LEGISLATIVE COUNCIL

Thursday 12 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)—

Legal Practitioners Disciplinary Tribunal—Report, 1994-95

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

South Australian Totalizator Agency Board—Report, 1994-95.

QUESTION TIME

GARIBALDI SMALLGOODS

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

Leave granted.

The Hon. CAROLYN PICKLES: The Coroner's report into the tragic death of Nikki Robinson provides reason to believe that the Garibaldi smallgoods company, or officers of that company, might have breached provisions of the Food Act. Yesterday the Minister for Health lamented that prosecution would not be possible under the Food Act because the six months statutory time limit on prosecutions had expired. He also said that, if the directors of Garibaldi had been prosecuted, they would have had every opportunity to stop the proceedings of the Coroner's inquiry.

On 10 February 1995, the Minister for Health said that he had instructed the Health Commission to prepare the way for every possible prosecution. My questions to the Attorney are:

1. Is there any good reason why the Health Commission could not have charged alleged offenders as soon as it obtained some evidence that the Food Act had been breached and then adjourned any prosecution in the Magistrates Court until the Coroner's report had been finalised?

2. In particular, how could the Garibaldi directors or anyone else have stopped the coronial inquiry on the basis that a prosecution had commenced?

The Hon. K.T. GRIFFIN: The answer to the first question is 'Yes.' The fact is that, even if the coronial inquiry had been established, under the Coroner's Act the Coroner does have a public duty to make inquiries as soon as there is a death in these sorts of circumstances and had in fact initiated action himself. If a prosecution had been launched, the difficulty is that the directors of Garibaldi could have in fact claimed that they were being prosecuted and refused to give evidence to the coronial inquiry. That is quite simple. It has happened before. In those circumstances, the coronial inquiry would have been deferred.

On the other hand, if the legal proceedings had been issued in the Magistrates Court, they could not have been put on ice. A citizen who is prosecuted has a right to expect that a prosecution will proceed expeditiously. In those circumstances the prosecution would have taken priority over the coronial inquiry, so it is quite obvious that there is a good reason for the way in which the matter was handled. The Minister for Health in another place has made a ministerial statement. I am sure my colleague the Minister for Transport will table that shortly. From that it is quite clear that the difficulty with prosecuting the Garibaldi case was that it had the potential to delay the coronial inquiry. The honourable member must remember that the coronial inquiry was not just in relation to Garibaldi: it encompassed the Health Commission and other aspects of a much wider area of investigation than just the way in which Garibaldi had acted—or not acted—as the case may be.

The Minister for Health in another place has already said that there had been consultations with the Trade Practices Commission because, under the Trade Practices Act, there is the potential for product liability prosecutions to be laid. The Trade Practices Commission Chairman, Professor Fels, has written to the Minister identifying that investigations are continuing now that the coronial inquiry has been concluded.

The South Australian Police Department has also referred the Coroner's finding to the DPP (the Director, not the Department, of Public Prosecutions, as some might be prone to describe it), seeking the Director's view as to whether the evidence is sufficient to prosecute under the criminal law.

I come back to my initial point, namely that, if a citizen is being prosecuted, that citizen has a right to expect that the prosecution will proceed expeditiously and that, if a prosecution is initiated and while it may have proceeded, the coronial inquiry would not have been able to get access to all information and particularly require the Directors of Garibaldi smallgoods to give evidence. In those circumstances, they have a right to remain silent until the prosecution has been completed.

In all the circumstances one would have presumed that, in the light of the drama at the time and the tragic death of Nikki Robinson, at that stage the interests of the public were better served in a comprehensive inquiry by the Coroner than by dealing with issues of prosecutions which brought maximum penalties of $2 500 and which had not been reviewed, even by the previous Government, for some years.

The Hon. R.R. ROBERTS: I seek leave to make a brief explanation before asking the Hon. Julian Stefani MLC a question about the Garibaldi affair.

Leave granted.

The Hon. R.R. ROBERTS: Let me first deal with a procedural point.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.R. ROBERTS: Yesterday the Hon. Mr Stefani declined to answer directly a question that concerned his involvement in the Garibaldi affair. He referred us to the Minister, who may or may not know the details of Mr Stefani's involvement, and then the honourable member promptly left the Chamber. I remind the honourable member of Standing Order 107, which clearly permits a question to be put to a backbencher if it is a matter of public concern and of particular interest to the recipient of the question. Clearly, the HUS outbreak in January this year is a matter of extreme public interest. It also became clear that Mr Stefani was involved in some kind of liaison between the officers of the Garibaldi Smallgoods company and a senior officer of the Health Commission.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.R. ROBERTS: Therefore, I assert that the question is perfectly proper and in the public interest, and the

public demands that it be asked. I remind members that in a ministerial briefing of 6 February prepared by Dr Kerry Kirk of the Health Commission for the Minister for Health, Dr Kirk stated that he attended the Garibaldi premises at Royal Park on 6 February 1995 at the request of the Hon. Julian Stefani MLC. My question to the honourable member is: at the time that the Hon. Mr Stefani helped to arrange the meeting attended by Dr Kirk, how well acquainted was he, or what associations was he involved in, with Lou and Phil Marchi and Mr Neville Mead, Directors of Garibaldi Smallgoods?

The Hon. J.F. STEFANI: I remind the honourable member that I have no obligation whatsoever to reply to any questions put to me and, if the honourable member requires an answer, I suggest he refers his questions to the appropriate Minister.

The Hon. R.R. ROBERTS: Mr President, I desire to ask a supplementary question. In accordance with Standing Order 111, on what ground of public interest does the honourable member decline to answer the questions that I have put to him?

The Hon. K.T. Griffin interjecting:

The Hon. R.R. ROBERTS: I will ask for a ruling if he does not reply.

The Hon. J.F. STEFANI: I do not think that is a supplementary question—it is a non-question.

The Hon. K.T. Griffin: Standing Order 111 refers to a Minister of the Crown.

The PRESIDENT: Order!

The Hon. R.R. ROBERTS: Mr President, I ask for your ruling. I draw to your attention Standing Order 111, which provides:

> A Minister of the Crown may, on the ground of public interest, decline to answer a question; and may, for the same reason,—

The Hon. R.I. Lucas interjecting:

The Hon. R.R. ROBERTS: You will live to regret that—

> give a reply to a question which when called on is not asked.

Mr President, I assume that you are making a ruling on the grounds that a Minister is the same as—

Members interjecting:

The PRESIDENT: The point of order is that the Hon. Julian Stefani is required to answer the question?

The Hon. R.R. ROBERTS: No, Mr President. I want to know what ground of public interest is involved, because the Standing Order refers to 'the ground of public interest'.

Members interjecting:

The PRESIDENT: Order! The Hon. Julian Stefani is not a Minister and therefore does not have to answer the question. A Minister may not answer the question: a Minister may deem it necessary not to answer a question. The Hon. Julian Stefani is not a Minister and therefore does not have to answer the question.

COFFIN BAY AQUACULTURE

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for the Environment and Natural Resources (and it could also be a crossover question to the Attorney-General, representing the Minister for Primary Industries), a question on Coffin Bay aquaculture.

Leave granted.

The Hon. T.G. ROBERTS: The growth of aquaculture in South Australia is to be applauded. The Government has been encouraging that growth, as did the previous Government, and it is starting to show some signs of growth and job opportunities and investment packages are being put together to make sure that growth continues. The information that I have been given leaves me to believe that that is the case but, as the industry grows, it is putting pressure on the natural environment and there are some competitive use questions starting to emerge. I understand that the Government will be managing those questions and I draw the Government's attention to the information that I have been given by letter and telephone.

The draft Coffin Bay aquaculture management plan released by the Aquaculture Unit of the Department of Primary Industries of South Australia (Fisheries) in July this year refers to the Shellfish Environmental Monitoring Program (SEMP). It makes statements about the viability of oyster farming for the area based on the last three years of the SEMP findings. The document states:

> While development has not reached full potential for the currently allocated lease area, information gained from the monitoring program provides necessary guidelines for future direction of the industry. In particular the lack of identifiable negative impacts on water quality and water movement parameters provides justification to encourage the viability of the industry in the region.

I make no comment on the construction of that sentence, but inherent in that is some information that may be of interest to members.

The Hon. M.J. Elliott: They haven't done environmental work.

The Hon. T.G. ROBERTS: I am getting to that. From information obtained by telephone and correspondence, I wonder that the writers of the draft plan were able to come to any conclusions at all. I believe that SEMP, which was set up in November 1991 and was to run for five years, was suspended in May 1994 and its funding withdrawn in August 1995. Only two full monitoring studies were carried out—February 1992 and July 1992—and partial monitoring studies were undertaken in April 1994. In addition, I understand that environmental monitoring of sensitive wetlands was to have taken place as part of SEMP, but this has not happened. It is as important to monitor the marine environment, as it is to monitor the surrounding area. In a letter dated 8 November 1994, the Premier indicated to the Action Group for the Protection of Coffin Bay Waterways Incorporated that SEMP was still in place but it had been temporarily suspended. My questions are:

1. Will funding to SARDI for SEMP be resumed to enable the environmental monitoring program to run its full course of five years?

2. Will the environmental monitoring studies of sensitive wetlands be included in future shellfish environmental monitoring programs?

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

GARIBALDI SMALLGOODS

The Hon. DIANA LAIDLAW (Minister for Transport): I seek leave to table a ministerial statement from the Minister for Health in the other place on the prosecution of Garibaldi.

Leave granted.

ABORIGINAL HERITAGE ACT

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Minister for Transport, representing the Minister for Aboriginal Affairs, a question about section 35 of the Aboriginal Heritage Act.

Leave granted.

The Hon. SANDRA KANCK: In the *Aboriginal Legal Rights Movement v The State of South Australia* the Full Bench of the Supreme Court of South Australia found that in pushing ahead with the Hindmarsh Island bridge royal commission the South Australian Government failed to comply with section 35 of the Aboriginal Heritage Act of South Australia. My questions to the Minister are:

1. How does the Minister rationalise the Government's non-compliance with the Aboriginal Heritage Act?

2. Will the Minister give a commitment to adequately resource the Department of Aboriginal Affairs to ensure he can receive adequate advice on the Aboriginal Heritage Act in the future and, if not, why not?

3. When can South Australians expect to see the end of the racist inquisition into the beliefs of Ngarrindjeri women, the Royal Commission into Secret Women's Business?

The Hon. DIANA LAIDLAW: I will refer the honourable member's question to the Minister and bring back a reply. In the meantime, the latter comment by the honourable member did not dignify this Chamber and certainly not herself.

Members interjecting:

The PRESIDENT: Order!

There being a disturbance in the gallery:

The PRESIDENT: Order! I ask the police to clear the gallery immediately.

PENOLA ROAD CLOSURE

The Hon. A.J. REDFORD: I seek leave to make a brief explanation before asking the Minister for Transport a question about the Roads (Opening and Closing) Act 1991.

Leave granted.

The Hon. A.J. REDFORD: Yesterday I was approached by the Chairperson of the Penola and District Business and Tourism Association regarding the proposed closure of Young Street in the township of Penola. I have been informed by Mrs Reschke that the Penola District Council proposes to establish a town square. Apparently the issue has been raised on a number of occasions over a period of six years. I understand that, as a consequence of the last council elections, the council resolved to go ahead with the establishment of such a square.

I have been informed by Mrs Reschke that a public meeting held on Monday 25 September in Penola attracted 144 people, which is a substantial number of people given the population of Penola. At the end of the meeting 16 people voted for the project and 64 people voted against the project. She advised me that many other people did not vote but expressed a view that the town square should go ahead but without the closure of Young Street. Indeed, a petition against the proposal attracted 497 signatures in a town with a population of 1 500. Mrs Reschke also advised me that the process set out under the provisions of the Roads (Opening and Closing) Act has not been followed, and this has been confirmed by the Acting Clerk of the council.

Notwithstanding that, the council proposes to commence work on the project on or about 25 October. I understand that the nature of the work is such that vehicular traffic will not be able to pass through Young Street. The Acting Town Clerk advised me that the council believes that it has the power to do what it is doing pursuant to section 359 of the Local Government Act. That section provides that a council may by resolution exclude vehicles generally from a particular street. Such a resolution cannot, however, take effect before it has been published in the *Gazette* and a local newspaper. I understand that no such resolution has been passed but the council proposes to pass such a resolution at its next meeting to enable it to commence work.

Whilst I have no view one way or the other as to the merits of the town square proposal—or indeed about the proposed closure of Young Street—I do have a concern that in this case the local council through the use of section 359 may avoid the extensive consultation process set out in the Roads (Opening and Closing) Act.

Indeed, I am told by Mrs Reschke that a complaint has been made to the Ombudsman in the past few weeks and that he has indicated that he will investigate the matter. However, it is unlikely that the Ombudsman would have completed his investigations prior to the commencement of the proposed works. This is not the first time that a council has indicated to me that it will proceed to commence work on a project notwithstanding the fact that an inquiry by the Ombudsman is still pending, and I hope that we as a Government will look into that issue.

It is clear that the power to close roads is confined to the Minister for Transport pursuant to the Roads (Opening and Closing) Act and there appears to be good reason for that to occur. Whilst local areas may wish to close a road, it is important that broader traffic considerations are taken into account and, therefore, the State Government has a clear responsibility to supervise the opening and closing of roads. One could imagine the city council deciding to put barricades on Gouger Street—

Members interjecting:

The Hon. A.J. REDFORD: Can you be real? I am just trying to get this question on the record for a constituent, and I am trying to do it quickly.

Members interjecting:

The PRESIDENT: Order!

The Hon. A.J. REDFORD: One could imagine the city council deciding to put barricades on Gouger Street—

Members interjecting:

The Hon. A.J. REDFORD: Look, if you think these small people do not count, get up on your feet and say so.

Members interjecting:

The PRESIDENT: Order!

The Hon. A.J. REDFORD: One could imagine the city council deciding to put barricades on Gouger Street with planter boxes and the like, thereby excluding traffic without any consultation with the State Government. That would be undesirable. In the light of the apparent conflict between the use of the provisions in the Roads (Opening and Closing) Act 1991 and section 359 of the Local Government Act, my questions to the Minister are:

1. Will the Minister inquire into the Penola town square proposal and ascertain whether or not the council should have followed the provisions of the Roads (Opening and Closing) Act?

2. Will the Minister review the Roads (Opening and Closing) Act and section 359 of the Local Government Act and provide Parliament with recommendations as to any legislative changes to avoid the apparent conflict?

The Hon. DIANA LAIDLAW: The answer to both questions is 'Yes.'

VIRGINIA-TWO WELLS DEVELOPMENT

The Hon. T. CROTHERS: I seek leave to make a precied statement before asking the Attorney-General, representing the Minister for Primary Industries, a question on the subject of recent announcements in relation to further horticultural development in the Virginia-Two Wells area.

Leave granted.

The Hon. T. CROTHERS: Recently, announcements were made concerning the use of treated Bolivar effluent water to expand the horticultural areas in the Virginia-Two Wells area. The report indicates that the purpose of this development is to grow horticultural products designed solely for the Asian export market. Proposals of this nature are to be commended and, of course, if the completion of the Adelaide to Darwin rail link goes ahead, as most people believe it will within the next decade, that surely must make way for other projects of a like nature here in South Australia. However, if the project does go ahead, the State Government has to ensure that, where possible, the skills of South Australian industry are brought to bear so that South Australian manufacturing industry shares to the maximum extent possible in this project and in other State projects that may be in the development pipeline. With these matters in mind, I direct the following questions to the Minister:

1. Does the Government have any local procurement preferences policies for South Australian manufactured products and, if not, why not?

2. How much, if any, financial assistance does the State Government intend to provide to the Bolivar project and, if none is intended, why not?

3. Does the Minister agree with me that the lessening of unemployment in this State reduces the burden on State outlays, thus easing some of the burdens on South Australian taxpayers?

The Hon. K.T. GRIFFIN: I will refer the questions to the appropriate Ministers. I am not sure that the Minister for Primary Industries is the appropriate Minister in respect of all those questions, but I will make sure that they get to the right Ministers and bring back replies.

AUSTRALIAN LABOR PARTY

The Hon. L.H. DAVIS: I seek leave to make an explanation before asking the Minister for Education and Children's Services, as Leader of the Government in the Council, a question about the public interest.

Leave granted.

The Hon. L.H. DAVIS: It is clearly in the public interest that the Government of the day, whatever its political persuasion, should be kept on its toes by a strong, tenacious, focused and united Opposition. Since the start of the new session, it has been obvious that the Labor Opposition has been badly distracted and affected in its parliamentary performance by the public bickering and faction fighting within the ALP. My questions to the Minister are as follows.

Has the Minister any observation on this matter? Am I right in assuming the ALP has the following factions—a soft left, a hard left, a disappearing centre left, a right, and a too hard basket faction, or have I left someone out? Am I right in saying that the left is sick of being left right out? What is the left of the centre left? Is it right that Mr John Quirke will cross the centre to the right, having left the centre left?

The Hon. T. CROTHERS: Mr President, I rise on a point of order. The question just asked by the honourable member in respect of the faction to which Mr Quirke belongs is, I believe, an inappropriate question to be answered by the Leader. That question ought to be directed to the honourable member in another place whose name was just mentioned by the Hon. Mr Davis, and I ask you, Sir, to rule accordingly.

The PRESIDENT: Order! There is no point of order.

The Hon. L.H. DAVIS: I think not everyone heard that, so I will repeat that. Is it right that Mr John Quirke will cross the centre to the right, having left the centre left? Was Terry Cameron right to resign as convenor of the centre left? Is Michael Wright, the controversial candidate for Lee, left or right? Am I right that Trish White of the right is now head of the right? Has Michael Atkinson of the 1950s right threatened to go right out of the ALP? Am I right that ALP State President Deidre Tedmanson of the hard left was cross that the centre left in Lee went for Wright, and left out Chesser of the centre left, but Ms Tedmanson had herself supported rock hard left Russell Wortley for Wright in preference to a woman of the left? Who is right in this factional war, and who is left in the ALP?

The Hon. R.I. LUCAS: I might have to take some of those questions on notice and endeavour to bring back a reply. I do not know whether there is much that I can add to that series of questions, but whilst the disarray of the State Labor Party and the Opposition has caused much levity in some sections, or *comitas*, as the Hon. Mr Nocello would have indicated in his maiden speech on Tuesday, I guess sadly there is a very serious side to the disarray in which the State Labor Party and the Opposition finds itself—sadly, from the community's viewpoint rather than just that of the State Labor Party.

As Mr Atkinson evidently indicated yesterday, Mike Rann and the State Labor Party, from this weekend onwards, will be a captive of the left. Mr Atkinson, a senior frontbencher in the shadow Cabinet, indicated that in the Assembly yesterday. Whilst I did not keep up with all his questions, I did notice that my colleague Mr Davis mentioned hard left and soft left. I must admit that they are not descriptions I would use of the two versions of the left in the Labor Party. I would prefer the looney and loopy left, I think—looney to refer to the Bolkus left and loopy, or fruit loopy, to the Duncan or Terry Roberts left, with due deference to the Hon. Terry Roberts. I think the descriptions of hard and soft are not accurate terms.

When one looks at it from the community's viewpoint, with a Party and Leader captive of the left, one is entitled to ask the sorts of policy directions that a Party may well seek to take when it approaches the major issues that confront the State of South Australia today. Clearly one of those is the issue of the State debt—the budgetary and financial problems that confront the State, and the sorts of policy issues that evidently the Labor Party and the left will be seeking to inflict on the people of South Australia, is a commitment. Its major commitment to take to the next election will be to buy back the bank. Having in effect bankrupted the State of South Australia with the State Bank once, the Labor Party's policy solution to the financial and budgetary problems of the State will be to buy back the bank.

The Hon. Caroline Schaefer: With what?

The Hon. R.I. LUCAS: With what? What the people of South Australia are entitled to ask is: what are the policy

responses of this Labor Opposition to the critical issues confronting the people of South Australia? The Labor Party's response, and that of the Leader, captive of the loopy and the looney left, is in effect to reverse all the sale and privatisation decisions in South Australia at a potential cost, according to the Premier, of up to $4 billion, after the next State election.

The Hon. Carolyn Pickles: And counting.

The Hon. R.I. LUCAS: The Hon. Carolyn Pickles, a representative of the looney left, is saying, 'And counting', indicating that it will go even higher, supporting that policy and supporting the fact that, having to finance such a policy of $4 000 million, the annual interest cost of that would be about $400 million a year over and above what we pay at the moment. So, it is either higher taxes or they will have to sack 8 000 teachers in South Australia to pay for this policy prescription. A total of 8 000 teachers would be the sort of policy prescription that this Labor Opposition offered to the people of South Australia if they were going to adopt those sorts of policies. It is sad to see a once proud Party, as the Labor Party, in such disarray.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: Members such as the Hon. Mr Crothers must be most distressed to see the disarray of his Party, which I am sure he believed was a once proud Party here in South Australia. Just two or three years ago, when Mr Crothers was the leader of the centre left in South Australia, it once had almost 50 per cent of the convention vote in the Labor Party. Two or three weeks ago the incredible shrinking faction—or whatever description my colleague the Hon. Mr Davis gave—after they knifed Mr Crothers at a time of difficulty and got him out, dropped to 28 per cent—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: After they knifed him, that faction dropped two or three weeks ago to 28 per cent, and in the last two or three weeks that 28 per cent has dropped to 10 to 15 per cent.

The Hon. R.R. Roberts interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Roberts is interested in this. Tomorrow, another significant union will leave the centre left and join the left.

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: The Hon. Ms Pickles is happy—and that 10 to 15 per cent will drop even further. With that once proud Party, we now have the unlikely position of strange political bedfellows, as the Hon. Mr Davis has indicated. The whole prospect of John Quirke, Michael Atkinson and Paul Holloway in the one faction is just beyond belief. Given what we know each has said about the other over the past three years in the privacy of the corridors, across the road at Parlamento and a variety of other places, the possibility of the Hon. Terry Cameron potentially being in the same faction as Mr Atkinson fills one with horror. The Hon. Ron Roberts, who does not know whether he is Arthur or Martha at the moment, left without a faction, does not know where he is—

The Hon. ANNE LEVY: I rise on a point of order, Mr President. Under Standing Orders members are not supposed to cast reflections on other members other than by substantive motion. I would ask that that derogatory comment about a member on this side be withdrawn.

The PRESIDENT: This has been a most unusual question. The point of order is quite correct, and I would ask the Minister to bear that in mind when answering the question. I also ask all members to settle down a little. If this is to be a productive Question Time at all, I ask members to apply themselves to the matter at hand and not get carried away with frivolity.

The Hon. R.I. LUCAS: If the Hon. Mr Roberts took exception to my referring to the fact that he does not know whether he is Arthur or Martha, I apologise profusely and withdraw unreservedly such an obscene reflection on him. One of our concerns in the past two years has been that all we have had from the Hon. Mr Rann and the Labor Party have been two years of negativism, knocking, criticism and not one positive contribution to the economic, budgetary or political debate. Sadly, the serious part to the object Mr Davis's question is that the Opposition's disarray means that not only are we destined we see another two years of that knocking, negativism and criticism but also we will see policies of the nature of buying back the bank and saving the future of the State in that way as the only response the Labor Party has to the very significant issues that face the State and its people.

HISTORY TRUST

The Hon. ANNE LEVY: I seek leave to make an explanation before asking the Minister for Education and Children's Services a question about education officers.

Leave granted.

The Hon. ANNE LEVY: It is hard to know who has offended the dignity of the House more: the people in the Gallery or the people over there. The History Trust has been savagely attacked by the Government this year. It had a loss of $250 000 from its budget; had to close a museum, unprecedented in the history of this State; and, while still reeling from this loss, has been told that it is to lose two education officers, one located in the history centre and one at Birdwood Motor Museum. No other cultural institution is losing an education officer. Parliament House keeps an education officer, the Festival Centre keeps one, the Museum keeps its two, the Art Gallery keeps one, the Botanic Gardens is keeping its education officer, and so on, yet the History Trust, already reeling from the effects on it of this Government, is to lose two education officers from the end of this year. This has absolutely shattered the History Trust.

The staff and, I understand, the board are outraged at this further decimation of their function and are of the opinion that the Education Department does not understand the value of the education officers in these cultural institutions. They not only run programs for the thousands of schoolchildren who visit the institutions throughout the year but they also are an important part of the school curriculum. They take part in designing school curricula and they run in-service courses for teachers to assist them with historical matters in their teaching. They have designed and brought into play all sorts of innovative activities for children. These activities are being copied interstate, such as the journalism course for children run by the education officer at Birdwood, associated with the Grand Prix and the Birdwood Museum. It is such an outstanding success that Victoria wants to take it on, now that it has the Grand Prix. This is coming from someone who is now to lose his job.

There is great concern that the History Trust is being further decimated. The Minister for the Arts has obviously been unsuccessful in protecting the History Trust from losing two of its education officers, if she has tried to do so.

The Hon. A.J. REDFORD: I rise on a point of order, Mr President. The last three sentences were clearly opinion, and

I ask that the honourable member ask the question or get to the point.

The PRESIDENT: Order! I remind all members to read the first line in Standing Order 109, which provides that there should not be opinion or debate. However, opinion has previously been given today. I rule that there is no point of order in this case. However, I ask the honourable member to put her point of view succinctly.

The Hon. ANNE LEVY: I have nearly finished my explanation but, given that the History Trust is being further hit by this Government, that the Minister for Education and Children's Services has not been successful if he has tried to prevent this further depredation of the functions of the History Trust and that it is widely being interpreted by many in the community that this Government is showing a complete lack of interest in and concern about our history and maintaining our cultural traditions, will the Minister for Education and Children's Services reconsider this question and not deprive the History Trust of two education officers from the end of this year?

The Hon. R.I. LUCAS: The short answer to the question is 'No.' The decision that I as Minister took in relation to the outreach services of the Department for Education and Children's Services was one of a package of very difficult decisions that I as Minister had to take. It was certainly not a decision that I as Minister enjoyed taking. I understand the concerns that have been expressed by the History Trust and its supporters. In better financial circumstances and if the State had not been left in such a parlous financial state, as was left to the new Government by the previous Labor Government, these difficult decisions—

The Hon. ANNE LEVY: So, you close museums?

The Hon. R.I. LUCAS: No; you ruined the State financially, so we had to clean up the mess.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: The Hon. Miss Levy gets on her high horse and says, 'We never closed museums,' but the Hon. Miss Levy as a member of Cabinet almost bankrupted South Australia so that we had to clean up the financial mess that you left for the new Government. It is the Hon. Miss Levy's responsibility that these decisions are having to be taken.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: It is not the responsibility of the new Government that we have to clean up the mess.

The Hon. Anne Levy interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: If there is anyone who should be apologising to the History Trust and its supporters, it ought to be the Hon. Miss Levy and her supporters for almost bankrupting South Australia so that we are left—

The Hon. Anne Levy: I didn't almost bankrupt—

The Hon. R.I. LUCAS: You did: you sat on your hands and did nothing for four years. The Hon. Miss Levy and her colleagues sat on their collective hands and did nothing for four years. They watched the almost bankrupting of South Australia so that the new Government was left with the financial mess that we have to clean up. That is why we have to take these painful decisions; that is why we have to stand up to the History Trust and others and say to them, 'We would prefer not to have to take these decisions.'

Members interjecting:

The PRESIDENT: Order!

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order!

The Hon. Anne Levy: You don't care about the History Trust.

The PRESIDENT: Order, the Hon. Anne Levy! As a former President you should know that the Minister has the right to answer the question in silence. The Minister for Education.

The Hon. Anne Levy: He does not have the right to debate it.

The PRESIDENT: Order!

The Hon. R.I. LUCAS: As I have indicated, this is not a decision that this Government or I as Minister have enjoyed taking. We would have preferred not to have been forced into a position of having to make difficult cuts in the Education Department generally or, in this case, in relation to the outreach services of the Department for Education and Children's Services. As I indicated in the budget in June, we had to reduce up to 100 positions in our above formula positions. This particular reduction is a small part of that reduction of up to 100 positions within the above formula positions in the Department for Education and Children's Services. As the honourable member has pointed out, no other institution has been asked to take a cut of two positions, but equally no other institution has four salaries. That is not a point that the honourable member made. From my recollection, all the other institutions have either half a salary or one salary. One institution has two salaries but, with this reduction, the History Trust will still have equal highest with one other institution of all the institutions in South Australia of above formula salary positions.

I do not seek to argue in relation to Birdwood Museum that in better financial times we would have been arguing to remove that position but, in making the difficult decision we had to make, we had to look at outreach services and the coverage across all those institutions and then make a difficult decision in the end. I can assure the honourable member that, if we had not decided in this way and taken staff from the Festival Centre, the Museum or whatever, I am sure she or other members would have similarly been criticising the Government's decision. It is their right to take up the representations, just as it is indeed my right as Minister on behalf of the Government to indicate why this Government and why we as Ministers are having to go through this painful process of making budget cuts and reductions in areas in which we would have preferred not to have made such decisions.

COTTON FARMING

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 about the Windorah cotton growing proposal.

Leave granted.

The Hon. M.J. ELLIOTT: I have received reports this morning that site work is commencing on a major cotton farming project proposed for the Upper Cooper catchment in the Lake Eyre Basin near Windorah in western Queensland, and this has ramifications for South Australia. I raised this issue in a question to the Minister for the Environment and Natural Resources on Tuesday and raised the concerns that were coming from conservation and pastoral groups in South Australia who are opposed to the plan because it threatens

wetlands of world significance, because it has implications for pastoralists who use the flood plains which are an important part of their source of feed at certain times of the year and because of potential damage to tourism.

This morning my office was rung by a prominent conservationist who says the project developers are proceeding with earthworks and have taken about 30 000 litres of diesel fuel on to the project site ready to proceed. They are apparently not constrained by the outcome of the initial advice statement prepared by the Queensland Department of Primary Industries, which is the basis for approval of the development under the Queensland Development and Public Works Organisation Act. Apparently these people are going ahead with expensive preparation for the site of the development, which seeks to grow 2 500 hectares of cotton, pumping more water from the Cooper than it can sustain in a dry year. I reiterate: the Cooper is one of the most variable large rivers in the world. In at least one year in three flows are so low that extracting the proposed 42 000 megalitres a season for cotton growers in western Queensland could not be sustained. This would have a significant and serious effect on hundreds of kilometres of river and vegetation downstream as well as water quality, fish and water birds. My questions to the Minister for Primary Industries and the Premier are:

1. Will the Minister and the Premier make immediate contact with their Queensland counterparts and seek to stop the site works which are already commencing on the Windorah site?

2. What other measures will the Minister and the Premier take to ensure that an indefinite moratorium is placed on further irrigation development in the Lake Eyre Basin catchment in South Australia?

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

LIFE EDUCATION

The Hon. G. WEATHERILL: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services a question about Life Education.

Leave granted.

The Hon. G. WEATHERILL: Today, I was lucky enough to meet Stephen Richards, Chairman, Life Education, and a member of the National Life Education Board. Unlike this Chamber today, he is trying to help the people of South Australia. Life Education is funded by the Drug and Alcohol Board and subsidised by State and Federal Governments on a one for one basis. At present Life Education is concerned about the increase in the number of people taking drugs.

I wish to give the Council relevant figures, because in Australia 23 000 died from drug misuse. From tobacco smoking causes we had 19 000 deaths; from alcohol misuse we had 3 660 deaths; and from illicit drug use we had 488 deaths. The figures show that we have drug deaths in Australia equal to a jumbo jet dropping out of the sky once a week and these figures are quite horrendous. Life Education wants to try to do something about this problem. It takes four caravans around the State and tries to educate young people before they get into drug activity or are intimidated by peers in classrooms and schoolyards regarding such activity. This is a worthwhile cause. In order for Life Education to be successful in its work it requires 14 vans, but at present it has only four vans. Will the Minister for Education and Children's Services and his Government look into purchasing these extra vans for such a worthwhile cause?

The Hon. R.I. LUCAS: I am aware of the role that Life Education vans and workers play in the antidrug abuse program within the community generally and within our schools in particular. I will certainly consult with my colleague the Minister for Health, and possibly the Minister for Family and Community Services as well. I am not sure which other State Government agencies fund Life Education. Certainly, from the viewpoint of the Department for Education and Children's Services, each of those vans are extraordinarily costly. I have seen the figure but I cannot recall it. They are very impressive vans but they are very expensive. Certainly, speaking on behalf of the Department for Education and Children's Services, we are not in a position to purchase 10 additional vans, together with the staff that would be required to travel with those vans.

My recollection is that some of those vans are actually purchased by community groups through fundraising to allow those programs to operate in their regional areas. Speaking on behalf of the Department for Education and Children's Services, certainly we are not in a position to fund the purchase of 10 additional vans and staff. However I will inquire of the Minister for Health and, as I said, possibly the Minister for Family and Community Services. But again my view would be, given the difficult financial circumstances, it is highly unlikely that either of those Ministers, or agencies, will be in a position to purchase 10 additional vans. I will obtain a reply and bring it back as soon as possible.

MULTICULTURAL COMMUNITY COUNCIL

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 Multicultural Community Council.

Leave granted.

The Hon. P. NOCELLA: On 4 October last a very important event took place. That was the extraordinary meetings which ratified the amalgamation of two organisations to a pre-existing organisation called the Ethnic Communities Council and the United Ethnic Community into one body now called the Multicultural Ethnic Communities. This is an important event in the life of our broader community. This section of our community consists of approximately 40 per cent of people born overseas, or at least one parent born overseas, out of which approximately 20 to 25 per cent come from of an ancestry of a non-English speaking background. Over the years these two pre-existing organisations have claimed to represent the ethnic communities but, of course, this has been an unsatisfactory situation because each one inevitably spoke only for some part of the ethnic communities.

Now they are amalgamating into one group it puts them in a very good position to speak on behalf of the whole range of communities and bring to Government representation on behalf of this sizeable section of our community. At this early stage of its development the Multicultural Communities Council is experiencing a precarious situation because it is not rich in funds, facilities, or resources. Therefore, it would be appropriate for the Government to look into the situation with a view to providing it with adequate resources at this crucial stage of its life in order to allow it to perform those services that it is so ideally placed to perform, services that

can, with some support, be delivered possibly in a manner that is cheaper than it would probably cost perhaps a Government department. The Multicultural Communities Council is lean and hungry and it is able to work with a minimum of resources and deliver value for money service. My questions to the Minister are:

1. What role does the Government envisage for the newly established Multicultural Communities Council?

2. What resources does the Government intend to apply in order to enable this organisation to perform its institutional role?

The Hon. R.I. LUCAS: I am sure that the Hon. Mr Nocella will join me in congratulating the Hon. Mr Stefani for the tremendous work that the Hon. Mr Stefani did in the establishment of the council, and I am sure the Hon. Mr Nocella, with the interests of the ethnic communities broadly in South Australia at heart, would join me in congratulating the Hon. Mr Stefani on the work that he undertook, and certainly I place that on the public record. Those of us who did have some involvement or association with the ethnic communities field generally over recent years will have known the enormity of the particular task that the Hon. Mr Stefani was charged with in that area, and to have achieved that is a singular accomplishment. It certainly does the Hon. Mr Stefani credit and I believe credit also to the Minister, who is indeed the Premier, that this has been able to be achieved with the broad support of the ethnic communities generally and obviously the support by way of his question of the Hon. Mr Nocella in supporting the establishment of the new council. I place that on the record. Certainly, I will refer the specific questions that the Hon. Mr Nocella has put to the Minister and endeavour to bring back a reply as soon as I can.

ADMINISTRATIVE DECISIONS (EFFECT OF INTERNATIONAL INSTRUMENTS) BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act relating to the effect of international instruments on the making of administrative decisions. Read a first time.

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

That this Bill be now read a second time.

On 7 April 1995 the High Court brought down its decision in *Minister of State for Immigration and Ethnic Affairs v Ah Hin Teoh* (the Teoh case). In the Teoh case the High Court held that the ratification of a treaty by Australia creates a legitimate expectation that the Executive Government and its agencies will act in accordance with the treaty provisions, even if they have not been legislated into domestic law. If it is proposed to make a decision inconsistent with that legitimate expectation, it was held that procedural fairness requires that the person affected be given notice and an adequate opportunity to reply.

Teoh's case concerned a Commonwealth decision maker; however, there is scope for the principle to be extended to State decision-makers and this has serious ramifications for the State. Administrators would need to be aware of the provisions of international treaties ratified by the Commonwealth Executive Government but not incorporated into domestic law. Any decision which departed from the provisions of the international treaty would be void unless the individual whose interest would be affected by the decision had not first been given a hearing on the issue of departure from the treaty. Australia has ratified over 900 treaties. To comply with the principle enunciated in Teoh's case State agencies and tribunals would need to expend enormous resources in training and procedural reforms in the decision-making process to ensure that decision-makers were aware of the international instruments to which they must have regard. In Teoh the High Court made it clear that the expectation that the Executive Government and its agencies will act in accordance with treaty provisions, even if they have not been incorporated into domestic law, could be displaced by statutory or executive indications to the contrary.

A ministerial statement made by the Attorney-General on behalf of the Government on 8 June, 1995 was an Executive act to oust any legitimate expectation based on the ratification of a treaty that might otherwise exist. It represented the contrary intention of the Government in the sense referred to in the Teoh case. The ministerial statement foreshadowed the possibility of legislation to reinforce its effect and that is what this Bill does.

Prior to the Teoh decision, the terms of treaties had not been considered to create rights or obligations in Australian law in the absence of legislation. The High Court confirmed this principle in Teoh. However, the court distinguished between a substantive rule of law and a legitimate expectation that a decision maker will comply with the terms of a treaty. A legitimate expectation amounts only to a procedural right to have the treaty considered, as opposed to a legal right to enforce the terms of the treaty. Despite this distinction, the Teoh decision is likely to give ratified but unimplemented treaties a force in domestic law which was previously assumed to be dependent upon parliamentary action. The Bill will restore the situation which existed before Teoh, in which if there were to be changes in procedural or substantive rights in domestic law resulting from adherence to a treaty, they would be made by parliamentary and not executive action.

Treaties previously have been considered by courts in statutory interpretation, the development of the common law and as relevant but not obligatory consideration in administrative decision-making. The use of treaties in this way does not give rise to enforceable rights, even of a procedural kind. The Bill will not affect the use of treaties in this way.

The purpose of the Bill is to eliminate any expectation which might exist that administrative decision will be made in conformity with provisions of ratified but unimplemented treaties, or, that if a decision is made contrary to such provisions, an opportunity will be given for the affected person to make submissions on the issue.

The Administrative Decisions (Effect of International Instruments) Bill 1995 has been introduced in the Commonwealth Parliament to overturn the decision in Teoh. The Bill purports to apply to State administrative decisions. The Government has requested that the Commonwealth Bill be amended so that it does not purport to apply to South Australian administrative decisions. State administrative acts should be the subject of State legislation.

The Commonwealth legislation does not prevent the State Parliament from enacting its own legislation and it is important for State legislation to be in place in the event that the Commonwealth legislation, in so far as it purports to apply to State decisions, should be held to be invalid. I seek

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

Leave granted.

Explanation of Clauses

Clause 1: Short title

Clause 2: Interpretation

International instrument is defined broadly to cover treaties, conventions, protocols or other instruments binding in international law.

Clause 3: Effect of international instruments

This clause provides that administrative decision-makers are only obliged to comply with an international instrument to the extent that the instrument has become law under a State or Commonwealth Act.

It is made clear that decision-makers may have regard to international instruments that have not become part of the law if they are relevant to the decision.

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

SUMMARY OFFENCES (INDECENT OR OFFENSIVE MATERIAL) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 27 September. Page 47.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The Opposition wholeheartedly supports this Bill. The Bill allows the courts to take a more realistic approach in courts involving charges of child pornography. As the Attorney put it, it empowers the court to look at the whole picture. The Attorney will recall that I publicly called for an urgent amendment to the Summary Offences Act in November last year. I am glad the Attorney has finally got around to correcting this problem with the law. I have a brief question to the Attorney as to how he has gone about remedying this particular problem. Rather than amending section 33(4) of the Summary Offences Act, as proposed, would it not have been sufficient to repeal the existing section 33(4)?

In the course of the Opposition's consultation process in relation to this Bill the question has been raised as to whether the amended section 33 offence will impinge in any way upon the right of parents to take a few innocent photos of their young children playing naked under the sprinkler in the backyard, for example, assuming that the photos were only ever intended to be shown to family and close friends. It will be helpful for the Attorney to reassure the Parliament and the public that the amending legislation will not in any way cover innocent activities of this kind. I understand that this clause was originally put into the Bill to cover that situation.

The inadequacy of the existing legislation was dramatically brought home to the public when the Full Court delivered its judgment in the matter of Phillips. Phillips was the man who concealed a video camera in a carry bag and had it filming while he went into public urinals at Brighton Beach and various other places. He had a prurient interest with young boys' genitals because he spent hours filming them. He was convicted by a magistrate.

The Full Court quashed that conviction, supposedly because of 'the law'. I said at the time that the decision defied the intended spirit of the current child pornography laws and I still believe that that is true. I believe that practically everybody who got to know what Phillips did, and the fact that the Full Court considered that he had not broken any law, would have been outraged by the court's decision and offended by Phillips' behaviour. Honourable members will recall that the court actually used the example of various statues overseas of young boys urinating to say that the public would not be outraged by this kind of behaviour. I thought at the time that that kind of statement by the magistrate was totally insufficient. I am glad to see the Attorney has finally got around to rectifying the problem. He can see I was absolutely right about this issue, and perhaps next time he may act more promptly on my suggestions. In any case, we are happy to support the second reading, if the Attorney would answer those couple of queries we have.

The Hon. R.D. LAWSON: I, too, support the second reading of this Bill. I do support the object which this measure seeks to achieve. However, I must say that I have some doubt as to whether this amendment will achieve the objective that the Hon. Carolyn Pickles just spoke of. In making that statement I am not intending any criticism of the draftsperson or the Attorney-General introducing the measure. Rather, my reservation is a comment about the particular legal difficulty which arises in this area.

As has already been mentioned, this amendment results from the acquittal of the accused in the case of Phillips against the police. As the Hon. Carolyn Pickles said, many people were surprised by the ultimate result of that case, in which the accused was charged with being in possession of child pornography contrary to section 33(3) of the Summary Offences Act. The accused had been found guilty by the magistrate and the appeal to a single judge of the Supreme Court was dismissed.

In the Full Court the accused's appeal succeeded on the sole ground that the material which was in his possession was not child pornography as that term is defined. Under the definition of child pornography in the Act, it means material in which a child is depicted in a way that is likely to cause offence to reasonable adult members of the community. The judges of the Full Court held that the material found in the accused's possession—namely, videotapes of boys and men urinating and undressing in dressing rooms—was not indecent. The reason the prosecution did not succeed is that the material was not child pornography because it was not indecent or likely to cause offence to reasonable adult members of the community. Justice Debelle delivered the principal judgment in the Full Court and on page 24 of his judgment he deprecated the conduct of the accused, deprecated his behaviour in taking the films and in possessing them, and said that ordinary members of the community might be outraged by that, but His Honour was compelled to find that, as I said, the material was not indecent.

His Honour was compelled to find that, as I said, the material was not indecent. The judge considered that the courts below had had regard to the circumstances of the production of the video films and this meant that section 33(4) of the Act had been contravened because that subsection, which is to be amended in the measure before Parliament, provided that in proceedings for an offence against section 33, the circumstances of the production, sale, exhibition, delivery or possession of the material to which the charge can be related will be regarded as irrelevant to the question as to whether or not the material is indecent or offensive.

Justice Debelle and his fellow judges held that the magistrate and the judge on appeal had apparently had regard to the circumstances of production. This measure reverses that position. In future, it will be possible for the court to have regard to the circumstances of production, possession,

etc. However, I must say that I do not think that it necessarily follows that someone in the position of Phillips would be found guilty of possessing child pornography, even if the court is entitled to have regard to the circumstances of its production. I do not think it can be said that the finding of the judges in the Full Court that the magistrate had had regard to the circumstances was really the *ratio* of the case. I do not think that it was essential to the reasoning of the decision because it seems to me that the essential point made by the court was that the material itself was not indecent: however one had regard to the circumstances, it could not be indecent.

My concern is that this Bill will not have the effect of ensuring that someone in the same position as was the defendant in Phillips' case can be successfully prosecuted in the future. It is possible that the prosecuting authorities in Phillips' case did not charge the accused with the correct offence and that there may have been other, more appropriate offences that might have been charged and a conviction secured. The public outrage might have been assuaged by that means. However, I am not privy to all of the material that was available to the prosecution and I am not really aware of the circumstances because it does not appear from the report of the case itself what material was available to the prosecution, nor is it entirely obvious what precise offence the accused could have been charged with. I would be interested to hear from the Attorney in his response in due course about the question whether or not some other offence might have been more appropriately charged.

It seems to me that the meaning of section 33(4) as it stands in the Summary Offences Act, but which will be removed by this measure, ensures that one could not escape prosecution under these child pornography and indecent and offensive material provisions by proving that the circumstances in which the material came into existence were circumstances where, for example, the participants in the actions were voluntary, willing adult parties. This section actually applies not only to child material but also to indecent matter generally. As the Attorney mentioned in the second reading explanation, it is not entirely obvious from the material what was intended by that section when it was inserted into the Act, but that is one possible explanation. I am not sure that the mere removal of that provision will have the effect intended. One way of addressing this problem would be to create a specific offence of filming persons without their consent to satisfy prurient interests. Such a special offence would undoubtedly have secured the conviction of the accused in Phillips' case.

The Hon. Carolyn Pickles: Are you opposing this?

The Hon. R.D. LAWSON: I am not opposing it. I am suggesting that there are some doubts as to whether this measure will have the effect that most people in the community and, indeed, the Opposition think it will have. In her contribution today, the Hon. Carolyn Pickles seemed to think that there is no doubt at all that this measure will have the effect of securing the conviction of somebody in—

The Hon. Anne Levy: Should we have privacy legislation instead?

The Hon. R.D. LAWSON: That raises an entirely different question. In his second reading explanation, the Attorney did not assure the community and he did not seek to assure the community or to represent that Phillips would have necessarily been convicted under the proposed measure. In her brief contribution this afternoon, the Hon. Carolyn Pickles sought to create the impression that it will necessarily solve the problem.

The Hon. Carolyn Pickles: If it will not, why are we bothering with this?

The Hon. R.D. LAWSON: Something is better than nothing. I support the measure on the ground that it may secure convictions in some cases, but I doubt that it will in all and I doubt that it would have in Phillips' case. Notwithstanding that, I support the measure.

The Hon. A.J. REDFORD: At the outset, let me say clearly and unequivocally that I support this legislation. I wish to develop some of the points made by the Hon. Robert Lawson. Section 33 of the Summary Offences Act attacks the material that is in the possession of the person charged. In Phillips' case, the prosecuting authorities relied upon section 33 to prosecute that man for being in possession of offensive material. They sought to attack the material itself and that is always a very difficult thing to do, but Parliament has to confront those issues from time to time, no matter how difficult they are.

I was a young boy when all the cases came up in the 1960s and 1970s. I vividly recall the *Oh! Calcutta* case and the controversy that created. It is certainly difficult for prosecuting authorities, whether they be police officers or directors of public prosecution, to look at material by itself and then determine whether or not that material is offensive in the eyes of the public. One has only to walk through a newsagency today to see evidence of that.

I am concerned that section 33 has become so convoluted and complex that it is difficult for lawyers to understand, let alone lay people and prosecuting authorities, and this amendment will not make any difference one way or another in that respect. It is a summary offence, so it does not come before a jury. However, a judge having to direct a jury on section 33 would find it an exceedingly difficult task.

It is always my view and it is my philosophy that the criminal law ought to be expressed in such a way that a person of ordinary intelligence can pick it up, read it and understand what is or is not a crime. I am not sure that section 33 as it stands now, or as it will be amended, falls into the category of a piece of legislation that a 16 or 17 year old person of reasonable intelligence could pick up, read and say, 'I know that that material is illegal and that material is not.'

I support what my colleague the Hon. Robert Lawson says. I do not believe that section 33 as it currently stands, or as proposed to be amended, is good law. I think it is almost impossible to draft a code so that everybody can instantly look at a document or piece of material and say, with unanimity, what is offensive and what is not. I am sure members in this Chamber would find certain things offensive that I would not, and I am sure members in this Chamber would think certain things that I find offensive are not, and it comes down to a matter of personal judgment.

I share the comments of the Hon. Robert Lawson that we ought to look at perhaps the conduct of the people involved in this sort of area. I know it did exercise the minds of the lawyers on the Government side when we discussed this matter, and we had a fairly lengthy philosophical discussion on a number of issues. However, I think the real evil in the Phillips case was not necessarily the material he had in his hands but the fact that he went into a boys toilet and took photographs.

Members interjecting:

The Hon. A.J. REDFORD: That is not necessarily an invasion of privacy. If the boys were doing something else, you would not say it was an invasion of privacy. If he were

taking photos of them playing in a public park, I do not believe that would be an invasion of their privacy.

The Hon. Carolyn Pickles interjecting:

The Hon. A.J. REDFORD: He was not. It is not an issue of privacy; it is more an issue, as the Hon. Mr Robert Lawson said, of the conduct of this man and the fact that that conduct was associated with prurient interest. There was another case—I cannot remember exactly where it was, either Victoria or New South Wales—where a man used to wander around the city squares with a small concealed camera taking photographs of women from a very low position near the ground and obviously capturing their underwear. That, in my view, is something that ought to be stopped, and that conduct needs to be addressed. The fact that he has a prurient interest associated with that conduct is what I would suggest is the evil.

If one looks at the Criminal Law Consolidation Act, one sees that only two sections come close to this area, and one is section 58, which refers to acts of gross indecency. It may well be that what happened in Phillips' case might have fallen into that category. I can understand the difficulty that the Director of Public Prosecutions might have had in this case—although I am not sure whether he initiated the prosecution; it may well have come from the police prosecution division—in deciding whether or not there was sufficient evidence to show whether this man had committed an act of gross indecency. At the end of the day it may well have been that all the prosecutor had in his possession were these photographs, but no evidence as to how they came about, where they came from or on what occasion they came about.

Section 58A, which carries a two year period of imprisonment, provides for an offence to incite someone to gratify a prurient interest by doing something indecent. Perhaps we could look at that and frame a provision where someone does something to gratify a prurient interest *per se*, particularly in relation to children or, indeed, in relation to, dare I say it, people who are acting in a private way, whether it be in their home or in a public or private toilet.

I know that this is a very difficult issue and I hope that the Attorney at some stage down the track will look at it. I support the legislation. I think it will make it easier for the courts to deal with. My only concern is that section 33 really is almost beyond the ordinary lay person to properly understand. That is not something that I am terribly comfortable with.

The Hon. ANNE LEVY: I wish to make a couple of comments in this debate. I support the legislation, as I realise that legislative change is required if cases such as Phillips are to be dealt with, but I am concerned when we have two lawyers both doubting the adequacy of the measure to deal with the particular situation that has been brought out in the case to which everyone is referring.

The Hon. A.J. Redford: I never doubted its adequacy.

The Hon. ANNE LEVY: The Hon. Mr Lawson doubted its adequacy in dealing with it. When lawyers start differing as to whether this is the best way of dealing with the problem, my concerns are raised in that perhaps there should have been further discussion so that the lawyers could agree that this was in fact the best way to deal with that situation.

Members interjecting:

The Hon. ANNE LEVY: It is amazing that the Hon. Mr Redford, who objected so strongly to a single interjection when he was speaking, is now interjecting continuously when other members are speaking. Obviously different standards apply to him from everyone else.

The PRESIDENT: Order! I think the honourable member should keep her remarks to the subject at hand.

The Hon. ANNE LEVY: I thank you for that advice, Mr President, and trust that the same comments will deservedly be applied to everyone who responds to interjections. As I say, it does concern me when there is legal argument as to whether the Bill before us is the best way of dealing with the particular situation. Everyone is in agreement that legislative change is required. There is no argument on that point, but whether or not this is the best way of dealing with it does seem to be a matter of legal debate, even amongst the few lawyers who are present in this Chamber.

I would wonder whether any consideration was given by the Attorney and his officers as to whether it could be better tackled by means of privacy legislation, because it would seem to me that the videos in this particular case were not inherently indecent. There is nothing indecent about urinating, quite obviously, but what most people find utterly repugnant is that this was being done without the individuals concerned knowing anything about it and that it was a gross invasion of their privacy.

The Hon. Carolyn Pickles: And they were children.

The Hon. ANNE LEVY: Children or adults, their privacy should not be invaded in this way by people taking photographs or videoing them while they are urinating without their express permission, if it were for a scene in a film or a similar situation. So, I ask whether thought was given to tackling the question by way of privacy legislation, as I am sure that most people's reaction is to feel that in this situation it is the privacy of the individuals concerned which has been violated by the actions of another individual.

The Leader of the Opposition has also raised the question of parents who photograph their nude babies. I will be interested to see what the Attorney says in response to this. The section he is proposing deals with the intended use of material in determining whether it is indecent or offensive. In general, I am sure no-one would regard parents taking photos of their newborn babies as being in any way indecent, even though those photos may be produced and passed around at the person's twenty-first birthday, to the great embarrassment of the now adult person at having their baby photos shown. Indeed, that may be the intended use on the part of the parents when they take those photos. However, I would certainly hope that the Attorney-General can reassure us that this clause could never be used to prosecute parents for taking photos of their naked children.

I reiterate that we are all in agreement that legislation is required to deal with the situation. There seems to be differences of opinion as to whether this is the best way of dealing with it, and I would welcome the Attorney's comments on the approach being adopted versus the approach of privacy legislation.

The Hon. K.T. GRIFFIN (Attorney-General): I appreciate the contributions which members have made. I will deal first with the issue raised by the Hon. Anne Levy. Some consideration was given to that, but it was not taken very far, because it raises all the issues of what is privacy, how it should be protected, what should be protected and what remedies should be available. It was regarded as too comprehensive an issue, as I am sure the honourable member will recall from the last occasion on which privacy legislation

was considered to develop that issue further. So, we focused on the issue of section 33 as it is or as we would like it to be.

I should say right from the outset that no-one can guarantee what the courts will or will not do when someone takes a technical point. That was the point that was taken in relation to the current drafting of section 33 in relation to the Phillips case. But, if you think about it, it is quite logical; as the Hon. Anne Levy said, small boys urinating and photographs of them are not inherently indecent.

The Hon. Anne Levy interjecting:

The Hon. K.T. GRIFFIN: That is right. That was the point the judges made. So, it is not inherently indecent, although the circumstances in which the films were made were certainly offensive to many people. I am told that one of the difficulties that the police had in prosecuting is that they could have charged him with offensive behaviour but that they could not prove beyond reasonable doubt that he created the videotapes. Someone had reported seeing this guy hovering around and when his home was visited by police they found him in possession of this material. It was not possible to prove that causal link beyond reasonable doubt, so that was a problem. Section 58A of the Criminal Law Consolidation Act was also considered as a possibility. However, the offence there is directed at causing a child to do something to gratify a prurient interest in the instigator, and Phillips did not do that; we presume he merely filmed what was going on.

So, the difficulty is how one approaches this to endeavour to lift significantly the prospect that there will be a successful prosecution. When we looked at this legislation we were also conscious that section 33 had made a distinction between behaviour that was indecent or offensive on the one hand and behaviour that was related to child pornography on the other. A distinction is made within the section.

We were also concerned, if we made such a radical change as to remove the reference to inherent indecency, about where that would leave us in terms of interpreting particular material. What might be not unreasonable behaviour might then be caught, and we have that age-old debate about what is indecent and/or offensive. So, we looked at the amendments which we have in the Bill and in particular at changing subsection (4) to focus upon the circumstances in which material was obtained if the material in itself was not inherently indecent, and distinguishing that from material which was inherently indecent or offensive.

So, you do not have to worry about the circumstances if you can show that the material is inherently indecent or offensive and you have the standards set down in the statute and the common law on the one hand. However, if you cannot establish, as the prosecution in the Phillips case could not, that it was inherently indecent, then you go to the next step and look at all the circumstances in which the material was obtained. It may be that someone will find another technical way through that and we will have to address the issue again, but the advice that—

The Hon. Anne Levy: It is not just how it is obtained; it is dealing with use.

The Hon. K.T. GRIFFIN: That is right.

The Hon. Anne Levy: That is different from how it is obtained.

The Hon. K.T. GRIFFIN: That is right. On use also, you have different issues which arise in relation to the use of this material. That is correct, but I do not think that is a major problem. I will make another comment about prurient interest. The Hon. Angus Redford has made the observation that maybe we ought to be looking at the behaviour. The prosecution is faced with a similar difficulty in relation to proof—to link the behaviour with the conclusion that it was to satisfy prurient interest. That may not be so difficult in most cases, but it can still present a difficulty. Whilst we looked at that as an option, we continued to come back to looking at the circumstances of the production, sale, exhibition, delivery or possession to which the charge relates and its use or intended use.

We think we have done the best we can do without creating even further problems, which are more on the policy or philosophical level, about what the law should be constraining in relation to indecency and offensiveness. I think everybody in the Chamber would acknowledge that that is a delicate and difficult issue. In putting this together, we have sought perhaps to skirt around that by looking at circumstances and the use or intended use of the material. That is our best chance of establishing the offence in circumstances similar to those of the Phillips case.

The Hon. Angus Redford said, 'Maybe the police did not charge the right offence.' I do not think that one can reasonably reach that conclusion. I have indicated the difficulties that would have been confronted anyway with respect to section 58A of the Criminal Law Consolidation Act—the problem with the production of the material and proving that beyond reasonable doubt. In the circumstances I think we have done the best we can.

The Hon. Anne Levy and the Hon. Carolyn Pickles made one other observation about parents and innocent filming. I wanted to ensure that by drafting it widely we did not catch that sort of behaviour and I think we have been successful in that. A parent who films his or her children playing naked under the hose on a hot summer's day and captures childish fun would not be regarded as a problem. On the other hand, if the parent was taking these photos—and I find it offensive to think that a parent would do this—and then sold them to people who might get some paedophilic gratification out of them, that might fall within the category of material that is caught. It raises important issues but, based on all the advice I have and based on my own assessment, I do not think that is a problem with the way we have drafted it. That is all I can say: I cannot give an unqualified assurance that they can never be caught because each case has to be judged on its merits but it is certainly not directed at that behaviour, that is, innocent filming by parents relating to their children and that sort of thing. I do not see that as likely to be caught by this provision.

The Hon. Anne Levy: You wouldn't want that.

The Hon. K.T. GRIFFIN: I would not want that, either. As I say, that is one of the considerations we had in mind in working through the difficult issues. The Hon. Carolyn Pickles said it was about time the Attorney-General got this in, but I am sure she was being flippant. I know that we are all anxious to get something into the Parliament. We have wrestled with the delicate and difficult issues to which I have referred. There has been consultation on it; this is the result and I am pleased that members are supporting the legislation.

Bill read a second time and taken through its remaining stages.

MOTOR VEHICLES (HEAVY VEHICLES REGISTRATION CHARGES) AMENDMENT BILL

The Hon. DIANA LAIDLAW (Minister for Transport) obtained leave and introduced a Bill for an Act to amend the

Motor Vehicles Act 1959 and to make consequential amendments to the Stamp Duties Act 1923. Read a first time.

The Hon. DIANA LAIDLAW: I move:

That this Bill be now read a second time.

This Bill deals with matters related to the registration of heavy vehicles and, in particular, will give effect to the National Road Transport Commission's determination of registration charges. A heavy vehicle is defined as a bus, truck, prime mover or trailer, that has a gross vehicle mass or gross combination mass greater than 4.5 tonnes.The Bill seeks to introduce certain heavy vehicle reforms, which aim to achieve efficiencies in national transport, by establishing a nationally agreed set of business rules and charging regimes.

These initiatives arose from the October 1990 Special Premier's Conference, at which all Heads of Government agreed in principle to establish a National Heavy Vehicle Registration Scheme, together with uniform national transport regulations and nationally consistent charges. The National Road Transport Commission (NRTC), which is an independent statutory authority, was established as a result of the Heads of Government Agreement of July 1991 and set up under Commonwealth legislation passed in December of that year. The commission's purpose is to investigate and make recommendations on the establishment of a national registration scheme and uniform road charges for heavy vehicles, and nationally consistent operating regulations for all vehicles, that promote road safety and transport efficiency and reduce the cost of transport administration.

The national heavy vehicle registration charges have been developed by the NRTC and have been determined using the principle that those who cause the greatest damage pay the highest price for access to the road network. Put simply, the greater the on-road mass, the higher the registration charge. The charges are determined on a vehicle's gross vehicle mass or gross combination mass, which is the maximum permissible fully laden mass at which the vehicle may be operated. By using this method, rather than the present method of calculating the charge according to the tare or unladen mass, the charge payable bears a greater relationship to the damage caused to the road.

The Ministerial Council of Australian Transport Ministers has agreed to introduce the national heavy vehicle registration charges as specified in the Road Transport Charges (Australian Capital Territory) Act 1993. This Act has been enacted by Federal Parliament and enables the introduction of the national heavy vehicle registration charges in each State and Territory, when respective State legislation is enacted. The proposed date for implementation in South Australia is 1 January 1996. This will ensure that South Australia is aligned with other interstate jurisdictions in respect to achieving nationally consistent charges for heavy vehicles. However, implementation will be conditional upon New South Wales clarifying its position on consistent charges.

The same charges have already been introduced in Queensland and the Australian Capital Territory. It is anticipated that the Northern Territory and most other States will have legislation in place in the near future. The methodology used by the NRTC in arriving at the charges assumed that there would be no concessions granted. The matter of concessions has been left to individual jurisdictions to determine. As the charges have been determined on the principle 'the greater the on-road mass, the greater the charge', the charges for vehicles that carry heavier loads are generally higher than at present. Conversely, the charges for some vehicles at the lower end of the scale will be reduced.

In order to retain the relativity of the national heavy vehicle registration charges, and to preserve the existing revenue base, it is proposed to withdraw the concessions currently available on heavy vehicles. However, recognising the unique difficulties faced by our farming community and vehicle owners who reside in outer areas including Kangaroo Island, it is proposed to grant a 40 per cent reduction in the charge for those vehicles and trailers in the higher gross vehicle and gross combination mass categories. However, no concession will apply to rigid vehicles owned by primary producers or to such vehicles registered in the outer areas. Although a concession will not be available on vehicles at the lower end of the scale, the charges for these vehicles are, in many cases, lower than the charge presently paid, even when the vehicle is registered at a concession. For example, a primary producer with a two axle rigid truck, with an unladed mass of 6-7 tonnes and a gross vehicle mass of 15 tonnes, will pay an annual registration charge of $500, compared to the present concession charge of $689. However, in some two axle vehicles, the primary producer will be required to pay a higher charge. Two axle vehicles with a gross vehicle mass less than 12 tonnes, will now attract a charge of $300. Some of these vehicles currently pay $171 or $289, depending on the unladen mass.

The net effect of these changes is that the total of the charges paid by primary producers and outer area residents, as a group, will essentially remain at the present level. The effect of the national heavy vehicle registration charges on owners of other heavy vehicles will be that some will pay more, some about the same, and some less. As with primary producers and outer area residents, there will be increases in the charges for vehicles with a higher gross vehicle mass or gross combination mass, but vehicles in the lower end of the scale will pay less. Using the same example as I have given for primary producers, the charge for a two axle rigid truck, with a mass of 6-7 tonnes and gross vehicle mass of 15 tonnes, the annual charge will be reduced from $1 378 to $500.

The most significant increase in charges will occur in those cases where a rigid truck is used in combination with a trailer. At the present time, the charge for registration of a rigid truck is based on the unladen mass of the truck, and takes no account of whether the truck is used in combination with a trailer. This means that a truck used in combination with a trailer pays a significantly lower charge than a prime mover towing a semitrailer, even though both combinations may be capable of being operated at the same on-road gross combination mass. For example, the present combined charge for a typical three axle truck and two axle trailer combination is in the vicinity of $2 232, whereas the charge for a prime mover and semitrailer combination of the same configuration, and capable of moving the same payload, is in the vicinity of $4 180. This is clearly an unsatisfactory arrangement. The difference is some $1 900.

On the basis that these combinations are carrying the same on-road mass, and therefore causing similar damage to the road, the national heavy vehicle registration charges propose that the charge for the combination of a rigid truck and trailer should be raised to the same level as a prime mover and semitrailer combination.

The Hon. T.G. Roberts interjecting:

The Hon. DIANA LAIDLAW: I've got a kit for you to explain all of these combinations. In registering a rigid truck,

owners will be required to nominate whether or not a trailer will be towed. The registration charge payable will then depend on whether the truck is used singly or in combination with a trailer. However, the Bill recognises that the owner of a rigid truck may only wish to tow a trailer for part of the year, and not for the whole year—and I suspect that would be the case for the Hon. Terry Roberts. This Bill caters for everyone.

The Hon. T.G. Roberts interjecting:

The Hon. DIANA LAIDLAW: Whatever you wish. This Bill is very accommodating. Therefore, the Bill provides for the owner of a rigid truck to pay the charge for the registration of the truck, and to obtain a 'temporary configuration certificate', during the period the truck will be used in combination with a trailer. The charge for a 'temporary configuration certificate' will depend on the period and the difference between the two charges. Provision has been made for vehicles currently registered under the Federal Interstate Registration Scheme, to be progressively registered under local registration, without the payment of stamp duty. Quarterly registration periods and other matters related to the registration of heavy vehicles are included in this Bill. Conditional registration for certain farm vehicles such as those used between adjacent farm blocks will replace existing permit arrangements. Registration as 'special purpose vehicles' for self-propelled agricultural equipment, self-propelled earth moving equipment and emergency response vehicles such as ambulances, fire fighting and State Emergency Service vehicles is also included. The provisions are directed primarily at ensuring all vehicles accessing the road network, even on a limited basis, are identified and appropriately covered by third party insurance. That, Mr Acting President, is quite a breakthrough.

The Bill proposes that the Registrar of Motor Vehicles be empowered to conditionally register certain heavy vehicles that only require limited access to the road network. These include large farm tractors and self-propelled farm implements, which are either currently exempt from registration or are operated on restricted long term permits. Also included will be 'special purpose vehicles' which do not carry goods or passengers, and are only required to travel short distances: for example, fork-lifts that are only used between warehouses to load and unload trucks, and vehicles such as street sweepers, which have a limited application and are only driven at low speeds.

Vehicles that are conditionally registered will be issued with number plates and covered by compulsory third party insurance. As access to the road network will be limited, no registration charge or stamp duty will be payable. Owners of conditionally registered vehicles will be able to register for periods of up to three years—another breakthrough. The Bill provides for the payment of an administration fee (to be set by regulation at $20) to cover the costs associated with the issue of the registration. The same administration fee will apply irrespective of whether the owner registers the vehicle for one, two or three years. However, in some rare cases where the over-dimensional design of the vehicle results in the mass over one or more axles exceeding the maximum permissible axle limit, a charge is to be payable. This charge will be set at $250 for one or two axles, plus $250 for each additional axle. These charges are in accordance with the recommendations of the NRTC and are necessary to recover the cost of damage to roads.

The introduction of quarterly registration will provide heavy vehicle owners with the option of registering their vehicles for either three, six, nine or 12 months. This will no doubt benefit those owners who only operate their vehicles on a seasonal basis, and those owners who may have difficulty in paying the charge for the minimum six month period currently prescribed in the Motor Vehicles Act. The introduction of quarterly registrations for heavy vehicles, which will ultimately be extended to all vehicles (that includes of course light vehicles), is in keeping with the Liberal Party policy election platform on transport. This will provide greater opportunity for primary producers to minimise registration charges by registering for shorter periods that align with seasonal use. I commend the Bill to members and I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1: Short title

This clause sets out the short title of the measure.

Clause 2: Commencement

This clause provides for commencement of the measure by proclamation.

Clause 3: Amendment of s. 5—Interpretation

This clause amends section 5 of the principal Act to insert definitions of terms used in the principal Act as amended by this measure.

Clause 4: Amendment of s. 12—Exemption of farmer's tractors and implements

Section 12 of the principal Act allows tractors and certain farming implements to be driven without registration on roads within 40 kilometres of a farm occupied by the owner of the tractor or implement for specified purposes. This clause amends that section to require tractors and implements that are heavy vehicles to be registered.

Clause 5: Amendment of s. 20—Application for registration

This clause amends section 20 of the principal Act to require an application for registration of a heavy vehicle to specify the configuration of the vehicle for the period of registration.

Clause 6: Amendment of s. 24—Duty to grant registration

Section 24 of the principal Act gives an applicant for registration the option to register a vehicle for 6 or 12 months, or for a period fixed by the Registrar as a common expiry date for a number of vehicles owned by the applicant. This clause amends that section to allow an applicant for registration of a heavy vehicle to register the vehicle for 3, 6, 9 or 12 months. It also provides for a renewal of registration of a heavy vehicle to be made up to 90 days after the expiry of registration.

Clause 7: Amendment of s. 25—Conditional registration of certain classes of vehicles

This clause amends section 25 of the principal Act so that the Registrar has power to register a heavy vehicle of a prescribed class subject to conditions on payment of the prescribed administration fee, and if the regulations require, the prescribed registration fee. Currently the section requires payment only of the prescribed administration fee but a vehicle can be registered under the section only if the applicant for registration satisfies the Registrar that the vehicle is to be driven on roads in circumstances in which it is, in the opinion of the Registrar, unreasonable or inexpedient to require the vehicle to be registered at the prescribed registration fee.

Clause 8: Amendment of s. 31—Registration without fee

This clause amends section 31 of the principal Act so that registration fees are payable on the registration of heavy vehicles of the classes specified in that section (other than consular vehicles).

Clause 9: Amendment of s. 32—Vehicles owned by the Crown

Section 32 of the principal Act provides that any question as to the amount of the fee payable on registration of a vehicle owned by the Crown or whether such a vehicle should be registered without payment of a fee is to be decided by the Treasurer, whose decision is final. This clause amends that provision so that it does not apply in relation to heavy vehicles owned by the Crown.

Clause 10: Amendment of s. 34—Registration fees for primary producers' commercial vehicles

This clause amends section 34 of the principal Act to reduce the registration fee concession for primary producers' commercial heavy vehicles of a prescribed class from 50% to 40%. There is to be no concession for primary producers' commercial heavy vehicles that are not of a prescribed class. The clause also provides for the percentage of the concession to be altered by regulation.

Clause 11: Insertion of s. 34a

34a. Application of ss. 35-36 and 38-38b

Sections 35 to 36 and 38 to 38b (inclusive) provide for reduced registration fees for the registration of primary producers' tractors, prospectors' vehicles, vehicles wholly or mainly used for the transport of certain incapacitated persons and concession card holders and trailers wholly or mainly employed in the personal use of concession card holders. Proposed section 34a provides that the reduced registration fees do not apply in relation to a heavy vehicle.

Clause 12: Amendment of s. 37—Registration fees for vehicles in outer areas

This clause amends section 37 of the principal Act to reduce the registration fee concession for heavy vehicles of a prescribed class kept and used in outer areas from 50% to 40%. There is to be no concession for outer areas heavy vehicles that are not of a prescribed class. The clause also provides for the percentage of the concession to be altered by regulation.

Clause 13: Insertion of s. 43a

43a. Temporary configuration certificate for heavy vehicle

Subsection (1) prohibits a person from driving a heavy vehicle on a road in an unregistered configuration unless a temporary configuration certificate is in force in respect of the vehicle for that configuration.

Note: An unregistered configuration is one other than that nominated in the application for registration and for which a higher registration fee would be payable.

Subsection (2) provides that if a person drives a vehicle on a road in contravention of this section, the vehicle will be taken to be unregistered for the purposes of the Act. Subsection (3) provides that if a person is guilty of an offence of driving an unregistered vehicle by virtue of subsection (2), a person who caused or permitted the vehicle to be so driven is also guilty of an offence (maximum fine $500).

Subsection (4) specifies the fees payable for a temporary configuration certificate and empowers the Registrar to grant such a certificate. Subsection (5) provides for a certificate to be in force for a period at the option of the applicant (not exceeding the unexpired portion of the vehicle's registration). Subsection (6) provides for a certificate to be in a form determined by the Minister. Subsection (7) requires a certificate to be carried in the vehicle (maximum fine $100 for failure to do so). Subsection (8) empowers the Registrar to issue duplicate certificates. Subsection (9) empowers the Registrar to cancel a certificate on application by the holder.

Subsection (10) provides that if the registration of a heavy vehicle in respect of which a certificate is in force is cancelled or transferred, the certificate is cancelled. Subsection (11) provides that a registration fee paid for a certificate is not refundable on cancellation of the certificate but subsection (12) empowers the Registrar to give a refund if satisfied that reasonable cause exists for doing so.

Subsection (13) requires a court that convicts the owner of a heavy vehicle of an offence of driving the vehicle while it is unregistered by virtue of subsection (2) or of an offence against subsection (3) to order the owner to pay to the Registrar the difference between—

- the prescribed registration fee that would have been payable for registration of the vehicle for the period for which the vehicle's registration was effected if the current configuration of the vehicle at the time of the offence had been nominated in the application for the registration of the vehicle; and
- the prescribed registration fee that was paid for registration of the vehicle.

Subsection (14) requires a court that makes such an order to notify the Registrar. Subsection (15) provides for registration fees paid pursuant to such an order to be non-refundable. Subsection (16) defines expressions used in the section.

Clause 14: Amendment of s. 44—Duty to notify alterations or additions to vehicles

This clause amends section 44 of the principal Act to enable regulations to be made for cases of a specified kind providing a method for calculating an additional amount payable under the section from the method prescribed by the section.

Clause 15: Amendment of s. 55—Amount of prescribed refund

This clause amends section 55 of the principal Act to enable regulations to be made for cases of a specified kind providing a method for calculating the prescribed refund different from the method prescribed by the section.

Clause 16: Amendment of s. 145—Regulations

This clause amends section 145 of the principal Act so that regulations made under the Act can prescribe a matter by reference to the Commonwealth *Road Transport Charges (Australian Capital Territory) Act 1993*.

Clause 17: Amendment of Stamp Duties Act 1923

This clause makes consequential amendments to the Stamp Duties Act to provide for stamp duty to be payable on quarterly registrations and on conditional registration of heavy vehicles of a prescribed class (other than special purpose vehicles) where the prescribed registration fee is required to be paid.

The Hon. P. HOLLOWAY secured the adjournment of the debate.

SOUTH AUSTRALIAN COUNTRY ARTS TRUST (REVIEW) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 27 September. Page 42.)

The Hon. ANNE LEVY: The Opposition supports the second reading of this Bill. As I have indicated, there are a few amendments which I will discuss shortly. The establishment of the Country Arts Trust was achieved when I was Minister and has been widely regarded as one of the best pieces of legislation that I introduced to this place. The Country Arts Trust was a very welcome reorganisation of the arts in regional areas of this State. It has proved an outstanding success and has proved its worth in its short time of existence. There may initially have been some apprehension about it, but the regional areas now recognise that it was extremely beneficial and has greatly benefited the arts throughout the State outside the metropolitan area.

The arts activity in this State has gone from strength to strength. The Country Arts Trust with the assistance of Playing Australia, the Federal Government initiative, is now touring more shows throughout the regional areas of South Australia than occurred previously and many have been sell-outs. This year there have been seven touring shows, four of which have been complete sell-outs and more tickets could have been sold had time been available. Circus Oz and The Queensland Ballet were never able to tour throughout our regions under the old system, but now they meet enthusiastic audiences and greatly benefit the people interested in the arts throughout regional South Australia.

The total number of performances in the country areas has been increasing. They are not limited to the four major regional theatres but are visiting smaller towns, and this year there will be 352 performances in country areas— shows which previously did not have the opportunity to visit these areas. The Country Arts Trust recently held the second of their most successful 'menu days', when representatives from all country areas are invited to the city and different companies and performers present a small selection of the type of show that they can present. The country people then select which particular organisations or companies they would like to tour their region. This has proved enormously popular with the people from the regional areas and the performing arts groups in the city who welcome the opportunity to display their wares in this way and who benefit enormously from the subsequent invitations which result from these 'menu days'.

Not only are the smaller venues showing increased activity throughout the regions but the four major theatres are operating most successfully. They are managing on very much less subsidy than was required in the past. Despite initial concerns in some of the major towns where the

regional theatres exist, everyone is now happy with the arrangements. Indeed, it is a fantastic success story of which everyone can be proud, particularly the board and the staff of the Country Arts Trust who have worked so hard together to achieve the fantastic successes which have benefited so many people.

The Country Arts Trust has introduced a system of subscriptions to its various offerings and, after one year, 20 per cent of its audiences are subscribers. It hopes to increase that proportion which provides a certain income for touring shows and it is also an indication of the degree of acceptance of the quality of the product which is touring and the enthusiastic response it is receiving. The number of subscribers is increasing and I certainly wish the Country Arts Trust well in its effort to increase the proportion of subscribers.

Having said that as a background, the Bill is reducing the number of country arts regions from five to four. This is being done to achieve greater efficiencies. It was felt that the original five were no longer necessary. Initially there was consideration of reducing it from five to three, but concerns in the Riverland, which would have ceased to be a region in its own right, led to a compromise being reached and there will be four regions. The different regions have considerably varying numbers in the population—which the three region proposal would not have had— but the advantage is that each of the regions will be associated with one major theatre. There is a obviously a certain logic in each region having its major theatre while also having many smaller venues where arts activity can occur.

I certainly do not wish to enter into any argument as to whether it should be three or four regions and I am quite happy to accept the proposal in the Bill before us that it will be reduced from five to four. The Minister has indicated in her second reading explanation where the boundaries between these regions will fall. The South-East region will be the only one unaffected by the changes. The four remaining regions will be reduced to three, each retaining a major theatre in one of the regional centres.

A few other matters arise from the second reading explanation and from the Bill before us which, while they appear to be matters of detail and do not affect the principles of the Bill, are worthy of mention and, in a couple of cases, of amendment. I notice that under the amending Bill the Country Arts Boards will have the autonomy that they previously had, and I am sure that will be welcomed by many country people. However, I point out that clause 4 seeks to amend section 6 of the principal Act by striking out subsection (7). This subsection provides that, if a trustee ceases to be a trustee, whether by death or illness or resignation or for any other reason, his or her replacement is appointed for the remainder of the term for which the original trustee had been appointed. In that way the expiry date of the term remains the same, although the new trustee can be reappointed.

The Bill proposes to omit this provision, and I can see no good reason for doing so. In general terms, it is customary if for some reason a person has to leave a board, that person's replacement is chosen, initially at least, to fill the remainder of the term of the person whom they are replacing. That applies to company boards in the private sector, for instance, and it has long been the tradition that it applies equally on Government boards and committees. I can see no reason for removing it, and I have an amendment on file that relates to that matter. It recognises that such a measure is not really applicable to someone who is appointed *ex officio* to a trust and that an *ex officio* trustee is someone who is there by virtue of his or her office as Chairperson of a country arts board. In consequence, my amendment takes account of that fact.

Membership of the trust is to be reduced from 10 to nine, which corresponds to the reduction of the regions from five to four. Indeed, it is almost a consequence of the change in regions, which is the main thrust of the Bill before us. In setting out the membership of the trust in clause 3, amendments are being made to section 5 of the Act which sets out the membership of the trust. The Act provides that at least two members of the trust must be male and at least two must be female. The Bill seeks to remove this provision. I can see no reason to depart from the principle that this Parliament has established in recent years of ensuring that there is adequate representation of both sexes on boards and committees that are set up by statute. In consequence, I will move an amendment on this matter.

The Bill seeks to change the requirement of having at least two men and at least two women just by saying that the Minister should endeavour to achieve as far as practicable an equitable representation of both men and women. To me, this begs the question: who determines what is equitable? 'Equitable' does not mean the same as 'equal'. There is a greater difference in the two words than just a couple of letters in the spelling. The meaning of equal representation is quite different from that of equitable representation and it is far too subjective to determine what is regarded as equitable. In a board of nine, it is not excessive to suggest that at least two members must be men and two must be women.

I know that five of these members are *ex officio* and that one is appointed by the Local Government Association, and I understand that it is Government policy in these circumstances to request an outside body such as the LGA not to put up just one name but to put up at least two or three names, including both men and women, so that gender balance can be considered when the Minister makes a selection of members for the trust. Of the nine members, four are selected at the discretion of the Minister and, indeed, the four country arts chairpersons are also chosen by the Minister, although not as trustees for the board but as chairpersons of the Country Arts Boards. It is certainly not unreasonable to suggest that two must be men and two must be women.

Clause 7 deals with the membership of the Country Arts Boards themselves. Currently, those boards have a membership of eight and the Bill suggests not only a reduction in the number of boards (from five to four) but also a reduction in the number of members per board, so that they must have at least five members, but no more than eight members. I can understand the reasons for that, because it may well be that, in some areas, five people will be perfectly adequate for a board of this nature but, in other areas, in order to obtain representation from a very large geographical area, as will be the case with the new Western Country Arts Board, a membership of eight may well be necessary if the different geographical locations are to have representation.

Certainly I am not opposed to this flexibility of having between five and eight members on each Country Arts Board. I would be interested if the Minister could indicate how many members she feels will be necessary in each of the four regions, given the different populations and different geographic distributions of population which occur therein. It may be that she has not yet determined this, but I imagine she has a notion as to how many members would be appoint-

ed to each of these four regional boards. Even if the board has as few as five, and certainly if it has as many as eight, it does not seem unreasonable that this Parliament should continue to insist that at least two members of each board must be men and at least two members must be women. I have on file an amendment to provide accordingly.

In clause 10, which is a transitional provision, I am interested in subclause (4) which provides that the Governor by proclamation can vest assets, rights or liabilities of a former board in one of the new boards. This is an obviously necessary transitional requirement as we go from five boards to four, but subclause (5) provides that the Governor can have a further proclamation to vary an earlier one. While it is probably a wise clause to include, this does suggest that the Minister feels that there may well be errors the first time around and that further attempts will be required to adequately distribute the assets. The assets of each of the country arts boards must be well defined, and I would have thought that one proclamation could adequately distribute those assets from the five to the four boards.

I also have a query as to subclause (6), where the Registrar-General can register and record any transactions affecting these assets between the different country arts boards. I presume that it is not necessary to include an exemption from stamp duty, but I would like a reassurance that the absence of mention of stamp duty does not mean that stamp duty might be payable on any of this transfer of assets from one board to another.

My only other query, to which the Minister may be able to respond, relates to the schedule of penalties. The Minister is changing the penalties from their being divisional penalties to spelling out the actual financial penalties. I have noticed this in a number of pieces of legislation which have come before us recently. The advantage of not having specific or maximum fines mentioned in the Act is that when a specific sum such as $5 000 is mentioned as a maximum penalty, as time passes and inflation occurs, that penalty in fact becomes less and less. The only way penalties can then be updated is to amend all the Acts which have penalties indicated as specific sums of money.

The advantage of using divisional penalties is that by simply amending the Acts Interpretation Act, which sets out the monetary value of all the divisional penalties, and increasing the monetary sum of all those penalties to allow for inflation, it then flows on to every other Act on the Statute Book which uses divisional penalties. It seems that this would be a much more economical use of Parliament's time than having to go back and amend every single Statute to bring financial penalties up to date as they become eroded in severity by the effects of inflation.

This perhaps is not so much a question for the Minister as a general question to the Government, as I have noticed this practice occurring in a number of pieces of legislation, and it may be a general Government decision to do this. However, I cannot quite see the logic of it, in that it will require so many amending pieces of legislation to amend penalties as time passes. It may be that the Minister can respond to that at the moment or she may prefer to leave it for now and perhaps supply information on the general Government policy in this area perhaps through the Attorney-General at a later stage. I support the second reading.

The Hon. SANDRA KANCK: I indicate that the Democrats will be supporting this Bill. Although we do not necessarily agree with this Government's philosophy of cost cutting in so many areas, it does appear from the information with which we have been provided in regard to this Bill that some of the programs of the Country Arts Trust may be threatened. My view is if that can be staved off by reducing the number of boards and the number of people thereon that is what has to be done. On that basis, I will be supporting the Bill.

The Hon. DIANA LAIDLAW (Minister for Arts): I thank the Hon. Ms Levy and Hon. Sandra Kanck for their contributions to the debate on this Bill. I appreciate that the Hon. Ms Levy has a number of amendments. I will not address those matters in concluding this debate but will wait for the Committee stage of this Bill.

In terms of the transition clauses, the Hon. Ms Levy mentioned that subclauses (4) and (5) of clause 10 referred to the transfer of assets, rights, liabilities and the like. Instinctively I felt it was an excess of caution on the part of Parliamentary Counsel that we have such provisions in subclauses (4) and (5), but Parliamentary Counsel has alerted me to the fact that, while it may be considered as such, there are precedents in the Local Government Act, which the honourable member introduced a number of years ago, and apparently I thought that was such a good idea at the time that I incorporated similar provisions in the Passenger Transport Act. So, in our own ways the two of us have contributed to the only two Bills which contain such precedents for this cautionary measure. I suspect that it will not have to be used because, as the honourable member has said, the assets are clearly defined over a period of time in the respective regions.

The Hon. Anne Levy interjecting:

The Hon. DIANA LAIDLAW: That is quite true. Legacies could well have arisen from this issue to a large degree if an eastern region had been formed from the Riverland and South-East boards combining. As it has eventuated, the outcome is that we have decided not to proceed down that path. With respect to subclause (6) and stamp duty, it is not seen as necessary to include such a reference. This apparently will be done by proclamation and not by instrument, and that was the case when the Hon. Ms Levy first set up this structure for country arts. It is a general Government policy that penalties will be outlined in full so that, when referring to any Act, people can see the nature of the penalty. When looking at any Bill, most people do not seem to remember what a division four or division nine fine is. So, in the interests of making this legislation more simple to understand and the law more accessible, this was the Government's decision. I suspect that it is a really good question on which the honourable member could ask the Attorney-General for more details next week during Question Time, but I recall that it has been discussed at some length and that it is now Government policy.

I also thank the Hon. Sandra Kanck for her contribution. There have been some financial difficulties, not because of any incompetence on the part of the management and board of the South Australian Country Arts Trust but because there have been tough times in country areas and the box office has not been as healthy as we would all have wished. I am certainly hoping that with all the rain this year that will change.

In the meantime, the board and management have been absolutely extraordinarily wise and sound in undertaking their responsibilities as board members. It has been a problem in the arts from time to time that companies get into financial crisis. The South Australian Country Arts Trust has been well

served by its board. It has decided that it will make administrative changes to accommodate budgetary pressures rather than come running to the Government seeking more funds, when it is excruciatingly hard to find funds for such purposes, let alone all the new initiatives that we would all like to implement. So, rather than cut arts programs, the management and board have decided to look at administrative costs, including costs in country areas, and I applaud their responsibility in that regard.

The Hon. Anne Levy has asked in the past about the number of members who may serve on such boards. I would envisage that the two smaller regions—the Riverland and the South-East—would have a smaller number, closer to five. If exceptional people nominate who would be prepared to make themselves available, I—and I am sure all members—would be pleased to have their expertise and enthusiasm on the board.

In the western and central regions it will be particularly important to have the maximum number of eight members on the board, particularly for the merged regions of northern and central. It would not be worth my life to miss out representation from Kangaroo Island as well. Port Pirie must have strong representation, as the theatre is in that area. That would be my assessment of the situation.

I place on the parliamentary record that we have been well served by the members who have served on the trust boards over a number of years, and it is with regret that times require one board to be eliminated from the arrangements. I thank all those who have served on the boards to date for their fantastic commitment to the arts. When one lives in the city, as I do (I live in North Adelaide and my place of work is North Terrace), one often does not appreciate the long distances that country people are prepared to travel, on an essentially volunteer basis, not only to attend meetings but to meet people throughout the community so that they are well informed when they make their deliberations.

The Hon. T.G. Roberts: Plus the telephone calls.

The Hon. DIANA LAIDLAW: Plus the telephone calls; you're absolutely right. We seek to meet as many of those administrative expenses as we can, but all the board members I have encountered—and the Hon. Anne Levy would have had the same experience—are conscious of the tight budgets under which they work, and they wish the maximum dollar to go into arts performance and not administration. They will absorb many of the expenses they encounter in doing their work on behalf of their community in the arts and in the State in general. On behalf of the Legislative Council and the Parliament in general—particularly of the Government—I would like to record our recognition of and thanks for their efforts.

Bill read a second time.

In Committee

Clause 1 passed.

Clause 2—'Commencement.'

The Hon. ANNE LEVY: When does the Minister expect the Act will come into operation? Will it be 1 January next year?

The Hon. DIANA LAIDLAW: I am aiming for the Act to be proclaimed for 1 January. I would like to thank all members who have contributed to this debate and who have helped me get the Bill through today and into the Lower House for next week. I will then be able to get the Bill through that place quickly, have it assented to, and public nominations for members can be called. All that can be sorted out and confirmed by 1 January. I did need the cooperation of all members in this place to meet that timetable.

Clause passed.

Clause 3—'Membership of trust.'

The Hon. ANNE LEVY: I move:

Page 1, lines 28 and 29—Leave out subsection (2) and insert:
(2) At least two trustees must be women and at least two trustees must be men.

I discussed my amendment during my second reading contribution. My amendment ensures that the Country Arts Trust continues to have at least two women and at least two men as part of its membership. Given the Minister's huge discretion in appointing eight of the nine trust members, this should not be difficult to achieve. I would not like to see a weakening of our commitment to ensuring a balance of both men and women on such a board.

The Hon. SANDRA KANCK: It is unlikely that it would end up any other way, but I think it safe to include this provision. The Democrats will support the amendment.

The Hon. DIANA LAIDLAW: I accept that I do not have the numbers and I would not wish it inferred that I as Minister or the Government as a whole in any way was seeking to reduce a commitment to representation of women in particular on Government boards such as this. We are working diligently to increase that representation and I was of the view that 'equitable representation', while I respect that it is not equal, is probably more positive than limiting membership to two men and two women. If I had my way and if it were equal numbers I would have gone for equal representation of men and women. With nine members, that is humanly impossible and 'equitable' seemed reasonable to gain the flexibility one needs, particularly when we are looking at country areas. I refer to the factors that I mentioned earlier such as the distances that people have to travel.

We may have people willing but unable to be on the board, with distance being the reason. Also, some people are so community minded and asked to do many things in their small communities. The spirit is willing but it can be impossible because of distance and it is not a matter of getting equal numbers such as two men and two women. It is simply getting people who can make a fantastic effort and have the time to do so. That was my concern in this regard. For every board for which I was responsible in appointing representation late last year or this year, in every instance there were more women than men on the board and the Government's record would not suggest that we were trying to water this down. I have never seen it in this regard. Nevertheless, I am happy with the outcome of the clause as amended.

Amendment carried; clause as amended passed.

Clause 4—'Terms and conditions of office.'

The Hon. ANNE LEVY: I move:

Page 2, line 13—Leave out paragraph (c) and insert—
(c) by inserting '(other than a trustee who holds office *ex officio*)' after 'A trustee' in subsection (7).

This amendment is one I discussed in my second reading speech. It seeks to ensure for trustees who are not *ex officio* members of the board that replacements of someone who has resigned is, in the first instance at least, for the remainder of the term of the person they are replacing which, as I understand it, has long been the tradition and practice of this and past Governments.

The Hon. SANDRA KANCK: the Democrats support this amendment. It seems to be a perfectly reasonable expectation.

The Hon. DIANA LAIDLAW: The Bill was prepared on the basis that I saw no good reason to restrict a Minister to the limit of a former member's appointment. The time between when a former member may have been appointed, resigns and when the appointment is to expire may be very short. It is a period of appointment that is made by a Minister to suit a particular member at that time. When that member seeks to retire or the position becomes vacant for some reason, I see no reason to confine the Minister and the person who is being appointed to the same conditions. I suppose it is just a different way of looking at some of these issues. This is not new, the same provisions apply in numerous Acts such as the Soil Conservation and Land Care Act 1989, the South Australian Film Corporation Act 1972, the South Australian Health Commission Act 1976, the South Australian Local Government Grants Commission Act 1992, the South Australian Ports Corporation Act 1994, the South Australian Timber Corporation Act 1979, and the South Australian Water Conservation Act 1994. So, as outlined in the Bill it is not a novel provision, but I am relaxed about the amendment and will not be troubled if it passes.

Amendment carried; clause as amended passed.

Clauses 5 and 6 passed.

Clause 7—'Membership of country arts boards.'

The Hon. ANNE LEVY: I move:

Page 3, lines 2 to 4—Leave out subsection (3) and insert—
(3) At least two members of each country arts board must be women and at least two members must be men.

This amendment was discussed previously. It applies to boards in the same way as it applies to the trust in order to ensure that there is gender balance. I realise that the numbers may be less in that two of the boards may have only five members, but it should not prove difficult in the arts to get at least two men and two women. In fact, in my experience in many country regions it is easier to get women who are prepared to make sacrifices and devote time to boards than it is to get men. But, to be fair to our male colleagues, while we are concerned that boards such as the Electricity Trust should have women on them, we must also be concerned that country arts boards have men on them so that the board is representative of the community which it serves.

The Hon. SANDRA KANCK: The Democrats will support this amendment.

Amendment carried; clause as amended passed.

Clauses 8 and 9 passed.

Clause 10—'Transitional provisions.'

The Hon. ANNE LEVY: Clause 10 deals with the transitional arrangements. The Minister mentioned in her second reading speech that, as part of the reorganisation, there would be some work force reductions. That is, money is being saved not only by reducing board membership and consequent expenses, but there will also be work force reductions throughout areas of the trust. How many full-time equivalent employees will the trust be losing?

The Hon. DIANA LAIDLAW: The trust will be losing no more employees. The trust has scaled back three full-time equivalent positions. No region or office that previously was entitled to an arts officer has lost an officer. All those offices remain open. Although the officers may now be working on a part-time basis—two or three days a week—rather than a full five days, no area that enjoyed an office and officer has lost that service. The hours may have been reduced, but it is the South Australian Country Arts Trust's earnest hope that when times become more buoyant, both for the Government and country areas generally, and box offices increase their subscribers and sponsorship—all of those things look brighter—that the hours will be restored.

Clause passed.

Schedule and title passed.

Bill read a third time and passed.

STATUTORY AUTHORITIES REVIEW COMMITTEE REPORT

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I seek leave to table a copy of a reply to the second report of the Statutory Authorities Review Committee from the Department for Education and Children's Services on the subject of the Electricity Trust of South Australia Report.

Leave granted.

AUDITOR-GENERAL'S REPORT

Adjourned debate on the motion of the Minister for Education and Children's Services:

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

(Continued from 11 October. Page 157.)

The Hon. T. CROTHERS: This matter is of the utmost importance in respect of this Council and the other place. I have had the opportunity to look at yesterday's *Hansard*, both the proof copies of the other place and the Upper House proof copies. I have read with considerable interest a number of the comments that were made by my colleagues from this side of the Council.

Suffice for me to say that I have a view that they have covered most, if not all, of the pertinent points that have been raised by the Auditor-General, Mr MacPherson. I am very much constrained to believe, as MacPherson in the Irish language means 'son of the priest'. His word would be one which I, as a former son of the church, would be constrained to accept with some alacrity.

As I said at the outset, this Bill is of significant importance coming at a watershed in respect of what the duties of the Auditor-General will be in the future in this State. Those in the Chamber at the time will remember that six to eight months ago I asked a question in this House of the Minister responsible which went to the nub of the matter in respect of this debate. One can ask questions about whether or not one is going to give accountability to the comments made by the Auditor-General in his report and, to some extent, some of the questions he raised touch upon the essence of that very question that I asked some six to eight months ago. It may have been a little less time than that; it may have been longer. Fortunately, time is the enemy of memory in respect to its passage.

The question I asked related to diminution, if any, in relation to the Auditor-General—and I refer to both Parties, my own included. I have not agreed with the economic rationalists in my own Party but, nonetheless, as a democrat in the truest sense of the word I will always agree to accept the wishes of the majority of members of the Party to which I belong, just as, in the Chambers of this Parliament, members who do not agree with matters of note that are before them are bound by decisions of the majority—and I hope Ms Kanck has learnt something from that comment that I make. That question went to the nub of that matter which has been touched on by the Auditor-General, that this Govern-

ment should consider, given it is even more prone than my own Party with respect to economic rationalisation which, in its turn, economic gurus tell us must lead to corporatisation or privatisation. I do not agree with that view.

I look at the economic rationalism of other economic rationalists, of other economic Tories such as Maggie Thatcher in another Parliament in another country. I look at the success or failure during her 13 year rule in respect of the implementation and introduction of economic rationalisation and I see nothing that would make me warm to the economic rationalists. It is my view, and I express it as an individual, that we will live to see the day when we are forced to buy back the farm, when we are forced to buy back the farm whether we like it or not.

The Hon. J.F. Stefani: Buy back the bank!

The Hon. T. CROTHERS: That well-known economist the Hon. Mr Stefani interjects. I remind him that my countryman, that literary giant George Bernard Shaw, said of economists that if they were all stretched end to end they would never ever reach a conclusion. And with respect to some of the answers he did not give to questions he was asked in this place yesterday and today, one can well understand how that comment made by Shaw, about purported economists not being able to reach a conclusion, is so germane—certainly in respect of answers not given yesterday and today—to the character of the Hon. Mr Stefani.

Having disposed of that matter and the interlocutor on the other side who, like Mahomet's coffin he tells us, is neither a backbencher nor a Minister but hangs suspended between the heavens of the Government Executive and the lowly caverns of the Government backbench, being neither flesh nor fire, neither one thing nor t'other, a proper example, if ever I saw one, of a Mahomet's coffin—and the honourable member absolutely replicates that position—

The Hon. T.G. Roberts interjecting:

The Hon. T. CROTHERS: He has gone very quiet. Perhaps he cannot stand the heat in the interjectory kitchen, but he can keep going; I will give as good as I get. Let us bring the debate back, without the interjections of the Hon. Mr Stefani, to a more constructive rather than destructive contribution by me. As I said, I asked a question some six to eight months ago, long before the Auditor-General's Report, in respect of what powers that person would lose because of the Government's privatising or corporatising South Australian assets, which really do belong to the people.

The Auditor-General—for the *Hansard* record and for those readers who may not know (if we still have readers of *Hansard*)—like our judiciary is set up independent of the Parliament and the Executive, the Government of the day, whoever they may be, and is not to be treated in any other way but with considerable respect. Because, at the end of the day, that person (Mr MacPherson at this time) is the person responsible for keeping the Executive Government honest and, as he has shown in this report, not only relative to the way in which it handles the expenditure of the State's money but the sale, either past, present or futuristic, of the State's assets.

I ask that question. I find it strange, without wishing to appear immodest, that several months after I asked that question the Auditor-General was sent by the Brown Government to England to look at the privatisation of water in that country. I wonder, in my humble innocence, whether Minister Olsen in another place went to school on the context of my question and thought, 'Here is a bit of creative thinking. I'm sorry we didn't think about it, but we'd better go to school on the question. Let's send Mr MacPherson, our Auditor-General, to England.' Perhaps that is a flight of fancy.

The Hon. T.G. Roberts: Did he send you a card?

The Hon. T. CROTHERS: He did. He told me to watch the Government very carefully. Perhaps that is a flight of fancy on my part, perhaps not. However, I pay tribute to the Minister if it is so and if I am right in my suspicion. I pay tribute to the Minister's alacrity. It seems to me that Minister Olsen, in spite of not being well regarded by some of his fellow members of Cabinet, is a most competent and capable Minister. He is perhaps the most competent Minister—more than the Premier who leads the Liberal Government of this State. Without having a crystal ball, I cannot say how long the facts that I have just trotted out remain to be so. We will wait and see with bated breath.

Members interjecting:

The Hon. T. CROTHERS: No, I will leave all that to you. You have got better sources in respect of that than I have at the moment. Let me be very serious about this matter. What is the future role of the Auditor-General in this State in respect of protecting the best interests of the citizens of South Australia who, at the end of the day, own all of this State's assets, contribute to the State's taxes annually and to whom every four years the State Government is answerable? They showed what they can do with the late Arnold Government when, because of the collapse of the State Bank, the Labor Party suffered its greatest defeat since 1912. I do not think that the 1912 defeat was as large as the most recent one. That shows that the South Australian electorate is very capable of making informed judgments. It shows, too, that it will not brook Executive government, of which the Government's backbench should be made aware.

Getting back to the nub of the matter, the question that exercises my mind is what powers will the Auditor-General be stripped of, either by accident or design, in respect of protecting the taxpayers of South Australia, as has been his role since the office was created in this State and in any other Westminster-style Parliament? What power will that person be stripped of relative to maintaining the checks and balances on South Australian taxpayers' money so that he can prevent excesses by the Government of the day? Members would have read some of the Auditor-General's comments about what he perceived were excesses or wrongdoings, and it does not surprise me because one of the first things that the Brown Government did was to get rid of a number of senior Treasury officials and a number of senior officials from the Health Commission. The catastrophic results of that are in black and white for all to see. Dr Blaikie, who was pressured into resigning as head of the Health Commission, received a favourable decision under the hand of an independent member of the judiciary.

The Auditor-General has picked up a number of problems in his report, and I have a sneaking suspicion, without any certain knowledge, that in no small measure that was due to the indecent haste with which the Brown Government effected the dismissal or resignation of very senior Treasury men, whose main fault was that they were appointed to the position by the Arnold or Bannon Governments. It might be worth following up the thought that some of the shortfalls in Mr MacPherson's report were brought about by a lack of experience of the people put in by the Brown-led Liberal Government as replacements for the experienced Treasury officials, including the Under Treasurer, from memory, who were dismissed willy-nilly or, if not dismissed, had a loaded

gun pointed at their head, to use the words of Justice Olsson. These matters are germane to the real hubris of the question, which is: how much is the Government prepared to look at the powers of the Auditor-General and how they might be changed, either by accident or design, by the privatisation of certain of our State assets?

I will give an example of where the lines become blurred. Yesterday, the Minister for Education and Children's Services, in answer to a question that I asked about the $1.5 billion grant that is to be given to whoever wins the contract for SA Water, said that it is for the maintenance of certain aspects of SA Water's operation. No longer will the work force of SA Water maintain their own sewerage and water underpinnings. What right will the Auditor-General have to inspect the books of those private contractors, funded by State Government taxes, to ensure that they are performing a contractual function for SA water? What right has he got to discharge his functions in a proper and fitting fashion? I could tender many other examples of the massive potential for the diminution of Auditor-General MacPherson's powers by the simple act of the privatisation of Government-owned assets. That, more than anything else, is the hubris of the whole report.

As I said, my colleagues have asked many valid questions about the comments made by Auditor-General MacPherson. However, any questions that address his criticisms pale into insignificance beside the question that I am now posing: what will the Government do to restore the integrity of the Auditor-General in looking after State taxes and charges and the people's interest; and what will it do to ensure that his power to do that is not diminished by its privatisation plans? That is the question that the Government has to answer.

The Hon. T.G. Roberts: He might be given a package.

The Hon. T. CROTHERS: I suppose it is better to get a package than a packet. However, I will not elaborate on that. The question that goes to the heart of the matter is the one that I am now putting on record. When all the privatisation bones are thrown in the air and they land, I shall be watching the debris very carefully; and I shall be taking a privatisation blood count in respect of the diminution of the Auditor-General's powers and duties.

I hope that the Government will take up what I have put to it in the spirit of bipartisanship, in the spirit of being an MP above Party interests in this place, as most, if not all, of my colleagues are, and in the interests of the people of South Australia. That is the question that must be addressed. I certainly urge the Leader to go back to his Caucus room, to include the backbenchers (not just the Executive, as is normally the case), and honestly put the views that I have expounded. In the interests of equity, fair play and keeping the governmental bastards honest, in the words of a former Liberal turned Democrat, Don Chipp, let us keep Auditor-General MacPherson endowed with the power he was always intended to have, should any of that power be eroded, diminished or completely destroyed by the Government's plan for corporatisation and/or privatisation. I thank members for listening to me.

The Hon. T.G. Roberts: We had no option!

The Hon. T. CROTHERS: You could have left and I would not have missed you. The Hon. Mr T. Roberts can leave any time. He just seems to be looking for verbal spankings all the time and I am prepared to oblige. It seems to me that those are very serious questions that must be looked at by this Government. They must be looked at in such a way that the South Australian taxpayer and citizen is as fully and well looked after as was the case up to at least, say, 12 months ago by the Auditor-General discharging his or her function as was originally the intention in respect of that office when it was first created. Thank you for listening.

The Hon. ANNE LEVY: I wish to add my voice to that of many others who have expressed their great concern at the facts revealed by the Auditor-General's Report. In my 20 years in Parliament, I have never seen an Auditor-General's Report which is as critical of the Government, the Treasurer and Treasury officials as is the Auditor-General's Report which is before us. The Auditor-General's Report is always in measured, unemotional language but, despite that, it is evident from this report that the Auditor-General has many concerns, both on policy matters and their financial implications, in the non-accountability of this Government to the Parliament and in relation to the manner in which it has dishonestly misled the Parliament. It is an absolutely unprecedented Auditor-General's Report, and this Parliament should take very serious note of it indeed.

The Auditor-General comments on the falsity of the data which has been presented to the Parliament by the Treasurer. He has obviously had to have many discussions with Treasury officials before they would even admit that the data they presented was false and misleading, and it is no service to this State when the Treasurer is responsible for presenting false data to the Parliament and therefore to the people of this State.

Never before have I seen an Auditor-General's Report comment on the training and ability of Treasury officials. We know that the former Treasury officials, the dedicated, hard working and responsible individuals who were there prior to the election have been sacked, moved and got rid of, and, what is worse, they have been replaced by people who have been chosen for their ideological bent, not for their financial abilities.

The Hon. R.I. Lucas: They worked for Paul Keating.

The Hon. ANNE LEVY: The Minister interjects that they worked for Paul Keating. One worked for Paul Keating in a fairly lowly capacity, where there were plenty of people above him to monitor and correct any mistakes he might make. Now, he is the one who is supposed to monitor and correct others, and obviously he has not done so—whether because he does not want to or does not know how, we do not know. It is obvious that the replacement of people on an ideological basis has led to the Auditor-General himself commenting that Treasury officials need training and lack the ability and knowledge required of Treasury officials. These are not my comments but the Auditor-General's comments and they must be taken very seriously indeed by the Government, the Parliament and the people of South Australia.

The Auditor-General has commented on how, for ideological reasons, the whole debt management strategy of the Government was changed and this has resulted in a burden on the taxpayers of this State of an extra $160 million at least in interest charges. This Government, which talks about having to rein in expenditure and proceeds to slash and burn through the services provided to the people of this State, is so incompetent that it has cost the people of this State about the same as it has slashed and burned. The net gain is virtually zero.

There has been a great diminution in services in South Australia, which is balanced by the extra charges in interest due to the poor debt management capacity of this Government. It should stand condemned. The pain and suffering it

has inflicted on the people of this State is all for nought. It has been completely negated by the extra interest costs it has caused us with its poor debt management.

The Auditor-General has seized upon the question of contracting out and his warning that the Parliament needs information before the event as well as after the event is noted. The changes occurring are of such magnitude that normal financial accounting and auditing is, in the view of the Auditor-General, not sufficient to bring to the attention of the people of this State the financial consequences of what the Government is doing and he states that there should be a review by the Parliament before the event, and not merely after it, through the Auditor-General's Report. He is calling for changes in legislation so that there will be proper accountability of this Government.

The question to be posed to the Government is whether it will the follow the Auditor-General's recommendations and bring in the legislation which he has recommended, similar to legislation in New South Wales, so that there can be this proper accountability of the Government to the Parliament. This is a very important question and I hope that when the Leader closes the debate he will answer this crucially important question: is this Government to implement the legislative changes recommended by the Auditor-General or will it merely close its eyes to his damning criticisms and continue as it has without considering his important recommendations?

I hope all South Australians will be interested in whether this tawdry Government will in fact follow the recommendations of the Auditor-General and bring in this appropriate legislation. The Auditor-General has also pointed out that one can fiddle with figures and get an apparent debt reduction. I say 'apparent', because it is not a true debt reduction if it is replaced by long-term recurrent commitments. In fact, we may be worse off, taking all things into account, even though the debt has been reduced. Someone gave a very good example to make this point understandable to the general populace. If someone has a mortgage of $100 000 on their house, at the moment they will be paying about $210 a week in repayments to the financial institution which provided that $100 000 loan. They have a debt of $100 000. If they decide they want debt reduction they could sell their house and, from the proceeds, repay $100 000 to the financial institution.

They will then have no debt, but they will then have to rent accommodation to be able to survive, and accommodation of the same standard might well cost them about $230 a week in rent. After 20 years, one can see that in fact they will be much worse off. Not only will they have paid more per week in rent but also at the end of this time they will have no asset to their name, and they will have paid out more in their recurrent commitments than they would have paid in servicing the debt which would have gone after that time but which would have resulted in their having an asset with a certain value to their name.

The Auditor-General is pointing out that debt reduction *per se* means absolutely nothing if one does not also take into account recurrent commitments which result from liquidating a debt. The example of the home owner which I have mentioned illustrates this point very clearly. In that situation, the home owner would have been much better off to keep the debt and pay it off over 20 years. He would then have an asset but, by liquidating their debt, 20 years on they are much worse off than if they had kept their debt and serviced it.

The Auditor-General makes the point very clearly that, at any time, debt reduction *per se* cannot be used to judge the financial performance of a Government or the financial situation of the State unless one also brings into the balance sheet the recurrent financial commitments involved in the contracting out that this Government is undertaking.

I very much hope that such a proper accounting will be done so that we can see not only debt reduction but also the future financial commitments which will result from some of the debt reduction strategies, selling off the farm, which the Government is undertaking. A true judgment on the state of the State's finances will require this proper balance sheet approach to be undertaken.

I would like to pose a few questions. Because the Auditor-General's report did not come with the budget papers—and I am not querying that; it is unavoidable, with the early introduction of the budget—there is no opportunity for members to ask questions arising from the Auditor-General's Report in relation to the budget debate, as we have always been able to do in the past. Instead, I hope that we can ask questions in this debate and that the Government will answer these questions and treat them as seriously as it would any questions in a budget debate. They are as relevant as any questions arising from the Auditor-General's Report treated in a budget debate have been in the past.

I have a few queries relating to the Auditor-General's Report on the Adelaide Festival Centre Trust. Both State Opera and State Theatre publish data on the number of attendances, performances and the subsidy per seat sold. There is no equivalent data for the Adelaide Festival Centre Trust. I ask that such data be provided so that a comparison can be made and the Parliament can have an idea of the efficiency of the Adelaide Festival Centre Trust, as it can of State Theatre and State Opera. There is also an indication that the Festival Centre Trust has provided accounting and administrative services to the festival board at no charge. I have no problem with the Festival Centre Trust's providing free services to the Festival of Arts, but I ask that an evaluation be made of the value of these free services so that we can have an understanding of the extent to which the Festival Centre Trust is subsidising the Festival of Arts. I ask that that also be indicated so that the true cost of both the Festival Centre Trust and of the Festival to this State can be known to the public.

According to the Auditor-General's Report, the Festival Centre Trust in 1994-95 spent $93 000 on the performing arts collection. I had always thought that the performing arts collection was funded by the Government, not by the Festival Centre Trust. Are they administering a Government grant or supplying this from their own resources? Government grants are listed as a single sum: there is no separate mention of a grant for the performing arts collection under the line for income for Government grants. I would like more information on where this $93 000 for the performing arts collection has come from.

What will happen in future regarding the accounts of the Festival of Arts? It is no longer an incorporated body: it is a board set up by and responsible to the Minister. I presume—and I would like confirmed—that its accounts will be audited by the Auditor-General, as most bodies responsible to a Minister are audited, but I would like confirmation of that fact. Also, will its audited accounts be available to the Parliament? I am not raising this matter in any way to be critical of the Festival, but the public of South Australia deserves to know the detail of the finances of the Festival of Arts, which is so important to this State, and such information should be available.

What happened to the audit of Modbury Hospital? Modbury Hospital was taken over in February this year by Healthscope, and the audited accounts in the Auditor-General's Report are not for the full year but for only part of the year. I understood that the accounts of Healthscope were also going to be audited by the Auditor-General and that, in consequence, information as to this auditing would be available to the Parliament. How on earth can we know what is happening to one of our public hospitals if its accounts are not being monitored and audited publicly and the information made available? The Auditor-General merely records that $15 million-odd has been paid to Healthscope but we have no indication of how that $15 million has been used or spent, whether it is efficiently spent—in other words, whether public money is being properly accounted for and we should. We should not be in a situation where public money is handed over to a private firm without it being properly accounted for.

That does not happen in the arts, where the accounts of any private organisation in the arts that receives Government money have to be fully accounted for to the Department for the Arts. The accounts are carefully gone through and there is full and proper accounting of all taxpayers' money. The same should apply to Healthscope and we should be able to know about it.

My final question relates to the proposed local government reform board which, if the legislation proposed by the Minister is passed by this Parliament, will do audits of local councils throughout the State—all 118 of them, presumably. In such auditing will the Auditor-General's Department be involved? Will the report of the auditing be available to the communities represented by these council? Will they be available to Parliament? Again, this is public money, ratepayers' money and any auditing should not remain secret but, like the Auditor-General's Report, be made publicly available for everyone to judge the efficiency and responsibility of the accounts audited.

I hope the Government will have the guts to answer those questions and, most particularly, take on board the highly critical comments from the Auditor-General and reform itself to be accountable to this Parliament, to South Australia and be responsible and correct its many mistakes. I hope the Government will take note of the Auditor-General's concern that, with the contracting-out situation developing in this State, the Parliament and, therefore, the people of South Australia are being kept in the dark and not given the information which as taxpayers it is their right to have. I support the motion.

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

ADJOURNMENT

At 6.10 p.m. the Council adjourned until Tuesday 17 October at 2.15 p.m.