LEGISLATIVE COUNCIL

Wednesday 16 November 1994

The PRESIDENT (Hon. Peter Dunn) took the Chair at 2.15 p.m. and read prayers.

QUESTIONS ON NOTICE

The PRESIDENT: I direct that written answers to the following Questions on Notice be distributed and printed in *Hansard*: Nos 18 to 22, 24, 26 and 27, 30, 33, 36, 38 and 39, 42 and 47.

URBAN LAND TRUST

18. **The Hon. BARBARA WIESE:** Given that the South Australian Urban Land Trust is self-funding and achieves the social objectives of orderly establishment and development of new urban areas and urban consolidation in existing suburbs, why is the Minister of Housing, Urban Development and Local Government Relations gutting it?

The Hon. DIANA LAIDLAW: The Government is not proposing to gut the Urban Land Trust as has been suggested in the Question on Notice.

What is proposed is a refocusing and expansion of its role. The new South Australian Urban Projects Authority will continue to achieve the social objectives of orderly establishment and development of new urban areas and urban consolidation in existing suburbs.

HOME PURCHASE PROTECTION PLAN

19. **The Hon. BARBARA WIESE:**

1. Does the Minister for Housing, Urban Development and Local Government Relations expect the Home Purchase Protection Plans scheme to be self funding?

2. Will he provide details of the estimated costs of managing the scheme?

3. Was advice sought by HomeStart Finance from any quarters before establishing the scheme?

4. What are the numbers of home buyers expected to take up this scheme?

5. Will the Minister provide comprehensive details of the conditions applying to this scheme and the fees charged?

The Hon. DIANA LAIDLAW: I provide the following reply:

1. A fee paid by the customer will cover the Housing Trust's administrative costs and cover most of the cost of property buy back. Funds for the purchase of properties under this scheme will comprise part of the trust's rental program for acquiring housing stock.

It is anticipated very few dwellings will be required to be purchased under this scheme, in which case the scheme will be self funding.

2. The costs involved in administrating this scheme are expected to be minimal. Costs will be covered by a fee paid by the customers who feel they require the assistance Home Purchase Protection can provide. Current staffing and resource arrangements will be used to make this scheme available.

If the value of property purchase exceeds funds available from fees, purchasing property will become part of the trust's capital program for acquiring housing stock.

As already mentioned, it is not envisaged the trust will be required to purchase many dwellings under this scheme in any one year.

A budget for repurchasing properties under this scheme has not been established, as demand will not apply until the second or third year after implementation.

3. Home Purchase Protection was developed following a survey of Housing Trust tenants carried out in 1993 to determine blockages to home ownership for this group.

Two-thirds of respondents expressed concern about how they would continue to meet mortgage repayments if they suffered a loss in income. Well over half said that this concern would stop them from becoming a home owner.

Home Purchase Protection was designed to alleviate the very real concerns trust tenants and applicants have about pursuing home ownership.

In developing this scheme, actuarial advice was not sought as Home Purchase Protection, while operating similar to insurance in many respects, is not a standard insurance arrangement.

4. The Home Purchase Protection Scheme is a pilot initiative. As such, initial volumes are expected to be low.

The success of this scheme in terms of sales will be reviewed as part of a wider review of the scheme, six months after the initial implementation date. Thereafter, reviews will be conducted annually by a committee comprised of representatives from HomeStart and the Housing Trust.

5. Home Purchase Protection was designed to alleviate the concerns trust tenants and applicants have in buying a home of their own.

FEES

There are three Home Protection Plans each for three distinct categories of household:

Plan 1 is for Housing Trust tenants who wish to buy a Housing Trust home. The fee for this plan is $200 per annum.

Plan 2 is for trust tenants who wish to buy a private house. The fee for this plan is $250 per annum.

Plan 3 is for trust applicants who wish to buy either a Housing Trust or private house. The fee for this plan is $50 per annum.

The fee differs between plans because the obligations of the trust with respect to each plan differs. For instance, the fee for plan 3 is much lower because the trust is not required to purchase a property. Therefore, only the costs of administration need be recovered.

CONDITIONS

Home Purchase Protection is for Housing Trust tenants and applicants only. The plans are only available for properties valued below $100 000. This maximum figure will be indexed with inflation each year.

The Housing Trust will only purchase dwellings if the following conditions have been met:

- the client has suffered a substantial and genuine long term drop in income,
- the cost of purchase does not exceed $100 000 (indexed to the Consumer Price Index),
- the client has less than $10 000 equity,
- the property has been used as a home for the clients,
- the property is subject to no other mortgages or encumbrances such as caveats, liens or court orders,
- the property has been maintained in reasonable order,
- the application for benefit under the scheme is made within five years of loan settlement, and,
- the clients have paid the appropriate annual fee.

HOUSING, PUBLIC

20. **The Hon. BARBARA WIESE:** As much of the restructure of the South Australian Housing Trust is justified by the need for costing transparency and given the Government's intention to contract out large parts of the Housing Trust's functions and the problems associated with outsourcing referred to in the latest Auditor-General's report, how does the Minister for Housing, Urban Development and Local Government Relations intend to ensure there is no leakage of public housing assets or funds into the subsidy of commercial and urban projects?

The Hon. DIANA LAIDLAW: The housing review process identified the need for public housing to be split into two business units so that the commercial performance of the housing assets is separated from the non-commercial management of tenancies. In addition a major projects authority is to be created that focuses on the facilitation of major urban projects and the orderly release of the portfolio broadacre and residential land bank.

These recommendations have been reinforced by the conclusions of the SA Audit Commission and on a national scale, by the Hilmer Report, several industry commission inquiries and the Federal Minister's agenda for reform.

The industrial/commercial and urban projects entity will be a separate authority with its own funding and community service obligations (CSOs) clearly identified. As a commercial operation this entity will be required to manage projects on budget and within time, as well as providing a rate of return on the assets employed.

The property management business will also be required to provide a rate of return through dividends unlike tenancy management which simply performs a management function for an agreed fee.

At the current stage the dividends from the Housing Trusts property management business are insufficient to meet the tenancy

managers CSOs and they will be 'topped up' by both State and Commonwealth funds. This is expected to be the case for several years ahead.

Therefore there is no room for public housing dividends being 'leaked' into other parts of the portfolio as the Housing Trust, in total, cannot survive without external subsidies. The commercial urban projects entity will have any identified CSOs funded separately.

Finally, any surplus capital from the sale of Housing Trust assets is being used to either acquire new stock or repay high interest debt. Future capital borrowings of urban projects or commercial activities would be arranged from Treasury and SAFA through the normal budget process.

HOUSING TRUST ANALYSIS

21. **The Hon. BARBARA WIESE:**

1. Why is the South Australian Housing Trust undertaking further analysis of costs of providing community service obligations as indicated in Program Estimates (page 382) of the 1994-95 State Budget papers?

2. What changes to trust policies are likely to result?

The Hon. DIANA LAIDLAW:

1. The importance of clearly understanding the nature and costs of community service obligations has been identified in the context of the Industry Commission examination of public housing and subsequently by the Audit Commission. If the State is to ensure that resources are targeted to those most in need and that accountabilities are clearly identified, it is essential that the source and nature of all forms of assistance both direct and indirectly be clearly documented and available for scrutiny by Parliament and the public.

2. Major areas of policy review were identified in the May financial statement.

HOUSING, REPORTS

22. **The Hon. BARBARA WIESE:** As the Minister for Housing, Urban Development and Local Government Relations has indicated that his housing reforms and policy directions accord with the findings of the Audit Commission, the Industry Commission investigation into public housing and the Hilmer report, will he provide a list of those recommendations in each of the three reports that his Government accepts and those he rejects?

The Hon. DIANA LAIDLAW: The Audit Commission, the Industry Commission investigation into public housing and the Hilmer report, whilst emanating from different sources and established for different reasons, nevertheless provide a framework for reform of housing policy and housing programs. The common themes which flow from these reports and which the Government accepts include:

- renewed focus on core activities,
- transparency in the flow of public subsidies,
- the separation of the SAHT's commercial objectives from its community service obligations,
- house sales to existing tenants,
- negotiating with the Commonwealth Government to introduce measures aimed at promoting more flexibility in administering housing policy within the context of the Commonwealth/State Housing Agreement,
- ensuring appropriate mixes of public and private housing,
- targeting of housing resources to those in greatest need,
- contracting out of functions to the private sector where cost savings can be achieved.

Collectively the reports amount to some 1 800 pages, the contents of which are the subject of ongoing examination and analysis by Government.

EQUAL OPPORTUNITY

24. **The Hon. BARBARA WIESE:** What action will the Minister for Housing, Urban Development and Local Government Relations take to ensure faster compliance by local government in preparing equal opportunity programs in accordance with the Local Government Act and to ensure that no further extensions of time for compliance are necessary?

The Hon. DIANA LAIDLAW: There has been compliance by local government in preparing equal opportunity programs and annual reports as required under the Local Government Act.

The extension of the sunset provision on the reporting requirements from 30 June 1994 to 30 June 1997 was not for the purpose of ensuring compliance, but to ensure that underlying principles become a permanent part of the practices of local government in this State.

CEMETERY, NEW

26. **The Hon. BARBARA WIESE:** As the Centennial Park Cemetery is the only substantial cemetery south of Adelaide, and is fast approaching full capacity, will the Minister for Housing, Urban Development and Local Government Relations advise what action has been taken in association with local government to establish a new cemetery in the southern suburbs?

The Hon. DIANA LAIDLAW: It has been known for some time that the Centennial Park Cemetery has a limited life span in terms of first use sites and the Cemetery Trust has been looking at options, such as re-use of grave sites and expansion, to enable its operations to continue.

The whole question of cemeteries management and planning in metropolitan Adelaide has been the subject of discussion with local government over a number of years, and the need for an appropriate mechanism to ensure that there is adequate provision of cemetery space in the future is recognised by the Minister for Housing, Urban Development and Local Government Relations as an important issue for resolution. Upon assuming office the Minister advised the Local Government Association of his concern with the slow pace of discussions in this area and obtained from the association a commitment to work with the State Government to progress the negotiations.

The association forwarded its preferred position on cemeteries management and planning to the Minister in August this year and this is being considered along with other options as a basis for a proposal which will be released in due course for public consultation.

GRAVE SITES

27. **The Hon. BARBARA WIESE:**

1. Given that the Minister for Housing, Urban Development and Local Government Relations has recently canvassed changes to legislation and regulation in connection with cemeteries, will he indicate the main changes proposed?

2. Does he intend to change the period before graves can be re-used and if so, what is the minimum period he will allow?

3. Does he believe the current 25 year minimum lease period for grave sites is sufficient to prevent distress among relatives of the deceased, should a grave site be re-used?

4. Will he take any action to protect historical graves and tombstones from re-use?

5. Will his policy accommodate freehold grave sites for those who wish to purchase them?

6. Will he make provision for mausoleums (i.e., above ground burial) and if so, what health and environmental standards will apply?

The Hon. DIANA LAIDLAW:

1. The Minister for Housing, Urban Development and Local Government Relations has recently canvassed changes to the general cemetery regulations and the West Terrace Cemetery regulations and the main changes proposed are designed to:

- allow non-coffin burials;
- allow the construction of mausolea for above ground burials;
- amend regulations for vaults, to bring them into line with modern practices and technology;
- update exhumation provisions;
- clarify licence grant rights, to remove potential disputes over ownership of licences;
- remove exemption of West Terrace Cemetery from the general cemetery regulations;
- amend West Terrace Cemetery regulations in light of the removed exemption;
- change to a fixed term licence system at West Terrace Cemetery;
- amend the fees at West Terrace Cemetery.

2. The question related to a minimum period prior to grave re-use is unclear. If the question relates to a minimum period after the expiry of a licence before the site can be re-licensed then there is no minimum period at present under the Local Government Act, 1934. If the question relates to the minimum period after interment before a grave can be deepened and re-used for interment then the periods are set out in the regulations and there is no intent to change those periods at present.

3. There is no minimum period for the granting of a right of burial that can be offered by a cemetery authority under the Local Government Act, 1934.

4. Cemeteries, graves and tombstones that are listed as State heritage items are protected under the Heritage Act, 1993. Thus for West Terrace Cemetery, where the entire site is a State heritage item, the Minister for the Environment and Natural Resources can take whatever action is necessary within the powers of the Heritage Act, 1993 to protect any grave site or monument of interest in that cemetery.

5. The proposed changes to the general cemetery regulations do not include the issuance of perpetual licences because of the wording in the Local Government Act, 1934. Currently the Act specifies that the maximum term for a burial right grant that a council can offer in one of its cemeteries is 99 years. Thus presumably non-council cemeteries can offer perpetual licences unless restricted by their own legislation, as for the Enfield General Cemetery, or by regulation, as for West Terrace Cemetery, or by their own rules as for community trust and denominational cemeteries.

6. As mentioned above the proposed changes are intended to allow for above ground burial in mausolea. It is intended to seek regulations that ensure that the vault compartments within such mausolea are subject to the same conditions as for below ground vaults with respect to controlling the release of offensive gases and fluids. The precise details of those conditions are still to be drafted. Nevertheless it is worth pointing out that the regulations must be approved by the Health Commission prior to being made.

TRANSPORT MINISTER'S OFFICE

30. **The Hon. BARBARA WIESE:** Can the Minister for Transport explain the 7.4 per cent increase (from $635 000 to $682 000) in operating costs of operating her office?

The Hon. DIANA LAIDLAW: The increase in expenses of 7.4 per cent from $635 000 in 1992-93 to $682 000 in 1993-94 can largely be attributed to office accommodation costs for my office in 1993-94 being overcharged by SACON by approximately $50 000. A credit adjustment for this is being processed this financial year.

WESTFIELD, MARION

33. **The Hon. BARBARA WIESE:**

1. Will the Government proceed with the construction of an interchange at Westfield Shoppingtown at Marion as its stated preferred alternative to the Tonsley interchange?

2. If so, when and what work has been undertaken to that end?

3. If not, why not?

The Hon. DIANA LAIDLAW:

1. The Government intends to develop the public transport interchange at the Marion Westfield Shoppingtown.

2. Westfield has recently purchased additional land in the Marion regional centre. The company is now considering options for development of the site. The Government has discussed the future needs of a public transport terminal to serve the developing Marion regional centre with Westfield and the city of Marion. This dialogue will continue as plans for development of the centre evolve.

3. Not applicable.

TAXI AUDIT

36. **The Hon. BARBARA WIESE:**

1. What is the cost of the Passenger Transport Board's two month trial taxi on-road audit?

2. Who carried it out?

3. What are the expected outcomes?

4. Can the Minister identify tangible improvements in taxi services as a result?

The Hon. DIANA LAIDLAW:

1. $28 200.

2. The Marketing Centre.

3. Increased standards within the industry to benefit the travelling public.

4. A final report and recommendations of the two month trial of taxi on-road audit will be submitted in the near future.

MARINE AND HARBORS AGENCY

38. **The Hon. BARBARA WIESE:**

1. What is the basis for this year's projected increase of $7.9 million (about double the dividend paid in 1993-94) to be paid by the Marine and Harbors Agency?

2. Does the Minister agree this is the result of reforms instituted by the previous Government?

The Hon. DIANA LAIDLAW:

1. The dividend payable of $7.9 million is 46 per cent higher than the amount paid in 1993-94 due to:

(a) an increase in the proportion of commercial profit payable as a dividend from 50 per cent to 60 per cent.

(b) a higher budgeted profit in 1994-95 at $12.5 million, up $3.2 million on last year due to reduced salary and wage costs as a result of Targeted Separation Packages, reduced interest payments due to debt reduction, and increased income from operations and asset sales.

(c) carry over of $.4 million dividend payment from 1993-94 as a consequence of the 1993-94 payment being based on an earlier than end of financial year lower estimate of 1993-94 profit.

2. The budgeted result is a mixture of factors influenced by both the previous and present Governments. The honourable member should be made aware that one of the early reforms instituted by the present Government and announced during consideration of the agency's budget in the Estimates Committee hearing was the decision to terminate the heavily subsidised service provided by the MV *Island Seaway*. This decision will lead to savings of around $5 million per year which is a bigger impact than the extra dividend of $3.7 million which will now be payable by the Marine and Harbors Agency in 1994-95.

HOUSING, PUBLIC

39. **The Hon. BARBARA WIESE:** Given that the Audit Commission recommended that public housing stock should be reduced from 11 per cent to 6 per cent of the State's total to bring the level into line with the national average, does the Minister for Housing, Urban Development and Local Government Relations intend to implement such a policy, and if so, what is the timetable for relinquishing housing stock?

The Hon. DIANA LAIDLAW: At no place in the Audit Commission Report is there a recommendation that the South Australian Housing Trust reduce its stock holdings from 11 per cent of all stock to the national average for public housing of 6 per cent. This disparity is noted in the report in the context of the 'scope for an enhanced sales program' and, it continues, 'recognising the current constraints imposed by the CSHA (Commonwealth States Housing Agreement) in terms of the flexibility of using such sales proceeds and the benefits of the government maintaining a significant presence in the total rental market.' (Vol 2, p.315)

The Government has no intention of any rapid sell-off of public housing stock.

WEST TERRACE CEMETERY

42. **The Hon. BARBARA WIESE:**

1. Who is undertaking the review of management options for the West Terrace Cemetery, as proposed by the Minister for Housing, Urban Development and Local Government Relations and when is a decision expected on the Cemetery's future?

2. Will the Minister rule out privatisation of the Cemetery?

The Hon. DIANA LAIDLAW:

1. The review of the management of West Terrace Cemetery currently consists of two parts, both of which are being overseen by officers in the State/Local Government Relations Unit in the Department of Housing and Urban Development.

The first part consists of reviewing heritage, management and development issues at West Terrace Cemetery in response to a consultancy report commissioned by the previous Government entitled 'West Terrace Cemetery—Analysing the historic character and drawing up development guidelines'. The aim of this review is to put into place some of the recommendations of that report and ensure day to day management is consistent with the needs of both an operating cemetery and a State heritage item.

The second part consists of developing options for the long term future management for the cemetery. A number of broad concepts have been canvassed and at least two outside bodies have privately expressed an interest to the Government in operating the cemetery.

Detailed management options are being developed with a view to a decision being made as soon as possible.

2. While private enterprise has the potential to be involved to varying degrees in the operation of all cemeteries in this State, there is no intention at this time to consider private ownership for West Terrace Cemetery.

EQUAL OPPORTUNITY

47. **The Hon. ANNE LEVY:**

1. What proportion of their time do the equal opportunity officers in each of the 10 TAFE institutes spend on equal opportunity duties, and what proportion of other duties?

2. What was the total number of officers in the TAFE Equal Opportunity Unit before it was 'devolved'?

The Hon. R.I. LUCAS: Equal Opportunity Officers in institutes are currently being appointed on a 0.5 basis. In that half-time appointment they will be expected to be fully employed on equal opportunity duties.

At the commencement of the devolution process the Equal Opportunity and Social Justice Unit comprised 6.9 equivalent full-time positions with two administrative support positions. These staff were responsible for the provision of services to institutes, policy development, monitoring and reporting and equal employment opportunity.

As part of the devolution process

- responsibility for equal employment opportunity was transferred to human resources;
- responsibility for policy development was transferred to the equity executive committee working in association with strategic services division.

The identification of discrete Equal Opportunity Officer positions in institutes has resulted in savings and in increases in productivity as previously lecturers received a reduction in teaching hours in order to undertake these tasks.

LEGISLATIVE REVIEW COMMITTEE

The Hon. R.D. LAWSON: I bring up the eleventh report of the committee 1994-95, and move:

That the report be read.

Motion carried.

The Hon. R.D. LAWSON brought up the twelfth report of the committee.

SUPPLY MANAGEMENT IN GOVERNMENT

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I seek leave to table a copy of a ministerial statement made by the Deputy Premier and Treasurer in another place today on the subject of supply management in Government.

Leave granted.

QUESTION TIME

JUDICIARY

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Attorney-General a question about the independence of the judiciary.

Leave granted.

The Hon. CAROLYN PICKLES: I refer to continuing concerns about the telephone call from an officer of the Crown to the senior judge presiding on the State wage case heard in the Full Industrial Relations Commission recently and to which I referred yesterday and the evident variance in approach taken by the Attorney-General as compared to that of the Minister for Industrial Affairs. What action will the Attorney-General take to restrain the Minister for Industrial Affairs and his officers from making improper approaches to the judiciary such as that which occurred prior to the recent State wage case?

The Hon. K.T. GRIFFIN: There is a presumption in that explanation that there has been some impropriety, and I have certainly never acknowledged that that is the case and will not do so now. The fact is that the questions were asked of me yesterday. I gave an answer in respect of that much of the information of which I was aware, and I indicated that I would make some inquiries and bring back a reply, and I will continue to do the same.

POLITICAL APPOINTMENTS

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Attorney-General a question about political appointments.

Leave granted.

The Hon. CAROLYN PICKLES: Last night in another place the Premier alleged that the Labor Party, when in office, made appointments with a clear objective of doing nothing else but putting Labor Party stooges into what should have been an independent public sector. In his next breath the Premier went on to furnish the present Chief Justice as an example. The Premier said:

> Would the Deputy Leader like me to stand here and repeat the list, which I have already mentioned in the House previously, of just some of the examples of political appointments that were made to the Public Service with a clear objective of doing nothing else but putting Labor Party stooges into what should have been an independent public sector?

He goes on:

> I can recall a Chief Justice who went from being Attorney-General—
>
> *Members interjecting:*
>
> **The PRESIDENT:** Order!
>
> **The Hon. CAROLYN PICKLES:** —in this Parliament straight to senior puisne judge.

Will the Attorney-General here and now apologise to the Chief Justice for the Premier's insinuations that Chief Justice King is but a Labor Party stooge, or does the Attorney-General endorse the Premier's remarks?

The Hon. K.T. GRIFFIN: I certainly have no intention of apologising to anybody, but I have not seen the remarks to which the honourable member refers. I will examine them and bring back a reply.

PRIMARY INDUSTRIES STAFF

The Hon. R.R. ROBERTS: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Primary Industries, a question about Primary Industries staff.

Leave granted.

The Hon. R.R. ROBERTS: I am in receipt of a copy of some correspondence from the Riverland Horticultural Council which is addressed to the Minister for Primary Industries and which expresses the council's deep concern about the decline in service levels experienced by Riverland horticulturists in their dealings with Primary Industries South Australia, particularly over the past 12 months. The letter dated 9 November 1994 states:

> It is with considerable concern that I draw your attention to the current staffing situation with PISA. The Riverland Horticultural Council and its member organisations are increasingly finding difficulty in progressing industry issues; the reason would seem to

be an overloading of a decreasingly staffed department. Let me assure you that in general we are satisfied with the competence and professionalism of PISA officers, and we believe we enjoy a good working relationship with them.

The difficulties we increasingly encounter range from: difficulty in making telephone contact, delays in answering correspondence, under-representation at industry meetings, lack of consultation with industry on a range of issues, lack of progress on joint projects, failure to meet understood deadlines, continuing attrition of PISA positions, or transfers from the Riverland.

We are very aware of the heavy workload of PISA officers and their inability to cope with existing workload, let alone pick up additional duties.

The correspondence further states:

Our purpose in writing to you is not to seek an explanation from your CEO or other senior officers for our 'complaints'. Rather, we merely wish to inform you that we are not at all confident that PISA is making significant progress in implementing its strategic plan with its current staffing levels. PISA is in danger of falling below a critical mass, and of not being able to catch up.

Primary Industries South Australia is at crisis point after only 12 months of this Liberal Government. The department is in a shambles, with over 90 people taking separation packages since December of last year, leaving the provision of services in areas of fisheries, agriculture and now horticulture allegedly in a sorry state of affairs.

I have been informed of many alarming lapses in the provision of services, including an almost disastrous situation earlier this year on Kangaroo Island, where for over seven months the Minister was unable to provide a specialist PISA field officer whilst over 70 properties on the island were quarantined with footrot. The very few people who work in a day to day relationship with Primary Industries staff know that there is a crisis and are now starting to go public. The Minister sits back and glibly states that nothing is wrong. In fact, during Estimates Committee hearings in another place, the Minister said:

If primary producers in South Australia believe that someone from the department will drive out to their property and sit down with them for half a day to work through problems, I can assure them that that is not the way we are trying to go.

Horticulturists do not want someone to drive out and talk to them for half a day; they want to be able to get hold of the appropriate expertise by telephone or fax whenever it is needed. The only trouble is that the lights are on but nobody is home.

The Hon. L.H. Davis: You're talking about yourself.

The Hon. R.R. ROBERTS: You may say that the Minister's lights are on, but nobody is home. I do not agree with it.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. R.R. ROBERTS: You are just angry because you didn't get a ministry; that is your problem. My question to the Minister is: what measures will the Government take to ensure that its service obligations to South Australian primary producers are met and that the crisis of confidence expressed by so many of this State's primary producers in Primary Industries SA is overcome?

The PRESIDENT: Before I call the Attorney-General, I must say that there was a considerable amount of opinion in that question, and that leaves me with no alternative but to find it very difficult to control the answer. I suggest that in future the honourable member puts less opinion in his questions.

The Hon. K.T. GRIFFIN: The lights may well be on and no-one is home, but that is because everybody is out working. At least we can pay for the electricity that powers the lights. Under the previous Government the Department of Primary Industries was being significantly whittled away. It was the previous Government that ought to have been looking at what was happening in DPI rather than belatedly looking at what is happening under this Liberal Administration. In relation to footrot, I am informed that the previous Government did nothing about it. At least we put someone there to address the issue.

The Hon. L.H. Davis: And someone who understands the issue.

The Hon. K.T. GRIFFIN: Well, my information is that the previous Government did nothing about it. If the honourable member wants to make allegations about so-called shambles, he should give more specific information. We deny that there is any shambles in DPI; there is nothing like that at all. We are getting the State moving and things are happening. Positive things are happening in primary industries which certainly did not happen under the previous Administration. Whether it is primary industries or any other area of endeavour within this State, the Government is very strongly supporting development, new initiatives, progress and prosperity for all South Australians. That is more than can be said of the previous Administration, which left the taxpayers of South Australia holding the State Bank baby.

If the honourable member has more detailed information rather than the rhetoric that he displayed in explaining the question, I shall be happy to look at it and bring back the facts, not the surmise that the honourable member has sought to express in the course of his explanation.

DEVELOPMENT

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Minister representing the Minister for Housing, Urban Development and Local Government Relations a question about the Development Act.

Leave granted.

The Hon. T.G. ROBERTS: On 2 November I asked a question in this place on the information that I had received about changes to the Development Act which were designed to bypass the environmental impact statement process, and I expressed concerns about it. Obviously, in the public arena and amongst the media pundits generally, it was not seen as a major issue, but I see it as a major issue. The problem that was raised in the information that was given to me was that, if a project was to be declared a major project, an environmental impact statement would be put aside and that project would go ahead regardless of an environmental impact statement being put together. My questions are:

1. How will a project be declared to be a major project?

2. If an environmental impact statement is to be avoided, will there be any other environmental protection measures put in place for what would be regarded as a declared major project?

The Hon. DIANA LAIDLAW: I will refer that question to my colleague in another place and bring back a reply.

SPORTS FOCUS SCHOOLS

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services a question about sports focus schools.

Leave granted.

The Hon. M.J. ELLIOTT: Yesterday's *Advertiser* provided some details of announcements made by the Minister in relation to physical education. From my knowledge of people in the field I think much of what was announced is most welcome, but not all. I have been contacted by people from several schools who were negatively affected by the Minister's announcement. About 12 months ago the Education Department and the Department of Recreation and Sport designed a scheme which led to four metropolitan secondary schools being made focus schools in several sports. Blackwood High School was made a netball focus school, Seaton High School was made a baseball focus school and Heathfield and Brighton High Schools were made focus schools in volleyball. Four full-time teaching positions were to be dedicated to the program for five years. Positions were advertised late last year to commence from the start of the 1994 school year with a five year program.

I understand that promising students from Mount Gambier and Whyalla have been enrolled in these various schools because of the program, which is part of the aim of the exercise. Blackwood High School spent $37 000 on upgrading netball facilities for the program. The schools were pleased when the Liberal Government announced in its recent budget that special interest programs would be retained subject to review in 1995.

An honourable member interjecting:

The Hon. M.J. ELLIOTT: I can only tell the member the school council's understanding of it. Blackwood High School spent $37 000. I understand that during the Minister's launch of physical education week on Monday night he revealed that the existing programs would go, and instead a special sports schools concept would be established. The schools have been told that as of next year all people employed in these programs will have their positions reduced to half time only, and after that there will be no funding for the program. The Minister is effectively cutting the program off just one year after it started. People who were hired in the knowledge of having a five year program to run will be left with little. Students who have made moves from country areas will have the program cut off midstream. Programs have been established and promises broken.

What action will be taken on the existing programs in light of the Minister's announcement on Monday night? How can the Minister justify cutting off a program midterm when people have made commitments and money has been spent on the basis of those existing programs? What will happen to the people employed in these programs, the schools that have spent money for these programs, and the students who have moved to the city to take advantage of these programs?

The Hon. R.I. LUCAS: Far from being a broken promise, in effect this is the release of the sport and physical education policy and is a good example of the Government keeping the election promises it made in the education policy document prior to the election. A key component of the education policy document was that we would form a special interest sport and physical education high school. The announcement on Monday evening was that the first special interest physical education and sport high school would be established at Wirreanda High School. For some years, Wirreanda High School has taken upon itself the responsibility of being a specialist school in this area without any official recognition by the department or any additional resources to allow it to undertake the task of being a special interest physical education and sport high school.

The announcement on Monday night, which is entirely consistent with the policy commitment made at the last election, was that Wirreanda High School would be the State's first physical education and sports high school from 1996. Money will be committed next year to assist in the planning for 1996, and from 1996 a salary commitment of roughly $80 000 to $100 000, or two full-time equivalent salaries, will be made available to Wirreanda High School for it to deliver the specialist programs in that area.

There was no commitment made by me either in the policy document or in any discussion with any person or organisation, either before the election or after the election, about the Labor Government's commitments on sport focused schools to which the Hon. Mr Elliott has referred. I would challenge the Hon. Mr Elliott to provide to this Council, or indeed on any occasion, any evidence that I gave a commitment to those particular programs.

I always had concerns with those programs. They were announced by the Labor Government in the pre-election year leading up to the 1993 election, and there is no commitment from me to a continuation of those particular sport focused schools in the way that they were being structured by the Labor Government. That is, every school was being given a full time salary to continue with or start the particular sport focus school. For the Hon. Mr Elliott to suggest that promises have been broken is entirely incorrect. There has never been a commitment from me to a continuation. The only commitment was to a special interest sport and phys. ed. school generally, and we have done that. In the announcement on Monday night we gave an indication that we will look if we can at establishing further special interest schools in the northern suburbs and perhaps also eventually in the central region as well, given that Wirreanda is obviously in the southern suburbs of Adelaide.

Secondly, the Hon. Mr Elliott refers to special interest programs, and that there would not be any cut back, and he quoted a particular comment. That comment was an extract from both a letter and press statement that I made which referred to the special interest music schools that already exist, together with the special interest agriculture school at Urrbrae when they came to see me as a joint lobby when we looked at the level of assistance we might provide to those schools. I said to those special interest schools that currently existed, the music and agriculture schools, that for this financial year, and 1995 in particular, we would continue the same level of assistance subject to a review of what the appropriate level of ongoing assistance ought to be.

The third point in relation to the schools is that the decisions the Government took in this area were not just based on our own opinions but decisions based on discussions with representatives of principals' associations, sporting associations and a number of other community groups that had an interest in health and physical education. I have to say that, as a result of those discussions, they are substantially (some completely) in accord with the Government's total commitment and new policy announcements in relation to physical education and sport. A number of leading sporting identities and sport educators in South Australia were strongly opposed to the notion of the sport focused schools being specifically one sport specific as opposed to being related to physical education and sport in general terms, and support the initiatives that the Government is taking to, in effect, establish special interest sport and physical education schools.

Finally, as to where we go from here, we have said in the policy statement that next year we will continue to fund the programs at .5 and phasing out in 1996. We have said, however, that we will work with those schools with specific sport focused programs, and others (and I will raise that point in a minute) to see whether or not we can continue those programs in some of those schools. If we can, we will encourage that and certainly allow it to continue in some schools. From my understanding, at least some of those schools to which the honourable member refers intend to continue with the programs in their schools.

A representative of one of those schools told me that they can continue the program with a level of assistance of either .2 of a salary, rather than 1, or the equivalent of about $8 000 a year. A representative of another school, of the four, told me that it could continue to provide the program with the level of assistance of only .3 of a salary—or roughly $12 000 a year—from 1996 onwards rather than the full salary level. We will work with the schools to try to continue the programs. We believe that sporting associations may well be able to assist in some cases by the provision of some funding assistance. We would certainly encourage the option of sponsorship of programs and, if either the sporting association or sponsors can provide the $8 000 or $12 000 needed, then according to at least two of those four schools they can continue the program and, therefore, the students can continue to come to those schools from other parts of Adelaide or, in a smaller number of instances, from parts of country South Australia.

In conclusion, the dilemma with the sport focus schools, as they were designated by the previous Government, is that only three sports were being assisted: baseball, volleyball and netball. For the early part of this year I had a constant stream of sporting associations coming to me, as did other departmental officers, and saying, 'If you are doing it for netball, baseball and volleyball, why are you not doing it for football, cricket, yachting, soccer—

The Hon. A.J. Redford: Horse riding?

The Hon. R.I. LUCAS: I was not sure about horse riding—

The Hon. T.G. Roberts: Parachuting?

The Hon. R.I. LUCAS: The Hon. Terry Roberts wants to see a sport school for parachuting.

The Hon. L.H. Davis interjecting:

The Hon. R.I. LUCAS: I will not respond as to why the Hon. Terry Roberts would want to see a sport high school for parachuting, coming from his particular faction within the Labor Party. I would not want to suggest anything along those lines. Considering that he comes from that hard left, I do not want to debate that! But it raises the issue of 20, 30, 40 or 50 sports with a strong following in South Australia eventually saying to the Government, 'If you are doing it for netball, volleyball and baseball, then why are you not doing it for parachuting, soccer, cricket, football, or a variety of other sports?' Quite simply, in our judgment, that is not the way to go. We are prepared to work with those schools who have some transitional problems along the lines I have suggested. We will work with other schools and other sports that might well be prepared to put in some sport association money or sponsorship money to try to get programs going, but we are not in a position to be providing half or full salaries for every school that wants to establish itself as a focus for a sports program in that school.

ON-THE-SPOT IMMUNISATION

The Hon. BERNICE PFITZNER: I seek leave to make an explanation before asking the Minister for Transport, representing the Minister for Health, a question about on-the-spot immunisation.

Leave granted.

The Hon. BERNICE PFITZNER: A study in Sydney looked at 5 000 children over a two month period with the aim of trialing on-the-spot immunisation, that is, immunisation of a child when he or she attends hospital, a health centre, or a GP for something else. It was found that only 71 per cent of these children had up-to-date immunisation and this percentage, as we know, is not good enough to eliminate vaccine preventable diseases. Of the 29 per cent who needed the on-the-spot vaccinations, 6 per cent were too ill to be vaccinated, but only 30 per cent of those who needed vaccination were given it on the spot.

In 1993 Australia had 4 000 cases of whooping cough, 4 350 cases of measles and 3 600 cases of German measles. Figures for all these vaccine preventable diseases are even higher this year, except for German measles. These children involved in the trial were more likely to be newly arrived, have parents from a non-English speaking background, be in possession of health-care cards and come from large families. It was found that the health professionals did not do the on-the-spot vaccinations because it was either time consuming or they were reluctant to take on the responsibility.

Our knowledge of the immunisation uptake here in South Australia is based on a check of metropolitan kindergarten children about five years ago, and it was said to be 95 per cent. However, if it was 95 per cent of the 80 per cent of the State's four year olds who have attended kindergarten—presuming the rest of the 20 per cent who did not attend kindergarten were not immunised—then the uptake here in South Australia is about 72 per cent, certainly not a high enough uptake to eliminate the vaccine preventable disease. My questions to the Minister are:

1. Will the Minister look into either trialing or implementing a program of on-the-spot immunisation?

2. If not, why not?

The Hon. DIANA LAIDLAW: I will refer the honourable member's questions to the Minister for Health and bring back a reply.

HOUSING TRUST TENANTS

In reply to **Hon. SANDRA KANCK** (19 October).

The Hon. DIANA LAIDLAW: The Minister for Housing, Urban Development and Local Government Relations has provided the following information.

1. A series of public meetings have been held over the past five years to keep residents informed of plans for that part of Mitchell Park bounded by Bradley Grove, Sturt Road, Sturt Creek and Alawoona Avenue. The most recent took place on 18 July at the Mitchell Park Neighbourhood Centre. Plans for the area were both displayed and distributed to those in attendance. Properties on the former Tonsley Interchange site will be demolished and replaced by a mixture of private and public housing. Other stages of the redevelopment area will comprise both upgrading of existing properties, selected demolitions for private housing and land harvesting for public housing. The Trust Regional Manager and the Chairperson of the Mitchell Park Residents' Action Group are in regular contact.

2. A significant proportion of the trust's stock of dwellings is increasingly requiring upgrading or redevelopment. For example, areas such as Hillcrest, The Parks (Ferryden Park, Mansfield Park), parts of Port Augusta and Elizabeth. The trust is currently developing strategies for these areas. The aim of redevelopment strategies is to

reduce the concentration of public housing, upgrade the quality of trust accommodation, renew older estates and provide appropriate accommodation in high demand areas.

The aim of the redevelopment is not to simply sell trust homes to make way for private dwellings. Consultation with communities affected by redevelopment will take place as it has for the Mitchell Park redevelopment.

3. Residents do not face eviction. Each tenant affected by a redevelopment is consulted on an individual basis to determine the area and type of accommodation to which they wish to transfer. In many instances the trust bears the cost of removalists in addition to providing sheds and other outbuildings and in some cases floor coverings, curtains and blinds.

4. The trust has kept the Principal of the Tonsley Park Primary School informed of plans for the area. On the Tonsley Interchange site 78 units will be demolished and replaced with approximately 130-150 three bedroom dwellings. Whatever decision has been made with respect to the amalgamation of the Tonsley Park Primary School and the Mitchell Park Primary School was done so with full knowledge of these facts.

ARTS LOGO

In reply to **Hon. ANNE LEVY** (18 October).

The Hon. DIANA LAIDLAW: The original design of the logo currently used by the department was designed in 1988 by Burton Nesbitt Graphic Design. It initially represented the title of the department at that time of Department for the Arts (stylised D over A). When the department changed its name to the Department for the Arts and Cultural Heritage, the logo was adapted for use by the Arts Division only.

Following the election of the Liberal Government in December 1993, the name of the department was changed from Department for the Arts and Cultural Heritage to the Department for the Arts and Cultural Development. A developed concept for a new logo for the department was presented to me and the incoming Chief Executive Officer, Winnie Pelz at the beginning of 1994.

The decision was made that with increasing financial demands being placed on arts and cultural heritage organisations and the department, the cost of introducing a new logo was an extravagance. The estimated cost of the new design and finished artwork would have been approximately $3 500 plus preparation and printing costs. This involved one style of each of letterhead, with compliments slip and business card.

The change in the department's name and the integration of the Arts Division and Corporate Services to become Arts Development heralded new energy and renewed momentum for the department's role as a catalyst and supporter for the development of the arts and cultural expression right across South Australia, which has become an increasingly common focus for the whole of the department.

The activity of the department in the development of the arts and the building of links and opportunities for South Australian artists and artistic product is of paramount importance rather than the promotion of the department itself. As such, the original logo of the stylised A and D was adapted by the original designers Burton Nesbitt to represent Arts Development.

Design revision and finished artwork for this cost approximately $1 000 plus preparation and printing costs. This involved two styles of each of letterhead, with compliments slips and business cards, (and three sizes of envelopes to accommodate the name change).

This design is used in conjunction with the State logo of the Piping Shrike and the department name on letterheads, with compliments slips, business cards and envelopes.

It is the case that the logo is occasionally printed in isolation on promotional material such as performance programs. In the past, the words Arts Development have usually accompanied the logo, however in future in conjunction with the next production run of the logo the words Arts Development South Australia will be added.

TRANSPORT FARES

In reply to **Hon. CAROLYN PICKLES** (18 October).

The Hon. DIANA LAIDLAW: I provide the following information in relation to the question asked during the Appropriation Bill concerning the 1994-95 fare revenue budget.

The 1994-95 budget figure for revenue from public transport fares is $44.090 million. The eventual revenue outcome for the financial year will depend on a number of factors. These include, underlying patronage trends, the impact on ticket sales of the changes to the school card system and passenger responses to any fare changes yet to be approved.

ISLAND SEAWAY

In reply to **Hon. T.G. ROBERTS** (11 October).

The Hon. DIANA LAIDLAW: The *Island Seaway* at best provides three round trips to Kangaroo Island each week, whereas *KI Sealink* can provide a daily service including several round trips each day depending on demand. With the transfer of all freight trade to *KI Sealink* the frequency of cargo trips, and therefore service availability will increase.

Costs for islanders should remain substantially similar to existing levels because *KI Sealink* will be subject to formal price control. Also a freight subsidy will be paid to transport operators using *KI Sealink* to bridge the existing assessed cost differential until all operators have had time to adjust their transport equipment and methods. It should also be noted that around half of the island's freight is already being carried by *KI Sealink* so freight costs may reduce for existing *KI Sealink* users.

The KPMG Peat Marwick report also points out that the cost of transporting freight to Port Lincoln by road semi trailer from Adelaide is approximately $1 090. The transport costs from Adelaide to Kangaroo Island were assessed at $503 on the *Island Seaway* and $611 via *KI Sealink*. The indications are that Kangaroo Islanders will not be unduly disadvantaged by the closure of the *Island Seaway* service.

TRANSPORT FARES

In reply to **Hon. R.R. ROBERTS** (11 October).

The Hon. DIANA LAIDLAW:

1. No, because the alleged fares have no status.
2. I have no preference for any one form of fare structure.
3. No.

CAMDEN PARK APARTMENTS

In reply to **Hon. BARBARA WIESE** (11 October).

The Hon. DIANA LAIDLAW: The Minister for Housing, Urban Development and Local Government Relations has provided the following information.

1. This matter has already been dealt with comprehensively by the Housing Trust. Representation by one tenant regarding the design of canopies being installed on all units resulted in the modification of the extent of cover over his and his neighbour's windows. A meeting of all tenants was called during the design stages of this project and there was full acceptance by those present, of the proposed modifications.

The overall glazed area of windows was unaltered, the aluminium framing sections being similar in cross section to the original steel framing sections. Glazing was tinted to reduce summer heat load (a source of complaint from tenants) which was further assisted by the installation of canopies. Openable area of the windows for ventilation has not changed.

The complaints from many of the elderly tenants about the amenity of the building, to which the honourable member refers seemed to be isolated to only one or two tenants whose concerns were understood to have been met after extensive negotiation by modification of canopy designs over their particular windows as previously mentioned.

2. The 72 unit upgrade cost of building works was $450 000, an average of $6 250 per unit.

3. This project was documented and Provisional Building Rules consent sought from the City of West Torrens under the provisions of the Building Code of Australia. Approval was granted on 8 August 1994 with no conditions.

4. Insulation was installed in the uninsulated ceilings of all the top storey units of this development with the direct intent of improving the poor summer and winter thermal performance of these units. Similarly the provision of canopies (particularly on windows with east and west aspects) was to achieve consistency in external appearance (windows had a variety of tenant installed canopies) and to improve summer performance which was the source of considerable complaint previously.

RADIOACTIVE MATERIAL

In reply to **Hon. G. WEATHERILL** (18 October).

The Hon. DIANA LAIDLAW: The Minister for the Environment and Natural Resources has provided the following information.

The international standard for the transport of radioactive waste is the 'Code of Practice for the Safe Transport of Radioactive Substances, 1990' issued as Safety Series No. 6 by the International Atomic Energy Agency (IAEA).

This code is incorporated into the South Australian regulations, with some modifications to terminology to suit local conditions. The relevant State regulations are the 'Radiation Protection and Control (Transport of Radioactive Substances) Regulations, 1991'.

These regulations are administered by the South Australian Health Commission. Activities involving the use and handling of radioactive substances are not covered by the Environment Protection Act, 1993.

The material to be transported to and temporarily stored at Woomera is of Australian origin.

ARTS ADMINISTRATION

In reply to **Hon. ANNE LEVY** (15 November).

The Hon. DIANA LAIDLAW: This administrative review was carried out by a working party, established by the department, comprising:

- Winnie Pelz, CEO, Department for the Arts and Cultural Development;
- Debra Contala, Director Finance and Resources, Department for the Arts and Cultural Development;
- Kate Lennon, Acting Director Operations, Attorney-General's Department;
- Jane Treadwell, Manager Strategic Services, Department for Correctional Services;
- Michael Tellis of Arthur Andersen, acting as a consultant.

I am advised that the first draft of the report was circulated to administrative staff on 2 November 1994, with comments and responses requested by the end of last week. Those responses are currently being assessed with a view to finalising a course of action for the report's implementation.

The report has been regarded as an internal document thus far, but I would be pleased to provide the honourable member with further information once this period of consultation has been concluded.

POLICE, INCIDENT

The Hon. G. WEATHERILL: I seek leave to make an explanation before asking the Attorney-General, representing the Minister for Emergency Services, a question about police harassment.

Leave granted.

The Hon. G. WEATHERILL: A constituent came to see me yesterday afternoon to express concerns about her dealings with the police. She took a trip to Mount Gambier and got her friend to drive her. On the return journey the car broke down at Bordertown and they hired another car. The rear light on the hire car was not working and the police pulled them over. After a breathalyser test, the driver was found to be over the limit. The police officer then acted very aggressively towards him and insisted on seeing his driver's licence, which he is entitled to ask for. He then asked the lady passenger in the car for her name and address, but she said that, as far as she was concerned, she had done nothing wrong and, because she was only a passenger in the car, did not have to give her name and address. According to this lady, the police officer said, 'So, you're a smart bitch, are you?' He used the word 'bitch' on not one occasion but on several occasions. This lady was then ordered to get out of the car. She did so, but in getting out she tripped over the footpath and fell down. The lady's partner went to help her to her feet, but the police officer pushed the partner away and told him, 'Leave the drunken bitch on the footpath.'

Of course, this pensioner lady had many problems getting up because she has vertigo, which is an unbalancing condition. She had to stay on the footpath for some time before she could get to her feet and regain her balance. Because the lady refused to give her name and address, the policeman took her to the police station in Bordertown. He again asked her for her name and address and abused her on several occasions. Because this lady refused to give her name and address, the police officer threw her into a padded cell for 1½ hours. She asked if she could make a telephone call because she had never been in trouble before in her life and she knew no-one in Bordertown, apart from her partner. He, too, was refused permission to make a telephone call at the police station. When she asked to make a telephone call, this woman was told that she had no rights whatsoever in that police station. After 1½ hours the policeman then agreed to put her on bail, and the women was then bailed to appear in the Murray Bridge police court for obstructing a police officer in his duty by refusing to give her name and address.

The constituent then returned to Adelaide and then had to do the rounds trying to get legal aid because she is a pensioner. She told legal aid her story and was advised to complain to the Police Complaints Authority, as she will do. The constituent then went to Murray Bridge, and was terrified about doing so because she could not be provided with a lawyer at that stage. She saw the clerk of the court and explained her position. She explained that she had never been to the court and asked whether someone would help her. They said they would and they took her in the court and went through the records, only to find that no charge whatever had been laid against her.

My constituent then returned to Adelaide and explained to me what had happened to her. I think her story is horrendous. The lady gave me her bail certificate, and I would like the Minister responsible for the police to investigate the matter and provide a reply as soon as possible. I will provide the name of the lady and the police officer's number.

The Hon. K.T. GRIFFIN: If the honourable member provides sufficient information to enable the matter to be identified, I shall be pleased to follow it up. The honourable member indicated that his constituent was proposing to go to the Police Complaints Authority. My advice is that that is the appropriate body with which to lodge the complaint. If the matter is referred to the Police Commissioner through me to the Minister for Emergency Services, that would happen in the normal course. The matter may well be investigated by the police, but certainly also by the Police Complaints Authority. I shall be pleased to follow it up.

JUDICIARY

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Attorney-General a question about judicial accountability.

Leave granted.

The Hon. R.D. LAWSON: In a paper delivered at a Law Council of Australia sponsored conference of the Australian Institute of Judicial Administration in Canberra last weekend, the Chief Justice, Justice King, is reported to have said:

> It is . . . fundamental that in relation to his judicial decisions a judge ought to be accountable only to the law and his own conscience. Nevertheless, there is much debate as to whether a judge, in matters of judicial conduct, should be accountable to someone other than himself.

The Chief Justice is reported to have said that any mechanism for rendering judges more accountable should exclude parliamentary or Government representation. He said:

For a judge to be accountable in any respect, other than for the purpose of removal, to the other two arms of the State would be a gross infringement of an essential aspect of the separation of powers. I believe that a judge should be removed from office or made subject to criticism or disciplinary action . . . only for conduct which is unlawful in a serious respect or which infringes rules of conduct which are clearly identified in an authoritative code. I think that the judiciary should give serious consideration to the formulation of such a code.

My questions to the Attorney-General are:

1. Has the Attorney-General seen the Chief Justice's paper?

2. Does he share the view of the Chief Justice that any process to make judges accountable should exclude community representation in the form of elected members of Parliament?

3. Does he agree with the view that a code of conduct for judges is a matter for the judges alone and is of no concern to Government or to this Parliament?

The Hon. K.T. GRIFFIN: I saw the report in the newspaper. I have sought a copy of the full speech, and I understand that that will be coming to me in the near future. So I am not able to say whether the *Advertiser* report is a fair representation of what the Chief Justice said at the conference. Members will know that I have spoken on a number of occasions, both when in Opposition and in Government, in the Parliament and outside, about the need for the issue of judicial accountability to be addressed in the broadest possible sense.

It seems to me that the provision in the Constitution Act which enables the Parliament to move for, in effect, the dismissal of a judge by resolution of both Houses of Parliament—without cause, I might say—is really an unsatisfactory mechanism by which to address the issues of judicial conduct.

I have suggested that the community, the Parliament, the judges, the Law Society, the Bar Association and other bodies ought to be participating in a careful consideration of the mechanisms by which judges are held accountable. It is quite correct that in relation to the exercise of their judicial discretion they ought not to be subject to political or other interference. However, in respect of judicial conduct, there is a need more and more to consider ways by which there can be a mechanism for accountability. New South Wales, for example, established a Judicial Commission, on which both the Government and the judges are represented, to address some of these issues. I do not accept that the Parliament has no role to play in the issue of judicial accountability.

The Hon. A.J. Redford interjecting:

The Hon. K.T. GRIFFIN: As the Hon. Angus Redford interjected, parliamentarians are elected; they are the representatives of the people; they are the final repository of the power to enact laws and, I would suggest also, under the Constitution, to dismiss judges. If one does not use the Parliament, what body does exercise the responsibility of ensuring proper accountability for judicial conduct?

I have great difficulty in concluding otherwise than that ultimately it must be the Parliament which has the final responsibility. I have no difficulty with the suggestion that judges should develop a code of conduct, but to suggest that that should be the code by which the judges' conduct is determined without at least some public and, particularly, parliamentary involvement is quite unrealistic and does not reflect well on the proposition.

In any event, who ultimately determines whether or not there has been a breach of the code of conduct? If the judges make the code of conduct, what is to say that that is an accurate reflection of either the view of the Parliament or that of that more nebulous group, the community, as an appropriate code of conduct? I think one gets into difficulty with codes of conduct, and I know the Legislative Review Committee is looking at it in the context of members of Parliament, but ultimately conduct must be determined according to the law.

The Parliament enacts the law and the courts interpret the law, although the courts also make some law by way of their interpretation of it. Of course, the High Court has been under some sort of criticism for the way in which it has been developing the law over recent years. However, that is another issue.

I would suggest that any code of conduct must at least be done in conjunction with the Parliament, but the difficulty will be, as I say, who decides whether or not the code of conduct is broken. You then get down to a question of legal interpretation most likely, and I think you also have a problem about what sort of sanctions are imposed for breaches of that code.

I do not disagree that judges might need to be subject to discipline in relation to serious breaches of either the law or a code of conduct, and that minor human aberrations, which do not impinge upon their capacity to make judgments about cases and people, might be adversely effected.

The Hon. Anne Levy: Like giving a scratchie ticket to their son.

The Hon. K.T. GRIFFIN: Maybe, although that is not the law yet. The honourable member has made some reference to scratchie tickets, but that is a rather irrelevant observation in relation to the very serious topic of conduct of judicial officers.

In summary, I applaud any consideration of means by which judicial officers can be made accountable for their conduct, other than in respect of judicial decision making, which of course is ultimately the subject of review by the High Court of Australia. However, I think that, if there is to be a code of conduct, mechanisms for determining an approach to judicial accountability ought to be done by much broader community and parliamentary debate rather than merely the judges developing a code of conduct which is not subject to any form of parliamentary or other scrutiny.

SELF PROTECTION DEVICES

The Hon. BARBARA WIESE: I seek leave to make a brief explanation before asking the Attorney-General a question about self protection devices.

Leave granted.

The Hon. BARBARA WIESE: I have recently received correspondence from a company which markets a non-lethal self-protection spray, which it is interested in selling in Australia as a form of self-protection. Although I have no desire to promote any particular product, I think that the company raises an issue which has become a public issue for debate on numerous occasions in the past and which has been raised by various people from time to time.

As all members would be aware, women in particular feel vulnerable to attack in various circumstances, particularly walking in dark streets at night, and in other circumstances. I know that many women would feel more comfortable if they could have access to some form of self-protection, as is proposed by this company and as has been proposed by numerous other people in the past. The company poses an

interesting question when it asks why it is that, in this State, people are able to walk freely into an ammunition shop and purchase a gun or a hunting knife, but they are not able to purchase a non-lethal spray in order to provide protection for themselves.

The company also points out that such sprays are designated as dangerous goods under the Summary Offences Act and are not therefore permitted. This point was also reinforced by a court ruling earlier in the year, which resulted in a Sydney woman being convicted and fined for carrying a spray in her handbag in case she was attacked. Her barrister pointed out that, if a woman kept in her bag a perfume, a hair spray or a fly spray for the purpose of spraying it in someone's face, she would be breaking the law. A representative of a women's organisation at the time commented that a dilemma occurs when the law can be twisted to concern itself more with the health and welfare of the attacker than of the victim. My questions are:

1. Is the Attorney-General aware of community interest in products like this one?

2. Has he examined the Summary Offences Act with a view to amendment to allow such sprays to be carried as a form of personal protection, particularly in view of the court ruling earlier this year?

3. As sprays of this sort have been in use not only by ordinary citizens but by members of police forces in other countries, does he believe that there is merit in the idea of individuals and the police being permitted to carry non-lethal sprays for self-protection?

The Hon. K.T. GRIFFIN: I am certainly aware that about six months ago there was a case in New South Wales where there was a great deal of controversy about the decision of the court which found against a woman who was carrying a spray for protection against potential assault or other offences. It is a bone of contention in that context. My recollection is that at the time I obtained some advice about the problem to determine whether it would be a problem in South Australia. Again, my recollection is that it was not such a problem in this State as it had been in New South Wales. I will have another look at the matter and bring back a considered response.

Of course, the law already deals with offensive weapons, which are described in the Summary Offences Act. Some of those weapons, which might be inoffensive, become offensive weapons if they are not carried for a lawful purpose. Consideration has been given to that by my officers in the context of concern about the carrying of knives. Again, although there has been a wish in some areas to tighten up on the carrying of knives, it has some fairly serious consequences in circumstances where one might be carrying a knife for perfectly legitimate purposes, and certainly not for any unlawful purpose. That matter is currently being considered by me.

In relation to self-defence, the law in this State was changed quite significantly. Under the previous Government, the honourable member may recollect that there were amendments to the Criminal Law Consolidation Act which sought to make the test more subjective in relation to the reaction by force to threats. Recently there has been a Supreme Court decision about that which has caused us to give further consideration to that legislation. In my view, it is quite clear that in this State those who seek to defend themselves are better placed in terms of the law than those in other States under other State legislation. I recognise the importance of the issue to the honourable member and the significance of the ability to carry these sorts of protective materials for personal defence. I undertake to give more careful consideration to it and to bring back a considered response.

NORTHFIELD WOMEN'S PRISON

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Correctional Services, a question about the Northfield Women's Prison.

Leave granted.

The Hon. SANDRA KANCK: Last Thursday, Ms Kiersten Coulter, a community artist and writer of the Murray Park Theatre Company, was interviewed by Keith Conlon on ABC Radio about a play titled *Stretch Marks*, which is proposed to be held at the Parks Community Centre for two weeks beginning on 7 December. The play draws on the experience of the lives of the inmates who are in the prison, and, through Ms Coulter's interview with Mr Conlon, she made it clear that the facilities provided to the 50 or so women living at the prison are totally inadequate.

As a result of questioning by Mr Conlon, Ms Coulter stated that education facilities for the inmates—many of whom were sexually, physically and emotionally abused as children—are archaic. Not only are there insufficient programs provided to these women, but the major tool of education, the library, consists mainly of Mills and Boon romances and B-grade crime books.

Ms Coulter's comments are supported by Anne Bunning who, in her June 1994 report to prison management, titled *Best Practice in a Women's Gaol: Observations*, stated:

> The education facilities at the women's gaol are insufficient and need to be substantially upgraded. The position of Education Officer needs to be upgraded to a full-time position, and the Education Officer would then be available to work with custodial, industry and non-custodial staff on the development and delivery of education and training programs. The provision of education services should not be dependent on the education staff being prepared to work in their own time.

Among her 25 recommendations, Ms Bunning recommended that the position of Education Officer, which is currently for only one day a week, be made a full-time position.

Ms Coulter's interview with Keith Conlon was followed yesterday on 5AN by his interview of a consultant forensic psychiatrist who is employed by Hillcrest but visits the prison one afternoon a week. Listeners were told that 100 per cent of the inmates were experiencing psychiatric difficulties. She said that formerly inmates were admitted to Hillcrest once they had three disorders, but now many of the current inmates had up to five disorders. It has further been reported to me that over the past two years there have been 19 suicides of prisoners whilst either resident at the prison or within one week of leaving.

In response to this need, Ms Bunning recommended in her report that the position of a psychologist be provided on a permanent full-time basis, and that the psychologist should become a full member of the local review team and participate in the preparation and review of all sentence plans.

Ms Coulter's view of the prison is that conditions are extremely poor. She told Keith Conlon that the building was very old and that the living conditions were very cramped. She further stated that education and development of the inmates—almost all of whom come from disadvantaged backgrounds—are totally inadequate. The conditions are so appalling to Ms Coulter that she suggested that the prison

should be closed down. Following that radio interview, the Northfield women inmates who cooperated in the project with Ms Coulter were informally questioned by prison officers. My questions to the Minister are:

1. Why were the inmates who were involved in Ms Coulter's project questioned, however informally?

2. Are there any plans for the position of Education Officer to be made full-time, as recommended by Ms Bunning?

3. In regard to education at the prison: (a) what educational courses are available to the women; (b) how many hours a week per prisoner does this involve; (c) what support facilities are being made available for these courses to be undertaken; and (d) what efforts are being made to upgrade the library?

4. Does the Minister believe that there is a need to employ a full-time psychologist at the prison; if so, when will this occur?

The Hon. K.T. GRIFFIN: The present Government has a commitment to ensure that prisoners—men or women—are provided with opportunities for rehabilitation and development of skills and confidence. I said yesterday when I was replying at the second reading stage of the Bill that this afternoon we will consider allowing private sector operation of some prisons. There is a genuine commitment to provide opportunities and to ensure that, as much as possible, prisoners have an opportunity to develop skills that will equip them well for the future. One has to recognise that it cannot be done overnight. We have inherited a system that needs a lot of work. One of the opportunities that presents itself is an issue that we will be debating in the Committee stage of that Bill, and that relates to the ability to save resources and to provide greater efficiencies within the system so that we can do more for prisoners.

As I said yesterday, the experience in other private prisons is that there is a good attitude among prisoners and staff. There is a heavy emphasis upon rehabilitation and developing skills and ability, and providing opportunities for people to put themselves in a better position when they are released than when they came into the prison system. The Democrats indicated that they opposed the second reading of that Bill and I suspect they will oppose the third reading of it. It does not say much for the concern that the Democrats have for prisoners if they are not prepared to allow the Government of the day to exercise some flexibility, develop new ideas and introduce new mechanisms for operating prisons and better facilities to enable the resources which are thereby released to become available for a better focus upon prisoners, both men and women. It is hypocritical that the honourable member should be raising that issue and making criticisms of it without being prepared to consider alternatives which release resources to enable the work to be done properly.

The Hon. T.G. Roberts: Keith Conlon will like this answer.

The Hon. K.T. GRIFFIN: Well, if Keith Conlon wants me to talk about it I will. It is another Minister's responsibility, but I needed to put that on the record. I will refer the question to the Minister for Correctional Services, and if there is anything to be added to it I am sure he will provide a reply for me to bring back to members.

SOUTH AUSTRALIAN FISHING INDUSTRY COUNCIL

In reply to **Hon. M.J. ELLIOTT** (25 October).

The Hon. K.T. GRIFFIN: The Minister for Primary Industries has provided the following responses:

1. The Government supports the continuance of the South Australian Fishing Industry Council (SAFIC) in its capacity as the peak industry representative body.

2. For 1994-95, the Government has made arrangements for the collection of fees on behalf of SAFIC and the integrated management committees by way of additional components on commercial fishing licence fees.

However, the method of collecting funds for industry is under review and industry has been advised accordingly. SAFIC has been consulted on this issue.

The review of fisheries management arrangements being undertaken by the Director of Fisheries will address this issue.

3. The Government has no desire to silence SAFIC. Indeed the Government believes that the role of SAFIC as an industry coordinator is beneficial to the overall management of the State's fisheries resources.

RESTRAINING ORDERS

In reply to **Hon. ANNE LEVY** (13 October).

The Hon. K.T. GRIFFIN: Commonwealth legislation amending the Family Law Act 1975 in the manner anticipated by the Standing Committee of Attorneys-General (SCAG) has now been introduced into the Commonwealth Parliament. I can provide the honourable member with a copy of the relevant portions of the Bill if required.

The Family Law Reform Bill 1994 introduces new terminology. Access orders have been replaced by contact orders. A new division entitled 'Family Violence' is to be inserted in the Family Law Act. The division deals with the relationship between contact orders made by the Family Court and family violence orders, and implements the decisions made by SCAG.

The honourable member asked whether it would be possible for appeals to be made to the Family Court against orders concerning access or contact which had been made by a Magistrates Court hearing a restraint order application. The proposed legislation does not permit appeals to be made against Magistrate Court orders which vary earlier Family Court contact orders. However, as I indicated on 13 October 1994 it is always open to either party to apply to the Family Court for a variation of existing orders. This will still be possible following passage of this legislation.

However, the Bill specifically provides that when the Family Court makes or varies contact orders, it must take family violence or the possibility of family violence into account, and must frame its orders accordingly.

It is to be hoped that this will ensure that there is no erosion of the protection from violence which orders made by the Magistrates Court provide to people who are subjected to personal threats to their safety. The Government will monitor the implementation of the Family Law Act amendments to ensure that the objectives agreed to at SCAG are achieved.

FORESTRY REVIEW

In reply to **Hon. T.G. ROBERTS** (24 August).

The Hon. K.T. GRIFFIN: The Minister for Primary Industries has provided the following response:

The forestry review sought 'recommendations which will lead to the optimising of the commercial returns to the State of its forestry activities.'

The consultant, in his report, has pointed to the difficulty management has in trying to meet the conflicting objectives of profit maximisation and the community's expectations of a public agency. It is for this reason that he recommends the separation of the community service activities from the plantation growing activities.

The Government will consider the best way of achieving this separation. However, the provision of trees, bushes and shrubs to which the honourable member referred in his question was separated from the plantation growing activities in July 1993 on the formation of the forestry group within the Department of Primary Industries. Revegetation activities are now provided through State Flora, part of the Sustainable Resources Group.

While the Government will insist that the forestry activities become world competitive we will always have regard to the needs of the local industry. The local industry will be offered the resource; however, we must expect local industry to also be world competitive and that means we must allow for all interested parties to make offers for the resource. Local processing remains our objective but not at any cost.

The Government does not intend delaying the reform process by the calling for economic and social impact statements. This report is about increased planting, increased fertilising, increased cutting and increased activity in the forestry sector. I am confident that economically and socially we will see benefits of this increased activity without a further report.

ENTERPRISE BARGAINING

In reply to **Hon. T.G. ROBERTS** (1 November).

The Hon. K.T. GRIFFIN: The Minister for Primary Industries has provided the following responses:

1. Mr. Houlihan's Company First IR was engaged by Forwood Products during the resolution of staff positions in the organisation. He is one of two independent consultants who have advised the Department of Primary Industries in its efforts to facilitate the reopening of the Tatiara Meat Company's abattoir at Bordertown.
2. Yes.
3. Not available at this stage since the consultancy is ongoing.
4. See response to question 1.

WASTE MANAGEMENT

The Hon. M.J. ELLIOTT: I move:

That the Environment, Resources and Development Committee be instructed to investigate and report on waste management practices in South Australia and that it pay special attention to—

1. location of dumps;
2. design, operation and monitoring of dumps;
3. disposal of dangerous substances including toxic and radioactive materials;
4. recycling;
5. container deposit laws;
6. waste generation.

I think an inquiry into all these areas is long overdue. I do not intend to spend a great deal of time debating it at this stage other than just drawing attention to each of these issues and why I think they are of concern. First, I refer to the issue of the location of dumps. Already a number of dump sites around South Australia are being brought into question. There is currently before the Government a proposal for establishment of a new dump at Highbury—a dump that is located within 50 metres of fairly new residences. In anybody's mind it would seem amazing that such a proposal could even be considered, let alone that it has been considered for quite some time and seems to be treated seriously. I will not debate the further merits of that dump other than noting that there is a current proposal for a new dump in a new residential area.

I note that the Adelaide City Council is seeking to have the height of its dump at Wingfield raised by about another 19 metres, which is a considerable increase. At least we will have snow fields to ski on in the foreseeable future if that is able to proceed. I believe that in one place in the United States a dump was built so high that it is now used as a ski slope. I know that the Wingfield proposal is causing a great deal of concern.

There also is a dump currently operating on Garden Island, as with the Wingfield dump, within the confines of the current MFP. On current proposals I understand that the dump will continue operating for another six years. Here we have a dump within the MFP site in an area which in other senses is considered to be a conservation zone, directly adjacent to important fish nurseries and feeding grounds for migratory birds. It is quite amazing that we have proposals for extending the life of dumps in these sorts of sites but, nevertheless, those proposals exist and in relation to Garden Island look like being approved.

I am aware of current proposals for a couple of dumps in rural South Australia which are causing concern. The Mount Gambier council has been required to put in a new dump. The requirement for a new dump makes sense. Its current dump is within the catchment area from which the Blue Lake draws its water. There is good reason to relocate, but I already have had some people expressing grave reservations to me about the location of the new dump. I will pass no comment on that location other than noting that there appears to be community concern.

I am also aware of a proposed new dump in the Virginia area which is causing a great deal of local concern. The concerns we are hearing in general are that people do not want to be near a dump. Nobody would like to boast, 'Over my back fence I have a dump.' Even if your boast is that it is one of the best dumps in the world I still do not think you would be boasting that it is there. I understand concerns of that type. Some of the concerns are in relation to the potential impacts of a dump where it is not near a person but where it may have environmental impacts. That brings me to the second issue I want to examine, which is the question of the design, operation and monitoring of dumps.

The Hon. A.J. Redford interjecting:

The Hon. M.J. ELLIOTT: This issue has been around for a long time. No-one has an original idea. Ideas are best shared and synthesised.

The PRESIDENT: Order! I suggest we stick to the subject.

The Hon. M.J. ELLIOTT: Mr President, if you control the rabbit to my left then I will try to stick to the subject.

The Hon. A.J. REDFORD: I rise on a point of order, Mr President. I object to being referred to as a rabbit and ask that the honourable member withdraw his comment.

The Hon. M.J. ELLIOTT: What mammal would you prefer?

The PRESIDENT: Order! I think the term is unparliamentary and I suggest that the member withdraw.

The Hon. M.J. ELLIOTT: I apologise, but I seek further protection from his continual and incessant interjections.

The PRESIDENT: I will protect you if that is required.

The Hon. M.J. ELLIOTT: The question of design, operation and monitoring of dumps is one that does urgently need addressing. If the design of dumps in South Australia is compared with those which are in the United States, the United Kingdom and Germany, we are still very much in the Dark Ages. Even the newest of dumps proposed in Mount Gambier will be dependent entirely on a layer of clay underneath, whereas the dumps in the US are going to far greater levels of protection than that, and anyone who believes that clay is an adequate way of protecting yourself from dumps only needs to go and look at what happened at Roxby Downs, which the ERD Committee will do in the foreseeable future. A mine dump was established there, and an environmental impact statement was carried out which said a clay lined dump would be perfectly adequate. We now know that that dump in fact leaked for many years, and leaked like a sieve, it appears. It lost huge quantities of water and carried other materials with it. I simply reflect at this stage that the question of dump design by world standards in South Australia is backward and is something that needs further attention. The ERD Committee did have a quick look at one dump in the South-East, inside the Canunda National Park, and it would be fair to say—

The Hon. T.G. Roberts: Good for tourism development.

The Hon. M.J. ELLIOTT: Very good for tourism. I think it is fair to say that most members, and they can all speak for themselves, seemed to share my reaction. I could not believe that a dump could operate in the way that that one did. It was operated as a supervised dump and according to all the guidelines given to them. My criticism is not to the operators of the dump but to those who create the guidelines and supervise the operation at a State level.

I then move to the question of the monitoring of dumps, and I note with the Canunda dump there were theoretically two bores at either end which was supposed to be their way of monitoring whether or not there was any leachate.

The Hon. T.G. Roberts interjecting:

The Hon. M.J. ELLIOTT: In fact, the groundwater flow was not heading towards either of the two bores, but towards the sea, and whilst it might have taken some time to get there, we have not the vaguest idea whether or not that Canunda dump is leaking, how much it is leaking, or what is in the dump. There has been no real supervision, until very recent times, of what went in it, and quite clearly the monitoring would not be picking up anything that might be escaping.

The Hon. T.G. Roberts interjecting:

The Hon. M.J. ELLIOTT: We will have to ask Wally. We should install a Wally in every dump! As I said, just from that observation, a dump which really would have had significant waste put in it was not being monitored adequately and again I believe that to be the general case. It is an issue which will need to be addressed as a matter of importance for the committee.

I move next to the question of disposal of dangerous substances, including toxic and radioactive materials. There has been ample evidence interstate of the illegal practice in relation to toxic dumping. The fact that there has not been much of it highlighted in South Australia means one of two things: either it is not happening or it has not been detected and there has been inadequate policing. I suspect we do not have quite as many cowboys in this State as are in the industry in other States, but we would be fools to believe there are not some quite illegal practices going on. My focus is not just on that but on the methods we use long-term of legal disposal of toxic waste.

I have had an opportunity to look at the dumps operated by the EWS—I am not sure whether they are still operational—but I looked at those two years ago and again I thought it was really a Dark Ages operation. You had a choice of three holes to put it in: either the acids, the alkalis or the others. That seemed a pretty crude way of disposing of waste, and there were a couple of interception bores in the hope of perhaps detecting whether things had gone wrong. I believe we can do far better than that, but will not take the issue further in debate in this place. I think there is clearly a problem and the ERD Committee is quite capable of looking further at it.

The next three issues that I want looked at—recycling, container deposit laws and waste generation—are all interrelated. Most people who are seriously interested in waste problems adopt the motto: reduce, re-use, recycle. They argue that the first goal of any responsible society is to reduce the generation of waste to start off with, which is term of reference No. VI, and we really should be looking in the South Australian context to see whether or not we can reduce the amount of waste being produced, both domestic and industrial, which then leads to the question of container deposit laws which are about the re-use of certain materials.

Container deposit laws are at present at threat due to the Government's policy of granting more and more exemptions. I understand that the Government has been talking about setting up some sort of inquiry, but it will be some six months before that reports. I think that an all Party standing committee, such as the ERD Committee, could appropriately also look at the question of container deposit and bring recommendations back to this Chamber.

That leaves the final question, that of recycling. Any survey in South Australia will show that there is overwhelming support for recycling. It would also show there is overwhelming frustration at how slowly matters are proceeding in this area. I guess the major question that the ERD Committee would be asking is: what is it that State Governments can do to facilitate recycling to increase the amount of it which is occurring? In brief, that covers the areas to which I want special attention paid, but I note that the whole question of waste management is intended to be covered by the committee so that the committee can be more wide-ranging than those specific items if it so chooses. Everyone of those does deserve special attention. On the record of the committee so far, I am hopeful that we can do a very major service for the State by examining the issues.

The Hon. T.G. ROBERTS secured the adjournment of the debate.

CONTROLLED SUBSTANCES (LICENSED PRODUCTION OF LOW GRADE CANNABIS) AMENDMENT BILL

The Hon. M.J. ELLIOTT obtained leave and introduced a Bill for an Act to amend the Controlled Substances Act 1984. Read a first time.

The Hon. M.J. ELLIOTT: I move:

That this Bill be now read a second time.

What began as a political campaign by manufacturers of synthetics, cotton growers and timber plantation owners has almost sounded the death knell for one of human civilisation's most versatile plants, cannabis hemp. Cannabis hemp is the oldest cultivated crop fibre in the world. Until 1870 it was the most cultivated non food crop and its fibre was the globe's most traded commodity. And what a successful marketing campaign it has been, stymieing one of the world's richest sources of food, fibre, fuel and medicine, which has been a primary source of essential food oil and protein for both humans and animals. Paper, textiles, plastics, oil, grain, fuel and construction materials can all be produced from cannabis hemp.

For at least 12 000 years it has been used to supply fibre for essential goods including clothing, paper and oil products. In fact, people used to be fined for not growing their fair share of cannabis. So important was this crop that a fine of five gold sovereigns was first introduced in 1533 by Henry VIII. The last Queen Elizabeth in 1563 decreed that every farm of 60 acres or more had to have at least one acre devoted to hemp growing. In 1619 America's first marijuana law was enacted in Virginia, ordering all farmers to grow cannabis hemp seed. But due to the power of market forces several generations have only known cannabis because of its association with the social drug marijuana.

The Bill that I am introducing does not intend to touch the debate regarding the health benefits or medical merits of the drug marijuana. It is important to note from the outset that, although the cannabis plant grown for fibre is the same

species as that cultivated for drug use, the varieties that I am encouraging to be grown will be so low in the active ingredient tetrahydrocannabinol as to be totally useless for drug purposes. The varieties that would be allowed to be grown under licence would not only look different from the drug varieties but would only make someone ill if ingested; it would give them a mighty headache and a very sore throat, but that is all. It is time that sensible debate resumes to ensure that this environmental friendly plant is able to live up to its potential to be our new billion-dollar crop.

Cannabis hemp is the strongest, most durable and longest lasting natural soft fibre on the planet. Its economic and environmental advantages must also be considered. While trees naturally take 100, perhaps 1 000, years to mature, or even in the pinus plantations in the South-East up to 30, 35 or 40 years, and petrochemicals take millions of years, a crop of cannabis hemp grows to maturity in three to six months. Cannabis produces two to three times more fibre than cotton per hectare and can be grown entirely without herbicides or insecticides, and when you consider the amounts of herbicides and insecticides used by cotton growers in the River Murray catchment that is an important consideration.

The Hon. A.J. Redford interjecting:

The Hon. M.J. ELLIOTT: You would not use it for the same purposes; it would not be competitive with wool. Hemp can produce up to four times more paper than forest clearing and up to three times more fibre than cotton without the need for that intensive chemical treatment. It has been reported in the *Scientific American* journal that two or three seasons of hemp cultivation can largely clear a field of noxious weeds because of the dense stock of leaves produced, and that it will aerate and stabilise the soil through its deep tap root. I understand also that on clearing it leaves a large amount of organic material in the soil and so its agronomic uses as part of crop rotation can be very powerful.

Early agricultural practice utilised this ability to prevent soil erosion after forest fires. The leaf is used to fatten stock in Borneo and other Asian countries as excellent fodder. Its seed is used as bird feed due to its high vegetable protein content. I understand that in the Ukraine its oil is used for making salad dressing. The outer bark of cannabis yields the long, strong fibres; the inner portion of hemp fibre can also be used to produce biodegradable plastics and be used as a fuel source. Cellulose-based products, including hemp fibre are completely and readily biodegradable leaving no toxic residue. When I talk about cellulose-based products that can also include plastics.

Due to the extremely favourable weight to strength ratio of hemp fibre, it still is found in current manufacture. Hemp rope and hemp fibre are still widely available in hardware stores for plumbing purposes. Job brand cigarette papers are produced under EEC control from about 8 000 hectares of cannabis cultivated at Toulouse and Quimperle in France. Some of the finest linens available in the world are a blend of hemp and cotton and not flax and cotton as many think. The famous Irish linen in fact was hemp and cotton. In France, a new insulating material made from cannabis hemp has been produced. A pamphlet advertising the product says that archaeologists have found a bridge from the Merovingian era (500 to 751 AD) built with this process.

One more example of the importance of hemp—and members can read this one as they like—was how it saved former US President George Bush's life in 1942. When he bailed out of his burning aeroplane, after a battle over the Pacific, little did he know that parts of his aircraft engine were lubricated with cannabis hemp seed oil, that 100 per cent of his life-saving parachute webbing was made from US grown cannabis hemp, that virtually all the rigging and ropes of the ship that pulled him were made of cannabis hemp, that the fire hoses on the ship (as were those in the schools he attended) were woven from cannabis hemp and, finally, as young George Bush stood safely on the deck, that his shoes' durable stitching was of cannabis hemp, as it is in all good leather and military shoes to this day. When one sets out to talk about what we can use the production of cannabis for it sounds like one of those Demtel ads that we have on television at the moment: there's more and there's more and there's more. I think the only thing that does not come with it is a set of steak knives!

On the question of research, the suitability of Australia as a location for hemp cultivation was established as early as 1845, when Dr Francis Campbell, a notable academic of the day, conducted small-scale experiments. I note that there is now research under way right around the world on the many economic uses of the fibre. The Netherlands has already spent in excess of $13 million both developing the crop and developing the technologies for the processing of pulp for market surveys, etc.

The Hon. T. Crothers: And Belgium.

The Hon. M.J. ELLIOTT: Yes; right through Europe, and England has quite a considerable experimental crop in at this stage as well. I make the point that it is happening throughout Europe. The Dutch seem to be perhaps in the lead, although already some 8 000 hectares are under cultivation in France. The Dutch have actually been around the world and collected 200 different strains of the plant. The strains that they collected were growing between 28° and 58° latitude. Of course, we might want to collect some strains that grow at even lower latitudes than that, but my point is that it is a plant that will grow over a wide range of latitudes, and they have collected all of these strains—

The Hon. T. Crothers interjecting:

The Hon. M.J. ELLIOTT: The point is that the Dutch are finding out which strains will grow best under their climatic conditions and which strains will grow best under their soil and other conditions as well. Clearly, that is something—

The Hon. A.J. Redford interjecting:

The Hon. M.J. ELLIOTT: They are not actually producing for quantity of fibre at this stage; they are just quite happy if it grows. The University of Tasmania is undertaking a three year feasibility study, partly funded by Australian Newsprint Mills, into the potential of hemp as a local fibre crop for use in paper making and other potential uses. It is understandable that Australian Newsprint Mills would pay some interest in the question of cannabis hemp because Australia imports long fibre that could be produced from hemp valued at $1.6 billion a year. We import that amount because the Australian native eucalypts and the current pines we are growing do not produce a long enough fibre of the right sort to produce the quality of paper they want. They import $1.6 billion of pulp fibre for blending. That is something that we could produce in an indigenous industry by the production of hemp. I also note, while I am talking about paper making, that the Dutch who now are recycling close to 70 per cent of their own paper production—a goal that we should be seeking to achieve—have one major difficulty at this stage, and that is that each time you recycle paper the fibres that make up the paper become shorter. So the quality of the paper deteriorates. To maintain that quality,

good long fibre needs to be continually added. The Dutch believe that cannabis will be able to provide the quality of fibre they need to make sure that the recycled paper they are producing is of high quality.

Returning to the history, cannabis is the oldest cultivated crop fibre in the world. In 1870 it was the most cultivated non-food crop and its fibre was the globe's most traded commodity. The original Levi's jeans were produced in 1853 from hemp fibre. Cannabis hemp was used extensively by navies around the world to produce sail cloth and rigging. It also provided the majority of quality paper and much of the fabric, fuel oil and cellulose needs. Further, 80 per cent (and I emphasise that) of all textiles and fabrics were made from cannabis fibres until the twentieth century. Up to 90 per cent of all paper was made with cannabis hemp fibre until 1883. So, the family bibles that some members have were most likely made from cannabis hemp paper.

Until the 1930s more than 5 000 items of commerce were produced by different parts of the hemp plant. The introduction of steam power and the lack of efficient hemp processing machinery led to its decline in use. I understand that there were some problems in terms of its treatment in the fields at the time and in relation to some of the fibre separation. These are no longer difficulties, but they allowed alternative fibre sources to out-compete hemp at that time. It was only in the light of that decline that prohibition was able to take effect.

In the United States the cannabis hemp prohibition which was instigated in 1938 was driven by companies with an interest in nylon, which of course was a natural fibre substitute. That was instigated by the cotton growers and forest concessionaires, who included Randolph Hearst, who owned a newspaper chain. These people were the main users of chemically treated wood pulp and the major holders of forest licences, and they undertook a campaign of disinformation against cannabis.

Henry Ford spent 12 years researching a plastic car produced from cellulose that came from wheat straw, hemp and sisal, a car he unveiled in 1941. This plastic car was lighter than steel and could withstand an impact 10 times greater before denting. One wonders why they did not proceed. Perhaps they realised that their cars would last a long time.

The Hon. R.R. Roberts interjecting:

The Hon. M.J. ELLIOTT: I do not think an Africar was ever built, but this car did get built. As is shown in the television advertisement, it is possible to talk on and on about the many uses to which hemp can be applied. However, I will turn to the legislation itself.

The Bill is short and comprises only two clauses. The first clause deals with the title and the second clause relates to the licensed production of low grade cannabis. I am seeking that the Health Commission may grant a licence to a person to produce or sell low grade cannabis. The latter part of the clause defines what I mean by 'low grade cannabis'. It will mean a strain of cannabis that 'contains such a low percentage of the relevant chemicals', which are the cannabinoids, tetrahydrocannabinols and alkyl homologues of tetrahydrocannabinols.

They are the relevant chemicals and, where the Minister for Health is of the opinion that they are of such a low level that they would be harmless, the Minister can then allow a person to grow the crop under licence. That is the process that has been adopted in Tasmania, where licences can be granted. I expect that the Minister for Health, whilst giving the initial grant of the right for such crops to be grown, would then pass on his or her powers to the Minister for Primary Industries, who would take the ultimate responsibility for the licensing and controlling of such crops.

I would expect that the crops for the next couple of years would be small and clearly experimental. The major goal in the short term would be, as has been the case in Tasmania, to find what varieties of cannabis will grow best. Clearly, there will have to be some genetic work to ensure that we have cannabis that will grow well in particular regions. The cannabis that grows well in the South-East will be a different cannabis from that which will grow well on Yorke Peninsula or Eyre Peninsula. It will be necessary to ensure that it is low in the active ingredients so that it cannot be used for drug purposes. Clearly, those experiments will need to go on for some years, and expertise can be gained in the growing of the crop and the growing of the best possible crop.

In conjunction with that, experimental work would be done on using some of the fibre that is being produced. In Tasmania the fibre that is being produced is used in the laboratories of newsprint mills so that they can see how they can use the fibre.

Several places around South Australia should be interested in the use of the fibre. In the Mid North the Yorke Peninsula Regional Development Board has been working on this issue for some time and has advertised for expressions of interest from growers. Indeed, I understand that 95 agriculturalists presently growing wheat and barley have put in expressions of interest to grow cannabis. So, there is no lack of interest.

I can also tell the Council that within hours of my publicly saying that I would be legislating in this area we had more farmers ringing up from Yorke Peninsula, Eyre Peninsula, the Mount Lofty Ranges and the South-East saying that they would be interested in growing cannabis if the proposal went ahead. Certainly, there is no shortage of interest from people who would like to be involved, and for good reason.

When we look at what grain crops, in particular, are returning, any alternative that we can offer would be welcomed. However, I do not see this proposal just as an alternative with the farmer saying, 'Will I grow wheat, barley or cannabis?' Many farmers would be interested in this crop for the agronomic reasons that I mentioned earlier, and they will use it as part of a rotation to change soil conditions, for pest control and the like. Farmers have many reasons for sowing rotating crops.

Clearly, there is interest by growers to be involved. I noted already that 95 agriculturalists have expressed interest in being involved in growing hemp, and that number will grow rapidly. One industry has already expressed interest. A paper pulp mill is being proposed for Balaklava, and its major source material was to be wheat straw. I understand that the Yorke Peninsula Regional Development Board has spoken with the mill, and the machinery to be installed is capable of processing hemp fibre. Not only is it capable of processing it, but also I understand that they are interested in being able to process such fibre. There is that one clear commercial interest there which has been expressed.

Several existing industries in the South-East would be capable of using the material. Paper pulp is already produced in Mount Gambier using largely *pinus radiata* as a source material, but Tasmanian blue gum is also being planted. However, I would have thought that this crop offered a couple of attractions. First, people can bring in a crop in 120 days. Even if they clear the eucalypts when they are young, I cannot imagine that they would bring them in under 20 years, and pines do not reach maturity until 30 years.

This crop would probably provide protection against losing all the source material from fire. The Ash Wednesday fire was extensive, and we were lucky that we did not lose more of the South-East's forest. It would have taken a considerable number of years to have fibre source available for the paper mill.

I should have thought that a source which can be brought into production in 120 days and which, in some areas, will give more than one crop a year, would be very attractive. There are also chipboard manufacturers in the South-East. I have seen work in the United States which shows that chipboard can also be manufactured from hemp, and it is a superior grade product. So there is existing equipment which would be quite capable of processing that as an alternative fibre source. I have not spoken with that industry, but I believe that it would be interested. We also have the vegetable oils industry in the South-East and, again, the seeds are capable of being processed for the extraction of oils.

So, I am arguing that a number of industries around South Australia have immediate practical uses for the material, and my expectation is that, as the crops proceed, there will be a great deal of experimental work going on by interested companies to see if they can use it. I think it is terribly important that, if South Australia decides to allow this crop, it should do so fairly quickly. The reason for that is that whichever State does it first in any significant way will attract the processing industry to it, and once we get the jump we can maintain the lead for a long time. We have to only look at South Australia's experience with wine: after the Eastern States were severely damaged by phylloxera, and they did not grow much for a while, South Australia grabbed the lead in the wine industry—a lead that it has kept ever since, and that is not due to any particular natural advantage of soils, other than perhaps around the Coonawarra-Padthaway area. Rather, it is because we had the industry and developed all the know-how. Similarly, as the first State that was into *pinus radiata*, South Australia maintained the lead for a long time.

So, there is an industry here; it looks as though it has the potential to be a huge one, and if we procrastinate we will watch Tasmania and perhaps one or two of the Eastern States beat us to the punch. If they get the processing industry they will get the primary industry that goes with it, and we will simply miss the boat and be left as also-runs in the industry, and that would be a great pity. Only one person has written a letter to me objecting to the legislation, and I have received no telephone calls raising an objection. I can assure members that letters and telephone calls in support of the legislation have been significant. The objection that was raised by the letter writer was a most predictable one: that, surely if you grow this, it will make it easy for people to hide the high THC hemp. I do not believe so; it is clear that Tasmanians do not believe so, and nor do the French, Dutch or the English.

First, the plants will look different; although they are the same species, they are identifiably different. Secondly, we are talking about licensing, and I suspect that one of the conditions of licensing will be that there will be monitoring. You could adopt the line that Tasmania has followed where, as the plants mature, the heads are taken off, and it is the heads that produce most of the active ingredients, anyway. So, there is a mechanism which can be adopted to ensure that any plants interplanted could not be producing the active ingredients. As I said, that is not a likelihood, anyway. Why would you try to hide something in a licensed crop where people are going to look? There are so many places where this can be grown in South Australia now, including underground with fluorescent lighting, amongst tomatoes, grape crops and amongst native scrub all over the State. There are so many places where people can grow a couple of plants that I do not think they would be silly enough—nor would they have any special advantage in doing so—to try to interplant among a legal crop which is being monitored and in which the plants one is trying to grow will look significantly different. So, it would be detected. It just would not be really bright, and I imagine that the conditions of growing it would be such that the crops would not be grown in out-of-the-way places where people could get at them easily. So there would be some attempt to monitor the situation.

I note that the Labor Party's recent State Council meeting carried a motion along similar lines to that which I propose in the legislation, so I am hopeful of Opposition support. However, I would also be extremely hopeful of Government support, because I notice that, in this case, some of the major proponents are people who have been traditional supporters of the Liberal Party in the past. I am talking about people in regional areas and farmers who are saying, 'We really want the option to be able to grow this crop; it offers significant economic opportunity; please give us the chance.' As I said, if there is any procrastination, a major opportunity will be lost, and I believe the Government would then be left in future times severely embarrassed by its failure to act.

I note that when the Treasurer was interviewed in a press conference on another matter he said that the Government was willing to give it serious consideration. I hope and trust that it will, and I urge all members in this place to support the legislation, noting that I am not looking in the first instance for hundreds of thousands of hectares of cannabis: I am looking for its being grown under licence, with small trial plots around the State so that we can further assess the real potential of this crop. Having judged the success or otherwise of those trial crops, there can be a further decision, under licence, to expand into full commercial production, still under licence, still very closely monitored, or we may decide that the benefits were overstated. I do not believe they are overstated, nor do most other Western countries, but we might decide that and we will proceed no further. The power will always reside with the Minister for Health to withdraw authorisations and to withdraw licenses. I urge all members to support the Bill.

The Hon. R.R. ROBERTS secured the adjournment of the debate.

SELECT COMMITTEE ON THE REDEVELOPMENT OF THE MARINELAND COMPLEX AND RELATED MATTERS

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I move:

That the time for bringing up the committee's report be extended until Wednesday 8 February 1995.

Motion carried.

SELECT COMMITTEE ON THE CIRCUMSTANCES RELATED TO THE STIRLING COUNCIL PERTAINING TO AND ARISING FROM THE ASH WEDNESDAY 1980 BUSHFIRES AND RELATED MATTERS

The Hon. R.I. LUCAS (Minister for Education and Children's Services): On behalf of the Hon. Mr Griffin, I move:

That the time for bringing up the committee's report be extended until Wednesday 8 February 1995.

Motion carried.

SELECT COMMITTEE ON THE CONTROL AND ILLEGAL USE OF DRUGS OF DEPENDENCE

The Hon. BERNICE PFITZNER: I move:

That the time for bringing up the committee's report be extended until Wednesday 8 February 1995.

Motion carried.

MODBURY HOSPITAL

Adjourned debate on motion of Hon. Barbara Wiese:

I. That a select committee of the Legislative Council be established to inquire into the proposed privatisation of Modbury Hospital and specifically address—

(a) costs and benefits to the public resulting from any transfer to the private sector,

(b) the benchmarks used to determine any possible change in the standards of health care provided to the public,

(c) means by which continued access to at least the same level of public hospital and related health services is guaranteed to public patients,

(d) the actual savings that will be made and where they will be derived from,

(e) public standards of accountability and consultation demonstrated in the process leading up to privatisation,

(f) the terms of any management contract for hospital services,

(g) methods by which Parliament can ensure scrutiny of expenditure of public funds in the provision of health services following the proposed privatisation;

II. That Standing Order 389 be so far suspended as to enable the Chairperson of the committee to have a deliberative vote only;

III. That this Council permits the select committee to authorise the disclosure or publication, as it thinks fit, of any evidence or documents presented to the committee prior to such evidence being reported to the Council;

IV. That Standing Order 396 be suspended to enable strangers to be admitted when the select committee is examining witnesses unless the committee otherwise resolves, but they shall be excluded when the committee is deliberating.

(Continued from 19 October. Page 473.)

The Hon. DIANA LAIDLAW (Minister for Transport): The South Australian Government has five main strategic objectives for the public health sector in its first term of office. These are, first, to maintain and enhance services; secondly, to reduce booking lists and waiting times; thirdly, to achieve efficiency savings of $65 million over three years without service cuts; fourthly, to redevelop the major metropolitan hospitals so that future demand for hospital services can be managed effectively; and, fifthly, to restructure the State public health service so that it is more flexible, fair, efficient and effective.

An integral part of the Government's efforts to achieve these policy outcomes is the involvement of the private health sector in the provision of public hospital infrastructure and services where there is a real financial return to the Government to do so, where there is no diminution of the current level of quality of services, where there is an aim to enhance the level and quality of services and where there is a continued guarantee of public access to public hospital services for all who require such services. The Modbury Hospital proposal addresses all those criteria and is thus an integral step in the achievement of the Government's stated policy objectives.

The Modbury Hospital proposal will see a number of positive developments. The first is the construction of a new 65-bed private hospital collocated with the current Modbury public facility. This private facility will use existing private hospital bed licences. Thus, there will be no increase in the number of such licences within the Adelaide metropolitan region—a situation which I understand has not been the case in some other States. Secondly, the proposal will also see the development of a day surgery facility for both public and private patients.

Thirdly, there will be an upgrading of a number of areas within Modbury Hospital for public patients. I nominate the following: the construction of a new 22-bed public obstetrics unit; the upgrading of the accident and emergency unit; the refurbishing of the fifth floor as a 23-bed nursing ward for low dependency patients; the upgrading of the high dependency unit and coronary care unit; and the upgrading of the sterilising facilities and improved car parking. Fourthly, there will be private sector management of public patient services provided through the Modbury public hospital facilities, with the Government retaining ownership of those facilities.

The proposal has the support of the Modbury Hospital Board, given that certain protection mechanisms are written into any public hospital service contract. These mechanisms are being drafted, drawing on interstate, national and international experience to ensure that the quantum and quality of services will be maintained and enhanced. Should any elements of the contract be breached in a serious manner, the Government retains full step in and termination rights of the contract so that in all circumstances the public interest will be protected.

Throughout the process at Modbury strict propriety has been observed and independent legal and financial advice has been sought on all elements of the various proposals. The Government is impressed with the quality of Healthscope's submission. Before any final Government decision, a further financial analysis will be carried out by an independent and nationally respected consultancy group.

Following the announcement by the Minister for Health on 18 October 1994 that Healthscope was the preferred tenderer, there has been an extensive program of communication and consultation. The Minister for Health went to the hospital on the day that he made the announcement; he walked around the hospital, spent some hours there, I understand, and spoke to staff generally. Later that day the staff decided to withdraw the bans that they had put in place. The Minister also wrote to all staff to outline the proposals, with particular reference to job security and future options.

Healthscope has met staff. In fact, I understand that it has been at the hospital almost every day to deal with any inquiries that any staff may have on any matter. Healthscope has undertaken briefings with the universities in relation to teaching, research and training matters, and with parliamentarians from all political persuasions, including the Labor Party and the Australian Democrats. Healthscope is proposing to brief the royal colleges and the AMA and other groups which may request it.

I think I can sum up the situation as follows. The State Government has a huge challenge in rebuilding a responsible fiscal position for South Australia. As a major element of Government expenditure, the public health system must achieve efficiencies which will contribute to such improved fiscal outcomes. The Government intends that that contribution should come through increased efficiencies rather than service reductions or loss of service quality. I think that outcome would be endorsed by all in this Chamber.

The processes undertaken have been careful and considered and they have been carried out in the confidence that similar and related activities have been reviewed and approved by Public Accounts Committees of Parliaments in New South Wales and Tasmania. In the Tasmanian experience, the Field Labor Government introduced significant private sector involvement in the public health sector, which included private financing and construction of the Burnie Public Hospital with a leaseback arrangement. The Field Labor Government also transferred the Ulverstone Public Hospital to private sector management and contracted out public sector nursing home care facilities to the private-for-profit and non-profit sectors.

The South Australian Health Commission has also drawn on the Commonwealth Government's privatisation of repatriation general hospitals in Western Australia and Queensland. In the latter cases, major public hospitals have been transferred to the private sector with contract prices being struck for DVA entitled beneficiary hospital services, strong quality assurance mechanisms put in place and termination and step in powers included within those contracts to ensure continuity of service delivery in all cases.

Regrettably, it is clear that the Opposition is treating the Modbury reorganisation as a political exercise rather than undertaking any reasonable assessment of the facts. Certainly I would argue that it has conveniently failed to take account of the fact that the Commonwealth Government has been doing essentially the same thing for some years in terms of repatriation hospitals as the New South Wales and Tasmanian Governments—not all nasty Liberal Governments as the Opposition might claim—in terms of privatisation projects. The Labor Government in Tasmania has been doing the same thing for years and the public has been the beneficiary of such initiatives.

I refer again to our concern about statements made by the shadow Minister for Health, the member for Elizabeth, Ms Lea Stevens. She wrote to the Minister for Health recently informing him, 'We wish to move on the select committee investigating Modbury Hospital and therefore need your speakers to be ready next Wednesday (November 16).' Of course, that is today. I stress the reference to 'we', because it is clear that there has been some convenient discussion between the Opposition and the Australian Democrats on this matter. The Government can count the numbers, and it is obvious that a select committee will be established. We do not support the establishment of this select committee, but we have nothing to hide in this matter. In fact, if members are fair and impartial in assessing the situation, it will be seen that the Government has acted with considerable wisdom and with patient care in mind at all times. We will participate in the select committee, although it is not our preferred option.

The Minister in the other place has made it clear that he does not see the Government's final decision as being dependent on the approval of any select committee. To stand by and see staff in a state of uncertainty and to see $6 million savings to taxpayers hanging in the balance while the select committee deliberates is not a situation that he or the Government finds acceptable, particularly as all bans have been lifted. We are not setting a precedent in this area and Healthscope is working closely with management and all at Modbury.

I repeat: the Government will participate but the project will not go on hold in the meantime. When one considers the motions just moved by the Minister for Education and Children's Services and the Attorney-General in terms of select committees in this place in relation to Marineland and Stirling (and one notes that those select committees were set up about 2½ years ago and are still being deferred, this time until February 1995), I do not think it reasonable to expect that work being undertaken at the present time between the Health Commission, Modbury Hospital and HealthScope should be deferred pending the outcome of this select committee.

The Hon. BARBARA WIESE: I thank members for their contributions to this debate. In particular, I thank the Hon. Ms. Kanck for responding to this motion with no delay at all. I am pleased that the Australian Democrats view the issue of the privatisation of Modbury Hospital with the same seriousness as do members of the Opposition. It is significant that, having waited one month for the Government to respond to this motion, we have not received—

There being a disturbance in the gallery:

The PRESIDENT: Order! I am sorry but those people in the gallery cannot demonstrate in the Council and I ask that the sign be put down.

The Hon. BARBARA WIESE: It is significant that we have now waited one month for the Government to respond to the motion that I moved concerning the privatisation of Modbury Hospital. During the speech I gave in moving my motion I raised numerous questions to which the Opposition and members of the community seek answers with respect to this proposal. Not one of those questions has been responded to in the Minister's reply on behalf of the Government concerning its proposal for the privatisation of Modbury Hospital.

The Minister talked, as has her colleague, the Minister for Health, in generalisations about this proposal in responding to my motion. The Minister suggested that anyone who wanted to be consulted, involved in discussions or briefed about this proposal has had the opportunity. If that is so then why are members of the community, whether they be members of the public, health professionals or whoever they are who have an interest in the future of Modbury Hospital and the South Australian health service, still asking the same questions? If there was a serious commitment on the part of the Government to consult with the community about this proposal then there would not still be so many unanswered questions.

Having waited one month for the Government to respond, we are still none the wiser. There still is a huge list of unanswered questions. In the meantime, since I last spoke in this place on this matter, numerous other issues have emerged which require some examination and which raise further questions about what is involved with this project. I will place a few examples on the record.

Since I moved my motion it has become publicly known that the Commonwealth Minister became involved in this matter having publicly expressed her concerns, both verbally and in writing, to the State Government about the whole proposal. I understand that the Commonwealth Minister

sought assurances from the State Government that the whole exercise is not simply driven by a desire to shift costs. The Federal Minister asked the State Minister for access to certain information and documents relating to the privatisation proposal for Modbury Hospital. As far as I am aware, the Government has not yet responded to the requests made by the Commonwealth Government.

We have the Minister representing the Government saying that it has nothing to hide in this matter. It is not even responding to its Federal counterparts who, after all, hold the purse strings for the provision of health services in this State. If it is not responding to the Commonwealth Government when requests are made, what chance does an ordinary citizen in the community who is interested in knowing more about this proposal have when they raise questions? They have no chance whatsoever.

Since I last spoke there has also been an issue raised by the asbestos liaison officer of the United Trades and Labor Council concerning the future of the asbestos removal program at the Modbury Hospital. Under the former Government, agreement was reached that there would be a program of removal of asbestos in the Modbury Hospital as certain parts of the building were modified or upgraded. There was agreement that there would be a staged program over a period of time. As the Opposition understands, the arrangement in the future will be that the Government will retain ownership of the hospital, the buildings and the land. The question now arises as to whether the asbestos removal program will proceed and, if it does, who will meet the costs of that program. Will it be the Government who, according to the Government itself, will retain ownership of the building, or will it be the new operators of the Modbury Hospital? That is a question to which we do not yet have an answer.

Concerns have also been raised by the prison medical service at Yatala prison about the future of that service under the proposed Modbury Hospital privatisation arrangement. Currently, the prisoner medical service is a part of the Modbury Hospital. It is the first service of its kind established in Australia. It enjoys a very extensive reputation around the nation, and in other parts of the world people also look to the prisoner medical service here as something of a model. It has twice been accredited by the Australian Council of Health Care Standards. The staff of the prisoner medical service recently contacted the Opposition. They are angry and confused. They are not being consulted about the future of the prisoner health service even though they are the professionals who are working in this area.

Despite all these assurances given to us today by the Minister there are still large numbers of people, some of them working directly in the area of provision of health services in and around the Modbury Hospital, who do not know what their future will be. The people involved with the prisoner medical service do not know whether they will be privatised along with the Modbury Hospital or whether they will become part of the Department of Correctional Services. In short, that provides yet another example of the secretive decision making process being pursued by the Minister for Health and this Liberal Government. This method of decision making goes against all recognised international thinking in the health care area. There are world health organisation agreements concerning appropriate consultation practices in the health field which advocate proper public input into decisions on the use of scarce health resources.

This Government is not only failing to follow accepted international practices in this area; it does not even seem to know that those standards exist. The Government has ignored health professionals. It has ignored the public, and it has ignored the Parliament in pushing ahead with its secret plans. Again, here today, the Minister has confirmed that the Government does not intend to wait for the select committee to be established before it goes ahead with its proposals for the privatisation of Modbury Hospital. In fact, I think most people could be forgiven for believing that the reason we have waited one month for the Government to respond to our motion is that it has been trying to get as much of the decision making out of the way before any proper scrutiny was given to these issues by members of Parliament. It has been confirmed again today that this Government will arrogantly go ahead with making further decisions about the future of the Modbury Hospital regardless of any deliberations of a properly constituted select committee of this Parliament.

It seems that, notwithstanding the concerns that have been expressed by members of Parliament, notwithstanding the continuing concerns being expressed by members of the community, the Government is pushing ahead. I understand that just last week the Government signed an agreement or memorandum of understanding with Healthscope which now only awaits presentation to that company's annual general meeting, which I believe will be held on 30 November this year, for ratification. So, it does not matter in the eyes of Government members what we might think about that or about any of the very legitimate concerns that have been raised out in the community; they are pushing ahead and they are going for it as quickly as they can because they want to have as many decisions taken and as many of the new arrangements set in place as possible before the committee starts its deliberations, in the hope that all of it can be set in concrete and we will not be able to modify or change any of those decisions.

I want to stress that this is a legitimate line of questioning that is being pursued by members of Parliament. They are legitimate concerns that are being expressed in the community about the future of the hospital and what implications the proposals for Modbury Hospital have for our health system at large. For the Minister to stand in this place and try to trivialise these community concerns by suggesting that this is some sort of cheap political exercise on the part of the Opposition is appalling, and I reject it completely. The issues that are being pursued by the Opposition are being pursued conscientiously and with goodwill towards members of the community who have raised them. It is a pity that the Government is so arrogant that it cannot see that these are legitimate concerns and that they should be taken seriously.

I want to point out also to the Government that even though it wants to push ahead as quickly as it can, regardless of community concern, it should be warned that this issue will not go away. I have been told by some members of the community who have concerns about this matter that they will not let it rest. They certainly want proper answers to the questions that have been raised about the proposals that the Government has. Indeed, there are some people who feel that the matter is of such importance that they will not let the matter rest, even when those replies are received about the nature of the proposal and how it is being funded and a whole range of other issues.

They feel so strongly that hospitals should not be privatised that there is actually talk among some sectors of the community of boycotting the hospital under the new arrangements. Such is the anger and confusion amongst members of the public that have been generated because of the appalling

way in which the Minister for Health has handled this whole matter, and because of the secrecy that has surrounded the whole proposal. There are many people who do want answers to these questions and they will be looking for these answers through the select committee. I thank the Australian Democrats for their support in establishing it. The sooner it is set up, the sooner we can extract some of the answers that members of the community are looking for. I hope that this committee can begin its deliberations with very little delay.

The Hon. DIANA LAIDLAW (Minister for Transport): I wish to make an explanation pursuant to Standing Order 175, claiming that I have been misquoted and misunderstood. I understand that I do not have to seek leave for that purpose. It was stated by the honourable member during her contribution that she understood that the Minister for Health had not responded to correspondence from the Federal Minister for Health (Dr Lawrence) seeking answers to a number of questions. I have ascertained from the office of the Hon. Dr Armitage that that is not correct. He received a letter from Dr Lawrence on 6 October—

The Hon. Barbara Wiese interjecting:

The Hon. DIANA LAIDLAW: Well, it was not seen as important until you made accusations that were blatantly false. Therefore, the record, like a lot of your contribution, needs to be put straight. I will put it straight in this respect.

The Hon. R.R. ROBERTS: On a point of order, Mr President, the member is entering into a debate. This is not about how she has been misunderstood; she is debating the issue again.

The PRESIDENT: The honourable member has a point of view, Minister, and I think you should confine your remarks to your disagreement with that.

The Hon. DIANA LAIDLAW: The accusation was that the Minister for Health had not responded. I am able to state that on 6 October the Federal Minister wrote to Dr Armitage. Dr Armitage replied on 18 October. He received a follow-up letter from Dr Lawrence last week claiming that no reply had been received. Dr Armitage was on the phone immediately, stating that his reply had been sent both by fax and through the post on 18 October, and Dr Lawrence has since acknowledged that fact.

The Hon. Barbara Wiese: At least someone has some answers; that is very good progress.

The Hon. DIANA LAIDLAW: The honourable member should have checked her facts.

The PRESIDENT: Order!

The Hon. Barbara Wiese interjecting:

The PRESIDENT: Order!

Motion carried.

The Council appointed a select committee consisting of the Hons S.M. Kanck, R.D. Lawson, Anne Levy, Bernice Pfitzner and Barbara Wiese; the committee to have power to send for persons, papers and records, and to adjourn from place to place; the committee to report on 8 February 1995.

BENLATE

Adjourned debate on motion of Hon. M.J. Elliott:

That this Council calls for—

1. An immediate halt to the sale of Benlate in South Australia;

2. An urgent investigation by the Department of Primary Industries into the detrimental effects of Benlate on crops and human health;

3. The State Government to support affected growers in their legal action against the manufacturers of Benlate, should the investigation confirm detrimental effects.

(Continued from 2 November. Page 706.)

The Hon. CAROLINE SCHAEFER: Members would be well aware that allegations of harmful effects from the use of the fungicide Benlate have been an issue of some concern for over three years, and that successive Ministers of Agriculture and Primary Industries have been involved in trying to resolve the issue. Several members of both Houses of Parliament have, over the past three years, made inquiries on behalf of their constituents who believe their use of Benlate has caused problems. However, I can assure this Council that reports of crop damage are treated very seriously by the Department of Primary Industries.

In the case of vegetables and ornamental flowers reports of damage are usually handled in the first instance by district horticultural extension officers. These officers are aware of the range of possible causes for such damage and, when necessary and appropriate, they refer cases to the department's pathology, entomology, nutrition and other specialists for diagnosis. It is quite common for these laboratories to receive samples submitted from representatives of agricultural chemical companies who also sometimes come across cases requiring further diagnosis.

In several of the cases referred to by the Hon. Michael Elliott, the department diagnosed fungal or other disease problems as the likely cause of the observed symptoms and the growers were notified accordingly. However, in some cases initial investigation suggested a link between the use of Benlate DF (that is, dry flowable) and the observed damage. This has led to extensive investigations into the alleged problems with Benlate DF over the past three years. This work has been at considerable expense to the department in terms of dollars and time. I make the following points about these investigations.

They have included field trials and laboratory testing for possible contamination. Initial trials did suggest a link between observed crop damage and the use of Benlate DF; however no contaminate (that could explain the damage) has been conclusively found. Samples of the suspect Benlate DF have been tested for contamination with atrazine, the herbicide which Du Pont admitted was present in trace levels in some batches of Benlate DF in the USA and which led to the decision to stop the sale of the product in June 1991. However, the samples were found to be free of this contaminant and were also found to be free of the contamination by hormonal herbicides such as 2 4 5-T and 2 4-D.

Samples from one of the growers who has been pursuing the matter with the help of the department have been tested for possible contamination with the range of sulfonylureas. Despite some initial results from an American laboratory there has been no conclusive evidence that this grower's Benlate DF has been contaminated. Further testing is being conducted in the United Kingdom, at departmental expense, to confirm or deny contamination with sulfonylureas.

As was pointed out by the Hon. Ron Roberts in this Council an 26 October, there are technical difficulties in searching for traces of contaminates in Benlate DF. These difficulties are still hindering the testing in the United Kingdom despite every encouragement from the Department of Primary Industries for a speedy resolution to be reached. The department has provided a high level of help and assistance to those growers who have chosen to pursue their

claims with continued departmental involvement. It is understood that some of the other growers preferred to pursue their concerns independently: the department has only recently been made aware of the concerns of some growers.

The Hon. Mr Elliott referred at length on 19 October to the breakdown products of Benlate as a possible cause of the damage. The department is aware of testing in Florida that has shown harmful effects on plants from the breakdown products of the active ingredients in Benlate known as benomyl. These products have been well known for a long time. Their existence was documented in Du Pont's registration of benomyl 25 years ago. Studies by Du Pont have concluded that they would not be present in high enough concentrations to account for any observed damage.

The department believes there is no conclusive evidence that such breakdown products would be present in levels that could have caused the symptoms observed in South Australian cases when the product is used according to label. As a result of the department's investigations, it is very difficult to conclude, as did the Hon. Mr Elliott in this Council on 19 October, that Benlate has been responsible for many Adelaide growers losing a major proportion, if not all, of their livelihoods. In those South Australian cases in which there seems to be a link between the use of Benlate DF and observed damage, we do not have sufficient evidence to conclude that the use of the chemical in an appropriate manner caused the damage to crops.

In the event that the current testing in the United Kingdom does find contamination of the suspect product it will still be a matter for the courts to determine whether any such contamination is shown to be the cause of the losses suffered by the growers concerned. The manufacturer of the product, Du Pont, has certainly not admitted liability in any of the cases brought against it either here or in the United States. As can be gathered by this description and from the address by the Hon. Ron Roberts on 26 October in this place, there has been very thorough investigation into the allegations that the use of Benlate caused damage to crops.

In further debate on this topic on 2 November, the Hon. Ron Roberts suggested that any further investigation could be conducted by a person external to the Department of Primary Industries, as such an investigation would in part be into the department's own activities. I can assure this Council that the department believes that it has nothing to hide in relation to such a review. Its own internal review of procedures has confirmed that its approach to investigation of cases of horticultural damage is appropriate and professional, and I remind members that it has been going on for almost three years. However, I question the need for any further review, for the following reasons.

In all but one of the cases the chemical involved was Benlate DF: the department's investigations on this formulation are continuing through the testing taking place in the United Kingdom. In addition, I understand that Dr Malcolm Thompson is still pursuing his studies into breakdown products at Flinders University. Benlate DF, however, has been withdrawn from the market for three years. It was withdrawn in June 1991, and so any further investigation into this chemical would not have a substantial impact on primary production apart from any benefit to the growers currently claiming damages due to its use.

In the case in which Benlate WP (that is, wettable powder) was used—and Benlate WP is the currently used fungicide—the department has identified a common fungal infection as the likely cause and the growers have been notified of this finding. As a result, the department has no reason to suspect that Benlate WP is the cause of any horticultural damage. In relation to the need for investigation into the allegations of detrimental effects on human health, I make the following points.

Any agricultural chemical must be found safe to use according to the directions on the label before that chemical's label can be registered. Appropriate authorities are consulted to ensure safety to humans prior to registration.

The Chemical Safety Unit of the Commonwealth Department of Human Services and Health carried out its own evaluation of the benomyl database following reports of birth defects in the United Kingdom and New Zealand. The unit confirmed that there appeared to be adequate safety margins in place in Australia for consumers and operators provided that the label directions were properly followed. However, the unit determined that:

> . . . benomyl products do not satisfy the NHMRC guidelines which have been developed to assess the suitability of pesticides for home garden use, and it was recommended that home garden products containing benomyl be withdrawn.

Du Pont had already decided to withdraw such products and none have been on sale since 1991.

The Hon. Mr Elliott cited reports of birth defects in the United Kingdom and New Zealand. In the United Kingdom a spokesperson for Moorfields eye hospital, the source of the original reports, has stated that there are no data connecting the defects with any specific chemical or any other environmental cause. In the New Zealand incident an independent investigation found that there was no evidence that Benlate caused birth defects, partly because the mothers had had no exposure to Benlate during and just before pregnancy.

On 20 October the Hon. Mr Elliott raised the case of a child who was born without eyes after his mother had used a paint allegedly containing Benlate in the early stages of pregnancy. I am informed that Benlate is not recommended for such use and the Department of Primary Industries is not aware of its use as a paint treatment in this State. Of course, this does not alter the tragedy of any child born without eyes.

In his motion the Hon. Mr Elliott calls for an immediate halt to the sale of Benlate in South Australia. For the sale of any agricultural chemical to be halted by Government actions, the Agricultural Chemicals Act 1955 requires that the Minister for Primary Industries must be satisfied that the substance does not comply with the particulars on the registered label, for example, in terms of effectiveness or in terms of risk to human health or in terms of contamination.

Benlate DF, a formulation manufactured by Du Pont, and Benlate WP, the wettable powder formulation, have both been registered for sale in South Australia, having met all necessary criteria for registration and sale. Benlate WP was first registered in South Australia in 1969, while Benlate DF was first registered in 1988.

Benlate DF was voluntarily withdrawn from sale in June 1991, as I have already stated. However, its registration was only withdrawn in June 1993, and then at the request of Du Pont Australia. So, its sale was legal until June 1993. However, I am informed that no-one in the department has seen Benlate DF on sale since 1992. The Department of Primary Industries has at no stage had sufficient evidence to warrant the deregistration of Benlate DF. The department's inspectors who visit chemical retailers around the State regularly have not found Benlate DF offered for sale since 1992.

There has been only one recent allegation that Benlate WP is implicated in crop damage. As already mentioned, the department's diagnosis is that the damage in this case was due to fungal infection. Cancellation of registration for Benlate WP, to prevent its sale in South Australia, would be a very serious action having major consequences for both the supplier and, probably more importantly, for its many users in this State. The product is the only treatment known for at least one fungal infection. It is used during the growing season for certain apple varieties, and it is also a most important fungicide in viticulture and a range of vegetable crops. It is also used widely in the cut flower industry. It is a cheap and reliable fungicide that is used by between 5 000 and 6 000 primary producers in this State. Cancellation of registration for this product would need to be based on a breach of the Agricultural Chemicals Act, for example, on conclusive evidence of a link between the chemical and unintended and harmful consequences of its use. At present there is no such conclusive evidence.

The department has no evidence to suggest that the labelling of Benlate WP should be altered. However, the registration and labelling of agricultural and veterinary chemicals is currently being transferred to the National Registration Authority in Canberra to provide a more uniform and efficient handling of registration procedures across the nation.

The Hon. Mr Elliott's motion also calls for the State Government to support affected growers in their legal action against the manufacturers of Benlate should detrimental effects be confirmed. The matter of legal action is a civil one. The Government's policy is not to support such cases financially, but the Department of Primary Industries is prepared to make all scientific and technical information that it is entitled to disclose available to persons who have a proper interest in it. The department has offered to inform growers of the results of the testing currently being undertaken in the United Kingdom.

Growers who believe they have suffered a loss as a result of using Benlate should be guided by their own lawyers in deciding whether to claim compensation from Du Pont. In his address on 26 October, the Hon. Ron Roberts suggested that the department might be able to pursue a conviction against Du Pont for breaching the Agricultural Chemicals Act. Crown Law is of the opinion that it is now too late to prosecute Du Pont, even if contamination in Benlate DF is found, as there is a 12 month time limit for such prosecutions and Du Pont has not sold this product since 1991. Clearly, there was not sufficient evidence to warrant a prosecution at that time in regard to Benlate within that 12 month period, nor is there any evidence to support a prosecution since that time.

The motion should not be supported because the product Benlate DF is no longer sold in South Australia. There is no evidence to suggest that the alternative formulation Benlate WP is not safe and effective to use according to the label and, therefore, the Minister for Primary Industries is required under the Agricultural Chemicals Act to continue the registration of this product.

The Department of Primary Industries has already conducted extensive investigations into the allegations of the effect of Benlate on plants. These investigations are continuing, and it would be a waste of Government resources to launch another independent investigation when the chemical under suspicion has already been withdrawn from sale.

Reports from reputable authorities indicate that there is no good evidence linking Benlate to birth defects and that there appear to be adequate safety margins when the product is used according to label instructions. There is no evidence that would support the cancellation of registration for Benlate WP.

If detrimental effects from the proper use of Benlate were to be established, the matter of legal action is a responsibility for the growers themselves. However, the department would make available all scientific and technical information that it is entitled to disclose to persons who have a proper interest in it.

In conclusion, Benlate WP is a safe and cheap fungicide used widely by horticulturalists throughout South Australia and by some 20 000 horticulturalists throughout Australia. There is not sufficient evidence to support the inconvenience and financial loss should this chemical be removed.

The Hon. J.C. IRWIN secured the adjournment of the debate.

WORKERS' REHABILITATION AND COMPENSATION (MENTAL INCAPACITY) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 26 October. Page 586.)

The Hon. R.R. ROBERTS: I thank members for their contributions in respect of this important matter, which was brought to the Parliament after considerable concern was raised in relation to the amendments to the Workers' Compensation and Rehabilitation Act some years ago.

Following the introduction of the Bill, I have received a substantial amount of correspondence from lawyers, professionals and victims, all supporting the Bill, as proposed, on behalf of those who suffer permanent mental disabilities and who have been denied the opportunity to access section 43 payments as a result of a Supreme Court judgment.

With respect to the Attorney-General's response, I would suggest that he has utterly missed the point of the Bill that we have introduced. I am sure he would not want to be deliberately misleading in relation to this issue, so I can only assume that he has utterly misunderstood the wording of the Bill and my second reading speech. The Attorney-General has sought to steer this Bill into the limited area of so-called stress claims. In his second reading speech, he referred over and over to stress claims, but this Bill is not about stress claims: it is about injured workers with permanent psychiatric disabilities arising out of their employment in some way.

The Bill is for the benefit of those people with recognised psychiatric disabilities—people whom psychiatrists can classify according to the internationally recognised DSM 3 or DSM 4 systems of diagnosis.

If the Attorney-General and Government members are ignorant of the shocking psychiatric injuries afflicting some workers, I will attempt to enlighten them shortly with some examples. Generally speaking, I am talking about illnesses, such as major depression, which sometimes have complications such as paranoia. It is callous and heartless to speak of these cases as simply stress claims in a dismissive way. I reiterate that sometimes, although not in all cases, these terrible afflictions, which can arise out of workplace incidents, have had a permanent effect on the injured worker.

If this Bill is passed, it will be necessary in every case for the worker to prove the permanent nature of the psychiatric disability. Undoubtedly this will depend almost entirely on expert psychiatric evidence, and the skills to make these determinations are very common and quite accepted within medical circles.

The fact is that it is not uncommon for psychiatrists to diagnose some extent of permanent incapacity in cases of major depression and other illnesses arising from workplace incidents. The Attorney-General has the audacity to imply that psychiatrists making these diagnoses are completely wrong. He suggests that the most serious of these psychiatric conditions are merely temporary mental reactions, whereby the person's experience anger, grieving or frustration at their circumstances. If the Attorney-General believes this, he has really missed the point. We are not dealing here with normal human reactions which are baked over time.

It is worth repeating that the Labor Party has complete support from the Accident Compensation Committee of the Law Society of South Australia, as well as representatives from the College of Psychiatrists and the South Australian branch of the Australian Medical Association. In fact, those eminent persons issued a press release giving full support for this type of legislation, and they have continued to correspond in a similar manner.

In his second reading speech the Attorney-General stated that the Bill was opposed by the Government on three primary grounds. First, the Attorney considered the extension of the lump sum provisions of the WorkCover Act to be unjustified. Secondly, he suggested that the amending Bill would compromise or prejudice the early and effective rehabilitation of workers. Thirdly, and predictably, the Attorney-General objected to the additional cost of the compensation to be paid by WorkCover. I will comment on each of these objections separately.

I have already pointed out the justification of allowing compensation for those with permanent mental incapacity resulting from an incident or a series of incidents at work. Most so-called stress claimants will not get the benefit of this Bill. My understanding of stress claims approximates the views of the Attorney-General in his second reading speech. These are cases where typically there is a combination of circumstances at work which emotionally overload the worker concerned to the point where they cannot function productively. The circumstances might involve factors such as the volume of work, the responsibility inherent in the work, personality clashes with colleagues or superiors, managing with insufficient resources, and so on. If the worker is removed from these stressful circumstances, after a while the worker's condition will naturally improve.

With the WorkCover amendment of late 1992, the Labor Government was happy enough to restrict eligibility for these sorts of stress claims. The agreement of the Government and of the Opposition at that time was, in a sense, based on the fact that some stress claims were allowed in the first few years of the WorkCover scheme which the community would have thought would not warrant compensation, for example, where workers were stressed out as a result of being appropriately disciplined by a superior at work.

However, I return to the point that stress claimants will not benefit from this Bill. We are talking only about people who have developed such a serious psychiatric problem that psychiatrists are willing to say that the worker will always be mentally impaired to some extent. In other words, the worker will never return to their pre-injury, productive capacity.

Secondly, the suggestion that the availability of compensation will prejudice early and effective rehabilitation for workers is a weak and incorrect argument. The Attorney seems to be suggesting that all workers developing emotional problems as a result of their work will be 'trying it on' to persuade psychiatrists and WorkCover of their entitlement to a lump sum compensation payment. In fact, this is an argument used over and over by employers and WorkCover in relation to many types of injuries. I am willing to admit that in a very small percentage of cases there will be and are those people who exaggerate somewhat to maximise compensation benefits. Fortunately, we have WorkCover and the *Advertiser* constantly looking to expose these people. The point is that the dishonesty of a few workers should not prevent just compensation being awarded to the vast majority of workers who honestly present their injuries and illnesses—people who have been injured through no fault of their own.

Contrary to the Attorney's argument, the preclusion of lump sum compensation for injured workers tends to keep them hanging on to the WorkCover system. Members will be aware that commutation of income maintenance is not presently permitted unless there has been a determination of lump sum compensation pursuant to section 43. Commutation is attractive to many workers because it enables them to be rid of WorkCover, which in many cases allows workers to be free from the unrealistic return to work expectations and unnecessary medical appointments organised by WorkCover. In many cases there is benefit to the workers as well as to WorkCover when workers get off the system.

I have received correspondence from a legal practitioner who operates in this area. I will quote from an observation, although one assumes it is an opinion rather than an observation. She says:

> In the case of physical disabilities, it is often noted by medical and legal professionals that the successful return to work of injured claimants is more likely once the issue of lump sum compensation pursuant to section 43 of the Act has been resolved. In a sense, the acknowledgment of the injury by the receipt of a payment triggers a positive move away from the injured worker's identification with a sick role.

Indeed, that point of view has been reinforced by other professionals. No doubt many of the workers who develop psychiatric disabilities as a result of their work would prefer to get out of the WorkCover system altogether, particularly because of the fragile mental state of this type of injured worker.

The Hon. Mr Griffin is saying to these people, 'You cannot have a section 43 determination because we do not recognise your injury at all for the purpose of lump sum compensation and therefore you are not entitled to commute your income maintenance entitlement. You can just stay on the system until you get better.' That is an unreal expectation.

The problem is that in genuine cases, where a permanent psychiatric disability has been sustained, the workers will never return to their pre-injury productive capacity or duties. Thus, under the present legislation they are condemned to rely on WorkCover to some extent for the rest of their working lives. Furthermore, the message to these workers, highlighted in the Attorney-General's remarks, is that they do not really have a problem. For people with a psychiatric disability this often reinforces the problem as it feeds a sense of injustice. A modest award of lump sum compensation often has the effect of improving the mental health of the injured workers, because it validates the problem in a sense and allays some of the ongoing anxiety about compensation

which injured workers naturally have. This is not to say that the award of lump sum compensation solves the problem, but it can help the mental health of the worker as recognition of pain and suffering, loss of amenity and impact on family and social life experienced by the worker. The point is that the approach taken by the Attorney-General in his second reading contribution is more likely to hold back the recovery of workers than the amendments that we are proposing.

The Government is naturally concerned about the cost to the WorkCover scheme. I am not in a position to evaluate WorkCover's estimate of increased annual cost of between $10 million and $20 million. If the Attorney wishes to be more persuasive on this point, he may wish to provide figures of the percentage of injured workers with psychiatric disabilities arising from their employment. I suspect that we are really only talking about a few per cent of the total number of injured workers in this State. I suspect also that his claim is based on his misguided assumption that we are talking about stress, not permanent distinguishable psychiatric disability. The point is that cost cutting should be done on a rational basis. There is no moral justification for distinguishing between physical and psychiatric injuries. Recent Government media releases and the leaked index to the WorkCover Bill proposed by the Government indicate that the Government has thought of dozens of ways to cut WorkCover liabilities. It would be fair to say that many of the cost cutting measures to be proposed in this place by the Government would be more equitable and morally justifiable than the exclusion of lump sum compensation for permanent psychiatric disabilities.

It may be that if the Government is sympathetic to the Bill presently under consideration it would encourage the Democrats and the Labor Party to take a more conciliatory view in respect of the Government's cost cutting measures. We will not lose sight of what cost cutting means in respect of WorkCover: it means more money in employers' pockets and less compensation for injured workers.

Incidentally, I was a little surprised that the Attorney-General should take such a cold, legalistic approach to the Supreme Court's decision in the *Hann* case. It is undoubtedly true that the Supreme Court recently ignored the intention of Parliament with respect to lump sum compensation for workers with some degree of permanent loss of mental capacity due to workplace injury. Legalistically, one can say that the Supreme Court was entitled to make such a decision; but we in this place are in a different position. We are morally obliged to look at what happened in late 1992 in terms of amendments to the WorkCover Bill which went through at that time. As I clearly demonstrated in my second reading speech, a mistake, an oversight, was made at that time. This Bill, which is long overdue, seeks to address the injustice which flowed from that mistake.

Finally, I will leave the Government with a few examples of the sorts of people and the sorts of injuries that it is seeking to exclude from lump sum compensation. When investigating this matter the Opposition came across a number of tragic cases. A number of bank employees have suffered lasting psychiatric problems as a result of repeated hold-ups. Many people suffer considerable anxiety and shock when they are the victims of armed hold-ups in their work place. But few people have suffered that experience more than once. The effect can be shattering. It can lead to permanent loss of mental capacity in the sense that some of these people can never get back to their pre-injury duties.

I have also been informed of numerous examples of truck and bus drivers who have been involved in serious collisions. Often the psychiatric disability is sustained in conjunction with horrific physical injuries, such as burns and other injuries. Basically, some people never get over that sort of traumatic experience.

Another tragic example is of a nurse who suffered a needle stick injury when dealing with an AIDS patient. As it turned out, having skin punctured by the syringe in that situation did not lead to her contracting AIDS. The physical consequence was minimal. However, the psychological consequences were devastating, particularly during the waiting time before the outcome of her AIDS test was known. Her family and social life were wrecked. That is one of the cases where the patient is likely to suffer a permanent psychiatric disability. I have also been given details of two cases of women who were sexually harassed in the workplace. In one of those cases, the woman was actually raped on the way home from work by a fellow employee, with devastating psychological consequences. These may be extreme cases, but they clearly demonstrate that the psychiatric and psychological impact of a work-related incident can far exceed the physical harm caused. Yet these are the sorts of people, genuine cases, whom the Government seeks to exclude from lump sum compensation.

Finally, I wish to highlight the terrible irony of the situation faced by these psychologically devastated workers. Many of them—cases of which I am personally aware—have felt suicidal and have attempted suicide on numerous occasions. I have letters from loved ones and carers expressing concern about the devastation to those families and the constant fear that some of these victims may succeed in their pursuit. The irony is that a substantial award of lump sum compensation would be made to the families of these injured workers as a death benefit paid pursuant to section 44 of the Act if the necessary chain of causation could be established between the work trauma and the subsequent suicide.

There is no lump sum compensation for a worker developing chronic and acute depression. But if a worker successfully commits suicide an entitlement to lump sum compensation could arguably arise. Psychiatrists, doctors and many lawyers have joined the Labor Party and the Democrats in hoping that the Government will change its attitude in relation to this Bill. Once again, I thank the Democrats for their indication of support and the Attorney-General for his contribution on behalf of the Government. I seek the support of all members for this worthwhile adjustment to the WorkCover legislation which will provide just and reasonable compensation to those victims who have been overlooked by mistake during the amendments to the workers compensation legislation introduced by the Hon. Norm Peterson in another place.

I refer to the Hon. Norm Peterson and to comments by the Attorney-General that the Labor Party in Opposition supported these amendments. If one referred to *Hansard* one would recognise that at that time the balance of power in the Lower House was held by Independents, and in this Council the decision in respect of these matters was in the hands of the Opposition and the Democrats. I can well remember the contributions of the Hon. Mr Gilfillan who suggested that, as the WorkCover select committee had made certain recommendations, members of the Labor Party ought to support them. In conclusion, I again seek the support of members for this worthwhile Bill.

The Council divided on the second reading:

AYES (10)

Cameron, T. G.	Crothers, T.
Elliott, M. J.	Kanck, S. M.
Levy, J. A. W.	Pickles, C. A.
Roberts, R. R. (teller)	Roberts, T. G.
Weatherill, G.	Wiese, B. J.

NOES (9)

Davis, L. H.	Griffin, K. T. (teller)
Irwin, J. C.	Laidlaw, D. V.
Lawson, R. D.	Lucas, R. I.
Redford, A. J.	Schaefer, C. V.
Stefani, J. F.	

PAIRS

Feleppa, M. S.	Pfitzner, B. S. L.

Majority of 1 for the Ayes.

Second reading thus carried.

Bill read a third time and passed.

SUPREME AND DISTRICT COURTS (APPOINTMENT OF JUDGES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 19 October. Page 483.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): I rise to speak against the second reading of the Bill. The Opposition's decision to oppose the second reading comes only after intensive and thoughtful discussion amongst my Labor Party colleagues and other interested parties. Of course I am aware that the Hon. Sandra Kanck's Bill essentially takes up one of the recommendations of the Senate Standing Committee on Legal and Constitutional Affairs report entitled, 'Gender bias and the Judiciary.' The Opposition acknowledges that there is a problem that needs to be considered in relation to judicial appointments, but we must keep in mind that the essential issue is an awareness and appreciation of gender issues as well as ethnic, community and class issues in terms of our judges' experience.

The problem is not the number or proportion of female judges in itself. It is obviously desirable if we can achieve equal numbers of women and men being appointed as judges. I stress that I support merit being the foremost consideration in selection. I will come back to what virtues merit might encompass in this context. It is obvious that judges must be appointed with experience and wisdom. How we do this is the issue here. We must accept that judges are in an utterly different position to that of members of Parliament, for example. On the one hand, Parliament is, or at least should be, representative of the people. Parliament is meant to reflect the will of the people, and that includes men and women. When members of Parliament deliberate on legislation, the great variety of personal experiences which each of us brings into Parliament is essential to properly appraise proposed legislation from the community's point of view. We really do have all sorts of politicians from a very wide variety of backgrounds.

In contrast to the function of members of Parliament, judges have an entirely different role. When it comes down to the essence of the matter, everyone will agree that we want our judges to be wise and learned, but the best judges possess a kind of equanimity, an ability to allow reason to prevail over the personal passions and prejudices of the judge. The best politicians on the other hand are openly passionate about the causes they believe in and promote and are elected for these beliefs. Ideally, judges should have the quality of kindness, as well as an ability to put aside their own self centred preferences or prejudices to see that others are accorded the rewards or the censure that their behaviour warrants. Apart from these idealistic virtues, judges must also have familiarity with the nuts and bolts procedure and the laws of evidence of the legal system.

It is difficult enough to even formulate the ideal qualities of a judge. It is a hundred times more difficult to assess whether an individual has those qualities. I would say it is just about impossible to assess these qualities through the traditional job selection process used in industry—that is, by written application and curriculum vitae, a face to face interview and a couple of phone calls to referees. Apart from the obvious difficulties with assessing candidates' virtues in the context of an examination or interview with a 14 member committee, there is a quality of good advocacy skills which the Democrat Bill also highlights. Great skills of persuasion may not be important in themselves for judges, but the point is that experienced advocates will have a very firm grasp of the laws of procedure and evidence if they are sufficiently talented and so on. Who can best assess whether a person is a good advocate or not? Clearly the answer is, the existing judges, together with the leading barristers who appear in court alongside potential judicial candidates.

When one considers the importance of knowledge and skills which are peculiar to the court arena, if these factors are to be seriously taken into consideration by the proposed judges' selection committee, we would probably find that the types of people appointed to judicial positions would not in fact be broadened as a result of this Bill. With the occasional candidate from the law schools, by and large, judicial appointments are still likely to be made from leading barristers if the proposed judges selection committee was doing its job properly. In this context it is probably no great loss if this Bill is defeated.

There is a very significant problem relevant to the judiciary gender issue which this Bill does not begin to address. I have nothing but admiration for the women who have done well at the bar and have risen to prominent and respected positions within the legal community, but the fact remains that the pool of potential women judicial appointments is much smaller than the pool of potential male judicial appointments. A quick check of the list of Bar Association members reveals that women comprise less than 10 per cent of barristers at the independent bar, although the proportion of women as senior lawyers would be somewhat higher if one included senior Crown Prosecutors and senior lecturers at our universities.

I believe that this is the crucial problem today in respect of judicial appointments. We need to work towards a broadening of the pool of possible appointments so that eventually the Attorney of the day will have a number of excellent women and a number of excellent men to choose from. I believe that in this sense the Democrat Bill misses the point. I would be very interested to hear from the Democrats or anyone else about what appropriate measures could be taken to encourage and remove barriers for women who put in the hard work and who aim to rise to greater prominence in the legal profession.

It is a very difficult problem when one is dealing with sometimes hidden prejudices in terms of promotion within the major firms in Adelaide and sometimes hidden prejudices in terms of giving briefs to men rather than women. There is a strong and influential male network within the legal profession in Adelaide and possibly interstate. Perhaps it would be

even more accurate to say there are a number of male networks, depending on where people went to school, sporting affiliations and so on. In some way or another, these networks must be countered or perhaps matched so that we see greater numbers of talented women becoming partners in established firms and succeeding at the bar and so on.

Eventually I believe we will see a gradual equalisation of women and men in prominent positions in the legal profession in this State. It will happen naturally over time, and I hope not too much time, despite the prejudices and barriers to which I have referred. One can have some optimism, given that the population of law students in Adelaide has a fairly even mix in terms of gender. But in terms of broadening the pool of potential judicial appointments, I am afraid that there may be no quick fix solution. There are a number of outstanding issues, however.

Appropriate consultation by the Attorney-General of the day will always be an important determinant to the appropriateness of judicial appointments. The Attorney-General earlier this year set out a list of the people he would be consulting in respect of judicial appointments. As the Attorney would know, this is not really any change to the past practice of consultation. The Attorney has simply spelt out the process. Of course, it does not matter who is on the list of people to be consulted unless it is a true consultation with genuine consideration given to the suggestions made by the various interested parties. Fortunately, I believe the present Attorney would have the integrity to properly engage in the consultation process he has talked about publicly this year. We certainly would not want a repeat of the process according to which the Government proposed appointing a new President of the Industrial Relations Court earlier this year when the Minister for Industrial Affairs made a mockery of the consultation process by sending out a short list of one, and only one, candidate to the people whom he had undertaken to consult. Generally South Australia's recent history in respect of the appropriateness of judicial appointments is a very good one. Certainly I believe Chris Sumner's record in respect of female judicial appointments would compare favourably with the situation in almost every other jurisdiction in Australia, but we will, I hope, do better in the future.

A further issue which must be raised in the context of this Bill is that of so-called judicial education. It would probably be better to call it professional development. It sounds less threatening. We do see merit in some ongoing process involving the judges whereby issues of concern in the community could be raised and discussed in a reasonable fashion. There is more work to be done in relation to this concept but I am sure a program can be designed which would not compromise judicial independence. I understand that the Family Court judges are in fact undergoing this kind of professional development which I believe has proved to be very beneficial to the judges throughout Australia. I know that we have had quite a lot of publicity in the past couple of years about the inappropriateness of some of the remarks of some of our judiciary, and perhaps these issues could be addressed more appropriately in professional development courses and more modernisation of the approach of the judiciary.

Finally, I note the issue of the selection process for judges was raised in the discussion paper entitled 'Equality Before The Law' published by the Australian Law Reform Commission in July 1993. Following the comments and submissions that the ALRC would have received since that time, the shadow Attorney-General and I will be very interested to see what recommendations are ultimately made by that body in respect of this issue. In summary, our position is that we recognise the concerns of the community and the fact that there have been problems with the attitudes of some judges, but we do not see that the Democrat Bill is the appropriate means of addressing the problem. I therefore oppose the second reading.

The Hon. K.T. GRIFFIN (Attorney-General): The Government opposes the second reading of this Bill. It does, as members are aware, seek to amend the Supreme Court and District Court Acts by providing that a person may only be appointed as a judge or master of those courts if the person has been admitted as a practitioner of the court or possesses the qualifications necessary to be admitted as a practitioner of the court and has been selected from a panel of three candidates for the appointment by the Judges Selection Committee.

Schedule 2 of the Bill establishes the Judges Selection Committee and, as the Hon. Carolyn Pickles has indicated, it does consist of 14 persons. It is important to note the wide-ranging membership of the committee. It includes the Attorney-General, the Chief Justice, the Chief Judge, the DPP, a member of Parliament (nominated by the Opposition), persons nominated by the Law Society, the University law schools and the Aboriginal Legal Rights Movement. The other bodies who nominate members of the committee are the Children's Interest Bureau, the Offenders Aid and Rehabilitation Service, the Multicultural and Ethnic Affairs Commission, the Victims of Crime Service and the Women's Electoral Lobby. One may query the qualifications that some if not all of these latter bodies have to make recommendations about judicial appointments.

Excluded from the committee—not that one would want it to be any larger—are people who would normally be consulted, for example, the Solicitor-General, the Crown Solicitor and the Bar Association. The functions of the committee, as already remarked upon, are to establish and maintain a register of people who wish to be considered for judicial appointment; to advertise Australia-wide at least once a year inviting suitable candidates to have their names included in the register and to select candidates for judicial appointment as required; and to prepare a report for the Governor on the candidates selected. The qualifications and characteristics of the candidates for judicial appointment are set out in Schedule 2.

It seems that the Bill is based on the Commonwealth Attorney-General's discussion paper 'Judicial Appointments—Procedure and Criteria' issued in September 1993. That paper, which is concerned with the appointment of Federal judges, notes that the current selection process has created the judiciary which is overwhelming composed of male ex-barristers. This is not true in South Australia. Appointments to judicial positions in South Australia have been made from counsel, solicitors, academic lawyers and Government lawyers. South Australia also has had a number of women appointed to the judiciary at all levels. There has been a significantly varied representation of different ethnic and nationality backgrounds represented on South Australian courts. This has been possible because there has not been a monopoly from the bar on judicial appointments.

If there was a higher proportion of women or people of non Anglo-Celtic race or nationality background in the senior ranks of the South Australian legal profession, a higher proportional representation of these persons than currently

exists could be expected. At the time the Hon. Sandra Kanck made some press statements about this Bill I remarked upon the fact that it is only in more recent years that a substantial number of women have moved to take up the profession of the law; who have worked their way through law school, and have been making their way up the ladder of the legal profession.

The Hon. Anne Levy: Who have stayed in practice as opposed to giving up when they started families.

The Hon. K.T. GRIFFIN: No, with respect, that is not correct. There were few women who took the step of going into the law school. When I started in the law school in 1958—a long time ago—there were two women out of about 22 or 24 students: a very small number. By the end of the four years of university and the final year of articles there were no women.

The Hon. Anne Levy: There were a lot of women who, having gone into law, gave up when they started a family, because the Women Lawyers Association—

The Hon. K.T. GRIFFIN: It depends what you mean by 'a lot'.

The Hon. Anne Levy interjecting:

The Hon. K.T. GRIFFIN: I acknowledge that there were a number who graduated but did not continue in practice.

The Hon. Anne Levy: But the Women Lawyers Association consisted mainly of women who had not practised for years.

The Hon. K.T. GRIFFIN: But proportionately to the number of male students there were not a large number of women students entering into the law course. In subsequent years the numbers gradually increased. Certainly, about 15 to 20 years ago a substantial number of women were going into the Law School at Adelaide University, with the numbers that were then being accepted for law, because I think it may have been considered across the spectrum of the community a more fashionable thing to do law. But it was also recognised that the profession of the law would provide to women in particular a greater flexibility of opportunity to practise. They did not have to practise all the time if they did not wish to do so.

The Hon. Anne Levy: They will not rise and become senior if they don't.

The Hon. K.T. GRIFFIN: But also in the past 10 or 15 years there has been a much more ready acceptance within the legal profession, within legal firms and within Government legal practice that there is an advantage in providing more flexibility not just for women but for male practitioners; but usually women have taken advantage of the practice. Women have continued in practice more so than they did at the time when I started in legal practice. Of course, that has affected the number of women who have moved through the ranks of the profession and up the ladder to the point where they become QCs or senior practitioners and senior partners. In the past 10 years I have had an association, as everybody knows, with one of the bigger Adelaide legal firms and a significant number of women practised there and who were going into the partnership within the firm. That is probably reflected in a number of the bigger legal firms around Adelaide. We now have a significant number of women practising in a wide range of areas of the law, and not just family law where, of course, they do practise extensively but in the commercial area, in solvency law, and in personal injuries.

The Hon. Anne Levy: That is the change.

The Hon. K.T. GRIFFIN: There has been a significant change, and I would suggest that within the practice of the law and within the legal profession there has been a much earlier recognition of the desirability of providing opportunities for women to practise the law than maybe in other professions. Now we have a very significant group of women who are moving through the ranks toward the more senior levels of the profession. That will then reflect in the appointment of women to both judicial office and to the magistracy, and to other important areas of the law.

Judicial appointments are made by the Governor on the recommendation of Executive Council. There is a constitutional convention that Cabinet may not appoint a person whom the Attorney-General does not nominate. At the Commonwealth level Mr R.J. Ellicott Q.C. resigned from Federal Cabinet over this issue. Presumably under this measure—

The Hon. Anne Levy: That was a long time ago.

The Hon. K.T. GRIFFIN: Yes, but it is still nevertheless a convention. Presumably under this measure the Attorney-General would have to nominate one of the three selected by the committee even if he or she considered that they were all unsuitable. The provisions in this Bill could well lead to a narrowing of potential appointees to the judiciary. The Judges Selection Committee is confined to consider persons on the register for judicial appointment.

The Hon. Sandra Kanck: What will it narrow it to?

The Hon. K.T. GRIFFIN: Let me tell you. It will narrow it because there are so many people (both men and women) who will not want to run the gauntlet of what may well become a public process of application and vetting; for some reason or other they may not get on the list; and there are others who will not take the step because they think it is demeaning to make an application. They would prefer—

The Hon. Anne Levy: They're the sort of people we don't want.

The Hon. K.T. GRIFFIN: No, they may prefer to be recognised for their ability by their peers.

Members interjecting:

The Hon. K.T. GRIFFIN: As I said, you may exclude a number of people of competence—

The Hon. Sandra Kanck: They would exclude themselves.

The Hon. K.T. GRIFFIN: They don't. You would want to exclude them by the operation of this Bill, because they would not necessarily want to run the gauntlet of this review process, believing that it was more appropriate to be recognised for their ability by their peers and others in the community than by going through this process whereby it may be in effect a lottery. If you get on the short list and the Attorney-General says, 'I will not appoint any,' where does that leave them? The real facts of life are that it is important in these sorts of areas for persons to be recognised for their ability and for their own characteristics.

The public advertising of judicial vacancies is generally considered likely to turn some of the more suitable potential appointees away from acceptance of an appointment. With senior judicial appointments the challenge is to try to persuade suitable people to give up a more lucrative and attractive lifestyle to accept appointment to the judiciary. Those people are not often going to come forward and volunteer for appointment and certainly will not respond to an advertisement calling for expressions of interest.

The fact of life is that these people—the previous Attorney-General (Hon. C.J. Sumner) would bear witness to

this—need to be wooed and attracted to the office. They are likely to see an advertisement of the office as lowering the office which would add to the level of resistance to the appointment.

Potential candidates are even more likely to be deterred if they read the Hon. Sandra Kanck's second reading speech in which she suggests that the committee may very well interview applicants. Critical to judicial office is that the appointee should have an appropriate level of legal skill, knowledge and experience. This cannot be judged reliably by people who are not capable and experienced in their own right.

One of the required attributes of appointees, according to the Bill, is proven advocacy skills. The Hon. Carolyn Pickles has referred to that. There have been judicial appointments in South Australia where this has not been a factor. If it had been, then solicitors, academics and some Government lawyers would not have been appointed as judges. If proven advocacy skills is to be an attribute, then it will narrow the field of candidates.

Another of the attributes required of appointees is administrative skills. Administrative skills will be important for some. Chief Justices and judges who have to organise the workload of all the judges and now manage the finances of the Courts Administration Authority need managerial skills, but the other judges do not necessarily need have those skills. Some of the most able members of the judiciary—both past and present—may well not have qualified as candidates for the judiciary if they had been required to possess the qualifications and characteristics set out in clause 6 of the second schedule.

As the Hon. Carolyn Pickles said, there are a number of characteristics that one should have to be considered. One is the necessary legal knowledge, intellectual capacity, quality of intellectual capacity, capacity to weigh arguments and to make judgments, integrity—

The Hon. Carolyn Pickles: Compassion!

The Hon. K.T. GRIFFIN: Yes, compassion—to be impartial and be able to make decisions. Sometimes people cannot make decisions and, if they cannot make decisions, they do not ordinarily make good judges. There are a number of other characteristics that judges or potential appointees to the judiciary should have. It is not clear that the Hon. Sandra Kanck understands her Bill. She says:

> The seven years' direct experience would no longer be a necessity, but extensive experience and knowledge of the law would be. This would mean, for instance, that lecturers in our university law schools could be considered, and there is no doubt that their understanding of the law would be significant.

Yet clause 9(4) requires appointees to be admitted practitioners or possessing the qualifications necessary to be admitted as a practitioner. Lecturers at law school may well have significant understanding of the law without having the qualifications necessary to be admitted to practise. She also says:

> The committee would recommend three names to the Attorney-General . . . the Attorney-General would still get the ultimate say. The difference is that he would have to listen to input from a wide range of groups, and different characteristics might be emphasised than is currently the case.

It is true that the Attorney-General has the ultimate say, but it is the ultimate say only as to which of three candidates will be recommended to the Governor. I refer to clause 9(4)(b), which requires the Governor to appoint a person who has been selected from a panel of three candidates for appointment selected by the Judges Selection Committee. As I have pointed out, these will be drawn only from those who have registered an interest in being considered for appointment as a judge.

It might well be that the courts would decide that the rules of natural justice applied to the deliberations of the committee. A candidate may be able to claim to know the basis on which he or she was not nominated and demand the right to respond to the committee. It may be that appointments under the Judicial Administration (Auxiliary Appointments and Powers) Act 1988 would also have to be recommended by the committee. I do not think that would work. There may be only one person interested in joining the pool of judicial officers, yet this Bill would require the committee to nominate three people.

The South Australian Bar Association has written to the former Attorney-General in his capacity as Leader of the Opposition and expressed the view that the proposals should be opposed. Certainly, the bar association opposes it. It gives a number of reasons that are reflected to a large extent in what I have already referred to. As I understand it, the Law Society, too, does not support this Bill.

In making judicial appointments, I know the previous Attorney did undertake consultations with a variety of persons interested in the process. In relation to the current vacancy, I have undertaken consultations, including consultations with the shadow Attorney-General—

The Hon. Carolyn Pickles: Not shadow Cabinet—

The Hon. K.T. GRIFFIN: No, not with shadow Cabinet, but with the shadow Attorney-General, who is the nominee of the Leader of the Opposition, and certainly, with the Chief Justice, the President of the Law Society, the President of the South Australian Bar Association and with others, to determine who may be a suitable person to be a nominee of the Government. It is interesting to note that over the last few days the Commonwealth Attorney-General has been making observations about—

The Hon. Carolyn Pickles: Have you consulted only with men?

The Hon. K.T. GRIFFIN: No, it is not all men. I have consulted with women as well as men. In the past week the Commonwealth Attorney-General has been making some public comments about appointment of judges. He has categorically denied support for any representative appointment process or that the judiciary should be representative in the sense identified in this Bill, and he has indicated the sorts of processes that he follows in the context of making appointments. In the future, as he has indicated, there may be some more open public examination of appointments to judicial office, but that is not something which is on his agenda, nor is it on mine. It is for those reasons that we do not support the second reading of this Bill.

The Hon. M.J. ELLIOTT secured the adjournment of the debate.

[Sitting suspended from 5.57 to 7.45 p.m.]

WOMEN'S HEALTH CENTRES

Adjourned debate on motion of Hon. Carolyn Pickles:

That this Council—

I. supports the retention of stand-alone Women's Health Centres at Noarlunga, Elizabeth, Adelaide and Port Adelaide; and

II. opposes any move by the Liberal Government to integrate these existing facilities into the mainstream health services.

(Continued from 2 November. Page 706.)

The Hon. DIANA LAIDLAW (Minister for Transport): As the Hon. Caroline Schaefer indicated when she spoke a couple of weeks ago, there has been a process in train to look at the future of women's health in the context of community health services, and against the background of the Commission of Audit report and other budgetary realities.

As has been observed by previous speakers, the Minister for Health attended a public meeting in the pre-budget period to discuss the issue of women's health centres. He invited people at the meeting to make a submission, particularly identifying areas where administrative and infrastructure duplication could be eliminated.

A submission was made on behalf of the boards of management of the four metropolitan women's health centres. That submission was considered in some detail, and the Minister responded to the boards in September with a paper which suggested the manner in which women's health and community health services might fit into regional management structures. On the same day the Minister released a broader discussion paper on a proposed management structure for the South Australian health system, and the general directions of both papers were compatible.

The Chairs of the boards of the four women's health centres responded, and that response has subsequently been assessed. I am advised that recently there have been most constructive meetings between officers of the South Australian Health Commission and the four directors of the women's health centres. The women's health centres have agreed in principle to the integration of the three smaller women's health centres into regional management structures and the amalgamation of the Adelaide Women's Community Health Centre with the Women's and Children's Hospital to provide a State-wide focus and vision.

Members who are aware of the system of women's health centres in South Australia will appreciate that the Adelaide Women's Community Health Centre, which was established by the Liberal Government when the Hon. Jennifer Cashmore was Minister for Health, is currently located in Pennington Terrace, which is close to the Women's and Children's Hospital.

We believe that it is important that the Adelaide Women's Community Health Centre, with the support of the Women's and Children's Hospital, seek to develop this State-wide vision and focus. By mutual agreement, this arrangement appears to be very constructive and a positive basis from which to move forward. In today's economic climate we cannot afford to be pre-occupied with infrastructure and organisational arrangements if it limits service delivery, and I suspect that, if all members in this place thought about the issue in a fair way, they would reach the same conclusion. It could be argued that the real strengths of women's health services are:

1. services for women being managed by women;

2. services being provided in response to and sensitive to consumer need;

3. services that are in touch with issues impacting on women's health.

4. services advocating women's health and well-being; and

5. the issue of separate venues for women to access services.

The Minister for Health has written to the women's health centres acknowledging the need for separately located and identifiable venues or space to be maintained for women's health purposes. The guiding principle would be to provide separate women's spaces or venues throughout the region in response to community needs. For example, it may be necessary for a separate women's venue to be provided for a specific period of time within a newly developing area or for a specific women's health program to be provided at a range of community-based venues in order adequately to respond to community need.

In summary, I believe that the preoccupation with the notion of stand-alone women's health centres is limiting in the context of the debate about where we should be heading in terms of women's health centres and how we can best provide for the health needs of women generally. Concentrating on stand-alone women's health centres implies that women's health services should be exclusively provided from unique centres. I think that we need to move on from that premise. The emphasis needs to be on service delivery rather than organisational structures.

It seems to me that the position that has been reached by the Minister for Health and the Chair and Directors of the four women's health centres in the metropolitan area has the potential to offer the best of both worlds. It keeps faith with the 1993 national women's health program evaluation and future directions report. That report called for increased links with mainstream health services and these links were to be promoted while retaining the valued role of specific women's health services. As I highlighted, these are not recommendations that the Minister for Health and the State have dreamt up in isolation; they are part of the 1993 national women's health program—a program for future directions in this important area.

I believe that the motion moved by the Hon. Carolyn Pickles has now been overtaken by events. I congratulate the Minister for Health on the manner in which he has sought creative solutions to maintaining service delivery in the face of the economic reality of the budgetary situation that the Government inherited. I also congratulate the women's health centres on the constructive manner in which they have now responded to the challenges facing them. On a more personal note, I have enjoyed, and anticipate continuing to enjoy, working with all who are associated with women's community health centres in this State. They provide an excellent service and they will continue to provide such a service in future. I think that the emphasis must be not on the structure but on the service that they provide. I am confident that will be provided in any new arrangements which are to apply, such arrangements having been negotiated between the Minister for Health and the organisations involved in women's community health services.

On that basis I cannot support the motion moved by the Hon. Carolyn Pickles. As I have argued, I believe that the motion and the sentiments expressed in it have been overtaken by events.

The Hon. T.G. ROBERTS secured the adjournment of the debate.

LEGISLATIVE PROGRAM

Adjourned debate on motion of Hon. Sandra Kanck:

That for this session Standing Orders be so far suspended as to provide—

That unless otherwise ordered, where a Bill is introduced by a Minister, or is received from the House of Assembly, after 3 November 1994 and before the Christmas adjournment, and a motion

is moved for the second reading of the Bill, debate on that motion shall be taken to be adjourned and the Bill shall not be further proceeded with until Parliament resumes in February 1995.

(Continued from 7 September. Page 286.)

The Hon. SANDRA KANCK: As we have passed the date in the motion, it is no longer relevant. Therefore, I move:

That this Order of the Day be discharged.

Order of the Day discharged.

TWO DOGS ALCOHOLIC LEMONADE

Adjourned debate on motion of Hon. T. G. Roberts:

That the regulations under the Beverage Container Act 1975 concerning exempt containers—Two Dogs Alcoholic Lemonade—made on 4 August 1994 and laid on the table of this Council on 9 August 1994, be disallowed.

(Continued from 26 October. Page 594.)

The Hon. DIANA LAIDLAW (Minister for Transport): I wish to make a short contribution to this debate. The motion moved by the Hon. Terry Roberts on behalf of the Hon. Carolyn Pickles seeks to disallow the regulations under the Beverage Container Act 1975 exempting Two Dogs Alcoholic Lemonade. This is not an argument about the future of container deposit legislation in South Australia as some members have tried to suggest when debating this motion. In fact, this is an argument about whether or not a new South Australian product, called by the rather quaint name Two Dogs Alcoholic Lemonade, should or should not be exempt from the provisions of the Act. It does not set a precedent and it is not regarded by the Government as setting a precedent if Two Dogs Alcoholic Lemonade is exempt.

Exempting containers from the Act is nothing new. In fact, it was the former Labor Government that made the regulations exempting various containers from the provisions of the Act—an action taken by the former Government which seems to have slipped the mind of members opposite. For example, the consolidating regulation made on 5 April 1990 (No. 45 of 1990) exempted five types of containers from the Act. This regulation included 'glass containers used for the purpose of containing alcoholic and non-alcoholic ciders'. The regulation consolidated in 1990 and introduced by the former Government essentially addresses the subject which members opposite are now seeking to change by imposing a deposit contrary to action taken four years ago when they were in Government.

How can the Opposition support this motion to disallow this regulation when it was responsible for exempting numerous containers from the legislation and, in particular, 'glass containers used for the purpose of containing alcoholic and non-alcoholic ciders'? Having read with some interest the speech made by the Hon. Terry Roberts in moving this motion, I find that he does not address that issue. His arguments are fundamentally unsound and they are certainly flawed.

I am informed that alcoholic cider is a major competitor of alcoholic lemonade. Cider is made from apples; alcoholic lemonade is made from lemons. How can the Opposition justify the exemption of cider and then oppose the exemption of Two Dogs Alcoholic Lemonade? It is interesting that there is absolute silence from members opposite, because they cannot justify the contradiction in this matter.

The Hon. T.G. Roberts: Yes, we can.

The Hon. DIANA LAIDLAW: They can seek to justify it, but it is not credible. Why is the Opposition attacking this developing South Australian business? I think that is a reasonable question to ask in this climate. Why should not Two Dogs Alcoholic Lemonade enjoy the same regulatory exemption as its main competitor, alcoholic cider? The honourable member failed to address these questions that I have just raised and when he sought to do so he did not do so convincingly. I also want to quote from the honourable member's contribution. At the conclusion he makes the following statement:

The problems encountered by the manufacturers of Two Dog Lemonade are that when they look at similar products where some containers are exempt they might believe that they are being victimised.

I am not surprised that they should believe they are being victimised because they are. He goes on to say:

It is the job of the Government to be firm and, if it at a later date the company can show that the 5¢ container legislation or the 5¢ tariff on the returnable bottles is impacting on their business, it may be that they ought to make an application for the exemption.

Essentially, what the honourable member is arguing is that the business should be on its knees and failing because the Government has imposed a 5¢ tariff, and only when it is failing, on its knees and when people and jobs are threatened should the Government look at introducing what we are now introducing. To me that is the most distorted logic and anti-business, anti-job argument that I have heard for a long time. It is probably an argument nevertheless that represents the level of thinking during the past 10 years of Labor and why Labor is now on the Opposition benches.

As a member of the Government which has such a strong economic development agenda I will never be party to a proposition that insists that because of my actions business should be on its knees before we consider making changes to legislation or by regulation on matters that we could have addressed at a much earlier date. This is such an example. We should be addressing now the Two Dog Lemonade issue. We should be supporting, endorsing and applauding the regulation that has been made by the Minister for the Environment and Natural Resources in exempting Two Dog Lemonade from this impost. We should be helping without apology this South Australian business. I will never be party to the arguments of the honourable member that this business should be on its knees before we consider taking the action which the Government has taken but which he now opposes.

In conclusion, the Government believes that, in the circumstances of this matter, Two Dog Alcoholic Lemonade ought to be exempt from the provisions of the Act. If the Opposition and the Democrats want to deal with this issue in a fair and equitable way they should not be pursuing this motion.

The Hon. A.J. REDFORD: I oppose the motion. I wish only at this stage to address some of the comments on this topic made by the Hon. Michael Elliott on 26 October 1994. Before the dinner adjournment I heard the Hon. Michael Elliott say that it was his experience that I do not bring any facts into this place. In reading some of the contributions made by the Hon. Michael Elliott I have found that a lot of his contributions on a lot of topics in this place are bereft of fact and tend to reply on rumour, innuendo, prejudice and political bent to maintain that small rump of support which the Democrats seem to rely upon. It is always that tiny little rump of support which, at the end of the day, one might think

might have given them an opportunity to provide something constructive towards what is involved in this place but which sadly rarely does. This is one classic case of how the Hon. Michael Elliott has got it absolutely wrong, and in a sense has not cared in any way, shape or form whom he has buried along the way.

I will respond to the outrageous comments made by the Hon. Michael Elliott regarding the well respected and well known body KESAB. In referring to that, it is absolutely typical of the Australian Democrats, and in particular the Hon. Michael Elliott, to attack the person and not the argument. At this stage I remind the Hon. Michael Elliott that the very basis upon which the Australian Democrats started was that oft made quote by Don Chipp that the aim and objective of the Australian Democrats was to keep the bastards honest. I am not sure why the Hon. Michael Elliott brought KESAB into the debate. Perhaps at some stage KESAB might have offended him or put forward a proposition that he disagreed with.

Consistent with the typical approach of the Democrats of late and their embracing of the extreme elements of the environmental lobby (and consistent with some of these extreme elements) if people do something the Democrats disagree with then the Democrats go for the body. It is interesting to note the comments the Hon. Michael Elliott made in his contribution to this debate. The Hon. Michael Elliott did not actually come out and say what KESAB said. In the absence of a tangible, real issue that we could debate (something which might keep the bastards honest as Don Chipp said in those days) the Hon. Michael Elliott said that the container manufacturers are a major sponsor of KESAB. He then went on and said KESAB is reliant on industry for funding. He then said—and this is beautiful—that as a consequence of those two things KESAB has a significant conflict of interest. He added that KESAB's capacity for independence has been undermined. Not happy with that he then said that KESAB's advice is clouded by conflict. Finally, just to stick the knife right into what most people in South Australia would think is a very well respected institution, he said that some of its staff joined ICI, which I assume was a package manufacturer.

This is not the first time this session the Hon. Michael Elliott has entered into the foray of container and package legislation. On 9 August 1994 the Hon. Michael Elliott, in an explanation leading up to one of his main questions, said:

> The Conservation Council of South Australia (the peak body of conservation groups in this State) had no idea that such discussions were taking place. One is left asking: who has taken it upon themselves to represent the public interest on this conservation matter? KESAB would probably be my guess.

I am not too sure why KESAB has been subjected to this outrageous attack. Perhaps the honourable member was left off its Christmas card list. Perhaps it provides the Australian Democrats with a reasoned and rational approach to litter and litter control or perhaps it has a number of research officers who apply a reasoned argument.

The Hon. T.G. Cameron: Be serious.

The Hon. A.J. REDFORD: I am being absolutely serious, because I cannot understand why the Hon. Michael Elliott thinks he can come into this place and absolutely slam an institution that has been in this country for some 28 years.

The Hon. Sandra Kanck interjecting:

The Hon. A.J. REDFORD: I will come to that point in a minute. I will do this one very slowly because the member is absolutely and consistently wrong. I think the member needs to be told this in very clear, slow and precise terms, and I will back it up with a bit of fact. He has slammed and slandered an institution that has been at this game for 28 years, for the best part of three quarters of the Hon. Michael Elliott's lifetime. Certainly, with its record, it has every right to make comments on these particular topics. What he says in that, and I assume that there is some reason he embarked upon this gratuitous attack, is that, effectively, KESAB is not fit to make recommendations or responses or be involved in the debate at all because they are in a conflict.

The Hon. T.G. Cameron: They are your words.

The Hon. A.J. REDFORD: He implied it. He has come into this place and said, 'They are in a conflict of interest. Their capacity for independence has been undermined.'

The Hon. T.G. Cameron: They are your words.

The Hon. A.J. REDFORD: No, they are his words. I will take you to the precise reference if you want me to.

The Hon. T.G. Cameron: Please do.

The Hon. A.J. REDFORD: The Hon. Mr Cameron has asked me to take him to the precise reference. He says this, at page 593 of *Hansard*:

> The point I make is they are working so closely together which in one sense is a good thing and are so reliant on funding that it creates a significant and difficult conflict of interest.

It cannot be any clearer than that. He says further:

> It has become reliant on industry as a source of funding. It is also relied upon by Government and others as a source of information on questions such as container deposit legislation.

He goes on to say:

> There is a significant conflict of interest as a consequence.

The Hon. T.G. Cameron: You have just misrepresented him.

The Hon. A.J. REDFORD: I have not misrepresented him at all. It is here in the *Hansard*. Let me set the record straight for the Hon. Terry Cameron. I am sure that he would be a great fan of KESAB—

The Hon. T.G. Cameron interjecting:

The Hon. A.J. REDFORD:—and I am sure that he has been involved in many joint projects with the Australian Workers Union, and I am sure that he would agree with me that KESAB is probably no longer a tripartisan organisation but certainly would be a bipartisan organisation. Let me put to members this fact:

> KESAB has always maintained a balanced and informed view on many environmental issues and has been representative of the broad community approach to solving the issues facing South Australians and beyond.

In relation to the question of the KESAB income base, one which was attacked quite wrongly by the Hon. Michael Elliott, I put this information that I have received from KESAB and I have no doubt that they would be honest people. Let us face it, they were the subject of a gratuitous attack by the Hon. Michael Elliott, and I think it is time that the Hon. Michael Elliott, occasionally when he comes in and makes these gratuitous attacks on well respected institutions, has a few facts put to him fairly and squarely; so let us get the facts. In the 1993-94 year, from a total income of $649 000, only $12 000 was income from companies associated with container deposit legislation. That puts a different slant on what the Hon. Michael Elliott has said—1.8 per cent of their income. A further 1 per cent of income was received from memberships from such companies and 11.4 per cent was received from companies associated with a variety of packaging and filler type products. It is on that basis that the

Hon. Michael Elliott comes into this place and gratuitously slams a well respected institution such as KESAB.

The Hon. Sandra Kanck: Are you saying there is no conflict of interest in that?

The Hon. A.J. REDFORD: You're saying that KESAB can be bought off for 11 per cent of their income. That is an absolutely disgraceful and outrageous allegation or insinuation to make.

The Hon. Sandra Kanck interjecting:

The Hon. A.J. REDFORD: You are the ones who put it. It was the Hon. Michael Elliott—

The Hon. Sandra Kanck interjecting:

The Hon. A.J. REDFORD: The Hon. Sandra Kanck says that that is not sufficient. It was the Hon. Michael Elliott who said that this—

The Hon. G. Weatherill interjecting:

The Hon. A.J. REDFORD: I am referring to the Hon. Sandra Kanck. But it is only 13 per cent of their total income. If the Hon. Sandra Kanck thinks that KESAB can be bought off for 13 per cent of its income, then I again think all she is doing is compounding the rather disgraceful comments she made. I point this out to the Hon. Sandra Kanck and to the Hon. Michael Elliott—

Members interjecting:

The Hon. A.J. REDFORD: I know it is tough. Having make bald assertions such as those made by the Hon. Michael Elliott, then it gets a bit difficult, because you have to rely upon the facts, and the fact is that KESAB has 16 independently elected persons who come from all parts of the community and not simply representing the container deposit legislation. There is no basis whatsoever for the suggestions and the attack that has been made on this institution by the Hon. Michael Elliott. It has been pointed out to me that:

> KESAB has developed knowledge and expertise in a number of areas so much so that their views and opinions are sought from Governments at all levels, commerce and industry, and even the Conservation Council, who have limited knowledge on a number of matters relative to complexities of litter and recycling, including CDL.

That is a quote from a letter that KESAB has sent to me. Again, Mr Elliott's comments in his attack fall short of the mark. His gratuitous comments about KESAB will not go unnoticed. We all know that the Democrats will never be in Government. We all know that they have been lurching around this place for about 15 years, but have never been held accountable. Well, those days are over. Someone is here to keep the bastards honest!

The Hon. T.G. Cameron: Who is that?

The Hon. A.J. REDFORD: I am sure the Hon. Terry Cameron will assist me. I draw the honourable member's attention to this former employee who left KESAB to go to ICI. He got that wrong again. The former employee left KESAB to go to ACI. ACI is a packaging company, and I think that is to be welcomed. If someone from an organisation like KESAB is to go into a packaging organisation, that is to be welcomed and embraced. Again, the justification for this gratuitous and unfair attack on the part of the Hon. Michael Elliott on KESAB quite frankly falls short of the mark. I think there are many other things that could be said about this gratuitous attack, but I might say in closing that the Hon. Michael Elliott, as I understand it, has been invited to visit KESAB, and I am sure that a short visit to KESAB will significantly enhance his knowledge on this area, based upon some of the errors he has made in the past. I am sure such a visit will educate him on the environmental issues. I am sure at some stage in the future we will receive perhaps a more informed comment from the Hon. Michael Elliott.

Members interjecting:

The Hon. A.J. REDFORD: I have been down there. I have spoken to KESAB on many occasions over the years, as the Hon. Terry Cameron has, and I am sure the Hon. Terry Cameron would not support a gratuitous attack such as this on an organisation which, as I understand it, receives some funding from various union bodies as well.

The Hon. T.G. Cameron: A very good organisation.

The Hon. A.J. REDFORD: A very good organisation, as the Hon. Terry Cameron says, and obviously in a position to influence quite a large number of people in the community. Its role in the schools has been terrific. It is very disappointing that the Hon. Michael Elliott comes in here and uses this place as a sort of free kick ground to play the man and not the ball. It might indicate his argument was bereft on this particular topic of Two Dogs lemonade. It might indicate his constant desire to attract cheap publicity without any factual basis, but at the end of the day you have to get back and argue the issues. In that regard, I will not repeat what the Hon. Diana Laidlaw put to this place immediately before me. I might say that the Hon. Michael Elliott has referred to the Conservation Council as an environmental and political lobby group of some note, and certainly as members here would have experienced we get a constant barrage of papers, letters and newsletters about their views on all sorts of topics. Certainly I have found their assistance to be of great help.

If the Hon. Michael Elliott thinks that he will increase his constituency by running around this place and maliciously discrediting a famed institution such as KESAB, an institution with a very proud 28-year-old record, then, quite frankly, his contribution is to be deplored. Certainly, I would hope that in matters environment in the future he might get his facts right rather than going off half-cocked and attacking an important institution such as that. As I said, I will not go through the matters raised by the Hon. Diana Laidlaw, but I indicate that I support the Minister's position on this issue.

The Hon. T. CROTHERS: I rise to contribute to this debate and, even with my modesty, I have to say that possibly no-one in the Chamber is better informed than the member presently on his feet, as he was the Secretary of the union that covered the areas dealing with the recycling of cans, the reprocessing of beer bottles, etc. What appals me about the two previous contributions is that they draw the conclusion from the contribution made last week by our shadow Minister for matters environmental that the Opposition will support the piece of legislation that has been moved by the Hon. Mike Elliott.

The Hon. A.J. Redford interjecting:

The Hon. T. CROTHERS: Support the disallowance, that is what I said. It may be that that will be the case, but I for one can vouchsafe that our shadow spokesperson as yet has not come to any particular conclusion in respect to support or denial of the resolution moved by the Hon. Mr Elliott.

The Hon. A.J. Redford interjecting:

The Hon. T. CROTHERS: I said the Hon. Mr Roberts.

The Hon. T.G. Cameron interjecting:

The Hon. T. CROTHERS: Yes, but it is his legislation, God damn it. Would you listen. It is his legislation.

The Hon. T.G. Cameron: I misunderstood.

The Hon. T. CROTHERS: Yes, of course you misunderstood: you repeatedly do that. Fortunately, saner and more

rational heads do from time to time prevail over the irrationalists who surround me. This matter is one of considerable consequence. As I said, our spokesperson in this Chamber has not come to any decision in respect of what attitude he may or may not take. So it is appalling in the extreme that the Minister for Transport and the last speaker would assume that such a decision has been taken. I understand the perceived necessity of people on the Government benches, the back bench and the front bench, to try to play to their constituency, which is big business and we understand that, but let us not put a cloud of holier than thou smoke around the contribution. Let us call it for what it is. It is an engineered contribution aimed and designed at showing themselves in the best possible light. That might be a trick used on both sides of the Chamber from time to time, but at least let us recognise the contributions for what they are. I am appalled. They must have a crystal ball from which they drew the conclusion that they did from the contribution made by the Hon. Mr Terry Roberts.

Let me give a brief recital of the history of the deposit legislation, because I was there at the very inception of the legislation. It was first mooted and introduced by the Dunstan Government. Its initial aim—and it is still the aim of the legislation, as I understand it—was to control the litter stream that was befouling our roadsides and our places of pleasurable enjoyment: our entertainment centres, swimming pools, the Patawalonga, etc. That is what the legislation was aimed at. It was aimed at the control of the aluminium can, which in fact had almost no degree of biodegradability (compared to the old steel can) when it was introduced. It was aimed at the control of the plastic bottle, now so much in use by bottlers of mineral water and the big aerated water companies in South Australia. Also to some extent it was aimed at the control of the throw-away winery bag that was then coming into use. Those were the items that were aimed at when the Bill was initially introduced by the Dunstan Government. I know because I was part of considerable debate as the Secretary of the union which covered the members that dealt with all of those issues.

The Hon. T.G. Cameron: You're driving the gallery away.

The Hon. T. CROTHERS: That is okay, they are Liberal supporters. Anyhow, I repeat: that was the aim of it. Aside from the jocularity, let us address this matter in a serious manner. That was the original aim, and since that time there are constituent elements in our community who would seize that Bill and the deposit legislation to try to address a whole host of other matters that did not meet with what was the issue that drove the Dunstan Government at the time of its introduction: the control of the litter stream. The two biggest offenders were the aluminium can and the plastic bottle. It was realised that if something was not done about the plastic bottle that, too, would join its cousin, the can, in befouling our areas of pleasure.

By the way, Pickaxe brand beer bottles, which are controlled by the Pickaxe Bottle Company have about a 93 per cent recyclable return, and that is not counting those bottles that are sent interstate, and in spite of there being a mechanism to return those bottles to South Australia that often does not happen. It is not counting those bottles that are broken at the end of the brewery's heat pasteurising system, and there are many, because when new bottles are introduced onto the production line if a piece of clinker has got on to the bottle die it leaves a weakness in the wall of the bottle and, because of the intense pressure under which those containers are pasteurised, they blow up through that weakness in the bottle wall.

In addition to those bottles, which are not subject to the container legislation, imported beers such as Heineken in a green bottle and other bottles and imported cans of beer are not subject to our legislation. Indeed, the Bond Corporation won a section 92 High Court action against a Labor Government which, in an endeavour to try to protect its own local industries, lifted the container deposit. Bond's argument was that it was in breach of section 92—the freedom of right to trade between States—and he won the case.

Winery bottles, of course, which form such a large part of our export market—as indeed do beer bottles because beer is sent in great quantity overseas now—are also exempt from the container deposit legislation. In addition to the manner in which KESAB keeps a watch on the litter stream, in my view we now have, as good as KESAB is, an even better way to check our stream of litter and that is through that international yachtsman, Ian Kiernan, who started up the 'Keep Australia Clean' campaign, which comes on stream once a year throughout Australia. Certainly, that is a better way than even KESAB to monitor our litter stream and to see what the offending objects are. In addition, cardboard fruit cartons, which form an enormous part of our litter stream, are not subject to any container deposit, and neither are milk cartons.

The Hon. A.J. Redford: That cost you the seat of Unley.

The Hon. T. CROTHERS: That might well be—that we have temporarily lost that and 14 other seats—but we will get them back next time round. The people in Salisbury and those in every other by-election held since 10 December have shown what they think of the Labor Party, and it ill behoves the Hon. Mr Redford in his innocence to suggest that anything other than that conclusion can be drawn in relation to the electoral perception of South Australians at this time. That is really begging the question—

The Hon. K.T. Griffin: Are you trying to prove me wrong? I said we would finish by 10 o'clock.

The Hon. T. CROTHERS: Certainly not. All those areas were exempted from the current container deposit legislation, and people must not and ought not get the idea that the legislation was aimed at dealing with anything other than objects of litter that befouled the intention of keeping South Australia's natural terrain as clean as possible.

Unfortunately, from time to time elements in our society have tried to use that, and I am told reliably—and I do not wish to influence the Hon. Terry Roberts—that 83 per cent of Two Dog Lemonade will be sold interstate. Further, even though bottles are exempt from a deposit, it does not prevent their reuse, because they can be collected and smashed and ACI, which produces the new bottle, can use 20 per cent of an old smashed bottle in the material required to manufacture a new bottle. That glass can be recycled and most marine stores now do that.

I do not have a great deal more to add, except to say that my friend Mr Cameron, who has graced us at last with his appearance, is heaving sighs of wonderment at my eloquence. No wonder, as in the several weeks that he has graced us with his presence we have not seen much of him. I conclude by saying that the only reason I entered the debate was that I was appalled by the conclusions drawn by the Minister for Transport and the Hon. Angus Redford—

The Hon. A.J. Redford: Which one?

The Hon. T. CROTHERS: Saying that the Hon. Terry Roberts had made up his mind.

The Hon. A.J. Redford: I never said that.

The Hon. T. CROTHERS: The Minister said she was appalled. I am sorry; I withdraw the comments about the Hon. Mr Redford. He never says much, anyhow, but I withdraw that comment. The Hon. Terry Roberts is consulting with the people whom he should appropriately consult with—

An honourable member: Absolutely!

The Hon. T. CROTHERS:—and that is absolutely appropriate in the circumstances. To do that he may need a little bit of extra time but for the Minister to say, in her appalling contribution, that the die was cast in the mind of the Hon. Terry Roberts is disgraceful. I am sorry I cannot make a further contribution to the second reading debate, although I may be constrained to contribute to the third reading debate. In the meantime, I commend the second reading to the Council.

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

REPUBLIC

Adjourned debate on motion of Hon. M.J. Elliott:

That, in the opinion of this Council, it is inevitable that Australia will become a republic, and that this Council therefore:

1. Endorses statements by the Premier (the Hon. D.C. Brown) that a republic is inevitable;
2. As a consequence, calls for a wide ranging community debate on the options for constitutional change; and
3. Respectfully requests the concurrence of the House of Assembly thereto,

which the Hon. C.J. Sumner had moved to amend by leaving out all words after 'Council' and inserting:

1. Australia should become a republic and there should be wide-ranging community debate on the options for constitutional change;
2. The South Australian Parliament should examine the implications for South Australia's constitutional structure of Australia becoming a republic; and
3. The concurrence of the House of Assembly to this motion be requested.

(Continued from 12 October. Page 387.)

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I move to amend the motion as follows:

Leave out all words after 'Council' and insert the following:

1. There should be wide-ranging and informed community debate on the options for, and the consequences of, constitutional change in Australia;
2. A national constitution or convention should be part of the wide-ranging community debate;
3. The South Australian Parliament should examine the implications for South Australia's constitutional structure should Australia become a republic;
4. Any possible change to a republic will only be achieved when there is broad community support for such a change;
5. Amongst all members of Parliament there is a wide variety of views about possible change including the public views expressed by the Premier; and
6. Any attempt to commit all members to support any change before the above process has been completed will be counter-productive.

I have moved the amendment, first, acknowledging that in the community, and I suspect in all political Parties, but certainly in the Liberal Party, there is a wide variety of views on whether or not Australia should or should not become a republic. Within the Liberal Party, other Parties, I suspect, and the community generally we have those who have strong views that Australia should become a republic and we also have at the other end of the continuum those who are strong supporters of the present structure and arrangements that have served Australia and South Australia well for a long period under our system of a constitutional monarchy. We also have people with views in between those extremes of whether or not Australia should become a republic.

The parliamentary Liberal Party fairly reflects the diversity of views that exists in the community. This has not been an issue where the State Liberal Party or the Premier has sought to impose a particular view. On a number of those media polls of members of Parliament, Liberal, Labor and Democrat, the Premier has expressed his personal view, as have other members of the Liberal Party. We have all seen the diversity of views that exists in the Liberal Party.

I want to say on behalf of the Premier that the original motion moved by the Hon. Mr Elliott does quote part of the statement made by the Premier on this issue, but of course it does not cover the Premier's complete statement. Therefore, it is important to put the Premier's words used by the Hon. Mr Elliott within the context that the Premier has used them on a number of occasions concerning this issue. If one just looks at the Premier's words as quoted, one might infer that the Premier had a view that this issue was of such supreme importance that we should be rushing headlong towards an Australian republic today.

On behalf of the Premier I want to make his position clear. Whilst he has expressed the view that an Australian republic is inevitable, he has not put a timeframe around that statement. The Premier has indicated his view that this issue should be decided by the people at a referendum and, when the people of Australia are comfortable and support the idea in significant numbers, as they must for a referendum to be successful, that is the context in which the Premier made the statement attributed to him.

I therefore think it is important to place on the record that context so that people are not misled about the Premier's views on this issue. Obviously, before any referendum takes place, the Premier acknowledges that there must be some sort of widespread and informed community debate, as the Hon. Mr Elliott advocated in his original motion. The Premier and other State and Territory leaders have recently taken a position, looking towards the centenary of Federation, whereby they have committed themselves to the reshaping of a new Australian Federation by the year 2001.

In order to promote debate about these important issues, the State and Territory leaders have suggested that the Commonwealth and the States should obtain considered advice on the following specific matters: the future role of the Commonwealth, States and local governments in fulfilling the objectives of national unity and regional diversity; the constitutional structures of Government financial and operational arrangements which will best meet the requirements of Australia's States and Territories operating in an effective and competitive Federation; the constitutional arrangements which will allow Australia to continue to develop as an internationally recognised national entity; the changes, if any, which may be required to the current Constitution; and the roles of and the relationship between the three tiers of government to maintain a credible system of government for the Australian people that meets their needs and aspirations.

So, together with other State and Territory leaders, the Premier of South Australia is taking a lead in these sorts of discussions leading towards the celebration of the centenary of Federation, and, on behalf of South Australia, he will ensure that all States and Territories join in what should be

an ongoing and informed discussion about those important issues.

The Premier certainly has some concerns that some people in the national debate may well be using the issue of a republic to install their own particular Head of State or whatever that position might be called—President of Australia or whatever—and to immediately use the republic to abolish the States and Territories. That concern has been expressed by a number of people who have entered this debate. Clearly that issue needs to be addressed because, irrespective of their varying views on whether Australia should become a republic, I am not aware of any of my colleagues holding a view other than that the States and Territories are a most important part of our constitutional arrangements in Australia and must continue.

One of my concerns in relation to both the original motion and the amendment moved by the Hon. Chris Sumner on behalf of the Labor Party is that in some ways they can be seen as trying to politicise the debate on the issue of a republic. I have a very strong view that the only way there will be a republic, or indeed any significant constitutional change in Australia, is if there is broad community support for that change and, importantly, as the history of constitutional change and referenda has shown, if there is bipartisan support amongst the two major political Parties. If we do not have bipartisan support from the major political Parties, as we have seen only too often, it is very easy for one major political Party to mount a major opposition campaign to any referendum for constitutional change and to frighten the horses or the people of Australia sufficiently to ensure that a particular constitutional change is not accepted by the majority of people in a majority of States in Australia.

So, if there is to be a chance for constitutional change of whatever nature, in my judgment the only way of doing that is by achieving a bipartisan view between the major political Parties and a wide community view encompassing other political Parties, such as the Australian Democrats and others within the Australian community. If we do not achieve that sort of broad community support, we will be struggling.

As I have said, the problem I have with the motion and the original amendment moved by the Hon. Chris Sumner is that they seek to lock in all members of the Legislative Council—Labor, Liberal and Democrat—to a particular position: either that Australia should become a republic or alternatively that we endorse the Democrat view that it is inevitable that Australia will become a republic.

As I said, we have members at both ends of the continuum—either strongly for or strongly against—but the bulk of members in this Chamber are in the middle, and I suspect that they reflect the views of many members of the community who probably swing from side to side as to whether they believe Australia should become a republic, depending on what argument they have most recently heard.

The polls indicate the diversity of views and the divided opinion in the Australian community about the notion of moving to a republic. The polls are sometimes affected by the latest stories or indeed by the way the question might be phrased, but inevitably they show that the community is relatively strongly divided. The opinions are either 50-40, 60-40, 40-60, or something along those lines—very significant opposition and very significant support for the proposition whether we should become a republic.

That broad body of people in the middle, and I include in that the members in this Chamber, may well be prepared to contemplate the prospect of constitutional change in Australia if a whole series of important questions can be satisfactorily answered, not the least of which relates to the effects of such a change on the constitutional arrangements for the States and, in particular, South Australia; for example, if we get rid of the Governor-General of Australia, do we continue with State Governors? A whole variety of constitutional changes might flow from any decision at the Federal level to move towards a republic.

So, some members have an open mind and are prepared to contemplate, at least, the prospect of constitutional change if important questions can be resolved. However, if you seek to lock people in at this stage to either saying that it is inevitable or that they support it at the moment, I suspect quite naturally those members will say, 'I do not know enough about it at the moment; I believe we should be cautious; and at this stage if you are going to try to force me into it I will say "No".' I do not see that there is any sensible reason why, at this stage, members of the South Australian Parliament should, by way of a motion or any other device, have to lock themselves into particular positions on this issue, because there are so many unanswered questions about this important issue of whether there should be a republic. Until those questions are answered, many in the community will reserve judgment, and I suspect that many members of the South Australian Parliament also would prefer to reserve judgment.

So, my amendment is designed to support the notion that there should be wide-ranging and informed community debate on this whole question of constitutional change, and that means that there has to be community education about the arguments for and the arguments against any particular constitutional change that someone might be pushing.

There should be some notion of a national constitutional convention as part of that wide ranging community debate. That in itself will not be sufficient, because we have had constitutional conventions before. By themselves, they will not be the solution to finding a community consensus on these important issues. However, as one element of a wide ranging and informed community debate, the view is that they can play a role. Certainly, as would have been seen in recent times, the Federal Leader of the Liberal Party has indicated some support for the notion of a convention. I accept the wording of the Hon. Mr Sumner's amendment that the South Australian Parliament should at some time examine the implications for South Australia's constitutional structure should the decision be taken that Australia become a republic.

The fourth part of the amendment is:

> Any possible change to a republic will only be achieved when there is broad community support for such a change.

I acknowledge in paragraph 5 of the amendment:

> Amongst all members of Parliament there is a wide variety of views about possible change. . .

Finally, paragraph 6 says that really at this stage any attempt to commit all members to support any change before the process of debate and investigation has been completed will be counter-productive from anybody's perspective. For those who want to see a republic, this locking in process would be counter-productive. As I explained earlier, those at this stage who are cautious will lock themselves into a 'No' vote, even if they might have been prepared to contemplate possible support if important questions are answered.

As I have indicated before, there is no sensible reason at the moment for having to lock in members on this issue until these important questions have been answered, other than

perhaps a touch of mischief from the Hon. Mr Elliott in trying to politicise what I think is too important an issue to be politicised. It is an issue that ought to be given the value of informed debate and discussion over a period of time. Then, having had that informed debate, we can all make our judgments one way or the other as to whether we believe Australia should become a republic and any flow on effects to the South Australian community as well.

I urge members to support the amendment that I have moved. Obviously, I am supporting the amendment as I have moved it, but, should my amendment not be successful, I shall be opposing the amendment moved by the Hon. Mr Sumner on behalf of the Labor Party. I shall also be opposing the original motion of the Australian Democrats that it is inevitable that Australia will become a republic, together with the other statements which constitute the original motion.

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

STAMP DUTIES (MISCELLANEOUS) AMENDMENT BILL

Second reading.

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I move:

That this Bill be now read a second time.

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

Leave granted.

This Bill contains three separate measures.

The Act currently provides an exemption from stamp duty on the transfer of property following the breakdown of a marriage.

The administration of this exemption, contained in Section 71ca of the *Stamp Duties Act*, is time consuming and the source of significant aggravation for taxpayers when they are going through a particularly stressful time in their lives.

The Government aims to reduce wherever possible the administrative burdens associated with tax administration. It is therefore proposed with this amendment to remove the prerequisite that parties be divorced prior to obtaining stamp duty exemption on instruments related to property settlements pursuant to Family Court Orders provided the Commissioner is satisfied that there has been an irretrievable breakdown of marriage.

The Bill will significantly reduce the current administrative requirements of both the State Taxation Office and the taxpayer, whilst still protecting the revenue base.

The second measure deals with the stamp duty treatment of certain superannuation funds.

The Government has received submissions seeking concessional stamp duty treatment in certain circumstances where assets representing a member's entitlement in a superannuation fund are transferred to another superannuation fund on the transfer of membership.

Under the current provisions of the Act such transfers would generally be charged with *ad valorem* duty.

Transfers of entitlements between superannuation funds often occur as a result of changes of employment by employees or as a result of the enactment of the *Commonwealth Superannuation Industry (Supervision) Act 1993* which encourages the amalgamation of smaller funds into larger more cost effective funds.

The imposition of *ad valorem* duty of the transfer of member entitlements between superannuation funds is detrimental to the benefits of members and therefore a disincentive for large superannuation funds to be established and located in South Australia.

If a fund converts a member's entitlement at the time of transfer of membership into cash and transfers the cash equivalent to the second fund that transmission of money does not attract duty under the Act.

The liquidation of assets into cash, however, may depress the price of an asset which clearly would not be in the best interests of the member.

It is therefore proposed that the Act be amended to provide a concessional rate of duty up to a maximum duty of $200 when assets representing the entitlements of a member of a superannuation fund are transferred to another superannuation fund on the transfer of that member.

This approach is considered reasonable and equitable to both the Government and taxpayers and will remove an impediment for large super funds conducting business in South Australia.

The third measure ensures that the nexus provisions for certain off-market share transactions will be consistent throughout Australia. Nexus provisions are the means of determining in which jurisdiction duty is payable.

The *Stamp Duties Act* has recently been amended to provide the legislative framework to facilitate the Clearing House Electronic Subregister System (CHESS) of the Australian Stock Exchange and clearly sets out for taxpayers the various nexus provisions under which duty is payable.

For marketable securities transactions it is only in the areas of CHESS and sharebroker dealings that the Act has set out nexus provisions.

Consistent with a position to be adopted in all States and Territories it is proposed to set out the nexus provisions in legislative terms for certain off-market transactions. These have been discussed and agreed by all jurisdictions and the Australian Stock Exchange.

The adoption of these nexus provisions by all jurisdictions will ensure double duty implications do not occur.

The above measures have been the subject of consultation with relevant industry groups and the Government has appreciated their respective inputs.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Amendment of s. 42C—Default assessments

This clause corrects an error in section 42C of the principal Act by removing a reference to registration of a motor vehicle under 'this Act' and replacing it with a reference to registration of a motor vehicle under the *Motor Vehicles Act 1959*.

Clause 3: Repeal of s. 59B

This clause repeals section 59B of the principal Act which has become inappropriate due to the change in nexus for liability to stamp duty effected by the *Stamp Duties (Securities Clearing House) Amendment Act 1994*.

That part of section 59B which deals with exemptions for marketable securities registered in proclaimed countries is, however, preserved in new section 90V.

Clause 4: Amendment of s. 71CA—Exemption from duty in respect of certain maintenance agreements, etc.

This clause substitutes new subsections (2) and (3) in section 71CA of the principal Act. Subsection (2) currently provides an exemption from stamp duty on certain instruments conveying property between persons who are or have been married, provided that, at the time that the instrument is presented for stamping, the marriage has been annulled or dissolved. New subsection (2) provides an additional ground for obtaining the exemption where the Commissioner is satisfied that the marriage of the persons involved has broken down irretrievably.

Subsection (3) currently provides for a refund of duty following annulment or dissolution where duty was paid on an instrument which would have been exempt under subsection (2) if, at the time of presenting the instrument for stamping, the marriage had been annulled or dissolved. New subsection (3) provides for a refund of duty which was paid because the marriage was not annulled or dissolved and the Commissioner was not satisfied that the marriage had broken down irretrievably, where subsequently the marriage has been annulled or dissolved or the Commissioner has become satisfied that the marriage has broken down irretrievably.

Clause 5: Insertion of s. 71DA

This clause provides for a new section relating to certain conveyances between superannuation funds. The current provisions of the Act impose stamp duty at *ad valorem* rates when assets are transferred between superannuation funds. This provision will allow a concessional rate of duty to apply if the transfer is in connection with a person ceasing to be a member of one fund and becoming a member of another fund. The relevant funds must be complying funds under the *Income Tax Assessment Act 1936* of the Commonwealth. The rate of duty will be the usual *ad valorem* rate on conveyances, or $200, whichever is the lesser. The new provision will apply to instruments first lodged with the Commissioner for stamping on or after the commencement of this section.

Clause 6: Amendment of s. 90I—Transfer documents treated as instruments of conveyance

This clause amends section 90I of the principal Act to ensure that transfer documents will be treated as instruments of conveyance even if the body approved as the securities clearing house loses its registration under Division 4.

Clause 7: Insertion of Division 5

This clause inserts a new Division in Part 3A of the principal Act. New Division 5 deals with conveyances of relevant marketable securities which are effected other than through a broker (under Division 2) or through SCH (under Division 3).

New section 90U applies the nexus provisions to these off-market transactions, so that they will be liable to duty if the security involved is—

- a marketable security of a relevant company;
- a unit of a unit trust scheme with its principal register in this State; or
- a unit of a unit trust scheme with no Australian register but with a manager who is principally resident in the State or a trustee that is a relevant company or a natural person principally resident in the State.

New section 90V preserves the exemption for marketable securities registered in proclaimed countries which is currently part of section 59B.

Clause 8: Amendment of s. 106A—Transfers of marketable securities not to be registered unless duly stamped

This clause does not effect any substantive changes but updates the language used in section 106A of the principal Act to more accurately reflect the way in which transactions are recorded by companies these days.

Clause 9: Statute revision amendments

This clause allows for the schedule which makes various statute revision amendments of a non-substantive nature to the Act.

The Hon. T.G. ROBERTS secured the adjournment of the debate.

CORRECTIONAL SERVICES (PRIVATE MANAGEMENT AGREEMENTS) AMENDMENT BILL

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Delegation by Minister and Chief Executive Officer.'

The Hon. T.G. ROBERTS: I oppose the clause. I guess that this is as good a time as any to speak about our opposition to the Bill, so I will take this opportunity to present the Opposition's reasons for opposing the Bill. One of the reasons why the Opposition is opposed to the Bill and the proposal to reorganise the management of the correctional services system under private management is that the Government did not indicate in the lead-up to the election its intention to do so. Therefore, it was not part of its promises to the public. I will place on record a statement made by the now Minister for Correctional Services in a news interview in the South-East. The broadcast starts:

> The Arnold Government and the unions have been accused of starting a dirty tricks campaign in the lead-up to the election by suggesting a Liberal Government has a hidden privatisation agenda. A Queensland University law lecturer has been brought to Adelaide by the Public Service Association to speak out against the privatisation of gaols in that State. Our Opposition spokesman on prisons, Wayne Matthew, is fuming over some of the implied claims.

According to the news service, Mr Matthew said:

> I am absolutely outraged that anybody could suggest that a Liberal Party Government would close our small prisons and we would privatise existing prisons. That is absolutely wrong. The Liberal Party has never said that, will not do that, and it would appear the Labor Government is becoming very, very desperate at this stage in the lead-up to the State elections, so much so that it and the trade unions have to peddle such outrageous rumours through our community.

I think that is a fairly strong indication that the position outlined by this Bill is diametrically opposed to the stated intentions of the shadow Minister at that time.

I know that the Government has since come out with a wide ranging program of privatisation and has put into the public arena alternatives around corporatisation in many public sector organisations. However, in relation to correctional services, as I said, there was no indication that a privatisation arrangement was to be entered into. The Opposition's view is that the management of prisons is very different from privatising businesses such as sawmills or the corporatisation of water, power, and so on, although one could say that they would be very difficult services to privatise.

Corporatisation is slightly different. The Bill before us does not corporatise the prison system: it privatises it and sets up private ownership in an arena that the Opposition believes should be the province of the Government in a collective administrative role with the justice system. You cannot separate out private ownership and the arguments around the meting out of justice, punishment and rehabilitation. I will not go into all the arguments on why privatisation should not take place, because I put on record in my second reading speech the Opposition's position in relation to prisons. Since my second reading speech there were a number of reasons given to me by people at the Mount Gambier prison about why the prison should not be privatised. I met with the prison officers in Mount Gambier on Monday, and it is important that I place on record some of the history and story that goes with the sorry tail of the attempts by the Minister to try to get the culture of privatisation accepted by the prison officers in that prison.

The Minister made comments publicly and in another place that, despite what the Parliament felt about his move to privatise the prison system, he would do it by regulation only. That has upset not only people in the prison industry but a wide range of people who believe that the negotiations around restructuring should have taken place under the umbrella of a corporate structure with Government control rather than using private ownership to get the savings outlined by the Government in speeches both in another place and publicly.

The critical difference between the Government's and the Opposition's position is that the Opposition believes that the savings indicated, proposed or required in administering the prison system in this State could have been negotiated through enterprise bargaining and restructuring arrangements with those people involved. I know the Government will say that those negotiations were attempted and in part were successful, but they really need the umbrella of privatisation of one, two or three gaols to pull off the savings it needs to get the increased services required for a more successful rehabilitative scheme within the prison system. The Opposition does not accept that. We do not believe that those negotiations went far enough, and I cite the West Australian restructuring program where it looked at privatisation.

Under a Government corporate scheme it looked at negotiations to restructure by using a model for savings through negotiations and enterprise bargaining. It came away with a model basically the same as the Opposition submits the Government should be looking at, which is to allow negotiations to continue. I have spoken to the prison officers in the Remand Centre. They are moving towards making negotiations easier for the Minister to obtain the cost savings he requires through re-configuration of their work patterns and

other cost saving measures. I understand that prison officers in Yatala and other institutions are also looking at reconfiguring their work patterns by changing shifts, increasing the length of shift, looking at electronic surveillance systems and a wide range of measures that complement the changes in work patterns to make security and rehabilitation a key factor. Those offers are still being made by the PSA representing the correctional services officers and the correctional services officers themselves at local workplaces.

I thought the Government might have been reasonably happy with the offers made by the correctional services officers and their representatives, and would have tried to leave those negotiations totally uncluttered by the introduction of a privatisation Bill. Unfortunately, the Bill has been used to clutter up the negotiations around restructuring. It has been used as a stick rather than carrot to threaten those negotiations. The Government has used the threat of privatisation to try to get results that match the expectations of the bean counters who require the cuts in the overall funding of prisons.

The prison officers in Mount Gambier tell me that they were encouraged to submit a tender to the Government for their own jobs. They were encouraged by the introduction of an offer of $20 000 to sit down and draw up a program that they would submit to the Government to run the new Mount Gambier prison; they were encouraged to put in a tender process for that. They came up with figures that were not, according to the Minister, even in the ball park yet they were almost one-third of the average cost of keeping a prisoner in this State. As the Minister indicated either privately our publicly, they were nowhere near the mark to being able to secure that tender. It is my view that it did not matter what was the ball park figure the prison officers submitted in the Mount Gambier tendering process because they were never going to get that tender. It was always going to go to a large organisation with experience in correctional services management either interstate or overseas. The Mount Gambier correctional services officers were never going to get to first base although there was encouragement for them to do that.

They indicated to me as recently as Monday that they do not want to be part of a privatised prison service. They want to remain as public employees in the public system and want to negotiate changes to the system to assist the Government obtaining required cuts in costs. They want to do this not at the expense of security, rehabilitation, education and all the components that are required in a modern day prison to help rehabilitate offenders so that the recidivism rate does not get as high as it does in some other States and countries. Although the recidivism rate is quite high, there is a lot of room for gains to be made. Many people are dealing with it in a very constructive way. The Hon. Mr Griffin would agree with me that there are a lot of people out there working to achieve the aims of Government, but in the time frames they are being given it is almost impossible for them to do it under the duress that has been placed upon them with the advent of this Bill while the negotiations of restructuring are continuing.

The Hon. R.D. Lawson: What has been going on in the past 10 years?

The Hon. T.G. ROBERTS: I must admit that in terms of the costs and overall administration of prisons there have not been a lot of changes or restructuring of management structures in this State. There have not been a lot of changes in a number of the other States, either. Generally, the changes have been a reaction to the changes in the law and order patterns that have developed since high unemployment, and many other contributing factors have occurred.

I do not think the management structures in this State have been any different from those in any other State. It is just that there is a move on to separate Government ownership and control of prisons into the private sector as part of an ideological shift which occurred in this country in the past three or four years.

The Hon. J.C. Irwin: That is what Frank accepted, obviously.

The Hon. T.G. ROBERTS: I understand that the previous Minister in the Labor Government had looked at the configuration under private management. I was in the Caucus for some considerable time while those configurations were being looked at and the proposition of privatisation was being discussed. It was never brought to Caucus for discussion. It was a Cabinet document or a document bandied around as having some sort of credence and credibility within the Opposition structure, but it was never given any broad based effect in the Party. It may have been if we had won Government, who knows. We may have been discussing the same thing. It would not have been accepted.

The Hon. R.D. Lawson interjecting:

The Hon. T.G. ROBERTS: That is the point I am making. Ministers have the ability to bring discussion papers into Caucus or Cabinet but that does not mean to say that that will be the policy. The points I would make in presenting the amendment that I have circulated actually give some flexibility to the Government to look at privatising catering services or at least negotiating with those people in the prison services area, the areas of catering, laundry, education training and counselling, prison industry, and maintenance services. I understand from talking with people in the prison system that those talks have been going on for a long time around those issues. Although I have indicated through my amendment that clause 1(a)(i) does not preclude the Minister from entering into a management agreement for the provision of the following services, it does not necessarily make it mandatory.

In those areas where cost savings and efficiencies can be negotiated and where you have an enterprise agreement that agrees to allow those services to be negotiated to be contracted out to the private sector, then this amendment does not preclude that. What it does preclude is the setting up of a separate private management structure away from the responsibility of the Correctional Services Department. We are trying to assist the Government in getting its cost savings that are required, and assist it to hold some credibility lines with its prison officers and the organisations that represent them in negotiating changes rather than having changes impact upon them that they have little or no negotiating ability to resist.

If the amendment is not accepted, or if we are not able to come to some agreement around the philosophical issue or the gulf that is between the Government and the Opposition's position, and the Government wants to bring about its changes under a privatised system, we are saying that those same changes can be achieved by working through enterprise bargaining, through the organisations and through the officers in a publicly run system, but with a more responsive industrial relations management scheme that allows for those changes to occur.

The Hon. K.T. GRIFFIN: It is not correct to say that this is a proposal to run the prisons away from the operations of

the Department for Correctional Services. If members look at the Bill and what the Minister has said and what I have said in my reply, there will be very tight constraints upon those who are successful in gaining the opportunity to run a prison. It is intended that there be very tight control over the operations. There will be a contract, whether it is with the department or more particularly with a private operator, and that will have the performance outcomes which are required to be met, and also deal with a number of management as well as other sensitive issues. So it is not correct to say that it will be running apart from the mainstream of the Correctional Services system.

There are several matters that need to be addressed as a result of what the Hon. Mr Terry Roberts raised. The first is that this Bill is not about private ownership. It is about outsourcing management. It is about private management, and at least providing the Government with the flexibility to allow private management. What has been indicated is that the Government wants very much to be able to offer the operation of the Mount Gambier prison as the first prison for management having put out for tender the opportunity to do that. As I indicated in my reply, and as the Minister indicated in another place, the present employees will have an opportunity to present a tender.

In relation to the Mount Gambier prison, if its operation is offered out for tender, it will be the first occasion that the public sector has been allowed to tender for the management of a prison. The new Mount Gambier prison is intended to be offered for tender to both the public and private sectors. As the Hon. Mr Roberts said, the staff at Mount Gambier are preparing a bid on behalf of the department for the management of that prison. It was $10 000, not $20 000, that was made available to assist them, but at least a significant amount of money was made available so they could put themselves in a position where they could prepare a bid. It is not correct to compare the price which they offered with the cost of running the prison previously.

The amount which the Mount Gambier staff were proposing, $29 000 as I understand it per prisoner, excluded the cost of capital, yet the figure with which they were comparing it, $43 000 per prisoner, included the cost of capital, so they were not comparing the same items. It was not like with like or apples with apples as one might say. So there was a significant disparity. If one brings into account in the public sector proposal the additional cost of capital, it was certainly not within a reasonable ballpark. So that needs to be corrected. One has to question what the trade union movement and staff are afraid of. They have been given the opportunity to tender, to compete, on an equal footing, and one of the fundamental aspects of this legislation is to increase competition for the provision of services.

All tenders will be evaluated and the contract is proposed to be awarded, if we are given the legal opportunity to do so, based on the best bid that suits the criteria set by the Government. The criteria will be on the public record. In essence though, the criteria will revolve around the quality of services and price. If the public sector can provide the same service for less money then certainly the Government would not be proposing to award a contract to private enterprise. As I say, what has the public sector got to be afraid of from a fair, open and competitive tendering process? The actual tender documents have not yet been prepared or completed, and so there is no basis for the staff to develop and complete their bid and, at this stage, to make any comparisons or seek to make comparisons with the private sector.

There has been a suggestion made, not now but in earlier discussions, that the new Mount Gambier Prison cannot be used as a benchmark against other prisons, and that is incorrect. A recent census taken of the prison population in August determined that some 78 per cent of the prison population is classified in the medium to low security bracket. That is the same rating as the Mount Gambier Prison and it therefore can be regarded as a starting point for benchmarking purposes. It is important to recognise that many institutions have been poorly configured in the past, and it is part of the reason for the current restructuring and reform within the present system that we want to correct that configuration. Essentially, we presently have a system that has prisoners in regimes that contain more security measures than required, and this adds immensely to the cost.

I did explore at length the argument that has been raised that the Government should negotiate with the unions first rather than privatise when I replied at the second reading stage, and I do not intend to revisit all of the arguments that the Government put. It is important to reiterate that the unions are being given an opportunity to contribute to the reduction of costs and to have a say in the running of an efficient and effective correctional services system. In other words, to keep the public sector slice of the prison system.

All changes to unit management have been done with consultation at the local institutional level and at the fortnightly meetings with the PSA. Unit management is likely to make a significant difference to the safety of staff in the rehabilitation of prisoners. I am informed that restructuring has generally gone very smoothly. Changes at Yatala, for example, were designed by a committee of representatives comprising staff, unions, occupational health and safety officers and management. So, there has been consultation with the unions, and that is proposed to continued.

The sorts of opportunities to participate through the public tendering system are opportunities which I would have thought the trade union movement would welcome, to demonstrate that it can in fact deliver service and quality at a competitive price. The Government does not support the amendment. We recognise that there is something of a dilemma in this for us because we do want to get the Bill at least to a conference, if it cannot be agreed before then. I indicate to the Committee that, whilst opposing the amendments, I am in a sense going to let the ball go through to the keeper and not seek to divide on those amendments and that, I think, gives the best prospect for ensuring that the Bill—even if amended in the way in which the Opposition presently requires—at least is kept alive and is not defeated at the third reading. There is then a continuing opportunity for the Government to have further consultation with a view to endeavouring to resolve at least some aspects of the difference in approach between that of the Government and the Opposition.

The Hon. SANDRA KANCK: I do not propose to revisit the arguments the Democrats have already spoken of both here and in the media. I indicate that we will be supporting this amendment and all of the other Opposition amendments but—

The Hon. K.T. Griffin interjecting:

The Hon. SANDRA KANCK: Yes, we will be supporting those amendments, but we are supporting them with reservations. Quite clearly these amendments will gut the Bill so that it is almost unrecognisable, but it will still retain a Bill at the end, as the Attorney-General has recognised. It raises the question: why have those amendments at all? Why not

simply vote against the Bill in its entirety, given the stated public position of the Opposition on this Bill? My fear is that the public position, and the posturing we have seen on it, may be very different from that which the Opposition proposes to do when it comes down to the real action, because by having this Bill go through, in whatever form, it is inevitable that we will have a conference of managers. I have been wondering and trying to come up with an answer as to why the Opposition would want that conference of managers to occur.

I might be overly suspicious but I have to look back to last session where, sadly, we saw that sort of posturing on the truth in sentencing legislation. We had lots of angry statements in the media about what a dreadful Bill it was and then the Opposition voted the opposite way. Recently, we saw its turnaround and betrayal on Public Service superannuation. The Democrats' fear is that by allowing the Bill to get to a conference of managers the Opposition will use that conference as a forum to sell out on the stated position. I hope that I am wrong in this supposition. I am only judging it on the recent record of the Opposition and, if I am wrong, I am sure that the Opposition will let me know. I will be very pleased if I hear cries of righteous indignation coming from Opposition members now.

The Hon. T.G. Roberts interjecting:

The Hon. SANDRA KANCK: Say it loudly: I do not think that sounds very sincere. The Minister for Correctional Services has said that he will privatise whether or not this Bill gets through, so I would appeal to the Opposition to make sure that this Bill, in whatever form it gets through, is what they will finally support and not some corrupted version that comes out of a conference later on. I reiterate that I am indicating support for this amendment and all subsequent amendments. I do not propose to speak on each amendment.

The Hon. K.T. GRIFFIN: I am a bit concerned about that. I would not have regarded any compromise on the Bill which might eventually allow some private sector management of a prison or two to be a sell out. I would have thought that—

The Hon. Sandra Kanck: You have said all along that that is what you wanted but that is not what the Opposition says.

The Hon. K.T. GRIFFIN: That might be so but what I am suggesting is that there should be nothing to fear from a competitive tendering process where everyone has an opportunity to tender on the same terms and conditions and on the same open basis. Tenders will be known publicly. It will be an open process and, as I said in answer to a question this afternoon, there will be efficiencies and savings, and those savings would ultimately go toward rehabilitation of prisoners, a greater focus upon educational opportunities and opportunities for the development of confidence and skills so that the greater number of prisoners in the prison system are less likely to adopt a life of crime on their release into the real world.

The fact is that the cost of running prisons in South Australia is higher than it is in most if not all other parts of the Commonwealth. It is time that this issue was addressed and, if competitive tendering is going to provide a reduction in the cost on an open basis where the same level of services is sought and the public sector has an opportunity to tender on the same terms and conditions on the same level playing field as the private sector, I would have thought there was nothing to be lost by allowing the Bill to pass unamended. I recognise the reality and, as I said earlier, I do not intend to divide if I am not successful on the voices.

Clause negatived.

Clauses 4 and 5 passed.

Clause 6—'Insertion of Divisions 1A and 1B of Part 2.'

The Hon. K.T. GRIFFIN: All the amendments that now follow are essentially consequential on the issue which has just been resolved and, whilst I oppose all those amendments, for the sake of consistency I will certainly not be seeking to divide on the amendments to come.

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

Page 3—

Lines 16 and 17—Leave out 'management of a prison or for the carrying out of any other of the department's functions' and insert 'carrying out of any of the department's functions other than the management of a prison or the management, control or transport of prisoners'.

After line 17—Insert new subsection as follows:

(1a) Subsection (1) does not preclude the Minister from entering into a management agreement for the provision of any of the following services:
(a) catering services;
(b) laundry services;
(c) education, training or counselling services;
(d) prison industries services;
(e) maintenance services.

Page 4—

Lines 13 to 17—Leave out paragraph (k).

Lines 20 and 21—Leave out paragraph (a).

Page 6—

Lines 4 and 5—Leave out all words in these lines.

Leave out new sections 9E and 9F.

Page 7—

Line 16—Leave out 'an authorised employee or' and insert 'a'.

Line 20—Leave out 'an authorised employee or' and insert 'a'.

Line 22—Leave out 'an authorised employee or' and insert 'a'.

Lines 24 to 26—Leave out paragraph (d).

Line 28—Leave out 'an authorised employee or' and insert 'a'.

Line 32—Leave out 'an authorised employee or' and insert 'a'.

Line 34—Leave out 'an authorised employee or' and insert 'a'.

Page 8, lines 1 and 2—Leave out 'an authorised employee or'.

Amendments carried; clause as amended passed.

Clauses 7 and 8 passed.

Clause 9—'Evidentiary provision.'

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

Page 9—

Line 1—Leave out paragraph (e).

Lines 3 and 4—Leave out paragraph (g).

Lines 5 and 6—Leave out paragraph (h).

Amendments carried; clause as amended passed.

Clause 10, schedule and title passed.

Bill read a third time and passed.

STATE DISASTER (MAJOR EMERGENCIES AND RECOVERY) AMENDMENT BILL

(Second reading debate adjourned on 2 November. Page 716.)

Bill read a second time.

In Committee.

Clause 1—'Short title.'

The Hon. T. CROTHERS: The Opposition will support this Government measure without amendment. Briefly, and reiterating in some part that which was part of my second reading speech which is germane to the Committee stage, I must say that it may well be that once the deliberations of the select committee investigating the Stirling bushfires are

brought down, and without wishing to pre-empt those deliberations, we will have to revisit either this Bill or the parent Act as they relate to State emergencies. The Opposition understands that the measures contained in this Bill are both necessary and desirable. I indicate that the Opposition has no amendments to any of the clauses—I think the Bill is brief in respect of clauses—and we support the Bill.

Clause passed.

Remaining clauses (2 to 24), schedules and title passed.

Bill read a third time and passed.

VOCATIONAL EDUCATION, EMPLOYMENT AND TRAINING BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendment.

PUBLIC SECTOR MANAGEMENT BILL

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

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I move:

That this Bill be now read a second time.

Given that this Bill has been discussed at length in another place, I seek leave to have the second reading explanation and the detailed explanation of clauses inserted in *Hansard* without my reading them.

Leave granted.

This is a Bill to repeal the *Government Management and Employment Act* and to establish new management arrangements for the State Public Service.

It is a Bill which will have a defining impact upon the future of South Australia.

It is not simply a new way of managing the public sector in South Australia—it is the most significant and long overdue recognition that the men and women of the public sector have a role far greater than just the provision of essential services—they are actually partners, with the Government of the day, in the future of this State.

And in giving that recognition, the Government maintains the employment safeguards necessary for an independent public sector and gives far greater responsibility for outcomes to Chief Executives and executives.

This is a new era for an organisation whose traditions are proud and strong.

It is the essential re-focussing towards the 21st Century, for a State still trailing a heavy debt, as we line up in the race for new and expanded overseas markets against competing nations which have already enthusiastically embraced the challenge of change.

It will help us to ensure that South Australia will not be left behind, unable to compete with other States and other nations in the global marketplace in which our future lies.

This State is blessed with resourceful people, hard working people prepared to have a go, creative, inventive men and women, and young people wanting a start.

This Bill is about their future.

As the provider of the essential services for the community and for industry, public sector performance must be the best because we are in competition with the best.

Positioning for the challenges of change means building on the great traditions of the public sector in South Australia. Building on the traditions, not discarding them.

One of those great traditions of the public sector has been its willingness to move with the times and to implement the reforms necessary to meet present challenges.

The Government now wishes to focus those strengths on the future by improving its performance orientation and giving the men and women of the public sector the opportunity to be a full and dynamic part of the South Australia of the future.

This Bill will ensure a strong public sector for today, and the future, playing a leading role in the rebuilding of South Australia.

The need for a new Act.

This Bill has not been imposed upon the public sector from above. There has been an extensive and extended consultation period. And it has not been consultation for consultation's sake. The Government values the wealth of experience and the potential of the ideas in the public sector, just waiting to be utilised for the benefit of South Australia.

One of the questions put during the consultation period was why new legislation was needed when the Government Management and Employment Act was so "recent".

Frankly, the old act was not on the pace for the 21st Century. When we looked at the Commission of Audit—and then looked at just how much had to be done to fix the problems and address the urgent needs identified by the Commission, it was quite obvious that a new Act was required.

Nor did the old Act capture the spirit of the reform and management accountability required to take our public sector into the next century.

Quite simply, since the Government Management and Employment Act was introduced in 1985, there has been a period of major development in general management practice.

In 1985 we had yet to hear to any degree of total quality management, continuous improvement, customer service, benchmarking, quality circles, adding value and business re-engineering.

In the public sector we had yet to hear to any degree of downsizing, customer service, "re-inventing Government", corporatisation, and performance culture.

The number and extent of amendments required to reflect the needs of 1994 and beyond would have been so extensive that the Act would have become ridiculously cumbersome.

It would also have lost the essential thrust of public sector reform.

The Public Sector Management Bill focuses clearly on enabling public sector reform. It is shorter and more easily understood.

General aims of the Bill.

The Bill has two quite specific aims. The first is greater management flexibility while maintaining the traditional and necessary independence of the Public Service.

The second is responsive and effective service to the South Australian community through greater performance orientation and emphasis on accountability and outcomes.

Major changes contained in the Bill.

The specific major changes contained in this Bill are as follows.

The present principles have been rewritten as aims and standards. And they have been styled in plain English to be more accessible and relevant to a contemporary public sector.

Responsibility for general employment determinations has been moved from the Commissioner for Public Employment to the Minister responsible for the Act.

It is appropriate for the employing authority, the Government, to be responsible for setting the general personnel and industrial relations framework for the Public Service.

This is consistent with other States.

At present the Commissioner for Public Employment is involved in the day to day operational tasks of agencies in selection and appointment, classification, and executive officer employment. This will change with the Commissioner's primary functions being to develop guidelines on personnel management, provide advice, and monitor and review agency performance against the General Public Sector Aims and Standards contained in the Act.

The role of Chief Executives has been expanded to include increased responsibilities in personnel management, including for executive employment and for resolution of grievances.

Chief Executives will be employed on performance contracts, while contracts for executives will be phased in. Contracts will specify the terms of employment, grounds for termination and will allow for termination without cause subject to four weeks notice and a termination payment.

Appointment arrangements for non-executive employees have been simplified and allow for appointment with tenure or under contract.

It is intended that most Public Service employees will continue to be employed with tenure.

The Bill provides, as did the Government Management and Employment Act, for termination as a last resort in cases of excess, of misconduct, and of mental or physical incapacity.

Where the Government Management and Employment Act allowed for termination under an unspecified general heading of "incompetent employees", this Bill provides for a category of "unsatisfactory performance".

It is intended that clear performance standards will be defined for each agency and work unit as part of performance management in agencies.

This is an important element in the Government's priority for a greater performance orientation in the public sector.

In any of the above cases of termination the processes of assessment will have protections for due process as under the Government Management and Employment Act.

Employees will still have the right to appeal against administrative decisions directly affecting them but these appeals will be handled in a simpler, less legalistic manner.

Existing appeals tribunals will be replaced by a process where, in the first instance, the Chief Executive will try to resolve grievances. Depending upon the circumstances, appeals will then be handled by Chief Executives, the Commissioner for Public Employment, or independent persons nominated by the Commissioner.

The employee can still be represented by a union, if he or she wishes. However, the legislative requirement for consultation will be removed.

Consultation on the draft Bill.

Consultation on the draft Bill has been taken very seriously by the Government. In return, it has received substantial and thoughtful feedback from employees. The Government expresses its appreciation for those comments. As will be detailed later, they have helped considerably in the redrafting of this Bill.

Because consultation has been a very important part of the process of developing this Bill, and because of the enthusiastic participation by public sector employees, at all levels, the Government wishes to respond to a comment made by some unions that the consultation period was not long enough.

Knowledge of this Bill has been current for some months now, with newspaper articles and union comment first appearing back in August. The Government provided formally for a one month period of consultation on the draft Bill.

The key issue here is that those likely to be affected by the legislation have had the opportunity to reflect and comment. In the month of consultation on this Bill the Government has provided more assistance for employees to consider the draft Bill than has ever been provided before.

It is a measure of the importance we place upon reform of the public sector that we have been determined to offer the widest possible opportunity for comment.

I wrote to all Public Service employees advising of consultation channels and welcoming comment, through a government hotline and through briefings provided in each agency.

And, of course, the public sector unions played their part by providing information and a hotline of their own.

Proof for Government that the consultation has successfully identified the major issues lies in the fact that, for some time now, there has been a very clear focus on areas of potential concern, each of which has been considered at length. The Government would like to make clear its response to these major issues.

Major issues raised in consultation.

Independence of the Public Service was a major concern and arose from a provision in the draft Bill for Ministers to be able to direct their Chief Executives in relation to personnel matters affecting individual employees in their portfolio.

The intent of that provision had been to enable direct resolution of personnel matters at portfolio level. However, strong concern was expressed by employees about the possibility of Ministers responding personally and inappropriately to individual employees in their portfolios. As a result of the consultation process and the concerns expressed, this provision has been withdrawn.

The Government believes that it is appropriate for the employing authority, in this case Government, to be directly responsible for the establishment of the general personnel and industrial relations framework for its employees. This arrangement is consistent with those presently in place in other States.

In regard to contract employment, the concern was that it presents a degree of risk to Public Service independence in that those employed on contract might be reluctant to offer frank and fearless advice which may offend, and find themselves facing termination.

The Government believes that, in line with general business practice in today's competitive environment, good managers or employers will not reject frank and fearless advice, even if uncomfortable, if it truly impacts on the effectiveness of their business.

In the view of the Government, the great problem, historically in the public sector has been with advice that is neither frank or fearless because with jobs for life at the senior levels, there have often been no real consequences for not getting it right.

The Government believes that it is in keeping with employment practices elsewhere in both public and private sectors that Chief Executives and executives are not guaranteed jobs for life, but that they take responsibility for their performance in leading and managing their organisations.

Even so, the Bill has balanced this concern through monitoring, appeal and review functions of the Commissioner for Public Employment.

A second area of concern was over tenure for non-executive employees. It was suggested that the Bill will allow Government to introduce contract employment widely for non-executive employees. This will not be the case. There is no intent to vary current employment practices for non-executive employees. As I said earlier, it is intended that most employees will continue not to be employed under fixed term contracts.

A related concern was that the draft Bill's provision to appoint employees to a remuneration level rather than a position will in some way adversely affect the employment rights of employees.

Employee rights to tenure and conditions of employment will remain unaltered under the Bill.

The change will simply reduce considerably the administrative work associated with the appointment of employees.

A third area of concern was that the change from the Governor to the Chief Executive being responsible for termination of excess employees would somehow reduce employee protections.

The protections are in fact essentially the same as at present for retirement of excess employees. They ensure that employees will only be terminated as a last resort and only after the agreement of the Commissioner for Public Employment.

It has also to be stressed that the Government presently has a no retrenchment policy.

A fourth area of concern was about appeal rights. Employee rights of appeal are still maintained; the concern is really with the change in the avenues for appeal.

There is concern that the new process of handling appeals against administrative decisions without an independent tribunal will not guarantee natural justice.

The appeal process has been changed so that Chief Executives must take prime responsibility for resolving grievances in the workplace, and through a process developed in collaboration with employees according to guidelines. And the Bill provides a further step. The Commissioner for Public Employment will hear appeals in more serious cases, or in cases where a Chief Executive has been personally involved. The Commissioner for Public Employment can also delegate this role to an independent body. The Government believes that natural justice has been protected, with less administrative cost.

Summary

In summary, in moving to the clause by clause description, I reiterate the Government's strong desire to return our Public Service to the leadership position in Australia that it has occupied in the past. The many hard working and genuinely public spirited people that make up our public sector will welcome these moves to make the Service more vibrant and robust, and better placed to play its key role in a prosperous future for this State.

I seek the full support of this House for the second reading of this Bill.

Explanation of Clauses

PART 1

PRELIMINARY

Clause 1: Short title

Clause 2: Commencement

Clauses 1 and 2 are formal.

Clause 3: Interpretation

This clause sets out the definitions required for the measure. The definitions correspond closely to definitions in the current Act.

PART 2

GENERAL PUBLIC SECTOR MANAGEMENT AIMS AND STANDARDS

Clause 4: General management aims

This clause contains the general management aims for public sector agencies. Agencies are to aim to—

(a) provide responsive, effective and competitive services to the community and the Government; and

(b) maintain structures, systems and processes that work without excessive formality and that can adapt quickly to changing demands; and

(c) recognise the importance of their people through training, ongoing development and appropriate remuneration; and
(d) manage all resources effectively, prudently and in a fully accountable manner; and
(e) continuously improve their performance in delivering services.

Clause 5: Personnel management standards

This clause contains personnel management standards for public sector agencies. Agencies are to—

(a) base all selection decisions on a proper assessment of merit; and
(b) treat employees fairly; and
(c) afford equal employment opportunities and use to advantage diversity in their workforces; and
(d) provide safe and healthy working conditions; and
(e) prevent nepotism, patronage and unlawful discrimination.

Clause 6: Employee conduct standards

This clause contains the standards of conduct expected of public sector employees. Public sector employees are expected to—

(a) treat the public and other employees with respect and courtesy; and
(b) utilise resources at their disposal in an efficient, responsible and accountable manner; and
(c) deal with information of which they have knowledge as a result of their work only in accordance with the requirements of the Government and their agencies; and
(d) endeavour to give their best to meet performance standards and other organisational requirements; and
(e) conduct themselves in public in a manner that will not reflect adversely on the public sector, their agencies and other employees.

PART 3

PUBLIC SERVICE STRUCTURE

Clause 7: Public Service structure

The Public Service is to consist of administrative units. The Governor may establish and abolish administrative units, transfer employees or a group of employees from one administrative unit to another, incorporate public sector employees (not forming part of the Public Service) into an administrative unit, exclude from the Public Service public sector employees previously incorporated into an administrative unit and make any appointment or transitional or ancillary provision that may be necessary or expedient in the circumstances.

Clause 8: Crown employees to be employed in Public Service

This clause provides that all persons employed by or on behalf of the Crown must be employed in the Public Service unless excluded from the Public Service under schedule 1.

PART 4

CHIEF EXECUTIVES

Clause 9: Administrative units to have Chief Executives

This clause provides for there to be a Chief Executive of each administrative unit, appointed by the Governor. When a temporary vacancy occurs the Minister may assign an employee to act in the position or the Minister responsible for the unit may assign an employee in the unit to act in the position.

Clause 10: Conditions of Chief Executive's appointment

The conditions of appointment to a position of Chief Executive are to be subject to a contract made between the Chief Executive and the Premier in consultation with the Minister responsible for the administrative unit.

The contract must specify—

- that the Chief Executive is appointed for a term not exceeding five years and is eligible for reappointment;
- that the Chief Executive is to meet performance standards as set from time to time by the Premier and the Minister responsible for the administrative unit;
- that the Chief Executive is entitled to remuneration and other benefits specified in the contract;
- the sums representing the values of the benefits (other than remuneration);
- the total remuneration package value of the position under the contract.

The decision whether to reappoint the Chief Executive to the position at the end of a term of appointment must be made and notified to the Chief Executive not less than three months before the end of the term. If the contract so provides, the Chief Executive will be entitled to some other specified appointment in the Public Service (without any requirement for selection processes to be conducted) if not reappointed or in other specified circumstances.

Clause 11: Contract overrides other provisions

The contract may make any other provision and will override other inconsistent provisions (but not provisions contained in this Part).

Clause 12: Termination of Chief Executive's appointment

A Chief Executive's appointment may be terminated by the Governor by not less than four weeks notice in writing to the Chief Executive or on the ground that the Chief Executive—

- has been guilty of misconduct; or
- has been convicted of an offence punishable by imprisonment; or
- has engaged in any remunerative employment, occupation or business outside the duties of the position without the consent of the Minister responsible for the administrative unit; or
- has become bankrupt or has applied to take the benefit of a law for the relief of insolvent debtors; or
- has, because of mental or physical incapacity, failed to carry out duties of the position satisfactorily or to the performance standards specified in his or her contract; or
- has, for any other reason, in the opinion of the Premier and the Minister responsible for the administrative unit, failed to carry out duties of the position satisfactorily or to the performance standards specified in his or her contract.

A Chief Executive's appointment is terminated if the Chief Executive becomes a member of, or a candidate for election to, the Parliament of the State or the Commonwealth or is sentenced to imprisonment for an offence.

A Chief Executive may resign from the position by not less than three months notice in writing to the Minister responsible for the administrative unit (unless notice of a shorter period is accepted by that Minister).

Subject to this clause and any provision in the contract relating to the Chief Executive's appointment, if a Chief Executive's appointment is terminated by the Governor by four weeks notice in writing, the Chief Executive is entitled to a termination payment of an amount equal to three months remuneration (as determined for the purpose under the contract) for each uncompleted year of the term of appointment (with a *pro rata* adjustment in relation to part of a year) up to a maximum of 12 months remuneration. This is not payable if the Chief Executive is appointed to some other position in the Public Service in accordance with his or her contract.

Clause 13: Provision for statutory office holder to have powers, etc., of Chief Executive

This clause provides that the Minister may declare that the person holding or acting in a specified statutory office established under an Act will have the powers and functions of Chief Executive in relation to an administrative unit.

Clause 14: Chief Executive's general responsibilities

This clause sets out the responsibilities of the Chief Executive of an administrative unit to the Minister responsible for the unit.

Clause 15: Extent to which Chief Executive is subject to Ministerial direction

This clause provides that, except in relation to appointment, assignment, transfer, remuneration, discipline or termination of a particular employee, the Chief Executive of an administrative unit is subject to direction by the Minister or by the Minister responsible for the unit.

Clause 16: Delegation

This clause allows the Chief Executive to delegate powers or functions.

Clause 17: Chief Executive to disclose pecuniary interests

The Chief Executive of an administrative unit must make a disclosure of pecuniary interests to the Minister responsible for the unit in accordance with the regulations on appointment and on acquiring further such interests. If a pecuniary or other personal interest of the Chief Executive conflicts or may conflict with his or her official duties, the Chief Executive must disclose the nature of the interest and the conflict or potential conflict to that Minister and not take action or further action in relation to the matter except as authorised by that Minister.

The Minister responsible for the unit may direct the Chief Executive to resolve a conflict between a pecuniary or other personal interest and an official duty. Failure to comply with this clause or a direction under this clause constitutes misconduct unless due to inadvertence only.

PART 5

COMMISSIONER FOR PUBLIC EMPLOYMENT

Clause 18: Commissioner for Public Employment

This clause provides that there is to be a *Commissioner for Public Employment* appointed by the Governor. The Minister may assign an employee to act as Commissioner during a vacancy in the position of Commissioner or when the Commissioner is absent from, or unable to discharge, official duties.

Clause 19: Conditions of Commissioner's appointment

The Commissioner is to be appointed for a maximum of five years on conditions determined by the Governor and is eligible for reappointment.

Clause 20: Termination of Commissioner's appointment

The Commissioner's appointment may be terminated by the Governor on the ground that the Commissioner—

- has been guilty of misconduct; or
- has been convicted of an offence punishable by imprisonment; or
- has engaged in any remunerative employment, occupation or business outside the duties of the position without the consent of the Minister; or
- has become bankrupt or has applied to take the benefit of a law for the relief of insolvent debtors; or
- has, because of mental or physical incapacity, failed to carry out duties of the position satisfactorily; or
- is incompetent or has neglected the duties of the position.

The Commissioner's appointment is terminated if the Commissioner becomes a member of, or a candidate for election to, the Parliament of the State or the Commonwealth or is sentenced to imprisonment for an offence.

The Commissioner may resign from the position by not less than three months notice in writing to the Minister (unless notice of a shorter period is accepted by the Minister).

Clause 21: Functions of Commissioner

The functions of the Commissioner are—

- to develop and issue guidelines relating to personnel management matters in the Public Service;
- to provide advice on personnel management issues;
- to monitor and review personnel management practices;
- to make binding determinations as to the cases or classes of cases in which selection processes will not be required to be conducted for appointments to positions in the Public Service;
- to conduct reviews of personnel management practices as required by the Minister or on the Commissioner's own initiative;
- to investigate or assist in the investigation of matters in connection with the conduct or discipline of employees;
- to perform any other functions assigned to the Commissioner under the measure or by the Minister.

Clause 22: Extent to which Commissioner is subject to Ministerial direction

The Commissioner is not subject to Ministerial direction except in the exercise of delegated powers.

Clause 23: Investigative powers of Commissioner

This clause sets out the investigative powers of the Commissioner and when they may be exercised.

Clause 24: Delegation by Commissioner

This clause allows the Commissioner to delegate powers and functions.

Clause 25: Commissioner to disclose pecuniary interests

This clause provides that the Commissioner must disclose pecuniary interests in the same manner as Chief Executives must disclose their pecuniary interests under clause 17.

Clause 26: Annual report

The Commissioner must present an annual report to the Minister on personnel management in the Public Service and the Minister must lay copies before both Houses of Parliament.

PART 6

GENERAL EMPLOYMENT DETERMINATIONS AND POSITIONS

Clause 27: General employment determinations

This clause gives the Minister the responsibility of determining Public Service remuneration structures, employment conditions and other general employment matters.

Clause 28: Positions

This clause provides that the Chief Executive of an administrative unit may fix or vary the duties, titles and remuneration levels of all positions in the unit including executive positions.

PART 7

PUBLIC SERVICE APPOINTMENTS (APART FROM CHIEF EXECUTIVES)

DIVISION 1—EXECUTIVE POSITIONS

Clause 29: Appointment of executives

The Chief Executive of an administrative unit may appoint persons as executives of the unit.

Subject to a determination of the Commissioner under Part 5, an appointment may only be made as a result of selection processes conducted on the basis of merit.

Clause 30: Conditions of executive's employment

The conditions of employment in an executive position are to be subject to a contract made between the executive and the Chief Executive. The contract must specify—

- that the executive is employed for a term not exceeding five years and is eligible for reappointment to the position;
- that the executive is to meet performance standards as set from time to time by the Chief Executive;
- that the executive is entitled to remuneration and other benefits specified in the contract;
- the sums representing the values of the benefits (other than remuneration);
- the total remuneration package value of the position under the contract;
- that three months written notice is required for resignation (unless shorter notice is accepted).

The contract may provide that the executive will have a right of appeal under Division 9 of Part 8 against a decision under Division 4, 5, 6 or 8 of that Part to terminate the executive's employment (other than such a decision made because the executive has been convicted of an indictable offence).

The decision whether to reappoint the executive to the position at the end of a term of employment must be made and notified to the executive not less than three months before the end of the initial term. If the contract so provides, the executive will be entitled to some other specified appointment in the Public Service (without any requirement for selection processes to be conducted) if not reappointed or in other specified circumstances.

This clause is not to apply to an employee who is an executive only as a result of temporary promotional assignment.

Clause 31: Contract overrides other provisions

The contract may make any other provision that the Chief Executive considers appropriate and will override other provisions of this measure (other than this Division).

Clause 32: Termination of executive's employment by notice

The Chief Executive of the administrative unit in which an executive is employed may terminate the executive's employment by not less than four weeks notice in writing to the executive. Subject to this clause and any provision in the contract relating to the executive's employment, if an executive's employment is terminated by the Chief Executive by four weeks notice in writing, the executive is entitled to a termination payment of an amount equal to three months remuneration (as determined for the purpose under the contract) for each uncompleted year of the term of employment (with a *pro rata* adjustment in relation to part of a year) up to a maximum of 12 months remuneration. An executive is not entitled to a termination payment if the executive is appointed to some other position in the Public Service in accordance with his or her contract.

The power of termination conferred by this clause is in addition to the powers of termination conferred by Part 8.

This clause is not to apply to an employee who is an executive only as a result of temporary promotional assignment.

Clause 33: Executive's general responsibilities

This clause sets out the responsibilities of an executive to the Chief Executive of the administrative unit in which he or she is employed.

DIVISION 2—OTHER POSITIONS

Clause 34: Division applies to positions other than executive positions

This clause states that the Division applies to positions other than executive positions.

Clause 35: Appointment

The Chief Executive of an administrative unit may appoint a person to a position in the unit. Subject to a determination of the Commissioner under Part 5 and except in the case of appointment to a temporary or casual position, an appointment may only be made as a consequence of selection processes conducted on the basis of merit in accordance with the regulations.

Clause 36: Conditions of employment

The conditions of an employee's employment in a position in an administrative unit may be left to be governed by the provisions of the measure or, subject to the directions of the Minister, be made

subject to a contract between the employee and the Chief Executive of the administrative unit.

The contract provision allows for the same forms of Public Service appointments as under the current Act, that is, temporary, casual, fixed term and negotiated conditions.

Accordingly, a contract may do one or more of the following:

- provide that the employee is employed for a term not less than 12 months (except in the case of a casual or temporary position) and not exceeding five years;
- provide that the employee is, at the end of a term of employment eligible for reappointment, or entitled to some other appointment in the Public Service, without any requirement for selection processes to be conducted;
- provide that the employee is entitled to remuneration and other benefits specified in the contract;
- provide for a right of appeal under Division 9 in respect of decisions to terminate the person's employment (other than such a decision made because the person has been convicted of an indictable offence);
- in the case of a temporary or casual position, provide that the Chief Executive may terminate the employee's employment at any time;
- make any other provision that the Chief Executive considers appropriate, including provision excluding or modifying a provision of the measure.

A contract will prevail, to the extent of any inconsistency, over the provisions of the measure.

Temporary and casual positions are defined in the same terms as under the current Act except that a temporary appointment may not continue for more than 12 months rather than the current limit of two years.

Clause 37: Probation

This clause provides that a person who is not already employed in the Public Service is on probation when first appointed to a position in an administrative unit.

PART 8

GENERAL PUBLIC SERVICE EMPLOYMENT PROVISIONS

DIVISION 1—ASSIGNMENT BETWEEN POSITIONS

Clause 38: Assignment

Subject to this clause, the Chief Executive of an administrative unit may assign an employee from one position in the unit to another position in the unit or an employee may be assigned from a position in one administrative unit to a position in another administrative unit jointly by the Chief Executives of the units. The assignment power of Chief Executives applies to all positions including executive positions.

If the Chief Executives of two administrative units cannot reach agreement as to a proposed assignment between positions in the units, the Minister may determine the matter after consultation with the Commissioner.

If an employee is promoted through assignment, the promotion is temporary and may only continue for three years, or, in the case of promotion from a non-executive position to an executive position, for six months or such longer period as may be allowed by the Minister.

An employee may not be assigned from a position to another position with a lower remuneration level except with the employee's consent or in order to return an employee to his or her former remuneration level at the end of a temporary promotion.

If an employee whose employment is subject to a contract is assigned to another position, the provisions of the contract continue to apply in relation to the employee's employment in the new position subject to any necessary modifications or further agreement between the employee and the Chief Executive.

DIVISION 2—REMUNERATION

Clause 39: Remuneration

This clause provides that, subject to this measure, an employee is entitled to remuneration at the rate appropriate to the remuneration level of the position occupied by the employee.

Clause 40: Additional duties allowance

Where an employee performs duties in addition to those on which the remuneration level of the employee's position is based, the Chief Executive may authorise payment of an allowance.

Clause 41: Reduction in salary arising from refusal or failure to carry out duties

If, due to industrial action, an employee refuses or fails to carry out duties, the employee must not, if the Minister so directs, be paid for each day or part of a day on which duties are not undertaken.

Clause 42: Payment of remuneration on death

On the death of an employee, the Chief Executive of the administrative unit in which the employee was employed may, if of the opinion that it is appropriate to do so, direct that an amount payable in respect of the employee's remuneration be paid to dependants of the employee and not to the personal representative.

DIVISION 3—HOURS OF DUTY AND LEAVE

Clause 43: Hours of duty and leave

An employee's hours of duty and right to holidays and leave are governed by schedule 2.

DIVISION 4—EXCESS POSITIONS

Clause 44: Excess positions

If the Chief Executive of an administrative unit is satisfied that a position occupied by an employee is excess to the requirements of the unit and it is not practicable to assign the employee under Division 1 to another position, the Chief Executive must consult with the Commissioner about the matter.

If the Commissioner agrees that it is not practicable to assign the employee under Division 1 to another position, the following provisions apply:

- the Commissioner and the Chief Executive must examine whether it is practicable to transfer the employee to another position (whether in the same or another administrative unit);
- if it is practicable to do so, the employee may be transferred by the Chief Executive to another position in the same unit, or may be transferred to a position in another unit jointly by the Chief Executive and the Chief Executive of the other unit, or by the Minister;
- if the Commissioner and the Chief Executive are satisfied that it is not practicable to transfer the employee, the Chief Executive may terminate the employee's employment in the Public Service.

An employee who is transferred under this clause from a position to another position with a lower remuneration level is entitled to be maintained at the former remuneration level for a period and subject to conditions determined by the Minister.

An employee whose employment is terminated under this clause is entitled to a termination payment of an amount determined by the Minister.

DIVISION 5—MENTAL OR PHYSICAL INCAPACITY

Clause 45: Mental or physical incapacity

This clause provides for a similar process to be undertaken to establish a person's mental or physical incapacity as under section 60 of the current Act. If the Chief Executive of an administrative unit is satisfied that an employee is mentally or physically incapable of performing the duties of his or her position satisfactorily, and it is not practicable to assign the employee under Division 1 to another position with duties within the employee's capacity, the Chief Executive must consult with the Commissioner about the matter.

If the Commissioner agrees that it is not practicable to assign the employee under Division 1 to another position, the same provisions apply as apply in relation to excess positions under clause 44.

The termination of an employee's employment under this clause may, with the consent of the employee, have effect from a date earlier than the date of the decision to terminate the employee's employment.

DIVISION 6—UNSATISFACTORY PERFORMANCE

Clause 46: Unsatisfactory performance

If the Chief Executive of an administrative unit is satisfied that an employee in the unit is not performing duties of his or her position satisfactorily or to performance standards specified in a contract relating to his or her employment or has lost a qualification that is necessary for the proper performance of duties of his or her position and it is not practicable to assign the employee under Division 1 to another position with duties suited to the employee's capabilities or qualifications, the Chief Executive must consult with the Commissioner about the matter.

If the Commissioner agrees that it is not practicable to assign the employee under Division 1 to another position, the same provisions apply as apply in relation to excess positions under clause 44.

The Chief Executive may not take action under this clause on the ground that an employee is not performing duties satisfactorily or to applicable performance standards unless the employee has first been advised of his or her unsatisfactory performance and been allowed a reasonable opportunity to improve.

The Chief Executive must give an employee not less than 14 days written notice of a decision to transfer the employee or terminate the employee's employment under this clause.

This clause does not apply where an employee's unsatisfactory performance is due to mental or physical illness or disability.

DIVISION 7—RESIGNATION AND RETIREMENT

Clause 47: Resignation

An employee may resign from the Public Service by not less than 14 days notice in writing to the Chief Executive of the administrative unit in which the employee is employed (unless a shorter notice period is accepted). As under the current Act, if an employee is absent, without authority, from employment in the Public Service for a period of 10 working days and gives no proper written explanation or excuse for the absence to the Chief Executive before the end of that period, the employee will, if the Chief Executive so determines, be taken to have resigned from the Public Service.

Clause 48: Reappointment of employee who resigns to contest election

This clause provides for the reappointment of an employee who resigns to contest an election. It is similar to section 62 of the current Act.

Clause 49: Retirement

An employee who has attained the age of 55 years is entitled to retire from the Public Service.

DIVISION 8—CONDUCT AND DISCIPLINE

Clause 50: Conflict of interest

If an employee has a pecuniary or other personal interest in a matter and the interest conflicts or may conflict with the employee's official duties, the employee must disclose the nature of the interest to the Chief Executive of the administrative unit in which the employee is employed. The Chief Executive may direct the employee to resolve the conflict.

Clause 51: General rules of conduct

This clause provides that an employee is liable to disciplinary action on similar grounds to those in section 67 of the current Act.

Clause 52: Inquiries and disciplinary action

This clause provides that if the Chief Executive of an administrative unit suspects on reasonable grounds that an employee in the unit may be liable to disciplinary action, the Chief Executive may hold an inquiry to determine whether the employee is liable to disciplinary action. The process to be undertaken is similar to section 68 of the current Act.

Clause 53: Suspension or transfer where disciplinary inquiry or serious offence charged

This clause sets out the process to be undertaken when an employee is charged with an offence punishable by imprisonment or is given notice of a disciplinary inquiry under this Division. It is similar to section 69 of the current Act.

Clause 54: Disciplinary action on conviction of offence

If an employee is convicted of an offence punishable by imprisonment, the Chief Executive of the administrative unit in which the employee is employed may transfer the employee to some other position in the administrative unit or, jointly with the Chief Executive of another administrative unit transfer the employee to a position in that other unit or terminate the employee's employment in the Public Service.

Clause 55: Payments where employee has liability to Crown

This clause provides that if an employee or former employee is alleged to have misappropriated or damaged property of the Crown or to have incurred a liability to the Crown, a payment that would otherwise be required to be made to the person in respect of his or her employment in the Public Service may be withheld pending the determination of criminal or other proceedings in respect of the matter and may be applied in or towards satisfaction of any liability of the person to the Crown.

DIVISION 9—APPEAL AGAINST ADMINISTRATIVE DECISIONS

Clause 56: Chief Executive's responsibility to conciliate grievances

Despite the provisions of the Division, the Chief Executive of an administrative unit is required to endeavour to resolve by conciliation any grievance that an employee in the unit may have in respect of his or her employment.

Clause 57: Lodging of appeals

Subject to this clause, an employee in an administrative unit may appeal to the Chief Executive of the unit against an administrative decision directly affecting the employee in his or her employment.

The appeal processes encompass the separate reclassification, promotion, discipline and grievance appeals under the current Act.

An appeal may not be lodged against an executive appointment, a decision under Division 4, 5, 6 or 8 to terminate an employee's employment in the Public Service or a decision in relation to disciplinary action under Division 8 resulting from conviction of an employee of an indictable offence or by an executive or if the appeal is of a kind excluded by regulation.

Clause 58: Conciliation not prevented

A Chief Executive or the Commissioner may attempt to resolve by conciliation a matter the subject of an appeal prior to the commencement of proceedings.

Clause 59: Appellate authority

Clause 59 sets out the provisions that apply for the purpose of determining who is to hear an appeal (the "appellate authority").

Clause 60: Suspension of administrative decision subject to review

An appellate authority must, unless it is not possible to do so, suspend the operation of the administrative decision subject to appeal.

Clause 61: Conduct of proceedings

This clause provides that an appeal is to be heard with a minimum of formality and that rules of evidence and legal technicalities need not be observed. It also sets out the rights of a party to an appeal.

Clause 62: Appellate authority may decline to entertain certain appeals

An appellate authority may decline to hear an appeal if of the opinion that the application is frivolous or vexatious.

Clause 63: Orders of appellate authority

Clause 63 sets out the orders an appellate authority may make on determining an appeal.

Clause 64: Appeal in respect of process

Where an appeal is heard by a Chief Executive or a person or panel appointed by a Chief Executive the appellant may, if dissatisfied with the appeal process, appeal against the process. The appellate authority may remit the matter to the Chief Executive for reconsideration and/or make recommendations as to proper appeal processes.

Clause 65: Reasons for decision

If requested by a party to the proceedings, the appellate authority must provide that party with a statement of reasons for the decision.

Clause 66: Restriction on other appeals, etc.

This clause provides that the provisions of this Division operate in relation to an administrative decision affecting an employee in his or her employment to the exclusion of any other right of appeal or review or remedy under another Act or at law. The clause does not apply in relation to a decision under Division 4, 5, 6 or 8 to terminate a person's employment in the Public Service and does not, for example, prevent a person from making an application for relief under the *Industrial and Employee Relations Act 1994* in respect of a decision under Division 4, 5, 6 or 8 to terminate the person's employment.

PART 9

MISCELLANEOUS

Clause 67: Preservation of powers of Governor to appoint, transfer and dismiss

This clause preserves the power of the Governor to appoint a person to, or dismiss a person from, a position in the Public Service and to transfer a person to a Public Service position at the same or a higher remuneration level.

Clause 68: Annual reports by public sector agencies

Each public sector agency must present an annual report to the Minister responsible for the agency on the operations of the agency and the Minister must lay copies of the report before both Houses of Parliament.

Clause 69: Equal employment opportunity programs

The Minister may publish in the *Gazette* equal employment opportunity programs designed to ensure that persons of a defined class have equal opportunities in relation to employment in the public sector with persons not of that class.

Clause 70: Transfers of employees within public sector

This clause provides for employees to be transferred from the Public Service to a position in a public sector agency outside the Public Service and for an employee of a public sector agency to be transferred to a position in the Public Service or to a position in another public sector agency.

Clause 71: Appointment of Ministerial staff

The Premier may appoint a person as a member of a Minister's personal staff on conditions determined by the Premier. Such a person will not be an employee in the Public Service. This provision avoids the need for such an appointment to be made by the Governor as would otherwise be required under the *Constitution Act*.

Clause 72: Minister may approve arrangements for multiple appointments, etc.

The clause allows the Minister to approve arrangements under which a person is employed in the Public Service and continues to hold a position outside the Public Service or a person employed in the Public Service continues to remain in that employment whilst engaged in some employment outside the Public Service.

Clause 73: Extension of operation of certain provisions of Act

This clause provides for the Governor to extend the operation of any provisions of the measure to any specified class of public sector employees to whom those provisions do not apply.

Clause 74: Operation of Industrial and Employee Relations Act

A determination or decision under this measure affecting remuneration or conditions of employment is subject to an award, determination or enterprise or industrial agreement in force under the *Industrial and Employee Relations Act 1994*.

Clause 75: Freedom of association for employees

This clause provides that no employee may be compelled to become, or remain, a member of an industrial or professional association and no employee who is eligible for membership of an industrial or professional association may be prevented (except by the association itself acting in accordance with its rules) from becoming or remaining a member of the association.

Clause 76: Immunity from liability

No civil liability attaches to an employee or other person holding an office or position under the measure for an act or omission in the exercise or purported exercise of official powers or functions. Such an action will instead lie against the Crown.

Clause 77: Temporary exercise of statutory powers

If an employee is unable to exercise a statutory power or function it may be exercised by the Chief Executive of the administrative unit or some other employee nominated by the Chief Executive.

Clause 78: Obsolete references

If the title of an administrative unit or position in the Public Service is altered, a reference in an Act or statutory instrument to the administrative unit or position under an earlier title is to be read as a reference to the administrative unit or position under its new title.

Clause 79: Evidentiary provision

This clause provides that a certificate signed by the Minister certifying that an administrative unit referred to in the certificate existed as an administrative unit of the Public Service at a time or over a period referred to in the certificate, or that a person named in the certificate occupied a specified position in the Public Service at a time or over a period referred to in the certificate, will be accepted in any legal proceedings, in the absence of proof to the contrary, as proof of the matter so certified.

Clause 80: War Service (Preference in Employment) Act

Nothing in this measure is to derogate from the *War Service (Preference in Employment) Act 1943*.

Clause 81: Service of notices

A notice or document required or authorised by the measure to be given to or served on an employee may be given to or served on the employee personally or by post addressed to the employee at the address last notified by the employee in accordance with the regulations.

Clause 82: Delegation by Minister

This clause provides that the Minister may delegate powers or functions under the measure.

Clause 83: Regulations

This clause empowers the Governor to make regulations for the purposes of the measure.

SCHEDULE 1

Persons Excluded from Public Service

This schedule lists the persons who are excluded from the Public Service. It is consistent with the corresponding schedule under the current Act.

SCHEDULE 2

Hours of Attendance, Holidays and Leave of Absence

The clauses of this schedule confer the same leave rights as under the current Act with the exception that, under clause 11, a Chief Executive or an executive has a new right to be paid the monetary value of an accrued long service leave entitlement instead of taking the leave.

SCHEDULE 3

Repeal and Transitional Provisions

Clause 1: Repeal

The current Act is repealed.

Clause 2: Commissioner

The current Commissioner is continued in office.

Clause 3: Administrative units continued

All current administrative units are continued in existence.

Clause 4: Positions continued

All current positions are continued in existence in the same administrative units. Positions classified as senior positions continue as executive positions subject to the measure.

Clause 5: Employees continued in positions

All current employees are continued in the same positions.

Clause 6: Basis of employment

Current probationary employees are continued on probation. Current temporary, casual, fixed term and negotiated conditions appointments are continued as contract appointments under the corresponding provisions of the measure.

Clause 7: Executives

Employees occupying senior positions may come under the new contract provisions by agreement only. Remuneration may vary for executives at the same level according to whether or not their appointments are subject to a contract.

Clause 8: Chief Executives

Existing Chief Executives are brought under the new contract provisions.

Clause 9: Temporary promotional reassignments

Provision is made for an employee subject to a temporary promotional assignment to be assigned back to his or her former position or an equivalent position within three years.

Clause 10: Classification and remuneration levels of positions

Existing classification levels are converted to remuneration levels.

Clause 11: Classification reviews, promotion appeals and grievance appeals

Appeals lodged but not commenced may be proceeded with under the new provisions.

Clause 12: Leave rights

Leave rights are preserved.

Clause 13: Directions, etc., continued

Existing administrative directions, instructions, determinations and decisions are continued.

Clause 14: Acts Interpretation Act applies

The *Acts Interpretation Act* is to apply except to the extent of any inconsistency with this schedule.

The Hon. R.R. ROBERTS secured the adjournment of the debate.

ADJOURNMENT

At 9.45 p.m. the Council adjourned until Thursday 17 November at 2.15 p.m.