LEGISLATIVE COUNCIL

Wednesday 11 October 1995

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

PAPERS TABLED

The following papers were laid on the table:

By the Attorney-General (Hon. K. T. Griffin)—

State Electoral Department—Report, 1994-95

By the Minister for Transport (Hon. Diana Laidlaw)—

Reports, 1994-95—
- Department of Transport
- Passenger Transport Board
- West Beach Trust

Corporation By-laws—
- Elizabeth—
  - No. 1—Permits and Penalties
  - No. 2—Moveable Signs
  - No. 3—Council Land
  - No. 4—Inflammable Undergrowth
  - No. 5—Animals and Birds
  - No. 6—Bees
  - No. 7—Dogs
  - No. 8—Cats
- Mount Gambier—No. 6—Creatures

District Council By-laws—
- Ridley-Truro—
  - No. 1—Permits and Penalties
  - No. 2—Street Hawkers and Traders
  - No. 3—Bees
  - No. 4—Animals and Birds
  - No. 5—Garbage Removal
  - No. 6—Dogs
  - No. 7—Petrol Pumps
  - No. 8—Height of Fences, Hedges, Trees, Shrubs and Hoardings
  - No. 9—Water on to Public Roadways
  - No. 10—Loading and Unloading of Goods on Public Roadways
  - No. 11—Prevention and Suppression of Nuisances relating to Public Roadways
  - No. 12—Repeal of By-laws

Passenger Transport Board—Service Charter.

NATIONAL SCHEME LEGISLATION

The Hon. R.D. LAWSON: I bring up discussion paper No. 1 of the scrutiny of national scheme legislation and the desirability of uniform scrutiny principles.

LEGISLATIVE REVIEW COMMITTEE

The Hon. R.D. LAWSON: I bring up the fourth report 1994-95 of the committee.

RABBITS

The Hon. K.T. GRIFFIN (Attorney-General): I seek leave to lay on the table a ministerial statement by the Minister for Primary Industries made this day in another place in relation to rabbit calcivirus on Wardang Island.

Leave granted.

QUESTION TIME

GARIBALDI SMALLGOODS

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Parliamentary Secretary to the Premier, in his capacity as Minister for Multicultural and Ethnic Affairs—

The Hon. J.F. Stefani: I don't have to answer it.

The Hon. CAROLYN PICKLES: Standing order 107.

Members interjecting:

The Hon. CAROLYN PICKLES: Have a look at it.

The PRESIDENT: Order! The Leader of the Opposition.

The Hon. CAROLYN PICKLES: My question relates to the Garibaldi mettwurst affair. Following a routine request from the Leader of the Opposition for access to documents under the Freedom of Information Act, the Minister for Health and the Health Commission withheld a number of critical documents relating to Government involvement in the failure to minimise the HUS outbreak experienced in January and February this year. These documents were not only withheld from the Opposition for over six months without justification; the Health Commission also withheld them from the Ombudsman after the Ombudsman quite properly directed that copies of all documents in dispute be provided to the Ombudsman's office.

Members interjecting:

The Hon. CAROLYN PICKLES: Since when do questions have to be the business of the Council? The Attorney-General should know better.

The PRESIDENT: Order! The Leader of the Opposition.

The Hon. CAROLYN PICKLES: There are still more documents yet to be provided to the Opposition in accordance with the original FOI request. Documents recently received by the Opposition link the Hon. Julian Stefani with the Garibaldi affair. In the ministerial briefing dated 6 February prepared by Dr Kerry Kirk of the Health Commission for the Minister for Health, Dr Kirk states that he attended the Garibaldi premises at Royal Park on 4 February 1995 at the request of Julian Stefani, MLC. The meeting was held with the Director of Garibaldi and the provisional liquidator engaged by Garibaldi. Dr Kirk was there at the meeting to answer questions about the risk of Garibaldi being sued and having to pay damages and negligence. My questions to the Hon. Mr Stefani are:

1. Who asked the Hon. Mr Stefani to intervene in this matter?

2. What representations were made to him about the Garibaldi smallgoods operation?

3. How and what did the Hon. Mr Stefani then communicate to the Health Commission?

4. With what authority did the Hon. Mr Stefani make requests of Health Commission officials?

The Hon. J.F. STEFANI: I remind the Leader of the Opposition that I have no responsibility or obligation to answer her questions. I would strongly suggest to her that she refer the questions to the appropriate Minister, who is responsible for the conduct of the Health Commission, and he will give an appropriate answer.

STATE ECONOMY

The Hon. R.R. ROBERTS: I seek leave to make a brief explanation before asking the Leader of the Government in

the Council a question about the state of the South Australian economy.

Leave granted.

The Hon. R.R. ROBERTS: In the glossy pamphlet *South Australia—State of Business*, which has been described by the South Australian Farmers Federation as a piece of propaganda, the Premier makes a number of claims in relation to the state of the South Australian economy, and naturally enough has attempted to paint a rosy picture of the Government's efforts. In one section the Premier states:

> Since the December 1993 election, 18 000 new jobs have been created. On an annual basis, private capital investment has increased by more than 40 per cent to more than $2 billion and corporate profits have risen by about twice the national average.

This rosy picture of the South Australian economy must surely be questioned, following the publication in yesterday's *Australian* newspaper of the latest Australian Bureau of Statistics figures on the Australian population growth. The ABS figures show that Australia's population has grown to 18 million but, more importantly for this State, they show that South Australia continued to lose population in the March quarter of 1995. In fact, the article states:

> South Australia. . . recorded the highest quarterly net migration loss in its recorded history, losing 2 100 people, 59 per cent higher than for the March quarter 1994. . .

It is worth reiterating that, under the Brown Liberal Government, South Australia has had the highest quarterly net migration loss in our State's recorded history. The people are voting with their feet. According to the ABS figures they are leaving South Australia in droves—in historically high numbers. This situation must concern all members of this place regardless of political persuasion. My questions to the Leader of the Government are:

1. What action, if any, is the Government undertaking or planning to undertake to halt this historically high loss of population from South Australia?

2. Has the Government ascertained the reasons for the record loss of population occurring under its administration?

3. Does the Government believe that the reductions in Government expenditure, cutbacks in Public Service staffing levels and other Government decisions have played a key role in the record numbers of people leaving South Australia? I will explain the losses later.

The PRESIDENT: Before the Minister answers the question, I remind him to ignore the opinion expressed in it.

The Hon. R.I. LUCAS: I certainly will, Mr President.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: The best person to be talking about losses would indeed be the Deputy Leader of the Opposition. The answer to his second question is unequivocally 'No.' In relation to the first question, I will refer it to the appropriate Minister or the Premier and bring back a reply. Suffice for me to say at this stage that it is again disappointing to see the Deputy Leader of the Opposition continuing to ignore positive economic news such as announcements of new investments in industry in South Australia; the fact that about 25 000 new jobs for young South Australians have been created since the new Government was elected here in this State; and the fact that the youth unemployment rate of over 40 per cent under the previous Government has been significantly reduced, although still to too high levels, in the term of this new Government. It is disappointing also that he concentrates on this issue in relation to judgments about the Government's economic performance. I will refer the honourable member's question to the appropriate Minister and bring back a reply.

NATIVE VEGETATION

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Minister for Transport and the Minister representing the Minister for the Environment and Natural Resources a question—

The Hon. Diana Laidlaw interjecting:

The Hon. T.G. ROBERTS: It is a shared responsibility question—about the future of native vegetation on Beach Road, Noarlunga, which, unfortunately, happens to be in the middle of the area where the proposed Southern Expressway is to be built.

Leave granted.

The Hon. T.G. ROBERTS: I am advised by the Adelaide Plains Flora Association that this four hectare site contains outstanding examples of pre-European vegetation, including black tea trees and native apricots. They are unique in age and structure to the Adelaide Plains. While I appreciate the attempts being made by the Government as detailed in Minister Laidlaw's letter to me of 16 August 1995 to take this stand into account when designing the Southern Expressway, including the possibility of collecting the seeds of these species and resowing them in other places in order to preserve them, I believe that this site should be preserved. All too many of our precious natural resources—flora and fauna—are disappearing in the name of development and progress and that it will not be long before the only place where native animals and plants can be viewed will be in zoos and other specially designated areas, and not in their natural habitat.

The Adelaide Plains Flora Association has said that this stand of native vegetation is of special significance to South Australia, that it is a valuable community asset and an educational tool for those schoolchildren and others who would like to view it, and that it should be preserved for future generations to enjoy. In the light of the significance to this State of this stand of native vegetation, will the Government consider placing it on the State Heritage Register and perhaps redesigning the layout for the expressway?

The PRESIDENT: Before the Minister for Transport replies, I apologise for the background noise. We are attempting to stop it. I could not hear the preface to the question but I did hear the question. Is the Minister happy to respond?

The Hon. DIANA LAIDLAW: Yes, Mr President. The question was referred to the Minister for the Environment and Natural Resources but I believe I can answer adequately most of the question. This area of native bush and flora is important, and that is why in designing the expressway the importance of this area will be taken into account. That was the advice that I provided to the honourable member in August. It remains so today. The honourable member would be aware also that an environmental impact statement would be required for the Southern Expressway from south of Reynella to Noarlunga, and I have no doubt that this matter will be taken into account in considerable detail at that stage.

One of the ironies of the fight to preserve this stand of bush is that it remains today because the former Government, in its wisdom, kept aside land for the Southern Expressway. In the meantime, councils, with the acceptance of the Government, have allowed development to the edge of this corridor. Therefore, there is not much area in which there is flexibility to move the alignment of the Southern Express-

way. All those matters will be taken into account in the environmental assessments that will be undertaken at a later date. I will refer the other matters, including this reference to the State Heritage Register, to the Minister for the Environment and Natural Resources and bring back a reply.

HUS EPIDEMIC DOCUMENTS

The Hon. DIANA LAIDLAW (Minister for Transport): I seek leave to table a ministerial statement made by the Minister for Health in the other place on the HUS epidemic documents.

Leave granted.

EMPLOYMENT

The Hon. G. WEATHERILL: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Industrial Affairs, a question about employment.

Leave granted.

The Hon. G. WEATHERILL: Over 12 months ago I asked the Minister for Industrial Affairs where the Government sees the growth areas for employment in South Australia. I have received a list of areas where the anticipated employment growths will occur. Today the Minister for Education and Children's Services has told members that the Government has created 25 000 jobs in the two years that it has been in government, yet all we read in the newspaper and all we hear from our constituents are comments concerning the number of targeted packages being handed out in South Australia. We do not hear very much at all about where these people have been employed. My questions to the Minister are:

1. How many targeted packages have there been in State Government departments throughout South Australia?

2. How many more are anticipated, and from what areas?

3. Will the Minister inform the Council where this employment is taking place in South Australia and with which companies or firms?

The Hon. K.T. GRIFFIN: I will refer the questions to my colleague the Minister for Industrial Affairs and bring back a reply.

INTERPRETER CARD

The Hon. P. NOCELLA: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services, representing the Minister for Multicultural and Ethnic Affairs, a question about the interpreter card.

Leaved granted.

The Hon. P. NOCELLA: On 17 November 1994 the Government introduced what is known as the interpreter card, which is also better described as an access or services card and which facilitates access to services for people who are not fluent in English. As members would know, people who are not fluent in English are entitled to receive interpreter assistance in their language through appropriate Government departments. The card does not alter that situation: it simply makes it easier and perhaps less embarrassing or time consuming for people who are not fluent in English to front up at the counter of a Government department, or agencies of the Government, and obtain appropriate interpreter services.

At the time of its introduction, the card was restricted to new arrivals, who in this State are few in number. New arrivals who require language assistance would number a few hundred. It was then felt by many people in the organisation that it was unfair to limit the eligibility to new arrivals because there are still a number of people of non-English speaking background who, despite having resided in this country for many years, sometimes 30 or 40 years, are not fluent in English. That may be for a variety of reasons. Sometimes it is because of a lack of education and sometimes it is an age factor, where people who have developed a functional knowledge of English lose it later in life when they retire. Because it has been nearly 12 months since its introduction, my questions are:

1. How many cards have been distributed since 17 December?

2. What use has been made of the cards and which languages have been used as a result of their distribution?

3. Are there any plans to extend the eligibility for the Interpreter Card to those who would benefit from that card, regardless of their length of stay in this country?

The Hon. R.I. LUCAS: I thank the honourable member for his question, and I could almost refer it back to him for a reply because he would be aware of the background to the development of the card. The honourable member has raised an important question and I will refer it to the Premier, who is responsible for this area, and bring back a reply. I suspect that part of the Premier's answer with respect to broadening the card's eligibility would relate to potential cost. I am not sure what the scheme costs. The answers that will ensue from the honourable member's questions will cast some light on how many people use the scheme and what it costs, as will an inquiry into a possible extension of the scheme to a wider group of eligible users. As I said, I have no direct knowledge but I suspect that part of the response will relate to the cost of extending the scheme. I will refer the honourable member's question to the Premier and bring back a reply.

MURRAY RIVER CATCHMENT BOARD

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for the Environment and Natural Resources, a question in relation to the proposed Murray River catchment board.

Leave granted.

The Hon. M.J. ELLIOTT: The State Government has proposed the establishment of a Murray River catchment board for the Murray Darling Basin region of this State. The existing bodies responsible for land management in those areas have a number of concerns about the move and their involvement in the board's creation. It was only a couple of weeks ago that I was involved in the launch of two soil boards, which will be covered by this Murray River catchment area. The present bodies include the Coorong and Districts, Murray Mallee and Murray Plains Soil Conservation Boards, which encompass the Dryland Community Action for the Rural Environment (CARE) program. Because these existing bodies are already involved in issues that would be taken over by a Murray River catchment board, they are concerned about their role in the new body.

Soil boards play an important role in natural resource management in the region, and they are crucial for the implementation of the ideals and strategies necessary for the

Murray River catchment. These groups are seeking assurances that all stakeholders are consulted and involved in the development of the new catchment board so all concerns can be aired and responded to and so that the implementation of the board proceeds in a representative, inclusive and efficient way. The Murray Darling Basin region has a lot more different land uses than do catchment boards in the metropolitan area, so membership of the catchment board in the Murray region needs to reflect the unique diversity of uses and issues. My questions are:

1. Will the Government take into account the concerns and views of existing soil boards when establishing the Murray River catchment board?

2. Will the Government recognise the unique nature of the Murray River catchment area and treat it accordingly?

3. What does the Government propose in relation to the membership of the catchment board?

4. How will the Government treat the levy issues in this unique region?

5. How will the Government ensure that it does not duplicate its administrative structures in the Murray region?

The Hon. DIANA LAIDLAW: I suspect that the answers to questions 1 and 2 are 'Yes,' but I will refer all those questions to the Minister for a detailed reply and bring it back in due course.

PARKING BAYS

The Hon. ANNE LEVY: I seek leave to make a brief explanation before asking the Minister for Transport a question about parking bays.

Leave granted.

The Hon. ANNE LEVY: I recently had the opportunity of seeing the new buses which are designed to allow access by wheelchairs, and I congratulate those involved in the design, which greatly enhances access to transport for people in wheelchairs. These ramps, which provide access to buses can be used not only by people in wheelchairs but by those who are wheeling prams and pushers. Access to public transport will be much easier than is the case with the current arrangements where the baby or toddler has to be lifted out and the pram or pusher folded up and carried onto a bus, along with a bag full of nappies, a handbag and any other parcels that the poor parent is trying to carry, a load which deters most people with prams and pushers from using buses. The new access ramps will enable a pram to be rolled onto a bus as easily as a wheelchair.

When I was interstate recently I noticed that in a number of car parks there are not only parking bays set aside for people with disabilities but also parking bays reserved for people with prams and pushers. These parking bays, like those for people with disabilities, are usually close to the entrance or exit so that entrance or exit from the car park and re-entry to the car is facilitated. People do not have to struggle many floors of lifts and corridors, wheeling up and down steep ramps. Parking bays reserved for cars that have prams and pushers have been most enthusiastically greeted by parents of young children who have to cope with prams and pushers. They have welcomed this recognition of the difficulties that they have when using public car parks. I know that the Government here, unlike in other States, does not own any car parks, but I ask whether the Minister for Transport could take up the matter with the city council, which does own a lot of car parks, and with private car park owners and operators, as to whether they would consider following Brisbane's example of reserving a number of parking bays close to the entrance for cars where the occupants have prams and pushers.

The Hon. DIANA LAIDLAW: I certainly would be pleased to undertake such inquiries. I have done so in the past, not in terms of prams and pushers, but with the city council and private operators in terms of providing secure space for locking up bicycles. I am not sure whether it is my lack of persuasiveness on this score, but to date I have not been able to realise a great success on that front. It appears that with bicycles the operators do not believe they will receive a very good return and therefore would prefer the profit to be gained from motor vehicles. In the circumstances of the honourable member's question, she is at least seeking a priority area for a motor vehicle and therefore these representations may be more successful. I would certainly hope so.

One of the biggest problems that we encounter today in reserving spaces for cars owned by people with disabilities, or at least stamped with the permit, is ensuring that other people who do not have a disability respect that position and ensure that it is reserved for those for whom it is designed. I think we do need to have a further education exercise and possibly better signage in car parks generally to ensure that these spaces that are reserved for motor vehicles driven by people with disabilities are respected. Perhaps the car park owners have to police the issue better than they have to date, but it is quite distressing for people with disabilities who believe they will have priority parking and easier access to facilities to find that those spaces have been taken by others more fortunate than themselves but who do not have much respect for those less able than themselves.

In closing, I would also thank the honourable member for her enthusiastic support for the initiative by the Passenger Transport Board and TransAdelaide in terms of accessible buses, of which 50 are on order. The smiles on the faces of the people who trialled them recently, when TransAdelaide received the first two, was just overwhelming and possibly the most wonderful experience I have had in 12 years in this place. We will soon be able to start a trial of the city loop, so people arriving at the railway station, for instance, will be able to have ease of access by bus to the Royal Adelaide Hospital, the arts institutions, Victoria Square, TAFE at Light Square, and the universities, etc. In the wet weather, like today, they have had to push themselves in the past or use—

The Hon. Anne Levy: How will they get into the Museum?

The Hon. DIANA LAIDLAW: We will have better access with the new entrance to the north. On days like today, people in wheelchairs have had to push themselves through the rain to get to their destination. It is fairly hard to carry an umbrella and push at the same time, and we do not always understand the extent of the difficulties. It is also hard to push in the hot weather. The alternative is to use one of the Access Cab vouchers, and only a limited number of them are issued, 60 each six months, and it is hardly worth using them to travel from the railway station to the Royal Adelaide Hospital or the like. In terms of the ramps, they will be fantastic for people with wheelchairs, prams, pushers and shopping trolleys.

The other thing I am so pleased about with this initiative, in terms of accessible transport, is that it is not confined to ramps. We have taken the needs of the visually impaired into account, and all handrails in buses now are painted bright yellow so they easily stand out, and this has been a great

advance in terms of making public transport much more relevant and a pleasant experience for all who use the service.

SA WATER

The Hon. T. CROTHERS: I seek leave to make a precised statement before directing some questions to the Minister for Education and Children's Services, representing the Minister for Industry, Manufacturing, Small Business and Regional Development, on the subject of levies and charges being introduced in South Australia.

Leave granted.

The Hon. T. CROTHERS: A letter which appeared on page 14 of the *Advertiser* dated Wednesday 4 October from a Joan Troy of Brooklyn Park read as follows:

> With SA Water being contracted out, and the companies bidding for the operation which begins in January 1996, let us not follow Thames Water of the United Kingdom which is now issuing sprinkler licences in Britain. As from April 1996, a sprinkler licence will cost British people £40 a year. S.A., do you want to pay $80 a year for your licence? I hope the Government makes a good choice.

Recently in this State we have seen those residents living in council areas which abut the Torrens Valley and the catchment area associated with that, of whom I am one, having to pay additional council levies in order to clean up the Torrens catchment area. We see the proposed levy of $4 being mooted by the State Government in respect of cleaning up the Murray River areas. Now we see that one of the main tenderers in respect of the privatisation of our water supply is about to introduce a sprinkler licence fee system in the United Kingdom. I understand that the successful tenderer will be operating only the Adelaide water and sewerage services, and this fact reminds me that, in 1993-94, country users of these services received a cross subsidy of $62 million per annum from Adelaide users. Any right-minded person would not cavil about that cross subsidy.

I am also led to believe that the successful tenderer will receive $1.5 billion of State Government funding, that is, taxpayers' money from this State, for the life of the proposed contract. In light of the foregoing, I would direct the following questions to the Minister:

1. Are the levies currently in place for the clean-up of the Torrens Valley catchment area, and mooted for the Murray River, intended to clean up those areas in preparation for the privatisation of SA Water?

2. Will the Government give a guarantee that the new contractor, whomsoever it might be, will not be permitted to establish a paid-for sprinkler licensing system in South Australia?

The Hon. A.J. Redford interjecting:

The Hon. T. CROTHERS: There we go again. Here I am endeavouring to educate the young man and he keeps interjecting. I have a question later on rare parrots, which his interjection reminded me of—

The PRESIDENT: Order! I ask the honourable member to get on with his question.

The Hon. T. CROTHERS: Thank you, Mr President, for your protection.

3. Is it the Government's intention that, when its $1.5 billion subsidy runs out, given that the Brown Government is already more and more using the user pays system, that rural South Australians will have to pay more for their water? I cite as proof to underpin that question the fact that it currently costs SA Water $215 a year for sewerage systems to Adelaide metropolitan people and $384 per annum for the same system for country people, whilst drinking water in South Australia ranges from as low as 92 cents per kilolitre in the Adelaide area up to as high as $5.04 per kilolitre in the northern rural regions of this State.

The Hon. R.I. LUCAS: I thank the honourable member for his questions. I will refer them to the Minister and bring back a detailed reply. A number of them could be responded to immediately. I think the honourable member is four or five days too late in relation to—

The Hon. T. Crothers: I wrote them six days ago.

The Hon. R.I. LUCAS: I can fully comprehend that. He obviously did not read the *Sunday Mail* or Monday's *Advertiser*. He is honest: he indicated that he wrote the question six days ago, and he has not read a newspaper or listened to the radio since then. He certainly has not watched television. I guess it is all relative in terms of coming into the Chamber on a Wednesday and asking a question. I can only advise him that, after writing his question six days ago, he should have read the odd newspaper, listened to the odd radio station, watched the odd television bulletin or even talked to one of his colleagues. Perhaps he did so and was none the wiser after speaking to his colleagues. I make him an offer: if he cannot speak to the relevant Minister and he would like to ring my office before Question Time to check to determine whether these questions have been answered, in a spirit of bipartisanship I would be very happy at least to assist him in the drafting of questions.

The Hon. K.T. Griffin interjecting:

The Hon. R.I. LUCAS:I would always keep it confidential; the Attorney suggests that I would. The answer to the sprinkler furphy that was raised by the Leader of the Opposition late last week or on Saturday is that the Minister for Infrastructure indicated in the *Sunday Mail*, on various radio and television stations and again early this week that there will not be a sprinkler licence fee or levy or whatever was contemplated. In relation to the suggestions from the honourable member about a $1.5 billion subsidy from taxpayers to some overseas contract, I think it is important to note—

The Hon. T. Crothers: That's what I'm told.

The Hon. R.I. LUCAS: Yes, exactly; I am just cautioning you. It is important to note that what is being contemplated is a payment for services to be rendered in terms of delivering that service—water and sewerage—for the metropolitan area. I will get the exact detail, but I understand that the Minister has indicated that the cost that the Minister is contemplating for that service is to be of the order of 20 per cent cheaper to the taxpayers of South Australia than the current cost of delivering that service. What the Minister is saying is that, if those annual savings are multiplied over the term of the contract, they will provide significant savings to the taxpayers of South Australia. So, it is not a subsidy to the contractor: it is a payment for service; and the Minister is saying that that cost will be some 20 per cent cheaper than the current cost. That is my understanding; I will check the exact detail for the honourable member.

In relation to country consumers, the honourable member is right to point out that the current contract relates only to metropolitan service delivery. Again, from what I have heard from the Minister, my understanding is that the interests of country consumers will be protected by the envisaged arrangements with the contractor. I will raise that issue with the Minister and bring back a reply.

SCHOOL CHOICE PLACEMENTS

The Hon. P. HOLLOWAY: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services a question about school choice placements.

Leave granted.

The Hon. P. HOLLOWAY: Recently, South Australian public schools have been making school choice placements for 1996. These positions are open to teachers in temporary positions and also all permanent teachers who have lost their right of return to their school, that is, who are subject to the 10 year tenure ruling in 1996. Vacancies for these school choice positions are identified and described by the principal of the school in consultation with the personnel advisory committee. My questions are:

1. Is the Minister satisfied with the manner in which these appointments have been made?

2. Does he believe that the description of school choice vacancies which were drafted by principals were sufficiently broad to enable a fair and reasonable choice of applicants from displaced teachers from other schools?

3. Will he investigate how many of these positions were awarded to teachers already in the schools offering the vacancy rather than to teachers who had previously been displaced?

The Hon. R.I. LUCAS: I did not quite hear the third part of the honourable member's question but, if I do not cover the answers to the three questions in my response, I will certainly bring back a reply for the honourable member. School choice placement has been a most important change to the school staffing and placement policy exercise for 1996. That policy was arrived at after some 12 months of negotiation with the Institute of Teachers, so it is an agreed position between the Government and the Institute of Teachers. Clearly, the Government saw it as an important initiative. I understand that some 300-odd school choice vacancies were advertised. I think the last information I got from the department was that about 180 of those had been finalised but, again, I will provide a more detailed response to the honourable member. Certainly, the advice provided to me so far is that the school choice placement exercise had progressed smoothly, that no significant concerns or problems had been raised by schools or the department—or the union for that matter—with the operation of the policy and, more particularly, that a number of schools, in particular some country schools and city schools, had been delighted at what they saw as their greater flexibility and freedom to choose an appropriate person who suited the vacancy they had in the school.

As we agreed with the Institute of Teachers, at the end of this exercise we will review how the exercise has gone and determine whether any improvement for the 1997 staffing exercise is necessary. So, there is an agreement that we will monitor and review the effectiveness of the placement exercise. All I can say to the honourable member at the moment is that the advice provided to me is that it has been very warmly received by schools. I have to say that I am not aware of, and nothing I can recall has come across my desk about, any school, employee, union, teacher or parent complaint to me about any one of the 300 advertised vacancies. To my knowledge I have not received a complaint about the way the exercise goes. That is not to say that there might not be the odd one, but that is certainly an indication that it has not been a major issue out there, where lots of problems have been raised about it. If I have not responded to any aspect of the honourable member's question I will bring back a more detailed reply.

SOUTHERN EXPRESSWAY

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Minister for Transport a question about seismic testing for the construction of the Southern Expressway.

Leave granted.

The Hon. SANDRA KANCK: On 20, 21 and 22 September, seismic tests were conducted on the hill opposite the lookout at the end of Sargent Road near the proposed Southern Expressway route. The explosions necessary for the testing were carried out between 1 p.m. to 6 p.m. on 20 September and then again from 8 a.m. on the following two days. The tests were carried out in an area where people ride horses, walk and enjoy other recreational activities. Despite this, no warning signs were erected and there were no other safety precautions, such as cordoning off the area or a notice in the local media or even the sounding of a horn or whistle to warn people who were in the area before blasting began. A concerned constituent who lives in the area observed rock, soil and grass flying up to 10 metres into the area. The blasts themselves shook his house, rattling the windows. My constituent then rang the Department of Transport and was told that he had nothing to worry about, since the force of seismic charges pushed into the ground, not up into the air. My questions to the Minister are:

1. What was the extent of the blasting carried out on 20, 21 and 22 September? What notification, if any, was given in the local press or to local residents? Does the Minister consider this adequate?

2. Does the Minister consider that safety precautions, if any were implemented, were adequate? If not, will she investigate them?

3. Will blasting be used to cut any of the route for the Southern Expressway? If so, what safeguards and warnings for residents will be put in place at that time?

The Hon. DIANA LAIDLAW: Certainly, a lot of earthworks will be involved in the construction of the Southern Expressway, which will start in December this year as promised prior to the last election. Because we will need to address grades, it will require blasting and earthworks. I will obtain replies to the other questions that the honourable member has asked.

RABBITS

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

Leave granted.

The Hon. T.G. ROBERTS: The Minister for Primary Industries in another place released a ministerial statement reporting on tests that have been conducted so far with the rabbit calcivirus and the fact that it has strayed outside the quarantine area. The Minister states:

> The virus was introduced to a series of warrens enclosed by four levels of rabbit-proof fencing. In fact, in early trials spread of the virus was poor within the quarantined areas, perhaps due to high temperatures and low humidity. Security restrictions ensured that the disease could not be spread by human contact. I am advised by CSIRO that rabbits in two warrens on the island outside the

quarantine pens became infected with the virus. Scientists believe that the spread to these warrens could have been due to birds or insects. Rabbits in those areas where the disease has been found outside the quarantine area have been destroyed. The last dead rabbit was sighted on 6 October. A contingency plan is also in place to minimise any risk of spread in the unlikely event that the virus is detected on mainland Australia. Scientists are monitoring rabbit populations in the region and stocks of vaccine are ready for use should they be needed to protect domestic rabbits. South Australia's chief veterinary officer will take part in a telephone hook-up to monitor the situation this afternoon.

The Hon. M.J. Elliott interjecting:

The Hon. T.G. ROBERTS: I am not sure what monitoring on the telephone is going to do. My concerns are that if either by accident or design the virus escapes out of the quarantine area it is evident that there will be some dangers if the rabbit population is wiped out overnight because native animals will obviously become part of the diet of other introduced animals such as foxes and, in some cases, dingos and feral cats. These animals will change their feeding habits from small and large rabbits to some of our native species such as rats, hopping mice, plains rats, dunnarts, bettongs and bandicoots, etc. Can the Government give an assurance that the contingency plan outlined but not detailed in the statement will be put in place to protect the delicate balance between introduced animals—in which group I would have to include the preying dingo—and the native animals on which they feed if the calcivirus reaches the mainland by either accident or design?

The Hon. K.T. GRIFFIN: I will refer the question to my colleague the Minister for Primary Industries in another place and bring back a reply.

CADELL CFS FIRE APPLIANCE

In reply to **Hon. SANDRA KANCK** (25 July).

The Hon. R.I. LUCAS: The Minister for Emergency Services has provided the following response. In view of the recent announcement concerning the future use of Cadell Training Centre, the honourable member's question is no longer relevant.

HINDMARSH ISLAND BRIDGE ROYAL COMMISSION

The Hon. ANNE LEVY: I seek leave to make a brief explanation before asking the Attorney-General a question about the Hindmarsh Island Royal Commission.

Leave granted.

The Hon. ANNE LEVY: Before the Parliament rose in early August this year I asked the Attorney a question regarding costs associated with the Hindmarsh Island Royal Commission. I asked about which counsel appearing before the commission are publicly funded or funded by the Crown and how much each one was receiving, and the Attorney promised to provide a reply as soon as possible. During the break I expected to receive a reply, but I have not done so to this time, although it is now more than two months since I asked the question. I would ask again: can the Attorney provide information? We do know that the total cost of the Hindmarsh Island Royal Commission is now expected to be much closer to $2 million than the $1 million initially announced. Can the Attorney now provide information to me and to the Council about which counsel appearing before the commission are funded by the Crown, what rate of pay each of them is receiving and whether it is possible for those who are being funded by the Crown to receive supplementary payments from other sources?

The Hon. K.T. GRIFFIN: One of the main reasons why the honourable member did not get a reply was that the funding issue was rather fluid. I am sure she would have read in the newspaper that there have been some criticisms of me in particular and of the Government in general about the low level of funding being made available to counsel in the royal commission. As it is public money, I see no reason why the honourable member should not have the information, and I will endeavour to obtain it and bring it back. The honourable member should appreciate that, although arrangements have been put in place with a number of counsel for varying interests, including anthropologists, the women who claim that the women's business was a fabrication and various other witnesses, many of them have not provided up-to-date accounts. When the accounts are received they are certified by the Crown Solicitor under the Treasurer's instructions under the Public Finance and Audit Act and are finally approved by me as Attorney-General. Generally, the rates are very low. Senior counsel get $1 350 a day compared with the State Bank Royal Commission rate, which was $1 800 a day, and junior counsel get either $800 or $900 a day depending on particular circumstances.

The Hon. Anne Levy: I wouldn't mind being a junior counsel.

The Hon. K.T. GRIFFIN: Maybe not, but in the market place you can get much more than that. So far as the Government is concerned—and the previous Government took the same position—when someone is acting for parties where the taxpayer is paying, the fees are kept as low as it is practical to do so. I will endeavour to obtain all the information and bring back a reply.

MATTERS OF INTEREST

FARMERS

The Hon. T. CROTHERS: In the last contribution I made to this debate in this Council I spoke about the way in which our farmers had acted in respect of combating the vagaries of the EEC and what it had done to Australian export markets. Truly, Australia never ceases to amaze me with the variety of climate that it has: from our tropical north up across Queensland, and perhaps even down as far as northern New South Wales, and down to our more temperate southern areas such as Tasmania. We almost replicate within a continent, short of Antarctica and the Arctic Circle, most if not all of the climates that are prevalent in other areas of the Northern and Southern Hemisphere. For those people who are on the land, and farmers in particular, who wish to diversify the type of product that they grow or produce, then truly it is nature's larder in Australia when it comes to the variety and type of crop or product that one can produce.

The introduction, for example, into this nation of the Brahman cattle has led us to be capable of breeding a herd which, in respect of our tropical regions, has greater tolerance to those adverse elements that one finds in those regions. Until the introduction of the Brahman cattle the European or British cattle herds such as Herefords and Jerseys had been the mainstay of Australia's domestic beef production. The introduction of the Brahman cattle and the cross-breeding that ensued therefrom rendered the herds that we now have in our north much more tolerant to the vagaries of the climate, particularly the hotter weather because of the particular nature of the way in which their skin is constructed and which

protects them from the usual form of sweating by members of the bovine race. This also ensures that they are much more tick resistance than had hitherto been the case.

This opened up huge markets in nations such as Indonesia and Malaya. It made us much more cost competitive in respect of our export beef, particularly beef on the hoof which is now being exported out of the port of Darwin at a great rate of knots, and increasing substantially every year. It is but one example of the type of diversification that has occurred. It is not so much that we have diversified in our meat production, but rather that we have diversified into the type of animal that has much more competency to withstand those types of climates in our north than had hitherto been the case.

Our burgeoning trade with South-East Asia, currently running in excess of $11 billion a year and increasing by 15 per cent or so each year that passes, has led to other animal husbandry projects being developed in this nation by farmers who seek to diversify. That would not normally have been the case had most of our farming product still been exported to Britain.

For instance, in the growing of pork there is an enormous potential market for that sort of diversified farming in Australia. Pork is in much more demand than beef or indeed our mutton products in those nations to which I have just referred. The same can apply, too, in respect of our production of poultry for the commercial market. That again relates to those areas of Asia. Many farmers have made the switch in respect of this matter.

WINE INDUSTRY

The Hon. BERNICE PFITZNER: I wish to speak on a matter of importance, namely, the wine industry. The South Australian wine industry has increased its status and standard of excellence not only nationally but also internationally, and that is a far cry from those dim dark days of the Emu wines sold in Soho, London. As we travel interstate and visit other winegrowing areas in the Yarra Valley of Victoria, the Hunter Valley in New South Wales and the Margaret River in Western Australia the mere mention of South Australian winegrowing areas of the Barossa Valley, McLaren Vale, Adelaide Hills, Clare Valley and the Coonawarra area in the South East brings favourable comments of acknowledgment that South Australia is indeed the premier State for wines, even among experts from the wine industry.

However, internationally our wines are slow to get the acknowledgment that they deserve. Therefore, it is with some satisfaction that we hear that a wine expert from the United States of America is convinced that Australia would be able to capture 5 per cent of the world's wine market by the year 2010. The American wine expert, Mr Blue, states that it is imperative that we export, as our domestic market, unlike that of America, is very small. To capture 5 per cent of the market we must expand our exports from $385 million in 1994-95 to $1.6 billion by the year 2010. This is most encouraging news by an expert wine judge at the 1995 Royal Adelaide Championship Wine Show.

However, here at home the wine industry is not getting much encouragement from the Federal Government. A national inquiry into the wine grape and wine industry has been conducted, and the final report was completed 3½ months ago, but the Federal Government has not released it. It is feared that the holdup of the release has more to do with the coming Federal election than with the promotion of our wine industry. This holdup is causing investors to be reluctant to put their finance in the wine industry. I have a copy the interim report of this wine growers' inquiry. One of the recommendations in the interim report was that a new Commonwealth Government body be established to perform regulatory functions. Another recommendation is that a single organisation be established to perform promotional activities. It then goes on to give the composition and funding of this body.

However, the most contentious recommendations are of course the taxation on wine. The interim report, at recommendation 18, states that Mr Croser and Professor Freebairn propose that a wholesale sales tax be set at 10 per cent and the volumetric tax set at $4 per litre of alcohol. They propose phasing arrangements as follows: from July 1996, 17 per cent plus $2 per litre of alcohol; and, from July 1988, 10 per cent plus $4 per litre of alcohol. In real terms that is 26 per cent tax on the wine.

The Hon. T.G. Roberts: That is a recommendation from the industry?

The Hon. BERNICE PFITZNER: Yes. Mr Scales proposes that the wholesale sales tax be set at 32 per cent and that the volumetric tax be set at $4 per litre of alcohol. He also proposes some phasing from 1996 to the year 2000, which briefly means 32 per cent plus $4 per litre, and that in real terms is equivalent to 50 per cent. The $64 000 question is which one the Federal Government will adopt.

The other recommendations relate to irrigation and matters that the Government initiates to facilitate interstate movement of water, etc. Therefore, I ask: when will the Government release this final report, which has been to hand for 3½ months, and will the Government support the final recommendations. The recommendations should be released immediately. One must ask whether, for example, the tax, especially on the wine industry, is to be 26 per cent, or will it be raised to 50 per cent. Especially in South Australia we must give our support to initiatives that will encourage the expansion of our valuable and excellent wine industry.

The PRESIDENT: Order! The honourable member's time has expired.

NEILL, RHONDA

The Hon. R.R. ROBERTS: Although it is becoming repetitive, I seek to use this time to make a dedication to an outstanding South Australian, an outstanding organiser and an outstanding woman in Rhonda Neill who was an organiser with the SDA from the mid 1970s until her recent untimely death in a car accident. Rhonda Neill's involvement with unionism pre-dated that time, first being a shop steward at the Woolworths supermarket in Port Augusta and, of course, before that coming from a strong union family in Kalgoorlie, Western Australia.

Rhonda Neill threw herself into her role as a union official with the same enthusiasm that she applied to her life away from work. Rhonda Neill was always prepared to go out and fight on behalf of the shop workers whom she represented so forcefully. It did not matter whether it was day or night, weekday or weekend, Rhonda Neill was always there to represent her workers who may have been in trouble. It would never have been easy for Rhonda Neill to carry out her duties, because her district stretched from the Copper Triangle through the Iron Triangle and over to the West Coast. In more recent times, she became involved in organising activities in

the Northern Territory and she took up part-time work with the Liquor Trades Union, which extended even further her geographical coverage of the State.

As an organiser, her duties covered a myriad of problems from simple queries about rates of pay to achieving reinstatement for wrongfully dismissed employees. In recent years, she was involved in many cases of sexual harassment, cutbacks in hours and Sunday trading. Like so many union officials around the country, she was forced to adapt from the old centralised wage fixing system and single awards to enterprise bargaining and different awards in every establishment. However, like everything else that Rhonda Neill tackled, she successfully made that transition and was able to achieve in that forum. Whilst the population in many towns in country South Australia has been declining, Rhonda Neill was one of those union officials who engendered confidence and was able to keep increasing her membership.

Just before her tragic death, Rhonda Neill said that she had had a very hard life, but that it had been a good life and that she had enjoyed every bit of it and would not trade even a single moment of it. That statement must bring some comfort to those left behind, knowing that Rhonda had been comfortable with her place in life and had enjoyed it immensely. Life for Rhonda Neill was her love for her family and pride in her achievements, her loyalty to her colleagues and friends in good and bad times, a readiness to help anybody in difficulties, her dedication to her union activity and its members, her absolute commitment to the Australian Labor Party, her enjoyment of a good debate and, probably even more, her enjoyment of a good argument. She loved poetry, she enjoyed books, and reading was a great relaxation for her. She was also a keen participant in sport, especially hockey and softball in Port Augusta and, for years, she played tennis with considerable success. Rhonda was also involved in many community organisations, the latest being the Port Augusta Hospital Board, on which she served for nine years as a concerned community representative. She was a great believer that country people deserve the best possible health care.

Rhonda's union involvement began in 1974 as a shop steward with Woolworths and, in 1978, she became a paid organiser with the SDA. In more recent years, her shared work in the LTU was another passion. She would like to be remembered as a good unionist and a good organiser, and I am sure that most people who knew her will do that. Her energy and enthusiasm for a job was well recognised and everyone would say of Rhonda Neill that one had to respect the fairness and equity with which she carried out her duties as an organiser. She was prepared to take up the cudgels for non-unionists, as she believed they were not receiving a fair go and, in that respect, she was a special person. She was also the first female President of the Port Augusta Trades and Labour Council, she frequently represented the SDA at national conferences, and she served with great distinction with many ALP figures in South Australia including Lloyd O'Neil, Colleen Hutchison, Barry Piltz and Gavin Keneally. She was a campaign manager, a general person Friday and well remembered in Labor circles and in the community of South Australia as a great contributor and community minded person. I wish her family and friends great comfort in their sad loss. I congratulate the late Rhonda Neill on her life's achievements.

The PRESIDENT: Order! The honourable member's time has expired.

IMMIGRATION SETTLEMENT PLAN

The Hon. J.F. STEFANI: Today I wish to speak briefly about the amended State Immigration Settlement Plan, which was launched on 11 July 1995. I was privileged to represent the Hon. Dean Brown, Premier and Minister for Multicultural and Ethnic Affairs, and to co-launch the plan. The South Australian Commonwealth-State Migration Committee (COSMIC) was established in early 1984 to facilitate cooperation between all levels of Government in relation to settlement policies and programs. The Office of Multicultural and Ethnic Affairs has been an active member of COSMIC since its inception. Through the work of the Immigration Promotion Settlement Unit of the Office of Multicultural and Ethnic Affairs, the State Government is fully committed to increasing the number of migrants settling in South Australia. Therefore, the need for intergovernmental and interagency cooperation in the provision of settlement services for new arrivals is considered vital to South Australia.

The Office of Multicultural and Ethnic Affairs has always contributed actively to settlement planning in South Australia and has enjoyed a close working relationship with the Department of Immigration and Ethnic Affairs as well as other agencies at both State and Commonwealth level. The Office of Multicultural and Ethnic Affairs is highly committed to the State Liberal Government's initiative of interagency cooperation and collaborative work aimed at the provision of settlement services to immigrants and refugees in this State. Through the work of COSMIC, State and Commonwealth agencies as well as community agencies are able to work towards the common purpose of designing service delivery to ensure that no member of our society is disadvantaged.

In 1993, COSMIC launched a five-year plan for South Australia, which was developed by 10 working parties, each responsible for a particular area of the settlement process. Each working party developed a sub-plan. An additional plan was developed under the cooperation of the Office of Multicultural and Ethnic Affairs, which undertook a review of the original plan. Each working party was constituted by representatives from the State and Commonwealth Governments as well as representatives from the various community groups. The resultant five-year plan aimed to identify gaps in existing services and suggested the facilitation of a more coordinated approach to service delivery to new settlers in South Australia's community, taking into consideration the special needs of migrants.

Integral to this plan was a regular review process. The working parties were reconstituted in 1994 to assist in a review of the final draft of the amended plan, which was prepared by the Department of Immigration and Ethnic Affairs and which I was proud to co-launch on behalf of the Premier. I wish to congratulate and thank all the people who were involved in the development of the 1995 amendment to the State Settlement Plan. It is an excellent example of interagency cooperation across all spheres of government and non-government agencies and has the strong support of the South Australian Liberal Government.

POLITICAL PARTIES

The Hon. ANNE LEVY: I wish to make a few remarks, which may be regarded as lighthearted but which have a serious content, regarding the names of political Parties. I have recently received some information about a by-election that was held in the United Kingdom on 27 July this year

following the death of a Conservative MP. This occurred in a very solidly Conservative electorate and the result was the election of the Liberal Democrat candidate. What interested me was that 10 different candidates stood for the by-election, yet I am ashamed to say that all were male. However, the names of their Parties would have provided light relief and entertainment for all voters entering the polling booth. There were the Liberal Democrat candidate, the Labour candidate and the Conservative candidate, but there was also the UK Independence Party, the Conversative Party, the House Party, the Socialist Party, the Probity of Imposed Candidate Party, the Twenty-First Century Party and, finally, the Official Monster Raving Looney Party.

Members interjecting:

The Hon. ANNE LEVY: The candidate for the last named Party was Lord David Sutch; the Twenty-First Century Party had Lord of Manton as their candidate; the House Party had Mr Blobby as their candidate. Some of the names of the individuals are almost as amusing as those of the Parties. We are, and rightly so, very serious about elections in this country as indeed they are in the United Kingdom where the mother of Parliaments is found. It seems to me that to allow Parties with strange names does not in any way intimidate a healthy democracy and indeed it can provide a little light relief to electors—and they probably enjoy it. I might say that the Official Monster Raving Looney Party only received 782 votes out of over 35 000 votes cast, so it was hardly a great drawcard. I think we could perhaps be a little less serious. I know that our Electoral Commissioner does not favour having political parties with strange names, but perhaps we could be a bit more tolerant and, provided Parties are properly registered, be prepared to welcome any looney Party name in this country and so provide a little more entertainment for electors. It seems to me that no damage would be done with this, and it is a tribute to the broad-minded British—and to the strong sense of British humour which I am glad to say still exists—that such parties are registered and standing in the United Kingdom. I would welcome their appearance in this country. I hope others will agree with me that a little levity in this way in no way damages the seriousness of a democratic election.

AUSTUDY

The Hon. CAROLINE SCHAEFER: I wish to speak briefly on the vexed question of the adequacy of Austudy and access to it by country tertiary students. Austudy is available to those eligible after both an assets and income test for both students and their parents. Should their parents be separated, the income and assets test is applicable to both parents. Only after being below the required low income and assets test are isolated students eligible to receive the additional isolated students allowance. I am not sure what that additional amount is at this time; a few years ago it was the princely sum of $36 per week and I believe that it is still well below $50 per week.

Recently we have seen the Federal Democrats endeavour once again to have the assets test abolished and the Federal Liberals in the Senate move to make Austudy accessible to low income-high asset small businesses as well as farmers. I believe that both have failed to address the crux of the matter and that is the great discrepancy between rural recipients of Austudy and urban recipients. Students living away from home have huge extra in-costs. They have to pay full board and/or in many cases, because it is cheaper, set up a new home. They have the social difficulties of living away from home, many times in strange surroundings without friends and in the new and daunting atmosphere of a tertiary institution. Many of them cannot afford to travel home to relieve their homesickness and many do not eat well. Only today I spoke to a country girl who has no car and no washing machine; she must travel several stops on a bus each week, together with her laundry, to wash it at the laundromat. There is no nipping around the corner to top up with mum's cooking. All of these difficulties put huge stresses on students at a time when young people need support in adjusting to the heavy pressures of tertiary study.

For a number of years I have believed that the issue of students from isolated areas should be quite separate from Austudy, and an allowance such as that made available to primary and secondary students by the State should be allocated. This is not a large amount of money, but it is a recognition of the differences and the difficulties incurred in attempting to supply tertiary education to isolated students. The costs of helping their children live with any form of dignity is almost beyond many rural families at this time. Although it is probably too expensive to be rationally addressed, I believe that both Parties federally should look to the basic living away from home allowance for isolated children being neither income nor asset tested. Even though it is a small amount it would at least be an acknowledgment of the additional difficulties incurred by these young people.

DOGS

The Hon. R.D. LAWSON: I move:

That By-law No. 5 of the Corporation of the City of Noarlunga concerning dogs, made on 21 August 1995 and laid on the Table of this Council on 26 September 1995, be disallowed.

In speaking in support of this motion, which arises from a resolution of the Legislative Review Committee, I will briefly outline the facts. The City of Noarlunga enacted a by-law on the subject of dogs earlier this year. That by-law was made subject to the provisions of the new Dog and Cat Management Act 1995 together with the provisions of the Local Government Act. The grounds upon which the Legislative Review Committee was minded to disallow the by-law are fairly narrow, and they arise because of section 671 of the Local Government Act. That section regulates the manner in which councils can make by-laws, and it requires that a notice in a newspaper circulating in the area of the council must be published and that that notice must set out the general terms of the by-law's nature and effect.

In the present case, the City of Noarlunga did publish such a notice in the *Southern Times*; however, the notice did not, in the view of the Legislative Review Committee, set out the nature and effect of the proposed by-law. It simply stated that notice was given that the council is reviewing its by-law on the subject of dogs. It was the view of the committee that the provisions of section 671 of the Local Government Act requiring councils to give notice to ratepayers and residents of proposed by-laws' nature and effect is an important provision and ought to be observed in the spirit as well as the letter and that on this occasion the council had not done so. In those circumstances, it is appropriate that the process be gone through and the public be given appropriate notice.

There was yet another point that I should mention in relation to this by-law, because a number of similar by-laws are now being made by other local government authorities. This by-law of the City of Noarlunga provides for the licensing of kennels. However, the present Act does not empower councils to license kennels. In this regard, the present Act is different from that which it replaced, namely the Dog Control Act 1979. That Act had empowered councils to license kennels, but it was the clear intent of the new legislation that that power would be removed and the Minister, in introducing the measure, actually made that point clear in his second reading explanation.

So, notwithstanding the fact that the Dog and Cat Management Board had the opportunity to peruse and approve the by-law relating to dogs of the City of Noarlunga, an error did creep into the process, and it is the view of the committee that future by-laws should not so offend. However, as I say, the principal ground upon which the Legislative Review Committee took the stand that it did was that inadequate notice had been given under the requisite legislation. I commend the motion to the Council.

The Hon. P. HOLLOWAY: Members of the Opposition who were on the Legislative Review Committee did, for the reasons outlined by the Hon. Mr Lawson, support the disallowance of this by-law.

Motion carried.

EDUCATION (BASIC SKILLS TESTING) AMENDMENT BILL

The Hon. M.J. ELLIOTT obtained leave and introduced a Bill for an Act to amend the Education Act 1972. Read a first time.

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

That this Bill be now read a second time.

I will not spend a great deal of time speaking to this Bill because it is only about two months ago that I introduced it, towards the end of the last session. For the record, I want it noted that the purpose of this legislation is to look at certain aspects of the basic skills test. This particular legislation does not aim to stop the basic skills test; I understand the Government has the numbers in the Lower House to stop a Bill doing such a thing, anyway, but it is about the misuse of the results of those tests. The Liberal Government in New South Wales ensured there were certain protections around the results and the way they may be used. This Bill seeks to put in place the same sorts of protections as this Government's colleagues deemed necessary in New South Wales.

I ran through these arguments before, so in brief I simply note that, whilst we can have an academic argument, if you like, about the value of the skills test and whether or not teachers will find it valuable in relation to individual students, whether or not a principal may find it valuable in terms of having some knowledge about his or her students as a whole, or perhaps the Minister feels that, in this case, he would find those results useful, those results can be misapplied and have interpretations placed on them which could have quite unfortunate consequences.

The sorts of examples I gave last time were that to simply compare the results of the basic skills test done by one class with the results of another class does not tell you a great deal other than one class did better at the test than the other. It does not tell you whether or not one class got more assistance from its teacher during the test, or whether or not one class spent more time practising for the test. It does not tell you anything about the social background of the children and that that may have an impact. One of the consequences of that could be you could have a school where in fact you have a very good teacher or good set of teachers in front of the children but, owing to difficulties that are outside the school, the results may be lower than another school. Parents could look at the result and read it that this school is not as good as another school, withdraw their children from that school and send them to another one. In the process, they may be taking them to a school which is educationally not as good.

I relate my own experience where my children have attended two State schools, both of which have quite a good reputation and both of which give a good education, but I know that the school my children attended originally had a 'better' so-called reputation than the one they currently attend. That reputation was built largely on the advantage that the students had at the first school and, in my view, the second school was educationally better. I know that the basic skills test, if the results were compared, would show that the first school had higher results. However, I know that the second school is better, and I say that as a former teacher. I know how my children are performing. I believe very strongly that my children are getting superior education at the second school. We had arguments in this place about the setting up of league tables to compare schools in relation to secondary school results. When we get down to kids doing basic skills tests in their early years, the arguments are only amplified.

I do not want to see these results in the hands of people who do not understand what they mean and can then make decisions which may educationally disadvantage their children and may also create disadvantages for schools. If one of the consequences is that numbers of children are removed from a school, it loses teachers and other staff and a school can be set on a path of decline which can do real damage for it and the community in which it is situated, and can do no good at all for the children themselves. I do not intend to go over all the arguments again, but I invite members to look at my second reading contribution on the first introduction of this Bill. I hope and expect there will be cross-Party support for this Bill.

The Hon. CAROLYN PICKLES secured the adjournment of the debate.

CURRENT AFFAIRS PROGRAMS

The Hon. Diana Laidlaw, for the Hon. A.J. REDFORD: I move:

That this Council—

1. deplores the reported proposals concerning the changes to the production of local current affairs programs of the Australian Broadcasting Corporation and calls on the board of the ABC to ensure that the ABC does not centralize the presentation and production of daily ABC current affairs programs in Melbourne and Sydney;
2. calls on the former National President of the Australian Labor Party and a current member of the ABC Board, John Bannon, to publicly renounce the recent decisions regarding current affairs television coverage by the ABC in South Australia; and
3. urges the ABC to reinstate a local 7.30 Report in Adelaide.

Generally there would be strong support for those sentiments in this place, because we would not wish to see networking or the inherent disadvantages of networking in terms of loss of local content in this State. I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

CONTROLLED SUBSTANCES (CANNABIS DECRIMINALISATION) AMENDMENT BILL

The Hon. M.J. ELLIOTT obtained leave and introduced a Bill for an Act to 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.

Again, as with my previous Bill, this is a piece of legislation that I introduced in the last session and, again, it is not my intention to cover all the arguments that I covered then. I begin by reiterating a couple of points. This Bill is not about the legalisation of cannabis: it is about regulated availability, and in my mind there is still a significant difference between the two. I believe that, under the regulated availability model which I have proposed and which I have previously discussed in detail, in reality cannabis would be no more readily available than it is currently. That is something that some people do not want to face up to. The fact is that it is a readily available substance throughout this State now. I am suggesting that we are far better off taking control of its availability, selling it through licensed outlets, controlling the price and taking the profits away from the crooks and all the consequences that come from it.

I do not intend to take that debate further at this point other than to cover a little ground in relation to a few things that have happened since I last spoke. In particular, the New South Wales Police Corruption Royal Commissioner, Justice James Wood, and the Australian High Commissioner in London, Neal Blewett, have both spoken out in recent times on matters relevant to this and called for a reexamination of Australia's drug policies. First, on 4 October, Dr Blewett, Australia's longest serving Federal Minister for Health, was reported in the *Australian* newspaper as urging a rethink of laws banning drugs such as heroin and marijuana. I have not entered the heroin debate and do not intend to; in fact, I take a softly, softly approach. I think we do know the size of the problem with cannabis and I believe that we can move with safety to my proposed position. I would not consider the other position unless the first was a success, which I believe it would be; only time will tell. Dr Blewett argued that criminal sanctions caused more harm than good. In an interview reported from the Drug and Alcohol Review, Dr Blewett states:

> I am one of those who think that we do have to seriously look at the effectiveness of prohibition policies as they relate to drugs such as marijuana and heroin. I don't necessarily believe that you'd have the same policies for marijuana as you might have for heroin, but I do think that all around the world there is a rethink of the effectiveness of prohibition policies.

Dr Blewett publicly advocated reform of cannabis laws the year he entered Federal Parliament in 1977. He stated:

> I must say that I have always believed that the case for the criminalisation or the prohibition of cannabis was not very strong. I argued this in my days as a liberal academic, when I did not have the responsibilities of being in Government. I found out within the first week or fortnight of becoming Health Minister how politically damaging any expression of those ideas could be.

He did not say he had changed his views but that he had made a political decision about expressing those views. Before I leave Dr Neal Blewett it might be worth noting that it was his very progressive approach on AIDS, one which was not a head in the sand approach, which meant that Australia has the most successful AIDS policy in the western world—probably anywhere in the world—because he decided that he was going to be realistic about the way this world is and the way it works; to be non-judgmental and treat health problems as health problems and as nothing else. He took that approach with AIDS and it is the most successful AIDS policy in the world. I believe that a similar sort of thinking applied to drugs policy would meet with similar success: we should treat a health problem as a health problem not as a criminal problem.

On the same day as Dr Neal Blewett was quoted in the *Australian*, the New South Wales Police Royal Commissioner, Justice James Wood, called for a national approach to the country's enormous drug problem. I have a copy of the transcript and I think that, having followed the royal commission in New South Wales, most people are aware that it was progressively turning up more and more police who had been corrupted, and drugs were among the major corrupters. It appears from reading the transcript that what really shook the commissioner was when he found that two of his own employees working for him admitted to corruption in relation to drugs as well. Unfortunately, I start on page 16 so I cannot give the lead-in to this, but I do not think it loses too much in the context. The transcript states:

> THE COMMISSIONER: That second surveillance operative was similarly an ICAC employee on secondment to this royal commission. Each has been stood down from this royal commission. Each has been referred back to ICAC and the position remains for ICAC now to deal with them.
>
> MR AGIUS: That is so, Mr Commissioner.
>
> THE COMMISSIONER: Each has made admissions concerning their corrupt conduct while AFP [Australian Federal Police] employees and the first of these persons, while an ICAC employee; the second surveillance operative has been debriefed and his misconduct, which is acknowledged, related to conduct while an AFP employee.
>
> MR AGIUS: Yes, some 12 years or so ago.
>
> THE COMMISSIONER: It should be said in relation to those persons that their involvement in corruption has again been confined to their work in relation to drug law enforcement. I would have thought on any view, despite what may have been known elsewhere, what has emerged in the public hearings of this royal commission and what is going to continue to unfold over the next six months or so does demonstrate the enormity of the drug problems which this country faces.
>
> Apart from the stupidity of people being involved in the ingestion of drugs, it has very many consequences. Without even attempting to limit the number of consequences, they would include, obviously, first and foremost, an enormous impact on corrupting police, particularly police who otherwise are decent, law abiding and efficient detectives.
>
> Those narcotics, secondly, bring about death and destruction of young lives. Thirdly, they lead to an enormous loss of property and loss of amenity of life for those persons who are forced to live in areas where drug abuse and dealing is rampant. Fourthly, a significant consequence is the diversion of money overseas and into a black economy in sums which would seem to exceed the net turnover of several, if not many, of Australia's largest companies.

And so he goes on. Later in the same transcript he states:

> So far as this royal commission is concerned, it can deal with but one aspect of that enormous problem, that is, the police corruption side. But that is only one facet of the problem and to attack it alone would be a band-aid solution, which would be utterly inappropriate.
>
> It seems to me that the drug problem and its ramifications are such that there has to be a national organised and cooperative solution to the problems which may involve bold and innovative thought. . . .I think we are going to have to look in an organised, cooperative and national way to solve some innovative and far-reaching methods of dealing with the problem, including education, rehabilitation and other facets of the equation in order to combat it.
>
> The reality is that it is corrupting young persons. It is destroying police on a State and Federal level, and there is absolutely no reason to think that it stops at New South Wales boundaries.

An editorial in the *Australian* of 6 October commented on Commissioner Wood's statement, as follows:

> In calling for a national organised and cooperative approach to sort out the drug problems, Mr Wood appears to be suggesting that we cannot make our law enforcement agencies immune to drug related corruption. He says we she look at innovative and far-reaching methods of dealing with the problem, including 'other facets' of the equation. Perhaps Mr Wood is suggesting that we review the question of decriminalisation of drugs like heroin. Whether Mr Wood is right to suggest, even obliquely, that the nation should take the enormous step of abandoning prohibition in order to destroy an otherwise untouchable industry eating away at our society is a matter of debate.
>
> Debate over the option of abandoning prohibition is only just beginning and has a long way to go. However, Mr Wood was right to draw attention to some of the destructive social costs of drugs which only indirectly relate to issues of police corruption—the waste of young lives, the burden on health and other services, the diversions of money that could be contributing to taxes, the enrichment of organised crime and the vulnerability of migrants from countries where corruption is a way of life.

In introducing this legislation I see it as a vehicle for this much needed debate. I note again that this legislation is consistent with the majority report of the select committee, which spent some four years looking at the issues surrounding drugs. I am realistic enough to know that this Bill may fail on this attempt. All I ask of members is that they be prepared to remove any preconceived ideas that they may have on these drug problems.

The Hon. K.T. Griffin interjecting:

The Hon. M.J. ELLIOTT: You have a voluntary vote in here now. I ask members to remove their preconceived ideas. This is an important debate. I have never suggested that there would not be problems. I am really arguing that regulated availability is really a lesser evil. Drugs are a problem. The question is how we tackle the drug problem. It is my belief that the criminal law or sanction will not solve what is really a health and social problem, and I urge members to support the Bill.

The Hon. G. WEATHERILL secured the adjournment of the debate.

7.30 REPORT

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

1. That the Legislative Council expresses its concern about the impact of the cessation of local production of the *7.30 Report* on the depth and diversity of current affairs coverage in South Australia;

2.That the Legislative Council calls on the Board of the Australian Broadcasting Corporation to reverse its decision to cease local production of the *7.30 Report*; and

3. That a message be sent to the House of Assembly transmitting the foregoing resolution and requesting its concurrence thereto, and that the foregoing resolution be referred to the ABC Board and the Federal Communications Minister, Michael Lee, for their consideration.

We already have on the record members of all political Parties in South Australia and their Leaders expressing concern about the potential demise at this stage of local production of the *7.30 Report*. Every member of Parliament with whom I have spoken, whether or not they always agree with what the *7.30 Report* says—which of course we would not do with any media outlet—values its existence and its local production.

South Australia already has a media problem in terms of having too few voices and owners of media outlets and, therefore, in the level of diversity. All the major circulation papers in Adelaide—I do not know whether the *Adelaide Review* will want an apology, but its circulation is relatively small—have a single owner. In radio we now have several stations paired off: we have two lots of pairs where stations share a newsroom and, again, the level of diversity in the newsrooms is reduced. And now we see one of the voices in the television area about to be removed, and from an area which is the most sensitive of the lot.

Television news services do not have a large local content and, by the time you allow for the fact that some of the local content is about a cat up a tree or something of that ilk, it does not leave a great deal of time within the traditional news services for examination of issues that are of importance to the community, whether they be political, social or whatever. Channel 2 probably has a slightly larger amount of local news, but not significantly so—about six or seven minutes a night of local reporting—and the *7.30 Report* was offering somewhere between six and nine minutes a night of local reporting. As to television generally and news services, there is not a lot of local reporting, with only a relatively small number of stories being covered.

The other side of the equation also is the depth of coverage of stories. Radio reports tend to run for 20 seconds on a longer story and television reports in the half hour news may go for a minute for a longer story. Clearly, you cannot get an in-depth analysis on any sort of issue out of radio or television news. That is not a criticism; it is a fact of their structure.

So, from where does the in-depth reporting come? It comes from some of the talk shows on radio, and that continues to be a useful source of in-depth analysis. It may come in the printed media, although I must say that most people with whom I speak suggest that in South Australia there is not a great deal of in-depth reporting and analysis of stories. That leaves us with the *7.30 Report* and the fairly recent arrival of *Today Tonight* on Channel 7 as the only other place where there may be that little bit of extra in-depth reporting.

I must say that there is simply not enough of it. I reflect on the *7.30 Report*. About eight weeks ago it devoted a complete program to the Hindmarsh Island bridge. In half an hour it attempted to cover all the ground, which was quite a challenge, but it is something which was greatly appreciated. People might have different perspectives about the balance of the story, but I personally thought it was extremely well-balanced. The fact that half an hour of television time was devoted to one story was excellent (there should be more of it, and the opportunity was there). If I have a criticism of the *7.30 Report*, it would be that it has tended to follow the shorter story magazine format of some other current affairs programs, when the one thing I have always wanted from it has been that in-depth analysis on an issue.

Of course, that format has been forced on it from outside. I do not think it is largely a format of its choosing. Most of the programming is coming from outside. It is being told that it will run mostly national stories. In fact, I am sure it is being told that it will run mostly Sydney and Melbourne stories; let us be accurate about these things. It has only a small amount of time to devote to South Australian stories, and even the structure is, to a significant extent, inflicted within that. Again, it is not a criticism. I will not argue about whether or not the *7.30 Report* can be done better: the important thing is that it does provide coverage for stories that will not get coverage at a national level or, if they do, it will be far more superficial than that which we are currently getting.

Take, for example, the State Bank, on which stories ran sometimes night after night, week after week, perhaps month after month—and I am sure some people wished that they did not. The fact is that there was a regular flow of information which was important for and of interest to the South Australian public. No-one would believe that a *7.30 Report* coming out of Sydney would have covered it more than a handful of times. In fact, we would have been lucky to receive two or three coverages during that whole period. That story would almost have disappeared from any sort of analysis and we would have had just the odd spectacular news break for about 15 seconds on radio or television news when something extra special happened. And that simply is not good enough.

As a country South Australian, I always valued the regional radio that we had and the fact that matters which were important to my community were being reported, because they would not get covered by the Adelaide media. At this level, when we are talking about television coverage, while we will not see regional coverage for television—the economics simply would not allow it—a State level coverage by the *7.30 Report* and news generally is very important to us. It is an important source of information which provides us with a depth and diversity of information. Why has this happened? It appears that some self-important people largely living outside South Australia—in the centre of the universe, Sydney, and perhaps the odd visitor from Melbourne—have decided that a national *7.30 Report* will be better.

The Hon. Sandra Kanck: They seem to think that Australia stops at Parramatta.

The Hon. M.J. ELLIOTT: There seem to be two grounds. The first appears to be financial. Constant pressure and cutbacks of all sorts have occurred, and the quality of news and other coverage has already dropped locally because of that. In August 1992 ABC television lost its outside broadcast van. In that case it was removed before the staff were even told that it was going. Over recent years there has been constant pressure to cut back input. Back in 1991 the ABC's *Country Hour* was being threatened with losing its local programming and was to be run from Sydney. Here we had stories about South Australian farming and we were being told that South Australian farming could be covered out of Sydney—an absolute nonsense. I know that that *Country Hour* was valued. We saw Susan Mitchell and her program disappear when it suffered a cutback last year. There has been this consistent theme of cutting back. It appears to be largely financial, although, in my view, it appears to be more about centralisation, perhaps about trying to have direct control over things.

Other than finances, the other excuse appears to be ratings. I would hate to believe that the ABC was ever run on the basis of ratings, yet consistent reports suggest that that has been a major factor. I have always considered the ABC to be the place which sets the benchmark for quality. I accept as an inevitability that sometimes as we seek for quality we unfortunately will lose some parts of the audience, but in terms of the overall contribution the quality of the news being delivered is far more important than whether or not the ABC is proven to have high ratings. That quality news reporting has an impact. It informs those who need to be informed and it has a feedback effect through the community that does not watch it first-hand. By the quality of that reporting better information is disseminated to the public and will find its way to other people, whether or not they happen to watch that particular program.

The Hon. L.H. Davis: Do you actually have a percentage of the South Australian content, on average, on the *7.30 Report*?

The Hon. M.J. ELLIOTT: At the moment, I believe it is in the range of six minutes or a little over. It is already too low. I suggest that if its ratings have suffered it may indeed be that it has become too nationally based already and that there are too many Sydney and Melbourne stories to which people are not relating. I watch the *7.30 Report* because I want to see the local current affairs. I sit through other things in which I personally do not have an interest. I guess I am partly in the ratings figure still because I need to be but, besides that, long before I came into Parliament, I always valued that sort of program—the *7.30 Report* and its predecessors—because it was keeping me informed on what was happening in South Australia. I do not have a huge interest in what is happening with the third runway in Sydney. It is of passing interest as a story once every four months, and that is about what will happen to our stories if we have a national *7.30 Report*.

I would like to see the ratings higher. There are things they can do to the program to take the ratings up but, at the end of the day, ratings are not an excuse to change the production and shift it to a national one. They might get higher ratings if they put *The Simpsons* on at that time, but I certainly would not be advocating that.

I note that we will perhaps still have one other current affairs program still in South Australia on Channel 7, but there has been speculation over much of this year whether or not that program will last. I will be sad to see it go for the same reason: it is another different voice in the media and it is another place where there is more depth than one will see in a news story. Again, quite a few of its stories do not interest me because they are too superficial, but that is not true of all their stories, which play an important role. But they are not secure. Because it is privately owned, we cannot instruct that station to continue to provide local current affairs. We can only hope and wish that they do so.

However, surely with the people's own television station we can instruct or request that we have a television service which services the people and gives them news and current affairs that are relevant. It should seek to be different from the other stations and it should not seek to compete with them.

I note that we have been offered a sop, namely, a half-hour program on Friday night at about 10.30. It is most unlikely that I will ever be in that audience, and I suggest that the vast majority of the present *7.30 Report* audience are not likely to be in that 10.30 Friday night audience, either. I said that it is a sop, but it is not even that; that is being too generous. I think it is an absolute insult. Other combinations may have worked. Perhaps a fully local *7.30 Report* at 7.30 p.m. twice or three times a week, which could really get its teeth into a few things, might be more attractive than six minutes five nights a week. However, that is not what the ABC board has had the nerve to offer at this stage.

I conclude my contribution by noting that I believe that the depth and diversity of current affairs coverage in South Australia will suffer. The depth and diversity of news coverage in South Australia will also suffer, as will the accessibility and quality of information. I do not believe that we in South Australia should be prepared to tolerate that, and I urge this Council to call on the board of the Australian Broadcasting Corporation to reverse its decision to cease local production of the *7.30 Report* and to send a message to

the other place asking that Chamber to concur with our resolution, and that it be forwarded to the ABC board and to the Federal Communications Minister (Mr Michael Lee) for their consideration.

The Hon. CAROLYN PICKLES secured the adjournment of the debate.

CURRENT AFFAIRS PROGRAMS

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

That this Council—

1. Deplores the reported proposals concerning the changes to the production of local current affairs programs of the Australian Broadcasting Corporation and calls on the board of the ABC to ensure that the ABC does not centralise the presentation and production of daily ABC current affairs programs in Melbourne and Sydney;

2. Calls on the former national President of the Australian Labor Party and a current member of the ABC board, John Bannon, to publicly renounce the recent decisions regarding current affairs television coverage by the ABC in South Australia; and

3. Urges the ABC to reinstate a local *7.30 Report* in Adelaide.

Let me begin by reminding members what occurred in this place just over 12 months ago. Members might recall that on 10 August 1994 I moved a motion as follows:

That this Parliament deplores the reported proposals concerning the changes to the production of local current affairs and news programs of the Australian Broadcasting Corporation and further calls on the ABC not to reduce local production of current affairs and news programs in any way.

On 7 September 1994, the Hon. Anne Levy, quite rightly moved an amendment, which was supported by the Government, to the effect that the motion, which was eventually passed by this place, should read as follows:

That this Parliament congratulates the board of the Australian Broadcasting Corporation for not accepting the changes proposed by management for altering production of local current affairs and news programs and calls on the ABC not to reduce local production of current affairs and news programs.

The Hon. Anne Levy stated that she had moved that amendment because the ABC had seen the light and had cancelled the then proposed changes mooted by the management at that time to current affairs reporting in South Australia. She said:

Under my amendment, instead of calling on the board to reject them, we will congratulate the board for having rejected them at this stage.

She went on to make a number of salient points, as follows:

I should perhaps point out that Mr Bannon is not a representative of South Australia: he is a South Australian who is a member of the board. . . from what I have heard, that South Australian member of the board, Mr Bannon, played a very important part in the discussions of the board which reached the decisions which we all know of. . . I have been informed that the contribution and approach taken by Mr Bannon was extremely influential in the board's reaching the decision that it did.

I will not go through the arguments that I set out on that occasion because they are on the record and they were made with some degree of consideration. However, what I must say is that it is exceedingly disappointing that, notwithstanding the excellent contribution made by the Hon. Anne Levy on 7 September last year, the ABC board, having looked at the issue, chose to ignore a motion that was passed unanimously by this place.

The Hon. Carolyn Pickles: This is South Australia, after all, and they will ignore us interstate.

The Hon. A.J. REDFORD: I wholeheartedly agree with that interjection from the Leader of the Opposition. It is an absolute disgrace that people in Sydney and Melbourne think that they can adequately cover current affairs in this State from Sydney and Melbourne. If they think that they can improve the so-called ratings performance of the *7.30 Report* by running it from a central base, they are sadly mistaken.

The Managing Director (Mr Brian Johns), in announcing the programming changes which are currently before this place and which were reiterated by the Hon. Mike Elliott in his motion, stated that this whole programming change was about improving the authority and relevance of ABC current affairs reporting. I cannot see how a national program hosted by Kerry O'Brien will improve the authority and relevance of local current affairs reporting in this State. As I said last year, the *Lateline* program, which is hosted by Kerry O'Brien, rates exceedingly poorly, yet we see no suggestion on the part of ABC management or the ABC board that that program be axed or taken off the list. When one analyses what the ABC is doing, one has to come to the conclusion that it is looking at this whole issue through the eyes of Sydney and Melbourne.

I was pleased to note that, when this decision was announced on 28 September 1995, the Premier said:

I have argued for some time that this Federal Government seems to have little regard for the rights of the States. It is also disappointing because John Bannon, one of the board members from South Australia, appears to have let the State down. He does not seem to have been effective in preserving South Australian content on ABC television here in South Australia.

The Hon. Michael Rann said, and I agree with him:

We will not see Sydney executives and Sydney current affairs producers caring one hoot about the issues that are important to South Australians whether it is privatisation of water or problems in schools or hospitals.

I agree wholeheartedly with him. It is interesting to note how the former Premier of this State responded to those criticisms. First, he stated that he was the only board member for South Australia, and then he said:

The chief issue, as I see it, is whether and how South Australians can benefit from this decision and there is no question it has got some downsides. Certainly the downside is that we are not going to get a daily diet of purely local current affairs in the *7.30 Report* format. If I was the Premier. . . is that South Australia has to increase its impact at the national level.

The only contribution made by the former Premier to this State in a national context was to spring us to the forefront of financial disaster. We trusted the former Premier when he ran the finances of this State and he let us down. We trusted the former Premier, when he was elected to the board of the ABC, to protect our interests and he let us down. He says that he agrees with the board decision and says that, in his view, it gives South Australia an opportunity to sell itself by having local programs on a nationally based and nationally driven broadcasting body. Some of us have travelled interstate in the last few months, and the coverage of the Hindmarsh Island Royal Commission from whatever perspective one might look at those issues has been absolutely minimal in the Eastern States.

The Hon. Carolyn Pickles: I saw it on a program two weeks ago.

The Hon. Anne Levy: It's certainly not in the Murdoch papers.

The Hon. A.J. REDFORD: It has been absolutely minimal. If you had watched the *7.30 Report* and the news broadcasts in other States over the past few months, the Hindmarsh Island Royal Commission and the very important issues, as the Federal Attorney-General acknowledged, were

hardly covered. We had a daily diet of the Carmen Lawrence Royal Commission and the issues raised there. I do not mean to denigrate that Royal Commission, but the issues raised by this Royal Commission on a long-term basis are far more important than the Carmen Lawrence issue.

This gives an indication of where the ABC and its board is heading: John Bannon said 'It will be a *Lateline* format.' This is the local show that the ABC is considering. Let us analyse the logic of this. If the national news program is going to rate better on a national format than the existing locally produced program with local staff, why does not the same effect follow with *Lateline*. *Lateline* is one of the worst performing current affairs programs if it is judged purely and simply on a ratings basis. What they are doing is setting up local current news and local current affairs programs. They are setting it up so it will fail.

Members opposite would agree that one would have to be quite fearful of a State with limited local production not closely analysing political issues of the day. One can imagine how the demise of the State Bank may have been reported and the State Bank Royal Commission may have been reported in this current format. Would ordinary South Australians have received the same coverage and same amount of information in a timely fashion under the proposals set out by the current ABC board.

The Hon. L.H. Davis: There would have been no Hendrik Gout.

The Hon. A.J. REDFORD: There certainly would not have been Hendrik. Hendrik's career was launched by the *7.30 Report*, and I understand that he has now reached the dizzy heights of the *PSA Review*.

The Hon. Anne Levy: And the *National Labor Herald*.

The Hon. A.J. REDFORD: Obviously, I am not on their mailing list so I was not aware of that. Keith Conlon was putting the point to John Bannon, and he asked:

> Is this the sort of trend we are going to see also in radio? Are we going to see the nationalisation in terms of production and centralisation in terms of production in radio in South Australia?

We can apply the same arguments. John Bannon said:

> There are enough of us very vigorously pushing this point that the ABC is a national broadcaster with regional and State responsibilities.

If we analyse that, we have to wonder about his ability to vigorously push the need for regional broadcasting, in the light of the failure of his push to deal with the current proposals to, in effect, close down a daily local current affairs program. I also agree with what the Hon. Michael Elliott said about the other TV program on Channel 7 that broadcasts local current affairs. He said that there is some question mark over the future of that program. As I understand it, in speaking to some of the staff involved in that program, there is a severe question mark over that program. Channel 7 has a different charter from the ABC. Its primary charter is a duty to its shareholders. Certainly, I do not believe that it is the province of parliamentarians or bureaucrats to interfere in their programming decisions.

The Hon. M.J. Elliott: I did not suggest that.

The Hon. A.J. REDFORD: I know, I agree with that; but we do have a responsibility and a right to press our point of view about the role of the ABC and, in particular, its coverage of local current affairs. John Bannon says that there is a commitment to local radio, but when one analyses the sorts of undertakings given in August 1994, one has to question his commitment to that process or, alternatively, his ability to drive the ABC board and its management to a position where they properly understand their regional responsibilities in terms of current affairs broadcasting.

I would like to make in passing a comment on the Hon. Michael Elliott's motion, because we did not communicate before our motions were moved, although it is pleasing to see that, essentially, we agree with each other. As I understand it, the member for Norwood, in the other place, will be moving a similar motion condemning the ABC decision and will be speaking on that tomorrow. When one analyses it, the position of the Australian Democrats, albeit they were quiet on the last occasion—perhaps they knew more than I did—and the position of our side are consistent. I am pleased to see that he has that view.

I support the motion. I believe that the ABC board ought to re-visit its decision and understand that it has a very important responsibility in the area of local current affairs reporting. It will be a very sad day if the only local current affairs reporting that we have in this State comes on once a week late at night and, as board member John Bannon referred to, possibly on a Friday night. It is all well and good for us politicians interested on what is going on out in the community watching programs of that nature late on a Friday night, but how will the ordinary South Australian be able to be involved in the vigorous political debate from day-to-day? At the end of the day, that will leave us with the *Advertiser*, and I must say I am mature enough to recognise that the *Advertiser* will take different points of view on different occasions—

Members interjecting:

The Hon. A.J. REDFORD: I am trying to be circumspect. I will say this—and perhaps I will put it in this context: in April I was fortunate enough to attend the debate in the House of Commons on the suspension of the members who took money for questions. Members here may recall that two members of the House of Commons were approached by a journalist of a rather shabby newspaper—

The Hon. Anne Levy: A Murdoch one?

The Hon. A.J. REDFORD: A Murdoch newspaper, in a rather shabby process, and I do not think anyone comes out of it with any glory at all. They were dealt with by the privileges committee and, ultimately, by the House of Commons, and suspended. During the course of debate, what I found interesting was the ability of members of Parliament to stand up and openly and severely criticise a media outlet for its conduct. In that case, members of Parliament openly stood up and criticised the conduct of the Murdoch publication that was involved, because they knew that there were other publications in a competitive environment that would publish their alternative point of view. It is a much more courageous thing to do here in South Australia with the Rupert Murdoch publication, the *Advertiser*, although I know it has a plummeting circulation. At the last count it had a circulation of less than 200 000—

The Hon. Anne Levy: It's due to the pokies!

The Hon. A.J. REDFORD: The Hon. Anne Levy says it is due to the pokies. It was refreshing to see members of Parliament in London openly criticising journalists, journalistic ethics and the nature of what they performed.

The Hon. M.J. Elliott interjecting:

The Hon. A.J. REDFORD: The Hon. Michael Elliott got it in one when he said, 'There is more than one paper in London.' All members here would agree that what is happening in this State is that the concentration of media, not just in terms of ownership but in terms of what they say, is quite frightening and scary.

I will close by saying that the quality of the *7.30 Report* in some respects has left a lot to be desired. In some respects a warning was given to the *7.30 Report* by the actions of the management and board last year. Other than a change of face in terms of presenter, it would appear to me as a lay observer that they really did not heed the message. If the ABC does reconsider its position, and one would hope it would, I would hope the *7.30 Report* would have a very good, cold, hard look at itself with a view to improving the quality of service it gives and, if this turns out to be the case, that it does heed this second warning. I commend this motion.

The Hon. CAROLYN PICKLES secured the adjournment of the debate.

EDUCATION POLICY

The Hon. CAROLYN PICKLES: I move:

That this Council condemns—

1. the way in which the Minister for Education and Children's Services has broken the Government's election promises on education and embarked on a policy of cutting resources for education in South Australia.
2. the reduction of 790 teachers and 276 ancillary staff between 30 June 1994 and 31 January 1995.
3. the Minister's decision to cut a further 250 school service officer full time equivalents from January 1996 that will result in up to 500 support staff being cut from essential support work in schools.
4. the Minister's decision to cut a further 100 teachers from areas including the Open Access College, special interest schools and Aboriginal Schools.

This motion is about education in South Australia. Education is the most important responsibility that the Government has. Certainly that has been the view of visionary governments in the past, but this motion is about broken promises, fewer teachers and support staff, bigger classes, shrinking curriculum, lower standards, budget cuts and no vision at all. This motion is about the Brown Government's dishonesty. If modern societies are to be successful, they require a first class system of public education. Indeed, that is what Dean Brown promised when he stood before the electorate on 28 November 1993 and gave an undertaking to all electors about how he would govern the State. Let us recall those promises, and I quote:

> There will be no cuts to this year's budget and education spending will increase in 1994-95. . . This will ensure current class sizes are maintained.

He added:

> A $20 million plan to rebuild our schools will reduce the serious backlog in school maintenance.

Another statement by the then Leader of the Opposition was:

> Our initiatives will see education standards lift through improved school maintenance and resources.

Within seven months of becoming Premier, every one of these promises had been discarded by a dishonest Government that set about redistributing the State's wealth at the expense of our education system. The Premier talks about South Australia becoming internationally competitive, but at the same time he is reducing everything in our education system to the national average. We will not even be competitive in Australia, let alone overseas. It makes no sense to follow the example of countries that are the losers in the game of international competition by not investing in education.

Targeting schools to cut spending makes no sense. Education is the engine room of our economy, the backbone of our society. To be a successful country economically and socially, we need to invest in our intellectual infrastructure. If the Premier is serious about South Australia surfing the super highways, then the approach adopted by his Government to education needs to be reversed. Additional resources will be needed to ensure our kids are qualified to win these jobs; investment in education will need to be increased.

At the last election, the Premier promised there would be no cuts to education and that spending would increase in 1994-95. The Government then broke this promise by budgeting for an annual cut of $40 million by 1997. Class sizes were increased and the number of teachers and support staff slashed. The 1994-95 budget required a cut of 372 full-time teaching positions and a further reduction of 50 other teaching positions, a total of 422 staff. However, in just seven months to January 1995, the department approved 930 separation packages, and the total number of staff fell by 1066. In February this year, the Minister for Education and Children's Services announced that falling enrolments would result in cuts of up to another 200 jobs.

Then in June of this year the Minister announced further cuts of 250 school service officers and another 100 teachers, a total of over 1 600 jobs in just one year. The latest decision to cut the equivalent of 250 full-time school service officers at the start of 1996 has been opposed by the entire education community. The Minister tries to justify the cuts by saying that South Australia has more school support officers than the Australian average. It cannot be justified. The Minister is playing games with statistics in an attempt to fool the electorate. The facts are that the South Australian level of one support officer for every 60 children is behind both Queensland, with one support officer for every 55 students, and Tasmania, with one for every 54 students. After the cut of 250 staff we will fall behind Western Australia and have the third worst level of school support in Australia. These are the Minister's own statistics provided by his office to the member for Mitchell.

South Australia might still be above the Australian average, but that is a commentary on the low level of assistants in Victoria and New South Wales rather than a reason to cut 250 staff out of our schools. On what grounds did the Minister decide to cut 250 school service officers out of the formula and, because of the part-time nature of the work, effectively sack 500 people? Did the Minister consult school councils, principals, teachers or parents before making this decision? Of course not. Was this decision made after an examination of the workload being carried by school service officers? Of course not. Did the Minister consult with the appropriate staff association or union? Naturally not. The Minister made the decision himself. It was his own idea, and executives in his department have complained to the Opposition that they were not even consulted.

School councils throughout the State have written to the Minister and the Opposition detailing the effect of these cuts on the quality of education they can provide. For example, the Adelaide High School expects to be cut by over 60 hours. This is the equivalent of almost two full-time staff, and I will quote what the school thinks of the decision, as follows:

> The staff at the Adelaide High School are extremely concerned about the low priority being given to education in this State. With fewer hours available next year, some programs will have to go. . .

Seaview High School expects to lose 45 hours. The school newsletter told parents:

> The reduction in hours will mean significant changes to the provision of services. The school council believes that the conse-

quences for students and parents are of such significance that all parents should be given the opportunity to guide the advice given by the council to the principal.

The staff at Salisbury Heights School wrote to the Minister, stating:

We feel compelled to write to you to express our gravest concerns at your decision to cut 250 school service officers in addition to another 100 teachers.

The members of the Gawler High School council wrote to the Minister, stating:

The members of the Gawler High School council wish to express the gravest concern about the proposed cuts to the hours of school service officers.

The Chairperson at the Blackforest Primary School told the Minister that the planned reductions made no sense at all and stated:

To reduce the quality of South Australian education to some Australian average is pitiful, and we are ashamed of a Minister for Education who has such an attitude.

Banksia Park High School sent out a questionnaire to parents and I will read into the record a letter, dated 12 December 1995, from the school council Chairperson to all parents at that school, as follows:

Dear parents, School council members were very heartened by the strong and speedy support you offered when we sent out our recent survey regarding the proposed cuts to SSO hours at our school in 1995. The results were quite conclusive and are reproduced here for your information.

155 families felt that the school support services should continue to be provided by the school. 6 felt that this was not necessary and 10 chose not to answer this section.

154 families felt the Government should pay for the maintenance of these services. 3 disagreed with this and 14 choose not to answer.

10 families felt that parents should pay for the maintenance of these services through fee increases. 130 said No to this question and 31 did not answer.

Thank you to the large number of parents who found the time to put pen to paper in the optional 'parent concerns' section. There was a very strong common theme to the majority of these comments. A copy of all the parental comments is available for reading in the front office of the school. Attached is a selection of the most frequent mentioned sentiments.

These comments are from the 93 lots of comments we have received. Unfortunately, I have not been able to reproduce all of the comments (some of which were very critical of this survey, the school council, the Government, SAIT). Again, please read the transcript of all the comments in the front foyer of the school if you wish to see the parent body's overall opinion.

It goes on to thank all the parents concerned. Some 40 comments were attached to this circular, and while I do not wish to read them all into the record I would like to read some of them, as follows:

I am concerned that the savings made by cutting staff is marginal in comparison to the long term cost that these cuts will have on my children's education and the total quality of education in the future.

The proposed changes to the school support staff will be of great loss to the school and should not go ahead as proposed by the Government.

First aid is a major concern with these cut-backs. Lesson preparation is vital in terms of lab technicians, library support, etc. Class sizes are on the increase—to decrease support services means that our children's education is going to suffer further. The workload will remain—more stressed teachers.

Education and training is the one salvation of our country and the future for our children. Commonsense dictates that the Government should be budgeting for the increases, not the cut-backs.

Teachers seem to be already 'stretched' to the limit and, if ancillary service staff are reduced, the quality of education will deteriorate even further. Teachers are paid to teach our children, not to be grounds people, etc.

If parents pay through increased school fees for SSOs—where will it end? Is the next step increased fees to pay for teachers? It's the Government's responsibility; we should not give in to them and accept this.

I resent the fact that to maintain quality in the education system parents pay twice; once through taxes and then again through direct levy. The Government should not cut services to students and parents in this State. I strongly support any action taken by the Banksia Park High School council to resist the erosion of quality education.

Who will do some of the jobs currently done by SSOs when cut-backs occur? If teachers have to do them, the students will end up being the ones who are disadvantaged. If jobs like grounds, maintenance, etc. get left, the school starts to look run down and becomes that way. It always comes down to students being the ones who get the 'worst end of the stick'.

So-called free education is a joke. You cannot run a system without people.

Obviously, the Government is not going to pay; that is why they are cutting the SSOs. I have one child who will probably go on to tertiary study and one who is struggling with the basics. Both are in desperate need of extra academic aid to reach their full potential. How can this happen if the teachers have to perform yet more requirements, ones that take them away from 'teaching' my children? Strike; demand more pay, more hours, less fees for students trying to improve themselves and thus the resource they provide for our State. Teachers have my full support.

I am concerned that support for children with learning disabilities will be diminished if the proposed SSO cuts come into effect.

The final comment probably sums it all up. It is:

Cut the cost = cut the care.

So, hundreds of if not thousands of letters from schools and parents throughout South Australia condemn the Minister for a decision he made all by himself, and still he will not listen. However, if the raft of oncers on the Government's bank bench in another place is listening, they will become very nervous. They know this Minister has alienated the teachers, the support staff, school councillors and parents at every school in South Australia.

One of those oncers is the member for Wright. In fact, that honourable member will have the distinction after the next election of being ousted not once but twice, a unique distinction. The member for Wright became very agitated when he received a petition from students at the Madison Park School and he immediately wrote to the signatories condemning the Minister's actions, and this is what the member for Wright wrote:

Like you I am very well aware of the excellent service the SSOs provide to your schools and how necessary they are in helping both teachers and students. Because I am so aware of the vital work those staff undertake, I have had many discussions with the Minister for Education and written many letters to him asking that he reconsider his decision.

Then in the confession that the Minister has completely ignored him, the member for Wright told the students:

Unfortunately, however, the Government does have to try to save some money.

So there you have it, kids: while the Government can spend millions on going all the way and millions on consultants to privatise our water supply, you can run your own first aid room, and if no-one answers the telephone at your school that is stiff luck. If your children have an accident in the school playground and there is no-one to deal with that, that is bad luck, too.

Of course, the Minister was supported by Liberal MP Mr Joe Rossi, the member for Lee, who wanted to enlist unemployed parents to carry out SSO tasks on a voluntary basis. This is both insulting and a delusion, but then we are coming to expect those kinds of bizarre comments from that particular member.

Interestingly, this scandalous proposal was not rejected by the Minister. Given the Government's promise to increase

spending on education, why have these decisions been made? It is because this Government has reneged on all its major promises concerning education and cut $40 million from the budget to fund the Minister's other priorities. Millions of dollars are being spent on programs like 'Going all the way', changing logos on buses and Government PR at the expense of our kids' education. Presiding over this charade is the Premier, who would have everyone believe his vision that South Australia's future is in information technology. If every information technology job he has announced comes to fruition, no South Australian who can use a keyboard will ever be unemployed again.

What the Premier did not announce was that last year the Government withheld the annual $360 000 grant to schools to buy computers. I recently attended a meeting of teachers and school council members, including a Liberal Party member, where the following questions were posed. These are the questions which were asked by parents at that school:

1. Why is the Government not listening to key education bodies such as the Junior Primary Principals Association, the Primary Principals Association, the Area Schools Principals Association, the Secondary Principals Association, the South Australian Association of State Schools Organisations and the South Australian Association of Schools Parents Clubs, as well as the general community, in their strong and consistent opposition to the proposed cuts? Surely the Government must realise by now it was very poorly advised and that the proposed cuts gain so little compared with the harm they cause (as well as the potential political damage).

2. Why is the Minister saying that the savings are necessary to cover the anticipated increase in teacher wages when the $7 million anticipated savings is less than 5 per cent of the anticipated cost? The major cost will not be teachers' wages but a restoration of working conditions under a Federal award. The Government is fighting the move for teachers to be covered by a Federal award so successfully that there will be no expense to the Government until at least the next budget. The Minister is making a mischievous statement by saying it will be needed from this budget. One could ask what is the cost by the Government of the legal rearguard action to slow down the entry of South Australian teachers under a Federal award and where the money is coming from.

3. Why, in fact, are the payments for salary increases to education officers taken out of the education budget, thus reducing the resourcing to schools, when no such demand is made with parliamentary and judicial salary increases?

That is a question we both have to answer. It continues:

4. Para-professional support given by SSOs in schools is economically cheaper than having the same tasks done by teachers. If teachers accept the additional load, surely this is a false economy. (And will impact directly on the students, as less time can be given to preparation, teacher-student meetings, marking, etc.) Sixty hours per week of SSO support will be taken from high schools under the current proposal. That amount cannot be absorbed.

5. Why, in fact, do education services have to pay for salary increases for their officers by trading off working conditions and entering into enterprise bargaining agreements when no such demand is made with parliamentary and judicial salary increases?

It seems that they find our increases objectionable. It continues:

6. Does the Liberal Government believe that a funded quality public education system is a fundamental right for all students?

7. Can you explain how (a) the benefits of the cuts to the State education system exceed the social costs in this instance? (b) What are the long-term social costs of Government policies that undermine services for children? (c) Is the Liberal Government concerned about our low ranking within the Organisation for Economic Cooperation and Development (OECD) as regards education funding within this country. If so, what does the Government intend to do about it?

8. Are you aware that a proposal has been put to the Minister to call a moratorium on the proposed cuts until the full impact has been researched/studied. I would urge you to ensure your colleagues are aware of this and encourage the Minister to accept.

9. Is the Government recognising the unprecedented action that has occurred because of the change in the staffing formula. If so, is the Liberal Party actively addressing the concerns raised?

10. We ask that these issues be placed on the agenda for the next Liberal and Labor Party meetings.

Similar issues were placed on the agenda in our Party room and it would be interesting to know what occurred in the Liberal Party room if those questions were posed. As I am aware that an important debate has to take place later, I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

BENLATE

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

That the Legislative Council draws to the attention of the South Australian Government the emerging scientific and other information in relation to the fungicide Benlate.

Issues surrounding the fungicide Benlate were raised by me in the last session but, unlike the two private members' Bills which I spoke to rather briefly, the information I now have really requires the whole issue to be looked at in far more depth, and I will be covering a great deal of ground in my contribution tonight. I gathered much of the material in my contribution when I travelled to the United States during the break between sessions. I visited both Hawaii and Florida, two States where large numbers of growers have made claims about the fungicide, Benlate, particularly claims that it had damaged their crops.

I also visited Seattle in Washington State. In both Hawaii and Florida I visited scientists at universities, as well as employees and officials of the departments of agriculture. I spoke with attorneys who represented growers in those two States, and in Hawaii I visited one affected grower who had successfully sued Du Pont in relation to damage done to his crop. The damage is still continuing. I will table separately a report which will itemise those whom I visited and when in the course of my visit.

For members who perhaps did not follow the debate first time around, Benlate is a chemical which has been registered for use in the United States since 1969. It is possibly one of the most commonly used farm chemicals and has been one of the most significant profit makers for the Du Pont company. I can imagine the grief that it is now suffering in relation to claims that it has had. I understand that the Du Pont company has already paid out $800 million in the United States in relation to Benlate caused damage, although at no stage has it publicly admitted that Benlate was responsible for any of the damage: it has paid out $800 million without ever admitting liability. It has lost a number of cases that have gone to court, but it is appealing all of them. But, it has settled out of court. There was one lot of settlements that ran to approximately $500 million, and there are several hundred million dollars worth of other settlements. Very few times have cases gone to a final judgment, and Du Pont has lost a number of significant cases when it has done so. The courts—and I will talk about the courts in more depth later—certainly have found Du Pont and Benlate guilty, even though Du Pont to this day claims its innocence.

For the record, I will be having a meeting with Du Pont representatives next Monday, when we will explore some matters that I raise this evening. I will be seeking leave to conclude my remarks later so that I can make a further contribution after meeting with them. The material that I am putting on the record is not just simple allegation: the vast

majority of it has been in the courts in the United States or has been published in scientific papers. I believe that material is valid and should be on the record in this place.

Benlate was first commercially produced, as I said earlier, in 1969. Although benomyl's properties had been discovered several years before, it was not until 1968 that an acceptable formulation was discovered. It is interesting to note that it had major problems in relation to the instability of the so-called active ingredient benomyl. I refer to a document which was tendered in courts because it will give members an idea of the stability of the product which will become relevant in relation to a later contribution. The document states:

> It was not until early 1968, after more than two years of continuous work, that an acceptable formulation was discovered.

The formulation is benomyl plus other substances. The document continues:

> The dilutent was ordinary sugar, crystalline sucrose, which exhibited all the desired properties. The acceptability of sucrose as an acceptable diluent was wholly unexpected. At the time it was discovered, the program to find an acceptable benomyl formulation was reaching the stage of desperation; it was thought the benomyl might be incapable of practical commercialisation because of the inability to find ingredients with which to obtain a stable formulation—

in other words, inert ingredients that could be mixed with it and it would remain stable—

> a patent application covering a formulation (composition) of benomyl and sucrose was filed in the United States of America on 2 October 1968, as US serial No. 766 028. The application was made in the name of Clarence A. Littler and assigned to E.I. Du Pont De Nemours and Company. A corresponding application was filed in South Africa on 19 September 1969 as serial No. 69/6624. The application was granted on 3 September 1970 as patent No. 69/6624.
>
> Because of the tenuous stability of the benomyl molecule under storage conditions, the development of the formulation for benomyl required three to four times the professional effort necessary to develop a commercial formulation for almost any other agrochemical product marketed by the Du Pont company. About seven to nine man-years of effort were contributed by the formulation experts, greenhouse personnel, analytical chemists, and engineers on this program from early 1966 until the benomyl formulation was first commercialised in early 1969.
>
> Furthermore, because the utility of the sucrose formulation is dependent on maintaining so many parameters within a narrow range, quality control is an indispensable part of the formulating step, and research work in support of maintaining quality control proceeded even after the formulation was developed and commercialised. This aspect of the formulations work has involved an additional 14-16 man-years of effort since the first commercialisation, and related research work is still being conducted, requiring a present commitment of manpower at the same rate.

That was a deposition prepared by Claude Corty back in 1982. Two points arise from that. First, it had a product with which it had real stability problems and battled to get a formulation that worked. It also recognised, even with that formulation, that quality control would have to be very good—and that is quite clear.

I will inform members when I have been told something and when I am quoting from evidence which I can substantiate. I am told that even back in 1969 a researcher in Florida found that plant injury was caused by benomyl. I have the name and address of that person, but have not been able to correspond with that person as yet. By 1975 it was becoming apparent that Benlate was capable of causing damage to plants. This is six years after formulation was commercialised, and 20 years ago scientific papers were being published which were fingering benomyl (the active ingredient of Benlate) for plant injury.

The Hon. T.G. Roberts interjecting:

The Hon. M.J. ELLIOTT: That is a very good question. I was not going to go into that too much—what did they produce it for? On speaking with a chemist who worked for another company—and therefore it needs to be qualified (although he no longer works for them)—I was informed that when benomyl was first developed they thought they would probably use it as a growth regulator. Members should think about that because that is not what it ended up being released as. Having invented benomyl, they first thought that they could use it as a plant growth regulator. When we look at what happened later on it makes sense that they could have considered it for that use. At the time of patenting they looked at a number of potential users. They eventually released it for use as a fungicide and also as a miticide. I have been told some farmers even drench their sheep with it.

The Hon. R.R. Roberts: Drench or dip?

The Hon. M.J. ELLIOTT: Drenched, I was told. Nevertheless, it was initially released as a fungicide and a miticide. The benomyl molecule breaks down and the actual active ingredient, in terms of what kills the fungus, is not benomyl itself. It breaks down to form carbendazim, which is one of the two molecules it forms. It forms butyl isocyanate and carbendazim, which has a much longer name that I will not try to pronounce.

The butyl isocyanate appears to have no useful function. The carbendazim is already a registered chemical in its own right and many companies manufacture carbendazim as a fungicide. Du Pont manufactures a substance called benomyl, which it has a patent on, and it has become the world's top-selling fungicide. When it reacts with water, it breaks down and forms carbendazim, which is the true active ingredient of benomyl, and which many other companies sell. It turns out that the other by-product, the butyl isocyanate, looks like being the real devil in the works, and the justification they have for using it is best left to a cynic who might suggest that Du Pont could get a patent on benomyl but that people were already making carbendazim. I hope that answers the Hon. Mr Roberts's interjection.

The Hon. T.G. Roberts: It makes it all clearer.

The Hon. M.J. ELLIOTT: I am sorry about the chemistry, but that is what has happened. In October 1975, in volume 59, No. 10, of a journal known as the *Plant Disease Reporter*, a paper entitled 'Benomyl injury to Swedish ivy (*Plectranthus Australis*)' appeared. It was written by Luther W. Baxter Jr, Wesley Witcher and Mary G. Owens from the Clemson University of South Carolina. I will read from that paper, as follows:

> Swedish ivy (P*lectranthus Australis*—family *Lamiaceae*) is used extensively in hanging baskets in South Carolina. It is usually pest free but, during the fall of 1974, specimens were brought to this department which had symptoms that were new to us for this species. The grower stated that he had grown this plant for years without any serious problems, and then about two to three years ago he began to notice symptoms on leaves characterised by dark discolouration of the major veins and occasional isolated dark spots irregularly scattered throughout the leaf lamina. As the symptoms progressed, there was slight distortion and stunting. The distortion consisted primarily of upward incurving of the laminal margins. Because no biological pathogens were obvious, the grower was questioned regarding any change in cultural practices.
>
> For artistic purposes, plants other than Swedish ivy were placed in with this plant and the entire plant population of hanging baskets was sprayed under greenhouse conditions at two-week intervals with methyl 1-(butylcarbamoyl)-2-benzimidazolecarbamate (benomyl), as directed for ornamentals. Our own experience indicated that when benomyl was added to soil that was maintained under greenhouse conditions (with or without growing plants), it remained biologically active for at least one year. The hypothesis was developed, therefore,

that these repeated applications of benomyl over an extended period probably resulted in the build up of relatively high levels of the fungicide in the soil, particularly if sprayed to run off. . . Symptoms of vein discolouration occurred within five weeks after the experiment was initiated on 11 March 1975. The symptoms were first noticed on the plants receiving rates of 200 and 400 ppm a.i. but eventually all plants grown in the substrate amended with benomyl displayed similar symptoms. No symptoms were noted on the control plants.

That is the first paper of which I am aware that showed that benomyl could adversely affect plants. Another paper was published in the *Journal of the American Society of Horticultural Science* 100 (3):309-313 in 1975. This paper was titled 'Effects of benomyl and thiabendazole on growth of several plant species'. The paper was prepared by L.R. Schreiber and W.K. Hock of the United States Department of Agriculture, Delaware, Ohio. The abstract is fairly short and makes the point, as follows:

Benomyl and thiabendazole (TBZ) fungicides incorporated into soil greatly depressed the growth of seedlings of American elm, marigold, buckthorn, sycamore and, to a lesser degree, silver maple. Both chemicals were phytotoxic to sycamore. Pepper, tomato and bean were less sensitive than the other species when grown in benomyl-treated soil. The growth of corn and that of pea were not affected. The growth of turfgrass was stimulated by benomyl. Neither benomyl nor TBZ affected the time of seed germination of American elm and marigold. Seedlings of these species, when transplanted to unamended soil, resumed normal growth. The activity of benomyl that had been incorporated into air-dried soil for 10 months was still high, but less than its activity in a fresh mix.

This report indicates that, in a number of species of plant, the growth has been negatively impacted upon by the addition of benomyl. In a paper published in May 1975 in the journal *Phytopathology*, volume 65, entitled 'Phytotoxicity of Benomyl to Crucifers', by Andres A. Reyes, a research scientist at Agriculture Canada, Vinelands Station, Ontario, the abstract shows that certain cultivars of cabbage were quite significantly affected by benomyl and other cultivars were not. What is interesting is that the previous paper indicated that certain species were being affected while others were not. This paper indicates that, even within a single species, in this case, cabbages, certain cultivars, or varieties, were affected significantly by benomyl whilst others were not affected at all.

In the journal *Horticultural Science*, volume 11 (5), October 1976, a paper entitled 'Effect of benomyl on *Asparagus officinalis*' was published. Hsu-Jen Yang of the Irrigated Agricultural Research and Extension Centre, Prosser, Washington, found that benomyl:

a systemic fungicide, added to modified Muarshige and Skoog's medium regulated asparagus shoot and root development. Low levels of benomyl (10 to 50 ppm) promoted multiple vigorous shoot development. Higher levels of benomyl (100 to 250 ppm) caused the development of abnormally short, thick shoots and inhibited root formation. The enlargement of the shoots is due to proliferation of cortex, phloem and xylem cells.

Once again, benomyl was the culprit. The point that I am making is that from 1975 to 1976, a number of scientific papers indicated that benomyl was capable of adversely affecting plant growth, that variation could occur between species and even within a species between cultivars of a single species.

The first court action of which I am aware occurred in 1983 in Belgium. I have a number of documents that surround the case in Belgium. A letter was written to P. Klausen from G.A. Roodhans who, according to this letter, is with Du Pont De Nemours (Belgium). The letter I have, dated 13 October 1983, from Brussels contains a translation of a letter written from the expert Charles Declerck:

Colleague Steurbaut and myself have determined completely the causes of these damage cases (d'Hont and Verdonck)—

These were the two cases that were brought against Du Pont. It continues:

As Benlate is an outstanding fungicide which can be applied with full safety in ficus plants when the metabolite butylamine can disappear, I have drawn up this note. This note is replacing and completing my synthesis of 30 April and is filed as Annex 2, page 3. Nothing really new in this note but everything is now in one page: how the damages appear, how a phytotoxicity test must be conducted, and the use recommendations to growers.

I do not want to read the whole of this letter. It talks about the product Benomyl being used with *Ficus elastica*, a particular species of fig, grown for ornamental purposes. It talks about when a treatment could cause damage. It is talking about damage occurring in a greenhouse. It states:

Climate conditions outside (of the greenhouse):

· not too warm so that ventilation windows are maintained closed;

· not too cold so that the heating system of the greenhouse is not in operation;

· better also little or no wind.

The conditions described here relate basically to a greenhouse where there has been very little turnover of air; where the air has not been changed over much. When that occurs in a greenhouse, damage may occur. It further states:

Climate conditions in the greenhouse:

· with these circumstances, the air in very tightly-closed greenhouses remains stagnant and in laminated layers.

· after a treatment with a product based on benomyl watering the plants is frequent and then air humidity remains maximum high in the greenhouse especially when the application has been done (late) afternoon.

· after the spray benomyl breaks down in MBC, with the result that carbon dioxide and butylamine are free.

· butylamine is very volatile but in the conditions explained here above this gas remains in the lowest airlayers and is hanging between the plants and provides phytoxicity in *Ficus elastica* and (other) varieties.

· the day after treatment, the greenhouse will be normally ventilated, and it is at this moment that the leaves evaporate, dehydrate and symptoms appear.

He goes on to describe the symptoms further. But here is an expert advising Du Pont and describing circumstances under which plants in a greenhouse in particular will be affected by benomyl, back in 1983. I am mindful of how long this is going to take, but I also have an extensive scientific paper done by Charles Declerck, a teacher/supervisor, Department of Floriculture, State Institute of Horticulture in Vilvoorde, Belgium. He goes into an explanation, which he titles 'New phytotoxic phenomena in *Ficus elastica*'. He describes in some detail what I have just covered in the letter, sections of which I have read to the Council.

I have a copy of a telex sent by G.A. Roodhans of Du Pont De Nemours, Brussels, to a B.H. Godring in Skovlunde, Denmark 'Re: Benlate/Ficus—D'Hont Verdonck Cases'. He talks about the fact that the parties have been invited by experts, those are court appointed experts, Declerck and Steurbaut, to visit on 21 April their test conducted at Horti. They speculate as to what the experts are going to say, and they recognise that damage could be caused to ficus under certain conditions. At the end of that telex Roodhans says, and I quote:

I recommend therefore:

(a) to solve the D'Hont/Verdonck cases by means of a negotiated compromise as it is felt that we have nothing to win in maintaining the cases in court.

(b) to withdraw urgently from use recommendations all applications of Benlate on flowers and ornamentals in greenhouse, at least on temporary basis, and until safe recommendations can be again proposed.

This is 1983, and I repeat: a recommendation from Du Pont De Nemours, Brussels 'to withdraw urgently from use recommendations all applications of Benlate on flowers and ornamentals in greenhouse, at least on temporary basis, and until safe recommendations can be again proposed.' I shall now quote from a letter by C.J. Delp, Agricultural Chemicals Department, Barley Mill Plaza. I believe that this is within Du Pont itself. It goes on to say:

Declerck appears to have defined a specific set of conditions under which the volatile decomposition product from Benomyl can result in plant injury. Our case should stand on the unusual conditions required which though possible in some hermetic chambers, are certainly very uncommon. The evolution of Butyl Isocyanate is possible from Benomyl under hot moist conditions. It reacts with water to form carbon dioxide and Butylamine which can react further with water to form Dibutyl urea. These reactions are at very low levels and have never been detectable except *in vitro* in sealed containers. About four parts per million Butyl Isocyanate in the air will cause irritation to the eyes. I would have said plant injury is impossible and was never before reported. We may need to study it ourselves, but it sounds as if Declerck has done a definitive job.

Basically, I think that he is acknowledging that perhaps under what he is calling unusual conditions—and he is talking about hot and moist conditions and he is talking about hermetically sealed chambers, although I would argue that he is talking about hot-houses—damage is indeed possible. However he does go on to suggest that perhaps we need to do a bit of work of our own.

Finally, on this particular matter I have the experts' reports prepared by Declerck and Steurbaut in relation to the cases of D'Hont and of Verdonck. They are quite lengthy papers but they go into a very detailed explanation as to how and why damage would be done, and clearly anticipated what scientists are working on again in the United States, that with a breakdown of Benomyl you have the formation of Butylamine and eventually perhaps DBC, and that the volatile gas that comes off is responsible for the damage.

We are now going to jump a number of years to the very early 1990s. Du Pont has never acknowledged damage due to sulfonylureas and dibutylureas, which matter I will get to later on, but it did acknowledge damage done by atrazine. Du Pont manufactures products containing atrazine and there has been cross-contamination of atrazine into Benlate which has not been denied by Du Pont. The fact is the atrazine was at such high levels and so easily detected that it was beyond denial. I will read two brief memos in relation to atrazine. The first is an interoffice memorandum dated 22 June 1992 from Joel Wommack to William Kirk—I do not think he is of staff—and David S. Weir. It states:

You asked for data on atrazine and damage. Here are a few comments that may be helpful. We may also want to discuss this by phone with Hadley since he is the focal point of this information.

Benlate I. Atrazine detected up to 4 900 PPM.

Might I add as a side note that the EPA were willing to tolerate two parts per million, but they had 4 900 parts per million. It continues:

Recall based on rapidly appearing symptoms in the field from high level atrazine (acute symptoms).

Contamination varied but was spread over large number of lots.

Benlate II. Atrazine detected in a few batches up to a max of about 8 PPM.

None of the contaminated material reached the marketplace.

Literature is not available concerning a range of doses of atrazine on ornamentals, strawberries and other field crops in repeated applications to allow any conclusions to be drawn as to the lower level of atrazine that would cause damage from multiple applications of low level contamination. We do have work under way under the direction of our legal counsel in this area. (I would not offer this unless pressed hard.)

An answer we use in this arena based on the attorneys' recommendation is that these matters are currently under litigation.

Some people might like to look at those words later on.

I will now make some comment about this memorandum. Benlate I and Benlate II are terms used by Du Pont to describe two lots of incidents. Benlate I, as people can see from here, involved quite high levels of atrazine, beyond argument, caused damage in a number of cases and there were payments. As to Benlate II—and a later Du Pont memo will tend to confirm this—whilst they were blaming relatively low doses of atrazine, some people suggested that the Benlate II saga was a cover for other problems going wrong and it was handier to perhaps blame atrazine at that point. If they started fingering other contaminations, for instance, sulfonylureas or dibutylureas or some other things, they would have a real product problem.

There was a second memorandum on 18 September 1989, an earlier one, from Will Crites, which states:

Subject: re: Atrazine.

Bob. Past experience and some reference material would indicate that certain sensitive plants like carrots, cucumber and sugarbeets may show injury at atrazine levels in the range of 0.04 ppm, while most other crops will tolerate higher levels. If the soil samples show less than 0.02 ppm atrazine, believe it is safe to conclude that something else caused the alleged injury.

The point of those last couple of documents is that Du Pont do not deny that they had problems of contamination of atrazine. They claim there were two sets of incidents and that is all there were. I will not make comment further on that one way or the other at this stage.

I will quote now from an article in the *Orlando Business Journal*, dated 7-13 April 1995, headed, 'Justice Department probes Benlate. Feds talk to state officials about Du Pont fungicide.' The first sentence reads:

U.S. Justice Department investigators are questioning state officials about Benlate, a Du Pont manufactured fungicide suspected of causing millions of dollars in Florida crop damages.

The article covers a number of issues, but what I found particularly interesting is that it refers to contamination by a chemical known as flusilazole. That is also a fungicide manufactured by Du Pont but not registered in America. Flusilazole has been found in Benlate. I will read this little bit from the article:

Like Benlate, flusilazole is a chemical used to kill fungus on plants. Unlike Benlate, flusilazole was never registered for sale in the United States, and could be used experimentally on two food crops only so long as the crops were either destroyed or fed to animals. Benlate was routinely used on food crops. In December, Du Pont acknowledged it had ordered sugar drenched with flusilazole mixed into Benlate, but defended the action as 'a common formulator's practice' that left only trace amounts of the compound in the finished product.

If people want to understand this, there seems to be a practice in the industry of what they call reworking. If you have a little bit of something left over, you put it back in the hopper.

Reworking also seems to be a waste disposal method. They had some flusilazole which they needed to get rid of. You could not go to the local dump and put it there, unless it was late at night and nobody knew you were doing it. How they had sugar drenched in flusilazole, I do not know, but they actually got it and reworked it back into the Benlate. According to this article, Du Pont acknowledged they had

done that. There is an acknowledgment of reworking, and I will talk about that a little later.

This article talks about sulfonylureas, etc., but the point I want to make is that Du Pont also appears to acknowledge that flusilazole, a substance that was not registered in America, was being put into product in America by way of reworking. Theoretically, they were putting it in at such low levels that they were allowed to do it. Whether or not it did any damage, I do not know, but it says something about manufacturing plant practice.

The next subject I will move to is that of contamination of sulfonylureas, very potent herbicides. A couple of teaspoons would sterilise a few acres for a year or two. They have a very high level of potency. Although they have a different usage to benomyl, a fungicide, the activity of these sulfonylureas is very high for the purpose they are applied compared with the activity of Benlate or benomyl, the active ingredient within Benlate.

I will work my way through the saga of sulfonylureas. An article in the *Miami Herald*, Tuesday 19 April 1994, headed, 'Discovery could solve mystery of crop catastrophe', states:

> State says toxins found in Du Pont fungicide. State scientists say they have discovered why Benlate may have killed $1 billion in Florida crops. It was contaminated by a herbicide so powerful that one tablespoon would kill weeds on an acre of land for two years. 'We have solved a three year long scientific mystery,' Agriculture Commissioner Bob Crawford said Monday. 'It's a major breakthrough.' Benlate's manufacturer, Du Pont, disputed the findings. 'No sulfonylureas, the powerful herbicide the State research found, have ever been found in Benlate,' Du Pont said in a statement. Once again the Commissioner has put his political ambition above the truth.

I guess I have had a few comments like that, too. The article continues:

> The Benlate episode is regarded as the worst man-made disaster ever to hit Florida agriculture. About 1 200 Florida farmers and nursery operators were affected, including hundreds in South Florida.

What is most telling about sulfonylureas is that we have debates going on between scientists and Du Pont about whether or not certain things happened, but it is the internal memoranda of Du Pont itself that always throw the most light. I have a letter dated 5 March 1981 written by an R.F. May and addressed to M.G. Hammond of the Biochemicals Department, as follows:

> You requested advice on a permissible limit for DPX-5648 (a sulfonylurea herbicide) in Benlate 75 DF.

Just for the record, that DPX-5648 is the sulfonylureas known as 'Oust'. The letter continues:

> We understand that the Benlate sulfonylureas 75 DF will be prepared in the semi-works facilities in building 308 following the DPX-5648 prep.

What they are saying is that they will be manufacturing Oust, the sulfonylureas in this plant, and after that they will be manufacturing Benlate. So, what they want to do is set a permissible limit as to how much of the first one is allowed to be in the second one. The text continues:

> I have discussed this with G.E. Barrier (Research-Biology-Herbicides), J.W. Searcy (Research-Biology-Fungicides), J.E. Frieden and C.J. Delp (Marketing-Fungicides), H.L. Palm and J.E. Harrod (Marketing-Herbicides), J.A. Osterhage (Manufacturing), E.W. Raleigh (Registration) and J.H. Nickle (Research-Formulations). We recommend: DPX-5648 in Benlate 75 DF 1ppm [one part per million] a/a max.

A little later the letter states:

> It is important that the amount of DPX-5648 in a fungicide, such as Benlate, or in an insecticide be kept very low. Sensitive crops, such as sugar beets, may be affected by as little as .4 parts per billion. . . on the soil. Assuming the application of maximum of five kg of Benlate DF per hectare per season and assuming that 1 gr/hectare results in 1 ppb [one part per billion] in the soil, 1 ppm DPX-5648 (active-in-active) in Benlate 75 DF would deposit about .004 ppb DPX-5648 on the soil in one season. This gives a 100 fold safety factor. The practice of following a herbicide with Benlate would never be done on a commercial scale.

I know there is a bit of technical talk in all that, but it is saying that they are trying to set a level of sulfonylureas which could be in the fungicide so it would not cause damage, but my understanding is that they got at least one of their numbers wrong. They have suggested that .4 parts per billion in soil can do damage, and they said they would put in a 100 times safety factor. My understanding is that four parts per trillion can cause damage. In other words, there is no safety factor at all with sulfonylureas at that level. Here is an internal document which quite clearly saw that they would be preparing SUs in the same plant and before the Benlate, and they set a level which may not have been safe. Yet they deny that SUs had been in their product or had caused any damage.

The Hon. T.G. Roberts: Do you think they were trying to get an accelerant and a fungicide into it?

The Hon. M.J. ELLIOTT: I do not know what they are doing. The real worry is that they do not know what they are doing. The internal documents are most useful. I now quote from an inter-office memorandum from A.F. (Andy) Kacmar to Joyce Williamson, Bob Doan, William Gaal, David Johnson and Thomas M. Fort on the subject of Diuron in Red Panther Benlate analyses. I will not run through all this, but they found that there were batches of Benlate which contained SUs; one lot contained 150 parts per million. Members might recall that they themselves said that 1 part per million was what they would be prepared to accept, while my evidence is that 100 times less than that can still cause damage. The letter states:

> Assuming our test of the unopened bags on one batch proved what we hope it will, we still need agreement on how to handle the other batches that were above the Tcal [that is, the acceptable levels] for the composite samples, but let's cross one bridge at a time.

[Sitting suspended from 6.1 p.m. to 7.45 p.m.]

Before the dinner adjournment I was examining the question of sulfonylurea contamination of Benlate and was using Du Pont's own internal documents to demonstrate the knowledge that Du Pont had that there was sulfonylurea in their materials. I now quote from a document sent by a person who signs herself as Lamaat M. Shalaby to Thomas M. Fort, as follows:

> We reanalysed the new Benlate WP sample received from La Porte for diuron. The same batch was found to contain 1 ppm diuron in earlier analysis. The new analysis confirmed positive detection at similar levels. Let me know if you need to analyse more samples. Our plan as agreed upon earlier is to transfer the method to Conoco to do this analysis in the future.

They are talking about 1 ppm of diuron, another sulfonylurea, and I remind members that we are not talking about acceptable levels even by their standards of contaminations, because they are talking about .4 parts per billion and here, in testing being done for them, they found 1 ppm. That letter was dated 12 July 1991.

I now refer to the letter of 6 August 1991 from David M. Johnson simply addressed to the distribution list. Its third paragraph is as follows:

> The results from the initial seven samples are not that encouraging. It appears that 14 to 17 have readily detectable amounts of

diuron. The levels have not been quantitatively determined but the data indicates that the levels are well above that of 10 ppm spike. The blank and samples 13, 18 and 19 were found to have no detectable levels of diuron.

In an earlier memo to which I referred it was noted that diuron was found at 150 ppm. In a memorandum dated 16 September 1991 from A.F. (Andy) Kacmar, they talk about diuron in Red Panther Benlate analyses and at this stage they are suggesting in the letter that it is the samples and not production that were contaminated. They seem to be acknowledging contamination but suggesting that it did not happen in the original manufacture. The internal documents that I have been quoting have been found during discovery in court cases in the United States, but discovery has not been a terribly easy process, as a number of claimants have found.

Du Pont has been rather reluctant to release all documents, and the best illustrations of that occur in a court case which began on Tuesday 2 May 1995 in the US District Court for the Middle District of Georgia, Columbus Division, in relation to E.I. Du Pont, de Nemours and Company, Benlate litigation and Bush Ranch Inc., a Georgia corporation and William R. Lawson individually, Yellow River Growers, a partnership whose partners are Roy Philip Barber, Carol H. Barber and Gregory Phillip Barber, and C. Raker and Sons Inc., a Michigan incorporation, as the petitioners, *versus* E.I. Du Pont de Nemours and Company, a Delaware corporation, respondent.

The opinion and order was made by Judge Elliott (any relationship must go back at least six or seven generations), and it is worth quoting the opinion and order of Judge Elliott because, on the third page of his opinion and order, the judge says:

> The sole purpose of the hearing was to determine whether sanctions should be imposed on the respondent Du Pont. The show cause order was issued following consideration of a petition and voluminous exhibits which alleged that Du Pont had committed a fraud on this court in connection with discovery matters, trial conduct and a post settlement application to the court to vacate previous sanctions orders. As set out in detail in this opinion the court finds and concludes that Du Pont did commit the fraud, the discovery of uses and the violations of this court's orders averred in the petition. Du Pont has failed to show any sufficient cause why it should not be sanctioned for the conduct detailed herein.

Later on page 4 the judge says:

> The essentially identical conduct of Du Pont in concealing and misrepresenting Alta tests and documents in other courts immediately after the Bush Ranch trial is however strong evidence of Du Pont's intent and motive and establishes a pattern of concealment and false representations on this crucial issue. That pattern of concealment has continued through the show cause hearing here.

On page 5 of the opinion the judge says:

> While there was much circumstantial and indirect evidence of SU contamination throughout the bulk of the pretrial discovery, plaintiffs had not been able to produce direct test results of their soils and waters. This was due principally to the fact that such testing could not generally be performed on scientific equipment available to plaintiffs' experts. The plaintiffs agreed to allow agents of Du Pont on to their properties where their nurseries were located for the purpose of taking soil samples. The defendant agreed, however, that in return for being allowed access to the soils, waters and plants of the plaintiffs for the purpose of taking samples, Du Pont would furnish plaintiffs with all materials generated in connection with any tests conducted on those soil, water and plant samples.
>
> In an effort to bolster the defence contention that there were no SUs in plaintiffs' soils or waters Du Pont engaged Alta Laboratories Inc. (hereinafter Alta) to perform sophisticated analytical chemistry tests which few other laboratories, if any, in the country could perform.

I add my own observation. On the evidence that I was given in the United States, only two laboratories in the whole of North America were capable of detecting sulfonylureas at the low levels at which they were being sought and at which they were capable of causing damage. The judge's opinion continues:

> Although all materials generated in connection with such tests were to be furnished to plaintiffs, both as a matter of discovery and pursuant to order of this court and as a matter of conditions made clear as a predicate to the entry of Du Pont onto plaintiffs' lands to obtain samples for these tests, the only documentary materials ever furnished were some tables or charts which the defendant referred to and called summaries. Some of those summaries were given to plaintiffs on the eve of trial. The remainder of them were not furnished until after the plaintiffs had rested their case and not until just before the defendant was about to call its only witness through whom it would seek to elicit the information which was purportedly contained in the tables. It is the conduct of Du Pont surrounding the preparation and use of these summaries, when taken together with the conduct generally of the agents and attorneys of Du Pont, which gives rise to many of the allegations of fraud upon the court currently before the court.
>
> For a year preceding the Alta tests the Bush Ranch plaintiffs and Du Pont had been engaged in a protracted series of discovery disputes, as the result of which this court had repeatedly found Du Pont to be in flagrant violation of discovery orders and duties. This court had found Du Pont's conduct to be the most serious abuse in its years on the bench and the most serious abuse reflected in the legal precedents. A conditional sanction of, first, $500 000 and then $1 million had been set without, it is now clear, altering Du Pont's conduct toward the court, the civil justice system or the opposing parties.
>
> During the lengthy discovery period in this case this court was forced by the obstructive practices of Du Pont to hold numerous hearings.

On page 7 the judge said:

> This court had never experienced the kind of deliberate refusal to comply with discovery orders that was evidently taking place during this period of time. It became apparent to the court that Du Pont was using its in-house legal staff, local Wilmington, Delaware, counsel, national coordinating counsel and others to carry out a deliberate effort to restrict legitimate discovery in these and similar cases.

I now refer to page 23 of the judge's opinion and order, which says:

> Specifically, the court finds that Du Pont's expert, Nicholas Albergo, testified falsely and misled the court as to his role in the supervising, directing and controlling of the Alta Lab scientists and in his understanding of the basis for the summaries in connection with the testing of the plaintiffs' soils in the Bush Ranch test. In order to bolster his own credibility Mr Albergo testified to the Bush Ranch jury that: 'I visited the labs that I used, personally discussed the results with the analytical chemists and personally looked at the raw data.' These statements were false. In reality it is clear that Mr Albergo and others have now testified that Mr Albergo had little, if any, contact with the Alta analytical chemists, did not see or review any of their raw data, nor did he consult with them about the methodology or results. Mr Albergo testified by deposition, 19 January 1995, that he was not actually involved in these tests; that he had not hired Alta; that he had not discussed the results or methodology with the Alta chemists or Du Pont's counsel; that he had not reviewed any raw data; that he was never provided any data by Du Pont, Alta or Du Pont lawyers; that he only saw summaries of the test results; and that, in fact, he had never even asked about the results or the underlying data; that Du Pont's counsel, Elizabeth Gilley, misrepresented to the court during argument on the *voir dire* of the witness, Mr Albergo, what the role of that witness was in procuring, supervising, directing and controlling the Alta Lab scientists in the conduct of the testing of the plaintiffs' soils in the Bush Ranch tests. That Miss Gilley, in conjunction with Du Pont's expert, Nicholas Albergo, represented to this court that Mr Albergo worked closely with the analytical chemists at Alta running these tests and consulted with them concerning the methodology of the tests, the results of the tests and data underlying the tests.
>
> Miss Gilley then stated: 'No, your Honour, but they were conducted under his direction. He selected the labs to perform the analysis, he directed them as to what analysis should be performed, he told them what to look for, told them what methods to use, and

they did everything under his direction and control...So, your Honour, we would submit that he would be entitled to testify to the results, to submit the data in support of those results because he is entitled to rely on that information as an expert in that field.' All this information is documentary evidence that he testified about in his deposition; that Du Pont's counsel, Dow N. Kirkpatrick junior, misrepresented to the court during argument on the *voir dire* of the witness, Mr Albergo, what the role of that witness was in procuring, supervising, directing and controlling the Alta Lab scientists in the conduct of the testing of the plaintiffs' soils in the Bush Ranch test; that in arguing to allow Albergo to testify and to permit the introduction of the Alta summaries into evidence Mr Kirpatrick said: 'This is the only expert in the entire case who has actually taken these samples and had them analysed, and this is the issue because plaintiffs have claimed that they have contamination on their property, although they have no proof. And we have now got someone that has analysed all of the samples and will come in here and tell this court and this jury that there are no SUs (sulfonylureas) on the property, in the plants, or in the product, and we believe that that testimony is critical...and, the point simply is that we have the evidence that there are no SUs out there. That is the issue in the case...and, your Honour, we are talking about the crucial issue in the case...'.

That Du Pont's counsel Dow N. Kirkpatrick junior misrepresented to the court during closing argument to the jury what the witness Albergo actually did and what the findings of the Alta Lab scientists actually were. That in argument to the jury in closing Mr Kirkpatrick said, '...Nick Albergo went out and tested soil and other samples. He did not find any SUs in the soil or any of the samples out there. Those are our tests. Where are their tests? Do you recall when everybody went out, they dig up a shovel of dirt? We would get half of it, they would get half of it. We brought our tests results in here. Where are their test results? Dr Jones found plant disease; Mr Albergo found no SUs.'

The judge goes on for some pages, but the essence of what he says to this point is that soils had been sampled; they had been taken with the consent of the affected growers; that they were tested on behalf of Du Pont by Alta Laboratories, and theoretically under the supervision of Mr Albergo; and that Mr Albergo was put up as the witness who had total control of the testing program and was in a position to testify that there were no SUs in the soil. That is the way it would have stood, but for another case being fought in Hawaii—*Kawamata Farms v Du Pont*. I had the opportunity to visit Kawamata's property. He and his family have grown roses for 30 years. He had six acres of roses all under cloth, and he successfully litigated in Hawaii. I do not have the amount here, but I recollect that compensation was in the order of about $20 million. Four years after the event he still has rose bushes dying on his property, and I had a chance to look at them.

The importance of that in relation to this case is that there were also bitter discovery disputes going on. But, as a consequence of those discovery disputes, they uncovered certain documentation which showed that the information that had been given before Judge Elliott was deliberately misleading. I will quote from Judge Elliott at page 28, as follows:

The Hawaii court ordered Du Pont to produce data and documents from Alta, which included the Bush Ranch data and documents, draft reports and telephone memoranda. For the first time, the test data containing those parts indicating positive findings were disclosed, along with notes from Alta showing defendant's directive to confirm (defirm) the positive results. Du Pont strenuously resisted production both in the trial court and through *mandamus* in the Supreme Court of Hawaii, and asserted a claim of privilege as to the Alta data and documents, which claim was directly opposite Du Pont's assertions to this court in the show cause hearing. As set out, *infra*, this court has concluded that Du Pont has presented false positions here when contrasted with its judicial admissions and assertions elsewhere. For example, Du Pont has maintained here:

(1) that it was not required by court order, rule or discovery request to produce Alta data and documents;

(2) that the Alta data and documents were shielded by a work product privilege, despite Du Pont's representations to the court that the Alta people were fact witnesses, and despite having never claimed a privilege or logged such documents in the required privilege logs;

(3) that the Bush Ranch plaintiffs never requested the Alta data and documents;

(4) that Du Pont absolutely did offer the data and documents to plaintiff's counsel in the Bush Ranch proceedings but that plaintiff's counsel declined them;

(5) that Du Pont would have produced the Alta data and documents if the Bush Ranch plaintiffs had made a rule 1006 objection to the misleading summaries;

(6) that some part of the Alta data and documents were available in the courtroom after the Bush Ranch plaintiffs rested but that not all of those papers were present, and Du Pont cannot say what parts were and what were not present, although it is now clear that a number of the most damaging parts were not present, assuming that any of them were, since Du Pont never advised the court or opposing counsel of the claimed availability of a box with such papers in the courtroom. In Hawaii, however, Du Pont argued that the Bush Ranch Alta data and documents were subject to a privilege which had never been waived, and that those papers had never been offered, proffered, tendered or used in the Bush Ranch or any other Benlate trial.

The circuit court in Hawaii, like this court, found Du Pont's discovery abuses to be unprecedented and imposed a sanction of $1.5 million.

On page 31, this appears:

The Hawaiian production led plaintiffs in other Benlate cases to take the depositions of the Alta witnesses, Mr Albergo and others, thereby disclosing much of the history of the events surrounding the Alta tests. This court is not persuaded that Du Pont has even now told the full truth of its conduct in that regard.

In the proceedings before this court on the show cause order, the court finds that Du Pont, when confronted with the allegations of the petition, which was supported by transcripts from other court proceedings, depositions and court orders, has not fully and truthfully responded to those charges. Instead, it has engaged in evasion, equivocation and falsehood; through its witnesses such as Mr David and Mrs Gilley, Du Pont refused to give straightforward answers to questions about its conduct in regard to the Alta documents and its positions before other courts, refused to give words their plain and ordinary meanings and refused to respond candidly or directly; it has sought to give a distorted reading to the plain meaning of words; it has created a whole series of after-the-fact excuses which are not supported by the facts and the events; it has put forward legally and factually inconsistent efforts at justifying its conduct; it has contradicted its own solemn representation in other courts made to induce those courts to rule favourably to Du Pont; it has resisted producing witnesses to this court who have knowledge of the facts and those witnesses who did testify for Du Pont were not credible; it has sought to avoid answering for its conduct by making irrelevant *ad hominem* attacks on petitioners, petitioners' counsel and the court; it has filed affidavits based on incomplete or inaccurate recitals of predicate facts; it has distorted the rules of evidence and the Civil Rules; it is clear that Du Pont continues to evidence an attitude of contempt for the court's orders and processes and to view itself as not subject to the rules and orders affecting all other litigants.

Du Pont's actions and representations concerning the Alta data documents and its ultimate false representation concerning compliance with the order of this court constituted a fraud on the court and a contempt of the court's orders. Du Pont's conduct of concealment and misrepresentation has continued through the show case hearing. This conduct merits, indeed requires, vigorous action by the court and an imposition of severe sanctions.

I will not read further from that opinion and order, because it is a very long one that runs to 79 pages. I have in my possession copies of the documents upon which the judge could finally see that the court had been misled. When one looks at a phone log from the Alta Laboratory, one can see that it relates to a conversation between Alta personnel and Du Pont personnel. Dated 19 June 1993, it reads:

Told them we were comfortable with the results at greater than 25 ppt. Results less than 25 ppt are very 'iffy'.

Continue with express even though it is showing breakdown (stability problems).

They want us to go back—after most of the work is done and try to confirm (defirm) suspected positives.

Told them about transfer of selected samples to Enseco-cal Lab. for organics.

They want us to go back at some time to Tevs/Jerry Sen and Ochimo for Londax.

Another document, which is dated 22 June 1993 contains notes taken in the laboratory itself, and these notes were used in the preparation, eventually, of a table to show whether or not sulfonylurea was being detected in the samples. The handwritten notes read:

ND = none detected. Detection limits—25 ppt.

That '25 ppt' is scribbled out and '50 ppt' is written beside it. Members may recall that the earlier phone log indicated that the laboratory felt comfortable, to use its own words, with results greater than 25 parts per trillion. When they set up their tables, the tables were originally to show anything that was detected above 25 parts per trillion. That has been scribbled out and changed to 50 parts per trillion. That is one of a number of things that were done to massage the data so that when the table was finally produced, the table showed a very large number of NDs. It appears that Mr Albergo, the expert witness, so called, in the Bush Ranch case had no direct involvement in any of the testing with the people who did the testing. He was simply presented with a table that showed ND written all over it. As an expert witness, represented as the person who carried out the tests, he went into the court and told it that no sulfonylurea was detected. The simple fact is that the information and the data were massaged to give such a result. It is on the basis of that and other evidence which was put before Judge Elliott that he found the behaviour of Du Pont to be in the way as I described when I read from his opinion and order.

As I said, Alta Laboratories were expressing their satisfaction with the detection at 25 parts per trillion, albeit after their conversation with Du Pont this threshold level was placed at 50 ppt so anything below 50 would be classified by Alta as non-detectable. It is worth noting that the guidelines that are promulgated by the United States EPA provide for levels of one to five ppt, which is a good deal lower than a large number of findings that were made which were classified as non detected. Rather than what the table has purported to show, that being that the majority of the samples were free of sulfonylureas, when one examines the raw data we find that could not be further from the truth. When the actual positive findings are prepared and summarised, it can be seen that the representations by Alta that Du Pont sulfonylureas were not detected flies in the face of their own positive results on their analysis.

What is intriguing—and it is really just a footnote at this stage—is that certain of the sulfonylureas that were detected by Alta are not registered for sale within the United States. It is intriguing that two SUs that were detected in the soils by Alta Laboratories were not even registered for sale in the United States. It is also worth noting that the positive finding of sulfonylurea herbicides in soils and waters of the Hawaiian Islands and other areas long after the application of sulfonylurea contaminated Benlate confirms the observation of damage symptoms of herbicides on plants and crops of growers. It demonstrates that there are significant residual problems with sulfonylureas.

One of the people with whom I spoke in the United States was Dr Jody V. Johnson, a scientist at the University of Florida in Gainesville. From speaking with him I think a number of points can be made from his viewpoint, and this is his expert opinion. His first point relates to SUs and related material in Benlate products. He says that:

(a) Du Pont scientists found sulfonylurea herbicides and breakdown products in Benlate products and formulations.

That is based upon his review of Du Pont computer data files, Du Pont hard copy, Du Pont laboratory notebooks and depositions and deposition exhibits of Du Pont scientists. Further:

(b) That the sulfonylurea herbicide, Londax, has been found to be present in Benlate 50 DF products.

He bases that on analytical work performed by scientists connected with the Florida Department of Agriculture and Consumer Service, which noted that most of the analytical testing for sulfonylureas by Du Pont scientists was conducted in a relatively short time frame, May to June 1991. He was highly critical of the importance of archival original raw computer data. He said how important it was that the original mass spectrometry analytical data be saved in computer readable format. He said that:

Besides adhering to the good laboratory practices established for chemical testing there are a number of scientific and practical reasons. Chromatography and mass spectrometry systems generate a tremendous amount of useful information. Although the answer to a single question may be answered, usually the mass spectral data contains many other answers waiting for the right questions. It is a bit analogous to looking up a single word in the dictionary. Just because you find the word you are looking for does not mean that you throw the dictionary away. Later other questions may arise which need to be answered by reviewing the original data. This is especially true when performing trace analytical work. A single mass spectrum may not be indicative of the compound of interest, as it can be obscured by other components present in higher concentrations. This results in chemical noise. Also, a single mass spectrum does not yield the time-dependent nature of a particular ion in relation to another ion. Often in order to detect a trace component one must monitor its characteristic ion with time.

Having made the notes that the original raw computer data is important, he then went on to make the point that Du Pont deleted much of the original computer data relating to analytical testing of Benlate. He said that in his opinion, based upon a review of the documents and data available to him, much of the original data acquired on the mass spectrometry systems, most particularly what he called the TSQ70, is missing. In the estimate logs of the TSQ70, for example of tape 2, it is written: 'All data stored on tape 2.' A tape directory will list everything on a particular tape; however, the directory of tape 2 indicates that only three data files are on tape 2, whereas 80 files were logged in the instrument log. The point he makes is that it would appear as though these files have been deleted or transferred to other archival data systems and not been made available. Following a pre-trial hearing in the Bush Ranch case, in response to a court order Du Pont submitted a deletion log, in which it admits to deleting approximately 7 500 computer data files. He certainly argued that those deleted computer files were important.

He made an observation in relation to the scientific methods used by some people and talked about Lamaat Shalaby who, prior to 17 May, kept detailed observations in her laboratory notebook. After a Benlate task team meeting of 16 May, Lamaat Shalaby began keeping her findings regarding the testing of sulfonylurea herbicides in Benlate 50 DF samples in a desk calendar. This contradicts good laboratory practice, as well as Du Pont's written policy, and some questions arise as to why one stops using one's

laboratory notebook and starts keeping information on such a sensitive matter as sulfonylureas in a desk calendar.

On his own review of analytical test results performed on samples by Alta Analytical Laboratories, Enviro Test Laboratories and APPL, and based upon a reasonable scientific probability, he determined that a number of Du Pont manufactured sulfonylureas herbicides are present in the soils and waters. He also made the observation that the laboratories, whilst testing for sulfonylureas, should also have been testing for the breakdown products of sulfonylureas. He makes the point that the chemical and microbial breakdown of SUs is relatively rapid, and increases with temperature, moisture and acidity of the soil, all of which are present in Florida and Hawaiian soils. Even though one may detect SUs at very low levels, whether or not they were originally present may be better picked up by tests for the breakdown products of the SUs. Although at this part of my address I am concentrating on the sulfonylureas, he also made the note that analytical test results performed indicate that atrazine, simazine and metribuzin were also being found in soil and water samples taken from Hawaiian growers' fields, and those samples were tested by the Alta analytical laboratory.

The final point he makes is that the Benlate facilities at the Belle, West Virginia site, have been found to be contaminated with sulfonylurea herbicides. In fact, when there were arguments about whether or not sulfonylureas could have contaminated product, one way of trying to substantiate the potential for it at least was that they carried out what are called wipe tests. The wipe test meant, as the name might infer, that surfaces within the manufacturing plant were simply wiped with material and an analysis was carried out of what was picked up by the wipe. What was most interesting was that these wipe tests were carried out years after allegedly some of the SUs were made, and were also carried out after Du Pont had attempted to clean up the plant, yet the wipe tests, when carried out, picked up a number of sulfonylureas.

I had a couple of important Du Pont memoranda which looked at sulfonylureas and which I cannot immediately lay my hands on, but I will at least tell members of this Chamber their basic thrust. There was a series of memoranda which looked at the potential of SU contamination. These memoranda were all focused around the fact that sulfonylureas and Benlate were being manufactured in the same plant. There is a series of about four or five of these memoranda over a period of a couple of years. In fact, there is one going back to early 1981, which I think I referred to earlier, and that was requesting the permissible levels of herbicides in Benlate, where the recommendation was one part per million. However, when a plant was being established in France, there was a memorandum at that point where this person was complaining as follows:

> I thought we would no longer tolerate herbicides and SUs in our fungicide.

Again, on 6 October 1992, talking about the Tca's, the acceptable levels, he was saying:

> We should not have any SUs in our herbicides.

In fact, there was a series of memoranda which make it quite plain that a couple of staff members in Du Pont were quite concerned about cross contamination and its potential, and the damage it might do.

In terms of contaminants, the final one I wish to look at is dibutylurea. If I might express a personal viewpoint, while I think it is possible that a number of growers may have suffered damage due to atrazine and a number of growers may have suffered damage due to sulfonylureas, and Lord only knows what else may have contaminated Benlate at other times, the contaminant which may have done the greatest damage overall is one called dibutylurea. The sad thing is dibutylurea is not a contaminant like the others, in that the others are contaminants coming from other products which are sold by Du Pont but dibutylurea actually forms during the manufacturing process of Benlate or after packaging has occurred, or even after the Benlate has been applied to the crop. It is most likely that it is the dibutylurea which was causing the damage that I referred to in scientific experiments being carried out back in the mid 1970s, where there were a series of experiments which showed that Benlate had a negative impact upon growing plants.

The mechanism for the few chemists who read *Hansard* is that when Benlate comes into contact with moisture, it undergoes a breakdown to form MBC, which is Carbendazim, and forms butyl isocyanate, a gas. As a side comment, although some might not recognise the name, butyl isocyanate is a fairly close relative of methyl isocyanate, the gas involved in the Bhopal disaster. It is a larger molecule, containing an extra three carbons and a few extra hydrogens in it, but it is a relative of that gas which had such a disastrous impact at Bhopal. The butyl isocyanate in the presence of water will form butylamine, and with another butyl isocyanate molecule will form dibutylurea.

Most of the experts with whom I spoke in the United States are forming the opinion that it is the dibutylurea that is the real rogue in relation to Benlate and the damage it can cause. The advice that I was given was that a level of 1.8 per cent of dibutylurea in a bag will cause phytotoxicity. I have some tests which were carried out in relation to a series of samples of dibutylurea by the University of Florida, by the ABC laboratory (whatever that is) and the FDACS pesticide laboratory on a series of samples of Benlate. In these samples of Benlate the three laboratories were finding average levels of DBU of around 7 per cent. When you consider that 1.8 per cent is considered to be able to cause phytotoxicity and yet there are examples of Benlate which have up to 7 per cent, you can understand why, without any extra contamination, Benlate is capable of causing damage. It might also help to explain why so much of the damage has been done in glasshouses. I am told by scientists in the United States that high temperature increases the rate of the BIC formation. I have also been told that dibutylurea can accumulate in the environment and has a low solubility.

The question has been asked why boxes and even part lots vary in dibutylurea levels. Well, the DBU seems to have at least three sources; in fact, I think there are more. Much of the packaging of the Benlate was not even happening under the direct control of DuPont: it was happening with contractors. Outsourcing seems to be done in the private sector and might also have the same results as with our public sector. One plant in Mississippi had a habit of sweeping up spills that accumulated on the floor and then putting them back into the hopper. I talked before about problems with how sulfonylureas and other contaminants which had been made in earlier batches could be swept from the floor and worked back in. But, if benomyl—Benlate—is lying on the floor in Mississippi in the middle of summer, it is hot and very humid and, while that Benlate is lying on the floor, chemical reactions are taking place, forming dibutylurea. This is all going back into the mix and is one of the ways of explaining how the batches can vary so much. It could just be a matter

of how sloppy a plant is and how hot and humid it was at the time and so on.

It was also noted in evidence given to me that some dibutylurea would form even during the reactions that Benlate itself has been formed in: that when the benomyl itself is being formed there will be some breakdown and formation of dibutylurea. There is also evidence that for a period of time at one plant the boxes were not being sealed properly, which means they were open to the air, moisture could enter and dibutylurea could form. There is also evidence that people who use small quantities of Benlate open their container on a number of occasions. It has been suggested to me that, if they are using quite small quantities, which some smaller horticulturalists may do, using a spoon to take the Benlate off the top, they are removing that which has been exposed to the air and where dibutylurea has been formed. They then expose a fresh layer of Benlate to the air which they will spoon out next time and which also will react with the air that has entered the container.

Of course, it is also worth thinking back to the experience in Belgium in 1983, which was referred to in the 1983 court case, where there were problems that seemed to relate to a glasshouse which was sealed and where there was no turnover of air. I have noted that most, but not all, of the cases in Australia have happened in glasshouse conditions. It appears that there is a combination of heat speeding up the formation of the BIC and therefore dibutylurea; humidity, because moisture is necessary for the reactions to occur; and a small turnover of air, which means that, whatever is formed, a higher concentration of BIC gases is present, so the formation of DBU will happen more rapidly. If the butyl isocyanate escapes then DBU cannot form but, if the BIC levels get higher, the DBU will form at a much greater rate. So, there are a good number of reasons for understanding why dibutylurea formation becomes a particular problem in a glasshouse. It is worth noting that the major problems in America occurred not only in glasshouses but also outside. Having experienced the weather in Florida for the first time when I was over there recently, I understand why it can form out of doors, because Florida is hot and humid and the conditions that we might get only in a glasshouse here in Adelaide occur out of doors in Florida and in Hawaii.

While I was talking to scientists in Hawaii, they gave me several scientific papers they had published on this question of pesticide formation. In the first experiment they carried out, they took cucumber seedlings and set up a control. They set up one which was treated with Benlate DF and they had two samples which were treated with Benlate WP. The significance of that was that at the time most of the court cases had involved Benlate DF and very few had involved WP. I believe that their hypothesis might have been that the Benlate WP plants would grow as well as the control and that the Benlate DF treated plants would grow far worse. They got something of a surprise, because the Benlate DF plants grew to about half the height of the control and with quite poor root development but the two treated with Benlate WP grew even worse. They repeated the experiment on a number of occasions using different Benlate WP and Benlate DF lots, and there was indeed a great deal of variation between lots. However, the consistent theme was that the plants were always not growing as well as the control. So, the conclusion one reaches straight away is to treat the strain of cucumbers they were using with Benlate and they will not grow as well. I wonder how often growers have been told that, despite the fact they may have been using it for about 20 years.

They then wanted to explore further what it was about Benlate that caused the problems. In one experiment cucumber plants were grown but were not actually treated with Benlate. The plants were put in a closed container, and on the other side of the container another open container had Benlate sitting in it. They also set up a control where Benlate was missing. To their surprise, although perhaps their hypothesis might have suggested something would happen, they found that when the Benlate was present the seedlings did not grow anywhere near as well. I make the point that on this occasion the plants were not in contact with the Benlate sitting in the container. It is clear that something had left the Benlate container, and one would suggest that what had left the Benlate container was the BIC, and the BIC or some later formed chemical then caused the growth problems with the cucumber seedlings.

As to phytotoxicity responses, these are the responses that are now being linked largely with DBU. A memo dated 13 November 1980 was prepared by D.J. Fitzgerald of the research division who had been carrying out work with a number of samples of Benlate, and he stated in his conclusion:

> The two samples of Benlate coded 8171-183A and 8171-183B are different when evaluated for plant injury and drench tests, with sample 8171-183B causing significant phytotoxicity. As the data and tests foreshow, sample 8171-193B is phytotoxic to plants when drenched on at high rates. The injury caused by 10 kilograms per hectare of the 1:3 Di-butyl urea is almost identical with that observed from sample 8171-183B, leading to the conclusion that the injury observed from the sample is largely caused by this compound.

That is a Du Pont internal memorandum, and they recognise therein that injury from Di-butyl urea is essentially the same as injury being seen from Benlate itself.

I now quote from the summary of a report from a case study carried out by Barry M. Brennan, Po-Yung Lai, C.S. Tang and Janice Uchida of the University of Hawaii. I visited the university and spoke with three of those four people. I did not speak with Po-Yung Lai, but in their summary they stated:

> What do we know? Most grower complaints occurred after Benlate DF was introduced. However, not all growers who used Benlate DF experienced problems. Overuse DF and WP can cause development of resistance. Both DF and WP formulations absorb moisture from the environment and form DBU. DBU has been determined to be phytotoxic to some plants, causing stunting, leaf burn, bleaching and reduced root development. These symptoms are similar to those noted in Benlate lots known to be phytotoxic. Phytotoxicity of both DF and WP formulations appear to be associated with bags which have been opened or improperly sealed. The longer the bag has been open the greater its phytotoxicity. The level of DBU in some bags of Benlate exceeded the level needed to cause phytotoxicity in some plants. The stability of the DF formulation is more sensitive to high temperatures than the WP formulation.

Another paper was published in the Archives of Environmental Contamination and Toxicology in 1994. Entitled 'Toxicity of Benlate to Cucumber and Evidence for a Volatile Phytotoxic Decomposition Product', the article was written by M. Aragaki, J.Y. Uchida and C.Y. Kadooka of the Department of Plant Pathology, University of Hawaii, Honolulu. Their abstract tells most of the story, as follows:

> Drench applications of the fungicide Benlate DF (dry flowable) or WP (wettable powder) in greenhouse studies resulted in stunted cucumber seedlings. Exposure of cucumber seedlings to suspension of Benlate DF or WP in sealed glass dishes severely inhibited primary and secondary root development. Root inhibition occurred not only when seedlings were in contact with Benlate but also when seedlings were not in contact with the fungicide, implicating the effect of a volatile toxicant(s). The presence of butyl isocyanate (BIC) in the gaseous phase was confirmed in the glass dishes

containing Benlate and stunted cucumbers. Cucumber roots not in contact with Benlate suspensions (76 mg/2 ml) were severely inhibited when Benlate suspension depths were 1.7 mm or less but virtually unaffected when depths were 3 mm or more, indicating that the evolution of volatile phytotoxicant(s) is inversely related to the depths of Benlate suspensions, which further suggests that the volatile phytotoxicant reacts with water, thereby reducing the amount released. Moistened Benlate DF stored for 14 days continued to evolve a volatile substance toxic to cucumber seedling roots. No volatile phytotoxic substance from methyl thiophanate fungicides was detected.

Not only were people in the University of Hawaii forming these conclusions but also it was happening at the University of Florida. I refer to a news release of 4 February 1994 headed 'UF Scientists Identify a Significant Chemical in Benlate.' I quote the last two sentences of that release, as follows:

Moye concluded that dibutylurea is formed from the reaction of water and the chemical N-butylisocyanate produced from the benomyl itself. Scientists are still investigating exactly how dibutylurea could be formed during the synthesis, formulation or storage of Benlate DF or perhaps even after Benlate DF is applied. They are also examining whether dibutylurea will persist in different types of soil over time under varying weather conditions.

In an article on the proceedings of the Florida State Horticultural Society 1992, a report by R.H. Biggs of the Department of Horticultural Sciences, University of Florida, Gainesville titled 'Assessment of Greenhouses and Nurseries for Chemical Toxicity' refers to Benlate DF 50. The article states:

Data from the cucumber bioassay correlate well with the observations that light, temperature and relative humidity all play a role in interacting with benomyl to yield abnormal plants. High light and warm temperatures are known to exacerbate problems with a number of fungicides. Benomyl and/or its breakdown products have been shown to influence the growth and development and leaf physiology of a number of annual crops.

He then goes on to list them. It later continues:

Symptoms observed on the annuals compared well with symptoms obtained in the cucumber tests, i.e., dwarfism, chlorosis, leaf damage, loss in reproductivity capacity, and so on. Data generated in the literature before 1986 was done with either technical grade benomyl or with wettable powder (WP) formulations.

He goes on to say:

Using data from the tests and assays performed on affected and controlled soils, it can be demonstrated that there is a high probability that plant damage will occur on cucumber and possibly on many species when Benlate DF 50 formulation is applied under certain conditions. Environmental factors prevalent in Florida during the summer and fall of 1990 when plant damage was evident were used to focus on these conditions.

It is apparent that the EPA eventually started to take this dibutylurea problem seriously. On Friday, June 16, 1995 there was a press release headed 'EPA takes enforcement action against Du Pont for violations of pesticide laws'. The thrust of that is that the EPA was taking action because of the levels of dibutylurea that were being found in Benlate DF, well above the levels which the EPA would accept. There was also an article in the *Wall Street Journal*, Thursday 8 June 1995, headed 'EPA laboratory finds contaminant in Benlate samples'. That relates to the finding of dibutylurea within Benlate.

Other companies were selling benomyl products in the United States. Also on the market was a Cleary 3336F flowable. A number of growers brought an action against the manufacturer of that product. This company settled out of court. It did not dispute the fact that damage had been done to the plants, unlike Du Pont—

The Hon. T.G. Roberts: Were they agents for the same product?

The Hon. M.J. ELLIOTT: No, it appears that Cleary was a separate company, but perhaps was making the product under some sort of licence. But, nevertheless, when it had actions brought against it, it settled. It admitted its liability and cleared it.

I will make a couple of general comments. I have said all that I intend to say about dibutylurea at this point. Back on 21 June 1991 Du Pont issued what it called a Benlate information bulletin headed 'Background on Benlate'. The bulletin states:

On 22 March Du Pont initiated a stop call and recall of its fungicides Benlate 50 DF, Benlate 1991 DF and Tersan 1991 DF in the United States because routine quality control tests detected trace levels of atrazine herbicide in some production batches. This was the second recall of Benlate DF for this same reason. The first was initiated in 1989.

I referred earlier to the fact that there were two recalls. The document continues:

Atrazine was produced at the same contract formulation plant sites as Benlate DF. The mechanisms by which these trace levels of atrazine were introduced into the Benlate DF is not known—

although I comment again that it was almost certainly due to poor quality control within the plant—

Benlate has successfully protected a wide range of crops, turf and ornamentals from plant diseases for more than 20 years. In May 1991, however, during its investigations of the recall, Du Pont received reports of effects on plants that are not fully understood.

It is quite clear it knew that it was not atrazine but it says that they were not fully understood. It continues:

Du Pont has mobilised resources to investigate causes of the effects being seen. A wide range of possibilities is being studied; however, the exact cause has not yet been identified.

I now speculate that they found SUs, dibutylurea and other substances to which I have referred in my contribution. It continues:

Du Pont is committed to understanding the causes of the effects. If a problem with Du Pont's product is responsible for these effects, the company is committed to work closely with its customers to fairly resolve any complaints. Du Pont continues to urge growers, dealers, distributors and others possessing Benlate 50 DF, Benlate 1991 DF and Tersan 1991 DF to return them to the point of purchase for a full credit, regardless of the date of purchase or whether the container has been partially used.

I must say that when people took their containers in they never got them back, and if they had damage they did not know what was in it. Further:

All US produced dry flowable formulations of Benlate and Tersan have been recalled. Du Pont manufactures all benomyl technical, the active ingredient in Benlate, at its Belle, West Virginia, plant. Blending of this technical product with inert materials to make Benlate DF occurred at third-party contract facilities. Terra and Platt are the only two facilities that produce product which had to be recalled. Only the dry flowable DF formulation has been recalled. The wettable powder WP is a different formulation produced at a Du Pont facility under strict quality control procedures. Du Pont scientists have thoroughly tested the WP and found no problems. The material is being used by growers and there are no reports of complaints.

Some of the significant points from this information bulletin, which goes on for a few more pages, are that it is admitting that there were problems that were not fully understood and that a wide range of possibilities are being investigated. Clearly, it would have known that it was not atrazine. It also makes an admission that whilst it manufactured Benlate in its own plant the blending happens in contract plants. It refers to the WP as being a different formulation produced at a Du

Pont facility under strict quality control procedures. Some members might recall that a few hours ago I commented that when Du Pont first produced Benlate and came up with the original formulation quality control was recognised then as being absolutely crucial. Having recognised that quality control was crucial, it then went and outsourced its manufacture to third parties and, in this very document, it admits by inference that the quality control procedures were not as strict as it had within its own plant for the manufacture of Benlate WP.

To wrap up Du Pont's role, let us look at what Du Pont Australia had to say about various things. There was correspondence between Du Pont Australia and Du Pont in the United States. I will read from an inter-office memorandum dated 15 August 1991 from Kay Douglas on the subject of Benlate DF/WP surfactant rate information. It reads as follows:

> By way of this note, I am asking the experienced team members to tell us what they know of Benlate's phytotoxic symptoms seen/produced in crops in Australia, also as to what they believe the surfactant rates should be. Also could they outline what they know of other fungicides, insecticides, phytotoxic effects.

These people are writing to the Americans asking them what they know about the phytotoxic symptoms that are being produced in crops in Australia.

The Hon. T.G. Roberts: What about the labels?

The Hon. M.J. ELLIOTT: I will talk about the labels very soon. The memorandum continues:

> You are quite correct, though in Australia and the US we are seeing a consistent relationship between numbers or type of application, i.e. drenching, or multiple applications and phytotoxic symptoms. Please keep in touch.

There is an admission! Another memorandum dated 16 August 1991 from Geoff Jacobs reads as follows:

> Subject: Benlate DF withdrawal—Australian situation. The topic certainly caused some intense discussion this morning between Geoff, Joe, Homer and myself. We feel we have reviewed the status and propose a strategy for managing the transition locally. There are several points in particular to take into consideration, but firstly there are some big negatives which need to be understood.

The negatives are in capital letters and underlined. The memorandum continues:

> 1. Any withdrawal of Benlate DF from the market will cause a spate of claims. Any publicised withdrawal will cause an avalanche. Currently, we have three claims from nurseries—two for A$350 000 to A$400 000 each and one for A$40 000. If a withdrawal is not handled carefully, we will have claims going back three years for DF and up to seven years if WP is put under the microscope. We will have no leg to stand on and, while many claims may be disclaimed, costs for payouts and compensations could easily exceed A$10 million.
>
> 2. The boys have done a great job stabilising the situation in the field. Benlate DF has continued to be imported and sold UNDER A QUALITY ASSURED STICKER. The industry has responded to our professionalism and openness and sales are flowing. BUT how will the industry perceive the credibility of Du Pont and its QUALITY ASSURED if the formulation is withdrawn in haste. What will be the impact on other product perceptions or other DF formulations?
>
> Having now aired the concerns, these can now be extrapolated as RISKS, i.e., risk of paying out megabuck compensation; risk of impacting credibility/professionalism and other business. It is now time to be POSITIVE and ask how we can plan a withdrawal and MINIMISE THE RISK.

The Hon. Carolyn Pickles: You have been speaking since 3 o'clock.

The Hon. M.J. ELLIOTT: Does the honourable member not think it important that people are being destroyed? I am sorry, I think it needs to be put on the record.

The Hon. Carolyn Pickles: Yes, but they could be incorporated.

The Hon. M.J. ELLIOTT: I think they have to be put in context. The memorandum continues:

> To do this we would need to:
> · quietly, quickly and mutually satisfy current claims;
> · gradually replace DF with WP;
> · allow time—three months—for re-registration of WP 200g and 25kg packs and labels;
> · review and either modify or delete ornamental recommendation.

Many people were growing ornamentals. I also note that in Belgium in 1983, one of the Du Pont people said that perhaps we should not be using it for ornamentals. The memorandum continues:

> · reduce upfront publicity;
> · issue 'credible' statements before 'phase out', e.g., the cost and logistics of maintaining two Benlate formulations is prohibitive. Adding the formulating difficulties of DF to the fact that it is incompatible with oil, we have decided to revert to the WP formulation, which can be used in all markets;
> · present the WP in a new farmer friendly format.
>
> What we would like to do:
> · assess and settle all current and potential claims by the end of September;
> · communicate our intent to staff;
> · accept current shipment of 12 tonnes of Benlate DF;
> · cancel follow up shipment of seven tonnes of Benlate DF and replace with WP;
> · gradually phase out DF by the end of November allowing time for all registrations/label changes to be actioned;
> · keep publicity to a minimum, issuing only timely, objective and standardised statements;
> · as rapidly as possible introduce Benlate WP in 25 x 1kg and 5 x 1kg soluble packs.

The Hon. T.G. Roberts: Is that 1995?

The Hon. M.J. ELLIOTT: This is August 1991. They have not changed their style since then although some of the faces have changed. The memorandum continues:

> What we would like you to do:
> · influence the decision on a worldwide statement with a preference that no overall statement be made. The USA has effectively phased out and is running on WP, anyway. No overriding statement would allow us to make our own moves and support statements in line with risk minimising and orderly marketing;
> · support our move for a gradual phase out based on our field efforts in monitoring the performance of the quality assured product;
> · help us expedite a move to repack WP in soluble packs. This will help us meet what will be a significant grower rejection of reverting to the inferior WP formulation.
>
> Tom, your message created initially a lot of gloom, doom and negativeness. However, a bit of positive discussion has created a strategy which will hopefully meet your needs, minimise excessive risks and even could turn us around into a more favourable position. Will you help us in your endeavours? Regards, Smiley.

I turn now to a memorandum of 20 August from Ian Powell on the subject of the Benlate DF strategy in Australia. It reads:

> Many thanks for your support for our proposal for a staged withdrawal over a period.

The final memorandum that I will quote between the US and Australia is one from Geoff Jacobs, which was addressed to John, Bob and Joe, and reads as follows:

> Sorry to hit you with this, but hopefully it is self explanatory and you can respond urgently. Smiley and I have put together a letter to Bill Kirk/Jerry Stone, which we want you to check, and the other statement was for the troops in the field for background. Tom Fort rang this morning to advise that the USA would be withdrawing the ornamental registration and we would be following suit. The statement would refer only to it being a sound business decision. When pushed on any technical reason, Tom said glasshouse work was still being conducted which indicated problems with DF. We

have already reluctantly accepted this. The only reason WP is being withdrawn is that it is a high risk, low volume and big dollar yield market. But that sure leaves us open to some big claims.

I believe Tom is under a lot of pressure and suspects he is reacting to demands. This is not an attempt to undermine the republic, but we cannot accept this action is being taken for the right reasons, nor are we reassured that full consideration has been given to likely repercussions. Hence the need for the letter to go to Kirk and Stone. Regards, Geoff.

It is quite clear from those communications, and also from what was happening in the United States, that Du Pont had set out to deliberately mislead the public, the media, farmers, members of Parliament, members of departments of primary industry on a long term basis, and they still continue to this day to play that game.

In this contribution I have not spent a great deal of time talking about Benlate WP and DF. I have referred to them but not referred to the differences. In my contribution on an earlier motion on this subject I spent some time looking at the differences. It is my view, and I think the view of others with whom I have spoken, that both WP and DF are capable of causing significant damage to plants, whether they have been contaminated by atrazine or sulfonylureas or flusilazole or whether the damage has been caused by dibutylurea.

Some questions have been asked why was there a rash of claims in relation to DF. The work is still being done on that but the DF was a different formulation. They went from using what was 50 per cent sugar to a new formulation which was still 50 per cent benomyl but they also started using lignin sulphonate as part of the mix as one of the inerts. There is some suggestion the lignin sulphonate itself, either directly or indirectly, has created and exacerbated problems which were already inherent in Benlate. It has the capacity to hold on to other chemicals whether they be sulfonylureas or dibutylureas and hold them resident for longer periods of time, and therefore a capacity to have an effect.

The chemistry of the lignin sulphonate is not simple. It is not a single chemical. Lignin sulphonate is a by-product of the paper manufacturing process and is a complex of chemicals. It depends on what species of trees are used, whether the inside of trees, the outside of trees, young trees, old trees, so the chemistry of lignin sulphonate is not going to be simple, but it is suggested that the DF, the lignin sulphonate, as I said, may directly have had an impact or may have indeed indirectly had an impact by facilitating damage being done by the SUs or by the DBU. As I said, I do not think that is fully understood but certainly there is a lot of concern around that. When Du Pont went from DF back to WP, they may have reduced their problems, but it does not mean they have got rid of them, particularly if, as a number of scientists now believe, that dibutylurea is the major, if not the only, villain in the piece.

I indicated when I commenced that I was going to seek leave to conclude. I will do that for a couple of reasons. Firstly, I will be meeting with Du Pont representatives next Monday and I will give them the right of reply before I conclude this first contribution. Whilst so far I have focused on Benlate itself, as members of Parliament there are a number of very broad issues about how we register chemicals, how we check chemicals—a whole range of questions about legislation which I believe need to be addressed and which I have not yet covered.

When I return next time my contribution will be covering areas that I have covered in my discussions with Du Pont, and also covering regulatory and legislative issues not about Benlate itself but about chemicals more generally, because there are a number of very important issues which emerge from this and that if we do not learn by mistakes that we made in the past then we are indeed very foolish.

In concluding my remarks tonight, I should note that when I went to the United States I had a tremendous amount of assistance from Stuart Turner who gave me almost two days of his time. I think Stuart knows more about Benlate than any other person on this planet. He gave me two days of his time and went through a great deal of detail with me about the issues and I thank him for his assistance, and also his wife—their hospitality was greatly appreciated while I was in Seattle. He has been an expert witness in a number of cases involving Benlate and many others.

One of the side issues I am going to go onto is SUs. We talked about SUs as a contaminant but there are interesting questions about sulfonylureas generally, a substance which only two laboratories in North America can detect at levels that can do damage. Yet it is being used widely throughout agricultural Australia and in itself may be responsible for some damage which people have not fingered it for as yet. That is something I will touch on next week. Stuart is probably the expert on the broad spread of matters around Benlate, but to the scientists at the University of Hawaii and at the University of Florida who gave their time—Barry Brennan, Dr Uchida, Dr Tang and Bob Boesch from the Department of Agriculture in Hawaii, Jodie Johnson from the University of Florida and about six officers from the Department of Agriculture in Florida, lawyers both in Hawaii and in Florida who also gave their time willingly—they have all given their time. Without exception, they believe a serious wrong has been done and something needed to be done about it. The strength of that feeling varied. There were some people who said that perhaps Benlate still has a place to be used but people need to know what it can do. If you have a choice between your crop dying of a fungus and treating it with Benlate, but it not growing well, you might choose to still use Benlate. They were not all critical of the product, but it is true to say that almost without exception—and I cannot think of an exception—there was real concern about Benlate, about its effects, about Du Pont and their general behaviour in relation to this issue. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

STATUTES REPEAL AND AMENDMENT (COMMERCIAL TRIBUNAL) BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to repeal the Commercial Tribunal Act 1982 and to make certain related amendments; to enact transitional provisions; and for other purposes. Read a first time.

The Hon. K.T. GRIFFIN: I move:

That this Bill be now read a second time.

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

Leave granted.

This Bill makes miscellaneous amendments to the *Goods Securities Act, 1986*, the *Trade Measurement Act, 1993*, the *Trade Measurement Administration Act, 1993* the *Survey Act, 1992* and the *Fair Trading Act, 1987*.

These amendments transfer the jurisdiction conferred on the Commercial Tribunal, by the *Trade Measurement Act*, the *Trade Measurement Administrative Act*, the *Survey Act*, the *Goods Securities Act* and the *Fair Trading Act* to either the Administrative

and Disciplinary Division of the District Court or, where appropriate, to the Consumer and Business Division of the Magistrates Court.

These amendments, in effect, discharge the remaining miscellaneous jurisdictions of the Commercial Tribunal. The Bill therefore, also repeals the *Commercial Tribunal Act, 1982* under which the Tribunal is established.

This Bill is consistent with the Government's policy to rationalise the various jurisdictions, multiplicity of courts and procedures for dispute resolution and enforcement and, where appropriate, to bring proceedings within the jurisdiction of existing courts.

To address the transfer of jurisdiction in relation to each Act in turn:

The jurisdiction conferred by the *Goods Securities Act* is in relation to the *'Discharge of security interests'* and the *'Order of priority'*. This jurisdiction is appropriately transferred to the Consumer and Business Division of the Magistrates Court.

The jurisdiction conferred by the *Survey Act* is administrative and disciplinary in nature, and therefore is appropriately transferred to the Administrative and Disciplinary Division of the District Court.

The jurisdiction conferred by the *Trade Measurement Administration Act* and the principal Act, the *Trade Measurement Act* is appellate in nature, requiring the determination of appeals against both administrative and disciplinary decisions made by the licensing authority. Appeals are stated to be by way of rehearing and not limited to material upon which the authority's decision was made. It is therefore appropriate to transfer this jurisdiction to the Administrative and Disciplinary Division of the District Court.

The jurisdiction conferred by the *Fair Trading Act* is two-fold. First, it provides a right of appeal by any person who disputes the accuracy of information compiled by a reporting agency or trader, and it is appropriate that this jurisdiction be transferred to the Consumer and Business Division of the Magistrates Court. Second, it endows the Commercial Tribunal with certain disciplinary powers where a reporting agency or trader has committed an offence or is found to be unfit to provide prescribed reports. This jurisdiction is appropriately transferred to the Administrative and Disciplinary Division of the District Court.

The remaining major jurisdictions of the Commercial Tribunal are pursuant to the *Travel Agents Act, 1986, Builders Licensing Act, 1986, Commercial and Private Agents Act, 1986* and the *Consumer Transactions Act. 1972.* Proposals to amend each of these Acts will be brought before the Parliament in this Parliamentary session, and the jurisdiction conferred by these Acts on the Commercial Tribunal will be removed.

The provisions of this Bill repealing the *Commercial Tribunal Act, 1982* will not, of course, be proclaimed until all jurisdictions have been removed to other areas of the Court system.

I commend this Bill to the House.

Explanation of Clauses

PART 1

PRELIMINARY

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Interpretation

This clause provides that a reference in the Bill to the 'principal Act' means the Act referred to in the heading to the Part in which the reference occurs.

PART 2

REPEAL OF COMMERCIAL TRIBUNAL ACT 1982

Clause 4: Repeal of Commercial Tribunal Act 1982

This clause repeals the *Commercial Tribunal Act 1982*.

PART 3

AMENDMENT OF FAIR TRADING ACT 1987

Clause 5: Amendment of s. 3—Interpretation

This clause inserts a definition of 'District Court' (ie. the Administrative and Disciplinary Division of that Court) and removes the definition of the 'Tribunal'.

Clause 6: Amendment of s. 34—Correction of errors

This clause removes references to the Tribunal in section 34 and replaces them with references to the Magistrates Court (which is defined to mean the Civil (Consumer and Business) Division of that Court).

Clause 7: Amendment of s. 37—Powers of District Court

This clause replaces references to the Tribunal in section 37 with references to the District Court.

Clause 8: Amendment of s. 80—Registration of deeds of assurance

This clause replaces the reference in section 80 to the Commercial Registrar of the Tribunal with a reference to the Commissioner for Consumer Affairs.

Clause 9: Amendment of s. 82—Prohibition orders

This clause replaces references in section 82 to the Tribunal with references to the District Court.

Clause 10: Amendment of s. 91—Evidentiary provisions

This clause replaces section 91(7) with a new subsection referring to certification by the Commissioner (rather than the Commercial Registrar).

Clause 11: Transitional provisions

This clause contains transitional provisions to preserve orders of the Commercial Tribunal and the arrangements for registration of assurances (currently done by the Commercial Registrar) and proof of the giving and acceptance of an assurance.

PART 4

AMENDMENT OF GOODS SECURITIES ACT 1986

Clause 12: Amendment of s. 3—Interpretation

This clause inserts a definition of 'Court' (ie. the Civil (Consumer and Business) Division of the Magistrates Court) and removes the definition of the 'Tribunal'.

Clause 13: Amendment of s. 8—Correction, amendment and cancellation of entries

This clause removes references to the Tribunal in section 8 and replaces them with references to the Court.

Clause 14: Amendment of s. 13—Jurisdiction of Court

This clause replaces references to the Tribunal in section 13 with references to the Court and removes subsection (2), which is unnecessary once jurisdiction is transferred to the Court.

Clause 15: Amendment of s. 14—Compensation

This clause replaces references to the Tribunal in section 14 with references to the Court.

Clause 16: Amendment of s. 15—Application of fees and payment of compensation and administrative costs

This clause replaces references to the Tribunal in section 15 with references to the Court.

PART 5

AMENDMENT OF SURVEY ACT 1992

Clause 17: Amendment of s. 4—Interpretation

This clause inserts a definition of 'Court' (ie. the Administrative and Disciplinary Division of the District Court) and removes the definition of the 'Tribunal'.

Clause 18: Amendment of s. 36—Investigations by Institution of Surveyors

This clause removes references to the Commercial Registrar of the Tribunal.

Clause 19: Amendment of s. 37—Disciplinary powers of Institution of Surveyors, etc.

This clause removes a reference to the Tribunal in section 37 and replaces it with a reference to the Court.

Clause 20: Amendment of s. 38—Disciplinary powers of Court

This clause removes all references to the Tribunal in section 38 and replaces them with references to the Court. It also rewords some parts of the section to use language that it more appropriate to the exercise of jurisdiction by a court.

Clause 21: Insertion of s. 38A

This clause inserts a new provision into the principal Act allowing for the participation of assessors in proceedings under the Act.

Clause 22: Amendment of s. 39—Return of licence or certificate of registration

This clause removes a reference to the Tribunal in section 39 and replaces it with a reference to the Court.

Clause 23: Amendment of s. 40—Restrictions on disqualified persons

This clause removes all references to the Tribunal in section 40 and replaces them with references to the Court.

Clause 24: Amendment of s. 41—Consequences of action against surveyor in other jurisdictions

This clause removes the references to the Tribunal in section 41 and replaces them with references to the Court.

Clause 25: Amendment of heading

This clause removes the reference to the Tribunal in the heading to Division V of Part III and replaces it with a reference to the Court.

Clause 26: Amendment of s. 42—Appeal to Court

This clause removes all references to the Tribunal in section 42 and replaces them with references to the Court.

Clause 27: Amendment of s. 44—Investigations by Surveyor-General

This clause removes a reference to the Commercial Registrar of the Tribunal.

Clause 28: Insertion of s. 59A

This clause inserts a new provision in the principal Act allowing the Surveyor-General and the Institution of Surveyors to be joined as parties to proceedings.

Clause 29: Insertion of schedule 1

This clause inserts the schedule set out in schedule 1 of the Bill in the principal Act.

Clause 30: Transitional provision

This clause contains transitional provisions to convert certain orders of the Tribunal into orders of the Court and thereby preserve their operation.

PART 6

AMENDMENT OF TRADE MEASUREMENT ACT 1993

Clause 31: Amendment of s. 58—Taking of disciplinary action

This clause removes a reference to the Tribunal and replaces it with a reference to the Court.

Clause 32: Amendment of s. 59—Rights of appeal

This clause removes a reference to the Tribunal and replaces it with a reference to the Court.

PART 7

AMENDMENT OF TRADE MEASUREMENT ADMINISTRATION ACT 1993

Clause 33: Amendment of s. 3—Definitions, etc.

This clause removes the definition of the Commercial Tribunal.

Clause 34: Substitution of s. 13

This clause substitutes a new section 13 providing that the appeals court is the Administrative and Disciplinary Division of the District Court.

Clause 35: Amendment of s. 14—Determination of appeal

This clause removes references to the Tribunal in section 14 and replaces them with references to the Court.

Clause 36: Insertion of s. 14A

This clause inserts a new provision into the principal Act allowing for the participation of assessors in appeals.

Clause 37: Insertion of schedule

This clause inserts the schedule set out in schedule 2 of the Bill in the principal Act.

SCHEDULE 1

Schedule substituted in Survey Act 1992

This schedule deals with the appointment and selection of assessors to sit with the District Court in proceedings under the Act.

SCHEDULE 2

Schedule inserted in Trade Measurement Administration Act 1993

This schedule deals with the appointment and selection of assessors to sit with the District Court in proceedings under the Act.

The Hon. CAROLYN PICKLES secured the adjournment of the debate.

AUDITOR-GENERAL'S REPORT

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

That the Report of the Auditor-General and the Treasurer's Financial Statements 1994-95 be noted.

I do not intend to speak at length in moving the motion. We are starting this debate a little later than I had otherwise expected. I have discussed the issue with the Leader of the Opposition. We will obviously sit through until midnight tonight. If members who had intended to speak are unable to speak, I undertake to seek to negotiate some other opportunity, whether tomorrow or next week, to allow those members to speak. The Leader of the Opposition has indicated it might be possible for those members who wish to speak to conclude before midnight. If that is possible, that is fine; if not, we will discuss the issue and sensibly reach some sort of accommodation.

Can I also indicate, as I have to the Leader of the Opposition and the Leader of the Australian Democrats that, on behalf of the three Ministers in this Chamber, if members do have questions in relation to the Auditor-General's Report, if they would like to in effect *de facto* place them on notice in their speeches to this motion, we will endeavour to get back to them as expeditiously as we can with answers to questions. If there are extraordinarily difficult or complicated questions, it might take a little while, but certainly for those questions which are of the usual degree of difficulty, if I can put it that way, we will endeavour to get back as expeditiously as we can to members in terms of their questions.

Of course, the right remains for members to put questions to Ministers during the normal Question Time each day. There is no requirement by this motion for questions on the Auditor-General's Report to be restricted to this debate on this motion. It is the prerogative of individual members to choose to take up this option or to use their rights as individual members to put their questions on a daily basis to Ministers during the normal Question Time.

The Hon. CAROLYN PICKLES (Leader of the Opposition): I thank the Leader of the Government for permitting this debate. As we have discussed, due to the lateness of the hour, we will attempt to complete our debate by midnight. If that is not possible, another time will be sought. Since it has been the custom to deal with the Auditor-General's Report during the Estimates Committees, this is not the normal way that we have proceeded in the past to deal with the report, which has been dealt with by House of Assembly members asking searching questions during the Estimates Committee, so this is a somewhat unusual debate, and I thank the Leader of the Government for facilitating this process in the Upper House.

This year's Auditor-General's Report is one of the most significant documents to come before Parliament since the last election. The report raises very serious concerns about the way this State is being managed. The Auditor-General has said so himself. The issues of financial accountability raised by the Auditor-General are, and he claims, 'the most important issues facing the Parliament at this time.' Logically there are two ways in which financial accountability can be improved. Of course, there needs to be adequate audit systems for validating expenditures and so on after they have been incurred. At the most basic level, this can mean the keeping of receipts for minor expenditures and ensuring that adequate explanations can be given every time a corporate credit card is used by a public servant.

Probably much more significant is the need for improved accountability prior to certain expenditures or transfers taking place. The Auditor-General was concerned that certain kinds of transactions should not take place until Parliament, or an instrument of Parliament, has had the chance to scrutinise and make decisions about these transactions. Most importantly, the Auditor-General has pointed out on page 12 of Part A of his report, and I quote:

> Transactions between the public and private sectors are being entered into or are proposed to be entered into with major and ongoing financial implications for the State. These warrant adequate before-the-event processes which are not provided for under current legislation.

The Auditor-General goes on to specifically refer to major public/private sector transactions, including asset sales, contracting out arrangements and special industry assistance packages. These, the Auditor-General says, should take place only after Parliament has had an opportunity to be informed of them and, if necessary, to make decisions about them. The need for this caution, the need to put on the brakes, the need to act with greater responsibility towards the people of South

Australia, arises because of the Government's ideological imperative to sell off the State.

This Government is not about debt reduction: it is about asset reduction. The Government is dismantling Government services as fast as it can to take us back to the time of Dickens when industry and private interests had a free hand in every aspect of community life, including health, education and transport, areas where western civilisation has progressed in the last 100 years to recognise the public interest and the social justice in maintaining public services in these vital areas. People have rightfully come to expect that an adequate, well-rounded education will be offered in State schools. People have rightfully come to expect that they will receive adequate health care at public hospitals without having to wait 10 times or 20 times longer than a private patient who goes to the same hospital or a private hospital. People have rightfully come to expect a reasonably convenient and relatively inexpensive public transport system.

The massive sell-off of State assets and massive reductions in services provided by the State to the community is not what the community wants. The Opposition knows this. The Government backbenchers in another place know this, and community rejection of the Government's policies will, I believe, become abundantly clear at the next State election. Until then, all that we as an Opposition can do is try to expose what the Government is doing. Clearly, although the Government talks about debt reduction, it is really carrying out a program as I have said of asset reduction.

From the Auditor-General's Report we can see that the program of asset sales will have major long term implications for the State's economy. In several areas we have already seen examples of the scenario where assets are sold off to private sector entities and then leased back. Obviously, the long term leases involved in that scenario mean that the State becomes locked into certain levels of expenditure over the coming years. If we end up borrowing to meet those continuing expenditure requirements, the Government's debt reduction strategy will come seriously unstuck over and above the social cost of what the Government is doing.

Another popular misconception which this Government is marketing, namely that it is showing restraint in expenditure, is blasted by the Auditor-General's revelations. The plain fact is that the Government has decided to spend more in the coming financial year than it did in the previous financial year. What the Auditor-General has called ordinary annual expenses of Government will increase in real terms as a result of the Government's latest budget. The public therefore has the right to know how there can be an increase in the running expenses of Government when there have been massive cuts to the education and health sectors. The Government has tried to sell to the public the idea that it has been necessary to slash tens of millions of dollars of recurrent expenditure off the health and education budgets to make so-called savings. Where is the money going? Paying off the State debt is not the Government's first priority. The Auditor-General provides the answer:

> Among the areas of above average increase in the real level of current expenditure have been expenditures classified as economic development and in central agencies, for example, the Department of the Premier and Cabinet and Treasury and Finance.

So, public patient waiting lists are blowing out, intolerable strains are being placed on teachers and students in our State schools, and for what? A few of the most powerful agencies' chiefs are spending more than before, and money is being dished out in the name of economic development. No-one is denying that true economic development benefits the State, but the Government has not yet got the runs on the board—not in terms of growth or in terms of industry development. Millions of dollars are being transferred to people in business or commerce with little or no public scrutiny, without proper specification or demonstration of net benefits to the economy of South Australia. For example, the Auditor-General has noted:

> EDA's record keeping processes did not record all financial information (for example, payroll tax relief) and non-financial information (for example, status of employment creation) applicable to the incentive assistance packages and components of the packages.

The Auditor-General also noted that the formal agreements with respect to various incentive assistance arrangements made between the responsible Minister and the recipient varied in relation to confidentiality, auditability and dispute resolution conditions. This raises the question of why some of these agreements need to be more confidential than others and why some arrangements should be less auditable than others. When we hear of major companies being attracted to set up in South Australia, we are not being told how much is being forked out to attract them here, so it is impossible to carry out a proper cost benefit assessment of some of these special deals. To make matters worse, the Auditor-General has identified inadequate documentation being provided by recipients of these special industry incentive grants, and the Auditor-General has stated that:

> A number of the components of the packages are performance oriented in that the payment is based on the happening of an underlying factor, e.g. employee position creation. The standard of documentation in the context of compliance with agreement conditions that was provided by the recipients when claiming against the components of the package was not satisfactory.

This is a really staggering statement. Private sector interests are being promised what are essentially bonuses if their venture is successful in promoting or building up South Australia in some specified way. Yet, to collect on these bonuses—and the Opposition has heard that some of them amount to hundreds of thousands, if not millions of dollars—all the private sector company has to do is to put in some rough sort of claim to justify the additional payment. That is what the Auditor-General's Report seems to be saying. Again, the hypocrisy of the Government stands exposed. In the name of cutting expenditure, self sufficiency and efficiency, this Government is slashing expenditures throughout the health, education and welfare sectors. At the same time, while mouthing the same slogans, handouts to industry have been massively increased. Sadly, the Auditor-General's analysis of the debt management by this Government establishes that it may not have been necessary to attack the health, education and welfare sectors at all.

Almost immediately upon coming to office, the Government altered the State's debt management arrangements. After the last election the new Government was faced with three potential strategies in relation to debt management. It could have continued with the debt arrangements put in place by the previous Labor Government or it could have implemented two other possible options. Unfortunately for South Australians, the Government was too clever by half. If it had left the debt arrangements as they were, compared with the option that was evidently taken, the State would be about $160 million better off over the 18 month period since changes in the debt profile were made. In hindsight, that is $160 million which could have been used to maintain the

levels of health, education and welfare expenditure to which the previous Labor Government had been committed.

The arrogance of this Government is extraordinary. Not only does it say to the community without adequate consultation 'We know what is best for you', but it goes one step further and says, 'We know what is best for you and we will tell you what we think you need to know.' This explains why the Auditor-General has had such a hard time in extracting a great deal of fundamental information from the Treasury office. There are a number of examples in Part A of the Auditor-General's Report where, in the context of trying to extract information from Treasury or other departments, he refers to certain inconsistencies, absence of detailed explanation, absence of adequate aggregate data, insufficient explanation and inadequate data and analysis. There is nothing which could accurately be described as a State balance sheet (Part A, page 9). The Auditor-General has made it extremely clear that it is high time this State had a balance sheet just like any company would be required to provide. The Auditor-General states:

> As is indicated in my analysis of the public finances as the program of assets sales accelerates, I believe the absence of a balance sheet prevents users of public sector financial information from observing the changes in the State's overall financial position.

The Auditor-General went on to note that Treasury had advised him that there would be no balance sheet until the appropriate accounting standard became effective. The Auditor-General gave that argument short shrift. He states:

> I regard this as an unduly conservative approach and a backward step compared with earlier approaches. In my view, the approach to defer publication of available data until the relevant accounting standards are finally in place prevents relevant information being made available to Parliament.

I repeat: that prevents relevant information being made available to Parliament, which should have the responsibility of public scrutiny. Because the Auditor-General found it difficult to obtain the information necessary for his audit from Treasury, it sounds as if Treasury was an obstacle to the auditor's process, rather than an assistance. The Auditor-General said on Part A, page 11 that he had made:

> . . . numerous very specific requests for information to supplement that available in the budget papers. That information was analysed and follow-up correspondence and discussions—often quite prolonged—were needed to gain further necessary clarification.

It sounds very much like the deliberate blocking of parliamentary and public scrutiny. The Treasurer must take much of the responsibility for this, although the theme of Government by secrecy is one that applies to many facets of the current regime. In some cases, the Auditor-General was able to catch out the Government. A classic example was a set of graphs in Budget Paper 1. They were so obviously misleading that, after repeated requests for verifying information from Treasury, the admission was eventually made that the graphs were not in fact correct.

The Auditor-General had to make at least half a dozen requests for more detailed and verifying information to cover the truth about the graph which the Treasurer had presented. The Auditor-General was absolutely blunt about it, saying:

> The initial derivation of the graph was not based on verifiable data.

The Government should be ashamed to have that statement made about its Treasury. Apparently at one point Treasury officials said that they had lost the work sheets upon which the graph had allegedly been based. It was not a matter of lost work sheets: it was a matter of the graph being drawn up out of thin air as a marketing exercise purportedly to show how much faster expenditure was falling under the Brown Government compared with the previous Labor Government.

Not only did the fictional, deceitful graph fail to take account of increased expenditure worth at least $130 million in the current financial year but also the author of the graph had the audacity to include savings which were already locked in as a result of the Labor Government's Meeting the Challenge policy. Once again, to make it quite clear, I quote the Auditor-General to demonstrate just how blunt he was about this particular item:

> The effect of the material published was to convey an incorrect view of the matter it represented, that is, the actual relationship between the alternatives.

The Auditor-General was referring to the alternatives between the Government's policies and the Meeting the Challenge policy of the previous Labor Government. So, the Government has just made up this graph out of thin air.

The Hon. T.G. Roberts: It made it up as it went along.

The Hon. CAROLYN PICKLES: That is what they usually do. Another example was found in the 1995-96 financial statement prepared by the Government as part of the budget papers. At one point the financial statement declared:

> Current outlays are set to decline by 2.6 per cent in real terms in 1995-96.

The Auditor-General obtained further information from the Department of Treasury and Finance which positively showed that this is not an accurate statement. So another lie! It is not just a matter of a Government which refuses to disclose information: this is a Government which actively sets out to deceive in order to make itself look better than it is. It is happening with misinterpretation of technical economic data; it is happening in many of the instances where bold claims about economic growth and expenditure cutting are made; and it is happening in all sorts of areas where the Government is pumping out propaganda based on sophisticated polling, all done at taxpayers' expense.

I refer to the Government's anti-protest campaigns in relation to water management privatisation, basic skills testing and the Southern Expressway issue. Another example is in respect of the financial recording of net interest costs. Without going through the technical details of what was done, it is clear that Treasury officials, presumably at the direction or with the knowledge of the Treasurer switched the sum of $762 million from one budget line to another. There might have been nothing wrong with that if it was done above board, but the transaction took place subsequent to the Estimates Committees hearing for 1995-96 but before the Budget was passed.

In other words, when we passed the budget in the form of the Appropriation Bill the Opposition could not possibly have had the true and accurate picture in relation to this item of $762 million. The Opposition and the people of South Australia were misled. The Auditor-General himself stated:

> That the mechanism utilised created, in my opinion, a flexibility in the appropriation process that was unintended and was not in the spirit of previous practices and existing legislation.

The Auditor-General's language is very kind: I just call it shonky accounting. Of course, there are many areas where the Auditor-General simply could not get the information he desired. The most significant items are in respect of privatisation contracts. Probably the most important and controversial proposed contracts being discussed at present are in relation to water management privatisation. The

Government has chosen to keep the Opposition and the community in the dark about what exactly will be handed over to private sector interests and at what cost.

The Auditor-General has called for parliamentary scrutiny of all significant asset sales. Specific concerns were raised about the process by which the Pipelines Authority was sold off. The Auditor-General went into some detail in relation to the pipelines sale, using it as an example of the totally inadequate public process that this Government wants to maintain in respect of major asset sales. It is worth quoting the Auditor-General at length from page 35 (Part A) in relation to this vital issue. Under the heading 'Contracts with the Public Sector', the Auditor-General states:

> It is in this area that there is a need to urgently review the adequacy of existing accountability arrangements, particularly with regard to the level of information to be provided to Parliament about general policies, guidelines, criteria and specific transactions.
>
> That Parliament is aware of inadequacies in this respect was reflected in amendments contained in the Pipelines Authority (Sale of Pipelines) Amendment Act 1995, assented to on 11 May 1995 and operative from 1 June 1995. Those amendments in substance provided that the Treasurer will, before executing a contract to sell the pipelines in question, 'brief' the Industries Development Committee and require the Treasurer to keep the Auditor-General fully informed about the progress and outcomes of negotiations for the sale of the pipelines.
>
> Without reflecting on the sale of the pipeline specifically, Parliament's intention in this instance was limited by the following: the briefing given to the Industries Development Committee was at the final stage of the sale process, reflecting the fact that legislation providing for the briefing process was assented to in May 1995. The sale was executed on 30 June 1995. Confidentiality requirements in section 34 of the Pipelines Authority Act 1967 meant that, if any useful information were gained by the Industries Development Committee, it could not be used by it without the Treasurer's approval. There was no 'before the event' procedure that provided Parliament, or a committee of Parliament, with the mechanism to enable timely review of the appropriateness of the terms of the proposed sale arrangements.
>
> Recognising that other sales of this significance may occur, it is important that matters such as the preceding be addressed as a matter of priority. It is a matter for the Parliament to decide whether, and, if so, how, this may be done. Of course, I would be available to assist any committee of the Parliament in examination of this matter.

I hope that someone takes up the Auditor-General's offer. He goes on to say:

> A possibility for more effective accountability could be undertaken by building and improving upon the precedence already existing in the Industries Development Act 1941 and the Parliamentary Committees Act 1991 to require that certain contracts. . . not be entered into without some appropriate form of parliamentary consideration.

From personal experience, I am aware, as I was a member and Chairperson of the Industries Development Committee, that the committee is nowhere near as effective in these times as it was under previous Governments, both Liberal and Labor. The role of the committee has been most valuable to the Parliament, and I note that the Hon. Paul Holloway was also a member of the committee for a period. The Hon. Legh Davis was also a member of the committee. The committee has worked in a bipartisan way since 1941, and it is a great shame that it no longer has the significant role that it once had.

Major criticism is made of the Government's approach to outsourcing information technology services. The potentially disastrous EDS deal is criticised for three basic, fundamental shortcomings:

1. Failure to identify and value the Government assets involved in the deal.

2. Failure to detail present Government costs of service provision.

3. Failure to adequately assess areas where a private contractor would be more likely to reduce costs.

The EDS deal has been shown to be a political gamble—not grounded in reality.

Another major example where outsourcing problems exist relates to the Electricity Trust of South Australia (page 218-230, Part B, of the Auditor-General's Report). The Auditor-General makes it clear that ETSA management is currently unable adequately to supervise the range of external contracts entered into by ETSA to perform community service obligations. The Auditor-General referred to significant control weaknesses. He also concurred with an external consultancy review of ETSA's financial management and control systems, and said that the findings of both reviews had implications for the economy, efficiency and effectiveness with which ETSA administered its external contracts.

Before turning specifically to the Auditor-General's comments in the education area, there is one more serious point which must be addressed in general terms, and that is the issue of the rule of law. The Auditor-General was most concerned that the due process for financial dealings was disregarded in various cases by bureaucrats and even by Government Ministers. I am sure that the Attorney-General would have been particularly concerned when he read the Auditor-General's chapter which stressed the importance of the rule of law being obeyed by the Executive and the public servants who work under the direction of various Ministers. Members will be aware that the rule of law refers simply to one of the foundation stones of every civilised society vital to democracy: the fundamental principle that the Parliament is paramount in our political system. Once Parliament has set out rules for the administration of government, those rules must be followed by everyone, with no exceptions.

Regrettably, the Auditor-General has uncovered examples of a failure to comply with the standards of accountability set out by this very Parliament. Three serious types of breaches have been recognised: first, Ministers failing to understand the limits on their authority; secondly, statutory agencies acting outside the scope of what they are lawfully permitted to do; and, thirdly, at least one Minister failing to comply with statutory obligations upon him with regard to the disbursement of funds. It is disturbing enough to read about the breaches of statutory obligations revealed by the Auditor-General; it is even more disturbing to think of the breaches that the Auditor-General has not yet managed to discover. I am sure far more breaches have occurred, and hopefully he will discover them.

I now refer to areas within the Attorney-General's Department. While I am on this subject of matters of particular concern to the Attorney-General, I note that the Auditor-General has specifically raised concerns about the use of corporate credit cards, particularly regarding the absence of documentation to support expenditure related to travel, accommodation, and entertainment or hospitality.

The Hon. K.T. Griffin: That goes back to previous Governments.

The Hon. CAROLYN PICKLES: Well, I will note this. In some divisions of the Attorney-General's Department the same sort of problem has been identified in the previous year's Auditor-General's Report, and it seems that nothing has been done to correct the situation in those divisions of the department. The Auditor-General has been advised that strong action has been taken which will minimise any future

problems in this regard. Therefore, my first question to the Attorney-General is: will he advise this Chamber whether he has personally intervened to ensure that this problem will not recur in any significant sense and, if not, why not? In any case, is the Attorney satisfied with the action which has been taken to minimise any further problems?

My second question for the Attorney-General is: from the graph appearing on page 57 of Part B of the Auditor-General's Report it appears that criminal injury compensation pay-outs increased in the last financial year compared with previous years, yet the number of compensation claims made had decreased. The table makes clear that the average payment per claim per annum had increased, continuing a trend of moderate increases in average payments per claim each year of the last five years. The question is: why do total compensation payments appear to be increasing, despite Government legislation which drastically reduced statutory entitlements for victims of crime last year? Perhaps this was the Government's intention. There might have been a peak in terms of monthly figures: there may now be a downward tend in terms of monthly pay-outs. The Opposition will be interested to hear from the Attorney on this point.

The Attorney may also be able to tell the House why the justice information system has been transferred to the Department for Correctional Services while that agency is opposed to any of the other participating agencies.

I now refer to the area of education, the department of the Minister for Education and Children's Services. I will raise a number of specific concerns. The Auditor-General on page 186 of Part B uncovered various examples of non-compliance with proper procedures in relation to the use of corporate credit cards—it seems like an epidemic. He specifically says:

- transactions were in excess of the transaction limit;
- documentation supporting purchases was not retained or not forwarded to the Local Credit Card Administrator;
- details of purchases were not indicated on the sales vouchers;
- sales vouchers had not been signed by the card holder.
- travelling claims had not been checked for compliance with Commissioner's Determination 9;
- excess expenditure on accommodation had not been authorised;
- substantial telephone expenditure had not been subsequently authorised;

It also revealed that transactions normally requiring additional supporting evidence were not checked to ensure that the transactions were legitimate. The department's response was:

> All staff are to be reminded of the need to comply strictly with the departmental guidelines and the consequences of non-compliance. A workshop will be held for key staff to reinforce the major elements of the guidelines.

My questions to the Minister for Education and Children's Services are: is he satisfied with the department's response in respect of credit card use? Has any disciplinary action been taken against the officers who had failed to carry out proper procedures in respect of credit card use?

Last year the Education Department received $3.3 million from the sale of land, a shortfall of $14.7 million against the budget. The Auditor-General reported that as a result of this shortfall elements of the capital works program could not be undertaken. The Auditor-General also pointed out that last year the education capital program of $90.2 million was underspent by $27.8 million. My question to the Minister for Education and Children's Services is: what is the new policy of tying funds for the construction of new schools to the sale of existing schools, and why were projects cancelled or delayed because sales have not met targets, when the sales shortfall was $14 million and the budget was underspent by $27 million?

The Auditor-General says that the lack of management control of major projects involving shared facilities has resulted in non-government agencies not paying capital contributions, recurrent costs not being recovered and a lack of direction to the parties involved in managing the relevant financial provisions. My question to the Minister for Education and Children's Services is: how much has the Department for Education and Children's Services failed to collect from non-government agencies sharing facilities with his department?

The Auditor-General on page 186 of Part B of the report refers to weaknesses in procedures and internal controls with respect to accounts payable, salaries and wages, fee relief for family day care and workers compensation. My question to the Minister is: are deficiencies in internal financial controls in the Department for Education and Children's Services a direct result of cutting staff numbers, and what action has the Minister taken to address this particular problem?

In summary, the Auditor-General has exposed the hypocrisy, arrogance and essentially secretive practices of the Government. I have been able to highlight only the key issues and I have left a few questions for the Attorney and the Minister for Education and Children's Services to answer.

The Auditor-General has also had to comment on the very fact that his report is no longer available to the Opposition and to the Parliament in time for the Estimates Committee hearings which must now be conducted in June to fit in with the new budget timetable. In the past, the availability of the Auditor-General's comments have been a valuable tool for the Opposition of the day to question Ministers about points of concern within their portfolios. The inability to do this represents a serious deficiency in the accountability of this Government.

I look forward to hearing responses from the Ministers to whom I have put questions, and they have indicated that they will attempt to give a reply as soon as possible. However, I believe that the Auditor-General's Report has shown serious deficiencies in the accountability of this Government and has highlighted its very secretive practices. The public of South Australia should expect that Parliament is the place for accountability and, if next year, when we finally get the Auditor-General's Report, we read the same comments, this Government should be exposed for the secret and essentially devious way in which it conducts its accountability.

The Hon. T.G. ROBERTS: I rise to take the opportunity presented by the Government to make a comment on the Auditor-General's Report. I know that many of my colleagues will raise a number of issues concerning the detail in the report, as the Leader has in relation to the misgivings that the Auditor-General has raised. I should like to reflect a little on the difficulties faced by the Government in the reporting process and the criticisms that the Auditor-General has made of that. I shall also highlight how we got to that position without public consultation and without the Opposition being able to scrutinise in Parliament the financial dealings within this State.

In a very widely read and much respected paper, the *City Messenger*, Alex Kennedy puts her finger on what she thinks is part of the problem in South Australia. She has headed her article 'How not to run a State'. Within that article she makes a lot of assessments about how she sees the difficulties that the Government faces in relation to its portfolios, because it

has bitten off far more than it can chew in relation to restructuring the economy and the way in which it is restructuring debt.

The Hon. Anne Levy: She is a Liberal.

The Hon. R.R. Roberts: She gets a lot of inside information.

The Hon. T.G. ROBERTS: Alex Kennedy casts a very critical eye over the operation of the Liberal Party and she has historically been seen as a fairly accurate political analyst of the internal workings of the Liberal Party. When members opposite were still in Opposition, they were very critical of the Labor Party's formula for expunging the debt that arose from the difficulties experienced by the State Bank. However, not once did I hear put forward a proposition that included a radical solution such as the one that the South Australian State Liberal Party has picked up to tackle the debt. The Western Australians were not game to do it and even the Kennett Government has not gone as far as the South Australian Government has with respect to its privatisation and outsourcing program. The New South Wales Government of Nick Greiner did not do it, and nor have the Tasmanian Liberals. Even John Howard is not advocating the radical conservative solution that is being applied in this State.

When one compares the proposals that have been put in place and the criticisms that the Auditor-General has made, one can see major change, not just in how the Government is managing public sector operations and the interaction between the public and private sectors in an attempt to make the State's economy work but also in a package of radical reforms that have changed the nature of the democratic reporting process to Parliament. The Auditor-General has commented about the inadequacy of the parliamentary process and the timing of the tabling of the Budget Estimates and the introduction of the Budget itself and how that affects the ability of parliamentary committees to make their assessments.

As I have stated in this place on other occasions, I argue that the relationship on which the Westminster system is based has been altered by a very radical plan. That plan was put forward by a small number of people inside the Liberal Party at the time it achieved government to try to curry favour with large capital monoliths that operate both internationally and nationally at the expense of local capital. Because of the difficulty in completing these transactions, very few of them have actually been completed in the two years that the Government has been in power. A lot of their supporters will be put off because national and local capital will be swamped by the international capital that will come forward to take advantage of the investment packages that have been offered. Small, local capital will not be able to raise the finance for some of the leasing, privatisation, outsourcing and sale arrangements that have been mooted by the small, elite group that is operating within the Liberal Party, which seeks to change public ownership to private ownership. Let me quote from Alex Kennedy's article as follows:

> The State Government is simultaneously juggling too many crisis balls in the air. This equates to too many different interests in the community considering the Government to be currently on the nose. It's reflected in the sharp drop in the Government's popularity in the latest Morgan poll. Yet instead of doing something about it, the Ministers instead are just adding more balls. It's beyond political comprehension; more from the book *How not to run a State*! So, as the weeks pass, problems and potential conflicts continue to pile up for the Brown team. It's not how it should be, it's not the way it's supposed to be when a Government heads into its last full year without an election. It's impossible to find any strategy behind how the Government is conducting itself. It defied credibility, too, that Brown strolled into the latest session of Parliament with the same damaged team behind him. He needs strength behind him, not weakness, stupidity and intransigence, which is the mix he has from his non-performing Ministers.

That assessment is a little harsh of the Ministers in the Cabinet because they have an impossible task. Indeed, they have set themselves an impossible task. South Australia is a small State in a fairly large nation in relation to GDP, and what this State has done is set itself up as some sort of trendsetter as to how a State should conduct its affairs and manage a public and private sector mix within a nation that has traditionally had a good cooperative relationship between small capital, national capital, international capital and governments. That relationship has been broken. Local capital has now been swamped and there has been a transfer of the public's assets at sale prices. As a result, there is a lot of uncertainty and a lot of public scrutiny is being bypassed.

In the last four weeks there has been at least one, if not two, organisational group on the steps of Parliament House complaining about the changes to the nature of the State in relation to how goods and services are distributed and without any contact at all with the parliamentary process. The criticisms that Alex Kennedy had of individual members is a little bit tough. The criticisms should be directed to the small team that has developed the philosophical position in relation to managing the affairs of this State to which Ministers have to adhere.

Other problems that Alex Kennedy spelt out in her articles are the happenings and lack of happenings from the Brown team that now have many staunch Liberal supporters perplexed, particularly in the business community. A lot is happening that does not reach or gets scant attention from the media: for example, the string of industry redundancy on a weekly basis and the closure of the Bi-Lo head office and its move to Melbourne. A number of people in this Chamber probably did not know the Bi-Lo head office had gone to Melbourne.

An honourable member interjecting:

The Hon. T.G. ROBERTS: I did not read it in the *Advertiser*. At the same time, anxiety about Galaxy increases. We got onto the auction block to get Galaxy pay television to South Australia. Negotiations have occurred to attract other international big-time players in the communications field. We are on the auction block with New South Wales which has obvious advantages of scale that would suit those large organisations. South Australia has been set up—and I do not argue with the theory of it—as a high tech communication State, but if we cannot attract these players through natural advantages I cannot see how a philosophical mix of economic rationalists can stand by and say that on this occasion we do not have free enterprise and free market forces operating where large organisational structures are attracted to the State through the natural advantages that we have to offer.

We have to offer taxpayer incentives to large global organisations that may last less than six months. Galaxy is being discussed as a key for takeover in the new pay TV wars between Packer and Murdoch. Galaxy is only a small player. The information I have is that Galaxy is virtually a company canvassing organisation rather than having any substance that will provide long term opportunities for jobs and spin off. The problem that that presents to auditors, to Ministers and to Government generally is: how do you offer incentives so that the parliamentary process cannot scrutinise them too closely, and we do not want the public to know too much about incentives being offered, because they would find out

how much those jobs are costing each individual taxpayer to attract those businesses into this State?

So what we have is an auditing system, or a system of reporting, that covers the initial incentives that are being offered to these companies to settle here in South Australia. The auditor then has trouble in being able to get a clear position in relation to some of these transactions, because there is no parliamentary process to scrutinise these incentives or offers that are being made on the auction block between the other States because financial and commercial confidentiality are used as screens to prevent any parliamentary process from looking at what the offers are. We hear the Premier saying that, if the figures were made available to everyone, the other States would get a clear indication of what is going on in relation to the incentives that we are providing. We get a fudging of the public information and we also get a fudging of the accountability.

As to some of the remarks that the Auditor-General made, as a backbencher in the Government, before the Auditor-General's Report came out I used to be a reasonably nervous backbencher, because the Auditor-General's Report, to me, represented how Executive Government was actually performing. As a backbencher you are not too close to the Executive arm of Government and one of the ways you have of knowing how the Executive is performing is by reading the Auditor-General's Report. When the Auditor-General's Report came out I used to scrutinise it as closely as I could, not being a trained accountant. I used to read it quite closely and certainly look for the highlighted criticisms that the Auditor-General might be making, but in the eight years I was in Government I certainly was not ashamed of any of the auditor's reports that came out in the time I was a backbencher within the Labor Government.

Lo and behold in the second year of this Government's term, we have an Auditor-General's Report in relation to which you can flick through nearly every page of both Part A and Part B and the audit overview and there is not just one criticism but there are, in some cases, whole pages of criticisms about how this Government is actually managing the sale and management of the public sector. The concerns that the Auditor-General have are the same concerns that the Opposition has had for the past two years. Now they all become the concerns of the public because the public will find out. If the *Advertiser* is not interested in printing it, and if the financial experts in the media are not interested in printing it, I am sure that we as individual members will be out there on the hustings telling people exactly what the Auditor-General is saying.

As I said before, we have police certainly interested in a lot of activities of the Government that are occurring at the moment, because they are interested in their share of the spoils within this State as their wages have been frozen and have not moved for some considerable time. Nurses are now starting to analyse the wastage going on in relation to the mismanagement of our Government assets and sales and the consultancies that have been brought in. The firefighters have joined the queue of dissatisfied people in this State and they have a right to be dissatisfied and they are starting to analyse what the Government's performance is in relation to their share of the declared cake within the budget.

We have more and more people in this State struggling to come to terms with the lack of information from the Government in relation to its activities. It has taken two years for people to start to overcome the propaganda that has been put out in the local press about some of the mirages that keep being announced and reannounced as forming the basis for the new economic growth in this State. I would like a dollar for every time the *Advertiser* has announced the benefits that are going to come from the EDS project or the benefits that will come from the attraction of communication industries into this State. If you accumulated the number of jobs that have been declared on page one and page three of the *Advertiser* in the last two years in relation to the potential for growth of a lot of industries in this State, it would not surprise me if there was a net intake into this State in relation to numbers. Instead of that we have a net outflow.

If one has a look one can see that 12 months ago we had a situation where predictions were being made that there would be a drain of skills and a drain of people out of this State into other States because we were not only dismantling and slowing down the private sector but we were also slowing down the public sector. There was no indication that the transfer or the distribution of wealth away from the public sector into the private sector was going to bring about any growth. The arguments that traditional economists put up generally is that, if the public sector withdraws its investment programs out of the public arena and allows the private sector to put its packages together, it makes money cheaper and therefore allows the economy to grow. We pulled the plug on both. The Government has not been able to attract private sector investment and we are dismantling our public sector and turning it over to international operators to lease and buy. I just cannot see the benefits in that.

So, what the Government then has to do is fudge the figures. It has to make up the stories to convince the people that what it is doing is the way to proceed. Of course, the Opposition cannot stampede people too much in relation to how badly a Government is doing, otherwise the net effect of that is you will not just have a loss of 2 000 people but a loss of 20 000 people, so the Opposition has a tough role to play. We cannot be too critical, but we cannot be too kind not to expose the hypocrisy and the mistakes the Government is making.

The Government makes our job easy, and the Auditor-General has certainly given us enough material to confirm our worst fears. That is, a small number of people in the bureaucracy have been given the job of selling off major assets, setting up lease-back, contracting and lease management arrangements that in the main have not been able to cut the mustard with the international negotiators who have made it so hard for them. We in South Australia were going to be the leaders. Here we are lining up against the hardest negotiating nuts one could find anywhere in Britain and France. Do you think they will be easy pushovers? EDS, the Americans: do you think they will be easy pushovers in relation to how we will pull the best deal out of those negotiations?

I can tell you that those bureaucrats in our departments have been given mission impossible and the Ministers have been given mission impossible to sit down with those negotiators to pull out any sorts of deals or arrangements whereby the State taxpayers will come away as the beneficiaries of those arrangements. The beneficiaries will be those international capital organisations experienced in dealing with, in the main, third world countries in negotiating the sale and transfer of their assets. Here we are dealing with an advanced capitalist country with a very solid Government infrastructure and we are at their mercy. They are now starting to pull the strings in relation to how those deals are to be struck. With a desperate Government trying to get results on the board, concessions are already being made. The

headlines are already screaming the numbers of jobs that will come with the transfer, sale and leaseback arrangements.

So, the situation is that the Auditor-General has blown the whistle. The comic book style of presentation that Mr Brown has tried to get away with has been uncovered, and the laid back style which the Premier finds easy to present (because he is fairly laid back as an individual), so that people are not panicked into believing we are selling ourself into bankruptcy, is starting to be uncovered. It is the hard-nosed people who are starting to do that. We have to be thankful to the Auditor-General for blowing the whistle on a number of aspects in which departments are handling their portfolios in relation to the transfer of public assets which have taken generations to build up but which are now being turned over to the private sector at sale prices.

The introduction and summary on page 9 sums up many of the aspects of the criticisms of the Auditor-General. He says:

My examination of the State's finances has indicated that to effectively perform such analysis requires additional information and improvement to existing information. Weaknesses include:

- for the non-commercial sector, certain inconsistencies in the presentation of some data, inhibiting adequate comparisons between the 1994-95 and 1995-96 data with the immediately preceding period;
- absence of detailed explanation and analysis of the effects on the revenue and outlay date of some abnormal items and other large one-off or 'lumpy' items;
- an absence of adequate aggregate data on the commercial sector and on relationships between the two sectors;
- insufficient explanation of the effects of major changes in superannuation funding arrangements for comparisons between years and the effects on the State's overall financial position;
- inadequate data and analysis showing the annual budgetary effects—positive, negative, or in most cases a mixture of both—of major transactions between the State public sector and the private sector (of which the sale of government businesses is one important example but not the only one), examples being the effects on net interest payments (savings), revenues (costs) and the overall financial position;
- the omission, in the 1994-95 and 1995-96 Budgets, of data which had previously been published showing, in indicative and aggregated terms, a balance sheet (ie statement of financial position) for the South Australian public sector as a whole.

All these points (and others made later in this section) are important, but the last of them warrant special comment here.

The criticisms are then elaborated on by the Auditor-General. On page 12, he goes on to speak about accountability:

So far as financial matters are concerned, it is my opinion that the matters of accountability considered in the section entitled 'Financial Accountability in the South Australian Public Sector' are the most important issues facing the Parliament at this time.

That is one of the issues I raised in my introduction. He continues:

In the discussion of the issues in that section, some specific suggestions are put forward for consideration by Parliament.
Legislation in this State designed to help achieve financial accountability can be regarded as being of two kinds:

(a) that designed to facilitate *'after the event'* checking of financial records, procedures and decision-making;
(b) that designed to ensure that certain kinds of transactions *do not take place* until Parliament or an instrument of Parliament, has had a chance to scrutinise and make decisions about, such transactions—ie *'before the event'* processes.

It is before the event and after the event analysis, so taxpayers can find out whether they are getting value for money, if indeed any of these privatisation, outsourcing, sale and lease management arrangements are working. The mistake that the Government has made is that, if it had come in and used the previous Government's position in relation to debt expunging, it may have had a guarantee of a second shot. Again, it has made it very easy for us. The huge turnaround in the polls that is starting to take place now is all due to the fact that after two years people out there are starting to understand. The program that the Government has put forward without any deliberative discussion or debate in the Parliament is starting to look as if it is falling over, and the Government's inability to set it in concrete is becoming clearer every day.

The Government has to do one of two things. It either has to give people out there the confidence that all these projects it has taken on board can be brought to fruition and it can be shown that the taxpayers of this State are getting value for money as their assets are being sold and leased, or it has to keep doing what Premier Brown wants to keep doing, and that is to give the impression that everything is okay at the office and trust him: he will get it all done and give him another term to consolidate it. Unfortunately, for us in Opposition, the benefits of some of these arrangements that are being papered together at the moment certainly will not be flowing quickly because they have to be sold to the public on the basis that these public sector assets will mean to people either less taxation or some sort of concessions in relation to the public services that have been privatised or leased out.

So, in the financial years in the lead-up to the next election the sweeteners will be built into the contracting process and the programs the Government puts forward will be softened by the fact there may be cheap water at the end of the day in relation to the contracting services program. I cannot say there may be better health programs, because the lines are already increasing, but there may be cheaper service provisions in relation to asset sales, but after the honeymoon period is over, which is probably the game plan of the Government in the first year after the second term, I am sure that some of these sweeteners that were put into the negotiations will be taken away.

So, again, the Auditor-General will have to look closely at some of these contracts to make sure that it is not just a commercial confidentiality clause that needs protecting from public scrutiny but a political confidentiality clause may also be put in; the true financial position may not be known because of some of the political sweeteners that will be included in the contracting process. I will leave it to my colleagues to give verbatim detail of the Auditor-General's specific criticisms in the general report. I will now concentrate a little more closely on the two portfolio areas that I was managing in the last financial year and put some questions on notice.

In relation to correctional services, I must admit that I am a little confused. The Minister has indicated that there is a net saving in relation to the cost per prisoner in the figures that have been put forward publicly. He indicated to the public that he had been able to restructure the prison system and bring down the annual cost per prisoner. In the Estimates Committee in June this year the Minister claimed that the cost per prisoner had been reduced by 27 per cent from more than $52 000 per annum under the previous Labor Government to $38 000 per prisoner per annum under his Government, with the expectation that by the end of the next financial year the cost of keeping a prisoner in prison would drop to $35 000—a 33 per cent reduction.

Mr Matthew repeated these figures in his ministerial statement to the House of Assembly on 18 July this year, stating that, as at June 30 1995, the cost in South Australia had been reduced to $38 000 per prisoner. This is a reduction of $14 000 per prisoner or 27 per cent in real terms. However,

on page 143 of the report of the Auditor-General for the year ended 30 June 1995, the figures are entirely different. The Auditor-General states that the cost per prisoner has been reduced by $6 000 to $52 000 per annum. So, I ask who is right; the Auditor-General or the Minister? I put on notice my request that the Government explain these figures. Exactly how much does it cost the taxpayer of South Australia to keep a person in prison? Does it cost $38 000 per year, as stated by the Minister on two separate occasions, or does it cost $52 000 per annum, as stated by the Auditor-General?

The Hon. P. Holloway: I think I'd believe the Auditor-General.

The Hon. T.G. ROBERTS: I think so. I would argue that it is not just the costs per prisoner that are important in terms of measuring the effectiveness of a public sector organisation such as correctional services but it is also the results that you get at the end of the day when you allocate your budget and the results that you would hope to get in spending that money. What we are heading for in South Australia is a totally chaotic situation, where the cost savings that the prison system has been able to put together have come from a reduction in prison officers. I have been reliably informed that many of the prison officers have now been taken out of observation roles because of the cuts to the number of prison officers in particular prisons, and we now have an increase in self mutilations, suicides and internal violence. That is being spelt out particularly in relation to deaths in custody of Aboriginal people. I will not put on record or ask any questions in relation to how the Minister would equate cuts to prison officer staff to the growth in self mutilations, bashings and suicides, but will leave that to an internal inquiry which I have requested, for specific things to be done. I understand that at the moment the Minister is inquiring into at least one matter. I would hope that the Minister would stop equating the cost per prisoner in the prison system to outcomes, as if finance were the only outcome that needs to be considered.

In relation to correctional services, I also find it difficult to come to terms with a decrease in the number of prison officers but an increase in the amount of overtime that is worked. What that tends to do (and I guess this is getting down to the nitty-gritty in relation to how outsourcing and cuts actually affect the delivery of services) is that, as soon as you put pressure on numbers within any public service or operation, you put pressure back onto those individuals to perform longer hours and/or reduce services. Whichever way it goes, the prison outcome is that we get reduced service for less cost. It is pretty obvious that if the Government is to cut costs in prison administration we will get worse outcomes. We will have more violence in prisons, with prisoner against prisoner and prisoner against prison officer. Again, that is where public risk will increase, as the prison officers are unable to maintain correct procedures for looking after prisoners, with therefore more trouble inside prisons and more break-outs. You do not have to be an Einstein to work that out. So, while the Minister's emphasis on cutting costs may be pleasing the Treasurer, the reports we are getting are certainly not pleasing the Opposition.

In relation to the environmental portfolio that I service, the Auditor-General makes some general commentary on financial controls and is critical of certain aspects of the way in which finances are handled in some of the departments. Perhaps the same criticism is not levelled against the Department of Environment and Natural Resources as against other departments, but I will refer to the commentary on general financial controls. Apparently, the audit for the year revealed instances where internal control practices and procedures either required improvement or were not applied consistently over the year. These instances were noted both at central office and the regional offices. There was a move in relation to decentralising some of the Department of Environment and Natural Resources offices into country areas, and I would support that. The criticisms were that the reporting process for those decentralised offices was not adequate and reference was made to:

> . . . appropriate audit/management trial for error correction and resubmission in respect of accounts payable transactions processed through the Treasury accounting system; appropriate authorisation of purchases in accordance with approved delegations of authority; reconciliation procedures in respect to the department's imprest account; procedures regarding the distribution of computer generated reports from central office to the relevant regional offices and appropriate evidence of information contained in computer generated reports.

So, there are some general criticisms within the overall findings.

The report also states that, in addition, there are departments administratively responsible for a number of funds that have been established pursuant to various Acts. These include the General Reserve Trust, Dog Control Statutory Fund, Wildlife Conservation Fund, Native Vegetation Fund, Coast Protection Fund and the State Heritage Fund. The Auditor-General comments that these funds are not included in the department's financial statement. I am not sure whether that is a general criticism or whether there is another way of reporting these financial activities to the Parliament. That is another question that I place on notice. Is the statement that the financial activities of the fund are not included in the financial statement of the department a general criticism that they have not been done as a matter of course, or is it that they appear in some other way in some other account?

We have those hefty criticisms of the Government's philosophical approach to the changed nature of how it is administering the State and the changes it requires of the parliamentary process to do it, and my view is that unless the Parliament itself sets up adequate monitoring processes, as the Auditor-General indicates, and, unless the Government takes the steps of bringing to Parliament for scrutiny these very large contracts that are being let, particularly the water contract, which I understand will run for 15 years at $1.3 billion, the people of South Australia will always have the feeling that there is something not quite right with the way in which this process works.

As I said previously, the administrative position that Westminster systems have traditionally taken relate to ministerial control over departmental structures and accountability back to the public through service provision, and that seems to have been effectively broken by the inclusion of consultants who now make the reports back to Ministers, in many cases bypassing departmental assessment and, therefore, bypassing parliamentary scrutiny. It is my view that if you dismantle your public sector to the point where it can no longer perform efficiently and effectively the public has no way of being able to monitor the progress, role and function of a particular department. If ministerial control is thereby weakened by that process, then democracy is the loser and so the people of South Australia will be the losers.

The Hon. P. HOLLOWAY: I believe that the Auditor-General has done a great service to this State in presenting his report to the Parliament. Whenever the Auditor-General

presents his report to the Parliament it is one of the highlights of the parliamentary year. This year, in particular, the report raises extremely profound issues, particularly those in Part A. If we were to sum up the essential point that the Auditor-General is making in his overview, it is that there has been unprecedented change in South Australia in our financial structures: the public sector is being reorganised by the Brown Government to an extent that is quite unprecedented in this State's history, and that is placing all our systems of accountability under great strain, and those mechanisms that we have in place for accountability are struggling to cope. We do need change. Fortunately, the Auditor-General does suggest some remedies. He points out exactly why our systems are under stress on page 148 of his report.

The Hon. Diana Laidlaw: It's got nothing to do with inherited debt, I suppose?

The Hon. P. HOLLOWAY: No, it has not, actually, because he says this:

> With any enterprise, whether in the public or private sector, an element of risk exists that objectives will not be achieved or that unintended consequences will arise from the enterprise's activities. This is particularly so in a public sector environment where change is constant; agencies are restructuring; general reductions in staffing are occurring; and where new technology and whole of government management and financial reporting systems are being developed and implemented. These circumstances increase the risks faced by public authorities but also provide an opportunity for change and a reassessment of internal control structures.

The Auditor-General really sets out there why our system is under so much strain. He points out that it is not just his job as one of the key figures in our parliamentary system to ensure accountability of our public sector. It is also the role of the Parliament that is so important. His conclusions at the end of this important Part A report are as follows:

> Although the Auditor-General is basic to the audit function, it is just as important to recognise that Parliament is no less important to the effective performance of the audit function. Responsible parliamentary government, in South Australia as elsewhere, depends on the vitality of the audit function. At the end of the day, that vitality requires a partnership between Parliament and the Auditor-General based on shared commitment to 'truth and accuracy in public expenditure'.

I emphasise 'truth and accuracy in public expenditure'. We can ask: does the Brown Government share that commitment to truth and accuracy in public expenditure? Unfortunately, in some cases at least there is evidence that it does not, and the examples that my colleagues gave earlier about the misuse of the debt reduction graphs, and so on, amply illustrate that point. But if Parliament is to have a part to play and if we are to take the Auditor-General's Report seriously, we have to implement changes quickly into how things are done in South Australia.

This is not just a problem that we face in South Australia: it is Australia-wide. In the *Australian* on 14 August the Leader of the National Party in Western Australia, Mr Cowan, made some interesting comments. The article states:

> He also called for an end to secrecy surrounding the sell-off of Government services. 'I am concerned that the privatisation and contracting out processes in this State have become so preoccupying that the basics of good government may be in danger of being overlooked,' he said. 'If this Government or indeed any Government is to be accountable, it must be willing to provide relevant information about the tendering process and each Government contract let.'

That is the Deputy Premier of Western Australia making those comments, so the problems that we face are not unique to this State. One can only hope that someone within the Brown Government will take the lead from Mr Cowan in Western Australia and provide some details on some of the important contracts that are being let in this State. Unfortunately, we just do not have that information. To illustrate that point, the Auditor-General at page 86 of his report, under the heading 'Parliamentary Scrutiny', states:

> The level of information provided to Parliament on the various arrangements between the Government and the private sector varies considerably. In the case of contracting out, the only information provided to Parliament has been as a result of ministerial statements and answers to Questions on Notice, together with material published by Government in the public arena.

That is all we have seen. Of course, this Government has relied, as I suppose past Governments have tended to rely, on the notion of commercial confidentiality, but we have all seen where that got us. What is different now is that there is so much more commercial confidentiality around; there are so many more contracts; there is so much more business done with the private sector; and it is almost overtaking most areas of government.

When the Opposition has tried under freedom of information legislation to obtain information we have not got far. We tried to get information about the Modbury Hospital contract and the subcontract in relation to Gribbles at that hospital. We did not succeed. In regard to the Garibaldi incident, the Opposition tried to get information. We were thwarted at first because the Government used the excuse that the matter had to go to the Coroner. However, when the Opposition appealed to the Ombudsman he ruled in our favour. Ultimately, we received some of the information in relation to the Garibaldi dispute. We now discover that it may not have been all of it. So, there is a problem in getting information from this Government.

The Auditor-General, having defined this problem extremely well, does at least provide some solutions. On page 88, under the heading 'Suggested Approaches', he refers to Western Australia. This is an approach recommended by the New South Wales Public Accounts Committee as a way of ensuring accountability of arrangements entered into between Government and the private sector. He says:

> The suggested approach is to establish a legal framework in which a 'summary' of all arrangements entered into that extend over more than one financial year and are over a specified minimum dollar value be required to be tabled in Parliament.

My first question on notice to the Government is: does it accept this recommendation from the Auditor-General? It is an extremely important recommendation, which has been adopted in New South Wales and so important that it should be applied here. The Auditor-General elaborates on that on page 89 of his report, where he says:

> Some of the more significant disclosures contained in that guideline include:

this is the one in New South Wales—

- the full identity of the private sector participant;
- the duration of the contract/arrangement;
- the identification of any assets transferred to the private sector firm by the public sector;
- the results of cost-benefit analyses;
- significant guarantees or undertakings, including loans and grants, entered into or agreed to be entered into, and any contingent liabilities.

The Auditor-General concludes that section by saying:

> It would be for Parliament to decide whether it wished the Auditor-General to 'vet' all summaries produced before tabling in Parliament.

In my opinion, I certainly hope that he would. Further, he says:

Obviously such an approach would have resource implications for my department.

The very obvious point that he makes is that accountability does not come cheaply, and if we are to have accountability it will become more expensive. Given all the private sector deals that this Government is entering into, it is inevitable that the cost to Government of scrutinising and chasing up these deals will be considerable. That is a challenge to this Government. Will this Government provide additional resources to the Auditor-General to ensure that all these additional contracts that it is entering into will be properly scrutinised because, if it does not, we may have a very serious situation where future deals cannot be properly looked at?

In relation to the general topic of contracting out, the Auditor-General, at the moment, is a key figure because, unless the Government adopts these recommendations to which I have referred, the only person outside of Executive Government who will see the contracts is the Auditor-General, and that places an enormous responsibility on him. At page 71, Part A, of his report, in a brief background review, the Auditor-General says:

Several of the Government contracting out arrangements that are being developed are high value and of a long-term nature. These matters will require constant monitoring to ensure that targeted cost benefits and stipulated standards of service provision are achieved.

Audit considers that effective monitoring arrangements would be the responsibility of agencies. Those arrangements would include the reporting of relevant information to Executive Government and Parliament. It is noted that Government contracting out guidelines promulgated in June 1995 recognise the potential for information relating to contracting out developments to be subject to scrutiny by Parliament.

Will the Government provide copies of these guidelines? I appreciate as a new member in this Chamber that they may have been issued previously. So, if they have been, that is well and good, but I certainly would appreciate a copy of those guidelines.

It involves not just those particular guidelines referred to on page 71. The Auditor-General points out that additional guidelines have been prepared by the Economic Development Authority. On page 72 the Auditor-General says:

The Economic Development Authority guidelines also envisage certain information not deemed unduly sensitive would normally be provided to Parliament. This would include:

- the contractor's identity;
- term of the contract;
- assets transferred;
- price payable by the public;
- provisions for renegotiation;
- results of cost benefit analyses;
- risk sharing arrangements;
- other key elements of the contractual arrangements.

It concludes:

Audit supports the principle of provision of contracting out information by Executive Government to Parliament and considers there is a need to explore procedures by which this could be achieved.

It is most important that the Brown Government should place on record whether it agrees with that suggestion. Will this Government explore procedures by which Parliament can receive better information in relation to contracts? The Government should remember that these comments all come in the chapter that the Auditor-General has said are the most important issues facing this Parliament at the present time.

In addition to the previous guidelines headed 'All about contracting out' which were promulgated from the Premier and Cabinet, will the Government also supply copies of these guidelines from the Economic Development Authority? They are titled 'Guidelines for the private sector on contracting out and competitive tendering'. They were also promulgated in June 1995. I believe we should have the opportunity to view those to assess whether they will do the job.

I now refer to the salaries of executives. It is a matter with which I had an amount to do when I was a member of the Economic and Finance Committee of the House of Assembly in 1993. I believe that we performed quite a service to this State—although it might not have been very politically rewarding it was certainly essential—when we tabled the executive salaries of all senior officers in this State and also all those of statutory authorities, including the State Bank. All that information was placed on the public record. On page 33 of his report the Auditor-General says:

. . . in the largest area of Government expenditure, namely, salaries and wages, there has been a system of awards uniform, at least in some respects, across agencies and, while there have been some variations in the remuneration 'packages' of Chief Executive Officers and other senior executives, such variations have generally been within quite a narrow band. This situation has changed and is changing dramatically.

I am sure all members in this Chamber would be aware of events in recent days concerning the former Chief Executive Officer of the South Australian Health Commission and of the Premier's Department, as well as of some of the information that has been provided on the public record about performance bonuses. The Auditor-General then goes on to say:

Similarly, Governments have always purchased goods and service by way of contracts with the private sector. . . such contracts have normally been in standard and well-known form. . . this situation has also changed dramatically, with quite new, non-standard and time-extended contracts being entered into or proposed to be entered into.

Again, a great deal of change is being imposed by this Government. What we need to ensure is that it is fully accountable. Does the Government accept the recommendation that is on page 35 of the Auditor-General's Report, namely, that:

It is my view that to enhance the accountability in this area information should be included in the annual reports of all public sector agencies summarising their remuneration policies generally.

If I recall correctly from the Economic and Finance Committee report on executive remuneration, that was a recommendation that was made at the time, and indeed that committee did place on the public record all such remuneration. It was very interesting in thumbing through the detail of this report that I noted under the Asset Management Task Force on page 46 of Part B, Vol 1, that there is one officer, obviously the Chief Executive Officer of the Asset Management Task Force, whose total remuneration is in the bracket $190 000 to $199 999. But the comment appears in the Auditor-General's Report that the board of the Asset Management Task Force is of the opinion that disclosure of the aggregate remuneration of the above officer is unnecessary. The board might think it unnecessary: I do not. Does the Government agree with the board of the Asset Management Task Force and does it intend to adopt the recommendation of the Auditor-General that all information should be included in annual reports?

On page 34 of Part A of the Auditor-General's Report, the Auditor-General also notes that 'there is, in my opinion, a need to re-examine the adequacy of the current legislative and administrative framework for financial accountability in the light of emerging events'. Does the Government accept that recommendation? Will it re-examine the adequacy of the

current legislative and administrative framework for financial accountability in the light of these changing events? Will it say who will undertake that action and when it will be completed?

The Auditor-General refers also to 'before the event' procedures, stating:

> There was no 'before the event' procedure that provided Parliament, or a committee of Parliament, with the mechanism to enable timely review of the appropriateness of the terms of the proposed sale arrangements.

That remark was made specifically in relation to the Pipelines Authority, but he also makes a more general point. The Auditor-General continues:

> Recognising that other sales of this significance may occur, I believe it is important that matters such as the preceding be addressed as a matter of priority.

Does the Government accept this recommendation and what steps will it put in place to ensure that Parliament or committees of Parliament are informed appropriately of any proposed sale of asset?

In relation to debt reconstruction, I should also like to make some comments from the Auditor-General's Report, and I refer particularly to page 28 of Part A, where the Auditor-General says:

> Material provided by the Department of Treasury and Finance has revealed that this is not an accurate statement.

That refers to a statement on the aggregate current outlays of the Government. He goes on to say:

> The figures quoted do not adjust for the 'impact of interest rate increases'. In fact, they exclude all interest payments, which is a very different concept.

The Auditor-General is critical of the distorted figures that the Government has used. He also notes on page 29:

> It will be seen that underlying outlays growth in the non-commercial sector has, on this analysis, increased by 9.3 per cent over two years.

Of course, the Government has claimed that it was significantly less. It is fudging the figures. I could say considerably more about Part A of the report but, because it has already been canvassed and, given the lateness of the hour, I shall move on to the Transport portfolio. Of particular interest is TransAdelaide because the Auditor-General has been particularly harsh with that agency. If the Auditor-General were giving marks out of 10, TransAdelaide would score below 5. The Auditor-General's findings and comments in relation to TransAdelaide are as follows:

> The overall assessment of TransAdelaide's general financial control structure in 1994-95 is that there is still room for significant improvement. TransAdelaide, in its response to the 1993-94 audit findings, indicated that action would be taken to address the issues raised. However, in the majority of cases, little improvement in the level of internal control has been realised and the corrective action which was included in management's response remains to be taken.

I shall go through seven areas to illustrate this general finding that, basically, TransAdelaide has not done what it was supposed to do and, therefore, the Minister has failed to ensure that it has been done.

The first area is computer information systems.In 1993-94, a review was conducted of the computer information systems. In his report, the Auditor-General states:

> In 1994-95, a follow-up review was undertaken to ascertain the current position with regard to the previously raised concerns. The results of the review indicated that the Information Systems Department had suffered the loss of considerable numbers of experienced staff during the year and that activities such as development of new systems was significantly curtailed. In addition, there had been uncertainty about the future direction of operations as a result of the Government's outsourcing policy and also significant additional pressure as a result of TransAdelaide's submission of tenders for bus routes. As a result of these factors, little progress has been achieved in addressing the areas of concern raised by audit in 1993-94.

I ask the Minister for Transport why so little progress has been made and what she will do about it.

The second area concerns accounts payable. The report states:

> The audit identified that there was room for improvement regarding the segregation of duties, the timeliness of payments and also control over cheque stationery. All of these issues were raised with TransAdelaide as a result of the 1993-94 audit. The action proposed by TransAdelaide did not occur.

The Minister failed to ensure that it was done. Why did that happen and what is she going to do about it? Will she guarantee that, by this time next year when the Auditor-General presents his report, that will be done?

Another item concerns the supply function, and the Auditor-General states:

> The issue of performance of regular stocktakes has been raised with TransAdelaide over a number of years. In 1993-94, TransAdelaide indicated that it would establish a plan to conduct regular cyclic stocktakes at all locations. However, this plan was not established and regular stocktakes at all locations were not performed.

My question to the Minister again is why and what does she plan to do about it?

The next area raised by the Auditor-General concerns fixed assets, and the report states:

> For a number of years, audit has raised accounting policy issues relating to the assessment of the estimated useful life of assets and the residual value of assets. TransAdelaide indicated that these issues would be addressed in conjunction with a new fixed asset system and the transfer of assets to other agencies. At the time of audit (May 1995) a draft instruction with regard to the accounting policy issues had been completed. However, a review of this draft indicated that it did not satisfactorily address the issues of audit concern.

Again, it can be seen that what was identified in previous audits has not been done. Why is that the case and what will be done about it?

I turn now to accounts receivable, and quote the Auditor-General's remarks as follows:

> As a result of the 1993-94 audit, there were a number of areas where it was considered that improvements in control could be achieved. The main areas related to the appropriateness of the level of staff access to the account receivable system, the prompt reconciliation of that system to the General Ledger, and the prompt follow-up of outstanding debtors. TransAdelaide indicated that action would be taken to address all of the issues.

Once again we see the comment that has come up over and over again in the TransAdelaide report, as follows:

> However, the results of the 1994-95 audit indicated that appropriate action had not occurred and the issues were again referred to TransAdelaide.

The sixth reference is to cash receipting, about which the Auditor-General comments:

> Audit review indicated that there were a number of areas relating to the collection of this revenue [from tickets] where controls could be improved. The main areas related to the prompt follow up of outstanding bus operator cassettes which record the value of tickets issued on board and the prompt follow up of operator cash discrepancies. In addition, there was a lack of control over cancelled receipts and also over the updating of cash received from debtors to the accounts receivable system. In response, TransAdelaide has indicated that revised procedures would be implemented.

My question to the Minister is: will these be completed in time for the Auditor-General's Report next year or will they suffer the fate of recommendations made last year?

The seventh area relates to payroll. In 1993 audit identified many inadequacies in internal control primarily in relation to the validity and accuracy of input data; delegated authority to approve employment and promotions and lack of appropriate management reporting. In response TransAdelaide undertook to conduct a full review of the procedures and controls operating within the payroll system in conjunction with the implementation of the new concept payroll system. It was anticipated that the review would be finalised by December 1994, but what does the Auditor-General say? The findings of the review indicated that the proposed review of controls by TransAdelaide did not take place and the majority of issues raised by the 1993 audit still remain to be addressed. There are seven areas where this Government has not delivered. The Auditor had made criticisms last year but nothing at all has been done about it.

The final matter in relation to TransAdelaide—although I would have thought that that was probably enough—I am sure there are few other departments that get the savaging that TransAdelaide does—concerns AUSTRICS, which is a subsidiary of TransAdelaide. Its function is to commercialise software developed by TransAdelaide and the former State Transport Authority.

This year the Auditor-General undertook a review of AUSTRICS and the major findings of his review were, and I quote:

> A Board of Directors for AUSTRICS as a subsidiary of TransAdelaide (and previously the STA) as required by section 24 of the Public Corporations Act 1993 and regulation 6 issued pursuant to that Act has not been established even though 18 months has elapsed since the regulations were made and published in the *Government Gazette*.

The Auditor-General comments later:

> It is reasonable to assume that a board, which is constituted as the governing body of the subsidiary, should be established as soon as possible.

In 18 months nothing has been done. I do not believe that is a particularly good track record. I put on the record the question: why have preliminary negotiations for the sale of AUSTRICS, which are referred to on page 815 of Part B, Volume 2 of the Auditor-General's Report, been undertaken which are not part of an approved detailed course of action? What are the Government's plans for AUSTRICS? When will this board be appointed? Why has the Minister failed to take action? They are the matters in relation to TransAdelaide.

If I had time I would like to ask a number of other questions in relation to the general transport area, but the criticisms on TransAdelaide have probably given us more than enough of an indication about what is happening in relation to the chaos in some of these Government departments at the moment with changes due to contracts and the new computer systems and uncertainty in those areas. Perhaps I will leave those for the time being and ask them at some later date. I conclude by saying that the 'trust me' approach that this Government has adopted to accountability is simply unacceptable. The Auditor-General's Report clearly makes it obvious that that it is not acceptable. We need to totally revamp the accountability procedures that we have in this State to take account of the changing environment. These changes are Australia-wide and outsourcing is a fact of life, whether honourable members on this side of the House like it or not. It is happening in other States and other States are finding that it is raising all sorts of questions in relation to accountability. For the good of this State we have to address those issues. I believe that the Auditor-General has done a great service in producing a very useful report. We need to make sure his recommendations are implemented as swiftly as possible.

The Hon. R.R. ROBERTS: I rise to participate in this new technique in this place, the new technique to this Parliament. In my contribution I want to look at the technique that is involved and ask the questions: why are we here and why are we going through this process? What is this process replacing and why is that process being replaced? That is significant because it gives some idea of what this Government is all about. It reinforces the concerns that have been expressed by other speakers, particularly quoting the Auditor-General himself. What normally happened with the Auditor-General's Report was the province of the Estimates Committee, whereby the Auditor-General would be in the House, would be subjected to questions, would be in a position to respond, consequential questions could be asked, issues could be explored and detail could be obtained so the system which is supposed to be transparent for all South Australians would indeed be seen to be transparent and accountability would be created.

What this particular process represents is the same sort of process that we see in other areas. When one asks any question of this particular Government, we get the smoke signals, then we get the criticism, the attack of the messenger and accusations of being negative because we ask legitimate questions. We ask this Government to be responsible and they go into evasion mode. What this particular technique is supposed to do is to give the people and the Parliament and the people in the media the impression that this Government is being open, is allowing the Opposition to question this particular Government and put their record to the test. This is a ruse to try to avoid detection and to avoid scrutiny. It is designed to have questions asked of these Ministers that have been shown to be incompetent by the Auditor-General, to go back and get information from the same figure fudgers and come back with information that cannot be tested with consequential and follow up questions.

That is what this is about. This is not about openness, this is not about scrutiny. This is another deception. The Leader of the Government in this place says how accommodating he is prepared to be, and now they actually claim that they are generous. They are that generous that we are debating this issue in the late hours of the night at a time when only the most intrepid of reporters would be around. They are trying to cover up, they want to attack, they want to run everybody down and divert the attention from the issue at hand. A classic example of what I am talking about is when I raised questions today in Question Time about another publication, about another set of figures, some fudgy figures, not clear precise figures or clear detail. I asked about their publication *South Australia State of Business* and they went into the same old mode.

This technique is not the just the province of Premiers or the tricks of Treasury. It is the evasive technique employed constantly by this Government and by the Leader of the Government in this House in particular. Whenever questioned they go into an evasion mode, they make loud noises, they crash the cymbals, put up the smoke signals, but the bottom line is that they will not be accountable. That has been proven, not by myself, but they have been damned by the

Auditor-General, and damned about their methods of operation and their unwillingness to have their technique scrutinised.

The Auditor-General has called for parliamentary scrutiny of all significant asset sales, which is the euphemism for privatisation or outsourcing. He has criticised the Government's use of budget papers to make untrue and misleading claims about its financial management. He has complained about the inadequate one-sided data on the financial position of the State, particularly the repeated failure of Treasury to provide comprehensive balance sheets of assets and liabilities. He has pointed out the high cost of the Government's financial policies and shows that we paid out $160 million more in interest than we needed to, while our schools and hospitals in this State have been haemorrhaging badly, and schools like the John Pirie Secondary School in Port Pirie have been amalgamated into inadequate buildings and under resourced. Even though the same contingency of SSOs and teachers was transferred there is inadequately designed infrastructure. They are being told by this Minister for Education and Children's Services and the local member that they ought to be patient and it is for the good of education. They will be sorely sorry when, at the end of this school year, there are massive reductions in staff and no new infrastructure, bar a gymnasium. They have been told, when this issue was raised by me on yet another occasion, that I was being negative again. The same old routine was trotted out, that I was being negative. But what is happening? People of goodwill trying to support the education system for their kids are having all these financial tricks played on them by people who do not actually utilise the public schools provided by this State.

The schools which they provide and which they say are good enough for the kids in Port Pirie, country areas and other places, are not good enough for their kids, and they come there with this pious attitude that they are doing the right thing, and hide behind the ruse of State debt that was left over when they came to Government. People in South Australia will not cop this any longer. They are awake up to this. Given the information provided by the Auditor-General in his report, they will not be fooled any longer. Accountability will be foisted on this lot of charlatans, whether they like it or not.

He has also raised concerns about the Government's rush to off balance sheet transactions with the private sector to hide away its racking up of public liabilities. He has demonstrated support of the Opposition and the community's concerns about the levels of an unaccountable nature of many of the Government's arrangements for executive remuneration. That is only a selected few quotes from a wide range of criticism right throughout the Auditor-General's Report, and I ask the rhetorical question: why am I not confident about this process we are going through? The reason quite clearly is that these are the people who produce documents and claim all sorts of things. When you ask them for accountability, you get accused of knocking, and that is the ruse. There is no answer to the question, and that is what they want to do now. That is why they have introduced this process.

They want to hide. They are again throwing up the smoke and symbols and saying, 'We will give you the opportunity. We will not let you have consequential questions. We will go back and seek advice from the same people who have been damned by the Auditor-General. We will come back with the same information.' I have no confidence in this process whatsoever. I do not trust these people, neither does the Auditor-General, and neither should the people of South Australia. They have been proved to be snake oil salesmen, quacks and crooks when it comes to their financial accountability. The Premier has actually said—

The Hon. K.T. GRIFFIN: I rise on a point of order, Mr President. The honourable member cannot be allowed to get away with that comment, referring to crooks. I would ask him to withdraw and apologise.

The Hon. R.R. ROBERTS: I will apologise to the ones who are not crooks. I do apologise to any of them that do not fall into that category.

The PRESIDENT: Order! There has been a retraction.

The Hon. R.R. ROBERTS: I have retracted, Mr President. Did you—

The PRESIDENT: I have accepted your retraction.

The Hon. R.R. ROBERTS: Quite clearly, this particular policy should not have the support of the people of South Australia or this Parliament. I will not go over all the matters that have been canvassed by other speakers, in particular the Leader of the Opposition and my colleagues the Hon. Terry Roberts and the Hon. Paul Holloway. I will make this contribution brief on the request of my Leader and because, as I said, I have really no confidence in the process anyhow. But I do have responsibilities in a couple of areas, and I am pleased to say that the Auditor-General has been comparatively generous within the portfolio areas of primary industries and fisheries, although he has taken the trouble to point out that there were discrepancies and where improvement can be made.

I note from the documents that the department is responding to those matters. Again we have this situation where the audit for the year identified a number of instances where internal control procedures required enhancement or were found not to have been applied consistently over the year. The instances mainly related to procedures operating within the corporate office of the department for salaries and wages, accounts payable and cash receipting systems.

The auditor identified there was inadequate monitoring with a fall off of *bona fide* reports to ensure that payments were made only to *bona fide* employees. Improvement was required with respect to internal control procedures to ensure that the employees' leave entitlements taken had been correctly captured and accounted for. He also pointed in respect of the Departments of Agriculture and Fisheries that improvement was required within the acquittal and expenditure for the use of corporate credit cards, particularly the absence of documentation, to support expenditure related to travel, accommodation, entertainment and hospitality. This situation has arisen in relation to a number of other agencies, and the Auditor-General has quite rightly called for greater attention to detail in these areas across all departments subjected to his purview in this exercise.

He has pointed out that the recurrent payments in this department were $89.1 million. He has outlined some issues in respect of fishing. He has put a particular notation in respect of fishing licences and registrations which have increased by $804 000 to $5.7 million. These increases were in part as a result of the agreed principles of cost recovery, such that the fishing industry will eventually contribute 100 per cent of the assessed recoverable management costs over a 10 year period.

There is a contribution in respect of VetLab, and this is where I would have welcomed an opportunity to question the way some of this accounting procedure works. However, that will not be possible. By way of example, with VetLab, there

is an explanation in one of his notes that, as part of the transfer of the veterinary laboratory (VetLab) from the Institute of Medical and Veterinary Science to the Department of Primary Industries and Agriculture, it was agreed that VetLab would be moved from the IMVS premises, and in March Cabinet approved the funding of $5 million for this process, for the relocation of VetLab to the AMDEL site at Frewville, and funding consisting of $1.5 million for the site acquisition and $3.5 million for the refurbishment of the building, relocation and equipment.

My concern is with what has happened since that occurred. Having expended this $5 million, we now have this worrying situation where the Government is talking about outsourcing the functions of VetLab, and one has to ask the Government why we have expended $5 million of hard earned taxpayers' money and then, having established that, we go into a situation where we start outsourcing the thing. You have to wonder why we expended the $5 million and what the value of the service would be. I do recognise that that is not necessarily the province of the Auditor-General, but it is a question for the Government. If we were doing this exercise in the Estimates Committee, as has been the norm in the past, we would have been able to canvass these questions and perhaps ask some consequential questions.

There is also a reference to an old favourite of mine—an oldie but a goodie—in respect of Gulf St Vincent prawn fishery.

This has been one of the sagas that we have been faced with in this Parliament. On every occasion when this subject is raised we get howls of almost insane laughter from members opposite who think that the demise of one of the best fisheries in South Australia is a thing of mirth and something that we ought to scoff at. This fishery, about which the Hon. Mr Redford in particular is so frivolous, has gone from 476 tonnes in 1976 to the situation this year which, in my submission, was unfortunately due to bad management over the past two years in particular, where they took out about 130 tonnes of prawns, then raped the rest of the gulf and could not gather up a few kilograms of prawns between 10 boats. That is a classic example of what is happening in this fishery. Despite the Government's having castigated the Opposition for asking the sort of questions and asking for the sort of accountability that is the subject of the Auditor-General's Report, and deriding us for asking those essential questions and saying there was no need for any more inquiries, we have had two. I await with particular interest—

The Hon. A.J. Redford interjecting:

The Hon. R.R. ROBERTS: For the edification of the honourable member, which is very hard to achieve, given his standard of comprehension, the reference is page 474. That is a four, a seven and a four. I look forward with a lot of trepidation to the report of Dr Gary Morgan, who looked at this fishery last year and expressed a whole range of concerns. He laid down a range of new recommendations, because the recommendations of previous inquiries were not implemented by this Government. He laid down a new set of criteria, which again were not implemented before fishing in the gulf recommenced this year. Now we have the same Gary Morgan back here on 12 weeks commission to look at it again and try to construct a new formula to save what is an absolute basket case of a fishery. It is an indictment on this Government that it has allowed this to happen. When we examine the Auditor-General's Report next year there will be no significant contribution on the plus side from the running of the Gulf St Vincent prawn fishery. It will all be down hill.

There is some good news in the fishery area, namely, in the southern rock lobster buy-back scheme. During 1994-95 the indebtedness to SAFA was extinguished. Principal interest payments of $957 000 were paid, and that has removed that debt. The scheme was run by the previous Labor Government—by Lynn Arnold and Terry Groom in particular—and it has proved successful. It is unfortunate that we do not have the luxury of being able to say that we fixed up the situation in Gulf St Vincent, and I do not know that we will do that.

Moving on through the Auditor-General's Report, we need to look at rural finance and development. This is a particularly important area of Government responsibility, given the history that the rural sector in South Australia has suffered over the past few years with the combination of a number of natural disasters, including frosts, mouse plagues and other unusual events. There has been a call for assistance which has been met principally by the Federal Government and allocated back through Primary Industry South Australia. The Auditor-General notes that there has been a change in the types of grants or loans that have been made, and basically now the trend seems to be toward grants being provided for interest rate subsidies. In his findings and comments he points out that:

> . . . one of the Acts administered by the division is the Rural Industry Adjustment and Development Act 1985. Section 15 of that Act requires that the Minister shall cause a report on the administration of the Act during the previous financial year to be prepared and presented to Parliament. The report is required to incorporate the audited financial statements of the rural industry adjustment and development fund which, under the Act, is required to be specifically maintained at Treasury.
>
> Administrative arrangements implemented by the then Treasury Department in 1987 established a special deposit account entitled the rural finance account. The operations of the rural industry adjustment and development fund were included, along with several other funds, within this account. Although the division maintains separate internal accounting records for each of the funds comprising the rural finance account, only one financial statement covering the consolidated operations of the account has been prepared. No separate report to Parliament on the administration of the Rural Industry Adjustment and Development Act 1985 has ever been prepared.

So, this goes back for some time. The Auditor-General states further:

> The matter of non-compliance with the requirements of the Act was brought to the attention of the division.

I am happy to report that in response the division has indicated that a separate financial statement will be prepared for the rural industry adjustment and development fund commencing at the end of June this year, and this financial statement will be included in the annual report of the Department of Primary Industries. The department considers that such steps will satisfy the requirements of the Rural Industry Adjustment and Development Act 1985. It is pleasing to see that action is being taken in response to concerns that I believe have been raised on a number of occasions by the Auditor-General. The Auditor-General states further:

> With regard to the maintenance of a rural industry adjustment and development fund at Treasury, the division is of the opinion that the present arrangements for the rural industry adjustment and development fund to be administered through the rural finance account are satisfactory. Audit is of the opinion that this is clearly contrary to the provisions of the Act and have written to the division indicating that a separate fund at Treasury must be established. The division has advised that action is being taken to re-establish a separate fund at the Department of Treasury and Finance.

The question needs to be asked: what action will be taken? I ask the Minister representing the Minister for Primary Industries whether reports could be provided from time to time during the rest of the year on what is being done in this area. On page 482, in respect of the provision of doubtful debts, the Auditor-General states:

> During the year a review of the adequacy of the level of the provision for doubtful debts was conducted by independent consultants. The results of this review recommended a change in the basis of calculation of the provision from one which related to payment history of clients to one which was based on the value of landed security. As a result of this change in methodology the provision expense for the year increased by $8.7 million to $9.6 million and the overall provision for doubtful debts stands at $13.6 million as at 30 June 1995.

In respect of these matters, there is one area of interest in this portfolio of assistance packages. I refer to the Young Farmers' Scheme. I note from the consolidated financial statements that $765 000 has been allocated for the year ended 30 June 1995. This fund was created basically after an inquiry into the state of rural finances which was conducted by a House of Assembly committee chaired by Mr Don Ferguson, the then member for Henley Beach. The committee recommended to the Parliament that a whole range of things ought to be considered, one of which was that assistance should be granted to young farmers.

The Liberal Party announced with great fanfare the Young Farmers' Scheme. It said that it was going to allocate $7 million to get young farmers back on the farm, and expanding so that there would be more young farmers. If one looks at the expenditure so far, one sees that it has been spectacularly unsuccessful in meeting the goals of providing $7 million and expanding the spread of young farmers across South Australia.

I am aware of a number of attempts to rejig the guidelines, and during the Estimates Committee the Minister indicated that he was determined to spend the money. I am not necessarily opposed to injecting $7 million into a worthwhile scheme, but it concerns me that we keep changing the rules in trying to attract people and, as of today, I understand that we have not expended one-seventh of the money that has been allocated for this purpose.

That indicates to me that there are some inadequacies in this much vaunted scheme, which obviously is not having the desired impact. By way of constructive comment, it may be that in looking at an increase in farm allocations it will be better for funds to be allocated to consolidating the home farm because, in most instances, it is the machinery and infrastructure attached to the home farm which will allow young farmers to move out and, through greater utilisation of that machinery, will allow them to consolidate in rural industries. That is a constructive comment that the Minister might consider in looking at this matter.

I also refer to the forestry area in the Minister's portfolio, because the Auditor-General has expressed particular concern and comment. I point out to the Council that this problem has been looked at by the Economic and Finance Committee but it still remains a problem. In his commentary on the general findings and controls associated with forestry he has stated:

> The audit for the year did identify instances where internal controls were found not to have been applied consistently over the year. The instances mainly related to procedures operating with regard to payroll, accounts payable and revenue. The instances included: salaries. . .

He makes particular reference to revenue (harvesting and marketing) and states:

> The audit highlighted internal control weaknesses in relation to the accountability of source documents. As indicated previously, the department has responded positively to the audit findings.

The Auditor-General also includes an extract from the independent report in respect of primary industries (forestry), as follows:

> Since July 1986, the Department of Primary Industries (Forestry) has adopted a market based method of revaluation for the non-current asset-growing timber. Under this method, the inventory 'growing timber' is valued at its 'net market value' at the reporting date. For the purpose of the department's financial statements, 'net market value' is defined to be the standing merchantable volume at its current log royalty rate. The difference between that value and the corresponding value as at the previous reporting date is recognised as revenue. Up to September 1991, this practice represented a departure from the Australian Accounting Standard AAS10 'Accounting for the Revaluation of Non-Current Assets' which required that an increment should be credited directly to the asset revaluation reserve in the statement of financial position.

The Auditor-General highlights:

> While the department has fully disclosed its reasons for the departure from the standard in its accounts, both I and my predecessor found it necessary to issue qualified independent audit reports due to the practice of non compliance with the Australian Accounting Standard AAS10.
>
> In September 1991, the Australian Accounting Standard AAS10 was reissued. Under the revised standard, the non-current asset 'growing timber' was excluded from the application of the standard by virtue of the amended definition of 'inventories' as per paragraph 12 of that standard. Accordingly, the independent audit report issued for the 1991-92 financial year indicated that the financial statements were drawn up in accordance with appropriate statements of accounting concepts and appropriate Australian accounting standards and was therefore not qualified.
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> However, I included a statement of emphasis within the independent audit report relating to annual increments in the net market value of growing timber which was brought to account as operating revenue. While the department had comprehensively disclosed its methodology and the financial effects in the notes to the financial statements, given the very nature of the increment, I felt it was necessary to state that the increment reflects the growth and price changes in timber still standing in the forests and, as such, is unrealised. In addition, because the volume of growing timber used in the calculation of the value of the asset is based on complex formulae and highly technical information, I pointed out that I had relied on the chief executive officer's certification as to its accuracy and authenticity.
>
> In May 1993, I appointed an independent consultant with expertise in this field to examine the methods used in the estimation of growing timber and to report on the auditability of the models. In summary, the consultant's findings were that the models used in the estimation of growing timber were generally of a high technical standard. Notwithstanding these comments, the consultant has made a number of statements with regard to the auditability of the estimates and of the volume of standing timber. This precludes the independent attestation of these estimates within an acceptable level of audit confidence.
>
> The department responded positively. . . Notwithstanding the advice of the independent consultant that I have no reason to be uncomfortable with the technical foundations, I am of the view that as a result of not being in a position to attest to the estimates I am unable to form an independent opinion on the reasonableness of the estimation of the value of growing timber. I believe it is also necessary to restate that the increment brought to account in the financial statements reflects the growth and price changes in timber still standing in forests and as such is unrealised.

In an explanatory note the Auditor-General states:

> As stated in Note 1 'Foresty Accounting' to the financial statements, the value of growing timber is calculated for financial reporting purposes only, as a measure of the forest management over the reporting period. The methodology assumes that the forest will be harvested over time and in an orderly manner.

This is not always the case. He continues:

> The method does not provide a measure of the forest's 'current market value'. 'Current market value' is generally defined as the

amount for which an asset would exchange for on the date of valuation between a willing buyer and a willing seller in an arms-length transaction. Accordingly the estimate brought to account by the forestry division should not be interpreted as a 'current market value' as its use by the forestry division is not designed to represent those values that could be realised at the date of valuation.

This is an ongoing concern that succeeding Auditor-General's have raised. Given the sums involved and the assumptions made in respect of the assets of forestry South Australia, I ask the Minister whether he will, and suggest that he should, work diligently to come up with a system of auditing and assessment that reflects the true values of the State's assets in respect of timber resources.

Another area that the Auditor-General has mentioned is State Flora. State Flora comprises nursery, horticultural and landcare management activities of the former Department of Primary Industries' Woods and Forest Division. The financial statements for the year ended 30 June 1995 were not presented to the Auditor-General's office in sufficient time to enable the finalisation of the audit of those statements for inclusion in this report.

Members of this Council have asked questions and sought information in respect of State Flora. It has been claimed—and I would assert—that State Flora performs an extremely valuable function in South Australia. It was highly valued and highly respected for the quality of its services. Its backup information and the effects that it had on landcare and conservation in South Australia are well known. There was a concerted effort to save Belair and, if in some small way the actions of the Opposition helped to maintain that facility for the benefit of South Australians and to settle the precarious future that was being contemplated for it, we are happy.

It is a little incongruous that these accounts were not presented, when many of the assets of State Flora and its facilities in country areas were closed down, causing further disruption in relation to employment opportunities in those areas. I ask that those accounts, when audited, be laid on the table of this Chamber as soon as possible.

The Auditor-General was also critical of an area for which I have some responsibility as spokesperson for the Australian Labor Party, that is, animal and plant control. In view of the time, I do not intend to go into detail because that information is available on page 28 of the Auditor-General's Report. The essence of his concerns was that these boards—many of which do an excellent job in relation to the conservation of native species and the control of noxious weeds, especially around parks and in council areas—are being lumped in with those councils that are not operating as they should be and within the guidelines.

The Auditor-General expressed a concern, which I share, that at the date of audit 29 of the 49 boards had not supplied audited accounts for the year ended 31 December 1994, as required by section 39. He has also said that, as he had no evidence that subsidies, special grants and reimbursements paid to those 29 control boards had been expended for the purposes laid down by the Act, he had no recourse but to qualify the independent audit report of the commission. Obviously, there need to be tighter controls over this because this situation does lend itself to a position where diligent, well-meaning and efficient weed control boards could be held back by sloppy accounting of others who are not so diligent, and this would be to the detriment of South Australians, many living in country areas where sparse resources are supplied to cover vast distances and huge areas.

I do not intend to expand my comments any further. I close my contribution by reiterating that the Opposition has a responsibility. We are obviously concerned about the good management of the accounts for all South Australians and the proper disbursement of public funds. It is disappointing, as a member of this Parliament, to read the *bona fide* remarks of the Auditor-General and his absolute criticisms of the way in which the South Australian finances have been conducted, and the clandestine way in which those activities have been sought to be fudged or blurred so that there can be no proper transparency and accountability of the elected Government of South Australia. It is most disappointing for all South Australians.

The Hon. T. CROTHERS secured the adjournment of the debate.

ADJOURNMENT

At 12.1 a.m. the Council adjourned until Thursday 12 October at 2.15 p.m.