LEGISLATIVE COUNCIL

Thursday 24 October 1985

The PRESIDENT (Hon. A.M. Whyte) took the Chair at 2.15 p.m. and read prayers.

PAPER TABLED

The following paper was laid on the table:

By the Attorney-General (Hon. C.J. Sumner)—

Pursuant to Statute—

State Government Insurance Commission—Report, 1984-85.

OMBUDSMAN

The Hon. C.J. SUMNER (Attorney-General): I seek leave to make a statement.

Leave granted.

The Hon. C.J. SUMNER: The Governor has today accepted the resignation of the Ombudsman, Ms Mary Beasley. The Government believes that Ms Beasley has adopted the proper course in resigning her position as Ombudsman. The office of Ombudsman is of vital importance to the people of this State. An Ombudsman cannot operate effectively in an atmosphere of continuing public controversy. By resigning, Ms Beasley has put that office and its importance to our State above personal considerations.

The Government believes that her resignation is the best course of action. However, it must be remembered that the federal Attorney-General found that Ms Beasley had not breached any Commonwealth law. Following a direction from the Government, South Australia's own Solicitor-General made inquiries as to whether Ms Beasley's actions constituted misbehaviour for an Ombudsman as laid down in the legislation. The Solicitor-General found that Ms Beasley's actions did not constitute misbehaviour. However, the office of Ombudsman would have been compromised by continuing controversy.

The Government felt it was reasonable, in the light of Ms Beasley's previous experience and excellent record in the Public Service as a Commissioner for Equal Opportunity and Commissioner of the Public Service Board, that the Government accede to her request that she return to the Public Service. Ms Beasley will take up a position within the Public Service, at an appropriate level, as an Executive Assistant of the Public Service Board. In the light of Ms Beasley's resignation, the Government considers it unnecessary to make further inquiries in respect of the matter which has been debated in Parliament and which led to her resignation from the Qantas Board.

The major concern of the Government was that the Office of Ombudsman be free from public controversy. In the light of Ms Beasley's resignation, there is no point in pursuing inquiries any further. I advise the Council that Mr G.D. Edwards, Senior Investigating Officer in the Ombudsman's Office, has been appointed Acting Ombudsman.

The Hon. K.T. GRIFFIN: I seek leave to make a personal explanation.

Leave granted.

The Hon. K.T. GRIFFIN: Yesterday, public statements were made which reflected upon me and the Opposition in respect of the position of the Ombudsman. The Attorney-General made a brief ministerial statement yesterday after which I sought leave to make a statement. I was of the view that my statement made it clear as to what actually happened with respect to a possible approach to Ms Beasley to stand aside while all the facts were obtained. However, that statement was distorted in another place and, although I clarified the matter in a press release, it is appropriate that I now put the position on the official record.

At a meeting with the Attorney-General in his office at Parliament House on Tuesday 22 October 1985, which commenced at about 4.35 p.m., he raised several matters with me. One of those matters was an approach to Ms Beasley to ask her to stand aside while all the facts were ascertained. When the subject was raised, I indicated that I was under the impression that at the earlier meeting that day with the Premier and the Attorney-General, which I and the Leader of the Opposition attended, it had been agreed that the Government would put to Ms Beasley informally that she stand aside. I indicated that that continued to be our position.

The Attorney-General responded by saying that he would have to consider the Government's position about asking Ms Beasley to step aside voluntarily and that, if the Government agreed, he would put to her solicitors that it was the view of both the Government and the Opposition that that was the appropriate course.

At the conclusion of the meeting the Attorney-General checked to see that he had my home phone number as he may need to telephone me if there were any developments. I received no phone call that night and the first that I was aware that an approach had in fact been made to Ms Beasley's solicitors for her to stand aside was when the Attorney-General informed me of that in a telephone conversation with him at approximately 11.15 a.m. yesterday.

In fact, a statement by Ms Beasley saying that she would not stand aside was featured on the front page of the *Advertiser* newspaper yesterday morning. From that report it was fair to presume that in fact the Government had made an approach to her but that it had been rejected. Neither I nor my colleague, John Olsen, the Leader of the Opposition, have breached any confidentiality or undertaking.

The Hon. C.J. SUMNER (Attorney-General): I seek leave to make a personal explanation.

Leave granted.

The Hon. C.J. SUMNER: At the conclusion of my conference with the shadow Attorney-General, Mr Griffin, on Tuesday I said that all I had to do was check with the Premier (that is my recollection of the situation) and I would then put the matter to Ms Beasley's solicitor, that matter being the request to Ms Beasley that she should stand aside as Ombudsman. I did that and arranged to meet Ms Beasley's solicitor that evening and, in fact, saw him here in the Parliament at 7.30 p.m.

I put to him that it was a joint request from the Opposition Party and the Government that she should stand aside pending any inquiries, inquiries that were also discussed by me with the shadow Attorney-General that afternoon. At that time a statement had already been made, to my recollection, by Ms Beasley in the terms that the Hon. Mr Griffin has outlined. I proceeded in accordance with the arrangements that had been entered into at the meeting before lunch on Tuesday and confirmed in my meeting with the shadow Attorney-General that afternoon.

There was no suggestion that those arrangements had been countermanded. I then, as the honourable member said, attempted to brief him at 11 a.m. the next morning to advise him of what action I had taken and to keep him posted. Of course, as the honourable member will recall, it was during that telephone conversation that I was shown the *News* with Mr Olsen's statement. I maintain that the position on this matter is as stated by me yesterday.

I do not and cannot resile from the position that I took, because that is my clear recollection of the facts and of the authority that I had to proceed to put the matter to the Ombudsman's solicitor. Had that offer been refused or accepted, I would have contacted the Hon. Mr Griffin immediately and advised him. In fact, I put the matter confidentially. I said that I would not raise the matter publicly because I felt it was fair to enable Ms Beasley to consider the issue carefully and provide a response. Therefore, I acceded to their request that the fact that I put the offer remain confidential, and I believe that that was the fair thing to do.

It was in those circumstances that I was confronted with the statement that had been made by the Leader of the Opposition. I note the honourable member's personal explanation, and I imagine that at this time there is no point in continuing any further polemics about it, but I maintain that the position was as I outlined yesterday.

QUESTIONS

BUSHFIRES

The Hon. M.B. CAMERON: I seek leave to make a brief explanation before asking the Minister representing the Minister of Emergency Services a question about bushfires.

Leave granted.

The Hon. M.B. CAMERON: I have no doubt that members will be surprised that a question will not be directed to the Attorney-General. However, this is a very important subject in relation to this State, one that, unfortunately, appears to arise only just prior to the bushfire season. There are many people in this State from all levels of life, including Government officers and private citizens, who appear not to learn lessons very easily. The question of bushfires is one that must remain in our minds following many events over many years, but in particular in relation to Ash Wednesday 1983.

It appears to me that one of the greatest problems we face in the near metropolitan area relates to the hills face zone, which continues to be and has been ever since Ash Wednesday a virtual tinder box that we appear to have great difficulty coping with. While it is a tremendous idea that the hills face zone be free of houses, it is important that we do not allow it to become a very serious problem for the citizens both on the other side and on this side of the hills face zone. From my personal observation and from the observations of many people associated with the question of bushfires, it appears that no lessons have been learnt in relation to the hills face zone and the problems caused there.

In June 1983 an article in the *Advertiser* indicated that a fire action plan would be drawn up and that management of the hills face zone would be the subject of that plan. I am not sure whether the plan has been presented or whether the management processes that were outlined have been adopted, but my questions are:

1. Has any plan been set out that allows for proper management of the hills face zone to curtail the fuel loadings and the potential for danger in the hills face zone?

2. What steps will be taken in the next few months to ensure that the hills face zone does not become the tinder box that it has appeared to be for many years?

The Hon. J.R. CORNWALL: On behalf of the Minister who normally represents the Minister of Emergency Services in this place and who is absent today on Government business, I shall be pleased to refer those questions to the Minister and bring back a reply.

WORKERS COMPENSATION

The Hon. K.T. GRIFFIN: I seek leave to make a brief explanation before asking the Attorney-General a question about workers compensation.

Leave granted.

The Hon. K.T. GRIFFIN: It has been reported today that the Government has a new Bill dealing with workers compensation. Presumably that follows the earlier announcement of the Government that it had agreement on workers compensation from certain employer groups and the United Trades and Labor Council, that agreement being launched with a fanfair under the heading of 'WorkCover', and the spending of taxpayers' funds to promote that agreement.

Of course, since that announcement there have been a number of groups in the community that have raised questions about the alleged agreement and, as a result, there has been considerable debate on that issue. It is interesting to note that there is the report that the Government has the new Bill dealing with workers compensation, and so I ask the Attorney, as Leader of the Government in this place:

1. What changes has the Government made to its proposals for workers compensation?

2. Have they been agreed with the trade unions and employers?

The Hon. C.J. SUMNER: At this point of time it is not considered appropriate to discuss in detail the proposed amendments to the white paper until the draft Bill has been placed before IRAC for its consideration. It is possible, following IRAC's deliberations, that certain further amendments will be required. It is therefore premature to discuss any changes at this stage of the consultative process.

The Hon. K.T. GRIFFIN: I desire to ask a supplementary question. In the light of that reply, is the report that a Bill is proposed to be introduced next week incorrect?

The Hon. C.J. SUMNER: That is a matter for the Minister of Labour. If it is to be introduced next week, then I assume it will be considered by Cabinet on Monday. As I do not yet have my Cabinet agenda I am sorry that I cannot respond definitively to the honourable member's question.

MODBURY HOSPITAL

The Hon. ANNE LEVY: I seek leave to make a brief explanation before asking the Minister of Health a question about Modbury Hospital.

Leave granted.

The Hon. ANNE LEVY: In today's paper is a statement purporting to come from the Hon. Dr Ritson. As far as I know, the Hon. Dr Ritson has never raised this matter in Parliament, nor has he ever approached the Minister of Health about it. For some reason the honourable member seems to believe that parliamentary business is best conducted through the columns of the newspaper. According to the newspaper report—seeing that the matter has never been brought before Parliament to actually know what the Hon. Dr Ritson may or may not think—he has stated that the lives of maternity patients at Modbury Hospital are in danger because of a South Australian Health Commission decision not to employ a registrar in obstetrics and gynaecology at the hospital. He is also, according to the newspaper, purported to have said that there was a greater danger to patients in the event of complications and even that there had been at least one case of preventable loss of life.

These are very serious statements indeed but I would have thought the honourable member could have raised them with the Minister or in Parliament if they are indeed as serious as he suggests. To bring things to the attention of the Government by means of columns in the newspaper

does not seem to me to be the responsible action of a member of Parliament—not when Parliament is sitting.

Members interjecting:

The PRESIDENT: Order! Members will come to order. I suggest to the Hon. Ms Levy that I find it difficult to know how that was explaining the question.

The Hon. J.R. Cornwall interjecting:

The PRESIDENT: I just had a few words with them; I will have some with you, too, if you want them.

The Hon. J.R. Cornwall: Do you need any help?

The PRESIDENT: No, not at all. The Hon. Ms Levy.

The Hon. ANNE LEVY: I was indicating that I had to rely on a newspaper report, seeing that the Hon. Dr Ritson had not raised this matter with any member of the Government or with the Parliament. He may have been misquoted. Has the Minister looked into this matter? Has there been preventable loss of life at Modbury Hospital, and has the information relating to this apparently serious situation at Modbury been raised with him in any responsible way before now?

The Hon. J.R. CORNWALL: The desperation of the Opposition in trying to discredit the public hospital system, it seems, knows no bounds. It certainly is not guided in any way by any ethical considerations. This story was peddled around the corridors of the Parliament yesterday by the Hon. Dr Ritson, who did not see fit to raise it in the Chamber. He apparently did not believe that there should be some worthwhile Parliamentary scrutiny, nor did he raise the matter with me. To the best of my knowledge, he has not raised it with anyone in the Health Commission. The Hon. Dr Ritson is not only a member of Parliament and, therefore, has obligations over and above those of other members of the community, but he also happens to be a member of the medical profession. One can understand the Hon. John Burdett in his desperation doing the sorts of things that he does, and I will not—

An honourable member: What does this have to do with anything?

The Hon. J.R. CORNWALL: Bungles like this are a clear indication of how desperate the Liberals are to seek publicity in the run up to the State election.

The Hon. M.B. Cameron: Who wrote that for you?

The Hon. J.R. CORNWALL: The Hon. Mr Cameron says, 'Who wrote that for you?' I did not write it at all: that is a transcript from Richard Lower on the ABC *National* on Thursday 12 September, when Rumpole's father over there—the Dickensian lawyer, the Hon. Mr Burdett—called a press conference specifically—

The Hon. J.C. BURDETT: A point of order, Mr President. In your note, which circulated some time ago, you indicated that answers to questions had to be answers to the question. This is not: it has nothing whatever to do with the question. It is out of order and the Minister should get to answering the question.

The PRESIDENT: I agree that the Minister should answer the question, but I have no jurisdiction over the manner in which he answers the question, and I cannot deal with it as a point of order. I can only appeal.

The Hon. J.R. CORNWALL: The matter that I am responding to is the continuing campaign by the Opposition to try to undermine confidence in the public hospital system. In that respect, the matter that I am referring to—the terrible performance of the Hon. Mr Burdett in his press conference on 12 September concerning the Flinders Medical Centre—is entirely germane because on that occasion he named a patient without the patient's permission: both her given name and her surname. He lined up her elderly husband, dragged him into the press conference and generally behaved disgracefully, very unethically, and got his just desserts.

I will not bore the Council with the full transcript, but it is a most amazing thing. It was a most regrettable, degrading and dishonourable performance by the Hon. Mr Burdett on that occasion. I believe that may well have been topped by the Hon. Dr Ritson's performance yesterday in his desperate attempt to undermine the public hospital system.

The simple fact of the matter is that the public hospital system in South Australia, by and large, is in very good shape. If one reads the interstate press one will see the situation that exists in Victoria. If one reads the interstate press one will see the very grave problems in the New South Wales public hospital system. If one travels to Queensland, as I do from time to time, and looks at the Queensland hospital system, one will see that, by comparison, we are very much better off.

The Hon. R.I. Lucas: They looked after you pretty well.

The Hon. J.R. CORNWALL: They did look after me quite well, I might say.

Members interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: I am answering the question. I am making it very clear, and I would like it widely known, that the South Australian public hospital system, by and large, is in very good shape. Let me turn to the scurrilous allegation that situations were occurring where there was preventable loss of life. I had some inquiries made this morning. The Hon. Dr Ritson had attributed to him:

> This meant there was a greater danger to patients in the event of complications, and there has been at least one case of preventable loss of life. Legal action was being taken against the hospital over the case.

What the honourable member did not say was that that occurred in 1981—more than four years ago. I do not think it would be—

The Hon. Anne Levy: Was that when Jenny Adamson was Minister?

The Hon. J.R. CORNWALL: Regardless of who was Minister at the time, it was more than four years ago. It would not be entirely inappropriate for me to suggest that the Hon. Dr Ritson attempted to mislead journalists, and worse, quite deliberately attempted to mislead the people of South Australia. That is what Dr Ritson, a member of the medical profession, did yesterday. It was a disgraceful performance.

An honourable member: He's not a vet.

The Hon. J.R. CORNWALL: I am very pleased that he is not a vet because behaviour like that would bring disgrace to any profession to which the Hon. Dr Ritson happened to belong. However, it is even worse when he does it with the full knowledge that this occurred more than four years ago. Of course, he is in a privileged position as a member of the medical profession and should know a great deal better than other people in the community about matters that relate to hospital care and medical treatment.

The facts are quite different from the distortions that were peddled by the Hon. Dr Ritson yesterday. The facts are that the number of births at Modbury Hospital are declining. They have gone down from 1 400 during 1979-80 to 1 183 during 1984-85. Throughout those years there has been a steady decline.

Secondly, I will read into the record a letter signed by Mr Parkinson, the Chairman of the board of management of Modbury Hospital, who understandably feels outraged. The letter addressed to the Editor of the *Advertiser* states:

> Thousands of women have had their babies at Modbury, receiving during the course of their pregnancy and at the time of delivery, a high standard of medical and nursing care. Thousands more will have their babies here, safely, and with the same high standard of care.

To provide this care the hospital employs four senior consultant obstetricians, one senior staff specialist obstetrician and four resident medical officers in obstetrics. Nursing care in both the labour ward and ante and post natal areas is undertaken by qualified midwifery trained staff.

The responsibility for and direction of the treatment and care of every maternity patient is vested in one of the four senior consultants.

They are the facts. It is also a fact that the Hon. Dr Ritson could have found out with a simple telephone call that the registrar's position was taken away on the direct recommendation of the Royal College of Obstetricians and Gynaecologists. Again, a deliberate distortion of the facts—a deliberate but vain attempt to discredit South Australia's excellent public hospital system. I can certainly tell the Hon. Dr Ritson that within the commission and the hospital system there are some people who are very angry about the performance that he has given in recent months.

I will read into the record a letter to the Administrator of Modbury Hospital: it is entirely relevant and is over the signature of the Executive Director of the Central Sector. For some time the hospital has been applying for additional funding for a registrar's position. I will return to the matter of funding in a moment. The latter is dated 30 August 1985 and, among other things, it states:

I refer to your letters dated 3 July and 7 August 1985 regarding creation of a position of obstetrics registrar at Modbury Hospital. Dr S.A. Britton—

who is a former Medical Superintendent at the Royal Adelaide Hospital—

investigated this matter on my behalf and has reported that you may have difficulty in gaining accreditation from the relevant college for the position at Modbury. Apparently the college considers—

that is, the Royal College of Obstetricians and Gynaecologists—

that there are enough trainees in the State and that there would be a lack of supervision at Modbury Hospital. The obstetrics work load has not increased at Modbury Hospital—

and, as I said earlier, there has been a constant decline over the past five years—

therefore I suggest that if the hospital wishes to proceed with the appointment of a registrar then this position be funded from a decrease in the number of sessions paid to visiting medical specialists.

That brings me to my next point: the Hon. Dr Ritson alleged that the hospital was inadequately funded. First, let us look at the total budget allocation for Modbury Hospital, and let us compare it with the Lyell McEwin, a hospital with very similar activity statistics. In fact, in the past 12-month period (1984-85) the Lyell McEwin had 1 500 deliveries as against 1 183 at Modbury Hospital.

There has been an allocation of well in excess of $1 million in real terms to the budget of the Lyell McEwin Hospital since I have been Minister of Health, and there has also been a substantial upgrading of the medical and para medical staffing at the hospital. Despite that fact, its budget allocation is $12.3 million. The Modbury Hospital, with comparable patient statistics, has a budget allocation of $17.2 million—which is $5 million or almost half as much again as the Lyell McEwin budget. The Modbury Hospital is one of our more expensive hospitals. It has been adequately funded in most areas ever since it was established, and it has consistently been one of the most expensive hospitals in the State.

The day bed cost at the Lyell McEwin, remembering that considerable additional funding has been made available to that hospital, remains at $220; the day bed cost at Modbury Hospital is $244. Of course, it is quite possible within that global allocation of $17.2 million ($5 million more than the Lyell McEwin), and it may even be desirable for the hospital itself (the administration and the board), to allocate funding for the registrar's position.

The point must also be made that that would have to be approved by the Royal College of Obstetricians and Gynaecologists, as the Hon. Dr Ritson clearly knows. I apologise for taking up so much of the Council's time, but it was most important that all these matters be placed on the record. The Modbury Hospital is adequately funded, and it has made applications for funding on a number of occasions—including a submission to the AMA when all the hospitals were asked to outline to the AMA, when negotiations were held with the Federal Government, what it would like to see in an ideal world if there were bounteous funding. Included in its shopping list of well over $1 million was the obstetrics registrar's position.

In summary, the position is that the Hon. Dr Ritson, for the worst and most cynical political purposes, like the desperate men who sit with him (and I quite deliberately leave out the Hon. Miss Laidlaw) has deliberately distorted the facts and the figures in order to try to discredit the public hospital system. I conclude as I began by reassuring the Council, Parliament and the people of South Australia in general that we have the finest public hospital system in the country and one of the finest in the world.

PERSONAL EXPLANATION: MODBURY HOSPITAL

The Hon. R.J. RITSON: I seek leave to make a personal explanation.

Leave granted.

The Hon. R.J. RITSON: The Hon. Ms Levy just asked a question, presumably to obtain information but obviously to provide the Minister with a vehicle for some vituperation (which is his wont), and he has seriously misrepresented and misunderstood me. The first point made in the Minister's reply to the most classical Dorothy Dixer of all time was that somehow he could not quite understand why I did not raise this matter in Parliament. Honourable members will recall an earlier occasion, when I asked a question on autologous blood transfusion, the Minister responded with 10 minutes of verbal abuse and did not mention the subject of autologous blood transfusion and it was left to the Estimates Committee—

The Hon. J.R. Cornwall: That's a gross untruth.

The PRESIDENT: Order!

The Hon. R.J. RITSON: —and a public officer to drop incidentally and almost accidently the fact that the Government did indeed have an autologous blood transfusion program. That is one example of the many occasions that questions are asked in this Council seeking genuine information but are not treated as such. On most occasions questions are not answered and the Minister of Health simply uses the occasion to make a long speech about something else, a speech usually laden with political vituperation. Quite frankly, members on this side of the Council have come to the conclusion—

The Hon. J.R. CORNWALL: Mr President, I rise on a point of order. You have two sets of rules, with great respect, Mr President: one for this side of the Council and one for members opposite.

The PRESIDENT: There is only one set of rules.

Members interjecting:

The Hon. L.H. DAVIS: I rise on a point of order, Mr President.

The PRESIDENT: Order! The Minister rose on a point of order. There is no point of order. The Hon. Mr Davis also has a point of order.

The Hon. L.H. DAVIS: Mr President, I ask the Minister of Health to withdraw the reflection on the Chair suggesting that the Chair has two sets of rules.

The PRESIDENT: I will explain the position: the Minister is quite right. If the same set of rules applied to the Minister's answers as applies to members questions, there would be a great deal of difference in the answers given; so there are two sets of rules.

The Hon. R.J. RITSON: My first point in explanation is in response to the Minister's complaint that the matter was not raised first in the Council. As I have just explained, members on this side have, sadly, come to the conclusion that there is little point in asking questions of the Minister of Health—one may as well go out into the highways and byways with one's message—

The Hon. J.R. Cornwall: And tell the lies out there.

The Hon. R.J. RITSON: The Minister has not even heard my case. I seek his withdrawal and apology for that interjection.

The PRESIDENT: I did not hear what was said.

The Hon. J.R. Cornwall: I said he was telling lies outside the Chamber and he asks me to withdraw and apologise. I technically do both of those, Sir.

The Hon. R.J. RITSON: The Minister is very resistant to listening to an explanation but I shall continue. It has been an interesting morning with certain persons scurrying around—

The PRESIDENT: Order! The honourable member must keep to his personal explanation.

The Hon. R.J. RITSON: I will, Mr President. It is related to everything of which the Minister has just accused me. The Minister has received some potted arguments, which I expected; I knew that they would come. People scurried around and put them together for him this morning.

The Hon. J.R. Cornwall: This letter was written on 30 August.

The Hon. R.J. RITSON: I have a copy of that letter here. I will get to it in a moment, Minister. The problem is longstanding and dates back to 1982. As the Minister pointed out, there was an incident in 1981. I will not specify the details of incidents which might be *sub judice*, but in 1982 the Department of Obstetrics and Gynaecology at Modbury Hospital entered a submission pleading for registrars. I will take this through the years that this has been going on. It stated that the department was the only clinical department in the hospital that did not have any registrar or senior registrar staff.

The Hon. J.R. Cornwall: Tell the truth! Tell us what the college's position is.

The Hon. R.J. RITSON: I will deal sequentially with all of the points that the Minister has raised. I need your protection, Mr President, from the Minister's interjections.

The PRESIDENT: I think that the honourable member is being heard reasonably well. I will come to his assistance if the Minister persists.

The Hon. R.J. RITSON: Thank you, Sir. In 1982 the submission for the appointment of registrars stated that this department was the only clinical department in the hospital that did not have any registrar or senior registrar staff. It then went on to refer to the question of the Royal College, which I will deal with in a moment. In 1985 the Modbury Hospital made a submission to the Medical Association to which the Minister has just referred and which was reported in the *Advertiser* of 14 March, as follows:

> Despite the fact that 1 100 babies are born annually at Modbury Hospital inadequate funding has prevented employment of a surgical registrar in the obstetrics and gynaecological department.

In 1985 the hospital forwarded a submission to the Health Commission. I want the Minister to remember that this is not a question of caning the hospital, which is an excellent one, but a question of taking the hospital's side.

The Hon. J.R. Cornwall: Yet you're prepared to say—

The Hon. R.J. RITSON: It is a question of taking the hospital's side.

The Hon. J.R. Cornwall interjecting:

The Hon. R.J. RITSON: Mr President, please, Sir!

The PRESIDENT: Order! I ask the Minister not to interject.

The Hon. R.J. RITSON: It is a question of taking the hospital's side in its repeated pleas to the Health Commission for assistance. It is the only metropolitan teaching hospital where obstetric cases are primarily in the bedside care of residents unsupervised by registrars. When the Minister was in Opposition he championed the cause of registrar supervision of residents.

The Hon. J.R. Cornwall: And put it in at the Lyell McEwin.

The Hon. R.J. RITSON: I was informed that the Minister would raise that comparison with the Lyell McEwin. I know the Lyell McEwin well.

The PRESIDENT: Order! The Hon. Dr Ritson has asked leave to make a personal explanation, and I think that he is straying away from it.

The Hon. R.J. RITSON: The Minister has taken issue with me, attacked me personally, attributed foul motives to me and made a series of points all of which are rebuttable, all of which are documented here and he asks why I did not raise the matter in the Parliament in the first place.

The Hon. J.R. Cornwall interjecting:

The Hon. R.J. RITSON: He is giving the perfect example why now, Sir. He is trying to stifle me. The submission from the Department of Obstetrics and Gynaecology in 1985 stated, in part:

> Only a registrar's presence can provide emergency care during the day when the staff specialist is attending to other duties or at nights and weekends when consultants are available on call. There are a number of impending court cases already.

This was in 1985, not 1981. The submission continues:

> Modbury Hospital and its obstetricians are the subject of these court cases where in interrogatories the competence and level of seniority of the attending doctor has been questioned.

I do not propose to give examples because of the difficulties if matters are *sub judice*. I do not expect the hospital to be aware of all these charges. In a submission to the Australian Medical Association on 5 March the Modbury Hospital—

The Hon. ANNE LEVY: I rise on a point of order, Mr President. According to Standing Order 173, by indulgence of the Council a member may explain matters of a personal nature to the Council. I do not really see that submissions made by the Modbury Hospital to anybody are of a personal nature, so they should not form part of the personal explanation that Dr Ritson has received permission to give.

The PRESIDENT: I take the point of order and ask the Hon. Dr Ritson not to expand beyond what is reasonable in his explanation.

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Davis ought not get into this matter at this moment: he should wait until I finish. The Council, having given leave, can cancel that leave if it desires.

The Hon. R.J. RITSON: The Minister and his cohort, Ms Levy, have adequately demonstrated why it is so difficult to deal with this complex matter in this Council because of the way in which they stifle freedom of speech. I will make a final point, and I will not go on with this matter, because points of order are being taken and the truth of the matter is not being carefully considered. The truth is that this very morning a senior obstetrician was fronted by the board and told to sign a statement that treatment was adequate and perfect out there. He said that he was unable

to do so in a form that was acceptable to the board. I challenge the Minister to go out and talk to senior clinicians before swallowing hook, line and sinker the statements of administrators looking over their shoulders trying to please their political masters in this affair. Go and find out, John! Go and talk to Dr Dutton.

The PRESIDENT: Order!

FLINDERS MEDICAL CENTRE

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Minister of Health a question about nursing staff at Flinders Medical Centre.

Leave granted.

The Hon. L.H. DAVIS: The Flinders Medical Centre has 965 full-time nursing equivalent positions, but its budget provides for only 895; in other words, it is 70 positions short. This places enormous stress on the nursing staff. In fact, I understand that more cases of stress are being reported by nursing staff. For example, nurses in the neonatal unit must be highly skilled: there are specialised 10-week post basic courses for nurses in the neonatal unit, providing training for eight nurses at any one time from a total staff of 55 nurses. However, funding is not available for additional staff to replace those absent on courses.

The Minister would be aware that the neonatal unit requires highly specialised and skilled staff. Therefore, nursing staff from other areas who do not have the necessary skills must be redeployed to cover the situation, and this places enormous stress on both the skilled neonatal staff and those from other wards. It also depletes the level of staffing in medical and surgical wards. I understand that this enormous stress has led to an increased number of resignations from the neonatal staff, including some who believe that their high professional standards are being compromised by the undue stress placed on them and the undue risk created in the neonatal ward. These are serious matters, and they are not the fault of the able administration and financial management of Flinders Medical Centre. Does the Minister deny the severe crisis in regard to nursing numbers at Flinders Medical Centre and, if he accepts the truth of these allegations, what doe s he propose to do about them?

The Hon. J.R. CORNWALL: Remarkable! Mr Davis has discovered that there is a shortage of nurses. That is quite remarkable. I would have thought that that has been a matter of public record for the past two years. The situation was certainly exacerbated by the 19-day month. It is a matter, as I have told this Council on several occasions, that is by far the biggest single problem in the entire health spectrum, both in the public and private hospital sectors.

Members interjecting:

The Hon. J.R. CORNWALL: You really cannot win in this situation with these cynical, puerile politicians opposite, who want to beat up some sort of flurry in a pre-election atmosphere. The other day Mr Davis was on his feet telling us that the RAH was spending so much money on nurses that it was running over budget, allegedly, by almost $3 million—and he thought that that was disgraceful. He said that that was mismanagement of the worst order. He got it all wrong, of course.

The Hon. L.H. Davis: I didn't say that. Don't twist the truth.

The Hon. J.R. CORNWALL: I will not take the time of the Council to explain that: it will wait for another day. Nevertheless, on that occasion Mr Davis alleged that the RAH was blowing its budget by spending money on nursing staff, but today he gets up and says that there are 70 vacancies at the Flinders Medical Centre which cannot be filled because the hospital does not have the funds. What he does not know, of course (because he knows nothing about his putative shadow portfolio), is that it is far cheaper to employ additional nurses than to pay overtime. That is a very simple matter of fact. In all of our hospitals at present nurses are being paid overtime. It is the only way in the current staffing shortage (which has been created by a number of quite complex and difficult matters—it is a national problem, of course)—

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order! If the honourable member wants to ask a supplementary question, I will give him the opportunity.

The Hon. J.R. CORNWALL: All of our hospitals in greater or lesser degree are short of nurses at this time. We are doing a whole range of things to get the nursing levels up again. I will go through them very quickly. We are recruiting nurses with special skills from the United Kingdom on both a permanent and a temporary basis, with the full support and knowledge of the RANF. We are expanding tertiary education for nurses. Next year a new nursing school will be opened at the Salisbury campus of the SACAE. We are maintaining the number of student nurses in hospital based training in conjunction with Ralph Willis, the Federal Minister for Employment and Industrial Relations. We are running retraining courses for 400 nurses, 50 of whom will be nurses for whom English is a second language, so there will be a very substantial boost in the migrant health area. And so it goes on.

We are also providing child-care in the major hospitals to re-recruit those nurses who are out of work because they are rearing young families. I could go on at great length. A number of very senior people in the commission spend a great deal of their time organising multifaceted strategies to ensure that we can get nursing levels back to what is considered adequate.

The Hon. L.H. Davis: What about the neonatal unit?

The Hon. J.R. CORNWALL: I might also say that, if Mr Davis knew what he was talking about, he would know that all hospitals at any particular moment have between 1 per cent and 5 per cent vacant positions. That has always been the case, and it is one of the ways in which hospitals manage to balance their budget. It has consistently been a management tool.

The Hon. L.H. Davis: They have more than that.

The Hon. J.R. CORNWALL: Mr Davis has discovered that they have more than that at Flinders. That is perfectly true. I repeat that there are nursing shortages in all our hospitals in greater or lesser degree. Arguably, the situation is worse at the RAH because of certain difficulties, such as parking. However, to offset that we have possibly the finest Director of Nursing in Australia at the Royal Adelaide Hospital—that is a matter of fact. She is an extremely competent woman, for whom I have enormous regard, and that regard is shared throughout the health spectrum. Because of her very enlightened policies of work sharing and flexible hours, amongst other things, the position at the RAH, on balance, is no better or worse than that in most other major hospitals.

However, the fact that there are nursing shortages is a matter of public record. It is due in some measure to poor planning in the 1970s and early 1980s—matters that could not have been foreseen by anyone. It is a fact of life. There is a national shortage of nurses and, as I said, we have a very comprehensive strategy for dealing with that problem.

The Hon. L.H. DAVIS: I wish to ask a supplementary question. Will the Minister confirm that Flinders Medical Centre has a problem recruiting sufficient nursing staff?

The Hon. J.R. CORNWALL: I have already answered that question.

RETIREMENT AGE

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Attorney-General a question about the retirement age in the Public Service.

Leave granted.

The Hon. DIANA LAIDLAW: Over the last month both the New South Wales and Victorian Equal Opportunity Commissions have ruled that women were discriminated against when forced by their respective employers to retire at 60 years. In each instance the retirement policy was 60 years for females and 65 years for males, ages that correspond to federal social security legislation which awards a pension to a woman at 60 and to a male at 65. In the light of the New South Wales and Victorian rulings, I ask the Minister whether the Government intends to reconsider its own policy in respect of retirement ages in the Public Service in South Australia.

The Hon. C.J. SUMNER: This is not a matter that has been addressed as far as I am aware, but I will certainly obtain some information for the honourable member and bring back a reply.

HEALTH COMMISSION

The Hon. R.I. LUCAS: I seek leave to make a brief explanation before asking the Minister of Health a question about the Health Commission.

Leave granted.

The Hon. R.I. LUCAS: The Minister has indicated previously on a number of occasions that the Health Commission underspent the 1984-85 expenditure budget by $5.2 million and during the debate last week on the Appropriation Bill the Minister and his officers were good enough to provide break-downs of the $5.2 million. One of those itemised break-downs or categories related to the sum of $700 000 underspent on an allocation for media campaigns by the Health Commission's Health Promotions Unit. I appreciate that the Minister will probably not be able to provide the answer now, but my questions are:

1. What were the specific major media campaigns planned by the Health Promotions Unit for 1984-85 that were not proceeded with, and what were the estimated individual costs for those major programs not proceeded with?

2. Will all those programs not proceeded with in 1984-85 continue in exactly the same form in 1985-86 as was originally envisaged in the 1984-85 estimated expenditure budget?

The Hon. J.R. CORNWALL: The Hon. Mr Lucas is right in so far as I cannot provide the precise dollar amounts for the program, nor all the individual programs. One of them, from recollection, was a campaign to attempt to educate young people—obviously young people—about teenage pregnancies. There is a dearth of information, which is obviously shown from the research that has been done. It is obvious that young people—I mean young in the literal sense, sometimes in their early teens—are for the most part, I am told by the Family Planning Association, actually practising sex before they seek any advice on contraception or prophylaxis, so clearly that is an area that will be given a high priority now that the Health Promotion Unit is back on the rails.

The $700 000 has been reinstated. I am sure the eager beaver the Hon. Mr Lucas in going through the budget papers will have noted that—that allocation has been restored to, I think, $1.6 million for 1985-86. I am also very pleased to say that arising out of the difficulties of last year and earlier this year the Health Promotion Unit will be certainly significantly better than it ever was before. I indicate (again from memory) that we are very close to the point where I will receive a recommendation about the appointment of a new Director, hopefully someone of considerable standing in this area. As to the specifics of the program, I shall be pleased to bring back a reply.

OMBUDSMAN

The Hon. C.J. SUMNER (Attorney-General): I move:

That Standing Orders be so far suspended as to enable the Hon. Mr Milne to make a statement.

Motion carried.

The Hon. K.L. MILNE: In our view the Premier, the Attorney-General and the Government have acted properly in the matter of the Ombudsman, and we would all like that placed on record. It would have been quite wrong to have acted in haste in a matter as grave as this. The Ombudsman is not an officer of the Government or an officer of the Opposition: the Ombudsman is an officer of Parliament as a whole. Therefore, in my view and from my experience both here and overseas, it was correct that Parliament should have acted as a whole and for the Attorney-General to have sought that position. It was quite proper for the Opposition to accept that position.

Ms Beasley has suffered enough and we feel that no good purpose would be served for the persons concerned, for Parliament or for South Australia, or even the position of Ombudsman itself, for this matter to be prolonged. In our view Ms Beasley has now also acted properly and bravely with the interests of many more people in mind other than herself. It would be very sad if this gesture now made by Ms Beasley was seen to be taken because of some failure in the procedures, because in our belief that is not so. I am sure that all of us now hope that both Parliament and the media will allow this matter to rest, and I wish to join the Hon. Mr Gilfillan in these remarks.

METROPOLITAN MILK SUPPLY ACT AMENDMENT BILL (No. 2)

The Hon. Barbara Wiese (Minister of Tourism), for the **Hon. FRANK BLEVINS,** obtained leave and introduced a Bill for an Act to amend the Metropolitan Milk Supply Act 1946. Read a first time.

The Hon. BARBARA WIESE: I move:

That this Bill be now read a second time.

Payment to producers for market milk in South Australia is regionally based, with each scheme providing equitable sharing to all producers within the scheme. The major region is the Central Region, which supplies metropolitan Adelaide. These farmers receive payment for 40 per cent of their milk at market milk prices (currently 32.32c a litre). In contrast, the South-East milk producers receive payment for only 5 per cent of their production at market milk prices and the remainder at manufacture prices (approximately 15c a litre).

A Government established review in 1977 recommended that the South-East milk producers have their incomes augmented by funds from a market milk levy pool paid for by the metropolitan milk producers. The industry subsequently negotiated its own augmentation agreement, which currently transfers 7 per cent of market milk returns ($983 000 in 1984-85) from metropolitan milk producers to South-East producers. The current augmentation transfer is fixed at 7 per cent and has not progressed to the agreed 10 per cent because of milk production and sales qualifying clauses in the agreement. This aspect of the augmentation agreement has frustrated South-East producers.

With current over supplied and depressed world markets for manufactured dairy products, the difference in financial returns to the South-East producers compared with those to the metropolitan milk producers has been exaggerated. The South-East industry and the South Australian Dairy Farmers Association have been unable to reach agreement in respect of a more equitable transfer of money from metropolitan milk producers to South-East producers. The proposal to incorporate the augmentation principles into legislation has been extensively discussed by industry and previous Governments, but legislation has not eventuated. This amendment is designed to ensure that South-East producers receive a more equitable share in the returns from metropolitan area market milk sales. The amendments to the Metropolitan Milk Supply Act will enable an equalisation scheme to be declared and fees collected from holders of milk treatment licences to be paid for the benefit of specified producers licensed under the Dairy Industry Act (that is, South-East producers).

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

Leave granted.

Explanation of Clauses

Clauses 1 and 2 are formal.

Clause 3 provides for the insertion into the principal Act of several new sections. New section 30aa provides that the holder of a milk treatment licence (licensee) shall pay to the board a licence fee in respect of each calendar month.

The fee will be $2, or a fee calculated under the regulations by reference to the quantity of milk treated by the licensee during the relevant antecedent period, whichever is greater. The licensee must, within 14 days of the end of a calendar month, lodge with the board a return specifying the quantity of milk treated by him in pursuance of the licence during the relevant antecedent period and containing the prescribed information, and pay to the board the licence fee in respect of the calendar month last preceding lodgment of the return. The penalty for failing to do so is a fine of $10 000. The expression 'relevant antecedent period' in relation to a calendar month means the last calendar month but one before the commencement of that calendar month.

New section 30ab provides that where a licensee fails to pay a fee, any amount unpaid may be recovered as a debt due to the board, and the board may suspend the licence until the fee is paid. While the licence is suspended the licensee is deemed to be unlicensed. Where a licence has been suspended for three months or more, the Minister may cancel the licence.

New section 30ac provides that all licence fees are to be paid into a fund to be applied, after deduction of administrative costs, for the purposes of an equalisation scheme under the section.

Clause 4 makes consequential amendments to section 31 of the principal Act.

Clause 5 repeals section 37 of the principal Act and substitutes a new section under which a licence, unless sooner cancelled or suspended, remains in force until the thirtieth day of June next following issue of the licence except in the case of milk treatment licences, which, subject to cancellation or suspension, remain in force until surrender. Provision is made for the issue of a temporary licence.

The Hon. M.B. CAMERON secured the adjournment of the debate.

BUILDERS LICENSING BILL

Adjourned debate on second reading.

(Continued from 22 October. Page 1384.)

The Hon. PETER DUNN: I rise to support this Bill. It is a rather large Bill, with a lot of clauses, and therefore will rightly be dealt with in Committee. However, I will bring some issues before the Council: primarily, that there is reason to have this Bill introduced. I have had in the past 12 or 18 months reason to believe that the present Act, which has really proved to be a paper tiger, should be upgraded.

The Bill as we have it before us appears to be somewhat one-sided, and therefore there will probably be some amendments coming forward that will rectify that bias. However, if we are to have a Bill before the Council that is meaningful and has some claws it needs to be substantial so that it can carry out what it is intended to do. The Bill endeavours to help people who have had some injustice done against them by a builder. Because most people in this State have a home and we in South Australia have perhaps the highest home ownership in Australia, naturally a lot of building is being carried out for many people. But, there is always the builder who does not do the right thing for the owner: this Bill sets out to rectify that.

I will refer to some of the problems that occur when a building is being built and the builder knows that he can make the owner of that building pay up, and he can perform some shoddy workmanship. I will give the Council a case of a lady who lived in the city area: she was deserted, and later decided to go back to the country, whence she came, and build herself a very modest home with the small savings that she had so that she could live in her retirement in that area.

She engaged a builder, who lived relatively close to her. She thought that he was a licensed builder. He was very nice to her in that he promised all sorts of things, and built that home. The building proceeded for some time until the roof was on and most of the outside cladding was fixed. The local council became suspicious of the home and sent an inspector to look at what was happening. He discovered a great number of problems: first, the building was supposed to have been built on one block—there were two blocks involved—and the adjoining block was to be used for a garden and for a garage, and so on. It was discovered that the building was fitted on to the two blocks, and it was not facing the right direction.

The local government inspectors decided that the case was so bad that they would involve the Builders Licensing Board, which sent an inspector from Adelaide. He sent back a list of the problems that were involved in the building. I have a list of remedial work in respect of which the board issued an order: the first complaint was that the concrete pads supporting the building did not comply with the Building Act. The second one was that the tie-down bolts were incorrectly placed. Specifications were given for all of these rectifications, and I will read some of them.

The third complaint was that the second bearer in from the external wall under the living room/kitchen area was on its flap. One can imagine the problem with that bearer having to be removed and stood on its edge, which means pulling up the floor and relocating that bearer. Fourthly, the double joists had not been provided where the walls run parallel to the floor joists, which means that the internal walls have to be pulled down and the floor pulled up so that another bearer can be put in and fixed to the standards that are required under the South Australian Timber Framing Code.

Fifthly, the timber lintels over the windows were not of the required size, which means that the windows have to be removed so that the lintels can be put in to conform with the timber framing code. The entire roof area did not comply with the Australian standards in that the rafters are under size and the front section of the roof over the bed-

room and the verandah does not meet the required minimum pitch. The whole roof has to be removed, repitched and retimbered.

The next complaint was that the sheets of iron used on the roof were damaged in a number of areas, laid incorrectly and fixed incorrectly. This is the type of workmanship used to build a new home. The roofing iron had to be removed, and new iron had to be correctly refitted. Complaint 8 was that the white ant treatment had not been carried out. Complaint 9 was that all the external doors were not for outside use, but were internal doors. The builder had tried to cut costs and had used internal doors on the outside of the house.

Complaint 10 was that the cladding on both ends of the building did not line up and that the H moulding between the horizontal joints and the sheets was missing. Sheets were also damaged. H moulding was missing vertically along the windows and all the sheets were not fixed in accordance with the manufacturer's instructions. In other words, the whole of the outside cladding had to be removed from the building so that the moulding that goes between the sheets of cladding could be fixed.

Complaint 11 was that the barge board on the back of the verandah was badly split. In this 'new' building second grade timber was being used. That had to be removed and fixed. Complaint 12 was that the gutter joints on the back verandah were poorly completed. Complaint 13 was that the kitchen window was not the required size. Complaint 14 was that there was excessive spring in the lounge room floor. That floor had to be removed and re-chopped so that the spring could be taken out of the floor.

Complaint 15 was that there was a large gap between the top of the wall and the ceiling in the pantry. Complaint 16 was that the cupboard doors in the kitchen needed adjustment. Complaint 17 was that painting in all the rooms was poorly finished. Complaint 18 concerned the poor quality timber used in the pelmets.

All these complaints concerned a modest home built for an elderly lady who had scraped very hard for a long time. These are not her complaints; they are the complaints of the inspector from the Builders Licensing Board. These matters needed to be fixed—in other words, the whole house has to be knocked down and rebuilt. The result is that the builder has not done anything about it at all. He has been fined, he will probably pay that fine and walk away from the building. What does the owner do then?

She is left in the air and, at this stage, is endeavouring to obtain some recompense from the builder. At the outset the builder knew that he was not going to complete the building. The licence he submitted to the local council contained a false name for the builder and a forged signature of the owner. However, the local council was not to know that at the time. When I requested to be shown the application for the building, that is what I discovered.

One cannot have much argument against a Bill of this nature. I believe that the Hon. John Burdett has set out our philosophy, and that he wishes to move some amendments. I believe that he endeavoured to improve the position prior to my entering Parliament. This Bill has to be even handed; there has to be a fund set up so that in matters such as I have outlined there will be a chance for restitution if a builder falls short. We have seen cases in this State during the past couple of years where builders have gone broke and declared themselves bankrupt. In those cases, the owners of the buildings have lost most of their money; the people who supplied the materials to those builders have also lost. However, shortly afterwards those builders have started up again with a different name.

I support the Bill for the reasons I have explained, and we can look at it in more detail during the Committee stage. I believe that the Government has brought this Bill in hastily. As the Hon. John Burdett said yesterday, the Government did not contact the Master Builders Association.

The Hon. C.J. Sumner: That's nonsense. We consulted it ages ago.

The Hon. PETER DUNN: In fact, the Hon. John Burdett gave it a copy of the second reading explanation and the Bill before the Minister did so. That does not seem to be a very sensible way of going about the matter. However, we can sort that out during the Committee stage because I believe that there will be some amendments to the Bill.

The Hon. K.T. GRIFFIN secured the adjournment of the debate.

GOVERNMENT MANAGEMENT AND EMPLOYMENT BILL

Received from the House of Assembly and read a first time.

The Hon. C.J. SUMNER (Attorney-General): I move:

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

This Bill establishes principles governing management and employment in the public sector. It provides for the proper supervision and review of management structures and practices in the public sector: provides for and regulates employment in the Public Service and repeals the Public Service Act 1967.

The Government sees the public sector as an important partner in the development of the South Australian economy and in providing vital services to the community as a whole. It is clear that the overall health and performance of the public sector are of fundamental importance in maintaining the well-being of the community.

The South Australian Public Service has by any standards served all Governments and the South Australian community well. It has consistently been viewed across Australia as of the highest professional quality.

Over the years, the Public Service has had to adapt and respond to changing pressures put on it. Since 1967 when the current Public Service Act came into force, the community has demanded a greater range of Government assistance and services, and the complexity of Government has increased. Government priorities and community concerns have increasingly placed a premium on the ability of the Public Service to respond quickly and sensitively to such changing needs.

At the same time, the Government and the community have clearly indicated to public sector managers that value for money must be a prime measuring stick for Government performance. In this context, the 1967 Act and the institutions and procedures it created require an overhaul.

Acknowledgment of the need for reform does not denigrate the fine work of the Public Service Board and department and the advances in personnel and other key facets of management that they have instigated. Indeed, the South Australian Public Service Board has led the way in a number of areas of personnel management.

Nevertheless, an examination of legislative requirements for a more modern and vigorous Public Service points to a number of specific deficiencies. There are currently no overriding directions for the management of public sector operations. Present arrangements have generated a clutter of procedures that have invited avoidance by departments.

Departments have, until recently, had limited personnel and related powers to pursue their responsibilities effectively.

The provisions of the Bill have been framed in the interests of streamlining and making far more effective the management of Government operations. They also seek to eliminate obstacles to performance. The provisions are directed at meeting the interests of efficient, effective and responsible Government. They will form a basis for firm directions in Government, opportunities for greater initiative by departments, continuous improvements in performance, career challenges for public servants, enhancing the job satisfaction of employees and engendering a greater sense of responsibility to the community. The new legislation will bring South Australia back to the forefront of administrative reform.

In formulating the Bill, the Government has drawn substantially on the findings and recommendations of the Review of Public Service Management. The review was established in July 1983 and reported finally in February this year. In conducting its activities the review consulted extensively and tested successfully a number of its recommendations with pilot operations in a range of departments. The Committee which conducted that Review was unanimous in its proposals for change and an important feature of those proposals was the support given to them in many quarters—senior management, staff, and members of the community. The essential message that can be derived from this support is that the reforms are well-based, they address the right issues, they are well-balanced, they are long overdue and they will provide a positive framework for the future operations of the public sector. The major features of the Bill that I wish to bring to your attention are as follows.

The Bill incorporates for the first time in such legislation in this State general principles of public administration, personnel management and conduct of public sector employees. These principles provide a set of general standards which will be required to be observed by virtually all publicly-owned bodies. They will provide a clear context for the management and operations of Government. It is intended that the only bodies that will be excluded are Government-owned commercial enterprises operating on a competitive basis in the marketplace.

The principles emphasise responsiveness to changes in Government policy, streamlined decision-making, delegation of powers down organisational hierarchies, continuous improvement in the efficiency and effectiveness of Government operations, and proper standards of financial management. They also provide for modern personnel practices, appointment on merit, equal employment opportunity, prohibition of unlawful discrimination, and a right to worthwhile and constructive employment and to health and safety in employment.

The Government is making a concerted effort to improve the accountability and reporting standards of Government agencies, which will all be required to report promptly to Parliament each year.

Substantial changes have been made to the structure and organisation of the Public Service's central management and personnel functions. A Government Management Board will be established to provide effective support to Cabinet and to implement Government-wide management policies and standards. It will provide advice on major management issues and co-ordinate a sustained program of management improvement. The board will report to the Premier.

The membership of the board will consist of the Commissioner for Public Employment, a nominee of the United Trades and Labor Council and other persons with appropriate knowledge and experience in public sector management. There will be scope for membership from the private sector.

The board's key role involves oversight of the efficiency and effectiveness of Government operations. It will conduct investigations (either at the request of Ministers or in its own right), and devise and implement programs of management improvement. The scope of the Board's activities extends to the whole public sector.

The Bill establishes an office of Commissioner for Public Employment. The Commissioner will be appointed for a renewable term of five years and will be supported by a Department of Personnel and Industrial Relations.

The Commissioner will have statutory responsibilities for supervising the integrity, equity and quality of personnel practices and for promoting a range of improvements in personnel management. These personnel initiatives will include provision of assistance to chief executive officers in making the most effective use of staff within departments and occupational groups, appointment and reassignment of senior managers, development of management training programs, and development and implementation of equal employment opportunity programs. The Commissioner will have clear reporting lines to the Parliament on any misuse of personnel powers within Government departments.

A significant change to present arrangements for exercising personnel management powers involves the devolution of responsibility and authority to chief executive officers. The legislation also makes it clear that, except where specific powers are vested in a chief executive officer by a separate statute, they will be responsible to the appropriate Minister for the effective and efficient management of their organisations within the context of Government policy.

Human resources are the most important ingredient of sound administration and the devolution of powers to chief executive officers will promote greater flexibility in exercising personnel decisions, thus diminishing the present time-consuming and expensive arrangements involving the Public Service Board, Cabinet and the Governor in Executive Council.

The Bill provides for chief executive officers to be appointed for a term not exceeding five years (with eligibility for reappointment) either under Public Service terms and conditions or on negotiated conditions. Existing chief executive officers will retain their present classification levels and associated remuneration but will lose tenure on their existing positions, starting five-year terms from the date of proclamation of the legislation. Chief executive officers who are not reappointed at the end of their terms will be reassigned to other positions in the Public Service.

While it is expected that chief executive officers will manage their responsibilities properly, there is a provision in the Bill for the Governor to withdraw the powers of a chief executive officer, partly or wholly, on the recommendation of the Commissioner for Public Employment, should circumstances warrant it.

The present permanent and temporary categories of employment will remain. There will also be provision for appointments to be made on negotiated conditions, allowing some flexibility in overall employment packages. It is not intended that this provision will be used extensively but it will provide flexibility, particularly where specialist expertise is required for urgent work or limited term projects.

The Bill provides that employees will be appointed to the Public Service at a classification level and initially assigned to a position within an administrative unit. Employees will then move from one position to another by a process of reassignment. The majority of reassignments will occur following normal promotion processes of application and selection on merit, although there is provision for reassignments to be made without application to enhance mobility

and to make the deployment and redeployment processes more flexible. These more flexible provisions will apply especially to senior officers who should be considered to be a resource available to the Public Service as a whole.

The provisions for the appointment, classification and reassignment of employees within the Public Service seek to overcome the many rigidities in present procedures. The process of creating and abolishing positions will involve less formality than at present. Chief executive officers will be empowered to create and abolish positions below senior management level and to make appointments or reassignments to them. The Commissioner for Public Employment will exercise such powers in relation to senior managers, except chief executive officers who will be appointed by the Governor.

Appointment and reassignment procedures will involve broadened and strengthened merit criteria enabling applicants potential and relevant community experience to be taken into account. Appointments made on merit after seeking and considering applications will remain the normal selection process.

Express provision has been made relating to the conduct of employees, declaration and resolution of conflicts of interest (particularly pecuniary), and discipline. Government employees and the community will be assisted by a clearer delineation of appropriate standards of conduct and the legislation will be supported by a prescribed code for public servants.

Changes to appeals procedures are consistent with streamlined personnel processes while maintaining adequate protection for employees. Classification appeals will be heard by a new Classification Review Panel chaired by the Commissioner for Public Employment or delegate. An independent Promotion and Grievance Appeals Tribunal will be established and disciplinary appeals matters will be heard by a separate Disciplinary Appeals Tribunal headed by a judicial officer. The Review Panel and the tribunals all have provision for the membership of nominees from recognised industrial organisations.

Finally, the Bill enables the coverage of its detailed personnel provisions to be extended wholly or partly to employees of statutory authorities. No such authorities have yet been identified and it is intended that any future moves will only be made after consultation between interested parties.

Clauses 1 and 2 are formal.

Clause 3 repeals the Public Service Act 1967.

Clause 4—Attention of members is drawn to following definitions—

'administrative unit' is defined as an administrative structure in which persons are employed and established or continued in existence under the proposed Act as a department or other administrative unit:

'public employee' is described as a person appointed to the Public Service or employed by the Crown or a State instrumentality—this definition and the definitions of 'public sector' and 'public sector operations' are principally relevant to the provisions of Division I of Part II of the Bill which establish general principles governing management and employment in the public sector:

'public sector' is defined as all government agencies (that is, administrative units and State instrumentalities) and public employees and the operations and activities carried on by Government agencies and public employees:

'State instrumentality' is described as an agency or instrumentality of the Crown and includes any body corporate established by or under an Act which is comprised of persons appointed by the Governor, a Minister or an agency or instrumentality of the Crown and is subject to control or direction by a Minister; holds its property on behalf of the Crown; or is declared by proclamation to be a State instrumentality. The term does not include an administrative unit; the State Bank of South Australia; the State Government Insurance Commission; or a body excluded by proclamation.

Under the clause, all appointments to the Public Service are to be regarded as having been made on behalf of the Crown and all persons appointed to the Public Service are to be regarded as employees of the Crown. Part II, comprising clauses 5 to 17, deals with the administration of the public sector. Division I, comprising clauses 5 to 7, deals with general principles.

Clause 5 sets out principles of public administration to be observed in the public sector—

(a) the public sector is to be administered in a manner which emphasises the importance of service to the community;

(b) the public sector is to be structured and organised so as to achieve and maintain operational responsiveness and flexibility;

(c) Government agencies are to be structured and administered so as to enable decisions to be made and action taken without excessive formality or delay;

(d) administrative responsibilities are to be clearly defined and authority sufficiently delegated to ensure that those to whom responsibilities are assigned have adequate authority to deal with those responsibilities;

(e) Government agencies are to have as their goal a continued improvement in the efficiency and effectiveness of their performance;

(f) resources are to be efficiently and effectively used;

(g) proper standards of financial management and accounting are to be observed at all times.

Clause 6 sets out the principles of personnel management to be observed in the public sector—

(a) selection processes are to be based on a proper assessment of merit ('selection processes' and 'merit' being defined in clause 4);

(b) no power is to be exercised on the basis of nepotism or patronage;

(c) employees are to be treated fairly and not subjected to arbitrary administrative acts;

(d) there is to be no unlawful discrimination on the grounds of sex, sexuality, marital status, pregnancy, race, physical impairment or any other ground, against employees or persons seeking employment nor is there to be any other form of unjustifiable discrimination;

(e) employees are to have equal opportunities of promotion and advancement;

(f) employees are to be employed in worthwhile and constructive employment and be afforded access to training and development;

(g) employees are to have proper avenues of redress against improper administrative acts;

(h) employees are to be provided with safe and healthy working conditions;

(i) employees are to be remunerated at rates commensurate with their responsibilities.

Subclauses (2), (3) and (4) provide for equal employment opportunity programs to be established by the Minister. Under any such program, preference may be given to young people, or persons of a defined class disproportionately represented amongst the unemployed, in securing employment in the public sector, or to persons of a defined class

with a view to enabling them to compete for other positions or pursue careers in the public sector as effectively as other persons not of that class.

Clause 7 sets out principles of conduct to be observed by employees—

(a) employees are to comply with provisions of this and any other Act governing their conduct;

(b) employees are to be conscientious in the performance of official duties and scrupulous in the use of official information, equipment and facilities;

(c) employees are to exercise proper courtesy, consideration and sensitivity in their dealings with the public or fellow employees;

(d) employees are not to conduct themselves in their private capacity in a manner that would reflect seriously and adversely on their employers or fellow employees.

Division II, comprising clause 8, deals with reporting obligations of government agencies.

Clause 8 provides that each government agency shall make a yearly report within three months of the end of the financial year to the Minister responsible for the agency. The report is to contain such information as is required by regulation. Subclause (5) provides that the Minister shall cause copies of the report to be laid before each House of Parliament within 12 sitting days after receiving the report.

Division III, comprising clauses 9 to 18, deals with the Government Management Board.

Clause 9 establishes the Government Management Board.

Clause 10 provides for the appointment of not more than six members of the Board. One shall be the Commissioner and the remainder shall be appointed by the Governor, one of whom shall be nominated by the United Trades and Labor Council and the remainder to be persons who in the opinion of the Governor have appropriate knowledge and experience in the area of management.

Clause 11 sets out the conditions on which a member of the Board holds office. The member is appointed for a term not exceeding three years and may be removed from office for the usual reasons including misconduct. A member is also eligible for reappointment.

Clause 12 sets out the procedure to be followed at meetings of the board.

Clause 13 provides that proceedings of the board may be conducted in public or private, at the discretion of the board.

Clause 14 provides that proceedings of the board are not invalid by reason of a vacancy in its membership or defect in appointment of a member.

Clause 15 provides that where an appointed member of the board has a pecuniary or personal interest in a matter that conflicts with the member's official duties, the member is to disclose the nature of the interest to the Minister and not to take further action in relation to the matter unless authorised by the Minister—

Clause 16 sets out the functions of the board—

(a) to keep all aspects of management in the public sector under review and advise Ministers of policies, practices and procedures to be applied to the management of public sector operations;

(b) to advise Ministers of structural changes that will in the opinion of the board improve the efficiency and effectiveness of public sector operations;

(c) to recommend or carry out necessary planning for the future of the public sector;

(d) to review the efficiency or effectiveness of any aspect of public sector operations;

(e) to devise in co-operation with government agencies programs and initiatives for management improvement and recommend their implementation;

(f) to carry out any other functions assigned by the Minister.

Subclause (2) provides that the board may investigate any matter within or affecting any government agency in carrying out its functions.

Clause 17 enables the board to delegate any of its powers or functions.

Clause 18 provides that the board shall submit a report at the end of each financial year to the Minister on the work of the board and in particular any significant improvements in management or major changes to the structure of the public sector. Subclause (3) provides that copies of the report shall be laid before each House of Parliament.

Part III comprises the remaining clauses of the Bill and deals with the Public Service.

Division I, comprising clauses 19 and 20, deals with the structure of the Public Service.

Clause 19 provides that the Public Service consists of administrative units and that all public employees are unless excluded from the Public Service under schedule 2 of the Bill to be employed in positions in administrative units. Subclause (2) enables the Governor by proclamation to establish, alter or abolish an administrative unit. Subclause (3) empowers the Governor, by proclamation, to incorporate a group of public employees (not forming part of the Public Service) into an administrative unit.

Clause 20 provides for an administrative unit of the Public Service that consists of or includes unattached positions and in relation to which the Commissioner is to have the powers and functions of a chief executive officer. Subclause (2) provides that where an administrative unit is abolished by proclamation, and no transfer of positions in the administrative unit is provided for, the positions become unattached positions in that administrative unit.

Division II comprises clauses 21 to 33 and deals with the Commissioner for Public Employment.

Clause 21 provides that there shall be a Commissioner for Public Employment to be appointed by the Governor.

Clause 22 sets out the conditions of appointment of the Commissioner. The Commissioner is to be appointed for a term of office not exceeding five years and is eligible for reappointment. The clause provides that the Commissioner may be removed from office upon an address of either House of Parliament. Subclause (5) provides that where the person appointed Commissioner is employed in the Public Service the person is entitled at the conclusion of the term of office to be reappointed to a position in the Public Service.

Clause 23 provides that the Governor may appoint a Deputy Commissioner to act as Commissioner during the absence or suspension of the Commissioner or during a vacancy in the office.

Clause 24 requires the Commissioner to disclose pecuniary interests of the Commissioner in accordance with the regulations. Under the clause, any person may request the Minister to review the information disclosed by the Commissioner and report whether in the Minister's opinion there is a conflict between the Commissioner's pecuniary interests and official duties.

Clause 25 provides where the Commissioner has a pecuniary or personal interest in a matter which conflicts with the Commissioner's duty, the Commissioner is to disclose the nature of the interest to the Minister and not take further action in relation to the matter, unless authorised by the Minister.

Clause 26 provides that the Commissioner is subject to the direction of the Minister except in relation to certain matters set out in subclause (2).

Clause 27 sets out the functions of the Commissioner—

(a) to establish and ensure implementation of policies, practices and procedures in relation to personnel management and industrial relations in the Public Service;

(b) to determine the occupational groups within the Public Service and endeavour to maintain appropriate staffing levels within each group and assist the chief executive officers in making effective use of available staff within each group;

(c) to determine in respect of the various occupational groups, classification structures and the remuneration payable in respect of each level within the classification and where relevant, increments of remuneration;

(d) to determine conditions of service;

(e) to determine criteria, standards and procedures for classification of positions;

(f) to determine qualifications in respect of positions;

(g) to classify senior positions in the Public Service;

(h) to provide advisory and other services in relation to personnel management and industrial relations;

(i) to assist in establishing and ensure the implementation of equal employment opportunity programs;

(j) to establish and implement programs of management training and staff development;

(k) to assist in recruitment, deployment and redeployment of employees;

(l) to investigate or assist in the investigation of matters in connection with conduct or discipline of employees;

(m) such other functions as assigned by the Act or Minister.

Subclause (4) provides that the Commissioner shall, for the purpose of assisting in recruitment, deployment and redeployment, have power to create and abolish unattached positions and appoint and reassign employees.

Clause 28 enables the Commissioner to issue instructions for the carrying out of any of the functions of the Commissioner.

Clause 29 enables the Commissioner to conduct a review of an administrative unit to determine the extent to which principles of personnel management prescribed by the Act are being observed, or investigate any other aspect of personnel management. The Commissioner is required to provide a report to the chief executive officer of the administrative unit of the findings and recommendations of the Commissioner upon a review. Subclauses (3) to (5) enable the chief executive officer to report any disagreement with the Commissioner's findings to the Commissioner and enable the Commissioner to follow up any report or failure to implement the Commissioner's findings with the Minister.

Clause 30 sets out the investigative powers of the Commissioner for the purpose of making a review under clause 29 or any other investigation required by the Act. The powers of investigation are limited to public employees or former public employees and premises occupied by the Crown or a government agency. A public employee or former public employee who fails to comply with the requirements of the Commissioner, or hinders the Commissioner, is in the case of a public employee liable to disciplinary action and, in the case of a former public employee guilty of an offence and liable to a penalty not exceeding $1 000.

Clause 31 enables the Commissioner to delegate any of the powers or functions of the Commissioner.

Clause 32 provides that the Commissioner shall, so far as is practicable, notify any recognised organisation of a decision, determination or action of the Commissioner likely to affect a significant number of the members of that organisation and hear any representations or argument the organisation may desire to present.

Clause 33 provides that the Commissioner shall, within three months after the end of each financial year, submit to the Minister, a report on personnel management and industrial relations in the Public Service during that financial year. Subclause (3) provides that the Minister shall cause a copy of the report to be laid before each House of Parliament.

Division III, comprising clauses 34 to 42, deals with chief executive officers.

Clause 34 provides that there shall be a chief executive officer, appointed by the Governor, for each administrative unit.

Clause 35 provides that the chief executive officer shall be appointed for a term not exceeding five years and be eligible for reappointment, or if not reappointed, be assigned a position in the Public Service. Subclause (1) paragraph *(d)* provides that if a person ceases to occupy a position of chief executive officer before the expiration of the term of appointment, otherwise than by a prescribed process, then if the person is assigned to some other position in the Public Service they are entitled to be remunerated at a rate not less than the rate of remuneration the person would have received had they remained in the position of chief executive officer for the remainder of the term, or if not assigned to some other position in the Public Service they are entitled to be paid a sum not less than the total remuneration that would have been payable to the person if they had remained in the position of chief executive officer for the unexpired portion of the term of appointment.

Clause 36 provides that the Governor may declare that the person for the time being holding or acting in an office created by or under an Act shall have the powers and functions of chief executive officer in relation to an administrative unit. Clauses 34 and 35 do not apply in relation to an administrative unit to which a declaration under this clause relates. If no chief executive officer is appointed to an administrative unit the Commissioner shall have the powers and functions of chief executive officer until such an appointment is made.

Clause 37 provides that the chief executive officer is subject to direction by the responsible Minister except in relation to—

(a) appointment, assignment or reassignment of a particular person;

(b) classification of a particular position;

(c) the holding or refraining from holding of an inquiry in relation to the discipline of a particular employee.

Clause 38 provides that the chief executive officer is responsible to the responsible Minister for the efficient and effective management of an administrative unit.

Subclause (2) provides that where the functions of an administrative unit are principally to assist a State instrumentality, or holder of an office created by an Act, in the performance of statutory functions, the Governor may, by proclamation, declare that the chief executive officer shall be responsible to the State instrumentality, or holder of the statutory office, for the efficient and effective management of the unit and, in that case, the instrumentality or office holder is in turn responsible to the responsible Minister.

Clause 39 provides that the functions of a chief executive officer in relation to an administrative unit extend to—

(a) the proper organisation and the establishment of an appropriate staffing level;

(b) the financial and other management planning;

(c) the appropriate division of responsibilities and assignment of duties to employees;

(d) the appropriate deployment and redeployment of resources;

(e) the establishment of procedures to ensure the use of resources is properly controlled and audited;

(f) the implementation of equal employment opportunity programs and devising of initiatives to ensure equal opportunities for employees;

(g) the establishment and implementation of management training and staff development programs;

(h) the implementation of health and safety programs;

(i) resolving or redressing grievances of employees.

Clause 40 provides that the chief executive officer shall, so far as is practicable, notify any recognised organisation of any decision or action of the chief executive officer likely to affect a significant number of members of that organisation and hear any representations or argument the organisation may desire to present.

Clause 41 enables the chief executive officer to delegate any of the powers or functions of the chief executive officer.

Clause 42 provides that the Governor may, on the recommendation of the Commissioner, withdraw from the chief executive officer any specified power or powers conferred on the chief executive officer under the Act. Powers withdrawn from the chief executive officer will be exercisable by the Commissioner and may be restored to the chief executive officer, by the Governor, on advice of the Commissioner.

Division IV, comprising clauses 43 to 46, deals with the creation and classification of positions in the Public Service.

Clause 43 provides that positions may be created and abolished in the Public Service, in the case of a senior position by the Commissioner, and in any other case by the chief executive officer of the administrative unit in which the position is comprised. Subclause (4) provides that a position shall not be abolished while occupied by an employee.

Clause 44 provides that positions in the Public Service may be reclassified at the initiative of the Commissioner, or the chief executive officer, or upon application by the employee occupying the position. The position may be reclassified by the Commissioner where—

(a) the position is a senior position;

(b) the position is to be reclassified to the level of a senior position;

(c) the classification structure is varied or replaced, or by the chief executive officer in any other case.

Clause 45 provides that all classifications and reclassifications shall be published in the *Gazette* and shall not take effect until so published. Subclause (4) excludes this clause from applying to classification of positions created for the performance of urgent work and for temporary purposes.

Clause 46 provides that the Commissioner may establish classification review panels. Panels shall consist of the Commissioner, or his delegate, an employee selected by the Commissioner from a panel of employees nominated by recognised organisations, and an employee selected by the Commissioner from a panel of employees nominated by the Commissioner. Subclause (6) provides that an employee (not being an employee occupying a senior position, a temporary employee with service of less than 12 months or an employee appointed on negotiated conditions) who has made an application for reclassification of their position and is dissatisfied with the decision upon the application may, within 30 days after receiving notice of the decision, apply to the Commissioner for a review of the classification. Where such an application is made the Commissioner shall refer it to a classification review panel, which shall afford the applicant and the chief executive officer reasonable opportunity to make submissions either orally or in writing. An applicant may be represented by an officer of a recognised organisation when appearing before the panel.

Division V, comprising clauses 47 to 62, deals with employment in the Public Service.

Clauses 47 to 50 deal with appointments and filling of positions.

Clause 47 provides that appointments to a senior position are made by the Commissioner and appointments to any other position are made by the chief executive officer. Evidence of a person's health and physical fitness may be required before an appointment is made.

Clause 48 provides that an appointment to the Public Service may be on a permanent or temporary basis, or on the basis of negotiated conditions. Subclause (2) provides that appointment on a permanent basis—

(a) shall not be made unless a person is selected through a selection process conducted in accordance with the Act;

(b) shall be on probation at first subject to paragraph *(c)*;

(c) may be made without probation—

(i) where in the opinion of the appointing authority the appointee merits appointment without probation;

(ii) where the appointee was, immediately before the appointment, in prescribed employment;

(iii) where appointment without probation is authorised by this or any other Act;

(d) may be terminated during the period of probation;

(e) where an employee has been on probation for six months or more, the appropriate authority may confirm the appointment;

(f) unless the appointment is sooner confirmed or terminated the appointment shall be deemed to have been confirmed after the employee has completed 12 months of probation; and

(g) in determining the period of probation, any period for which the employee has been absent on leave without pay shall be disregarded.

Subclause (3) provides that appointment on a temporary basis—

(a) may be made for the purpose of filling a position without seeking applications;

(b) shall not be made for the purpose of filling a position with duties of a continuing nature unless, in the opinion of the appointing authority—

(i) additional assistance is necessary for the performance of urgent work; and

(ii) it is not practicable that work be performed by an employee appointed on a permanent basis;

(c) shall be made for a term not exceeding 12 months;

(d) may be extended from time to time by the appropriate authority but not so that the aggregate period of appointment exceeds two years;

(e) may be terminated at any time.

Subclause (4) provides that appointment on the basis of negotiated conditions—

(a) shall not be made unless through selection processes conducted in accordance with the Act;

(b) shall not be made except by or with the approval of the Commissioner;

(c) shall not be made for the purpose of filling a position with duties of a continuing nature unless the appointing authority, after having sought applications, is of the opinion that no suitable person is available for the position who is already an employee or is prepared to accept employ-

ment on the terms and conditions that apply to permanent appointment;

(d) shall be for a term determined by the appointing authority; and

(e) the conditions of appointment shall prevail to the extent of any inconsistency over the provisions of the Act.

Clause 49 provides that to fill any position applications will be sought and applicants will be selected in accordance with regulations made under the Act. For the purpose of filling positions below a prescribed classification level, a pool of applicants may be established and selections made by chief executive officers from amongst applicants in the pool.

Clause 50 provides that a position may be filled by reassigning an employee to the position from the position for the time being occupied by the employee. Subclause (3) provides in relation to reassignments that do follow on from selection processes that—

(a) no employee shall be reassigned to a position other than a position of the same classification level;

(b) an employee may be reassigned to a position at a higher classification level for temporary purposes provided that the employee is restored to the former classification level within three years;

(c) no employee shall be reassigned to a position (other than a senior position) with duties of a continuing nature except—

(i) where in the opinion of the Commissioner or chief executive officer, as the case may be, the reassignment is necessary for the performance of urgent work—

(A) during the period required to conduct selection processes for the filling of the position; or

(B) during the temporary absence of another employee;

(ii) where a determination has been made pursuant to clause 57 that the employee is an excess employee;

(iii) where a determination has been made pursuant to clause 58 that the employee is incapacitated; or

(iv) subject to conditions determined by the Commissioner, where, in the opinion of the Commissioner or chief executive officer, as the case may be, the reassignment is necessary for the purpose of—

(A) the training or development of the employee;

(B) providing the employee with wider work experience;

(C) effecting reorganisation of the whole or part of an administrative unit; and

(v) no reassignment shall be made by the Commissioner except at the request of, or after consultation with, the chief executive officer.

Clause 51 deals with promotion appeals. The clause provides that, where an employee has been nominated for reassignment to a vacant position, any other employee who is eligible to be reassigned and has made an application in respect of the position may, within seven days after publication of the notice of nomination, appeal to the Promotion and Grievance Appeals Tribunal. The tribunal on an appeal may make a declaration that the appellant should have been nominated for the reassignment, or quash the nomination; or it may order that the selection process be recommenced from the beginning or some later stage specified by the tribunal. Subclause (4) provides that a person is not eligible for reassignment to a position if the person does not have qualifications determined by the Commissioner to be essential in respect of the position. Persons employed on a temporary basis and who have had less than 12 months continuous service in the Public Service, or who are appointed on the basis of negotiated conditions, are not entitled to appeal. By virtue of clause 49 (5) *(a)* there is also no appeal in respect of reassignment to a position above a prescribed classification level.

Clauses 52 to 55 deal with remuneration.

Clause 52 provides that an employee shall be remunerated at a rate appropriate to the employee's classification level. Subclause (2) provides that where a person is assigned or reassigned to a position at a particular classification level, the authority making the assignment or reassignment may determine that the person is entitled to be paid a higher increment of remuneration payable in respect of that classification level notwithstanding that a condition of payment of the increment has not been satisfied.

Clause 53 provides that where the chief executive officer directs an employee to perform duties in addition to those on which the classification level of the employee's position is based for a continuous period of more than one week, the chief executive officer may authorise the payment to the employee of an allowance appropriate to the duties being performed.

Clause 54 provides that the Commissioner may:

(a) determine allowances payable to employees and the circumstances in which they are payable;

(b) determine charges payable by employees in respect of accommodation, services, goods or other benefit provided to them in connection with their employment.

Clause 55 provides that where, in consequence of furtherance of industrial action, an employee refuses or fails to carry out duties that the employee has been lawfully instructed to perform, the employee shall not, if the Commissioner so directs, be paid salary for a day or days on which the employee so refuses to carry out those duties. Subclause (2) provides that a direction under subclause (1) is effective on a day or days during which the employee performs some of (but not all) the duties the employee has been lawfully instructed to perform. For the purposes of this clause, 'day' is defined to include 'a part of a day'.

Clause 56 deals with hours of duty, etc. Clause 56 provides that the hours of duty and rights of an employee to holidays and leave are contained in the fourth schedule to the Bill.

Clause 57 deals with excess employees. Clause 57 provides that the chief executive officer of an administrative unit may determine that an employee is an excess employee if the chief executive officer is satisfied that—

(a) the position has become redundant;

(b) the services of the employee have become underutilised by reason of changes in technology or work methods or in the organisation or nature or extent of Government operations; or

(c) the employee has lost a qualification that is necessary for the proper performance of the duties of the position.

Where the chief executive officer determines that an employee is an excess employee he shall, where the position is a senior position, refer the matter to the Commissioner, and in other cases make all reasonable endeavours to reassign the employee. Where the chief executive officer is unable to reassign an employee he shall refer the matter to the Commissioner. Subclause (3) provides that where the matter is referred to the Commissioner and the Commis-

sioner is satisfied that all reasonable endeavours have been made to reassign the employee, but that reassignment is not possible or practicable in the circumstances, then the Commissioner may recommend to the Governor that the employee either be transferred to some other position in the Public Service or retired from the Public Service. Subclause (5) provides that where an employee is transferred to a position that has a lower level of remuneration, the employee shall be entitled to supplementation of the employee's remuneration in accordance with the relevant provisions of an award or industrial agreement or, where there is no award or industrial agreement covering the matter, in accordance with a scheme prescribed by the regulations made under the proposed Act.

Clause 58 deals with mental or physical incapacity. Clause 58 provides that where it appears to the appropriate authority that an employee is, by reason of mental or physical illness or disability, incapable of performing satisfactorily or at all the duties of the position occupied by the employee, the appropriate authority may require that employee to undergo medical examination by a medical practitioner nominated by that authority. Subclause (2) provides that where the employee refuses to submit to medical examination the employee may be suspended without remuneration until the employee submits to the examination. Subclause (3) provides that after consideration of the medical reports (including any furnished by the employee) the appropriate authority shall determine—

(a) that the employee is not incapacitated from performing the duties of the position;

(b) that the employee is incapacitated, but is not totally incapacitated for work in the Public Service; or

(c) that the employee is totally incapacitated for work in the Public Service.

The employee shall be given notice of the determination in writing. Where the determination is made by the chief executive officer that an employee is not totally incapacitated for work in the Public Service the chief executive officer shall, where the position is not a senior position, make all reasonable endeavours to reassign the employee to some other position in the unit, or in any other case refer the matter to the Commissioner. Subclause (7) provides that where the matter is referred to the Commissioner and the Commissioner is satisfied that all reasonable endeavours have been made to reassign the employee, but that reassignment is not possible or practicable in the circumstances, then the Commissioner may recommend to the Governor that the employee either be transferred to some other position in the Public Service or retired from the Public Service. Subclause (8) provides that where the Commissioner determines that a chief executive officer is incapacitated but not totally incapacitated for work, the Commissioner may recommend to the Governor that the chief executive officer be transferred to some other position in the Public Service, or retired from the Public Service. Subclause (9) provides that where any employee is determined to be totally incapacitated, the Commissioner may recommend to the Governor that the employee be retired from the Public Service.

Clauses 59 and 60 deal with resignations. Clause 59 provides that an employee may resign from the Public Service by giving notice in accordance with the regulations under the proposed Act. Subclause (2) provides that where an employee is absent from work for a period of 10 working days without giving a proper written explanation, the employee shall, if the Commissioner or chief executive officer so determines, be deemed to have resigned.

Clause 60 provides that an employee of the Public Service who resigns for the purpose of standing as a candidate for election to the Parliament of the State or the Commonwealth, and is not elected, shall, if the person applies to be reappointed, be reappointed to the same or a corresponding position and that the period of absence shall be treated as leave without pay.

Clause 61 deals with age of retirement. Clause 61 provides that an employee who has attained the age of 55 years may retire from the Public Service. An employee who attains the age of 65 years shall retire, but may be appointed to the Public Service on a temporary basis or on the basis of negotiated conditions.

Clause 62 deals with grievance appeals. Clause 62 provides that an employee aggrieved by an administrative act directly affecting the employee may apply to the Promotion and Grievance Appeals Tribunal for a review of that act. The chief executive officer or Commissioner may attempt to resolve the matter by conciliation prior to the commencement of the hearing upon the application. Subclause (3) provides that the tribunal may decline to entertain the application if it is of the opinion that it is a frivolous and vexatious application, or that the applicant has not fully explored avenues of review or redress. The tribunal on review under this clause may confirm the administrative act, or give such directions as are necessary to redress the grievance. Subclause (5) provides that no review shall be conducted in respect of an administrative act—

(a) that is appealable or capable of review under some other provisions of the Bill; or

(b) that is of a class excluded by regulation made under the proposed Act.

Division VI, comprising clauses 63 to 70, deals with the conduct and discipline of employees within the Public Service.

Clause 63 requires an employee occupying a position prescribed by regulation, or a position of a class prescribed by regulation, to disclose pecuniary interests of the employee in accordance with the regulations. Under the clause, any person may request the Commissioner to review the information disclosed by an employee and report whether in the Commissioner's opinion there is a conflict between the employee's pecuniary interests and official duties.

Clause 64 requires any employee who has a pecuniary or other personal interest in a matter that conflicts or may conflict within the duties of the employee in relation to the matter to disclose the nature of the interest to the appropriate authority. The appropriate authority is, in the case of a chief executive officer, the responsible Minister and, in the case of any other employee, the chief executive officer of the administrative unit in which the employee is employed. The appropriate authority may, under the clause, direct an employee to take specified action to resolve a conflict of interest.

Clause 65 sets out the general rules of conduct to apply in relation to employees. Under the clause an employee is to be liable to disciplinary action if the employee—

(a) contravenes or fails to comply with—

(i) a provision of this Act; or

(ii) a direction given to the person as an employee by a person with authority to give that direction (whether being authority derived from this Act or otherwise);

(b) is negligent or indolent in the discharge of the duties of the employee's position;

(c) is inefficient or incompetent through causes that are within the employee's control;

(d) is absent from duty without reasonable excuse (proof of which shall lie on the employee);

(e) is guilty of disgraceful or improper conduct in an official capacity, or is guilty in a private capacity of disgraceful or improper conduct that reflects seriously and adversely on the Public Service;

(f) makes improper use of property of the Crown;

(g) except as authorised under the regulations, engages in any remunerative employment, occupation or business outside the Public Service;

(h) except as authorised under the regulations, discloses information gained in the employee's official capacity, or comments on any matter affecting the Public Service or the business of the Public Service.

Clause 66 empowers the disciplinary authority (defined in clause 4) to hold an inquiry to determine whether an employee is liable to disciplinary action. An employee must, under the clause, be given written notice of an inquiry into the employee's conduct. The clause makes it clear that preliminary investigations may be undertaken prior to the inquiry or notice of inquiry. The clause entitles the employee to be present during the inquiry, to ask questions, bring information before the authority and make representations and statements to the authority. The disciplinary authority may, upon an inquiry, if satisfied on the balance of probabilities that the employee is liable to disciplinary action—

(a) reprimand the employee;

(b) order that the employee forfeit an entitlement to leave;

(c) order that the employee be suspended from the employee's position in the Public Service without remuneration for a specified period;

(d) order that the salary of the employee be reduced by a specified amount for a specified period; or

(e) recommend to the Governor—

(i) that the employee be transferred to some other position in the Public Service; or

(ii) that the employee be dismissed from the Public Service.

An employee found to be liable to disciplinary action must be given at least 14 days notice of the finding and proposed or recommended disciplinary action (during which period the employee may exercise the right of appeal under clause 70). The holding of an inquiry must, under the clause, be suspended where the inquiry relates to a matter the subject of a criminal charge pending the determination of proceedings on the charge.

Clause 67 provides for the suspension of an employee with or without remuneration where the employee is charged with a serious criminal offence (defined in clause 4) or is given notice of an inquiry under clause 66.

Clause 68 provides that the disciplinary authority may, where an employee is convicted of an offence or sentenced to imprisonment for an offence, recommend to the Governor the transfer or dismissal of the employee. An employee must be given 14 days notice of any recommendation based on the employee's imprisonment for an offence other than a serious offence. A recommendation shall not be made until the employee's rights of appeal in respect of the conviction or sentence are exhausted.

Clause 69 empowers the Governor to transfer or dismiss an employee upon the recommendation of the disciplinary authority.

Clause 70 provides for a right of appeal to the Disciplinary Appeals Tribunal (constituted under schedule 3 of the Bill) in respect of any disciplinary finding or proposed disciplinary action (other than disciplinary action based upon a conviction for a serious offence).

Division VIII, comprising clauses 71 to 83, deals with miscellaneous matters relating to the Public Service.

Clause 71 preserves the power of the Governor under the Constitution Act to appoint a person to, or dismiss a person from, a position in the Public Service. The clause also preserves the current overriding power of the Governor under the Public Service Act 1967 to transfer an employee from one position to another position at the same or a higher classification level.

Clause 72 authorises the Governor to enter into an arrangement with the Governor-General or any other authority of the Commonwealth for the discharge of State functions by Commonwealth employees, or *vice versa*.

Clause 73 empowers the Governor to extend, by proclamation, the operation of specified provisions (subject to any specified modifications) to a specified class of public employees (not being employees in the Public Service). The clause also provides that the provisions of schedule 4 relating to long service leave are to apply to all employees of the Crown remunerated at hourly, daily or weekly rates of payment.

Clause 74 provides that the Commissioner may, if of the opinion that an association registered under the Industrial and Conciliation Act 1972 or under the Conciliation and Arbitration Act 1904 of the Commonwealth, represents the interests of a significant number of employees, by notice in the *Gazette*, declare the association to be a recognised organisation. This clause should be read in conjunction with clauses 32 and 40 which provide for the right of recognised organisations to make representations to the Commissioner or any chief executive officer on certain matters.

Clause 75 provides that any determination or decision under the measure affecting remuneration or conditions of employment is to be subject to any award or determination of the State Industrial Commission, of a conciliation committee or of the Public Service Arbitrator and to any agreement registered under the Industrial Conciliation and Arbitration Act 1972.

Clause 76 protects any employee or other person holding an office or position under the measure from any liability for any act or omission done or made in the exercise or purported exercise of official powers or functions. An action that would otherwise lie against the person is to lie against the Crown. The provision does not prejudice rights of action of the Crown itself.

Clause 77 provides that where a statutory power or function is exercisable by an employee in an administrative unit and the employee is absent or for any reason unable to exercise the power or function, the power or function may be exercised by the chief executive officer of the unit or some other employee nominated by the chief executive officer.

Clause 78 provides for obsolete references in an Act or other statutory instrument to an administrative unit or position to be read as references to the unit or position as renamed or to some other unit or position.

Clause 79 is an evidentiary provision facilitating proof as to the existence of an administrative unit or as to the person occupying a particular position in the Public Service.

Clause 80 provides that the measure does not derogate from the War Service (Preference in Employment) Act 1943.

Clause 81 provides for the service of notices.

Clause 82 provides that offences against the measure are to be disposed of summarily.

Clause 83 provides for the making of regulations.

Schedule 1 contains necessary transitional provisions. All existing departments are continued in existence, the Department of the Public Service Board, however, continuing under the title the 'Department of Personnel and Industrial Relations'. Existing offices are continued in existence as positions. Existing employees remain employed on the same basis with their existing and accruing rights remaining in full force and effect. The existing Permanent Heads, however, are, under clause 3 (9) of the schedule, deemed to have been appointed on the commencement of the measure as chief executive officers of their respective departments for a term of five years. The clause provides that each

Permanent Head is, upon ceasing to be a chief executive officer, entitled to be assigned to some other position in the Public Service and to be remunerated at the rate that would have applied if the person had continued to occupy the position of chief executive officer.

Schedule 2 excludes certain persons from the Public Service, namely:

(a) members of the Judiciary;
(b) members of the Police Force;
(c) the Auditor-General;
(d) the Ombudsman;
(e) the Police Complaints Authority;
(f) the Electoral Commissioner and the Deputy Electoral Commissioner;
(g) the holder of any other office or position (not being a chief executive officer) whose remuneration is determined by the Remuneration Tribunal;
(h) any officer of either House of Parliament or any person under the separate control of the President of the Legislative Council or the Speaker of the House of Assembly or under their joint control;
(i) any officer of the teaching service within the meaning of the Education Act 1972;
(j) any officer of the teaching service within the meaning of the Technical and Further Education Act 1976;
(k) any officer or employee of the Electricity Trust of South Australia;
(l) any officer or employee who is remunerated solely by fees, allowances or commission;
(m) any employee who is remunerated at hourly, daily, weekly or piece-work rates of payment;
(n) subject to a proclamation under Division I of Part III, any officer or employee who is excluded by or under any other Act from the Public Service;
(o) any officer or employee excluded from the Public Service by proclamation under subclause (2).

Schedule 3 provides for the constitution and proceedings of the Promotion and Grievance Appeals Tribunal and the Disciplinary Appeals Tribunal. Under clause 2 of the schedule, the Presiding Officer and Deputy Presiding Officer of the Disciplinary Appeals Tribunal is to be a member or former member of the Judiciary, while the Presiding Officer and Deputy Presiding Officer of the Promotion and Grievance Appeals Tribunal is to be a person (not being an employee) with appropriate knowledge and experience of principles and practices of personnel management in the public sector. Clause 3 of the schedule provides for the constitution of a panel of employees nominated by the Commissioner and a panel of employees nominated by recognised organisations. Under clause 4, each tribunal is to be constituted of—

(a) the Presiding Officer or Deputy Presiding Officer;
(b) a member of the panel of nominees of the Commissioner selected for the particular proceedings by the Presiding Officer; and
(c) a member of the panel of nominees of recognised organisations selected by the appellant.

Each tribunal may sit in different divisions at the same time.

Clause 5 of the schedule deals with the procedure at meetings of the tribunal. Clause 6 provides that an employee is not subject to direction as a member of either tribunal. Clause 7 provides for a secretary to the tribunal. Clause 8 provides that the Promotion and Grievance Appeals Tribunal shall act according to equity and good conscience and is not to be bound by technicalities, legal forms or rules of evidence. Clause 9 of the schedule provides for the parties to be given notice of proceedings before either tribunal and to be afforded a reasonable opportunity to call or give evidence, examine and cross-examine witnesses and to make submissions to the tribunal. Clause 10 provides that a person is entitled to appear personally or by representative in proceedings before either tribunal but that a party to proceedings before the Promotion and Grievance Appeals Tribunal is not entitled to be represented by a legal practitioner. Clause 11 provides the necessary powers for each tribunal for the purposes of proceedings before the tribunal. Clause 12 provides for witness fees. Clause 13 entitles a party to be furnished with reasons for a decision of either tribunal. Clause 14 requires the Presiding Officer of each tribunal to furnish an annual report to the Minister who is then to table the report in Parliament.

Schedule 4 deals with hours of attendance, holidays and long service leave.

Clause 1 of the schedule deals with hours of attendance. Under the clause an employee is, subject to the clause and any direction of the chief executive officer, obliged to attend at the employee's place of employment throughout the hours fixed by regulation as ordinary business hours in relation to the Public Service. The clause provides that the chief executive officer may, at the request and with the consent of an employee, determine that the duties of the employee's position be performed on a part-time basis. The clause also provides for flexi-time schemes. Clause 2 deals with public holidays and other holidays in the Public Service. Clause 3 provides for the closure of offices. Clause 4 provides for recreation leave upon the same basis as under the current Public Service Act, namely, 20 days in each year. Clause 5 provides for sick leave on the same basis as under the current Act, namely, 12 days accruing each year. Clause 6 of the schedule provides for special leave with pay and special leave without pay. Clause 7 provides for long service leave of—

(a) ninety days in respect of the first 10 years of effective service;
(b) nine days in respect of each subsequent year of effective service up to and including the 15th year of effective service; and
(c) fifteen days in respect of the sixteenth and each subsequent year of effective service.

Clause 8 provides for the time and manner in which long service leave is to be taken. Clause 9 deals with the payment to which employees are to be entitled while on long service leave. Again, this clause preserves the current entitlements. Clause 10 deals with payment in lieu of long service leave. Clause 11 allows certain prior service to be counted as service for the purpose of leave rights. Clause 12 empowers the Commissioner to direct that an amount payable in respect of leave on the death of an employee be paid directly to a dependant or dependants of the deceased employee and not to the personal representative.

The Hon. K.T. GRIFFIN secured the adjournment of the debate.

ADJOURNMENT

At 3.43 p.m. the Council adjourned until Tuesday 29 October at 2.15 p.m.