The Zero Waste Bill defines waste as having the same meaning as it has in the Environment Protection Act, that is, any solid liquid or gas. Zero Waste SA will also deal with different categories of waste such as household and industrial waste. It will be able to create a framework for the management of any waste products in South Australia. Looking at the bill, Clause 4 gives me some concern, a concern I share with my colleague in another place the Member for Davenport. I quote from *Hansard* in the House of Assembly:

> Clause 4 provides that Zero Waste is subject to direction of the minister, except in relation to the making of a recommendation or a report to the minister. Essentially the authority is subject to the minister's direction.

If his memory serves him correctly, following the debate as I have, the EPA is not subject to the minister's direction. The minister has been trumpeting fiercely for an independent EPA. This measure takes away the waste management policy development, the waste management strategy and the waste management business plan from the independent EPA and gives it to a body that can now be directed by the minister. I share the same concern as my colleague in another place and am not convinced that that is the appropriate move.

Zero Waste SA's first objective is to create a state waste strategy plan for the management of waste in South Australia. This strategy will be reviewed annually by parliament and an annual report will be tabled in parliament. You will recall that earlier today I asked a question about toxic and hazardous waste. I notice on the internet a consultation draft prepared for the Environment Protection Authority entitled 'Metropolitan waste to resources plan'. Again, that is also a particular part of the bill. On closer examination of this draft consultation paper, I notice that only two pages refer to toxic or

hazardous industrial waste. I hope that more detail is given to that by the new Zero Waste SA. I also refer to an article in *The Victorian Weekly Times* about the Victorian hazardous waste dump, in particular in relation to industry concern. It says:

> Trade's Hall Council agrees, because the 30 major polluters employ 21 000 Victorians and can threaten to move interstate.

That is, if the Victorian waste is not properly managed. Equally we have a concern in South Australia that we need to make sure that all of this waste, however it is produced, is managed properly, and I am sure that the establishment of Waste SA will see that happen. The objective of Zero Waste SA is to minimise all waste produced in South Australia. The opposition has been assured that Zero Waste SA will develop separate plans for the different regions, in consultation with local government. It might be better if it were a collaborative approach with local government in order to avoid strategies that adopt the 'one size fits all' policy.

Zero Waste SA will report directly to the minister and submit an annual report to parliament. There is also a representative from the Office of Economic Development on the committee. However, it would be advisable if Zero Waste SA provided an annual report to the Environment, Resources and Development Committee to ensure that the board is checked by this bipartisan parliamentary committee in the interests of open and accountable government procedure. It is interesting to note that the next reference for inquiry by the Environment, Resources and Development Committee will be waste in South Australia. Zero Waste will be an advisory body with no powers to prosecute or regulate, with those functions resting with the Environment Protection Authority. Zero Waste SA will be a policy forming unit working alongside the EPA.

In conclusion, this bill establishes the formation of Zero Waste SA as an advisory body with the capacity to create policy regarding the management of all waste produced in South Australia but without the capacity to regulate the management of such waste. The opposition supports the bill and hopes that it will lead to a better policy regarding the disposal of waste at both local government and state government levels, with increased cooperation between the two. I will have some questions during the committee stage regarding the arrangements and perhaps its referral to the Environment, Resources and Development Committee. The opposition supports the bill.

The Hon. SANDRA KANCK: I indicate that I personally had a very strong interest in waste management issues in the late 1980s. In fact, with several others I formed a group called 'Resource Regenerators'. It took us a long time to come up with that name, but we simply based it on the old adage of 'reduce, reuse and recycle'. We picked up those initial letters and came up with Resource Regenerators. Part of the choice of the name was to get across the message, in the lobbying we undertook, that waste was not rubbish but a resource. We were lobbying for South Australia to have an all-purpose recycling plant so that material did not have to be transported interstate for recycling, which, in many cases, it was.

I noted the Hon. David Ridgway's questions during question time today. In fact, while I was down in my room hearing him ask the questions I was giving him back the answers because, back in the early 1990s, I was the Conservation Council's representative on the Hazardous Waste Management Consultative Committee. That committee was charged with the task of coming up with recommendations for suitable sites for a hazardous waste management facility in South Australia. I think we reported either at the end of 1991 or 1992, and here we are nearly 12 years on and we still do not have a hazardous waste management facility here in South Australia.

We have one collection point for hazardous waste in South Australia at Dry Creek. I think it is open for one hour on Tuesday mornings. So, it is open on a work day, which means that if you live in the south of Adelaide, for instance, you have to make a trip the whole way across Adelaide to Dry Creek with your hazardous waste in the boot of your car or on a trailer on a working day in order to safely dispose of it. Again, I note that this is a situation that has not improved in more than a decade.

When I was a member of that committee, I visited the medium temperature incinerator, which I think was then the property of the Waste Management Commission. That incinerator is able to burn hazardous waste at temperatures of up to 800 degrees, so it is reasonably efficient in getting rid of some of that stuff. The questions the Hon. Mr Ridgway asked today are still valid because not all hazardous material will be properly combusted at 800 degrees.

So, one has to ask why things like that have still not been acted upon after such a long period of time. Back in the early 1990s, we were told that, because of the State Bank, things were put on hold because there was not the money in the state budget. However, I would suggest that at least part of the reason that nothing else moved after that time was that the Waste Management Commission was disbanded and its functions were taken into the EPA and, in the process, I believe were weakened.

In a sense, Zero Waste seems to be taking the Waste Management Commission back out of the EPA but will probably not go as far as the Waste Management Commission used to go. It appears to be simply a policy body and the EPA will be in charge of the implementation and enforcement of any policies.

I am not quite sure then how that will bring about zero waste in South Australia. Certainly, we have been missing for a long time a proper policy framework in regard to waste in South Australia, and I would describe some of the decisions made in the past decade as probably based on ad hoccery. It has simply been a case where any company wanting to be involved in the waste management industry puts in an application to a council and says, 'We want to put up a waste depot at this particular spot,' and local government has then considered it. There has been no overarching guidance that has said to companies, for instance, 'Yes, South Australia needs another two or three more waste facilities. We want them to be located close or near to, or far from, metropolitan Adelaide.' However, because we have not had a policy framework, there has been no such guidance.

Over the past five or six years, we have seen a number of attempts made by different companies to have the old Kalbeeba Dump reactivated and the construction of dumps at Dublin and Inkerman, against the protests of the residents in those areas, with possible impact on agricultural and horticultural products in those areas. Questions need to be answered about how much waste South Australia needs to be disposing of and the best way in which to dispose of it, and Zero Waste could play a strong role in that process. I go back to the issue of the closure of the Wingfield Dump that came before the parliament. Clearly, in terms of the arguments

advanced in this place at that time, the decisions were not policy based but politically based.

The Democrats believe that people need to be confronted with the waste they create. Unfortunately, with the closure of the Wingfield Dump in the next two years that message is being taken away so that it becomes 'out of sight, out of mind' when, in fact, it ought to be in your face. As long as the dump at Wingfield continued to grow in height there was a constant reminder to the people of Adelaide that they were responsible for that waste. Now the waste will go north to places such as Dublin and Inkerman, and we can pretend that we are not creating waste.

It seems to me that most decisions made in this state in the past decade in regard to waste management have occurred in a policy vacuum. Therefore, the Democrats look forward to Zero Waste being formally constituted as a body and being able to formulate policy and act on reports such as the one from the Hazardous Waste Management Consultative Committee. My one reservation about Zero Waste is the size of the body concerned. If it is just going to be a policy body, I am not convinced that it needs quite as many on its board as proposed by this bill. It would be more justified if Zero Waste was going to be implementing policy. However, with that one reservation, I indicate the Democrats' support for the bill.

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

STATUTES AMENDMENT (COMPUTER OFFENCES) BILL

Adjourned debate on second reading.
(Continued from 16 February. Page 966.)

The Hon. R.D. LAWSON: I rise to indicate the support of the Liberal opposition for the second reading of this bill. The existing common law and statute law does not, we are told, contain provisions which directly address the infliction of deliberate criminal damage to electronic data on computer systems. The current law describes criminal activity designed to gain access to or to misuse computers for fraudulent purposes and activities which cause physical damage to computer systems. However, experience has shown that more sophisticated activities (such as hacking and pinging and the creation and dissemination of computer viruses) may not be adequately covered under existing law.

This subject was dealt with quite extensively by the Model Criminal Code Officers Committee of the Standing Committee of Attorneys-General, which issued a discussion paper in January 2000 on damage offences generally and also on computer offences. Subsequently, in January 2001 a report from that committee was issued on the same subject. The report acknowledges in its preface that most of it was written by Mr Ian Leader-Elliott of the Faculty of Law of the University of Adelaide, who was a consultant to the commonwealth government on this issue. Mr Leader-Elliott is a distinguished South Australian academic and criminal lawyer, and his contributions are invariably thoughtful and incisive. I am reassured in my support for this measure by his contribution as well as those of distinguished academics and other lawyers from other jurisdictions.

I refer to the introduction to the section dealing with computer offences, which I will quote as briefly as possible. It is noted that, notwithstanding the fact that there was agreement of the Standing Committee of Attorneys-General in 1987 about the need for laws dealing with computer crime, there were disagreements over the form which such legislation should take. It is noted that two areas of particular concern provided a focus for legislative concerns. First, a number of jurisdictions had enacted special provisions aimed at those who use computers as a means to the commission of crime, usually crimes involving dishonest acquisition of money or financial advantage. It is noted that the Victorian Crimes (Computers) Act 1988 provides what is perhaps the most elaborate Australian example of legislation aimed at computer fraud.

The report goes on to show that, apart from fraud, legislative concern has been focused on the need to protect data and programs in computers from predators. Of primary concern here is the security of the system itself from unauthorised access, corruption or sabotage, rather than the prevention of predatory gain or access to confidential information. It is noted that there is a diversity of approaches. Four jurisdictions (the commonwealth, New South Wales, Tasmania and the Australian Capital Territory) had enacted legislation which approached uniformity. The committee (chaired by Sir Harry Gibbs, former Chief Justice of the High Court of Australia) which reviewed the commonwealth criminal law and which produced an interim report on computer crime in 1988 provided the template for those states' jurisdictions. However, it is noted in the report that that legislation was specifically designed to protect commonwealth facilities and may not be a satisfactory basis for computers in more general use. That fact is noted on page 91 of the report. The report goes on to state:

> The explosive growth in the number of people using computers, the variety of uses to which they are put, coupled with intractable problems of defining what is and what is not a computer, should preclude blunderbuss prohibitions of this nature—

that is, of the nature proposed in the Gibbs report. Perceptively, the report goes on to state—

> One might just as well argue for offences of impeding the lawful use of a television set or a record player.

I think that is an important reminder of the fact that legislation which is specifically designed to encompass current technology but which is not framed more generally tends to become out of date very quickly. That has been demonstrated time and again. What we seek to do by way of this bill is to create legislation which is not, as it were, technology specific. The difficulty of defining exactly what is a computer is inherent in this conundrum. This particular bill does not define 'computer'; it simply defines 'computer data' as 'including data in any form in which it may be stored or processed in a computer including a computer program or part of a computer program'.

The bill creates five new offences, the first four of which will be placed in the Criminal Law Consolidation Act and the remaining one in the Summary Offences Act. They are, briefly: first, the use of a computer with the intention to commit or facilitate the commission of an offence; secondly, the use of a computer with the intention to commit or facilitate the commission of an offence outside of the state—to address a particular issue that computers are electronically linked and their networks frequently cross state jurisdictional boundaries; thirdly, the unauthorised modification of computer data; and fourthly, possession of computer viruses with intent to commit a serious computer offence.

The new offence in the Summary Offences Act is that of the unauthorised impairment of electronic communication. These are timely legislative initiatives. If one looks at the literature on computer crime, one sees a great expansion in recent times. I commend to members who are interested the excellent web site of the United States Department of Justice, www.cybercrime.gov, for an up-to-date outline of the wide variety of cases that are being prosecuted in the United States. These are not only cases relating to breaches of copyright and the pirating of software and the like but also relating to gaining unauthorised access, recklessly damaging computers, and a case that was widely publicised only last month, where a man, I think a PhD student, pleaded guilty to gaining unauthorised access and recklessly damaging the computers of several high-tech companies, including Ebay and Qualcom, and he did it all from his graduate school dormitory.

In January this year a hacker pleaded guilty in the Manhattan Federal Court to illegally accessing the *New York Times* computer network. These cases are all described on the web site to which I have just referred, as well as an interesting analysis of policy, laws in the United States, and developments there. Similarly in Australia, there are a number of web sites outlining the cases although, I must say, far fewer than in the United States that have been reported here on the subject. Although I will not refer to it in any great detail, I commend an excellent paper prepared by the well-known criminologist Dr Peter Grabovsky of the Australian Institute of Criminology, a paper presented at a workshop on crimes related to computer networks at the 10th United Nations Congress on the Prevention of Crime and the Treatment of offenders, held in April 2000.

Dr Grabovsky begins his paper with the perceptive observation of the theory that crime follows opportunity, which is established wisdom in criminology, and the opportunity presented by the proliferation of computer networks has been obvious. It is also interesting to see developments both in the United States and in the United Kingdom about law enforcement in relation to computer crime. This is important in the current context. It is all very well for this government to trumpet its acceptance of law reform proposals from the Model Criminal Code Officers Committee, comprising experienced lawyers, but, unless the government devotes resources to the policing of these new laws, they are simply words on the statute book and they will be ineffective.

For example, in both the United Kingdom and the United States, special law enforcement organisations to examine and pursue computer crime have been established. These are well staffed, highly qualified, sophisticated organisations. When we hear the Premier saying that his government is moving on law and order, we so rarely hear any commitment of resources to ensure that the law will be effective. This government seems to be more interested in issuing press statements saying that it is adopting some new initiative rather than actually ensuring that our community is protected by appropriate policing resources. I note also that one of the difficulties about legislating in this area arises because the commonwealth parliament has constitutional authority over electronic communications, and there is already commonwealth legislation dealing with this issue.

This difficulty was recognised by the Model Criminal Code Officers Committee and, because computers these days are linked by telecommunications networks and because the commonwealth has that exclusive jurisdiction, once again the proponents of this legislation, in particular the Premier, have been overlooking the fact that, whilst ours is an important part in the jigsaw, unless we have national cooperation this legislation will provide little benefit to the South Australian community. Notwithstanding those reservations, we will be supporting the second reading.

The Hon. IAN GILFILLAN: The Democrats also will be supporting the second reading of this bill. As with many of the members in this and the other place, I am confronted daily with the rapid pace of change in our world, change that is accelerating through the adoption of new technologies. It of course will come as no surprise to find out that criminals are quick to exploit the gap between new technologies and the law, utilising that window of opportunity to their nefarious advantage. This bill is a commendable piece of work from the government and seeks to shut that window before too much harm can be done. With a little bit of coaching, I can actually enjoy a joke with my staff because many of the crimes discussed in this bill are made possible in many cases because of the choice of software that people make.

I am sure that members will have picked up on the 'windows' metaphor that I am using here, and those who are reading *Hansard* will no doubt do the same, especially as crueller members of my staff have suggested that we could argue that installing Windows on any computer is guaranteed to slow that computer down and therefore may itself just scrape in as an offence under this bill! My advisers in the open source community have explained to me that many of these offences do not occur on Linux systems: not, as some companies would like us to believe, because there are too few people running open source computer systems but because the open source development paradigm is inherently more likely to produce systems that are highly resistant to manipulation by unauthorised users.

I am pleased to see that the government has not included any penalties for running computers that are vulnerable to attack by hackers—or crackers, as the computer community would prefer, as a hacker is also a person who writes particularly elegant solutions to problems. I am pleased because, on the one hand, vulnerable systems are liable to become 'zombies' (that is, running someone else's software without permission) and do immense damage when they are triggered by the 'black hats'. On the other hand, computer users rely on their computers to do the job and cannot be expected to make their systems secure when the computer should really be doing the right thing straight out of the box. Of course, as I have already suggested, it would appear that Apple and open source computers are more secure out of the box. If members would like more information (and many may have already picked it up), in this morning's *Australian* in the IT section at page 4 is David Frith's column entitled 'Why Windows breaks'. It is very relevant to the vulnerability of Microsoft Windows compared with open source and other programs such as Apple.

Turning to the text of the bill, I was quite surprised to see at the top of page 3 that the definition of impairment does not 'include interception if the interception does not impair, prevent or delay'. But parliamentary counsel have assured me that this exclusion of interception is to keep us from treading on commonwealth legislation, and that is one of the aspects the Hon. Robert Lawson referred to in his contribution. I was also surprised to see that the offences in this bill do not include a particular crime known in the IT community as phishing. Phishing is a method of committing fraud by e-mail

to trick computer users into revealing their account details and access codes. Typically, an e-mail is blasted out to the world at large, purporting to be from a financial institution or online service, advising all customers of these services that their account details have been corrupted. This e-mail, it says helpfully, contains a link to an official-looking web site where the user can retype their details, account numbers, passwords, credit card numbers, personal identification numbers and so on to ostensibly, as is benignly suggested, fix the problem. Quite clearly that is the trap.

Unbeknownst to the hapless user, the site is collecting their details so they can be used without the user's consent. In many cases, the first indication that something is going wrong is the sudden exodus of money from all of the customer's accounts. I was surprised to see this apparent oversight in the bill, but parliamentary counsel have assured me that this particularly insidious crime is covered within the provisions of the Criminal Law Consolidation (Identity Theft) Bill when a criminal falsely assumes the identify of a corporate entity. However, I will be seeking the government's assurance that in either the second reading conclusion or committee stage the activity known as phishing is covered by the provisions of that earlier bill as we have through my office seen a number of examples of these phishing expeditions over recent weeks. Even at the risk of duplicating it, I feel that South Australia needs legislation that will protect citizens from that crime. With those observations I indicate Democrat support and look forward to the committee.

The Hon. CARMEL ZOLLO: I welcome this legislation. In the previous parliament I took an interest in some IT issues and the manner in which we as a parliament were responding to some of the challenges and, more importantly, rapid changes occurring in this field. Of course the matter is not one of concern to the state of South Australia alone, so I am not surprised to see that the legislation stems from the Model Criminal Code Officers Committee model recommendations—computer services and crimes know no borders. Computers are now part of most people's daily lives, especially in their businesses and work places. They are also part of people's lives in their schools, tertiary institutions and all the services that are delivered to them by the three tiers of government.

The use of computers in private communication is also a very important aspect in so far as computer security is concerned, when one thinks of online banking and bpay. The existing criminal law on computer damage in South Australia dates back to 1987 as a result of the decision of the Standing Committee of Attorneys-General at the time, and is a minor summary offence directed at the protection of the security of restricted access computer systems from access that is unauthorised. Any other criminal damage would have been physical damage, discernible as criminal when it happens, such as the example given of taking an axe to a computer. The problems that can be faced now were not envisaged. Computer communication was yet to reach the sophisticated role it now plays in our daily lives.

The Attorney in the other place described the legislation before us as dealing with subjective criminality, with a focus not on what physically happens but on the protection of social interests against intentional or reckless threats. Those social interests are often those that can be measured in massive economic loss to a jurisdiction or industry. There is obviously a high level of motivation for some people to obtain or disable other people's restricted information for monetary gain and, in some cases, for revenge, or purely mischievous reasons—to prove that it simply can be done.

The proposed legislation deals with the following new offences in computer damage and associated crime: the use of a computer with intention to commit or facilitate the commission of an offence; the use of a computer with intention to commit or facilitate the commission of an offence outside the state; unauthorised modification of computer data; unauthorised impairment of electronic communication; and possession of computer viruses with intent to commit a serious computer offence. The legislation before us also creates a new summary offence of unauthorised impairment of data held in a credit card or on a computer disk or other device. Basically it means that the owner is unable to use their credit card or smart card because the information identifying them has been corrupted, as distinct from someone else taking on their identity. The Hon. Ian Gilfillan referred to it as phishing.

The main intent of hacking and viruses, beyond some programmers showing off their misdirected skills, is to disrupt communications systems or gain illegal access to data and systems. In some cases it might even mean the total closure or manipulation of critical electronic infrastructure, which has implications for terrorism scenarios. Pinging, or a denial of service attacks, are by their nature something which may be quite difficult to police. The reason is that such attacks amount to doing something, which by itself may be legal, but doing it in such quantity that it creates havoc. To illustrate, a single person may legitimately visit a web site and request information, but a denial-of-service attack may consist of spurious flooding of requests for information all at once, which intentionally renders the web site or system useless.

A company victim to this crime may currently have to say that its web site was 'maliciously visited by too many people at once'. Clearly such a claim would not make sense in the physical world of shopping because of the dissimilarity between the physical world and the online world. Therefore, more adequate legislation is needed to cover such electronic crimes.

One other type of computer crime involves exploiting security floors present in many widely available software packages and operating systems. Legislation needs to cover circumstances where the intent and/or outcome of electronic activity is criminal, even if the means by which it is carried out is of itself not necessarily illegal.

The only light at the end of the tunnel in relation to these offences is that it keeps many people gainfully employed, such as software engineers, in ensuring that such offences cannot easily be committed, not to mention of course that it is excellent for the manufacturers of antivirus software—one, of course, has to respond to market developments. The introduction of this legislation is timely and important for the protection of our information economy at the government, business and personal level, and I welcome its introduction. It is important for our state to join all other jurisdictions in enacting this legislation as soon as practicable and I add my support.

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

STATUTES AMENDMENT (INTERVENTION PROGRAMS AND SENTENCING PROCEDURES) BILL

Adjourned debate on second reading.
(Continued from 2 December. Page 803.)

The Hon. NICK XENOPHON: I indicate my support for the second reading of this bill, and I welcome this initiative in terms of intervention programs and sentencing procedures. However, I put the government on notice that I believe that an intervention program ought to be mandated as part of the framework of this bill to deal with those suffering from a gambling addiction and who have been sentenced as a result of a gambling related crime. It is commendable that the government is going down this path, that is, that there be intervention programs and, as I understand it, the government, in a sense, will be piloting a program. It will enable the legal framework to be established to ensure that intervention programs are in place and, for instance, it will allow for deferral of sentence if a person undertakes an intervention program, the whole thrust being to ensure that a person does not commit an offence again.

This is about long-term prevention. This is about creating a safer community and being tough not only on crime but also on the causes of crime—and that is something of which we should not lose sight. The bill also contains special provisions in relation to mental impairment, looking at issues in the context of the Criminal Law Consolidation Act, and it allows a court to order mental impairment intervention. If it means that people will not reoffend as a result of these intervention programs, that is something that should also be commended.

I note that the minister's second reading explanation refers to issues of administration and the sorts of matters at which it will be looking, including Aboriginal sentencing procedures; and again, if that will make a difference in terms of the disproportionate rate of incarceration amongst indigenous South Australians, that, too, is a good thing.

However, the bill seems to be silent on the issue of intervention in respect of gambling related crime, and I think that there is a compelling case for there to be enshrined in legislation the need to have at the very least a pilot intervention program—although I believe it should be much broader than that—for those who have committed crime as a result of a gambling addiction. In relation to that, I refer to an article to which I have referred previously in this place entitled 'Who's Holding The Aces' in the *Alternative Law Journal*. It was published in December 1997, but the material contained in that article is still valid and, indeed, last year the Australian Institute of Criminology published findings in respect of gambling related crime being the second largest cause of fraud in Australia, and that is quite a frightening statistic.

The Productivity Commission has also looked at the issue of gambling related crime. In 'Who's Holding The Aces', which I regard as a seminal work on the issue of gambling related crime, it indicates that there is a very clear link between crime and gambling, that there has been a jump in the number of people committing crime as a result of being addicted to legal forms of gambling, in particular poker machines, and it refers to a study conducted in 1996 by Professor Alex Blaszczynski at the University of Sydney.

A study conducted by Blaszczynski and Steel in 1996 in examining a controlled group of 115 subjects found that 58.3 per cent of the group made an admission to a gambling related offence and 22.6 per cent had been convicted or charged for such an offence. This was very similar to a 1989 study carried out by Blaszczynski, McConaghy and Frankova, which found that 54.1 per cent of 109 pathological gambling patients admitted to a criminal offence that was directly related to their gambling problem, while 21.1 per cent had been charged for such an offence.

That is something that has been dealt with in the figures in terms of further research, and the Productivity Commission has come to a similar conclusion; that is, there is a very clear link between gambling related crime, and I emphasise that the studies carried out by Blaszczynski both in 1989 and 1996 referred to those who had a pathological gambling disorder. They are more severely affected than a problem gambler, but they form part of that subset. Unfortunately, more and more South Australians have serious gambling problems, most of which are due to poker machines.

I refer to the inquiry of the Independent Gambling Authority into gaming machine numbers which made reference to the fact that approximately 70 per cent of problem gamblers in the state have a problem with poker machines; of those, a not insignificant proportion have a pathological gambling problem. According to the research, about 60 per cent of those with a pathological problem are at risk of committing a gambling related offence, and some 20 per cent of those are going through the courts.

If you look at reports in newspapers such as *The Advertiser* and if you talk to court reporters in this state, you will know that people are going through the courts charged with a gambling related offence on a very regular basis—virtually weekly. Previously, I raised in this place the issue of appropriate rehabilitation for those who have been convicted, sentenced and incarcerated for a gambling related offence. I note that Chief Justice Doyle, when sentencing a person who had embezzled her employer (a bank) of several hundred thousand dollars, condemned the fact that there simply were not adequate facilities to deal with rehabilitating a person with a gambling disorder.

For those reasons, I put the government on notice that I will be instructing parliamentary counsel to ensure that an amendment relating to the issue of gambling related rehabilitation intervention programs will be fairly and squarely on the agenda. I believe that there are compelling public policy reasons why there ought to be such intervention programs, unlike those that the government is discussing in the context of this bill.

Gambling related crime is a consequence of the liberalisation of gambling policy in this state. The state benefits greatly from gambling taxes. The figure for poker machines is approximately $275 million for the current financial year, which is projected to rise to $300 million in the next financial year. I believe that there is an ethical obligation on the part of the state to ensure that there are funds for intervention programs for those with a gambling disorder, particularly when the crime has been caused by a disorder that is, in a sense, due to state sponsored gambling.

There is a compelling reason to say that the state is benefiting greatly from gambling taxes. If people are falling by the wayside, committing criminal offences and, in some cases, going to gaol—people who, hitherto, have had impeccable records—we ought to have intervention programs in place, in the same way that the government is proposing intervention programs for other communities, such as in the drug court and so on.

If a person has a drug addiction and has committed criminal offences as a result of the addiction, I think it is a very good thing if there is an intervention program in place in the drug court. We want to break that cycle of addiction and break the link with criminal behaviour, because that leads to a safer community. I believe that the case is even more compelling when a person has a pathological gambling disorder and when that disorder has led to the commission of a criminal offence, which is usually fraud related. In its report in June 2003, 'Gambling as a Motivation for the Commission of Financial Crime', by Yuka Sakurai and Russell G, Smith, the Australian Institute of Criminology draws the link very clearly between problem gambling and crime.

So, where the state is gaining a significant benefit from gambling taxes, I believe that there is an even greater responsibility for the state to have intervention programs in place. If it is good enough for a drug rehabilitation program in the drug court, I believe that it is entirely appropriate for gambling related crime.

With those comments, I indicate my support for the second reading of the bill. I will do my best to ensure that those amendments are tabled as soon as possible so that honourable members on both sides of the chamber can consider them. I do not think there is any excuse not to ensure that at least there are intervention programs for those who have committed a criminal offence as a result of a gambling disorder.

In some cases—and I point out that this relates to pathological gambling disorders—some doctors are now prescribing naltrexone, because they find that the organic behavioural responses are similar to those with an opiate dependency. I emphasise that this relates to the more severe and extreme cases of gambling addiction. However, I know of one young man whose only hope appears to be taking naltrexone for his gambling addiction.

We should not underestimate how, in some cases, a severe gambling disorder can be like a mental disorder and how it can be a cause of criminal activity. That is why I think that it is important that we do not sweep the issue of gambling related crime under the carpet and that there ought to be intervention programs for those who have committed such crimes.

The Hon. G.E. GAGO secured the adjournment of the debate.

ADJOURNMENT

At 4.58 p.m. the council adjourned until Wednesday 18 February at 2.15 p.m.