2. Chappell, D., Preface to McDonald, D. and others, 'Legislative Options for Cannabis in Australia', Paper prepared for the National Task Force on Cannabis, National Drug Strategy Monograph Series No. 26, AGPS, Canberra, 1994.
3. McDonald, D., Moore, R., Norberry, J., Wardlaw, G., and Ballenden, N., 'Legislative Options for Cannabis in Australia', Paper prepared for the National Task Force on Cannabis, National Drug Strategy Monograph Series No 26, AGPS, Canberra, 1994.
4. Chappell , above, p.xi.
5. McDonald and others, above; Manderson, D., *From Mr Sin to Mr Big: A History of Australian Drug Laws,* Oxford University Press, 1993.
6. McDonald and others, above.
7. McDonald and others, above.
8. McDonald and others, above.
9. Advisory Committee on Illicit Drugs, 'Cannabis and the Law in Queensland: A Discussion Paper', Goprint, Brisbane, 1993, p.61 (*see also* 'Queensland Criminal Justice Commission Report on Cannabis and the Law in Queensland', Goprint, 1994.)
10. For example, de Launey, C., 'Commercial Cannabis Crop Growers in Northern NSW', paper presented at the 7th International Conference on the Reduction of Drug-Related Harm, Wrest Point Casino Hobart, 2-8 March 1996.
11. McDonald and others, above.

Letters

Dear Editor

Re: Responses of Mr M. Goode and Mr W. De Maria ((1996) 21(2) *Alt.LJ* 91) regarding Mr De Maria's article 'Whistleblowing' ((1995) 20(6) *Alt.LJ* 270)

In relation to the above, I direct my attention specifically to points 4 and 7 which refer to my role as Ombudsman.

Point 4 Disclosures of previous wrongdoing

It is apparent that Mr De Maria is the one who is truly confused about whistleblower retrospectivity in the SA *Whistleblowers Protection Act.* There is no divergence of opinion on this matter between my Office and Mr Goode, as suggested by Mr De Maria. (I must also remind Mr De Maria that the South Australian Ombudsman is not a creature of the South Australian government, as he wrongly suggests.) Indeed, my views and those of Mr Goode are entirely convergent, as Mr De Maria demonstrates in his very citation of my letter to the Senate Standing Committee.

In short, Mr De Maria confuses the timing of the events giving rise to the disclosure and the time at which the disclosure is actually made for the purposes of the Act. Mr De Maria would do well to examine the provisions of Section 4 of the Act to find that an appropriate disclosure relating to public interest information arising prior to the commencement of the Act is protected.

However, as a matter of statutory interpretation, the disclosure itself, in my view, must have been made subsequent to the commencement of operation of the Act.

Mr De Maria should not confuse engaging in technical pedantry with proper analysis of legislation.

I do not propose to enter the debate on the necessity or otherwise of a conferral in the Act of absolute privilege in a defamation action. However, I must say that I would have thought immunity from civil liability for the purposes of Section 5 of the Act quite readily embraces immunity from liability in defamation.

In his comments under this point, Mr De Maria mentions a complaint made to the Premier of South Australia that in the past I have too readily exercised my discretion not to investigate complaints made by a 'number' of whistleblowers who sought defamation protection from my Office.

I have no knowledge of the precise contents of the complaint to the Premier, and I also have not received a number of complaints from such whistleblowers.

Further, I should advise that my role under the Whistleblowers Protection Act is simply as a protective agency. Any discretion I may exercise to investigate a complaint is made in consideration of the provisions of the Ombudsman Act, and not the Whistleblowers Protection Act.

Whilst I appreciate that Mr De Maria purports to present only one perspective in his remarks, in the interests of presenting a more objective and balanced view for your readers, he could have approached my Office for comment as do other academic writers.

E. Biganovsky
Ombudsman
South Australia

Dear Editor

Re: Whistleblowing

It is a pity that, in his response to my letter published in the April 1996 edition of the *Alternative Law Journal,* Mr De Maria confuses pedantry with accuracy and substitutes colourful imagery and assertion for a discussion of the real issues.

I did not then and do not now desire to enter into a debate about whether the legislation 'works' or not. Mr De Maria is entitled to his views on that subject, whether they be correct or not. I was and am entirely concerned to ensure that those who read your journal are not misled by inaccurate information.

It is beyond argument that Mr De Maria has read the Act incorrectly. His summary of the requirements of the Act still omits the requirement that the information be 'public interest information' as defined by the Act; he still maintains incorrectly that the list of approved authorities listed in the Act is exclusive when the Act says in so many words that it is not; his interpretation of the retrospectivity of the Act remains erroneous; and he appears to be unable to comprehend the plain words of the Act which refer to 'no civil or criminal liability'.

No amount of reference to planes, refrigerators, Mack trucks or garden mulch changes these facts.

Given the legal errors to which I refer, it might have been thought appropriate to check with some other person before publication of Mr De Maria's response. As it is, I cannot allow errors to masquerade as truth without correction.

M. R. Goode
Senior Legal Officer, Attorney-General's Department,
South Australia