LEGISLATIVE COUNCIL

Thursday 5 July 2001

The PRESIDENT (Hon. J.C. Irwin) took the chair at 11 a.m. and read prayers.

SITTINGS AND BUSINESS

The Hon. R.I. LUCAS (Treasurer): I move:

That standing orders be so far suspended as to enable petitions, the tabling of papers and question time to be taken into consideration at 15 minutes past 2 o'clock.

Motion carried.

ELECTORAL (MISCELLANEOUS) AMENDMENT BILL

In committee.

Clause 1 passed.

Clause 2.

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

Page 3—

Line 5—Leave out 'This' and insert 'Subject to subsection (2), this

After line 5—Insert:

(2) Sections 8A and 26(5) and (6) will come into operation on assent.

The first amendment is consequential on the second amendment, which relates to the commencement of the provisions relating to the registration of political parties. The substantive amendment provides that the provisions relating to the use of the distinctive parts of an existing political party's name in an application for registration by another party will come into operation on assent. There is a substantive issue that we have to explore in relation to the use of an existing political party's name in an application for registration by another party. I suggest we have that debate when we get to that substantive provision in the bill.

I suggest that we pass the amendments being proposed to be made to clause 2, even though we do not know how others will respond to my amendment in relation to political parties' names, and we can always recommit if the substantive amendments are changed. The transitional provisions, which will come into operation on assent, would, if further amendments proposed by me as I have indicated are accepted, provide that any application for registration after 3 July 2001 would be subject to the amended provisions of the act in relation to the use of the distinctive part of an existing political party's name—we will deal with the substance of it later—in order to guard against smart people trying to get in early to poach the name of an existing political party before the legislation becomes law. The reason is to avoid someone trying to be oversmart in attempting to gain registration between now and when the amendments would otherwise come into force.

The Hon. CAROLYN PICKLES: The opposition indicates support for the amendment.

Amendments carried; clause as amended passed.

Clause 3.

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

Page 3, line 7—After 'amended' insert:

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(a) by striking out from the definition of 'elector' in subsection (1) '18' and substituting '17';

(b) [Bring in remainder of clause 3]

The intent of my amendment is to allow for 17 year olds, if they so wish, to register and vote at the age of 17 instead of the age of 18. I have already addressed a separate bill on this issue previously, so I do not think that there is any need for me to go into any further detail on it.

The Hon. K.T. GRIFFIN:. Whilst appreciating the sentiment behind this amendment, I do indicate that the amendment is opposed. It is always a vexed question as to the age at which certain opportunities, rights or obligations should apply at that youthful end of the range of ages. Currently, of course, we all know that 18 is the age of majority. It is the age from which a number of consequences flow. A person who, for example, is 17 generally still cannot make a will or be the executor of a will; enter into any contract other than one for necessities; be sued and sue in person; get married or witness a marriage; or be the donor or donee of a medical power of attorney.

A person of the age of 17 cannot donate bodily tissue while living; make an anticipatory grant or refusal of consent for medical treatment; change their name without parental consent; view restricted films, publications and computer games; drink alcohol in licensed premises; drink alcohol in a public place; purchase alcohol; purchase tobacco products; obtain a passport without parental consent; obtain citizenship in his or her own right; obtain independent domicile; obtain a tow truck certificate; obtain a firearms' licence, except that 15 year olds can obtain a firearms' licence where it is used in relation to primary production carried on by the person's parent, spouse, sibling or employer; be a company director; or serve on a jury.

So, there are a number of things which a 17 year old cannot do under law and, under law, technically, a 17 year old is still subject to the guardianship of his or her parents. We have had the start of a debate recently about young offenders, whether the age ought to be reduced from 18 to 17, and I can understand the populist view that might suggest that that ought to be undertaken but, looking at it objectively, it is hard to find persuasive arguments in favour of a reduction in that age from 18 to 17. At the moment, 18 year olds are dealt with as adults. If they offend, 17 year olds are dealt with as young offenders under the young offenders legislative scheme.

In all the major western democracies the voting age is at least 18 and, in some cases, it is even higher. My understanding is that in the United Kingdom the age at which a person becomes entitled to vote is 21. I would acknowledge that any age—as I said earlier—which is selected will involve a degree of arbitrariness. Having 18 as the age, though, at which a person is treated as an adult and assumes such rights as voting rights is a pretty commonly recognised standard. It has been accepted throughout the Australian community and internationally, and I would suggest that, when one examines it closely, there is no good reason to depart from the general standard.

Of course, there is another practical issue, and that is the joint roll arrangements with the commonwealth because the commonwealth age will remain at 18 and, if this were to pass and we would be at 17, I think that that would create some—

The Hon. T.G. Cameron interjecting:

The Hon. K.T. GRIFFIN: Yes, I realise that, but there are still joint roll arrangements where the roll is actually kept jointly by the state and the commonwealth. So, generally, they are the arguments in respect of which I indicate opposition to the amendment.

The Hon. CAROLYN PICKLES: Like the Attorney-General, I have a certain amount of sympathy in relation to

the voting age of young people. When I was shadow minister for youth affairs, I do recall that there was a bit of a push at the time in certain areas for the voting age to be reduced to 16, but there was equally, with young people, a certain amount of opposition. I was born in the UK and the age of majority then was 21. I am surprised that the Attorney said that the voting age in the UK is still 21. I would have thought that, by now, the Blair government would have gone to 18.

However, I do recall the argument when we lowered the voting age to 18, and that was during the days of the Vietnam War, and the line went something like this: you can go to war and die at the age of 18 but you cannot vote, and that was my recollection of why we then moved the age of majority to 18. As the Attorney has pointed out, there are a number of areas where the age of 18 is the legal issue, and I think that this matter probably needs a lot more exploration before we deal with it. I did note that the Hon. Terry Cameron had a bill before the parliament, which he withdrew because he was moving this amendment in this substantive bill. The opposition does not support the amendment.

The Hon. M.J. ELLIOTT: The issue of voting age is something that has been under active consideration in our party for some time. In fact, the party's youth wing has been advocating a voting age of 16 for, probably, about five or six years. It is a matter that the party has not formed a firm policy on at this stage, but I am prepared to support the amendment, noting that enrolment is, in fact, optional for 17-year-olds.

While we can argue about 18 being the standard, I point out that it was not that long ago that 21 was the standard for many things. Sixteen-year-olds are in a position to make quite important decisions about such things as health treatment so, if we are empowering young people to, in confidence, make very significant decisions such as that, it does not seem to be asking a great deal of them to address the political system. As I follow the conversations that run around the dinner table at the Elliott household, I notice that 17-year-olds are alert to what is going on around the place and are quite capable of making sensible decisions. As I said, in the absence of party policy in this area I am prepared to support the amendment at this stage.

The committee divided on the amendment:

AYES (4)

Cameron, T. G. (teller)	Elliott, M. J.
Gilfillan, I.	Kanck, S. M.

NOES (15)

Crothers, T.	Griffin, K. T. (teller)
Holloway, P.	Laidlaw, D. V.
Lawson, R. D.	Lucas, R. I.
Pickles, C. A.	Redford, A. J.
Roberts, R. R.	Roberts, T. G.
Schaefer, C. V.	Sneath, R. K.
Stefani, J. F.	Xenophon, N.
Zollo, C.	

Majority of 11 for the noes.

Amendment thus negatived.

The Hon. NICK XENOPHON: I move:

Page 3, line 7—After 'amended' insert:

(a) by inserting after the definition of 'undue influence' in subsection (1) the following definition:

'vehicle' includes a caravan or trailer;

(b) [Bring in the remainder of clause 3]

This amendment seeks to include in the definition of 'vehicle' a caravan or a trailer. It is consequential on subsequent amendments to section 115 of the Electoral Act, which provides that a person must not exhibit an electoral advertisement on a vehicle or vessel if the advertisement occupies an area in excess of one square metre.

The purpose of this amendment, which in a sense is consequential on further amendments, is essentially to allow mobile posters or billboards. There is an argument that it seems to be unfair, particularly for minor parties and independent candidates who cannot afford to pay for press or TV advertising in particular, whereas the major parties tend to be able to use those resources. This would allow, for a relatively small outlay, billboards to be exhibited—not permanent billboards as they are not allowed under the act but mobile billboards which could be exhibited in electorates similar to advertising that we occasionally see on our roads in the course—

The Hon. M.J. Elliott interjecting:

The Hon. NICK XENOPHON: The Hon. Mike Elliott asks whether you have to keep moving them or can you park them. My understanding from discussions with parliamentary counsel is that, if mobile billboards fall foul of parking regulations, that would have an effect on them. In other words, they cannot park illegally and leave the vehicle there for a few days, but a one-hour parking spot is acceptable. The idea is that they cannot fall foul of those bylaws. The intention of this amendment is to allow—

The Hon. M.J. Elliott interjecting:

The Hon. NICK XENOPHON: I don't know about that. You can have large advertisements on the big screen at cinemas and drive-ins, but it seems anomalous that you cannot have mobile billboards that exceed one square metre.

The Hon. K.T. GRIFFIN: This amendment relates to the size of electoral advertisements, as the honourable member has said. It will mean, of course, that those huge semitrailers that drive—

The Hon. R.R. Roberts interjecting:

The Hon. K.T. GRIFFIN: Well, under the federal legislation you can do that. Under federal law you can have big billboards at the end of Anzac Highway or North East Road or wherever because there is no restriction on size. In South Australia there is a restriction on the size of—

The Hon. T. Crothers: Is it 1 200 square centimetres?

The Hon. K.T. GRIFFIN: No, it is one square metre, which I think is 1 000 square centimetres. This amendment would mean that you could have an unlimited size in relation to vehicles trundling around the streets of the city of Adelaide, the metropolitan area, regional centres or elsewhere. The government takes the view that it will not support this amendment. It subscribes to the view that there ought to be reasonable constraints on the size of mobile advertising in a public location except in relation to a campaign office.

The Hon. R.R. Roberts: Or cars?

The Hon. K.T. GRIFFIN: Car signs do not exceed the limit, and I think there is also an exemption in relation to some parts of cars. The preference of the government is to remain with the current restrictions on electoral advertising, particularly size.

The Hon. CAROLYN PICKLES: The opposition opposes the amendment. Like the government, we believe that the possibility of having pantechnicons driving around Adelaide with huge electoral signs on them is a little bit distasteful. Over the past several years, we have got used to having fixed signage. I think that nearly all the parties would have already started to purchase their signs and that it would be unreasonable to go to bigger signs. Of course, you can still put a sign within the limits on your car. A lot of members

drive around with a small sign on their car, and that is allowed under the act. I think that is quite sufficient.

The Hon. T. CROTHERS: I have some difficulty with the amendment for a number of reasons, some of which are the same as those of the Leader of the Opposition. What bothers me is that I can see in elements of this act where democracy itself is being assailed. Maybe this is not intentional, but in some areas of this act I think there will be some curtailment of the democratic process. I think this is an attempt by the Hon. Mr Xenophon to ensure that the smaller parties, because of their constraints in cash flow for electoral expenses, would be able to have a mobile sign that would save them having to put up a number of other signs.

Having said that, I also recognise the differences between state and federal. I am probably the only one here who can recall that the Hon. Mr Becker, a former electoral officer in this state, had a go at putting up a sign that exceeded then, I think it was, 1 200 square centimetres in size. I do not think that this is the place to express my view on what constitutes democracy.

An honourable member: It hasn't stopped you before.

The Hon. T.G. Cameron: There is always a first.

The Hon. T. CROTHERS: There's always SA First. I might join it.

An honourable member interjecting:

The Hon. T. CROTHERS: Don't worry.

The Hon. M.J. Elliott interjecting:

The Hon. T. CROTHERS: Will you be quiet, or I will join the new party that John Schumann is setting up. On the sign he said that not only was Meg Lees out but the present members of the Democrats in South Australia also. Whilst I understand what has been said, I think this is the wrong way to do it, because it would be difficult if you did not have whoever was authorising these complying with another element of South Australian electoral law, which is that certain donations have to be registered. If donations are made to political parties or political entities, they have to be registered with the Electoral Office. I have some sympathy with what is being attempted; however, I will not support it. I think this is the wrong time and place in respect of that matter, because I can see ways in which this could be used by the larger parties to—

The Hon. M.J. Elliott interjecting:

The Hon. T. CROTHERS: —that is why I oppose mobile signs—to assist them in respect to their advertising. If you want to have a sign in remote areas, let me remind you that there are mobile voting vans—no doubt the Attorney will tell me whether I am wrong—and you can supply some of your how-to-vote cards. If the person who is making that vote—say, up at Olary or one of the remote areas of this state—asks you for a particular party's how-to-vote card—and certainly they can do this under the federal act—they can be supplied by the officer in charge of the mobile van.

The Hon. T.G. CAMERON: It is becoming quite obvious from the way in which this debate is proceeding that this is one of those issues where size really matters. I am a little bit puzzled as to why there is opposition to the amendment moved by the Hon. Nick Xenophon. At least the Hon. Trevor Crothers attempted to substantiate his opposition to the provision.

I am a little bit concerned in the sense of people who currently use these vehicles—and this is a question for the Attorney—and I just use one example, Fran Bedford, who drives around in a vehicle which is obviously a lot bigger than one square metre. It is quite clear. Fran would not be the only one; there are a number. Joe Scalzi has a vehicle all decked out. The entire car, in my opinion, would constitute a political or an electoral advertisement.

The Hon. K.T. Griffin interjecting:

The Hon. T.G. CAMERON: Well it is possible. The Attorney interjects and says they might call it a campaign office. Does that indicate that there is a glaring gap here in this legislation? If somebody is able to circumvent the intent of this piece of legislation by calling their car, which is decorated from the tyres to the roof with electoral advertisements, I do not think there is any way, by any definition, that the car would not be seen to be an electoral advertisement. Does that mean that if we proceed down this path all those candidates will have to repaint their cars—at least during the election period in any case?

The Hon. K.T. GRIFFIN: All the provisions relating to the size of electoral advertisements are in section 115, and it is quite clear, as follows:

> A person must not exhibit an electoral advertisement on. . . a vehicle or vessel or. . . a building, hoarding or other structure, if the advertisement occupies an area in excess of 1 square metre.

Now, it can be a bit problematic, identifying what are the boundaries of an advertisement on the side of a vehicle, but for the purposes of that description of an electoral advertisement:

> advertisements. . . that are apparently exhibited by or on behalf of the same candidate or political party. . . and that are at their nearest points within 1 metre of each other, will be taken to form a single advertisement.

The Hon. T.G. Cameron: But vehicles where the entire car is decorated—front, back, sides, the lot.

The Hon. K.T. GRIFFIN: From the perspective of the Electoral Commissioner that has always been regarded as an area which is subject to the act. It raises the fundamental question of whether there should be—

The Hon. T.G. Cameron: It is one of those things where people have all turned a bit of a blind eye to it.

The Hon. K.T. GRIFFIN: I think that is probably right.

The Hon. T.G. Cameron: Now that this amendment has been moved you knock it off. Any candidate will be entitled to go to the commissioner and lodge an objection against all these vehicles that are driving around—your members and Labor Party members. That is not very smart is it? What is wrong with these vehicles—I am not opposed to the vehicles.

The CHAIRMAN: Order! The Hon. Mr Cameron can make his points when on his feet.

The Hon. K.T. GRIFFIN: If you are focusing on that, on the vehicle of the member, that is one thing, but the amendment goes much more broadly than that. It deals with these huge trailable signs. That is more the focus. I appreciate the point you are making, that it creates a difficulty in relation to those vehicles of members which might happen to be dressed up to promote the particular member. If everybody is of the view that that is all okay, regardless of the size—I mean, you do not want them running around in a huge bus—you would need to define the exemption carefully, but if every member—

The Hon. T.G. Cameron interjecting:

The Hon. K.T. GRIFFIN: Not for electoral purposes; we are talking about electoral advertisements. If everybody is agreed, and we would need to consider this more carefully, I am prepared to indicate that I would be comfortable in looking at whether or not that ought to be an exemption prescribed by regulation, and we can develop that if it focuses only on the car of a member. But it is the broader application

of this which is the offensive provision. The Hon. Terry Cameron has raised a good point about members' cars but, again, it is a question of where you draw the line between a car and bus, for example, that might be owned by a member. You can, of course, have a mobile campaign office, which is not subject to the size constraints, but that is another issue. But for the present time, because of the breadth of the amendment moved by the Hon. Mr Xenophon, I continue to oppose it, but if there is a general view that we ought to look at members' motor vehicles, or candidates' motor vehicles, as a separate exercise I am prepared to give a commitment that we can examine that and I can bring a report back to the Council on that issue.

The Hon. T.G. CAMERON: I do not want to mislead honourable members as to my intention here. I am not opposed to the idea of a member or candidate, whether they are from a small party or a major party, decorating a kombi van or a motor vehicle with what would quite clearly be deemed to be an electoral advertisement. I am concerned that this might be a bit like the advertising provision that we have under the act. Until there was a prosecution under it, until that process was started, everybody thought that, basically, they could do and say what they liked, only to be reminded, of course, by the Supreme Court that that is not the case.

But what I am concerned about here, and I accept the Attorney's points in relation to semi-trailers and buses, or what have you, is whether anybody is able to tell me quite clearly what these are, for example a kombi van that contains 'Joe Scalzi member for Hartley', 'Joe Scalzi'—or whatever his slogan is—'standing up for you', etc. etc., or whatever Fran Bedford's is. It would quite clearly be an electoral advertisement, and I would hate to see a tit for tat situation started where every member of parliament's vehicle that contains any advertising on it that might be greater than one square metre is put off the road by the Electoral Commissioner, who in my opinion, in the absence of any guidance from this place, would have to walk down this path. That is what I am trying to avoid.

The Hon. K.T. GRIFFIN: I am informed that, certainly during the election period, if there are complaints about vehicles then they are taken seriously. The Electoral Commissioner does not turn a blind eye to it. So it does become an issue, particularly during an election period. This depends on what happens to the amendment. If it is defeated I will undertake to have that issue examined. We certainly do not want to get into a tit for tat situation and we want to be sensible about it. I will undertake to have the issue examined and, in an appropriate time, inform the council of the outcome of that.

The Hon. CAROLYN PICKLES: I welcome the Attorney having a look at this closely. The Hon. Mr Cameron has raised the issue about the member for Florey, and she is not the only person, but I think she is probably the only person on our side of politics who drives around with a van—

An honourable member interjecting:

The Hon. CAROLYN PICKLES: Well, he is not a member of parliament at the present time. She has the words 'Mobile Campaign Office' on her van. Since the Attorney has undertaken to look at this more closely, I welcome that. However, I also oppose in principle the amendment that would allow for the possibility of very large signs roaming around the state. We already have local government lobbying us heavily about signage in some of their areas, and we will deal with that amendment at a later stage. In the interests of democracy I think that all parties should be allowed to have a limited size sign up in prescribed places during an election campaign. I am not objecting to the existing signs but to the possibility of having these enormous signs. The Attorney has undertaken to take this back and to further look at it, and I am happy with that.

The Hon. R.D. LAWSON: The Hon. Terry Cameron said that Joe Scalzi has a sign on a vehicle that might exceed the one metre permissible during an election period, but Mr Scalzi, like a large number of other members, has a sign atop his car which I would not have thought by any measurement could exceed one square metre: I would not have thought that there is any possibility of that occurring. However, the Attorney did say that it was possible to have a sign of more than one square metre on a campaign office.

It was suggested that the member for Florey's so-called mobile campaign office overcomes that difficulty, because the Attorney said quite rightly that electoral offices or campaign offices are exempt from the limitation of one square metre. However, as I read section 115, it does not apply only to a sign displayed on, at or near an office or room, to indicate that the office or room is a campaign office or the office of a political party.

I do not believe the exemption currently in this legislation would permit the use of a vehicle as a mobile campaign office because the provision talks about an office or room, and in my view you cannot create a room out of a vehicle. I wonder whether it is intended to address that issue because it will become an issue during the election campaign. The member for Florey used her so-called mobile campaign office at the last election—and I do not know whether there was any complaint—and it did occur to me at the time that that was not in compliance with the legislation.

The Hon. M.J. ELLIOTT: With the Attorney-General's assurance, if the Hon. Nick Xenophon wants to have mobile signs it sounds like he will need to get a pantechnicon and classify it as a mobile office and then he will be okay. There has not been any significant strong argument against the use of mobile signs: it was almost a Pauline Hanson like 'I don't like it' more than anything else. The Democrats do not have any problems with the notion and are prepared to support the amendment.

The Hon. T. CROTHERS: I have paid some attention to the merit of the argument which was mounted by the Hon. Mr Cameron and which I thought was a very well rounded and thought out argument. With respect to the replies made by the Attorney-General and the Leader of the Opposition, I am reminded of the famous quote of Dr Johnson to Mr Boswell when he said, 'Rest assured that there is nothing that so much concentrates the mind of a man as on the morning of the eve of his execution'.

The committee divided on the amendment:

AYES (6)

Cameron, T. G.	Crothers, T.
Elliott, M. J.	Gilfillan, I.
Kanck, S. M.	Xenophon, N. (teller)

NOES (13)

Davis, L. H.	Griffin, K. T. (teller)
Holloway, P.	Laidlaw, D. V.
Lawson, R. D.	Lucas, R. I.
Pickles, C. A.	Roberts, R. R.
Roberts, T. G.	Schaefer, C. V.
Sneath, R. K.	Stefani, J. F.
Zollo, C.	

Majority of 7 for the noes.

Amendment thus negatived; clause passed.

Clause 4.

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

Page 3—

Line 14—After "amended" insert:

—

(a) [Bring in all words after "amended" in clause 4];

After line 17—Insert:

(b) by inserting after subsection (1) the following subsection:

(1a) The regulations may provide that subsection (1) does not apply to—

(a) a particular agency or instrumentality of the Crown, prescribed authority, or public sector employee; or

(b) specified information or material in the possession or control of an agency, instrumentality, authority, body or person.

The first amendment is consequential upon the second. The substantive amendment arises from consultation on the bill. When we undertook that consultation it was suggested that, due to the confidentiality of that information, there may be certain agencies within the government which should not be required to provide the Electoral Commissioner with information held by those agencies as would be required under section 27. For example, confidential databases held by the South Australian police should not be made available to the Electoral Commissioner. For this reason it is proposed that the act be amended to provide that section 27 does not apply to agencies or information exempted from that section by regulation.

The Hon. CAROLYN PICKLES: The opposition supports the amendments.

Amendments carried; clause as amended passed.

Clause 5.

The Hon. CAROLYN PICKLES: I move:

Page 3, lines 19 to 21—Leave out all words in these lines after 'amended' in line 19 and insert:

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(a) by striking out paragraph (c) of subsection (2) and substituting the following paragraph:

(c) the elector's age.;

(b) by striking out the note in square brackets at the foot of subsection (2);

(c) by striking out subsection (3);

(d) by striking out the penalty provision at the foot of subsection (5) and substituting the following:

Maximum penalty: $10 000.;

(e) by inserting after subsection (5) the following subsections:

(6) For the purposes of this section, 'a person of a prescribed class' means—

(a) a member of either of the Houses of Parliament; or

(b) the registered officer of a registered political party whose membership includes at least 1 000 electors; or

(c) any other person prescribed by regulation.

(7) For the purposes of subsection (6)(b), the Electoral Commissioner may require the registered officer of a registered political party to provide such information as the Electoral Commissioner may reasonably require to determine whether a party has a membership of at least 1 000 electors.

This amendment seeks to make additional amendments to section 27A of the Act, which deals with the provision of certain information by the Electoral Commissioner. The first part of the amendment provides that the elector's age is included in the list of information, not simply an age band. Each elector has to supply their date of birth. It is a simple job to do this and provides a more accurate reflection of the age of electors. The second part of the amendment deals with who is entitled to obtain information which is currently provided by regulation, and the definition is contained in paragraph (e) of my amendment, proposed new subsection (6), paragraphs (a) to (c). Proposed new subsection (7) permits the Electoral Commissioner to require the registered officer to provide information as the Electoral Commissioner may reasonably require to determine whether a party has a membership of at least 1 000 electors.

The Hon. K.T. GRIFFIN: I suggest that the amendment be put in two parts. The government has decided that it will support paragraphs (a) to (d) which essentially relate to access to information about date of birth. It is available at the federal level. Currently, section 27A provides that the commissioner may provide a person within a prescribed class with the following information: the elector's sex, the elector's place of birth and the age band within which the elector's age falls. However, the commissioner may not provide such information if the elector has requested in writing that the commissioner not do so. That means of course that there is a disparity between the state roll and the commonwealth roll kept on a joint roll basis.

The Leader of the Opposition's amendments (as she has indicated) would provide for the elector's age to be disclosed and not allow a person to request that the information not be available to members and parties. Paragraph (d) picks up the amendment currently contained in the bill which increases the penalties for non-compliance with a condition imposed by the Electoral Commissioner. Quite obviously, that is supported. Paragraph (e) would insert a definition of a person of a prescribed class which would incorporate the existing class of persons prescribed in the regulations, that is, a member of either of the houses of parliament plus the registered officer of a registered political party whose membership includes at least 1 000 members or any other person prescribed by the regulations.

Consideration does need to be given to the purposes of allowing the relevant information to be provided in the first place. When section 27A(2) was introduced, its purpose was to enable members to communicate effectively with their constituents. On this basis there would appear to be no reason to expand the category of persons entitled to access the information beyond current members of parliament. Presumably, the purpose of the amendment proposed by the Leader of the Opposition is to allow candidates to communicate with electors regarding electoral issues, and on that basis there is no good reason in my view to limit the proposal to political parties with a membership of over 1 000. On that argument, any registered political party ought to be able to access the information.

However, there are arguments against extending the scope of the provision beyond members of parliament. There are privacy ramifications which are extensive. In my view it would be undesirable to expand the scope of the section this far. Of course, the other point that one can make is that a group which might have extreme views gaining registration as a political party without any member of parliament could then use the information it gathers as a result of this amendment to target specific groups. You might have an extremist organisation or an organisation which has some radical—not necessarily extremist—views, and the government and I have a view that information which is of a personal nature should not therefore be so widely available. I indicate support for paragraphs (a) to (d) but oppose paragraph (e).

The CHAIRMAN: Is it the wish of the committee to address the amendment in two parts? I understand the Attorney-General's first argument about paragraphs (a) to (d). Is he proposing that the committee look at paragraph (e) separately?

The Hon. K.T. GRIFFIN: I want to deal with paragraph (e) separately. Paragraphs (a) to (d) are supported; paragraph (e) is not supported.

The Hon. CAROLYN PICKLES: I am happy to deal with it in that form if it helps the committee.

The Hon. M.J. ELLIOTT: I wish to explore section 27A, the principal provision of the act, and then look at the amendment. There is no doubt in my mind that section 27A exists for the sole convenience of members of parliament and not in any way for the benefit of the electors themselves. Section 27A(3) provides that information is not to be disclosed to a person of a prescribed class if the elector has requested in writing that the Electoral Commissioner does not do so. Will the Attorney-General explain how a person is aware that they have that right? How does the mechanism work, and how clearly is it displayed on the forms given to electors?

The Hon. K.T. GRIFFIN: It is currently on the enrolment form. There is a box which states, 'Do you not wish to have this information passed on to members of parliament?' If you tick the box it will not be handed on. It would be excluded from the roll.

The Hon. M.J. Elliott: How many people do it?

The Hon. K.T. GRIFFIN: I am informed by the Electoral Commissioner that not everybody has to fill out an enrolment form, even when they shift from location to location, but every time the details change an enrolment form is completed. I am told by the Electoral Commissioner that most people tick the box to opt out.

An honourable member interjecting:

The Hon. K.T. GRIFFIN: They do not want the information handed on.

The Hon. M.J. ELLIOTT: When did they first add this to the form, as I doubt I was offered that option when I enrolled many years ago? For how long has it been on the forms?

The Hon. K.T. GRIFFIN: In August 1997 the act was changed. That was well after the honourable member turned 18 years.

The Hon. M.J. ELLIOTT: It really makes the point that within this subclause—and indeed it might be a new one that the current government introduced—there seems to be a recognition that some people would not want the information to be passed on. One of the fundamental principles of privacy is that information is used for the purpose for which it is collected. That has to do with verification of rolls and making sure people qualify and so on. Under privacy principles, the government quite rightly, in introducing section 27A, gave people the option to opt out. They should be given the option to opt in. This matter should have been considered at the time and I share some of the blame for it. Why are not all people being offered the option to say, 'No, I don't want this to be disclosed'?

The Hon. K.T. GRIFFIN: I suppose the reason is that to go through the electoral roll and send out a note to everybody asking whether they want to opt in or out, as the case may be, would be a significant logistical task.

The Hon. T.G. Cameron: Use your imagination—just do it at election time and—

The Hon. K.T. GRIFFIN: There are various ways of doing of it. The act was enacted and it applied to all enrolment applications after the date when that provision came into operation.

The Hon. M.J. ELLIOTT: It has to be noted that there are matters of significance in relation to privacy involved in this. It is not just a matter of knowing what elector lives in a place, but you are supplying gender, potentially place of birth and now precise age. That is wonderful for those MPs who like setting up databases so that they can track every person in the electorate and do their little targeted mailings, which often say the exact opposite to different people depending on what age, gender and so on they are. It is not to the benefit of the voter and does not relate to the purpose for which information is supplied. The amendment now before us seeks to broaden this so it is supplied not only to members of parliament but potentially to any candidate. The Attorney-General has already made the point that potentially a candidate could be an extremist group. If you were a private detective you could set yourself up as a candidate and get access to the electoral roll—that would not be too bad. You would then have everyone's age, date of birth—

The Hon. T.G. Cameron interjecting:

The Hon. M.J. ELLIOTT: Absolutely; you get your CD burner to work and you have yourself a copy and Bob's your uncle. I suspect that the overwhelming majority of voters have absolutely no idea that the information is there. Certainly, we know that some people, because they are fearful of recriminations from former partners or whatever, do not appear on the electoral roll in the form in which it is distributed, but many other people might be at greater or lesser risk from simply having their names and other information distributed without their knowledge or consent. I am concerned that that is already happening and the opposition amendment seeks to broaden that further and provide even more precise detail about age and so on. The amendments take the current situation, which is unacceptable given the way people think about privacy these days, and make it worse.

The Hon. T.G. CAMERON: Like the Hon. Michael Elliott, I indicate my opposition to the amendment moved by the Hon. Carolyn Pickles. I am not sure about paragraph (d). I suspect that will be all right and I would support that if a separate vote was taken on each paragraph. I am concerned about the expansion of access to information on the electoral roll. I notice that proposed new subsection (6)(b) refers to the registered officer of a registered political party whose membership includes at least 1 000 electors. I guess that conveniently excludes all political parties except the Labor Party and the Liberal Party. I have a question of the Attorney. Paragraph (a) provides:

> (a) by striking out paragraph (c) of subsection (2) and substituting the following paragraph:
>
> (c) the elector's age.;

What is the significance or impact of that? Sometimes I think these things are different from what they really are. Can the Attorney or someone tell me exactly what it is doing?

The Hon. CAROLYN PICKLES: My understanding is that this information is available to federal members of parliament. I am sure Natasha can give you everything you need to know, Mike. I am sure she uses it very well. I cannot see why—

Members interjecting:

The Hon. CAROLYN PICKLES: Terry may well have it from when he used to be a member of the Australian Labor Party. I am not sure why there is a difficulty with this. If one section of our elected members can have that kind of information, why cannot we have it at the state level?

The Hon. J.F. STEFANI: I do not want to prolong the debate, but it occurs to me that a lot of information is available now on the internet. If you want to find out

someone's name, you go into the internet telephone directory and you find out a person's name, where they live and all sorts of information that is available. I do not wish to confuse the issue. The Lands Title Office is another area where you can obtain all sorts of information.

The Hon. T. CROTHERS: I rise to put a viewpoint. I can understand what the Hons Mr Elliott and Mr Cameron are saying and I hope this is not the amendment to clause 5 that deals with 'person of a prescribed class'. I think we are dealing with the one above that.

The Hon. Carolyn Pickles: We are dealing with proposed new paragraphs (a) to (d).

The Hon. T. CROTHERS: Yes, the one above that. I am a bit supportive of what the Leader of the Opposition is doing here. I would have thought that, given our Westminster history, the more we try to concentrate power in the hands of a few for maybe their own reasons, the lesser factor is that traditional Westminster history.

That traditional Westminster history has stood us in very good stead, I suppose, back to the days of the Anglo-Saxon witan, but certainly after the Great Charter, the Magna Carta, a copy of which, if your Latin is any good, is on display in the library. The Magna Carta sought to distribute power where the king was taking all the power on all the national decisions into his own hand—King John, John Lackland, or whatever you want to call him. The Norman barons under Simon de Montfort met—

An honourable member interjecting:

The Hon. T. CROTHERS: —I am trying to be supportive of you, so be careful—and, in fact, stripped him of a number of his powers. Certain guarantees were written into the Great Charter in respect of the kings and, I suspect, because they were Norman knights they spoke a Norman French and the word 'pour le mot'—the parlement in the French—simply means 'meeting place', 'talking place', call it what you will. I would have thought that that democracy, which has taken over 1 000 years to evolve into its present situation, in the main has generally served us well and should not be closeted in such a fashion so that people do not have access to the electoral roll. I am reminded of that even more by the fact that we have compulsory elections in this country. I am fairly well of the view that what the Leader of the Opposition is doing is worthy of my support, and I will be giving my support for the reasons which I have already enumerated, and for other reasons which, no doubt, other speakers will touch on.

The Hon. K.T. GRIFFIN: The Hon. Mr Cameron raised a question about what paragraph (a) means because it refers to the elector's age. It may be that that description needs to be looked at because, at the federal level, as I understand it, it is the date of birth which is available, and it will become particularly difficult for the Electoral Commissioner if the information to be made available is different at a state level from that at the federal level.

The Hon. T.G. Cameron interjecting:

The Hon. K.T. GRIFFIN: It is now but, if the Electoral Commissioner must develop a roll for members which identifies the age, it must surely be at the date at which the roll is printed; whereas the federal roll puts in the date of birth, so that there is a great deal more flexibility as to when it will be made available.

The Hon. T.G. Cameron interjecting:

The Hon. K.T. GRIFFIN: I have perhaps less confidence in computer programs than the honourable member. Anyway, it is the issue of whether it should be age or date of birth. What the Hon. Carolyn Pickles has indicated is quite correct: the information is already available to federal members and it is a bit like trying to be King Canute, I suspect: however much merit there is in the issue of privacy, the genie is out of the bottle.

The Hon. T.G. CAMERON: Just because something is difficult to protect does not necessarily mean that it is not worth protecting.

The Hon. K.T. GRIFFIN: On the philosophical argument, yes: just because it is difficult does not mean that you should not protect it if you believe in it. I agree. I do not want it to be thought that it is just the degree of difficulty which is the relevant consideration: it is not in these circumstances.

The Hon. T. CROTHERS: I agree with the Attorney that the genie is out of the bottle, because I think what the previous speakers who are opposed to the Hon. Carolyn Pickles' amendment have been saying is that, in respect of privacy, you must protect people from those who want access to the names and ages of persons on the electoral roll, first, for the identification of people and, secondly, for their own ends. However, we should remember the mailing lists that are available to some of these private companies. I agree with the Attorney, and I just do not know where it begins and ends in trying to stop these companies from getting access to lists that are very accurate.

It is not only the electoral roll from which they obtain the information: they get it from all over the place. In fact, I think that this government or the previous Labor government prosecuted a few public servants for being involved in that, but whether or not that still goes on I do not know—

The Hon. T.G. Cameron: There are pages and pages of information about you on the internet.

The Hon. T. CROTHERS: I do not know. I know that my friend here says that he is a computer programmer and he would understand that there is a huge potential—

The Hon. R.R. Roberts interjecting:

The Hon. T. CROTHERS: That is why the submarine sank, of course. His tutor was in charge of the submarine. But I think that when one looks at computer hacking, which is something that you cannot do a great deal about, if the hacker is—

The Hon. R.R. Roberts interjecting:

The Hon. T. CROTHERS: That is what I thought, too, but, again, it shows that great minds very seldom differ. As much as I dislike disagreeing with my mate and great friend of many years, I must on this occasion because I think that, whilst intentions are well meant, like the Attorney said, the genie is out of the bottle. I do not think it is difficult to deal with: I think that it would be impossible, unless legislation is introduced which was so all encompassing that everyone was covered in respect of access to private information, not excluding the Governor-General of the nation.

The Hon. M.J. ELLIOTT: What information is supplied to sitting members in relation to new electors who come onto the roll? Are they told that this is a newly enrolled voter or that the person has transferred from another electorate, because that would tend to give the age information in any case?

The Hon. K.T. GRIFFIN: If an honourable member wishes to have information as to whether or not an enrollee is a new enrollee by virtue of age, or has moved from interstate or overseas and become a citizen, or is a citizen returning to South Australia, that information is available if the honourable member wishes it.

The Hon. M.J. ELLIOTT: I point out that under section 27A(3) of the principal act a person may have said that they do not want information disclosed but, effectively, if they are a new enrollee who has not transferred from one electoral division to another and has not, I suppose, become an Australian citizen, the age has just been supplied in any case and the gender is not that hard to work out. It is interesting that a person can tick a box saying, 'I do not want that information supplied' but, effectively, it is being supplied by the back door.

The Hon. K.T. GRIFFIN: With respect, that is not the case.

The Hon. M.J. Elliott interjecting:

The Hon. K.T. GRIFFIN: No, that is not the case. If one looks at section 27A one can see that it deals with the disclosure of the elector's sex, the elector's place of birth, and the age band within which the elector's age falls. Subsection (3) relates to that information.

The Hon. M.J. Elliott: I understand that.

The Hon. K.T. GRIFFIN: It does not relate to the information that the honourable member has just requested.

The Hon. M.J. Elliott: That was the point I was making.

The Hon. K.T. GRIFFIN: I am sorry; I missed that.

The Hon. M.J. ELLIOTT: The point I am making is that, if you say that you do not want that sort of information supplied, information which is under subclause (2), effectively they get the information by another route, anyway, even though they have indicated—

The Hon. K.T. GRIFFIN: No. The information that we are focusing on at the moment is the date of birth or the age. They cannot get that by the back door. They cannot get that at the moment because the information which was the subject of the honourable member's earlier question related to whether or not the person is a new enrollee because of transfer from interstate, overseas, back to South Australia, citizenship, and so on. You do not get it unless you have just come onto the roll by virtue of having turned 18. You do not get the date of birth.

The Hon. M.J. ELLIOTT: My understanding was that you said that not only would they be given the new names on the roll but that they would be told why they came onto the roll. Until four years ago, the question of age was something that was automatically disclosed: it was already on the electoral roll and was being supplied because no-one had been given the chance to say, 'No, I don't want it to happen.' For the last four years that has been different but, effectively, age is being supplied in another way anyway. So, I am saying that the principal clause is defective in terms of what the voter wants to do and what is actually happening.

Members interjecting:

The CHAIRMAN: Order, the Hon. Ron Roberts!

The Hon. K.T. GRIFFIN: The information which is made available at the member's request, apart from the information in section 27A, is that a person is a new enrollee—

The Hon. J.F. Stefani: They could be 60.

The Hon. K.T. GRIFFIN: Could be. But, if you are a new enrollee and you have come on because you have become an Australian citizen, that is identified; if you—

The Hon. R.D. Lawson: Which is age indeterminate.

The Hon. K.T. GRIFFIN: Which is indeterminate age. Or you can come onto the roll because you have moved from interstate, or you have moved from another electorate in South Australia or you have come from overseas—or a person has newly come onto the roll because that person has reached the age of majority. It is only in the instance of the person attaining his or her age of majority—the fact that the person has turned 18 around that time—that that information becomes available.

The CHAIRMAN: Oh, the Hon. Terry Cameron.

The Hon. T.G. CAMERON: There is no need to recognise me quite like that—

The CHAIRMAN: I thought we were ready to go; sorry.

The Hon. T.G. CAMERON: —otherwise I might think that you are disappointed that I am up on my feet again. To try to ease the voting on this, would you be able to split proposed new paragraph (a) from (b), (c), (d) and (e)?

The CHAIRMAN: I was just about to say—

The Hon. T.G. CAMERON: I will be voting differently on proposed new paragraph (a) than I will on the others.

The CHAIRMAN: Let me put it this way: the proposition was to put the first question about whether the words that are there do or do not stand. The second question would be to put proposed new paragraphs (a), (b) and (c) together, then (d) and (e) separately. But if it is your wish to it take further, we will do that.

The Hon. T.G. CAMERON: I would like to do (a) separately from (b) and (c), and then (d) separately from the others.

The CHAIRMAN: Then it might be best to do them all separately.

The Hon. T. CROTHERS: I will be supporting the Leader of the Opposition's amendment, which seeks to put the age down. I do it for the following reasons: very simply, when you go into the voting booth on election day, you have an assistant returning officer sitting there who can look up, and he or she can obviously see that I am an older citizen, and if my age is on there it certainly assists that person being able to, very quickly, have a more than fair idea that you are who you say you are. That is one reason that I can think of as to why the age should be there. Another one that I can think of is this. I have been doing some research lately on the surname Crothers. On the same day a thousand miles apart in two different states of America two girls called Olive Crothers were born who were not related to each other—and a thousand miles apart. Now, with the uncommon nature of my very proud heritage and name—

Members interjecting:

The Hon. T. CROTHERS: With—

The Hon. T.G. Cameron: You haven't been to the States lately, have you?

The Hon. T. CROTHERS: No, I'm just making that point. I am reminded of a policeman in Belfast who attended a traffic accident and asked for the first driver's name. The first driver said, 'John Davies'. He said to the second driver, 'What's your name?' He said, 'Davies John'. He arrested them both. I rest my case.

The Hon. M.J. ELLIOTT: I was focusing on questions of age and the supply of information generally and I had not read this amendment carefully enough. Paragraph (c) of the Hon. Carolyn Pickles' amendment seeks to strike out subsection (3), which allows people to say that they do not want information to be disclosed. We have just been informed that the overwhelming majority of people are saying that they do not want information disclosed, but what is the reaction of the Liberal and Labor Parties to this?

The Hon. T. Crothers interjecting:

The Hon. M.J. ELLIOTT: Well, they don't want this disclosed, but we are going to make them disclose it. So, all those privacy principles that they sought to bring in a couple

of years ago have shifted the other way. They have suddenly realised that people did not want them to have this information, which was vital for their use and their use alone. This is an outrage. I do not think that the public is aware of just how far this is intended to go.

The Hon. Carolyn Pickles: Natasha's got it.

The Hon. M.J. ELLIOTT: The point is that four years ago we moved in the other direction. At that time, we realised that, if people wanted privacy, they had a right to it. Four years ago, this parliament voted for privacy. What you are doing today is saying, 'Heck, they're exercising this right; that's a bad thing, so we're going to take it away.' That is what you are doing, and you have not justified it. I challenge the Leader of the Opposition and the government to say why the people should now be told, 'Despite the fact that you don't want this information supplied, we're going to make you supply it.'

The Hon. CAROLYN PICKLES: I am happy to do so. I think it is ridiculous that one set of elected officials can have this information but others cannot. Because you are a member of federal parliament you can have this information. As I said before, maybe you do not have a very good relationship with your federal senators.

The Hon. T. Crothers interjecting:

The CHAIRMAN: Order!

The Hon. CAROLYN PICKLES: Well—

The Hon. T.G. Cameron: Argue the case. Go on.

The Hon. CAROLYN PICKLES: Well, I am arguing the case—

The Hon. T.G. Cameron: Why should we supply it?

The Hon. CAROLYN PICKLES: I am arguing the case that it seems to me that it is already available to federal members and, if you want it, you can get it from them. The bottom line is—

The Hon. M.J. Elliott: That was the case four years ago when you voted the other way.

The Hon. CAROLYN PICKLES: I'm not sure how we voted on this, but I don't think that we supported the Attorney. I think you did it by—

The Hon. R.I. Lucas interjecting:

The Hon. CAROLYN PICKLES: Did we?

Members interjecting:

The Hon. CAROLYN PICKLES: Well, I personally think—

The Hon. M.J. Elliott: This is an outrage!

The Hon. CAROLYN PICKLES: You are so outraged by this, but every piece of information—

The Hon. M.J. Elliott interjecting:

The CHAIRMAN: Order!

The Hon. CAROLYN PICKLES: —that we seek now, you have it now and you use it in every single mail out. You will probably get it from Natasha. I doubt whether you will get it from Meg, but you will get it. So don't be so hypocritical.

The Hon. M.J. Elliott interjecting:

The Hon. CAROLYN PICKLES: Privacy is a good—

The Hon. T.G. Cameron interjecting:

The Hon. CAROLYN PICKLES: I cannot see what the big problem is. I think the Hon. Mr Crothers and the Hon. Julian Stefani have already said that the issues of privacy are out there. Every time you go home early you get caught by someone ringing you up who has all your details on some computer database. So I cannot see that this is a problem. The fact is that, if one group of elected officials has this, I think we should all have it.

The Hon. T. CROTHERS: I have to get up again. At times I become very weary of people who determine to talk about democracy in the general public. We know about the democracy of the Democrats. Those of us who were here when the Hon. Mr Gilfillan and the Hon. Mr Elliott were going for a lower house seat well recall the bunfight that occurred within that party in terms of who should be the casual replacement—

The Hon. T.G. Cameron: What's this got to do with someone's—

The Hon. T. CROTHERS: I am talking about democracy. Democracy is a strange word to you, a foreign word almost, but listen and you will find out. I really do think—

The Hon. T.G. Cameron: Have we swapped to a different bill?

The Hon. T. CROTHERS: I have total recall of the Irish immigrant who opined: 'I left my country for my country's good.' At times in respect of the general public I have to say that I move in certain ways in this parliament because I love the people of South Australia and I will always move in their best interests. So, I am happy to support the Leader of the Opposition's amendment because I love my state and for the good of the people who live here.

The Hon. T.G. CAMERON: I am indebted to the Hon. Mike Elliott for drawing to my attention the impact of paragraph (c). I would like to sum up to make sure that my understanding of this is correct. Only a few years ago we gave people the right to tick the enrolment form—

The Hon. M.J. Elliott interjecting:

The Hon. T.G. CAMERON: Right, but we gave people the right to tick the enrolment form, and that meant that, if there was certain information on that form that they wished to keep private, their wishes would be respected by the Electoral Commission.

The Hon. K.T. Griffin interjecting:

The Hon. T.G. CAMERON: Yes, at the state level. We are a state parliament and it is a state act. I would have thought that that went without saying. I know how particular the Attorney likes to be, but I did assume that we were dealing with a state act.

The Hon. K.T. Griffin: That is a very proper assumption.

The Hon. T.G. CAMERON: Thank you for reminding me of it. As I understand it, the Attorney advised the committee that since 1997 the overwhelming majority of people have ticked the box and expressed the wish to have certain information remain private.

The Hon. M.J. Elliott interjecting:

The Hon. T.G. CAMERON: I can understand why the opposition might be pushing this amendment forward because of the computer programmings and pollfile and whatever it has. It will find this information very useful because pollfile is a useful component in Labor Party election campaigning, but will the Attorney say why the government is supporting paragraph (c)? I understand the rationale behind supporting paragraph (a), because it at least has some plausibility, but why on earth is the government now supporting paragraph (c)?

The Hon. K.T. GRIFFIN: The government made the decision largely on the basis of the fact that the information was already available through the electoral roll being made available to federal members and that, therefore, setting up a dual system which gave people the right to identify—

The Hon. T.G. Cameron: Why the change of heart?

The Hon. K.T. GRIFFIN: Well, I think you—

The Hon. M.J. Elliott: Will they be written to and told that this is happening?

The Hon. K.T. GRIFFIN: No, they haven't all been written to.

The Hon. M.J. Elliott: They should be.

The Hon. K.T. GRIFFIN: No, they haven't been.

The Hon. T.G. Cameron interjecting:

The Hon. K.T. GRIFFIN: No, it will be—

The Hon. T.G. Cameron interjecting:

The CHAIRMAN: Order! The Attorney has the call.

The Hon. K.T. GRIFFIN: I cannot add any more to it other than the fact that the information is presently available to federal members through other sources. The government takes the view that, in those circumstances, whilst it is appropriate to give those seeking to enrol on the state roll an opportunity to opt out of providing this particular information, in practice, that information is already in the public arena.

The Hon. T.G. CAMERON: I am 54 years of age, shortly to turn 55, and I am not—

Members interjecting:

The Hon. T.G. CAMERON: Gee, a cacophony of interjections, at my age. It is just as well I am not a sensitive person.

Members interjecting:

The Hon. T.G. CAMERON: On a personal level, as I have just indicated, the age is not of concern to me, but I have noticed over the years, being a student of human behaviour, and being, as the Hon. Trevor Crothers has pointed out, a perspicacious and perceptive individual, that the opposite gender has a different view about their age being disclosed than we do. In fact I have often been reminded that it is not polite to ask a lady her age. Yet here we are with this situation for all of those woman who would have ticked the box, and I bet if you had a close look at it you would find there would be more women ticking the box than men, and it is probably about the age issue. So we are now going to create this situation for women who did not particularly want to disclose their age.

I can remember being mightily confused as a young boy. My mother was on the age of 29 for five years. Every time we would ask mum how old she was she was 29. But the effect of this will be that all of those women who ticked the form, because they did not want their age disclosed, will now have their age disclosed. Why? I note you are sitting there looking at me, Mr Attorney, but I have not heard any arguments from you yet about why you are reversing your decision. This will be looked at quite sensitively by some women, as to why you are going to disclose their ages.

The Hon. J.F. STEFANI: I ask the Attorney whether he can advise the chamber of the following matter. If I were to walk into the Electoral Commission and seek the information as a member of parliament, and I am talking about the federal electoral roll, what information would be available to me?

The Hon. K.T. GRIFFIN: As to information that is available to federal members, as a federal member you would be entitled to date of birth information, as well as sex, and that other information. The commonwealth roll is particularly comprehensive in the information which it makes available. If you just walked into the Electoral Commissioner's offices as a member of the public, you would be entitled to look at the roll and you would get the name and address.

The Hon. R.R. ROBERTS: A further question is: can you purchase a copy of the electoral roll for the federal seat of Grey, for instance?

The Hon. K.T. GRIFFIN: My understanding is that, yes you can purchase it. But rather than spending all that money you can actually search it, without expending the money, particularly if you want to find out only a little bit of information. The information that a member of the public is entitled to from the roll is merely name and address. If you are a federal member you get name, address, sex, and a whole range of other information, including date of birth. So that is the range of the information, and political parties, at the federal level, get access to all this information. Political parties at the state level do not because it is available to members.

The Hon. R.R. Roberts interjecting:

The Hon. K.T. GRIFFIN: Well, members will, if they belong to parties, access that information at all levels.

The Hon. NICK XENOPHON: I indicate that I oppose the opposition's amendments. Taking away a person's right to privacy, in a sense, by deleting subclause (3) seems to me to be absolutely wrong. I endorse the sentiments of the leader of the Democrats, Hon. Mike Elliott, and SA First leader, Hon. Terry Cameron. This seems to be absolutely fundamentally wrong, given the push we have had in recent years to try to protect people's privacy. To take away this right to privacy, in a sense, seems to be absolutely wrong, and I will be supporting my colleagues in their opposition to this clause.

The Hon. T. CROTHERS: Mr Chairman, I am still continuing on my path. When I have the Attorney's attention I will say what I am about to say. I think this parliament has not caught up with itself to the extent that, over the past five or 10 years, since the electorate has become more volatile and more thinking and the press has become less responsible—or maybe more responsible, depending on how you look at it—the control of the total bills in the parliament, without matters economic, has rested in this Council. It rested in this Council some years ago because there were Democrats here, and it now rests in this Council, if you look at the numbers, with Nick Xenophon, myself and Terry Cameron, depending on how the voting pattern is.

I think, in fairness, Mr Attorney-General, that great consideration has to be given in providing members of the upper house with the same electoral information as they are provided with in the lower house. It does seem strange to me that the Independent members and the Country Party member in the lower house have access to electoral information, whilst the six non major party members in this chamber, almost one third of the chamber, and should they be standing for re-election, have no access to information in respect of the electoral roll. To me, what you are creating is not a level playing field for all people who are members of this chamber or who indeed would aspire to be members of this chamber. I think that is not fair.

It certainly is not tolerable in our democratic society. It might have been all right 20 years ago with the two major parties, my former party and the government party, and with the exception of Lance Milne who I think was the first Democrat elected in here. It just seems to me that that is not sustainable. I see it again—not that it bothers me, because I have been offered trips and have never taken them up—when there is a trip to London to represent the Commonwealth Parliamentary Association, with the eight Independent members, two in the lower house and six here, and there are as many Independent members up here as—

The Hon. T.G. Cameron: Four in the lower house.

The Hon. T. CROTHERS: Oh, well, those two, I don't count them. I am talking about the Hon. Rory Balloon—oh what's his name?

The Hon. T.G. Cameron: McEwen.

The Hon. T. CROTHERS: Yes, McEwen, right, and the Country Party member. The rest are just posturing, in my view, for electoral gain up the track. That is my personal opinion, and I do not count them as proper Independents. But I just say that the time has come when the government of the day, whatever its political ideological persuasion, must consider, and I am talking about democracy, making the playing field absolutely level.

The Hon. M.J. Elliott interjecting:

The Hon. T. CROTHERS: Now, hang on—and that extends to making the rolls available to members of this place who are not aligned with either of the two major political parties, or even to candidates, such as a no pokies candidate, who are running—and that is another matter which I will be bringing up coming down the track—and who are aligned to no major political party. I think that is fair, it is just, and it really does keep the flame of democracy alive and burning brightly.

The Hon. J.F. STEFANI: As I understand it—and I have checked this matter—federal members of parliament are able to access the information, including the date of birth. I am advised that state members of parliament can access certain age range information by paying a fee. For example, you can get an age range between 18 and 24 or 24 and 30 and so on by paying the Electoral Commission a fee and it will supply you with the age range of the individual voters. It seems to me that we are playing at the periphery because if we are getting an age range then we might as well have the date of birth and be done with it.

The Hon. M.J. ELLIOTT: South Australia has made a small amount of progress in the last decade on issues of privacy. I remember information privacy guidelines being issued in the parliament and an absolute refusal to legislate in the area. That happened under Sumner and was supported by the Liberal Party. To this day we have not seen legislation in the area of privacy, but at least the guidelines were there. Four years ago some progress was made in the Electoral Act in terms of giving people the right to choose not to have information supplied to people they did not want it supplied to. So, some progress has been made.

What is happening overseas—particularly in the European Union where legislation is very strong not just in relation to electoral legislation but in terms of anybody who supplies information to anybody, and the purpose to which it is then applied—is that the international trend is quite clear in terms of data privacy and is going in the exact opposite direction to where we are going right now. The reason we are going in this direction right now—and make no mistake about it—is to do with the political expedience of the Liberal and Labor parties. That is the reason they are doing it. The Hon. Terry Cameron made it—

The Hon. T.G. Cameron interjecting:

The Hon. M.J. ELLIOTT: Because they are in trouble and they are grabbing at straws, but it will create more trouble for them. The Hon. Terry Cameron talked about the fact that the upper house members did not have access to certain information. But look at the amendment. The National Party has a member in the lower house in the seat of Chaffey who will be entitled to receive certain information. If the National Party is contesting against the Liberal Party in another seat, will it have access to the information? No, it will not because the amendment that is being moved by the opposition talks about registered parties getting information as long as they have members with more than a thousand electors.

So it is conspiring to ensure that the National Party, which will be competing with the Liberals in a number of seats, will not have the same access. Nor, I suppose, does it want any independent labor (or whatever term eventually emerges) running against it. We know that Mr Atkinson in the another house uses computer databases, and I can see his fingerprints all over these amendments. We know the way he operates and, quite clearly, being denied access to information for the last four years for new voters has been something that is not convenient to the operation of their electorate databases.

That is why it is here: it is Labor Party campaign convenience. Clearly the Liberal Party has done a somersault because it found that it is inconvenient because obviously it has its computer databases working a little bit better as well. This argument about the inconsistency between state and federal does not hold water because the inconsistency was created four years ago. We were trending in the right direction. What we hoped would happen is that eventually the federal parliament would follow us.

An honourable member interjecting:

The Hon. M.J. ELLIOTT: I am sorry, I think it will happen. What I am saying is that the very clear international trend, at least in advanced countries—and we seem to be heading the other way at this stage—in all the first world countries, is that data privacy is a major issue and that legislation is being passed. I think it has been passed in all the countries comprising the European Union. South Australia, beyond the Electoral Act, is at serious threat of losing some trade opportunities because the European Union will start black-banning us in relation to trade and information because we do not have proper privacy laws. That threat is already there. If members of parliament are not prepared to set the pattern in what they are doing and are going in the opposite direction how can we expect change to happen in the private sector where it is also urgently needed?

The Hon. CAROLYN PICKLES: It all sounds very fine when you stand up there and say that, but we all know that the leader and the former leader of your party—

The Hon. M.J. Elliott: Are you justifying what you are doing?

The Hon. CAROLYN PICKLES: The leader of your party and the former—

The Hon. M.J. Elliott: No. Are you justifying what you are doing?

The Hon. CAROLYN PICKLES: I'm just saying don't be a hypocrite.

The Hon. M.J. Elliott interjecting:

The CHAIRMAN: Order! The Hon. Mr Elliott has had his say.

Members interjecting:

The CHAIRMAN: Order! The Hon. Mr Cameron and the Hon. Mr Elliott.

The Hon. CAROLYN PICKLES: I am quite sure you have more than adequate databases in your electorate office. We are dealing with paragraphs (a) to (d) here. The government has already indicated that it will not support paragraph (e) although we will still move it. I find the hypocrisy absolutely breathtaking. The Hon. Terry Cameron, who probably invented the databases that are now used, because he has decided to be a born-again SA First, has decided suddenly that it is all a bit grubby. Quite frankly, I take the point that was raised by the Hon. Trevor Crothers, that the

genie is out of the bottle. We are not the European Union, the Hon. Mr Elliott. We have a compulsory system of voting in this country and we have a very competitive system of voting.

The Hon. M.J. Elliott: So it's about competition, is it? Thank you.

The Hon. CAROLYN PICKLES: Well, let's face the issue. You are being hypocritical when you try to pretend to the electorate that you do not have the same access to this information as the Australian Labor Party or the Australian Liberal Party. You have the same access to this information because you get it from your federal colleagues.

The Hon. M.J. Elliott interjecting:

The Hon. CAROLYN PICKLES: You've got it. You have access to it. Quite frankly, I think that it is a hypocritical argument. It is nearly lunch-time and I would like a vote on it.

The Hon. K.T. GRIFFIN: As I said earlier, the genie is out of the bottle. In terms of federal members and federally registered political parties where there is a member in the federal parliament, they get all the data on the electoral role and census collector districts, and they can use it for federal, state or local government purposes.

The Australian Democrats have got all this information now. You might reflect upon the fact that we have a joint roll and the application for enrolment serves to get a person on to both rolls. But there is a square on the bottom of the South Australian enrolment application forms which I think says, 'Do you want your date of birth disclosed to political parties', and it relates only to state enrolment not to federal enrolment. So if they think that they are—

The Hon. T.G. Cameron interjecting:

The Hon. K.T. GRIFFIN: But if those who are ticking the box believe that none of this information will be available to any political party then they are misguided. The federal members and federal political parties with members at the federal level get this wide range of information already. Even the identifier number of the elector goes out to the federal members. So political parties have got it already. It is a bit misleading to suggest that in some way or other this data will be protected, because it will not be protected under the current law particularly as it exists at the federal level.

The Hon. NICK XENOPHON: Will the opposition leader, the Attorney or both clarify that by striking out subsection (3) of section 27A? Will it apply retrospectively and will those people be notified? In other words, if you have written to the commissioner and have already elected to have your information off the electoral role will it mean that that information will now automatically go back on the electoral role? If that is the case, will there be a mechanism to notify those people who previously have exercised their rights under subsection (3) to be notified of the change?

The Hon. K.T. GRIFFIN: You probably need to ask the mover of the amendment. I have seen the amendment, but as a government we have not considered that issue.

The Hon. T. CROTHERS: I understand what all members are saying, that is, that the Labor Party, the Liberal Party and the Democrats have members in the federal parliament and they have access to the state roll through their federal people. That is true. But members such as Mr McEwen, the Hon. Mr Cameron, the Hon. Mr Xenophon—

The Hon. T.G. Cameron: And Karlene Maywald.

The Hon. T. CROTHERS: No; Karlene Maywald is a member of the National Party so she has members in the other place.

The Hon. T.G. Cameron: She has no federal members in South Australia, though.

The Hon. T. CROTHERS: No, but she has in the other place.

The Hon. T.G. Cameron: But they cannot get access to the South Australian roll.

The Hon. T. CROTHERS: I notice that the future Independent member for Prospect is in the gallery and he obviously has an interest in this. I do not know where the future Independent member for Price is.

The Hon. T.G. Cameron: Is it Independent or Independent Labour?

The Hon. T. CROTHERS: They would be in a similar boat; they have no federal members.

The Hon. T.G. Cameron interjecting:

The Hon. T. CROTHERS: Will you shut up? If you cannot talk sense, stop talking nonsense. Again, I come back to the fact that those members who have no federal members are at a democratic disadvantage when it comes to confronting the electors. It does not matter how you try to scrub over it? There are people representing political parties who have no federal members, for example, members of SA First and No Pokies and Rory McEwen. Maybe, because you want to hold the seat, you might give him information on the quiet. I do not know.

The Hon. T.G. Cameron: Trevor Crothers.

The Hon. T. CROTHERS: Modesty was preventing me from projecting myself to the eye, but you are quite right, of course. I would like an answer to that question.

The Hon. K.T. GRIFFIN: I will deal with that quickly. If the honourable member, as a member of the Legislative Council, wishes to have access to the electoral roll for the state, he is entitled to do that now, but he is not entitled to gain access to any information about the date of birth.

Progress reported; committee to sit again.

[Sitting suspended from 1.05 to 2.15 p.m.]

RECONCILIATION FERRY

A petition signed by five residents of South Australia, concerning the reconciliation ferry proposal, and praying that this Council will provide its full support to the ferry location proposal and prioritise the ferry service on its merits as a transport, tourism, reconciliation, regional development and employment project and call for the urgent support of the Premier requesting that he engage, as soon as possible, in discussions with the Ngarrindjeri community to see this exciting and creative initiative become reality, was presented by the Hon. Sandra Kanck.

Petition received.

RADIOACTIVE WASTE

A petition signed by 14 residents of South Australia concerning transport and storage of radioactive waste in South Australia, and praying that this Council will do all in its power to ensure that South Australia does not become the dumping ground for Australia's or the world's nuclear waste, was presented by the Hon. Sandra Kanck.

Petition received.

GENETICALLY MODIFIED FOOD

A petition signed by 220 residents of South Australia, concerning the use of GMOs, and praying that this Council

will do all in its power to impose a moratorium on the introduction of GMOs to the South Australian environment, therefore protecting the people of this State from the possible harmful effects such modifications may have in the long term, was presented by the Hon. Sandra Kanck.

Petition received.

TRANSPORT, ADELAIDE HILLS

A petition signed by 25 residents of South Australia, concerning bus services in the Adelaide hills, and praying that this Council will extend the metropolitan bus fare structure to cover the Adelaide Hills, including Mount Barker, Nairne, Mylor, Echunga, Meadows and Macclesfield and do all in its power to increase public transport services to towns in the Adelaide Hills and urgently extend the Nightmoves bus service beyond Aldgate, was presented by the Hon. Sandra Kanck.

Petition received.

VOLUNTARY EUTHANASIA

A petition signed by 17 residents of South Australia, concerning voluntary euthanasia, and praying that this Council will:

- reject the so called Dignity in Dying (Voluntary Euthanasia) Bill;
- move to ensure that all medical staff in all hospitals receive proper training in palliative care; and
- move to ensure adequate funding for palliative care for all terminally ill patients.

Petition received.

PAPER TABLED

The following paper was laid on the table:

By the Treasurer (Hon. R.I. Lucas)—

Employment Council Report—Pointing to the Future—Response of the South Australian Government.

ELECTRICITY, NATIONAL MARKET

The Hon. R.I. LUCAS (Treasurer): I table a copy of a ministerial statement made by the Premier today on the subject of the electricity task force.

QUESTION TIME

TRANSPORT, FARE EVASION

The Hon. CAROLYN PICKLES (Leader of the Opposition): I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning a question about infringement notices for fare evaders.

Leave granted.

The Hon. CAROLYN PICKLES: I refer the minister to a letter signed by the Executive Director of the PTB, Ms Heather Webster, which appeared in the *Advertiser* of 26 June 2001 regarding the issue of infringement notices for fare evaders, as follows:

> For first offences the PTB almost always takes a sympathetic view and withdraws the notice but where our records show a history of infringement there is no leniency.

Although there was a change in the enforcement procedures at a later date due to certain matters—

The Hon. Diana Laidlaw: Are you still quoting?

The Hon. CAROLYN PICKLES: No.

The Hon. Diana Laidlaw: You are commenting now?

The Hon. CAROLYN PICKLES: I am assisting you in answering the question. There was a change in the enforcement procedures at a later date due to members of the public writing to me, to the minister and to other members. I understand that Ms Webster's suggestion of first offence notices being withdrawn has never been the case. The many letters of complaint that I and many others have received and continue to receive are evidence of this. Can the minister confirm Ms Webster's advice that first offence notices are almost always withdrawn, and how many first offence infringements have been withdrawn and how many have been prosecuted?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I am happy to provide the honourable member with that information. The change of procedure to which the honourable member refers still requires the issue of the expiation notice for the offence but, if the alleged offender goes to pay the fare, that is acknowledged if it is a fare related offence. It is acknowledged on a form that is submitted by the alleged offender to the PTB and, therefore, we are able to get the revenue which the offender has recognised was missing either because they were not paying the right fare or for whatever reason. It also provides the Passenger Transport Board with a record of the offences or alleged offences which can be checked if further expiation notices are issued in future.

While there was a push at some stage for discretion to be used by inspectors and passenger service attendants not to issue expiation fees for various offences, it was determined that—and this was the feedback from the officers on board trains in particular—officers did not want to be seen to be exercising discretion as to who should or not be issued with an expiation notice. Word would soon get around on board the trains and across the system generally. The path we took was to issue expiation notices in every instance and then have the PTB consider whether the fare had been paid and keep a record overall.

Certainly my understanding is that, since this change of practice took place in, I think, October or November last year, what Ms Webster advised is the fact. The leader may simply receive complaints from those who are disgruntled in terms of her correspondence, and that is why she may be getting the impression that it is rarely the case that these people get off for a first offence.

The Hon. A.J. Redford interjecting:

The Hon. DIANA LAIDLAW: There is a warning system but, generally, our officers would not wish, particularly in a crowded environment, to be using those discretions in case it caused conflict on the train where someone says, 'I was not let off for this when that happened the previous evening', or something like that. It can become a very awkward situation to manage.

The Hon. A.J. Redford interjecting:

The Hon. DIANA LAIDLAW: Warnings can be issued, that is true.

The Hon. A.J. Redford: I saw a dishevelled lad get on the train and forget to validate—

The Hon. DIANA LAIDLAW: And he was warned and then went up to validate?

The Hon. A.J. Redford: Yes.

The Hon. DIANA LAIDLAW: Right. I think that is a good practice and, certainly, people who are fully paying and not offending are very pleased to see the approach being

taken overall. Of course, fare evasion has almost been eliminated from the system, petty vandalism is down overall and patronage is up, which is the most exciting outcome. I will get the answers to the specific questions because it is an important issue.

ELECTRICITY CONTRACTS

The Hon. P. HOLLOWAY: I seek leave to make a brief explanation before asking the Minister for Administrative Services a question about government electricity contracts.

Leave granted.

The Hon. P. HOLLOWAY: On 7 April this year, the minister was reported in the media as saying:

> Expert advice indicated that electricity companies will have a greater capacity for new contracts after the summer peak finishes. It would have been poor business to negotiate a contract during the summer period when power prices are at their peak.

A representative of the Premier's electricity task force today, according to media reports, said that many businesses are now facing higher power prices because businesses took no action to secure their supplies in the grace period made available to them during the year 2000. My questions to the minister are:

1. Which of the government's $100 million plus electricity consultants advised the government that delaying signing a contract with an electricity retailer would mean cheaper energy prices could be secured closer to the 1 July deadline?

2. Is this why the government failed adequately to urge business to sign contracts last year when it would have got cheaper prices?

The Hon. R.D. LAWSON (Minister for Administrative and Information Services): The honourable member is confusing a couple of matters. It is true that the advice given to government contract services within DAIS from a number of sources, as well as the information from the marketplace generally and commentators, was that, following the summer season this year, it was likely that the South Australian government would do better in its whole-of-government contract negotiations for electricity. That advice proved to be sound and correct. As the Treasurer announced when the arrangements for the contract with AGL were finalised on 12 June, the deal secured by the South Australian government in the interests of South Australian taxpayers—whether they be individuals or companies—was one that represents, on all accounts, a very good deal. The opposition would have been keen to criticise us if we had not secured a good deal. When we did get a good deal—

The Hon. P. Holloway interjecting:

The Hon. R.D. LAWSON: We are certainly not apologising: we should be—

The Hon. P. Holloway interjecting:

The Hon. R.D. LAWSON: We are entirely satisfied that, in the interests of taxpayers, we did the right thing as the advice to the government suggested. The honourable member mentioned $100 million with respect to consultants, which is a gross distortion. The consultants obtained by the government in relation to entering into this contract were experts in this particular field and the cost of those—

Members interjecting:

The Hon. R.D. LAWSON: The consultants gave us good advice, which we acted on, and we secured a good deal for the taxpayers. The opposition would have been the first to condemn us if we had not secured such a deal.

RACING, CORPORATE

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for Recreation, Sport and Racing, a question on TeleTrak.

Leave granted.

The Hon. T.G. ROBERTS: Although the name of the corporate identity may not be accurate, the question is probably better described as corporate racing. Nevertheless, prior to Christmas we passed a bill in haste to allow the government to assist corporate racing to set up racing in country areas under proprietary corporate rules, but nothing appears to have happened, particularly in the South-East. I am not familiar with what has happened at Waikerie but I am reliably informed that there is not too much happening there, either.

The Hon. R.I. Lucas: You should ask the member for Chaffey.

The Hon. T.G. ROBERTS: She is not here so I am asking the Minister for Transport, representing the Minister for Recreation, Sport and Racing. I am not too sure that there is anything happening there, and I am sure that there is not too much happening in Port Augusta. I understand that there has been some corporate reshuffling in relation to the concept of TeleTrak and that on-line gambling has been a complicating factor in relation to final outcomes. But, like other bills that we have moved and agreed to in relation to assisting the government to put in place infrastructure which will support regional growth, we seem to be involved to a point where the legislation is passed and then we seem to be left out of any further briefings.

The questions I have to the minister are: will the minister give an update on the progress of proprietary racing in relation to the expectations of Port Augusta, Waikerie and Millicent; what is the current status of a start-up date and time; and what is the future in relation to on-line betting or TAB betting for proprietary racing, including TeleTrak, in this state?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I will relay the honourable member's question to the minister and bring back a reply.

HIH INSURANCE

The Hon. NICK XENOPHON: My questions to the Treasurer are as follows:

1. When will the government announce its position on providing a rescue package similar to that announced in other states and the ACT to victims of the HIH insurance group collapse who have taken out builders' home indemnity insurance that is now, in effect, worthless?

2. What estimate has the government made of the extent of potential claims arising out of the HIH collapse in South Australia with respect to builders' home indemnity insurance?

3. What advice can the Treasurer give to Ms Enza Isaacs, referred to in today's *Advertiser*, who faces being homeless following a Supreme Court order yesterday as a result of being unable to meet mortgage repayments on her home, due to a payout through builders' indemnity insurance being unavailable because of the HIH collapse?

The Hon. R.I. LUCAS (Treasurer): As the honourable member knows, my colleague the Attorney-General and officers working for him are putting together some informa-

tion for the government to consider. His officers are working with Treasury officers in relation to this. As the Attorney-General has highlighted, our hearts go out to the many people who find themselves in difficult circumstances as a result of private sector corporate collapses in many areas, including HIH. There are many sad stories, and one has only to look at the recent problems with One.Tel and—

The Hon. A.J. Redford interjecting:

The Hon. R.I. LUCAS: I do not know whether there is much sympathy for Rupert and for young Jamie, but there were indeed many other Australians who lost money, and all members would feel sympathy for people who find themselves in difficult circumstances as a result of corporate collapses which have nothing to do with governments.

That having been said, the government of South Australia has said that, whilst we start from a position where we do not believe that taxpayers ought to be responsible for bailing out private corporate collapses, in essence, if there is national agreement between the federal government and all other governments, we will again consider our position. The Attorney-General and his officers are looking at various options. According to my latest advice last week, only two state governments (New South Wales and Victoria) have actually offered assistance.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Well, everyone is looking at it.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: The honourable member refers to the federal Leader of the Opposition—Binoculars Beazley is always looking at everything. Governments might be looking at it, but there is a big difference between looking at something and funding nothing.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Well, all we are saying is—and the Hon. Mr Holloway—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Western Australia has made no decision; Tasmania has made no decision; and South Australia has not made a decision. New South Wales and Victoria have made decisions funded, at least in part, by additional levies or taxes on industry or industry sectors. So, it is not—

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: Well, ultimately—

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: Ultimately, part of the—

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: Yes. Ultimately, part of the cost of the schemes in Victoria and New South Wales will be funded by levies or taxes on other industry sectors. Ultimately, those schemes will not be paid for by industry groups but by New South Wales or Victorian consumers or taxpayers. So, ultimately it is the other residents of the state who will have to pay either directly—

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: —yes—or indirectly for the bailout of the unfortunate victims of corporate collapse. As I said, and as the Attorney-General has repeated, as a state government we are not ruling out ultimately coming to a decision about what a possible response might be in terms of assistance. Our initial position is that we do not believe that taxpayers should fund a bailout but if, in the end, the commonwealth government and all other state and territory governments do offer a package of assistance, then our state government will consider its position. As the Attorney has indicated on a number of previous occasions, we are considering the government's policy positions in a number of areas. In terms of a time line, that will be as soon as the government can, first, monitor what occurs in the other states, given the policy framework that I have indicated, and, secondly, look at the various policy options that the Attorney and his officers, working with Treasury officers, put together for the government.

The Hon. NICK XENOPHON: Is the government considering imposing a levy on new home owners or the industry in order to fund any potential bailout? Is that part of the policy considerations?

The Hon. R.I. LUCAS: The honourable member is way down the track, much further than the bridges that need to be crossed in the first instance as to whether or not the state government will make a decision to provide assistance, before we then need to worry about how it might be funded. As I said, the state government starts from a position that we do not believe that the taxpayers should be responsible for bailing out the unfortunate victims of corporate collapses. However, we have left open the option, as has everyone else. We will look at our options, and once we have made that decision we will worry about how it might be funded.

The honourable member can worry about that particular issue but, at this stage, the government has to make a threshold policy decision before it worries about exactly how it might be funded. The two states that have funded packages have done so on the basis of levies or taxes on various parts of industry in their states to help fund the bailout.

The Hon. T.G. CAMERON: In considering this matter, has the government considered imposing a levy on all South Australian residents to cover the HIH collapse or has it considered imposing a levy on only existing insurance policyholders to meet some kind of shortfall?

The Hon. R.I. LUCAS: I cannot say much more than I said in relation to the Hon. Mr Xenophon's question, and that is that from the government's viewpoint, we really have to make a decision, first, as to whether we believe as a state government we ought to be involving ourselves in the threshold question of a bail-out. Once we get across that hurdle, or if we get across that hurdle, and that is that we do decide we have to, we will then have to make a decision as to whether or not it is paid directly out of taxation revenue that we have already collected or whether an additional levy or tax, as the other states have done, would be an option for the state government. But at this stage we are nowhere near having to address those particular issues, because we have not taken the threshold question yet as to whether or not the government as a matter of policy believes that there should be a bail-out package put together for these circumstances.

The Hon. J.F. STEFANI: Can the Treasurer advise whether it is his understanding that faulty workmanship was never an insurable item, whether the insurance company was still standing today, in terms of any builder carrying out that work?

The Hon. R.I. LUCAS: I might take learned counsel from my colleague the Attorney-General and bring back an answer to the member. Certainly, the scheme that exists in South Australia is a much more restricted scheme than the schemes which existed in states like New South Wales, and it is only activated in a much more restricted set of circumstances. That is why the extent of the exposure in South Australia is much more limited than it is in some other states, because of the

differing nature of the scheme. But rather than risking not getting it 100 per cent accurate, in terms of the details of the scheme, I will take advice from the Attorney and his officers and bring back a reply for the honourable member.

WIND TURBINES

The Hon. IAN GILFILLAN: I seek leave to make a brief explanation before asking the Treasurer a question about a wind generation farm at Elliston.

Leave granted.

The Hon. IAN GILFILLAN: One of the most serious problems facing the world is global warming, caused by the greenhouse effect. There is an acute need to reduce or eliminate where possible our reliance on the burning of fossil fuels for transport and other energy requirements. This is well recognised by the international community through the Kyoto Protocol, and by the commonwealth government through its Greenhouse Gas Abatement Program. Under the Kyoto Protocol, by the year 2010, 2 per cent of all electricity generated in Australia must come from renewable sources.

In South Australia we have been slow to adopt renewable energy use. Indeed, the state government has reneged on its pledge to create a sustainable energy authority after the privatisation of ETSA and Optima. Despite this, there is some 'sustainable energy' light on the horizon. There is currently a private proposal to set up an enormous wind farm to generate electricity at Tungketta Hill, 19 kilometres south-east of Elliston on the west coast of Eyre Peninsula. The location, on top of the coastal cliffs, is ideal in terms of capitalising on the high wind energy environment of the district. The proposal involves the erection of 55 giant wind turbines, with fan blades of 52 metres length. Each proposed wind turbine will be as tall as a 20-storey building, and there are 55 of these. Their total generating capacity would be 50 megawatts.

The proposal has been put forward by Ausker Energies Pty Ltd, based in Melbourne. Ausker's proposed development has been assessed and approved by the Development Assessment Commission as an infrastructure development 'supported by' and 'specifically endorsed' by a 'state agency'. The relevant agency is the Department of Industry and Trade.

Last week I held talks with the Chief Executive of Elliston District Council, Mr David Hitchcock, who is understandably keen to see the project proceed. Mr Hitchcock can see not only the benefit in terms of sustainable energy but also local economic and employment benefits rising from the project. However, he informed me that the wind farm proposal has hit a substantial snag.

ElectraNet, the company which has a monopoly on the high-voltage distribution of electricity in South Australia, has increased the price for connecting the proposed Tungketta Hill wind farm to the South Australian grid from the original cost quote of $1 million per year for 20 years to $2.6 million per year for 20 years. It is a 160 per cent increase, made without any warning or explanation. We are advised by Ausker that that is going to put in danger the economic viability of the project.

Eight months ago the state government received $938 million from the 200-year lease of ElectraNet. At that time the Treasurer declared that the 'leasing of electricity assets means we have freed ourselves from the debt trap'. Along with a skyrocketing pool price, grid connection fees may be yet another trap we have fallen into, if this is a precedent of what is going to be virtually an insurmountable obstacle to non-fossil fuel generation in South Australia. My questions to the Treasurer are:

1. What community service or environmental obligations, if any, are imposed upon ElectraNet to facilitate the distribution of renewable energy?

2. In the so-called new world of the national electric market where those who pay $1 billion for a distribution asset must seek a return on their investment, how, if at all, is the cost of global warming calculated?

3. Is the government prepared to stand by and let an ideal example of non-fossil fuel generation stall?

4. What options, if any, does Ausker Energies have to get its proposed 50 megawatts of wind generated electricity into the state grid?

The Hon. R.I. LUCAS (Treasurer): It is not correct, as the honourable member has indicated, that the state government is doing precious little in terms of encouraging sustainable energy. My Department of Industry and Trade is working on some 30 to 40 sustainable energy generation proposals at the moment of which—

The Hon. Ian Gilfillan: Any of them operating?

The Hon. R.I. LUCAS: The one that the honourable member is talking about, together with two or three others I will mention in a moment, are the ones closest to operation. I think the honourable member was good enough in his explanation to at least acknowledge that an agency had given a significant degree of assistance to this particular wind farm proposal, and that is the Department of Industry and Trade. We assisted the fast-tracking of the planning and development process for the agency. Our officers have been working with company management trying to assist them in all their discussions with local councils, government departments and agencies, and also with discussions with industry groups within the electricity market generally.

As well, I have met with the principals of the company involved at the Elliston proposal to provide what assistance I was able to. Let us disabuse the member of the Australian Democrats, the Hon. Mr Gilfillan, when he said that no support is being provided to sustainable energy by this government. Whilst it is true to say that we have not funded a stand-alone sustainable energy authority, the Department of Industry and Trade has been very active, and its advice to me is that it is currently working on up to 30 or 40 sustainable energy generation proposals, a good number of which are wind generation proposals.

There are some on the West Coast, one of which the honourable member has talked about; there is one on the Fleurieu Peninsula, of which the honourable member might also be aware; and there is one the Hon. Terry Roberts has talked about for I think some 12 months now in the South-East. Those three are probably the ones that are furthest advanced in terms of organising their financing and the various other problems they have to get over in terms of trying to get to market.

I will take advice from ElectraNet, but my understanding from ElectraNet is that it would not agree with the assessment that the honourable member has put in terms of the increase in the quoted connection costs to the market.

The Hon. Ian Gilfillan interjecting:

The Hon. R.I. LUCAS: Well, the honourable member says it is fact. He has been around long enough to know that there are always two sides to a story. It may be that ElectraNet has a slightly different story about what the difference might have been in terms of its quote.

The Hon. Ian Gilfillan interjecting:

The Hon. R.I. LUCAS: I know there has been an increase, but the numbers the honourable member has mentioned are not the numbers that were provided to me. I will need to check those numbers and take advice. On a number of previous occasions companies have come to me and have said that the price has increased from this to this, that when they went in some cases to ETSA Utilities and in other cases ElectraNet the first that they asked to quote on was this, and then they came back and said will you now quote on this. They did not highlight to me in the first instance that there were differences, and generally the second quote that was asked for was an enlarged project which obviously cost more in terms of connection costs. The transmission and distribution charges are regulated by independent regulators. They are not part of the generation or retail market.

The Hon. Ian Gilfillan interjecting:

The Hon. R.I. LUCAS: I am saying that the charges that transmission and distribution companies can apply are regulated by independent regulators. In relation to distribution in this state, generally, it is by the independent regulator. In relation to transmission charges, I will check the timing change, but ultimately they will be governed by the ACCC; in the first instance they were governed by the independent regulator. As of today I am not sure. I will have to check which regulator is regulating it. It is not possible for the company to say, 'We will charge $50 million or whatever we want for a particular service or charge.' It is governed and ultimately there is oversight by one of the regulators in terms of the charges that can be levied.

As I said when I raised this issue earlier this year, I had originally been a sceptic of the possibility of the financial feasibility of wind farm proposals based on the advice that the department has given me and advice from some companies to which I have spoken. I believe that in the next 12 months or so we will see some of these wind farm proposals get to market. The Elliston proposal is the most advanced. Inevitably, part of the cost will be connection to the network. If you are going to build a generation farm and the nearest part of the electricity market is—I am guessing now—30 kilometres away—

The Hon. Ian Gilfillan interjecting:

The Hon. R.I. LUCAS: So, it is 30 to 35 kilometres away. Someone has to pay for the high voltage connections to the market. If the company does not pay and makes the money through the contracts, someone else has to pay. If, as the honourable member says, the taxpayer should pay, that can be a policy position, but someone has to pay for a 30 to 35 kilometre high voltage connection to the transmission network. It does not just happen. If you are going to locate a wind farm a long way from an existing grid, then someone has to pay for that connection. They do not come inexpensively. Certainly, with utilities—and I will check with ElectraNet—the cost of the work can be competitively bid with other companies.

The Hon. Ian Gilfillan interjecting:

The Hon. R.I. LUCAS: As I said, that is why there are 30 or 40 proposals currently being worked on by the Department for Industry and Trade. Someone has to pay for the cost of connection. My understanding with the utilities—and I will check in relation to ElectraNet—is that the cost of construction can be competitively bid by the proponent's taking it to other companies that may be able to build that transmission connection cheaper than the cost that is being cited by ElectraNet. I will take further advice on some of the details of the honourable member's question and, if I can provide further detail than I have provided in my comprehensive reply, I will endeavour to do so.

AYERS HOUSE

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning a question in relation to significant trees.

Leave granted.

The Hon. J.S.L. DAWKINS: I noted an article in yesterday's *Advertiser* relating to the redevelopment plan for Ayers House. The article, which was titled 'Trees go as trust overrides council,' states:

> National Trust director Rainer Jozeps met Councillor Anne Moran at the Town Hall yesterday to discuss council opposition to the plan. The meeting was organised after the felling last Friday of lemon-scented gum trees at the North Terrace landmark. The trust removed the 25-year-old trees to make way for a garden and fountain 'more reflective' of the way the house looked in the 1870s. Because the land is owned by the state government, the trees are exempt from significant tree legislation. After yesterday's meeting, Ms Moran admitted the council was powerless to stop the redevelopment.

Will the minister indicate whether the statement that the Ayers House trees are exempt from urban tree protection legislation is accurate?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I appreciate the honourable member's question because there is no accuracy in it at all. It is blatantly wrong for Mr Jozeps to say that the state government is exempt from the significant trees legislation. This was a big issue for the government and, in terms of the credibility of the significant trees legislation which the Government introduced last year and which was passed by both houses of parliament, the crown is bound. I am disappointed that Mr Jozeps does not know the legislation and, even when he had on his doorstep an issue such as significant trees, he did not refer to the legislation: if he had he would have appreciated that what he was saying publicly was totally incorrect. It is odd to have even argued that the state government was exempt because, why on behalf of the National Trust and Ayers House property would DAIS have lodged the application for the removal of the trees? It is just surprising, first, that Mr Jozeps got his facts so wrong and, secondly, that his argument is so at odds with the process he was involved in in terms of the lodging of the application for the trees to be removed.

I thought the honourable member said in his question that Councillor Moran had made a statement about the council being powerless to stop the development. That is also a surprising statement, since the Adelaide City Council indicated last year to the April application that it had no objection to the application. I am aware that the Adelaide City Council wrote yesterday to DAIS, I think the National Trust and probably also to DAC (Development Assessment Commission) indicating that all appropriate approvals had being given. It will be interesting to see whether the council becomes better informed on some issues before it goes public.

PATIENTS ASSISTED TRAVEL SCHEME

The Hon. R.R. ROBERTS: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for Human Services, a question about the patients assisted travel scheme.

Leave granted.

The Hon. R.R. ROBERTS: As a member of parliament living in a country area, almost never a month goes by that you do not get an inquiry about the patients assisted travel scheme that operates for those people who choose to live in country South Australia. Because of the lack of services in the health area for people living in country areas, it is often necessary to travel vast distances to get the required treatments. I am sure other members of parliament have had problems with the isolated patients assistance scheme. Some would get hearing loss if they were in here.

I am not particularly concerned at the moment about access to and the equity of the scheme. I am interested, as I have had a number of constituents who have had problems with treatment regimes. The PAT scheme provides assistance for those people who live in country areas and who need the treatment of a specialist in metropolitan Adelaide generally, but there are some specialist services in Whyalla and some patients do travel the other way. The problem does not arise when they go straight to the specialist but, if the treatment regime requires the intervention of another service provider at that location, often times these people, who in many cases are in bad financial straits anyhow, find that inadvertently they have fallen outside the net for that assistance. A quick example is a woman who has a problem with breast cancer and has to travel to Adelaide to have an operation. She would travel down, see the specialist and be provided with assistance under the patients assisted travel scheme.

Having completed the operation, the specialist then advises that she must have certain other regimes, physiotherapy, etc, which are not provided by a specialist. So, the problem arises that, whilst that is part of the specialist's treatment, the service is provided by someone else and the patient discovers that they fall outside the net. I have also seen problems with people suffering from sugar diabetes. Someone travels to Adelaide and is given the diagnosis that a toe must be removed and they are paid. When that person returns to Adelaide to have the toe removed by a medical health worker they discover that, although the treatment has been overseen by the specialist, they are no longer entitled to the Patients Assistance Travel Scheme.

I have raised this matter a number of times and I have been advised over a long period of time that reviews are taking place. However, we have not seen the results of any reviews. Recently, two of my constituents—a husband and wife—were having similar problems. The constituent had seen a specialist in Port Pirie. She was then referred to Adelaide and found that she was not eligible for payment because the person she was seeing in Adelaide as part of this treatment was not a specialist on the scheme; and I had to make further inquiries. I have been advised that a number of reviews have taken place over a long period of time but nothing has occurred.

No-one is any the wiser and constituents living in rural and remote areas of South Australia are being denied access to proper health services. My question to the minister is: how many reviews have taken place, how many reports have been written, and will they be made public, or will this be one of those situations where, after years of neglect by the government and suffering by country people who are sick, some cynical pre-election 'too little too late' announcement will be made which will only partially fix the problems facing people living in rural South Australia and which will probably need to be funded by a future government?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I will refer the honourable member's question to the minister and bring back a reply.

TRANSPORT SUBSIDY SCHEME

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning a question about hire cars and the South Australian Transport Subsidy Scheme.

Leave granted.

The Hon. T.G. CAMERON: Last week and this week there has been discussion on talk-back radio about Access Cabs, taxis, hire cars and the South Australian Transport Subsidy Scheme, also known as Access Dockets. During one of these shows the minister alluded to the benefits of competition and to the reality that the taxi industry is not a protected species. For many years now taxis and hire cars have been competing for market share in Adelaide and, while there will always be a place for the traditional taxi, it appears that hire car companies are delivering the type of individual and personalised service to Adelaidians from all walks of life that was not as readily available prior to deregulation. While pricing in the hire car sector is not government controlled, many hire car firms offer a pricing structure similar to the metered taxi fare, including low cost short trips—

The Hon. R.R. Roberts interjecting:

The Hon. T.G. CAMERON: About one-tenth the time of the honourable member's. Hilmer and, more recently, the Halliday report—

The Hon. R.R. Roberts interjecting:

The Hon. T.G. CAMERON: I have got a question, but I can assure the honourable member—

Members interjecting:

The PRESIDENT: Order!

The Hon. T.G. CAMERON: —that I will not take 10 minutes trying to invite someone to ask a question of me in the Council, as the honourable member was doing.

The Hon. R.R. Roberts interjecting:

The Hon. T.G. CAMERON: You will have your chance to chuck me out after the next election. While pricing in the hire car sector is not government controlled, many hire car—

The Hon. A.J. Redford interjecting:

The Hon. T.G. CAMERON: —and he will not be able to resist the temptation, either—firms offer a pricing structure similar to the metered taxi fare, including low cost trips.

The Hon. Diana Laidlaw interjecting:

The Hon. T.G. CAMERON: I think that I just said that, minister; I have been distracted. I will try to ignore these incessant interjections. Hilmer and, more recently, the Halliday report contained recommendations for increased competition, the latter specifically dealing with the South Australian legislation and the government subsidy scheme in particular. The minister's office and the Passenger Transport Board have had this information for some time. My question to the minister is: given the minister's current advocacy for competition within the personal transport industry, when will operators, other than taxi operators, be able to access these Access Dockets?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): The honourable member may not recall that earlier this year I made a ministerial statement on the taxi industry and indicated that the review by Ms Halliday of the PTB act did contain various recommendations, including those which the honourable member has highlight-

ed. I gave a reason why the government did not support the opening of the general taxi industry to further plates, and this was backed up by the Halliday report. I also indicated that, in terms of the hire car industry and other matters—I think there were 10 recommendations outlined by Ms Halliday—they would be referred to the PTB and reported to me.

Very recently, I received the report back from the PTB and its assessment of the Halliday report. I hope that I will be in a position to read it very soon so that I can, in turn, inform the honourable member and the industry about this issue. It must be read in association with a report that I asked the PTB to prepare in terms of an examination of the SATS scheme overall because of blind passes, visual impairment and a whole range of other issues that have been raised in terms of potential eligibility to the scheme. I must look at both those reports in context and, hopefully, I will be in a position to report back to the honourable member, the Council and the wider industry in the very near future.

HEAVY VEHICLE BYPASS

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Minister for Transport a question on the Wallaroo heavy vehicle bypass.

Leave granted.

The Hon. CARMEL ZOLLO: The announcement of the selection of an option for the much-needed Wallaroo heavy vehicle bypass route has been widely welcomed. A bypass has been discussed for several years, as the existing route causes heavy vehicle traffic to pass through built up areas and paths adjacent to a primary school. The situation is, obviously, far from ideal and rightly had to be dealt with. The transportation of grain is an essential element to this important South Australian industry and a compromise solution had to be found.

I understand that three options were proposed and that option 3 was selected. Option 3 bypass causes the heavy vehicle traffic to be diverted to Sharples Road, which is currently an unsealed back road. I have been contacted by residents from Sharples Road seeking my assistance on this issue. They are concerned that their quiet road will be irrevocably turned into a major road, something that none say they expected when choosing to reside there—as opposed, I guess, to some people who choose to reside under a flight path or on a main road and then commence to complain. Sharples Road residents believe that a fourth option was also suggested but not submitted during the public consultation period. In recognising that the existing route through the town is unacceptable, Sharples Road residents feel that one problem is being substituted for another. My questions are:

1. Can the minister advise whether there will be further consultation on the proposed route and, if so, can she detail that process?

2. Was the minister aware of the residents' proposal for a fourth option? Just looking at the Yorke Peninsula newspaper the *Country Times*, I think it was suggested that a bypass could be closer to Kadina, 'along the aerodrome road where nobody lives'.

3. What measures are proposed to ensure that the impact on the amenity of Sharples Road is minimised?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): The honourable member may be aware that the local council undertook the study of the options for the heavy vehicle bypass. There may well have been some TransportSA funds made available for that purpose, but it was definitely undertaken by the council. When it was released for public consultation, I happened to be in Kadina that day and the mayor showed me the three options—and there were three presented to me and to the public.

So, talk of a fourth option is news to me. That issue should be taken up with the council. I was presented with three options and three options went to public consultation. The council favoured the third option. I was not necessarily surprised, because it was the most expensive, and that seems to be the practice in terms of these public consultation processes: the most expensive option is the one that is generally selected—and this was no different.

It was recommended to me through Transport SA that, following public consultation, council's preference for option three should be the one that I should consider for funding approval under the Regional Roads Program, which I released for the next three financial years at the Livestock Transporters Annual Meeting a few weeks ago when specific funding was outlined for and a specific commitment given to option three. That decision will not be reversed. That was the council's application to me through Transport SA, and I announced that the Regional Roads Fund will support option three.

I am not sure whether I can add more other than to indicate that, whilst design options will be pursued, it is always Transport SA's practice to work closely with the local community when a road project is advanced. The local residents who have written to me and who have also made their views known to the honourable member will have their views heard in terms of the corridor that has been nominated and funded. So, we will not change the corridor, but within that corridor we will do what we can to accommodate the concerns of local residents.

WORKPLACE FATIGUE

In reply to **Hon. T.G. CAMERON** (17 November 2000).

The Hon. R.D. LAWSON: In addition to the answer given on 17 November 2000, the following information is provided:

Q1. Has the government undertaken any recent research on the prevalence of workplace fatigue in South Australian workplaces?

Workplace fatigue has been the subject of significant research interest in South Australia in recent times as is evidenced by the following papers:

Dawson, D and Fletcher, A: Quantatative Model of Work Related Fatigue: Background and Definition. The Journal of Ergonomics, 2001

Reid, K and Dawson, D: Comparing Performance on a 12-Hour Shift Rotation in Young and Older Subjects. The Journal of Occupational Environmental Medicine, 2001.

Fletcher, A: Measurement and Management of Work Related Fatigue: Development and Preliminary Validations of a Predictive Model. (Ph D Thesis) University of South Australia, 1999

Fletcher, A and Dawson, D: A Predictive Model of Work Related Fatigue Based on Hours-Of-Work. The Australian Journal of Occupational Health Safety, 1997

The government does not itself conduct research in this field, it has provided input to programs such as the National Code of Practice 'Hours of Work, Shift Work and Rostering for Hospital Doctors', as part of the Australian Medical Association, Safe Hours Project, and to investigations into accidents involving driver fatigue in the transport industry which has revealed fatigue as a major contributor.

Q2. Are figures available on the number of employees and private enterprise employees who may be consistently working an excessive number of hours?

Australian Social Trends, published by the Australian Bureau of Statistics in 1999 showed that in August 1998 the number of employed persons working a 35–44 hour week dropped by 6.4

per cent compared to a decade earlier, in August 1988. Those working less than 35 hours rose by 4.1 per cent and more than 45 hours rose by 2.3 per cent. This equates to 27.4 per cent of the workforce working longer hours. This study also showed that 3.8 per cent of government administration and defence employees work 60 hours or more per week: 5.3 per cent below the national average.

I am informed that specific statistical data on the hours worked in South Australian government and private enterprise employees is not published.

Q3. Considering the health and productivity implications of workplace fatigue, what steps is the government taking to promote awareness of this serious occupational health and safety risk, both to the public and private sectors?

The government is aware of the health and safety risk caused by fatigue, especially on the road. National information provided by the Federal Government indicates that fatigue is the principal cause of 20 per cent of crashes involving a fatality. In response to this, the South Australian Government is significantly involved in national programs designed to fight fatigue on the roads, including Driver Reviver and Austrans. The Driver Reviver program is a series of community run break stations that encourage regular breaks from driving by offering services such as free tea or coffee. Austrans is an annual, national blitz of the road transport industry, focused on vehicle maintenance, dangerous goods and driver fatigue. In South Australia, this is run co-operatively by SAPol, Transport SA and Workplace Services.

In addition to this, the government is putting a considerable effort into projects to promote awareness of occupational health and safety and industrial relations. These projects are outlined in the publication 'Industry Projects 2000 & Beyond', available from Workplace Services, and are focused on achieving safe, fair and productive workplaces, and high standards of public safety. Each of the projects is the result of extensive research into major hazards in the workplace and consultation with key stakeholders.

Priorities have been set for attention based on factors such as the potential risk to workers and injury statistics. Beyond the transport industry, at this stage fatigue is not considered to have a high enough incidence in these areas to override the current priorities in the 'Industry Projects 2000 and Beyond' program, but the government is aware of the prevalence of fatigue, and will continue to monitor the issue.

DOMICILIARY CARE

In reply to **Hon. T.G. CAMERON** (27 March).

The Hon. R.D. LAWSON: In addition to the answers given on 27 March 2001, the following information is furnished:

There currently are no standardised protocols regarding domiciliary care workers assisting clients with their financial affairs. Some services do have their own guidelines or are in the process of developing them.

The provision by domiciliary care workers of financial assistance is not part of the 'official' services offered by domiciliary care. However, it is appropriate and reasonable for domiciliary care workers help a client by, for example, taking them to the bank to transact business. It is not appropriate for them to directly handle such transactions. Where a client needs support to handle finances, other people or agencies should undertake this task. Suitable alternatives would include a person exercising a Power of Attorney, a family member or the Public Trustee.

As part of the implementation of the current departmental review of domiciliary care services, standard procedures are being developed, including a procedure to specifically address the matter of assistance with a range if issues including financial affairs.

The standard procedures and protocols will protect both workers and clients from the risk of inappropriate (if well-intentioned) interventions in relation to financial matters.

PARTNERSHIPS 21

The Hon. CAROLINE SCHAEFER: My question is directed to the Treasurer, representing the Minister for Education. Is it true that the recently released Labor Party policy on education includes compulsory local management of school boards; and, if so, is it possible that their stringent and strident criticism of Partnerships 21 is wrong?

The Hon. R.I. LUCAS (Treasurer): I am sure that the Minister for Education would be delighted to provide a response to the honourable member's question. I must admit that I would be amazed if the Labor Party would be—

The Hon. Caroline Schaefer: It would be staggering, wouldn't it?

The Hon. R.I. LUCAS: It would be staggering if that was to be its policy, given what it has said in this Council and in another chamber in relation to Partnerships 21. I think that actually—

The Hon. Caroline Schaefer interjecting:

The Hon. R.I. LUCAS: Yes. I think the Labor Party has moved motions condemning the government over Partnerships 21.

The Hon. Diana Laidlaw: What is it saying now?

The Hon. R.I. LUCAS: I am not sure. We will have to have it checked. It might have been a misprint. As Treasurer, I am generous of spirit: before I engage in criticism of the Labor Party I like to make sure that we have our facts right. I will refer the honourable member's question to the Minister for Education and, together with the honourable member, I will watch very closely.

The Hon. Caroline Schaefer interjecting:

The Hon. R.I. LUCAS: The other thing that we want to find out is what their attitude to the basic skills test will be should they ever be elected to government.

The Hon. R.R. Roberts interjecting:

The Hon. R.I. LUCAS: Don't you worry about that, Mr Roberts. I will refer the honourable member's question to the minister and bring back a reply.

REGIONAL BUDGET EXPENDITURE

The Hon. IAN GILFILLAN: I seek leave to make a brief explanation before asking the Treasurer a question about budget expenditure in regional South Australia.

Leave granted.

The Hon. IAN GILFILLAN: There is some cynical doubt about the repetition of expenditure on listed items in successive budget papers relating to regional South Australia. A comparison has been made between the budget papers for the years 2000-01 and 2001-02 where identical issues are allocated certain amounts of money. My most diligent research, not just of my own but from others—

An honourable member interjecting:

The Hon. IAN GILFILLAN: I did not ask the Parliamentary Library how many hours they spent, but I am sure it was adequate for exhaustive research, and they could find no evidence that these amounts of money had been spent. I will give the Treasurer two examples, but it is only two of maybe 20 or so that are listed in these two papers. The first one is an amount allocated in the 2000-2001 paper for livestock, pasture and sustainable resources research of $4.87 million, and it reappears in the latest document as $5.9 million on livestock, pasture and sustainable resources research, and, identically, the same story in the 2000-2001 paper, where there is $440 000 for sheep industry development services and an identical item listed again in the paper 2001-02. I ask the Treasurer: would he determine where and how much of the allocation in the year 2000-01 was spent on those two headings, to set at rest any suspicion that in fact the money was not spent, and how much that may have been carried over into available expenditure for 2001-2002?

The Hon. R.I. LUCAS (Treasurer): As the honourable member will know, I carry a lot of information around in my head on livestock research, but one of the facts that I do not have there is how much money was actually spent last year by the state government through various departments on livestock research. As to whether it was $4 million or $4.01 million I will certainly check, take up the issues with the responsible minister, the Minister for Primary Industries, and bring back a reply.

WAKEFIELD STREET BUILDING SITE

The Hon. R.K. SNEATH: I seek leave to make a brief explanation before asking the Minister for Workplace Relations a question about the safety of workers handling asbestos at the Wakefield Street building site.

Leave granted.

The Hon. R.K. SNEATH: I have been made aware of a property being stripped and converted to accommodate the police, I think, and it is the property in Wakefield Street, adjoining Gawler Place I understand. Asbestos has been found on the property, and the safety committee and the workers who are working on the property are concerned that asbestos has spread over the site. I also understand that work has not continued for the last four days. The safety committee recommended that workers walk off the job again this morning. So that is the fourth day no work has taken place, and I understand that the company involved in the project is refusing to vacuum the site.

Is the minister aware that there has been no work taking place for the last four days on this site, because the elected occupational health and safety committee and the workers themselves are requesting that the site be vacuumed to enable them to safely return to work, and what is the minister doing to hasten the safe return to work for the workers concerned? If the minister is not aware of this site, will he inquire as to why the company refuses to vacuum the site?

The Hon. R.D. LAWSON (Minister for Workplace Relations): I am aware of the particular issue that has arisen in relation to the upgrading, I believe it is, of the building on the corner of Wakefield Street and Gawler Place, formerly occupied by the motor vehicles registration section. I am aware of the claims of various people that there is a serious asbestos issue in relation to the building. The company engaged to undertake the work, Built Environs, has given an assurance that all of the rules and regulations relating to occupational health and safety in relation to asbestos are being complied with, and a report that I received from Workplace Services indicated that officers had been on the site. I have been led to believe that the site is clear to proceed and that the workers' action in refusing to return to work is not justified by any occupational health and safety issue.

The honourable member says, apparently on behalf of the workers, that they want the area vacuumed. I was not previously aware of that fact: I was unaware of that claim. However, I will seek further information in relation to the matter and provide the honourable member and the Council with further details in due course. I can assure the honourable member and the workers involved that this government is keen to ensure that all provisions of the occupational health and safety legislation are complied with and that workers' safety and public safety is paramount in relation to the use of asbestos.

PENSIONERS, CONCESSIONS

In reply to **Hon. T.G. CAMERON** (16 May).

The Hon. R.I. LUCAS: The Minister for Human Services has provided the following information:

1. Partners of people who are on a disability support pension and in receipt of a Centrelink Partners Allowance are entitled to state government concessions on council rates, water rates, electricity, emergency services levy and public transport. Family and Youth Services (FAYS) administers these concessions. Applications can be made in person at FAYS district centres and applicants are required to provide a fortnightly lodgment form or a current income and assets statement from Centrelink as proof that they were in receipt of a benefit for the relevant period. The State Government does not fund concessions on gas supply.

2. Not applicable—as per above response.

WESTERN MINING CORPORATION

In reply to **Hon. R.K. SNEATH** (29 May).

The Hon. R.I. LUCAS: I am advised that the copper uranium Division of WMC currently employs about 25 persons in its Adelaide office to provide marketing, supply, corporate affairs, legal and other support to WMC's Olympic Dam operations. In addition, Hi-Fert Pty Ltd, a wholly owned subsidiary of WMC, employs about 35 people in Adelaide for the marketing and distribution of high-analysis fertilizers.

As a result of rationalisation of support functions across the entire WMC company structure, including its operations in Western Australia and Queensland, a significant proportion of support service positions will be relocated to Melbourne or made redundant. The final number is yet to be determined.

It is likely the number of copper uranium employees remaining in Adelaide will be about half the current number. Final decisions about Hi-Fert's operations have not yet been made.

WMC emphasises that the restructuring is Australia wide involving its corporate offices in Queensland and Western Australia as well as South Australia.

WMC employs about 1 300 people at Olympic Dam. The Company is about to expand its copper refinery at Olympic Dam and this is expected to employ about 200 workers during the construction phase over a period of about 12 months.

The company does not expect there to be any reduction in operational employees although it will continue to review all support services recognising the need to maintain and enhance its cost competitive position in international markets.

I am advised that the company keeps the government informed on a regular basis of its employment and other policies and has also provided recent briefings to representatives of the Opposition and the Australian Democrats.

WESTPAC OUTSOURCING

In reply to **Hon. CAROLYN PICKLES** (17 May).

The Hon. R.I. LUCAS: I refer the honourable member to the answer by the Premier on 29 May 2001 in another place.

PORTS CORP

In reply to **Hon. T.G. CAMERON** (13 March).

The Hon. R.I. LUCAS: The Minister for Government Enterprises has provided the following information:

1. The government is aware that the Port of Melbourne and other Victorian interests are aggressively targeting South Australian port business. This has been occurring over the last two to three years and is a direct reaction to the great successes of Ports Corp in winning back to Port Adelaide the historical proportion of South Australian containerised trade that has gone through the Port of Melbourne. In 1995 something like 55 per cent of all South Australian containerised trade went through Melbourne. Through the actions of Ports Corp this has been reduced to approximately 35 per cent today with this balance only going through Melbourne due to shipping services not currently available in Port Adelaide. I can not advise the amount of the subsidies being provided by the Victorian interests except that I understand they are substantial. However I can advise that their success has been marginal at best due to the ongoing total efficiency and performance of the Port of Adelaide and the marketing activities of Ports Corp.

2. and 3. Port Adelaide is run by Ports Corp and is not a separate Corporation. The statement that 'the Port Adelaide Corporation is not open for business' can only be attributed to persons who are ignorant of the success of Ports Corp or perhaps are being used as part of the marketing strategy of the Port of Melbourne. Such comments are totally ill founded. Ports Corp has an enviable record of success in marketing Port Adelaide. This success is reflected in the fact that since 1995 Port Adelaide has gone from having one weekly shipping connection to South East Asia to now having two, from one monthly service to Europe to now having two weekly services plus a fortnightly service, from having just nine services a year to New Zealand to have two weekly services. In addition car-carrying services calling at Port Adelaide have increased from three per month to three per week and other direct scheduled cargo services have been introduced. This massive increase in services calling at Port Adelaide is a direct result of the aggressive marketing of Ports Corp and has been of tremendous benefit to South Australian industry.

The ongoing success of Ports Corp is highlighted by the fact that for the twelve months to the end of February a total of 128 000 TEUs were handled through Port Adelaide. This is a record level of containerised trade through the port.

The government has called for expressions of interest from bidders for the sale of Ports Corp. The sale of Ports Corp is seen by the Government as the next quantum step to build on the successes of Ports Corp as it will then allow the port operator to gain greater integration in the total transport service delivery and invest in major port enhancements to further facilitate growth in the trade through the port.

OAK VALLEY AREA SCHOOL

In reply to **Hon. M.J. ELLIOTT** (3 April).

The Hon. R.I. LUCAS: The Minister for Education and Children's Services has provided the following information:

The government committed $1.24 million in the 1998-99 budget for the construction of a new school at Oak Valley. During 1999 and 2000, an extensive consultative process took place with members of the Oak Valley community which involved visits there by a number of specialists from different agencies to confirm that existing utilities were able to support the operations of the new facility.

Consultation occurred with representatives of the community to ensure that the new school's design was in harmony with the landscape and flexible to accommodate other community uses. Following the conclusion of the consultative process the executive director, Country Schools and Children's Services met with Oak Valley community representatives to provide them with a model of the proposed new school.

The community indicated its acceptance of the school design and the project went to tender. The tender process was completed in July 2000 and a contractor was selected, however, the Oak Valley community then indicated its preference for another contractor to undertake the construction of the new school. The other tender was significantly over the available budget. Close and proper negotiations have continued with the community since August 2000 to determine a mutually acceptable solution to enable the new school to be constructed.

By April 2001 a solution still had not been reached, despite the preferred tender's willingness to still build the new school. On 3 May 2001, the chief executive of the Department of Education, Training and Employment, wrote to the Maralinga Tarutja Administrator seeking a decision so the children's education could benefit.

Subsequently, further meetings in Oak Valley were held where additional information was provided to the community. I am pleased to advise that the Oak Valley community has now indicated acceptance of the original tender and the new school facility should be completed early in the 2002 school year.

FOOD ADELAIDE

In reply to **Hon CARMEL ZOLLO** (17 May).

The Hon. R.I. LUCAS: The Deputy Premier, Minister for Primary Industries and Resources, and Minister for Regional Development has provided the following information:

Food Adelaide is one of the most significant initiatives of the Premier's Food for the Future Council. The objective was to establish an industry led association to increase the volume and value of food and beverage exports from South Australia. This joint approach between government and industry that is industry led represents a new approach to export facilitation that is based on the successful Australian Wine Export Council.

Cabinet approved $2.4 million of state funding over 5 years together with an industry commitment of $1.07 million from Food Adelaide companies.

With this significant commitment of state funds, there is keen interest in evaluating progress being made by Food Adelaide in growing the exports of member companies.

Food Adelaide commenced operation in May 1999.

A 'Deed of Grant' between the Minister for Primary Industries, Natural Resources and Regional Development and Food Adelaide (South Australian Food and Beverage Exporters Association Inc) of 20 May 1999 put into effect funding for Food Adelaide.

The requirement of industry contribution in each time period has been met to date by industry through Food Adelaide and confirmed by Business SA, which handles Food Adelaide's accounts. In addition the Food Adelaide accounts are audited by Business SA auditors, Moore Stephens Priestley and Morris.

Food Adelaide's business plan was completed in June 1999 and a copy provided to Mr Denis Mutton, Chief Executive of the Department of Primary Industries and Resources SA.

In terms of implementation, Food Adelaide has established an office at the premises of Business SA that is staffed by an Executive Director and Project Officer. In addition, offices have been established in the two target markets of Japan and Taiwan with each office being staffed by a commercial representative of Food Adelaide.

Funding beyond 2000-01 is dependent on the satisfactory achievement of performance targets to be determined by the Premier's Food for the Future Council.

In order to meet this requirement, Food Adelaide commissioned Australian Business Limited in the second half of 2000 to undertake a review of its performance.

Australian Business Limited presented the results of that survey to Food Adelaide's executive committee at its meeting of 23 November 2000 and copies were provided to the Export Facilitation Committee of the Premier's Food for the Future Council at it's meeting of Friday 8 December 2000.

The Food Adelaide review findings included:

- 86 per cent of respondents stated that their companies had experienced increased export sales over the past 18 months;
- 40 per cent of respondents recorded that their export sales had increased by more than 20 per cent over the previous 18 months. The average export growth rate was 23 per cent;

  95 per cent of respondents with export growth stated that Food Adelaide had helped them to achieve that increase; and

  100 per cent of respondents were satisfied that Food Adelaide had provided leadership to the industry over the previous 18 months.

STATE DEBT

In reply to **Hon. L.H. DAVIS** (16 May).

The Hon. R.I. LUCAS: The table below provides actual and estimated net debt levels for both jurisdictions over the period 1999 to 2001. To ensure comparability across jurisdictions net debt levels are shown for the ABS defined general government (GG) and total non financial public sectors (TNFPS).

Net Debt as at 30 June (Nominal $ million)

Sector/Jurisdiction	1999 Act	2000 Act	2001 Est.	Change ($ million)	Change (per cent)
General Government					
- South Australia	4 862	1920	1 249	-3 613	-74
- Victoria	4 792	2 992	1 767	-3 025	-63

Net Debt as at 30 June (Nominal $ million)					
Total Non Financial Public Sector					
- South Australia	7 720	4 355	3 270	-4 450	-58
- Victoria	6 059	4 174	3 276	- 2 783	-46

Source: Various SA, VIC Budget Papers.
The table indicates that over the period 30 June 1999 to 30 June 2001 the decline in net debt for both the GG and TNFP sectors is greater in South Australia.

FRUIT FLY

The Hon. K.T. GRIFFIN (Attorney-General): I table a ministerial statement delivered this day by the Deputy Premier in the other place on the subject of fruit fly.

TRADE MEASUREMENT (MISCELLANEOUS) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a bill for an act to amend the Trade Measurement Act 1993. Read a first time.

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

That this bill be now read a second time.

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

Leave granted.

This Bill provides for minor amendments to be made to the *Trade Measurement Act 1993*.

The *Trade Measurement Act 1993* mirrors the national uniform trade measurement legislation agreed to by State and Territory Ministers, with the exception of Western Australia, in 1990.

In 1995, the Standing Committee of Officials of Consumer Affairs agreed on a project to review the uniform trade measurement legislation and its sub-committee, the Trade Measurement Advisory Committee undertook that task with a view to identifying and examining the effectiveness, scope and appropriateness of the legislation.

The Committee identified a total of 47 areas of the legislation requiring amendment, of which 23 were regarded as minor in nature. It is these 23 amendments that this Bill addresses.

In March 2000, Queensland, the nominated lead agency, proclaimed the amendments in its equivalent Act. Victoria has since passed the amendments and NSW is in the course of doing the same.

As the amendments are minor in nature, the Ministerial Council on Consumer Affairs agreed that the process of implementing these minor amendments did not require consultation with industry.

I commend this bill to honourable members.

Explanation of clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal. The measure will commence on a day to be fixed by proclamation.

Clause 3: Amendment of s. 3—Definitions

Paragraph *(a)* inserts a definition of 'class 4 measuring instrument' which is referred to in proposed new section 7A.

Paragraph *(b)* strikes out and substitutes the definition of 'measurement' to remove any ambiguity associated with the phrase 'physical quantity' and ensure that it means physical attributes such as mass and length, and not just physical number.

Paragraph *(c)* strikes out subsections (2) and (3). These provisions are picked up again in proposed new sections 3A and 3B.

Clause 4: Insertion of ss. 3A and 3B

3A. Determining certain quantities

Proposed new section 3A picks up section 3(2) and also states that any packaging or other thing that is not part of an article is to be disregarded when determining the physical quantity of the article.

3B References to functions

Proposed new section 3B picks up current section 3(3).

Clause 5: Amendment of s. 7—Measuring instruments for trade must be marked

This clause strikes out subsections (3) and (4) and substitutes proposed new sections 7(3) to 7(6).

Proposed new section 7(3) gives an inspector a discretionary power to issue a notice granting an owner or user of a measuring instrument that contravenes section 7 a maximum of 28 days to remedy the contravention.

Proposed new section 7(4) states that a person who complies with the notice has not committed an offence against the section.

Proposed new sections 7(5) and 7(6) pick up current 7(3) and 7(4) respectively.

Clause 6: Insertion of ss. 7A and 7B

7A. Use of class 4 measuring instruments

Proposed new section 7A creates a new class of measuring instrument and makes it an offence to use a measuring instrument of this class for trade, except for a specified purpose.

7B. Use of measuring instruments for pre-packed articles

Proposed new section 7B creates the offence of using a measuring instrument for measuring pre-packed articles where there are no measuring instruments on the premises that have been approved for trade use, comply with the Act, and are suitable for measuring the articles.

Clause 7: Amendment of s. 8—Incorrect measuring instruments and unjust use of measuring instruments

Paragraph *(a)* strikes out 'or unjust' from section 8(1).

Paragraph *(b)* strikes out sections 8(3) and 8(4) and substitutes sections 8(3) to 8(6).

Proposed new section 8(3) gives an inspector a discretionary power to issue a notice granting an owner or user of a measuring instrument that contravenes section 7 a maximum of 28 days to remedy the contravention.

Proposed new section 8(4) states that a person who complies with the notice has not committed an offence against the section.

Proposed new sections 8(5) and 8(6) pick up current sections 8(3) and 8(4) respectively.

Clause 8: Amendment of s. 9—Supplying incorrect measuring instrument

This clause strikes out the words 'or unjust' from section 9(1).

Clause 9: Amendment of s. 10—Provision and maintenance of standards

Paragraph *(a)* strikes out and substitutes section 10(1). Proposed new section 10(1) makes it clear that the administering authority determines the necessity to arrange for the provision, custody and maintenance of various standards of measurement.

Paragraph *(b)* amends section 10(2) so that it reflects the change made by proposed new section 10(1).

Clause 10: Amendment of s. 23—Incorrect measurement or price calculation

Paragraph *(a)* amends section 23 so that the offence may also apply to a person who decides the measurement of an article.

Paragraph *(b)* amends section 23*(a)* so that it applies to any other person who is a party to a sale of the article, not just to the person who purchases the article initially.

Clause 11: Amendment of s. 31—Incorrect pricing of pre-packed article

This clause clarifies the operation of subsection (1) by ensuring that the measurement of the article does not include packaging or anything else that is not part of the article.

Clause 12: Substitution of s. 42

42. Requirement for servicing licence

Proposed new section 42(1) requires a person who tests a batch of measuring instruments to hold a servicing licence or be employed by someone who holds such a licence.

Proposed new section 42(2) picks up part of former section 42(1)*(b)*, stating that a servicing licence holder must comply with the licence.

Proposed new section 42(3) picks up the current section 42(2).

Clause 13: Amendment of s. 44—Application for licence

This clause strikes out sections 44(2) and (3) and substitutes proposed new sections 44(2) to 44(4).

Proposed new section 44(2) permits two or more persons who are business partners to hold a single servicing or public weighbridge licence.

Proposed new sections 44(3) and (4) pick up current sections 44(2) and (3).

Clause 14: Amendment of s. 60—Powers of entry, etc.

This clause strikes out and substitutes section 60(1)*(b)*. Proposed new section 60(1)*(b)* allows inspectors to weigh or measure a vehicle and its load.

Clause 15: Amendment of s. 61—Powers in relation to measuring instruments

This clause inserts proposed new section 61(2), which allows inspectors to record in any way the details of any examined or measured article.

Clause 16: Amendment of s. 62—Powers in relation to articles

Paragraph *(a)* amends section 62(1)*(a)* to clarify that inspectors have power to both examine and measure articles.

Paragraph *(b)* inserts proposed new section 62(4) which allows inspectors to record in any way the details of any examined or measured article.

Clause 17: Amendment of s. 76—Evidence—pre-packed articles

Paragraph *(a)* strikes out '*prima facie*' wherever it occurs.

Paragraph *(b)* strikes out section 76(4) and substitutes proposed new sections 76(4) to 76(6).

Proposed new section 76(4) provides that batch numbers on prepacked articles are evidence of the matters indicated by the number (such as the date of packing, and where it was packed).

Proposed new section 76(5) picks up the current section 76(4).

Proposed new section 76(6) defines 'batch number'.

Clause 18: Amendment of s. 80—Regulations

This clause amends section 80(2)*(g)* to include a reference to the sealing of a certified measuring instrument.

Clause 19: Amendment of penalty provisions

This clause updates references to penalties throughout the Act.

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

SELECT COMMITTEE ON CLASSIFICATION (PUBLICATIONS, FILMS AND COMPUTER GAMES) (MISCELLANEOUS) AMENDMENT BILL (No. 2) 2001

The Hon. K.T. GRIFFIN (Attorney-General): I move:

That the time for bringing up the report on the select committee be extended until Thursday, 26 July 2001.

Motion carried.

MEDICAL PRACTICE BILL

Second Reading.

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I move:

That this bill be now read a second time.

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

Leave granted.

It is my pleasure to introduce this Bill which has the primary aim of providing a mechanism through which the public may be assured of high standard, effective and ethical medical practice.

Honourable Members may recall that the last time the legislation was substantially revised was in 1983. Since that time, heightened community expectations of health professionals, the increasing introduction of highly sophisticated technology and therapeutic agents and changing practices within the professions have created a new and complex environment in which health care is delivered. The legislation which sets down the parameters within which the professions practice need to keep pace with modern developments. The Bill therefore reforms and updates the registration system for medical practitioners and introduces new requirements to take account of changes in medical practice.

The legislation provides an essential contribution to the assurance of quality in health care. However, quality improvement goes beyond regulation. Australia has a health care system which ranks among the best in the world. Notwithstanding, there is substantial evidence both from Australia and overseas that there are potentially preventable problems associated with the delivery of health care which lead to patient deaths and disabilities. This is unacceptable, despite the fact that the majority of patients receive safe and high quality care.

The Australian Health Ministers' Conference has set in train major initiatives aimed at improving patient safety. The Australian Council for Safety and Quality in Health Care has been established '*to lead national efforts to promote systemic improvements in the safety and quality of health care in Australia with a particular focus on minimising the likelihood and effects of error*'. The Council is to lead a five-year national program which will target improvements in collection and use of data and reporting mechanisms; promote opportunities for consumer feedback; promote effective approaches to clinical governance and accountability which address the competence of both organisations and individuals (and will include strengthening of mechanisms to facilitate the safe practice of health care professionals and health care organisations); and re-design systems and create a culture of safety within health care organisations. At the State level, the work of the Hospitals Safety and Quality Council will complement the national program and South Australia will be well positioned to lead some of the projects.

Regulation of medical practice therefore sits as an essential component within a wider environment of quality assurance, in which increasing integration of activities and collaboration within and outside the profession will be the way of the future.

The Bill before the Parliament today is the culmination of a process of review and consultation, including a review carried out in accordance with the Competition Principles Agreement. Using the foundation of the existing Medical Practitioners Act (which it will replace), the Bill is a major re-write.

Throughout the legislation is a theme of protection of the health and safety of the public. Specific reference is made in the long title to it being an Act 'to protect the health and safety of the public'. In exercising its functions, the Board will be required to do so 'with the object of protecting the health and safety of the public'. The theme of protection of the public is carried through generally in the Bill, and specifically in several provisions such as those about medical fitness to provide medical treatment.

The main features of the Bill are as follows:

Membership of the Medical Board

Membership of the Board is increased from eight to twelve members. Seven will be medical practitioners (three nominated by the Minister and one nominated by each of Adelaide and Flinders Universities, one nominated by the AMA and one chosen at an election), a legal practitioner nominated by the Minister, a registered nurse nominated by the Minister (which is a new position) and three members who are not medical practitioners, legal practitioners or nurses, thereby significantly increasing the 'consumer voice' from one to three. The Minister, after consultation with the Board, will appoint a medical practitioner to be the presiding member and another medical practitioner to be the deputy presiding member.

Membership of the Medical Professional Conduct Tribunal

In order to provide additional flexibility in arranging hearings of the Tribunal, the 'pool' of members from which the presiding member of the Tribunal can select members to constitute the Tribunal for the purpose of hearing and determining proceedings has been substantially increased. The Tribunal will consist of thirteen members, of whom the presiding member will be the Chief Judge or a District Court Judge nominated by the Chief Judge, eight medical practitioners (six nominated by the Minister and two by the AMA) and four 'consumers'.

For the purpose of a hearing, the Tribunal will consist of the presiding member or another Judge of the District Court nominated by the presiding member to preside over the proceedings, two medical practitioner members and a 'consumer' member. The members constituting the Tribunal for the purposes of a hearing will be selected by the presiding member.

The person presiding over the proceedings sitting alone may enter consent orders and deal with preliminary, interlocutory or procedural matters, questions of costs or questions of law. Any questions of law or procedure arising before the Tribunal will be determined by the person presiding over the proceedings.

Ownership and business restrictions

There are currently restrictions on entry to and activity in the medical profession through restrictions on the ownership of companies to

practitioners and their prescribed relatives, and limitations on the conduct of registered companies in the practice of medicine.

The Competition Review Panel recommended:

- the removal from the Act of the provisions restricting the ownership of companies practising medicine;
- the introduction of provisions requiring all registered practitioners employed by, or in any form of business partnership with unregistered persons, to inform the Board of the names of those persons and requiring the Board to maintain a register of those persons' names;
- the introduction of a provision making it an offence for any person to exert undue influence over a medical practitioner to provide a service in an unsafe or unprofessional manner;
- the continuation of the Board's power to restrict the use of inappropriate company names, which may be false, misleading or deceptive.

There has recently been considerable focus on the so-called 'corporatisation' of medical practices whereby non-medical corporations are becoming involved in the ownership of medical practices and employing doctors or otherwise entering into contractual arrangements with doctors. With the removal of the ownership restrictions as proposed by the Competition Review, it is important to ensure that medical professional and ethical standards are not overridden in such a scenario and there is some accountability requirements on non-medical owners of medical practices.

The Bill therefore introduces the concept of a 'medical services provider' which means any persons (not being a medical practitioner) who provides medical treatment through the instrumentality of a medical practitioner or medical student.

Unless exempted by regulation, a person (not being a medical practitioner) will be taken to provide medical treatment through the instrumentality of a medical practitioner if the person, in the course of carrying on business, provides services to the practitioner for which the person is entitled to receive a share in the profits or income of the practitioner's medical practice.

Medical services providers will be required to inform the Board of their existence and contact details, of the identity and contact details of medical practitioners through the instrumentality of which they provide medical treatment, and of all persons who occupy a position of authority (if the provider is a trust or corporate entity).

There will be proper cause for disciplinary action against a person who occupies a position of authority in a trust or corporate entity that is a medical services provider if the person or the trust or corporate entity has contravened or failed to comply with a provision of the Act.

The Medical Professional Conduct Tribunal will have power to prohibit or impose restrictions on a medical services provider from carrying on business as such, and to prohibit a person from occupying a position of authority in a trust or corporate entity that is a medical services provider.

It will be an offence for a person who provides medical treatment through the instrumentality of a medical practitioner or medical student to direct or pressure the practitioner or student to act unlawfully, improperly, negligently or unfairly in relation to the provision of medical treatment.

Declaration of interests

A medical practitioner or prescribed relative who has an interest in a business involved in the provision of a health service or the manufacture, sale or supply of a health product will be required to provide the Board with prescribed information relating to the interest (but a person will not be taken to have an interest in a business carried on by a public company if the interest consists only of a shareholding of less than five per cent of the issue share capital of the company). A medical practitioner will be prohibited from referring a patient to, or recommending that a patient use, a health service provided by that business, and from prescribing or recommending that the patient use a health product manufactured, sold or supplied by the business unless the practitioner has informed the patient in writing of the interest.

Prohibition of 'kick-backs'

It will be an offence for any person to give or offer to give a medical practitioner or prescribed relative of a practitioner (and for the practitioner or relative to accept) a benefit (ie., money or any property that has a monetary value) as an inducement, consideration or reward for the practitioner referring, recommending or prescribing a health service or health product provided, sold or supplied by the person.

Victimisation

An important new provision is included to protect from victimisation people who pass on information under the Act, and to provide a means of dealing with such acts. There are a number of potential examples of where this might occur—eg an employee may be in the best position to know if an employer was breaching the Act but may be vulnerable if they passed the information on; or, for example, someone may want to report an attempted 'kick-back' but fear reprisals. This provision will deal with that situation.

Board functions

Several significant powers and functions are included in the Bill:

Codes of conduct and professional standards

The Board is to develop codes of conduct and professional standards, publish them in the Gazette, send a copy to all registered practitioners to whom they apply, and make them available to the public.

'Areas of need' registration

Overseas trained doctors are currently being recruited to fill vacancies, particularly in rural South Australia. The Board currently uses its powers to grant limited registration in the public interest to register those doctors who do not have the required qualifications or do not meet other criteria for full registration but nevertheless are suitable to work under certain conditions. Following discussions between Medical Boards, Medical Colleges, Departmental representatives and the Commonwealth late last year, it was considered desirable for States to put specific provisions in their legislation to provide that applicants for registration who have obtained qualifications for the practice of medicine under the law of a place outside Australia may be granted limited registration by the Board to practise in a part of the State or at a place that the Minister and the Board consider is in urgent need of the services of a medical practitioner. This will assist in the fast-tracking of such applicants and will be complementary to Commonwealth initiatives which facilitate the placement of overseas trained doctors in rural areas.

Power to enter premises

The present Act does not give the Board a specific power to enter premises. The inclusion of such a power will assist in the investigation of complaints.

Infection control

Many medical procedures are invasive and medical treatment has the potential to be a source of transmission of blood-borne diseases. Compliance with infection control standards is so critical as to require specific legislative identification. Provisions have accordingly been included to equip the Board with powers designed to ensure patients are not put at risk:

- in making a determination under the Act as to a person's medical fitness to provide medical treatment, regard will be required as to whether the person is able to provide treatment personally to a patient without endangering the patient's health or safety, and for that purpose, regard may be had as to whether the person has a prescribed communicable infection (defined as HIV or any other viral or bacterial infection prescribed by the regulations—the advice of the Department of Human Services' Expert Panel on Infected Healthcare Workers will be sought in preparing the regulations);
- one of the criteria for registration and reinstatement of registration will be the person's medical fitness to provide medical treatment, and the Board will have power to require a medical report or other evidence of medical fitness;
- the Board will have the power, when seeking payment of the annual practice fee by a registered practitioner, to require the practitioner to declare that they have undertaken a blood test in the previous six months and discussed any implications of the test results with their medical practitioner;
- medical practitioners will be required to report to the Board if they are treating another medical practitioner who has a prescribed communicable infection;
- medical practitioners will be required to notify the Board forthwith after becoming aware that they have a prescribed communicable infection;
- the Board will have power to immediately suspend the registration of a medical practitioner to protect the health and safety of the public, pending the hearing and determination of a complaint;
- the Board will have power to require a medical practitioner to submit to an examination by a medical practitioner or other health profession (including the taking of a blood test).

While the inclusion of these powers is a significant step to take, the public has a right to expect safe practices.

Minor offences

There have been a number of minor offences of less than unprofessional conduct that merit a greater penalty than a reprimand and that the Board has been required to refer to the Medical Practitioners Professional Conduct Tribunal. The Board has sought, and provisions are included in this Bill, to provide a limited range of powers to deal with these situations, ie., censure, a fine of up to $5000, suspension of registration for up to one month, the imposition of conditions restricting the provision of medical treatment. Matters of serious unprofessional conduct will still be referred to the Tribunal which will have power to impose penalties, including cancellation of registration.

Insurance

Provision has been included in the Bill to prohibit a medical practitioner from providing medical treatment unless insured or indemnified to an extent and in a manner approved by the Board. The Board will have power to exempt, conditionally or unconditionally, a person from the requirement to be insured or indemnified.

Registration of medical students

Provision has also been made for medical students to be registered. Medical students have access to patients and therefore they should come within the scope of the Board and the Act. This will also bring them within the testing and notification requirements in relation to prescribed communicable infections, and medical fitness generally. As with qualified practitioners, the Board will be able to take action to ensure that patients' health or safety is not endangered. Transitional provisions have been included to provide for students who, prior to the commencement of this legislation, were enrolled in an undergraduate course of medical study, to become registered as medical students.

In summary, the Bill establishes the framework for the future. It provides a firm foundation for high standard, effective and ethical medical practice.

I commend the bill to honourable members.

Explanation of clauses

PART 1

PRELIMINARY

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

This clause provides for the measure to come into operation on a date fixed by proclamation.

Clause 3: Interpretation

This clause defines terms used in the measure such as 'medical services provider', 'medical treatment' and 'unprofessional conduct'. It gives 'provide medical treatment through the instrumentality of a medical practitioner' an extended meaning and includes interpretative provisions for determining whether a person occupies a position of authority in a trust or corporate entity.

Clause 4: Medical fitness to provide medical treatment

This clause provides that in making a determination under the measure as to a person's medical fitness to provide medical treatment, regard must be given to the question of whether the person is able to provide treatment personally to a patient without endangering the patient's health or safety. For that purpose, regard may be given to the question of whether the person has a prescribed communicable infection (HIV or any other viral or bacterial infection prescribed by the regulations).

PART 2

MEDICAL BOARD OF SOUTH AUSTRALIA

DIVISION 1—CONTINUATION OF BOARD

Clause 5: Continuation of the Board

This clause provides for the continuation of the Medical Board as the Medical Board of South Australia as a body corporate with perpetual succession, a common seal, the capacity to litigate in its corporate name and all the powers of a natural person capable of being exercised by a body corporate.

DIVISION 2—THE BOARD'S MEMBERSHIP

Clause 6: Composition of the Board

This clause provides for the Board to consist of 12 members appointed by the Governor, empowers the Governor to appoint deputy members and requires at least 3 members of the Board nominated by the Minister to be women and at least 3 to be men.

Clause 7: Terms and conditions of membership

This clause provides for members of the Board to be appointed for a term not exceeding 3 years and to be eligible for re-appointment on expiry of a term of appointment. It sets out the circumstances in which a member's office becomes vacant and in which the Governor is empowered to remove a member from office. It also allows members whose terms have expired to continue to act as members to hear part-heard disciplinary proceedings under Part 5.

Clause 8: Presiding member and deputy

This clause requires the Minister, after consultation with the Board, to appoint two members of the Board who are medical practitioners to be the presiding and deputy presiding members of the Board.

Clause 9: Vacancies or defects in appointment of members

This clause ensures acts and proceedings of the Board are not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.

Clause 10: Remuneration

This clause entitles a member of the Board to remuneration, allowances and expenses determined by the Governor.

DIVISION 3—REGISTRAR AND STAFF OF THE BOARD

Clause 11: Registrar of the Board

This clause provides for the appointment of a Registrar by the Board on terms and conditions determined by the Board.

Clause 12: Other staff of the Board

This clause provides for the Board to have such other staff as it thinks necessary for the proper performance of its functions.

DIVISION 4—GENERAL FUNCTIONS AND POWERS

Clause 13: Functions of the Board

This clause sets out the functions of the Board and requires it to exercise its functions with the object of protecting the health and safety of the public by achieving and maintaining the highest professional standards both of competence and conduct in the provision of medical treatment in South Australia.

Clause 14: Committees

This clause empowers the Board to establish committees to advise the Board and assist it to carry out its functions.

Clause 15: Delegations

This clause empowers the Board to delegate functions or powers under the measure to a member of the Board, the Registrar, an employee of the Board or a committee established by the Board.

DIVISION 5—THE BOARD'S PROCEDURES

Clause 16: The Board's procedures

This clause deals with matters relating to the Board's procedures such as the quorum at meetings, the chairing of meetings, voting rights, the holding of conferences by telephone and other electronic means and the keeping of minutes.

Clause 17: Disclosure of interest

This clause requires members of the Board to disclose direct or indirect pecuniary or personal interests in matters under consideration and prohibits participation in any deliberations or decision of the Board on those matters. A maximum penalty of $10 000 is fixed for contravention or non-compliance.

Clause 18: Powers of the Board in relation to witnesses, etc.

This clause sets out the powers of the Board to summons witnesses and require the production of documents and other evidence in proceedings before the Board.

Clause 19: Principles governing hearings

This clause provides that the Board is not bound by the rules of evidence and requires it to act according to equity, good conscience and the substantial merits of the case without regard to technicalities and legal forms.

Clause 20: Representation at proceedings before the Board

This clause entitles a party to proceedings before the Board to be represented at the hearing of those proceedings.

Clause 21: Costs

This clause empowers the Board to award costs against a party to proceedings before the Board.

DIVISION 6—ACCOUNTS, AUDIT AND ANNUAL REPORT

Clause 22: Accounts and audit

This clause requires the Board to keep proper accounting records in relation to its financial affairs, to have annual statements of account prepared in respect of each financial year and to have the accounts audited annually by an auditor approved by the Auditor-General and appointed by the Board.

Clause 23: Annual report

This clause requires the Board to prepare an annual report for the Minister and requires the Minister to table the report in Parliament.

PART 3

THE MEDICAL PROFESSIONAL CONDUCT TRIBUNAL

Clause 24: Continuation of the Tribunal

This clause continues the Medical Practitioners Professional Conduct Tribunal in existence as the Medical Professional Conduct Tribunal.

Clause 25: Composition of the Tribunal

This clause provides for the Tribunal to consist of 13 members, requires at least 4 members of the Tribunal to be women and at least

4 to be men, and empowers the Governor to appoint deputy members.

Clause 26: Terms and conditions of membership

This clause provides for appointed members of the Tribunal to be appointed for a term not exceeding 3 years and to be eligible for re-appointment on expiry of a term of appointment. It sets out the circumstances in which an appointed member's office becomes vacant and in which the Governor is empowered to remove a member from office. It also allows appointed members whose terms have expired to continue to act as members to hear part-heard disciplinary proceedings under Part 5.

Clause 27: Vacancies or defects in appointment of members

This clause ensures an act or proceeding of the Tribunal is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.

Clause 28: Remuneration

This clause entitles a member of the Tribunal to remuneration, allowances and expenses determined by the Governor.

Clause 29: Registrar of the Tribunal

This clause requires the appointment of a Registrar of the Tribunal by the Minister on terms and conditions determined by the Minister.

PART 4
REGISTRATION
DIVISION 1—THE REGISTERS

Clause 30: The registers

This clause requires the Registrar to keep a separate register for each class of registered person and specifies the information required to be included in each register. It also requires the keeping of a register of persons whose names have been removed from a register and have not been reinstated. It also requires the registers of registered persons to be kept available for inspection by the public and permits access to be made available by electronic means (such as the Internet). The clause requires registered persons to notify a change of address within 3 months. A maximum penalty of $250 is fixed for non-compliance.

Clause 31: Authority conferred by registration on a register

This clause sets out the kind of medical treatment that registration on each particular register authorises a registered person to provide.

DIVISION 2—REGISTRATION

Clause 32: Registration of natural persons as general practitioners or specialists

This clause provides for the full and limited registration of natural persons as general practitioners or specialists.

Clause 33: Registration of medical students

This clause requires persons to register as medical students before undertaking an undergraduate course of medical study and provides for full or limited registration of medical students.

Clause 34: Application for registration

This clause deals with applications for registration. It empowers the Board to require applicants to submit medical reports or other evidence of medical fitness to provide medical treatment or to obtain additional qualifications or experience before determining an application.

Clause 35: Removal from register

This clause requires the Registrar to remove a person's name from a register on application by the person or in certain specified circumstances (for example, suspension or cancellation of the person's registration under this measure).

Clause 36: Reinstatement on register

This clause makes provision for reinstatement of a person's name on a register. It empowers the Board to require applicants for reinstatement to submit medical reports or other evidence of medical fitness to provide medical treatment or to obtain additional qualifications or experience before determining an application.

Clause 37: Fees and returns

This clause deals with the payment of registration, reinstatement and annual practice fees, and requires registered persons to furnish the Board with an annual return in relation to their medical practice, continuing medical education and other matters relevant to their registration under the measure. It empowers the Board to remove from a register the name of a person who fails to pay the annual practice fee or furnish the required return.

DIVISION 3—SPECIAL PROVISIONS RELATING TO MEDICAL SERVICES PROVIDERS

Clause 38: Information to be given to the Board by medical services providers

This clause requires a medical services provider to notify the Board of the provider's name and address, the name and address of the medical practitioners through the instrumentality of whom the provider is providing medical treatment and other information. It also requires the provider to notify the Board of any change in particulars required to be given to the Board and makes it an offence to contravene or fail to comply with the clause. A maximum penalty of $10 000 is fixed.

DIVISION 4—RESTRICTIONS RELATING TO THE PROVISION OF MEDICAL TREATMENT

Clause 39: Illegal holding out as registered person

This clause makes it an offence for a person to hold himself or herself out as a registered person of a particular class or permit another person to do so unless registered on the appropriate register. It also makes it an offence for a person to hold out another as a registered person of a particular class unless the other person is registered on the appropriate register. In both cases a maximum penalty of $50 000 or imprisonment for 6 months is fixed.

Clause 40: Illegal holding out concerning limitations or conditions

This clause makes it an offence for a person whose registration is restricted, limited or conditional to hold himself or herself out, or permit another person to hold him or her out, as having registration that is unrestricted or not subject to a limitation or condition. It also makes it an offence for a person to hold out another whose registration is restricted, limited or conditional as having registration that is unrestricted or not subject to a limitation or condition. In each case a maximum penalty of $50 000 or imprisonment for 6 months is fixed.

Clause 41: Use of certain titles or descriptions prohibited

This clause creates a number of offences prohibiting a person who is not appropriately registered from using certain words or their derivatives to describe himself or herself or services that they provide, or in the course of advertising or promoting services that they provide. In each case a maximum penalty of $50 000 is fixed.

Clause 42: Restrictions on provision of medical treatment by unqualified persons

This clause makes it an offence for a person to provide medical treatment of a prescribed kind (and prevents recovery of a fee or charge for medical treatment provided by the person) unless, at the time the treatment was provided, the person was a qualified person or provided the treatment through the instrumentality of a qualified person. A maximum penalty of $50 000 or imprisonment for six months is fixed for the offence. However, these provisions do not apply to medical treatment provided by an unqualified person in prescribed circumstances. In addition, the Governor is empowered, by proclamation, to grant an exemption if of the opinion that good reason exists for doing so in the particular circumstances of a case. The clause makes it an offence punishable by a maximum fine of $50 000 to contravene or fail to comply with a condition of an exemption.

Clause 43: Board's approval required where medical practitioner, specialist or medical student has not practised for three years

This clause prohibits a registered person who has not provided medical treatment of a kind authorised by their registration for 3 years or more from providing such treatment for fee or reward without the prior approval of the Board and fixes a maximum penalty of $20 000. The Board is empowered to require an applicant for approval to obtain qualifications and experience and to impose conditions on the person's registration.

PART 5
INVESTIGATIONS AND PROCEEDINGS
DIVISION 1—PRELIMINARY

Clause 44: Interpretation

This clause provides that in this Part the terms 'registered person', 'medical services provider' and 'occupier of a position of authority' includes a person who is not but who was, at the relevant time, a registered person, medical services provider or occupier of a position of authority.

Clause 45: Cause for disciplinary action

This clause sets out what constitutes proper cause for disciplinary action against a registered person, a medical services provider or a person occupying a position of authority in a trust or corporate entity that is a medical services provider.

DIVISION 2—INVESTIGATIONS

Clause 46: Powers of inspectors

This clause sets out the powers of an inspector to investigate certain matters.

Clause 47: Offence to hinder, etc., inspector

This clause makes it an offence for a person to hinder an inspector, use certain language to an inspector, refuse or fail to comply with a requirement of an inspector, refuse or fail to answer questions to the

best of the person's knowledge, information or belief, or falsely represent that the person is an inspector. A maximum penalty of $10 000 is fixed.

Clause 48: Offences by inspectors

This clause makes it an offence for an inspector to address offensive language to another person or, without lawful authority, to hinder or obstruct, use force or threaten the use of force in relation to another person. A maximum penalty of $10 000 is fixed.

DIVISION 3—PROCEEDINGS BEFORE THE BOARD

Clause 49: Obligation to report certain infections of medical practitioner or medical student

This clause requires a medical practitioner treating a patient who is medical practitioner or medical student to submit a report to the Board if the he or she diagnoses that the patient has a prescribed communicable infection. A maximum penalty of $10 000 is fixed for non-compliance. The Board must cause a report to be investigated.

Clause 50: Obligation to report medical unfitness of medical practitioner or medical student

This clause requires certain classes of persons to report to the Board if of the opinion that a medical practitioner or medical student is or may be medically unfit to provide medical treatment. A maximum penalty of $10 000 is fixed for non-compliance. The Board must cause report to be investigated.

Clause 51: Medical fitness of medical practitioner or medical student

This clause empowers the Board to suspend the registration of a medical practitioner or medical student, impose conditions on registration restricting the right to provide dental treatment or other conditions requiring the person to undergo counselling or treatment, or to enter into any other undertaking if, on application by certain persons or after an investigation under clause 49 or 50, and after due inquiry, the Board is satisfied that the practitioner or student is medically unfit to provide medical treatment and that it is desirable in the public interest to take such action.

Clause 52: Inquiries by Board as to matters constituting grounds for disciplinary action

This clause requires the Board to inquire into a complaint relating to matters alleged to constitute grounds for disciplinary action against a person unless the Board considers the complaint to be frivolous or vexatious or lays a complaint before the Tribunal relating to such matters. If, after conducting an inquiry, the Board is satisfied that there is proper cause for taking disciplinary action and the respondent consents to the Board exercising its powers, the Board can censure the person, order the person to pay a fine of up to $1 000, impose conditions on their right to provide medical treatment, or suspend the person's registration for a period not exceeding 1 month. If the respondent does not consent to the Board exercising its disciplinary powers, the Board must terminate the proceedings and lay a complaint against the respondent before the Tribunal.

If a person fails to pay a fine imposed by the Board, the Board may remove their name from the appropriate register.

Clause 53: Variation or revocation of conditions imposed by Board

This clause empowers the Board, on application by a registered person, to vary or revoke a condition imposed by the Board on his or her registration.

Clause 54: Suspension of registration of non-residents

This clause empowers the Board, on application by the Registrar, to suspend until further order the registration of a medical practitioner who has not resided in Australia for the period of 12 months immediately preceding the application.

Clause 55: Constitution of the Board for the purpose of proceedings under this Part

This clause sets out how the Board is to be constituted for the purpose of hearing and determining proceedings under the Part.

Clause 56: Provisions as to proceedings before the Board under this Part

This clause deals with the conduct of proceedings by the Board under this Part.

DIVISION 4—PROCEEDINGS BEFORE THE TRIBUNAL

Clause 57: Constitution of the Tribunal for the purpose of proceedings

This clause sets out how the Tribunal is to be constituted for the purpose of hearing and determining proceedings under the Part.

Clause 58: Inquiries by Tribunal as to matters constituting grounds for disciplinary action

This clause requires the Tribunal to inquire into a complaint relating to matters alleged to constitute grounds for disciplinary action against a person unless the Tribunal considers the complaint to be frivolous or vexatious.

If, after conducting an inquiry, the Tribunal is satisfied that there is proper cause for taking disciplinary action, the Tribunal can censure the person, order them to pay a fine of up to $20 000 or prohibit them from carrying on business as a medical services provider or from occupying a position of authority in a trust or corporate entity that is a medical services provider. If the person is registered, the Tribunal may impose conditions on their right to provide medical treatment, suspend their registration for a period not exceeding 1 year, cancel their registration, or disqualify them from being registered.

A disqualification or prohibition may apply permanently, for a specified period, until the fulfilment of specified conditions or under further order, and may have effect at a specified future time. Conditions may be imposed as to the conduct of the person or the person's business until that time.

If a person fails to pay a fine imposed by the Tribunal, the Board may remove their name from the appropriate register.

Clause 59: Variation or revocation of conditions imposed by Tribunal

This clause empowers the Tribunal, on application by a registered person, to vary or revoke a condition imposed by the Tribunal on his or her registration.

Clause 60: Provisions as to proceedings before the Tribunal

This clause deals with the conduct of proceedings by the Tribunal under this Part.

Clause 61: Powers of Tribunal

This clause sets out the powers of the Tribunal to summons witnesses and require the production of documents and other evidence in proceedings before the Tribunal.

Clause 62: Costs

This clause empowers the Tribunal to award costs against a party to proceedings before the Tribunal.

Clause 63: Contravention of prohibition order

This clause makes it an offence to contravene an order of the Tribunal or to contravene or fail to comply with a condition imposed by the Tribunal. A maximum penalty of $75 000 or imprisonment for 6 months is fixed.

Clause 64: Power of Tribunal to make rules

This clause empowers the Tribunal constituted of the presiding member and two other members selected by the presiding member to make rules regulating its practice and procedure or making any other provision as may be necessary or expedient to carry into effect the provisions of this Part relating to the Tribunal.

PART 6
APPEALS

Clause 65: Right of appeal to Supreme Court

This clause provides a right of appeal to the Supreme Court against certain acts and decisions of the Board or Tribunal.

Clause 66: Operation of order may be suspended

This clause empowers the Court to suspend the operation of an order made by the Board or Tribunal where an appeal is instituted or intended to be instituted.

Clause 67: Variation or revocation of conditions imposed by Court

This clause empowers the Supreme Court, on application by a registered person, to vary or revoke a condition imposed by the Court on his or her registration.

PART 7
MISCELLANEOUS

Clause 68: Interpretation

This clause defines terms used in the Part.

Clause 69: Offence to contravene conditions of registration

This clause makes it an offence for a person to contravene or fail to comply with a condition of his or her registration and fixes a maximum penalty of $75 000 or imprisonment for six months.

Clause 70: Offence to practise medicine while deregistered

This clause makes it an offence for a person whose name has been removed from a register and not reinstated to provide medical treatment for fee or reward. It fixes a maximum penalty of $75 000 or imprisonment for six months. However, it does not apply in relation to a person exempted under clause 42 and providing medical treatment in accordance with the exemption.

Clause 71: Offence to give, offer or accept benefit for referral or recommendation

This clause makes it an offence—

- for any person to give or offer to give a medical practitioner or prescribed relative of a practitioner a benefit as an inducement,

consideration or reward for the practitioner referring, recommending or prescribing a health service or health product provided, sold, etc. by the person;

· for a medical practitioner or prescribed relative of a practitioner to accept from any person a benefit offered or given as a inducement, consideration or reward for such a referral, recommendation or prescription.

In each case a maximum penalty of $75 000 is fixed for a contravention.

Clause 72: Improper directions to medical practitioners or medical students

This clause makes it an offence for a person who provides medical treatment through the instrumentality of a medical practitioner or medical student to direct or pressure the practitioner or student to act unlawfully, improper, negligently or unfairly in relation to the provision of medical treatment. It also makes it an offence for a person occupying a position of authority in a trust or corporate entity that provides medical treatment through the instrumentality of a practitioner or student to so direct or pressure the practitioner or student. In each case a maximum penalty of $75 000 is fixed.

Clause 73: Procurement of registration by fraud

This clause makes it an offence for a person to fraudulently or dishonestly procure registration or reinstatement of registration (whether for himself or herself or another person) and fixes a maximum penalty of $20 000 or imprisonment for 6 months.

Clause 74: False or misleading statement

This clause makes it an offence for a person to make a false or misleading statement in a material particular (whether by reason of inclusion or omission of any particular) in information provided under the measure and fixes a maximum penalty of $20 000.

Clause 75: Medical practitioner, etc., must declare interest in prescribed business

This clause requires a medical practitioner or prescribed relative of a medical practitioner who has an interest in a prescribed business to give the Board notice of the interest and of any change in such an interest. It fixes a maximum penalty of $20 000 for non-compliance. It also prohibits a medical practitioner from referring a patient to, or recommending that a patient use, a health service provided by the business and from prescribing, or recommending that a patient use, a health product manufactured, sold or supplied by the business unless the medical practitioner has informed the patient in writing of his or her interest or that of his or her prescribed relative. A maximum penalty of $20 000 is fixed for a contravention. However, it is a defence to a charge of an offence or unprofessional conduct for a medical practitioner to prove that he or she did not know and could not reasonably have been expected to know that a prescribed relative had an interest in the prescribed business to which the referral, recommendation or prescription that is the subject of the proceedings relates.

Clause 76: Medical practitioner or medical student must report his or her infection to Board

This clause requires a medical practitioner or medical student who is aware that he or she has a prescribed communicable infection to forthwith give written notice of that fact of the Board and fixes a maximum penalty of $10 000 for non-compliance.

Clause 77: Medical School must report cessation of a student's enrolment

This clause requires the Dean or Acting Dean of a Medical School to give the Board written notice that a medical student has ceased to be enrolled in an undergraduate course of study at the School and fixes a maximum penalty of $5 000 for non-compliance.

Clause 78: Registered persons to be indemnified against loss

This clause prohibits registered persons from providing medical treatment for fee or reward unless insured or indemnified in a manner and to an extent approved by the Board against civil liabilities that might be incurred by the person in the course of providing any such treatment. It fixes a maximum penalty of $10 000 and empowers the Board to exempt persons or classes of persons from the requirement to be insured or indemnified.

Clause 79: Information relating to claim against registered person to be provided

This clause requires a registered person to provide the Board with prescribed information about any claim made against the registered person or another person for alleged negligence committed by the registered person in the course of providing dental treatment. The clause fixes a maximum penalty of $10 000 for non-compliance.

Clause 80: Victimisation

This clause prohibits a person from victimising another person (the victim) on the ground, or substantially on the ground, that the victim has disclosed or intends to disclose information, or has made or intends to make an allegation, that has given rise or could give rise to proceedings against the person under this measure. Victimisation is the causing of detriment including injury, damage or loss, intimidation or harassment, threats of reprisals, or discrimination, disadvantage or adverse treatment in relation to the victim's employment or business. An act of victimisation may be dealt with as a tort or as if it were an act of victimisation under the *Equal Opportunity Act 1994*.

Clause 81: Self-incrimination and legal professional privilege

This clause provides that a person cannot refuse or fail to answer a question or produce documents as required under the measure on the ground that to do so might tend to incriminate the person or make the person liable to a penalty, or on the ground of legal professional privilege. If a person objects on either of the first two grounds, the fact of production of the document or the information furnished is not admissible against the person except in proceedings in respect of making a false or misleading statement or perjury.

If a person objects on the ground of legal professional privilege, the answer or document is not admissible in civil or criminal proceedings against the person who would, but for this clause, have the benefit of that privilege.

Clause 82: Punishment of conduct that constitutes an offence

This clause provides that if conduct constitutes both an offence against the measure and grounds for disciplinary action under the measure, the taking of disciplinary action is not a bar to conviction and punishment for the offence, and conviction and punishment for the offence is not a bar to disciplinary action.

Clause 83: Vicarious liability for offences

This clause provides that if a trust or corporate entity is guilty of an offence against the measure, each person occupying a position of authority in the entity is guilty of an offence and liable to the same penalty as is prescribed for the principal offence unless it is proved that the person could not, by the exercise of reasonable care, have prevented the commission of the offence by the entity.

Clause 84: Board may require medical examination or report

This clause empowers the Board to require a medical practitioner or medical student or person applying for registration or reinstatement of registration as such to submit to an examination by a health professional or provide a medical report from a health professional, including an examination or report that will require the person to undergo a medically invasive procedure. If the person fails to comply the Board can suspend the person's registration until further order.

Clause 85: Ministerial review of decisions relating to courses

This clause gives a provider of a course of education or training the right to apply to the Minister for a review of a decision of the Board to refuse to approve the course for the purposes of the measure or to revoke the approval of a course.

Clause 86: Confidentiality

This clause makes it an offence for a person engaged or formerly engaged in the administration of the measure or the repealed Act (the *Medical Practitioners Act 1983*) to divulge or communicate personal information obtained (whether by that person or otherwise) in the course of official duties except—

· as required or authorised by or under this measure or any other Act or law; or

· with the consent of the person to whom the information relates; or

· in connection with the administration of this measure or the repealed Act; or

· in accordance with a request of an authority responsible under the law of a place outside this State for the registration or licensing of persons who provide medical treatment, where the information is required for the proper administration of that law.

However, the clause does not prevent disclosure of statistical or other data that could not reasonably be expected to lead to the identification of any person to whom it relates. Personal information that has been disclosed for a particular purpose must not be used for any other purpose by the person to whom it was disclosed or any other person who gains access to the information (whether properly or improperly and directly or indirectly) as a result of that disclosure. A maximum penalty of $10 000 is fixed for contraventions of this clause.

Clause 87: Protection from personal liability

This clause protects members of the Board and Tribunal, the Registrars of the Board and Tribunal, staff of the Board and inspectors from personal liability in good faith for an act or omission in the performance or purported performance of functions or duties under the measure. A civil liability will instead lie against the Crown.

Clause 88: Service
This clause sets out the methods by which notices and other documents may be served for the purposes of the measure.
Clause 89: Evidentiary provision
This clause provides evidentiary aids for the purposes of proceedings for offences against the measure and disciplinary proceedings under Part 5.
Clause 90: Regulations
This clause empowers the Governor to make regulations for the purposes of the measure.
SCHEDULE
Repeal and transitional provisions
This Schedule repeals the *Medical Practitioners Act 1983* and makes transitional provisions relating to the constitution of the Board and other matters.

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

STATUTES AMENDMENT (LOCAL GOVERNMENT) BILL

In committee.
(Continued from 15 May. Page 1460.)

Clause 2.

The Hon. L.H. DAVIS: I thank the minister and the council for their indulgence. In late March, I was outside the lift in the parliament when the member for Spence approached me, very gleefully, and said, 'I have got the numbers to spoil your residential amenity.' I did not know what he meant by that comment because he is a well-known eccentric but, some weeks later, I raised this matter with one of my colleagues in this chamber. I said, 'I am just not sure what he meant by that.' This person said, 'You know what he means.' I said, 'No, I don't.' This person said, 'He is going to use the Statutes Amendment (Local Government) Bill to advance his cause celebre—Barton Road closure.

I was interested in this. I had not taken a particular interest in this matter. I must say—and I will declare this interest—that in 1999 I moved into that precinct. I live in Mills Terrace in the Barton Road precinct, as does the member for Adelaide, the Hon. Michael Armitage. I had not taken any interest in this matter at all; I had not participated in any previous debate in it; it was a matter of low priority as far as I was concerned. But I was bemused that this was on the agenda yet again. So I looked at the legislation, which is the Statutes Amendment (Local Government) Bill, and it has a miscellanea of amendments including amendments to the Food Act, Local Government Act, Highways Act, Local Government (Finance Authority) Act, Public and Environmental Health, provision of certain sewerage systems and some transitional provisions.

My colleague, who obviously keeps the ear closer to the ground than I do, said, 'It is well known that the member for Spence, Mr Atkinson, will not have the courage to move it in another place but he will use another member in another place (that is, the Legislative Council) to advance his proposition yet again.' I said, 'Who might that be?'

The Hon. A.J. Redford: No-one would be that stupid in the Legislative Council.

The Hon. L.H. DAVIS: I was told, 'Everyone knows it is going to be the Hon. Nick Xenophon.' And so it came to pass: the Hon. Nick Xenophon, the human door mat, did put this motion on the agenda.

The Hon. T.G. Roberts: And you were shocked.

The Hon. L.H. DAVIS: No, I was not shocked; I was not surprised; I have come not to be surprised by the performance of the Hon. Nick Xenophon, but I did for the first time take an interest in the matter of Barton Road. I did for the first time take an interest in the comments of the member for Spence down through years—and we are talking about a period of more than a decade. I did take great interest in the comments of the Hon. Ian Gilfillan, who has had a key role in parklands preservation. Having declared my interest—which of course the member for Spence in 11 years has failed to do directly, I note, from reading his 36 speeches and 11 questions on this subject—I want to say something about the matter.

The first time that the member for Spence raised this matter was in a question on 7 August 1990 when the Labor Party was in power. He asked a question and made one speech on the subject—so two efforts in 1990. In 1991, he was strangely silent. In 1992, he asked three questions, two of the Minister for Transport (Mr Blevins) and one of the Minister for Environment and Land Management (Kym Mayes), all along the same lines: 'What are you going to do about opening up Barton Road, which was closed in 1987?'—which on my reckoning is some 14 years ago. In 1993, he again asked three questions, and in a reply Minister Mayes who, reading between the lines, was giving the member for Spence, even then, fairly short shrift, said:

> I thank the member for Spence, I hope for the last time, for a question on this issue.

But he was sorely disappointed, because in fact there were two more questions in 1993. In 1994, notwithstanding the thumping defeat that the Labor Party had had in late 1993, he still found room in his Address in Reply to talk about Barton Road. Then he made the extraordinary statement in September 1994 (page 433 of *Hansard*) that some of the institutions which are in that Barton Road precinct are Catholic—St Dominic's Priory School, Calvary Hospital and Mary Potter Hospice—and so on he went. He continued:

> The Minister for Health lives at 72 Molesworth Street, North Adelaide—not far from Barton Road. . . [he] sought to have Barton Road closed.

He further said (page 434 of *Hansard* of 7 September 1994):

> . . . the Minister for Health's sister-in-law, the Hon. Diana Laidlaw. . . is about to acquiesce in the closure of War Memorial Drive. . .

That, of course, has never occurred.

The Hon. Diana Laidlaw: And never would.

The Hon. L.H. DAVIS: And never would. There is some bizarre stuff here. Let me apprise the Council of this. I take some offence to some of these statements, as members would understand. It is one thing for a member to come into this chamber and be fierce in debate and go hard at an issue, but hopefully they have the facts to support them. Mr Mick Atkinson, the member for Spence, and facts are not often acquainted, in my experience in this debate. In 1994, having had over three years under a Labor government to rectify the issue and having made only eight sullies on the issue from 1990 to 1993, once the Liberal Party came in he stepped up his intensity. He made four speeches on the issue in 1994, and then in 1995 he really struck form. He made nine references to it, either in speeches or in questions. On 11 April 1995 we saw this in *Hansard* in a speech:

> As I was riding from Holy Tuesday mass to my work at parliament house this morning, my bicycle and I were cautioned by three constables for riding from Hawker Street Bowden to Hill Street North Adelaide.

Presumably, the inference was that he had ridden through the Barton Road closure. There is the illusion of Mick Atkinson,

Christian, good living fellow, having been to mass, being cautioned by the constables. I ask members to bear that little image in mind as it comes in handy a little later. In June 1995 he introduced the Local Government (Closure of Roads) Amendment Bill. It is strange that he did not do this during the three years that Labor was in government. It is strange that the Labor Party did not support him in his move.

The Hon. Diana Laidlaw interjecting:

The Hon. L.H. DAVIS: There is nothing strange about it when we know who we are dealing with. So, in July 1995 he made a further speech—remembering that he made nine references to it in 1995, which is not obsessive at all! There was that wonderful classic film starring Australian Merle Oberon called *Magnificent Obsession*: one would imagine that if it was being remade today Michael Atkinson would well have the starring role.

On page 2862 of *Hansard* of 20 July 1995 he described the closure of Barton Road as 'grotesque snobbery'. He said:

> The move by the Liberal Party is all so sectarian in its intention because it discriminates particularly against people who want to use the facilities of the Catholic Church.

Of course he is talking about St Dominics, Calvary and the Mary Potter Hospice. He is creating the illusion—remembering that he has just been to mass when he gets picked up for riding through the closure—that there is this wicked, evil discrimination by the Liberal Party against the Barton Road closure because there happened to be some Catholic institutions along the way. This is pretty sick. It is quite bizarre.

At this point it is appropriate to say that, although it may come as a surprise, there have been other road closures around Adelaide. I refer particularly to Beaumont Road, which of course entered from Greenhill Road and ran around the western side of Victoria Park racecourse. In fact, it led directly to South Terrace and St Andrews Hospital, which by my reckoning is a Protestant hospital and which on my understanding has 202 beds against Calvary's estimated 150 beds—a form of sectarian discrimination undoubtedly against St Andrew's Hospital. I suspect there are a few Protestant schools in that region also.

I declare an interest in this matter because I used to live in Fisher Street, Fullarton, and I used to pick up a mate before we went to see our girlfriends who lived on the corner of South Terrace and East Terrace, so we had to go through Beaumont Road. By the time we stopped taking them out Beaumont Road was still open.

The Hon. T.G. Cameron interjecting:

The Hon. L.H. DAVIS: Near the furlong post. If you live in Rose Park (and read in brackets for the western suburbs, Ovingham) and you want to go to St Andrew's Hospital, you have to go the additional distance down to Hutt Street or, to get St Andrew's Hospital or the doctors rooms, you have to go the other way through Wakefield Street—just as Mr Mick Atkinson and his obsessive bike which he rides have to go a little further to go to Barton Road and the Catholic institutions that he frequents. But, for some extraordinary reason, because the member for Bragg, the member for Unley and other members for that region have not had the magnificent obsession of Michael Atkinson, we have not had the same clamour for the opening of Beaumont Road: it remains shut and it has not stopped the world.

To return to this extraordinary saga, which I suspect the Hon. Nick Xenophon is quite unaware of—and I think he will be quite shamed by the time I have concluded my remarks—on 20 July 1995, continuing this extraordinary attack on the Liberal Party for sectarian politics, Mr Mick Atkinson said that the opposition to the bill by the Liberal Party was 'originated by the Minister for Health'. That is what he said: that it was originated by the Minister for Health who, for his own financial interests, arranged to have this road closed. If something similar was said outside the Council about the Hon. Nick Xenophon, I think he would say that that was probably a five swimming pool defamation. As a lawyer, the Hon. Nick Xenophon knows a little bit about defamatory matters, I understand, but that is a very serious slur on a member.

I will apprise members about the geography of North Adelaide, in case they are not familiar. I am not sure whether the Hons Nick Xenophon and Ian Gilfillan are aware of the fact that the Hon. Michael Armitage lives in Molesworth Street. Mr Mick Atkinson has not hesitated to raise that matter. One could raise the question of whether it is the right thing to do in the House. He has raised it, so it is on the public record. I will not argue that point, but anyone who knows the transport movements in that area will know that no one would come up from Ovingham or Bowden up Barton Road and go down Molesworth Street to North Adelaide.

The Hon. Julian Stefani would understand this as well as anyone because Molesworth Street leads directly into Wellington Square. You have to traverse around Wellington Square and go backwards to get there. There are much better ways to arrive in North Adelaide with the protection of traffic lights. Having jogged around that area, and having been familiar with the movement of traffic, I can say with a lot of confidence that you do not get people turning left out of Barton Road into Molesworth Street: it just does not happen; and, before 1987, I have been told by long-term residents of Molesworth Street, it simply did not happen.

So, there are two lies in that: first, that the Minister for Health originated the action to have the road closed for his own financial advantage—that is untrue; and, secondly, the financial interest that was at stake because it would have degraded his amenity of Molesworth Street—that is also untrue in that it would not have made any difference to traffic movements whatsoever.

We come to 1996, where Mr Mick Atkinson, the member for Spence, continued his fusillade against the Liberal government, having run dead against the then Labor government for three years. He made eight contributions. The Labor Party members here are now grizzling about this. I am making my first speech about Barton Road and they are grizzling after 10 minutes, yet they had to put up with 36 speeches and 11 questions on the subject in the other place.

Members interjecting:

The Hon. L.H. DAVIS: That is right. I am giving you a taste of what it is like. There are Labor members who privately have said to me, 'We have to go along with Mick; he has put us all out on a limb with this.' They do not really believe it but it panders to his obsession. The honourable member as the shadow Attorney-General has two big obsessions: first, the drunk's defence and, secondly, Barton Road.

In 1996 he made eight contributions and, in fact, on 13 November 1996 (page 536 of *Hansard*) he put on the record that he had been 'let down by two ministers in the then Labor Government. There is no doubt about it.' In other words, two members of the Labor Government did not want to know about Barton Road and did not want to fix it. And why was that? The Hon. Nick Xenophon and the Hon. Ian Gilfillan might well ponder that.

In Mr Mick Atkinson's own words, why did two Labor Government ministers let him down? In fact, he made the extraordinary comment (page 536) that, in fact, he thought of crossing the floor on the subject, but, he said:

> I did not want to send the state to a general election over Barton Road, so I did not cross the floor.

These are matters of state.

An honourable member: Who is this?

The Hon. L.H. DAVIS: This is Mick Atkinson. He said (and I repeat):

> I did not want to send the state to a general election over Barton Road, so I did not cross the floor.

He is talking about his time when Labor was in government. In fact, in November 1996, he somehow managed to include the issue of Barton Road in his contribution on a motion about the Adelaide Airport curfew—quite extraordinary.

In February 1997 he continues the big lie when he states:

> It closed the Barton Road [and he is referring to the Adelaide council] to stop western suburbs people driving their cars and riding their bikes past the mansion of the Minister for Health.

As I have said, that is untrue and, in fact, it does not happen that people who came from there, before the road closure in 1987, ever drove down Molesworth Street to get to North Adelaide. They certainly would not have done it to get to Calvary Hospital, the Dominican school or the Mary Potter Hospice: they would have continued straight down Hill Street. Then, of course, we hear the self-interest of Michael Atkinson. He has never declared his interest—as I have today—in his 36 speeches or 11 questions. But in July 1997 (page 1 718 of *Hansard*), he said:

> For years my current bus, number 253, started at Port Adelaide and travelled to the city via Barton Road.

So, there is a bit of grief here. Mike used to catch bus 253. It still goes through Barton Road, through the closure, because it is allowed to go through the closure. Buses still travel down that road, but he is suffering grief because, of course, he is having difficulty growing up.

In 1998, to be consistent, he made another six speeches about Barton Road to show us how erratic someone is who claims that he might be the next Attorney-General (and, goodness, let us spare South Australia from that).

Mr Atkinson said back in 1995 that it was the Minister for Health who organised to have the road closed for his own financial advantage. Obviously he had just been to Tuesday mass when, in August 1998, he says:

> If I have said that he [Armitage] is directly responsible for it I withdraw and apologise. I have unduly personalised the matter. I apologise.

Having, for seven or eight years, unduly personalised the matter, is it not bizarre? It is all a little sick; it is all a little sad, really, when someone becomes so obsessed about a matter such as this and twists the truth to his own advantage.

Of course, one can look at the other road closures that do exist around Adelaide. I lived in Norwood for many years. I lived on Norwood Parade for 20 years and I lived on Fisher Street for 10 years, so living on Barton Road is no big deal to me. But anyone who lives in Norwood, Unley, Malvern or any of those eastern suburbs will know that road closures have meant that you have got to go a long way around.

If you are driving down Williams Street towards the city—as the Hon. Carolyn Pickles will testify with a nod of her head, thank you—you cannot go straight across Osmond Terrace: you must go up Osmond Terrace before you deviate.

The Hon. Carolyn Pickles interjecting:

The Hon. L.H. DAVIS: It is a damn nuisance. The Hon. Carolyn Pickles acknowledges the merit of the argument that I am advancing so eloquently today. In 1999, Mr Atkinson made a further six speeches. In the year 2000 I could not find any reference to it. I do not know whether he was off his feed or whether his bike had a flat tyre: I really could not say. Whether he had stopped going to mass or whether he was feeling guilty about the subject it was hard to know, because even the Labor Party does not understand the member for Spence.

Of course, he regained his confidence, composure and concern about this matter when, on 14 March this year, he really did excel himself when the Statutes Amendments (Local Government) Bill, which is now before us, was debated in the House of Assembly. I want members to remember that the honourable member did not have the courage to introduce the amendments himself, and one would ask why is that?

The Hon. T.G. Roberts: Why is that?

The Hon. L.H. DAVIS: The Hon. Terry—

An honourable member interjecting:

The Hon. L.H. DAVIS: That is right. You may well ask. But he had to use a vehicle and the Hon. Nick Xenophon is, of course, a willing vehicle, as we all know. In fact, one of my colleagues, as I earlier advised the Council, was alert to the fact that everyone around the place who followed this subject knew that the Hon. Nick Xenophon had been persuaded about the merits of the case. Never mind whether he knew about the history of the argument. Of course, that has never bothered him in the past and, indeed, it did not bother him on this occasion.

But let me just say that the Hon. Mick Atkinson, in his speech on 14 March, seriously defamed the Hon. Michael Armitage, and certainly made a speech that was extraordinarily inaccurate about both the Hon. Michael Armitage and me. I want to read this to members because my colleagues in this chamber probably have not heard this, and I think that they will be aghast and amazed that Michael Atkinson could put this in *Hansard*.

If one can make a comparison, the current Attorney-General is the straightest arrow I have ever met in this chamber but one cannot say that about the shadow attorney, because this is a disgraceful and slanderous attack. Let me read it to members. In reference to the Barton Road closure, Mr Atkinson said:

> The reason the transitional bill was delayed and then cut into two pieces was that two members of the government owned real estate that might have been affected by the amendment of the transitional bill. I refer to the owner of 72 Molesworth Street [that is the former Minister for Health] and the owner of 158 Mills Terrace.

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

The Hon. L.H. DAVIS: Let me just stop at that point. We know, from numerous speeches that have been made by Mr Mick Atkinson, the member for Spence, that Michael Armitage owns the residence at Molesworth Street. I have already rebutted the fact that the traffic flowed down there before the 1987 closure, or would flow down there if it was reopened. Basically, it is a road that just runs around the square and is not used as a through-road and is certainly not used by those who are of Catholic persuasion, as I have already evidenced. But, the owner of 158 Mills Terrace is, in fact—

Members interjecting:

The ACTING CHAIRPERSON (Hon. J.S.L. Dawkins): Order!

The Hon. L.H. DAVIS: —not me: it is my wife and she bought that property before I married her. She owned that property and I have moved in there as her husband.

The Hon. R.R. Roberts: You've done well.

The Hon. L.H. DAVIS: I have done well. I have done very well. But it says a lot about the thoroughness, does it not, of someone who says that he would like to be the top law maker in the state that he is so shoddy in his attention to detail. You would not find a mistake or the snide allegation coming from the Hon. Trevor Griffin. On page 1079 of *Hansard*, Mr Atkinson says:

> . . . this little sleight of hand—

that is, cutting the transitional bill into two pieces—

> will not work. It is a sorry state when an important transitional provision to a major reform of local government in this state rests on the personal interests of the owners of 72 Molesworth Street, North Adelaide and 158 Mills Terrace, North Adelaide.

He then goes on to say:

> The Hon. Legh Davis voted in his own interest on consideration of the transitional bill. So, the owners of those two properties will not get away with it.

Again, that shows what a deceitful and lying person Michael Atkinson is. I did not vote on the bill. I was not in the Council for that bill—I was not in the place—yet the Hon. Mr Xenophon stands up here—

The Hon. R.R. Roberts interjecting:

The Hon. L.H. DAVIS: I was not here. It is recorded that I had a pair. I did not even know that the debate was going on. So, there is Michael Atkinson, all gloss and glitter but no substance, yet the Hon. Nick Xenophon is prepared to back this man who stands up on high moral principles and makes these outrageous accusations. Let me continue, because there is more. He goes on to say on page 1079:

> I know the member for Adelaide and the Hon. Legh Davis may mock me for what they regard as my obsession with this question—

I would not call it an obsession; I would call it an early form of madness—I think he is off his tree—

> but they are equally, if not more, obsessed, and behind the scenes they have lobbied for this grubby little tactic of splitting the transitional bill in two.

Again, that is a downright lie. I have never lobbied in the party room. There is not one person in this Council or the other House who has ever heard me speak on this matter. Members of this chamber would know that I have not exactly been prominent in matters of local government; I have had other matters on my plate. Of course, that is the way it is in this Council. I have never lobbied or spoken to anyone on this matter.

As I have said, I did not know what Mick Atkinson meant when he made that remark to me earlier this year. I was highly offended when I knew what he meant: that I had the numbers to spoil the residential amenity. I found that highly offensive. I have never done that to anyone in this place. I may take on members in the chamber, but I leave behind what is in the chamber. For Michael Atkinson, a man who calls himself a Christian and who talks about his Christianity and flaunts it in the chamber, to talk in this manner is hypocritical and very demeaning. I think the Labor Party privately will be ashamed of his behaviour. But, there is more! He says:

> So I have to tell the new proprietors of 158 Mills Terrace that, not only will the number 253 bus—which ascends the hill from Bowden and travels past their home and causes them unutterable distress—continue to go past their house; not only will my clattering old bicycle continue—

I think that at the moment he is romancing the stone, shooting at a Pulitzer prize—

> to go past their house, whether it is lawful to do so or not; but, in the fullness of time, when Labor forms a government, the vehicles of residents of the western suburbs will go past 158 Mills Terrace.

There it is: this serious allegation that Michael Armitage and I colluded to con the Liberal Party into splitting the bill for our own personal gain.

I have made the point that I do not have a financial interest in that house; it is not owned by me. I have made the point that the Hon. Michael Armitage did not lead the closure of Barton Road. That is a lie, which Mr Mick Atkinson told some years ago. I also make the point that I have lived on main streets and that it does not bother me in the least. For instance, last night after we finished at midnight, I lay awake in bed and heard the trains. I thought for a while that it might have been Michael Atkinson changing the chain on his bike, but no, it was some shunting going on in the goodsyards, which I can hear quite clearly.

So, having declared my interest and speaking for the first time in a decade on Barton Road, as against the 47 times on which Mr Mick Atkinson has spoken, I just want to say that I am appalled and disappointed that the Hon. Nick Xenophon has been gulled into supporting this motion in this tacky fashion rather than having Mr Mick Atkinson (the member for Spence) introduce it.

I must also say that I am bemused, disappointed and surprised at the extraordinary inconsistency of the Hon. Ian Gilfillan who flaunts his parklands preservation at us and yet on this matter changed his mind in a very short space of time. It is quite a bizarre performance. He actually said, 'I am going to support this amendment', which will, in fact, not only cost a lot of money, one would imagine—it will also have road safety implications, and I have no doubt about that from talking informally to people—but it will eat away at the parklands which are so precious to his heart.

Progress reported; committee to sit again.

NAIDOC WEEK

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I seek leave to table a ministerial statement made in the other place earlier today by the Minister for Aboriginal Affairs on the subject of NAIDOC Week, which begins on Sunday 8 July.

Leave granted.

ELECTORAL (MISCELLANEOUS) AMENDMENT BILL

In committee (resumed on motion).

(Continued from page 1884.)

Clause 5.

The Hon. K.T. GRIFFIN: The luncheon break was a good opportunity to do some checking on what happens at the federal level. I thought that I ought to put on the record the information that has been ascertained. I am informed that, at the federal level, all members of the Senate and the House of Representatives along with all registered political parties (which number about 75 in the federal arena), on request, have access to comprehensive information on electors. This information includes a person's postal address, sex, date of birth, salutation, census district, enrolment transaction number, general postal voter status, local government area

enrolled, and Australia Post delivery point identifier. This information is available for any purpose in connection with an election or referendum. An election includes a state election and/or a local government election.

So everybody can see that it is extensively available at the federal level, and even to political parties that do not necessarily have a parliamentary representative. The only other matter is that, in relation to the roll change information for members of the House of Assembly, all House of Assembly members were given the opportunity to be provided with addition and deletion information in relation to the roll for his or her district. Those members who are receiving the information are able to discern whether the elector is a new citizen, and that is a special commonwealth program; transferred from another state; transferred from another district, including information on the previous district; re-enrolment; new to the district; and first time enrolment as an Australian citizen. They are also able to discern the reason for a deletion, for example, transfer, death, etc., and that service is available to members at no charge from the State Electoral Office.

The Hon. J.F. STEFANI: I have been able to research some of the information from other states, and I am happy to share that information with this forum. In New South Wales, the act is not specific about what can be supplied to MPs. Information, however, is supplied in electronic form on request, including names, addresses, gender, occupation and movements between electorates. It excludes date of birth. However, they are considering following the federal people and including this information with that which is readily available to MPs now.

In Victoria, MPs are provided once a year with details of names, addresses, gender and date of birth, plus monthly updates. In Queensland, MPs are supplied with the entire roll, including names, addresses, date of birth, gender, nationality and occupation. In Tasmania, the act allows MPs to have only the name and address. In the ACT, the name and address only is supplied to MPs. In the Northern Territory, details of name, address, gender and occupation are supplied to MPs. I have been waiting for a call, which I understand my office is dealing with now, from Western Australia, which will give further information as to what they do there.

The Hon. M.J. ELLIOTT: Obviously the lunch break has been very productive, as a number of people have gone off and done further research.

An honourable member: Did you?

The Hon. M.J. ELLIOTT: Yes, I did too. I had a close look at what happened in this parliament when the Electoral Act was being considered back in 1997. In fact, the Attorney-General introduced a bill to amend the Electoral Act in a number of ways, but it did not address this issue at all, and in fact this issue was not raised at all during debate in the Legislative Council. I went to the House of Assembly record of debate, and I was not at all surprised to find that in fact one Michael Atkinson was involved in moving an amendment.

Members interjecting:

The Hon. M.J. ELLIOTT: It was just a lucky guess! He moved an amendment which just simply said that members of parliament should have access to the rolls. What had happened prior to that was also discussed during that debate, with contributions from both the Hon. Stephen Baker and Michael Atkinson. The information used to be supplied, and it was during the Labor years that information privacy principle guidelines were issued to all members of the public sector. Members might recall that in fact I tried to get a privacy act in place in South Australia. But eventually privacy principles were promulgated.

At some point subsequent to that—it might have actually been after the Liberals had come into government—public servants were looking at what the requirements were under those information privacy principles, and it was quite plain that the provision of this information breached the principles, the guidelines that had been issued to all public servants. So, quite rightly, quite properly, from that point the Electoral Commissioner withheld that information.

If one looks at privacy principles which have been promulgated worldwide, one of the most basic ones is that information which is collected from a person is used only for the purpose for which is was collected, unless consent has been granted for other purposes. What happened at that point is, as I said, Michael Atkinson moved an amendment in the lower house which then said that members of parliament would have access to all this other information. A schedule of amendments came back to this place from the House of Assembly, and the Hon. Trevor Griffin moved that the Legislative Council disagree with that amendment, and then put forward his own amendment, which in fact is section 27A is it now stands, which says that members of parliament do have access to the data. However, and importantly, he did put in subsection (3) which provides:

> . . . information is not to be disclosed to a person of a prescribed class if the elector has requested the Electoral Commissioner in writing not to do so.

So the Hon. Trevor Griffin Trevor did the right thing.

The Hon. T.G. Cameron interjecting:

The Hon. M.J. ELLIOTT: Wait a second—I am not finished yet. The Hon. Trevor Griffin at that stage had made sure that, indeed, privacy principles were being obeyed. The Hon. Paul Holloway got up to speak next, and he said:

> The opposition agrees with amendment No. 1. I compliment the Attorney on the job that he has done in trying to clarify the amendment as it came from the other place, and I think that he has done a very good job in balancing the various needs. When dealing with information that is provided on an electoral role, given that we have compulsory voting throughout the country. . .

He went on, but I think the important thing is that the opposition at that point complimented the Hon. Trevor Griffin for that amendment, which gave members access to all that information, but also gave the right of privacy to electors so they could decide whether indeed they wanted that information to be divulged or not. I got up and spoke at that stage and said that I was concerned about the amendment that came in, that what the Hon. Trevor Griffin had done had certainly improved it but that I still had concerns. That remains my position, only now we have a severe deterioration. It appears now that both the government and the opposition are now recanting on something which they did only four years ago, and which overall—

The Hon. T.G. Cameron: Vested interest overrides principle.

The Hon. M.J. ELLIOTT: Well, that is what has happened. I am sure there are sensible people, on both sides, some honest people who really are feeling quite ashamed and concerned about what has happened here. If you go back and read the lower house debate you will find who a few of the key players were. It is not too hard to find out who the movers and shakers in the party were who really wanted this change that we are now seeing coming about.

So I thought it was important that the history of this be considered so that these amendments can be viewed in a very

clear context. I do ask the Hon. Paul Holloway what he thinks has gone 'seriously wrong' since he congratulated the Attorney-General on what he did back then. I would invite him to do that. Since he is going to vote on this clause, I think it would be only reasonable that he explain it to this place so the public of South Australia can understand why he has changed his mind, and I would hope that he could allay fears that it has nothing to do with the fact that virtually every South Australian, when given the opportunity not to have the information given to members of parliament, said, 'I don't want it to be given to members of parliament.' So I think he should explain why he has made his turnabout and why the wishes of people should not be respected, and why the most basic of all privacy principles should also not be respected. I have not heard a member of the government or the opposition answer those basic questions; they have gone off on tangents and have done everything they can to avoid the core issue.

The Hon. T.G. CAMERON: I would like to direct a question to the Attorney. If the bill passes it is clear that an elector's age will be available to the major political parties and that the rights of an individual to deny those political parties that information will be stripped from them. I think members of the public would be somewhat surprised if they were to discover what information members of parliament have on their computers about them. Do voters on the electoral role have the right to go to a member of parliament to check the information that he or she has on their computer to verify its accuracy under the Freedom of Information Act or any other act?

The Hon. K.T. GRIFFIN: That is an interesting question about FOI, but I do not think they do.

The Hon. T.G. Cameron interjecting:

The Hon. K.T. GRIFFIN: Because members of parliament are not part of the executive arm of government. It is an interesting point, but they are not an agency of the Crown or of executive government, and the Freedom of Information Act would not apply in relation to them.

The Hon. T. Crothers: We are employees of the Crown.

The Hon. K.T. GRIFFIN: Technically we are not employees. We are for federal income tax purposes, but technically we are not employees: we are elected members. It is a curious status—

The Hon. T. Crothers interjecting:

The Hon. K.T. GRIFFIN: We can talk about how members of parliament ultimately are covered for workers' compensation: it is not under the WorkCover legislation. There is an arrangement which is akin to that, but under the WorkCover legislation members of parliament are not employees. It is a very interesting debate.

The Hon. T.G. Cameron: But is the answer that you don't know?

The Hon. K.T. GRIFFIN: No, I'm telling you. As far as I am aware members are not required to comply with the Freedom of Information Act. Secondly, as far as I am aware access to the information that might be kept on electors by members of parliament is not accessible by individual electors. The one proviso is that I do not know the extent to which at the federal level the federal Privacy Act might impinge upon this. I do not think it would impinge upon state members of parliament but at the federal level it might. I would need to take that question on notice.

The Hon. J.F. STEFANI: I wish to complete my earlier statements with the information that has now come to hand. In Western Australia MPs are provided with the list of electors on request, plus monthly updates. The list includes the name only of silent electors. Electors can choose to be silent electors for reasons such as stalking, so they become silent electors and the name only is supplied. The name, address, gender, occupation and date of birth are provided for ordinary electors. There also is a habitation list, that is, a street address listing, but that does not show for silent electors.

New South Wales, Victoria, Queensland and Western Australia provide their state members of parliament with a list containing the complete names and addresses of electors. That is the situation in four state parliaments. If people wish to be silent electors there is the opportunity for them to register in that manner, and under those circumstances the name only of those electors would be available and nothing else.

The Hon. T.G. CAMERON: Can I seek clarification on that point? Is the Hon. Julian Stefani correct? If the bill is passed and we include an elector's age, and under section 21 if you opt to be a silent elector, my understanding is that they do not include your address on the electoral roll.

The Hon. J.F. Stefani: It's silent.

The Hon. T.G. CAMERON: Yes, silent electors. I really do not know but I am not sure that you are right, but my understanding of it is that if you elect to become a silent elector you get the name only and your address is excluded.

The Hon. J.F. Stefani: That's right.

The Hon. T.G. CAMERON: But if this bill is passed will not your age find its way back on there?

The Hon. K.T. GRIFFIN: We are dealing with the suppression of elector's addresses. Section 21 of the state act provides that, where an electoral registrar is satisfied that the inclusion on a roll of the address of an elector's place of residence would place at risk the personal safety of the elector, a member of the elector's family or any other person, he or she may suppress the address from the roll. So, what would go on the roll would be the name. The other information would be available, but not the address.

The Hon. T.G. Cameron interjecting:

The Hon. K.T. GRIFFIN: It is not easy to have your address suppressed. Quite a rigorous process is followed by the Electoral Commissioner because you have to establish that if the place of residence is disclosed it would place at risk the personal safety of the elector, a member of the elector's family or any other person.

The Hon. P. HOLLOWAY: Since the Hon. Mike Elliott has challenged me to make some comments I will do so. First, I will address the context in which I made comments when we were debating the bill some years ago. At that time I was the opposition spokesperson and on behalf of the opposition I supported that we have greater disclosure of information available to members of parliament because it was available to electoral officials. That was our original position. However, a compromise was reached since there were not the numbers to get it through both houses. That was the context in which I complimented the Attorney for finding a compromise—to resolve that problem.

Since the issue has been raised I would like to make a few comments about how important electoral rolls are to members of parliament. I have been a member of the Legislative Council now for almost six years and the number of times I use an electoral roll is relatively small. Having been a member of the lower house for some four years I can tell members that an electoral roll is an extremely important and

necessary tool for lower house members. It is one thing that members of the lower house would use—

The Hon. M.J. Elliott interjecting:

The Hon. P. HOLLOWAY: No, not for campaigning. Let me explain it to you. Almost every day lower house members would refer to the electoral role in some way or other. The most important thing is knowing whether electors are in your electorate or in the adjoining electorate of one of your colleagues or one of the opposition members. If somebody comes to your office you need to know which electorate they are in. Are they in your electorate or in somebody else's electorate?

An honourable member interjecting:

The Hon. P. HOLLOWAY: We will deal with that later. Let us deal with this issue now. Let us establish that electoral rolls are a very important and necessary tool of the trade, particularly for members in another place. I know because I have been there. They are very important for determining in which district they live. There are cases where the amount of information is very helpful and important to members of parliament. For example, if someone comes into your office, as often happens, and you need to send them correspondence, you might need to know what title they have. Sometimes people's handwriting is so poor. Members in this place probably get very little—

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: Well, Terry, you have never been in the lower house: I have, so on this matter I am substantially—

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: No, I did not last very long.

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: Well, we will see how long you last, Terry, but that is beside the point. Often, when people write to you, it is helpful to have the information that the electoral roll provides—even to get the title of the person to whom you are writing correct. I believe that it is a necessary courtesy that one should try to get the correct spelling of the name and whether they prefer to be referred to as Miss or Mrs—and that is where the age might be a helpful factor to determine that matter. As a House of Assembly member I have used the electoral roll on numerous occasions to get that sort of information correct, because I think I have an obligation to constituents for those common courtesies.

The Hon. M.J. Elliott interjecting:

The Hon. P. HOLLOWAY: It is relevant, because that sort of information, for example, about gender, can be very helpful. If someone writes to you as 'Lyn Smith', do you write back to them as 'Mr' or 'Ms'. That is where that sort of information from the electoral roll can be helpful in doing your job as a member of parliament. Let us have none of this nonsense that the electoral roll—

The Hon. T.G. Cameron: What do you want the birth date for? Did you send them birthday cards?

The Hon. P. HOLLOWAY: No, I didn't.

The Hon. T.G. Cameron: Maybe that is why you lost.

The Hon. P. HOLLOWAY: Some members do. In my day I do not think the birth date was on the electoral roll. That is an important point. In answer to the Hon. Michael Elliott's point, the other important issue about where things have changed is that now we have information available quite widely on the federal electoral roll. To some extent, we are in serious danger of misleading the public in this state if we tell them that, if they tick the box, they will not get that sort of information. In fact, we all know it is widely available through the federal resources. I think that is the most important reason for taking this thing off, because we are in serious danger of misleading the public about what information is available.

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: Well, that information is available from federal rolls.

The Hon. T.G. Cameron: That is a long bow.

The Hon. P. HOLLOWAY: I do not think it is a long bow: I think it is an important principle. My final point about the privacy question is that we just had an article—I am not sure whether today or yesterday—by Dean Jaensch who is now telling us what a pity it is that we got rid of the Australia Card when Bob Hawke proposed it back in the mid 1980s. Now there is so much information—

The Hon. M.J. Elliott interjecting:

The Hon. P. HOLLOWAY: Well, personal identification—and that leads me to another point. We have just had a select committee in the federal parliament—and I assume the Democrats supported the government of the day—that is saying that people should produce ID when they vote at elections. Here the Democrats are saying how dreadful it is that people should have their birth date on the electoral roll but, when they go to vote, they should have to produce ID—which would disenfranchise, in my view, many hundreds of thousands of poorer people, particularly indigenous people.

The Hon. M.J. Elliott interjecting:

The Hon. P. HOLLOWAY: Well, it might go down; maybe it would. Why should it?

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: Perhaps the Hon. Terry Cameron believes the poorest people in our community should be denied the right to vote. Is that what he thinks?

The Hon. T.G. Cameron interjecting:

The CHAIRMAN: Order, the Hon. Terry Cameron!

The Hon. T.G. Cameron: Where did you pull that rubbish from?

The CHAIRMAN: Order!

The Hon. P. HOLLOWAY: Well, you are saying that IDs are a good idea. The fact is that some of the poorest people in our community do not have access in many cases to the sort of information that would be necessary. On the one hand, the Democrats—I assume they are part of the recommendations—are talking about producing—

The Hon. M.J. Elliott interjecting:

The Hon. P. HOLLOWAY: Well, perhaps you can tell me if your federal colleagues—

The Hon. M.J. Elliott interjecting:

The Hon. P. HOLLOWAY: It was a majority report. I said 'I assume' because it is a majority report. It would not have got up by itself, so there must have been some Independents and others who supported it.

The CHAIRMAN: Order! The Hon. Paul Holloway will address the Chair.

The Hon. P. HOLLOWAY: We will see what happens there. These are the sorts of recommendations that are going around now within the federal parliament. What a lot of rubbish when we have people talking about the need for that sort of intrusion and, at the same time, saying people's birth dates, which they are required to give to the Electoral Commissioner, should not be publicly available. I support the amendment moved by my colleague.

The Hon. M.J. ELLIOTT: I want to confirm a couple of figures. Is it correct that currently about 10 per cent of people

on the South Australian electoral roll have opted not to have that personal information divulged? Is that an accurate figure?

The Hon. K.T. GRIFFIN: It is about 13 per cent.

The Hon. M.J. ELLIOTT: Can the Attorney-General give any indication of what percentage of people, when offered the choice, have been opting to not have the information divulged? Obviously, the 13 per cent would be people who have either just enrolled or transferred.

The Hon. K.T. GRIFFIN: On very small samples—and that is all that has been done—it looks like it is around 50 per cent.

The Hon. T.G. CAMERON: I want to address some of the comments that were made by the Hon. Julian Stefani, because I am not sure he appreciated my concerns about the provisions of this clause. As I said earlier, I can accept the arguments in relation to paragraph (a), that is, striking out paragraph (c) of subsection (2) and substituting a paragraph in relation to the elector's age. I made reference to it for the Hon. Julian Stefani's memory. I did make reference to that fact. It is a fact that your birth date is widely available throughout the community. No-one is denying that and I said that in my contribution. If you use a bankcard, when you ring up they will ask you what your birth date is. It does not matter what accounts you go to pay over the telephone, they will ask you for some kind of identification, whether it be your birth date, middle name, mother's maiden name or father's middle name—or whatever it is you might have lodged.

I accept the point that the Hon. Julian Stefani is making that the elector's age and birth date is information that is abroad in the community. It is not all that difficult to get hold of that information if you want to. However, that is not the point I was making. The point I was making is: why specifically do they need the elector's birth date when they have their age band? As the Hon. Carolyn Pickles suggested, it could be that some members of parliament, such as the federal member for Hindmarsh, send out birthday cards to everyone. I guess that must be costing the taxpayer quite a few dollars. There are about 70 000 or 80 000 voters, and my understanding is that they all have a birthday each year and, if she is sending out a birthday card to each of her electors, I would consider it to be a gross abuse and waste of taxpayers' money. On the other hand, if she is sending birthday cards to only a select few, that is something she herself would have to answer for.

My real concern is paragraph (c), to which I directed the Hon. Julian Stefani. I can accept there is an argument both ways about an elector's age but this parliament introduced, as I understand it, some four years, a provision which allowed—and I have always thought the Hon. Julian Stefani was a libertarian—individuals, if they chose to, the option of saying, 'I do not want that information, that is, my age, available on the roll.'

The Hon. M.J. Elliott interjecting:

The Hon. T.G. CAMERON: Well, we gave them the right. The Hon. Mike Elliott interjects: why should they not have the right? I cannot think of any reason why any individual does not have the right to say, 'I do not want that information included.' Who is the information being provided for and to whom does it go? It is being provided to the Electoral Commission for its purposes. Make no mistake about this: the reason the Liberal and Labor Parties want this information is to use it for campaigning purposes.

I accept the Hon. Julian Stefani's point. We could knock over paragraph (a) and, if any member of parliament really wanted to, with a modicum of effort, they would probably be able to track down the age of every elector in their electorate. However, one would have to ask: why would they take the time and trouble to do it? They may want to know that they are between 30 and 35 years or between 30 and 40 years, but why would they want to know whether their birthday is on 19 or 21 October?

What has me spewing about the cosy little club that Labor and Liberal have enjoined into is paragraph (c). I know the Hon. Julian Stefani does not have to answer this question, but I would be very interested to hear from him, in view of his passionate contribution in relation to age and so on, why he would now want to take away an individual's right to deny members of parliament information on their birthday when they can have their age banned? Surely that is a fundamental civil liberty (I used that word before and I was told that it was wrong). Surely it must be a fundamental human right to say, 'I do not want members of parliament to know my birth date. I do not know what they will be using it for—they might start sending me birthday cards, birthday presents or whatever.

The Hon. R.R. Roberts interjecting:

The Hon. T.G. CAMERON: We can relax: I cannot imagine the Hon. Ron Roberts sending birthday cards to anyone. One would not know whether or not to open the parcel. I am not directing this at the Hon. Julian Stefani because I am trying to put him on the spot, but it was obvious that he holds passionate views about electors' ages. I can accept that there are two sides to the argument, but I cannot see the other side of the argument. The Labor and Liberal Parties have the numbers on this. It has been put forward by the Labor Party, and I can understand why but, for the life of me, I cannot understand why any one single member of the government would want to go along with it. They must be getting pressure from Lower House members that, because an election is coming up, more information is needed so you can target people more accurately in relation to the campaign and the people you do not have information on.

If the Hon. Julian Stefani would like to comment on that, I would be interested. I accept his argument in relation to paragraph (a) both ways, but I would be interested to hear why we will take this right away from people to deny members of parliament this information. I asked the Attorney-General a question earlier about freedom of information and so on. It would appear that we are not absolutely certain. The Attorney-General may be certain, but sometimes when I get these certain answers from him at the end I am left in a complete quandary. I thought I knew at the beginning but, by the time the Attorney gets to the end of his answer, I am thoroughly confused. That may be my lack of intellect or lack of legal knowledge—I do not know.

There is a whole lot of information—not just the age, not just the address—that is gleaned about electors from a whole variety of sources that ends up on the computer hard disks of members of parliament. My question to the Attorney is: if electors do not have the right to access the information and to verify the accuracy of the information that members of parliament have on their computer records about them (and I am sure the Attorney is aware that, in many other areas, citizens have the right to go in and ensure that the written information being kept about them is accurate), will the Attorney agree to adjourn this debate to allow me an hour or two to go away and prepare an amendment to give electors that right?

If the Attorney wants to go ahead and put in the age, I believe that members of the public ought to be told about this.

People ought to be advised that, if they want to check the accuracy of the information (and some of it runs into pages and pages) that their member of parliament has about them, they ought to have the right to go and check that information. If that right is not to be afforded to them, it begs the question: why? We are supposed to live in a democracy; we have members of parliament, and we have people voting. If members of parliament are keeping records on individuals (and this will only add to that record keeping capacity) surely the individuals whose records are being kept have a right to go in and access that information and to say, 'That's not right. I am no longer married', or, 'I'm not a bankrupt', or they are not this or not that.

If electors do not have the right (and perhaps I can get the answer to that question), will the Attorney agree to an adjournment to allow me time to get hold of one of the parliamentary scribes to prepare an amendment that will give people the right to access this information? It might make some members of parliament a little more circumspect about what they put on their files about their constituents.

The Hon. K.T. GRIFFIN: Mr Chairman, in relation—

The Hon. T.G. Cameron interjecting:

The CHAIRMAN: Order! The Hon. Mr Cameron has had his say—400 times!

The Hon. K.T. GRIFFIN: In relation to the honourable member's question about process, what I would like to suggest—

The Hon. T.G. Cameron interjecting:

The CHAIRMAN: Does the Hon. Mr Cameron want to hear the answer?

The Hon. K.T. GRIFFIN: What I was going to suggest to the honourable member is that we do not adjourn the debate but that, if he gets an amendment prepared after we have been through the committee stage, I would be prepared to recommit the clause to enable him to move an amendment that sought to achieve his objective, and we can then debate the issues. But I do not want to hold up the consideration of this bill for the purpose of enabling an amendment to be drafted on that point when, in fact, there are other ways in which we can deal with it. The member will not be denied the opportunity to put it, if he wishes to do so.

The Freedom of Information Act applies to an agency; a minister of the Crown; a person who holds an office established by an act; a body corporate (other than a council) that is established for a public purpose by, or in accordance with, an act and comprises or includes, or has a governing body that comprises or includes, a minister of the Crown or a person or body appointed by the Governor or a minister of the Crown; an unincorporated body established by the Governor; a minister; an administrative unit under the Government Management and Employment Act (which is now, of course, the Public Sector Management Act); the Police Force of South Australia; a person or body controlled by the Crown; or an instrumentality or agency of the Crown, declared by the regulations to be an agency, but does not include an exempt agency. An exempt agency is a council or a person or body referred to in schedule 2, or an agency declared by regulation to be an exempt agency.

Schedule 2 indicates that the Legislative Council or an officer or committee of the Legislative Council, the House of Assembly or an officer or a committee of the House of Assembly are an exempt agency. In my interpretation of the definition of 'agency', a member of parliament is not an agency and, therefore, the Freedom of Information Act does not apply.

In relation to the substantive issue that the honourable member has raised about members of the public having access to the records that might be kept by a member of parliament, I would have some reluctance in agreeing with the principle. I will give it some thought between now—

The Hon. T.G. Cameron: Surprise, surprise!

The Hon. K.T. GRIFFIN: You opened it up for members of parliament. Where do you draw the line? It is not just members of parliament—

The Hon. T.G. Cameron: If you can't go and have a look at what your elected representative has on file about you, there's something wrong.

Members interjecting:

The Hon. K.T. GRIFFIN: There are special provisions relating to credit agencies. There are special arrangements in relation to credit agencies, where you can check your information in respect of a credit reference type agency. But you cannot go along to just any organisation on the basis that it may have kept some information on you and seek to have access to it. It may be that there ought to be a right to do that but I think, with respect, that is a huge policy question that we ought to really debate at greater length rather than just dealing with it in the context of this bill. We can have part of that debate if the honourable member proposes an amendment—and I have indicated he will not be prevented from debating it. I would be prepared to recommit the clause if the member gets an amendment drafted, but I certainly do not want to hold up the debate in committee at this stage.

The Hon. J.F. STEFANI: I want to respond to the Hon. Terry Cameron very briefly. I would say to the member that I am not under any pressure, and I am not likely to be under any pressure from any of my colleagues or any other member of the lower house, and he would know very well that I am not likely to be a squib under any pressure in relation to any matter. I just want to put that issue to bed and respond to that request.

I respect the member's comments in relation to the rights of people in regard to having their personal information disseminated widely. However, when we consider the process that exists now, we have the electoral role at the federal level, which provides a very wide range of information. At the state level, we have a system that provides the name, address, gender and age bands for those people who pay and receive that information. It seems to me that, if someone wants to take the trouble to obtain the federal electoral roll and fill in the gaps of the age band, they have the information, anyway. So, really, we are dealing with a convoluted system that provides the information, in the end, to any member of parliament.

The other aspect that I think we ought to address is that a lot of information is collated (and the member is quite right) when surveys of a particular nature are undertaken. Whether it be with respect to speed cameras or other matters, when we want to get feedback, I am sure that we probably include the person's age, so that we know whether the young driver is a habitual speeder, and so on. I do not know whether this is a common practice, but I know that many of the surveys that are conducted include the date of birth, so that we know whether the person is aged, middle aged, or whatever.

The Hon. M.J. Elliott: But they're not identifying that individual; that's different.

The Hon. J.F. STEFANI: When surveys are carried out, people are asked, 'How old are you? What is your date of birth?' That is done. Much of that information, as the honourable member has already pointed out, is readily

available now. We can access it by one means or another. So, quite frankly, I respect the process. It might be that the Attorney, to advance this clause, may consider an amendment that accommodates members of the public who wish to have their age or date of birth preserved as non-available information. Those who really do not—

The Hon. T.G. Cameron: Are we going to take that right away from them?

The Hon. J.F. STEFANI: At this stage, I believe that we can fill in the gaps through another system. So, I see that it serves no purpose.

The Hon. T. CROTHERS: This has been a very interesting, if somewhat lengthy, debate on these three provisions. If I may I will, just in a composite form, sum up and make some interesting comments, I trust, in respect of some of the positions that have been compounded at length by some of the speakers. A great part of the debate has centred on people having the right not to include their age on the electoral form. I want to say this: that is at odds—

The Hon. J.F. Stefani interjecting:

The Hon. T. CROTHERS: —I am coming to you—with the position taken, I think, in a considerable fashion earlier in the debate with respect to another amendment moved by the Hon. Mr Cameron and supported by the Hon. Mr Elliott, namely, that we would reduce the voting age from 18 to 17.

It would not be impossible for the Electoral Office to check out fresh applications for people under 18 in respect of voting, but could it not and can it not do it much more easily by having that information on the application card? I am sure that it would then go to the Register of Births, Deaths and Marriages, where one's age is registered anyhow. So, if you want to stop people from getting lists of confidential information in respect of people's age, what are you going to do about the registration of births, deaths and marriages? What are you going to do about potential leaks? The Hon. Mr Elliott said that he had had a very productive dinner. I suggest that, probably, he ate a plate of leak soup. What are you then going to do in respect of the Department of Census where all and more information is asked for and it is an offence not to give it in respect—

The Hon. M.J. Elliott interjecting:

The Hon. T. CROTHERS: Well—

The Hon. M.J. Elliott interjecting:

The Hon. T. CROTHERS: I am just making the point to the honourable member that if he wants to have a totality—

The Hon. M.J. Elliott interjecting:

The Hon. T. CROTHERS: The honourable member is missing the point, because if you want a totality you do not buy a tank for the army and buy only the steering gear, and that is what you are doing. You are making a situation regarding this one particular act when a dozen other acts can provide readily the same information. I mentioned the census form and the Registrar of Births, Deaths and Marriages. I have used the internet to look at the history of my family, as I said earlier this morning. I have found the death certificate of my father's eldest brother who died in the United States. It displays his name and date of birth—it has the whole bit on him. I also want to say that I am an Australian citizen, not by birth but by choice—

The Hon. M.J. Elliott interjecting:

The Hon. T. CROTHERS: By choice. Unfortunately, the honourable member is Australian by birth: the damage some people who are Australians by birth can do is inestimable. But on those applications you must state just about everything, including your blood type, and do not tell me that there are not leaks in those places. There are leaks from the Public Service because this government and a previous Labor Government have had to fine public servants for releasing confidential information.

How do you think these people who are advertising products get this information? Suddenly you receive a letter in your mailbox and, on many occasions, it has your name and address on it, who you are and all about you—they know all about you. They pay big money. Professional companies in Australia compile those lists. What twaddle that it is a big thing that age should go on the electoral role. What a heap of twaddle. We have debated this now for two hours, when in fact you can get the same information through the list process, and, as I said, from the Department of Births, Deaths and Marriages, the census forms and the citizenship application forms.

Let us stop wasting time when—and I refer to the next point that is coming up, which I think is really damaging—there are more interesting and more important matters to be dealt with than whether or not we give every citizen a feather duster. Let us proceed to vote on this issue. I am still supporting the amendment of the Leader of the Opposition for the reasons I have outlined. I hope I do not have to speak again in this particular debate—

The Hon. T.G. Cameron: I think you will have to.

The Hon. T. CROTHERS: I am sure I will.

The Hon. M.J. ELLIOTT: The previous speaker has missed an essential point. It is simply a question of: for what reason is data collected and for what purpose is it used? The only reason the Electoral Commission needs the date of birth is to establish whether or not the person is old enough to qualify to vote. Under privacy principles the basic statement says that that information is used for the purpose for which it is collected, and the purpose for which it is collected is to establish that a person has a right to vote. That is what it is about. In terms of information about place of birth and things such as that, that also aids them in ascertaining whether or not they are who they claim to be and so on. All that information is about establishing whether or not the person has a right to be on the roll.

What had happened for a number of years is that, despite the fact that that is the purpose for which the information was being collected, a pattern had evolved where the information was being supplied for other purposes. What happened some four or five years ago was that, when the privacy principles were being enforced in the public sector, they said, 'You should only use information for the purpose for which it is collected.' Quite rightly, the Electoral Commission said, 'It is collected because we need to ascertain the person's identity to ascertain whether or not they are eligible to vote. It cannot be supplied for other purposes.' The Electoral Commissioner did what is required under the privacy principles, which were issued under the honourable Chris Sumner, as I recall, but I think that the then Liberal opposition was supportive of those principles.

What we are now doing is passing amendments which say, 'There is another purpose,' and this other purpose is that members of parliament want it. Previously members of parliament could have got it. However, a person still had a right to say, at the end of the day, 'I do not want it to be used for other purposes.' We are now told that 13 per cent of South Australians have said, 'We do not want it being used for another purpose.' So far at least half of the people who have been asked that question have said, 'We do not want it used for another purpose.'

The Hon. P. Holloway interjecting:

The Hon. M.J. ELLIOTT: No, wait a second, just let me finish. They do not have a choice because—

Members interjecting:

The ACTING CHAIRMAN: Order! The Hon. Michael Elliott should ignore the interjections.

The Hon. M.J. ELLIOTT: I am not sure whether your mother ever said to you when you were young, 'Two wrongs do not make a right,' but it is an absolute truism that, when someone else is doing something which is not right, it does not justify your doing it as well.

The Hon. Carolyn Pickles interjecting:

The Hon. M.J. ELLIOTT: Well, I am not the only one. There are several other members of this place who have actually argued the same. I might say that half the members of the public who have been asked about it have said that they want to the right to say that they do not want you to have that information. The honourable member then starts putting up this excuse: 'I really want to know whether I have to put Mr, Mrs or Ms, because I want to be polite.' Is it not more polite for people to say, 'I don't want you to have that information; therefore, you will not have it.' They take the risk by not providing you with that information of getting a letter that does not identify them as Mr, Mrs or Ms. That is the terrible risk that they take for not letting you have that information. Should it not be their choice, or should it be your choice—'I want to be polite; I need that information so that I can address a letter properly.'? What nonsense!

The Hon. T. CROTHERS: There is one point that I wish to make regarding this matter that slipped my mind. However, in a rectitudinal fashion I will correct that. I have always been a supporter, as a person who was born in Europe, of Australians having an identity card—and I will continue to be supportive of it. I was so before the Hawke and Keating proposal was withdrawn and defeated and I will continue to be so until my dying day.

One of the largest problems confronting this earth at this point of time is economic migration. Have a look at what is occurring in Spain, Portugal and to the north of our country around the Ashton Reef and that part of the coast, and in this respect I refer to the number of illegal immigrants that we are getting. Some of those people may well be in fear of life and limb, but I put to you that the majority of those people are economic refugees. They are displacing other people for whom we have a program that deals with those. If there was an identity card, this could not happen.

It is no good people talking to me about privacy. Here is a case of privacy going mad, because it will not allow for the introduction of an ID card, which would have prevented us having to spend millions of dollars on detention camps and being brought before the United Nations. I have every sympathy for those people if they are genuine refugees, but many of them are not. As in Europe, they are economic refugees. That is a different question: that involves the distribution of wealth in the world. If we had an ID card, they would be picked up much more easily than is the case now.

The Hon. P. HOLLOWAY: Earlier, I made some comments in response to an invitation from the Hon. Mike Elliott. Unfortunately, I did not have a chance to research those matters at that time. For the record, I have checked, and the recommendations of the Joint Select Committee on Electoral Matters were supported by two Australian Democrat senators: Senator Andrew Murray and Senator Andrew Bartlett.

The Hon. T.G. CAMERON: Will the Attorney tell me what is the impact of paragraph (b)?

The Hon. K.T. GRIFFIN: The footnote is consequential upon paragraph (a). The footnote states:

> For the purposes of this subsection, electors' ages will be divided into age bands in accordance with the regulation.

It is just a footnote that is being deleted.

Amendment carried.

New paragraph (a) carried.

New paragraph (b) carried.

The committee divided on new paragraph (c):

AYES (16)

Crothers, T.	Davis, L. H.
Dawkins, J. S. L.	Griffin, K. T.
Holloway, P.	Laidlaw, D. V.
Lawson, R. D.	Lucas, R. I.
Pickles, C. A. (teller)	Redford, A. J.
Roberts, R. R.	Roberts, T. G.
Schaefer, C. V.	Sneath, R. K.
Stefani, J. F.	Zollo, C.

NOES (5)

Cameron, T. G. (teller)	Elliott, M. J.
Gilfillan, I.	Kanck, S. M.
Xenophon, N.	

Majority of 11 for the ayes.

New paragraph thus carried.

New paragraph (d) carried.

The committee divided on new paragraph (e):

AYES (6)

Holloway, P.	Pickles, C. A. (teller)
Roberts, R. R.	Roberts, T. G.
Sneath, R. K.	Zollo, C.

NOES (15)

Cameron, T. G.	Crothers, T.
Davis, L. H.	Dawkins, J. S. L.
Elliott, M. J.	Gilfillan, I.
Griffin, K. T. (teller)	Kanck, S. M.
Laidlaw, D. V.	Lawson, R. D.
Lucas, R. I.	Redford, A. J.
Schaefer, C. V.	Stefani, J. F.
Xenophon, N.	

Majority of 9 for the noes.

New paragraph thus negatived; clause as amended passed.

Clause 6 passed.

Clause 7.

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

Page 4, after line 10—Insert:

(ab) by striking out the definition of 'parliamentary party' in subsection (1) and substituting the following definition:

'parliamentary party' means a political party at least one member of which is—

(a) a member of the Parliament of South Australia; or

(b) a senator for the state of South Australia; or

(c) a member of the House of Representatives chosen in the state of South Australia;

This amendment has arisen in the context of consideration being given to the circumstances in which a party may become eligible for registration as a political party. Currently, any party which has a member who is a member of any parliament within Australia can be registered without needing to satisfy the current membership requirement. The government considers that this definition is too broad. The reason

for requiring parties to satisfy a membership requirement is that a party should be able to demonstrate a level of support within the community before being eligible to be registered as a political party. Parties which have members who are members of a parliament are excused from this requirement because membership of parliament is in itself indicative of community support. However, electoral support in another jurisdiction does not necessarily transfer to support in South Australia, especially where the party support is primarily based on local issues. An extreme example of this is the United Canberra Party, which is represented in the ACT Legislative Assembly.

Under the current law a number of fringe parties have representation in other states including, for example, the Outdoor Recreation Party, and Unity and Reform the Legal System, all of which have members of the New South Wales Legislative Council which would be able to obtain parliamentary party status in South Australia, and hence satisfy the registration requirements without being required to demonstrate a membership as currently required of 150 members. These parties may have minimal support in South Australia, and it is considered that this is an unjust situation. For these reasons, the government's amendment will limit the definition of 'parliamentary party' to parties whose parliamentary membership has a South Australian connection, that is, parties with a member who is a member of the South Australian parliament, a senator for the state of South Australia or a member of the House of Representatives chosen in the state of South Australia.

The Hon. CAROLYN PICKLES: The opposition supports the amendment.

The Hon. T.G. CAMERON: I oppose the amendment. The figure that the government and the opposition have agreed upon is 300. This is increasing the figure from 150 to 300, which is a doubling of the figure. The figure in New South Wales is 750. If you equate that on the basis of 300 in our population versus the New South Wales population, that would mean that New South Wales probably should have a figure of about 1 200.

I want to make it quite clear that, while some people may regard 150 as too low, I point out to the committee that that refers to electors. So, you would have to satisfy the commission that you have 300 electors on the roll. If both of the major political parties checked their membership rolls, dragged out 1 000 people and checked them against the electoral roll, they would probably find that something like 30 per cent or 40 per cent of them might not be on the electoral roll, because it would not take into account anybody under the age of 18, or anybody who had not put themselves on the electoral roll.

It comes as no surprise that Labor and Liberal would support an increase from 150 to 300, because it will—and they know it—effectively snuff out any opportunity for a small party to be launched in this state again. Some members might say, 'Cameron is opposed to this only because his party does not have 300 members.' SA First is not affected by this provision because—

The Hon. Carolyn Pickles interjecting:

The Hon. T.G. CAMERON: Thank you for the ongoing commentary: I was aware of that. SA First originally obtained recognition by the South Australian Electoral Commission as a parliamentary political party. We have subsequently sought to have that changed so that we are now a registered political party, not a parliamentary political party. But, how on earth you would ever be able to launch a new political party, sign up 300 members and then get it registered is beyond me, because you are not quite sure which comes first—the chicken or the egg. In SA First's case it was a fairly simple matter, because SA First had parliamentary representation.

Make no mistake about it—and I am sure it will not be of any concern to any of those members from the two major parties: this clause is all about snuffing out or stopping new political parties from emerging. The figure is being increased from 150 to 300 as a desperate attempt by the major parties to try to maintain the two party system in this country. I think they may well find out at the next federal election that they have already lost the two party system in this country. I suspect that we are going to have a three party system.

So, I submit to the committee that the prospect of a new political party that does not have a parliamentary representative setting itself up, getting established and launching itself is going to become extremely remote under what I consider to be a reasonably draconian position supported by the two major parties with the aim of snuffing out the possibility of new political parties emerging in this state. One of the practical difficulties is that, when you start a new political party, you may not be able to call it a new political party if it does not have registration. One of the first things that people ask when they are considering joining is, 'Are you a real political party?'

What is a real political party? I suspect that what will happen is that a party will be deemed to be a real political party only if it has some form of political registration. If it does not have a member of parliament—and it would not have unless the situation had developed, say, like mine, where I left one party and started a new party—it will be extremely difficult for any new political party in this state to get up. That is what this clause is about. I know that the major parties will deny it. They will talk about all kinds of electoral fraud being perpetrated on the public by people starting up new parties and running them, and so on. The lie to that argument, surely, rests in the fact that a new political party that was going to get a member elected to this parliament would realistically only have a chance of getting a member elected to the upper house. Political parties, whether registered or not, are allowed to use five words to describe themselves, so that would be a way around that particular provision. I place on the record my opposition to the increase. I would have accepted 200 or 250, but doubling it in this manner, with the opposition's support, is all about trying to maintain the two-party system.

The Hon. NICK XENOPHON: I share and support the Hon. Terry Cameron's concerns.

The Hon. T. CROTHERS: I, too, like the two previous speakers, have very strong reservations about this particular clause, and indeed I have reservations about the way in which it is worded. We have seen, emerging out of the political ruck over the past five years, a plethora of political parties other than the three major parties, that is, the Liberal Party—I suppose the Country Party as well—the Labor Party and the Democrats. A number of other political parties have emerged, including One Nation—not that I have any time for them—Australia First, SA First and the party that Campbell in Kalgoorlie set up when he last won—although I now notice he is carrying the banner of One Nation. We have had several Independent members elected for the first time in a number of years, some of whom were Independent Liberals because they could not get on with the Western Australian branch; and other people such as the radio announcer on the north coast

of New South Wales and the bloke in North Sydney who was Independent and who has just retired—things that were unheard of some years ago.

When one looks at the results of elections, whether it be Peter Beattie (who is a great friend of mine), Steve Bracks, or Geoff Gallop in Western Australia, as big as the swing has been against the government in the states—which in all cases was the Liberal Party—that swing in the main has not been going to the Labor Party. In Victoria, where in fact Kennett was defeated by the country based people, a number of Independents were elected as well. There was a swing away from the government of about 14 per cent, but the ALP vote, if I remember the figures correctly, increased by only 2 per cent.

This amendment is put up by the government for a couple of reasons. First, and there can be no doubt, all the major political candidates had commenced the activity of running dummy candidates so that they could hive off their preferences and deliver them to their major candidates. All the major political parties were guilty of that. The rumour mill works wonders. I do not want to say on the *Hansard* record what I have heard. They were all rumours but in my view they were well founded. Obviously the government has got wind of that and has sought to make it 300 members in an endeavour to try to stop that rorting. It may well have that effect—indeed, I think it will—but in addition to that, it is a real, rude blow against democracy in this state.

When we go back to what is supposed to be the bed of western democracy, that is, the Greece of Socrates, Archimedes and the Athenian leader whose name escapes me but who was probably the best leader Greece ever produced, we found that they smashed an amphora and every citizen was given a piece of that amphora. It was their right to vote; there was no registration there. If this amphora was not complete, if parts were left over and came out of the ballot box, it was declared a no-contest and the election was run again. The representatives of the electoral office would be more aware of that than I am.

That was the sort of democracy that we are told came down to the west via the Romans and via the so-called western civilisation of the western empires of Spain, Italy, and then latterly the UK and the US. However narrowly we undermine one more little part of the democratic process, one must always ask the question: does the cause justify the means? In this case I believe it does not. For example, we talk in terms of trying to get our young people interested in politics. We allow schools to come in here and have mock parliaments, etc. We do all that, but there is no doubt that there is apathy out there among younger people relative to politicians. With the exception of used car salesmen, politicians are held in the lowest regard. In all the public polls that are conducted, politicians are held in the second lowest regard among semiprofessionals or leaders in the community.

Let us say, for instance, that you have a student body at a school who are not registered to vote but they decide that they want to form a political party and send a person who is registered into the parliament. This bill will deny them that right, because it provides for 300 electors. We hear about some of the people who have been signed up into the Democrats, the Labor Party or even the Liberal Party, where a branch in Alice Springs had 30 members and a Labor Party branch in Coober Pedy had about 40 members. If those are the things you are endeavouring to stop, the cure is worse than the cause.

It does not matter how the Labor Party or the Liberals try to dress this up: this is a recognition by them that the two major political parties are on the electoral nose. If you properly analyse all the elections that have occurred in the past four or five years in Australia you will see that they are on the nose. I think their total combined vote at the moment is about 75 per cent, with 25 per cent of the vote going to other parties. I do not know about the accuracy of the polls, but I notice the Democrats are showing 18 and 19 per cent.

The Hon. M.J. Elliott interjecting:

The Hon. T. CROTHERS: That low, or a bit more? But the position is that this is a rort by the major political parties. This is a strike against democracy yet again. This is not water on the democratic stone; this is another a deluge almost back to the time of Noah. It is of that magnitude in respect of democracy. I utterly reject it, utterly oppose it. In my little humble way I will spend whatever time I have on whatever media channel will allow me to do so speaking out against this. I understand the rationale of the pseudo legal parties run by all the major parties. We have seen the case of Peter Bachelor putting in a false how-to-vote card—found guilty of it at one stage. We have seen another case as well. But this is not the way or the manner in which this should be dealt with.

It strikes at the very roots of democracy and I utterly oppose what you are trying to do; I understand what you are trying to do. This will not succeed, because you will get the tombstone position of the ALP in Coober Pedy or the Liberal sub-branches in the Northern Territory, the same as the Al Capone position in Chicago when he was going around before one election taking the names of the dead off tombstones and then going in and registering and telling his gunmen and henchmen to vote early and often. You will not stop the rorting this way. You will temporarily strengthen your own position, and this is what this is aimed at. If the Attorney can convince me of some other reason why it is there, I have been known to change my mind. Three hundred electors is an absolute strike against the democratic processes in this state, and I oppose it utterly. I have no axe to grind because I am retiring.

The Hon. R.D. LAWSON: Could the Attorney explain to the committee by way of explanation the effect of this definition of 'parliamentary party' because it links in to registered parties? As I understand the act as it presently stands, there are a couple of effects in being a registered party: first, the party's name can be printed on ballot papers; and, secondly, a party can make a multiple nomination for election. We do not have as they have in other jurisdictions public funding for registered parties, so there are no funding implications in being a registered party. What is the advantage of being a registered or parliamentary party other than the fact that one's name can be printed on ballot papers and other than the fact that the new financial disclosure requirements on campaign donations include reference to political parties? Proposed section 112 will limit to certain names the registered parties, those which can have their name published on a how-to-vote card. What is the effect of the definition of 'parliamentary party'. What work does it do other than in relation to the naming of parties and the right to have names printed on papers and how-to-vote cards?

The Hon. K.T. GRIFFIN: I will deal with that issue first. It is correct that one of the major advantages of being a registered political party is that a candidate can be so described on ballot papers. In South Australia, however, the problems that are created for a party that wishes to be a

political party but which does not have sufficient numbers to register is not so great as it might be in other states because we still allow, on the ballot paper, a candidate to be described as an 'Independent' or as a person representing a particular interest. It must be confined to, I think, five words, but there is still a description on the ballot paper.

There are a couple of other benefits: one is that a registered political party can lodge its nominations in bulk; and another is that the Electoral Commissioner writes, on a regular basis, to the registered office of the registered political party providing it with information so that it is in the information stream. One can still form a political party and campaign under the name of a political party but will not necessarily be registered unless the membership numbers are appropriate. I draw members' attention to the second reading explanation on this. I will repeat some of it because it was incorporated in *Hansard* some months ago. The explanation deals with membership and states:

> Currently, a party seeking registration must either have 150 members or have a member who is a member of the House of Assembly or the Legislative Council. All jurisdictions other than Tasmania have a higher membership requirement than South Australia. New South Wales recently increased its membership requirement to 750 members, while Western Australia recently increased its membership to 500.

The Hon. M.J. Elliott: Where was that?

The Hon. K.T. GRIFFIN: That was Western Australia. The explanation continues:

> Concerns have been raised by the Electoral Commissioner regarding the registration of multiple political parties with very low membership and its potential effect on voting patterns, particularly in the Legislative Council. The 1999 New South Wales election saw 81 parties vying for election in the upper house. Following that election, there were allegations of sham parties; that is, parties which had been established purely for the purpose of directing preferences towards or away from particular candidates. One of the things which made this possible was the then low membership requirement for registration of political parties in New South Wales, which was 200 at the time. The Electoral Commissioner is concerned that there is potential for a similar situation to arise here. It would seem appropriate that a political party must be able to demonstrate a reasonable level of support from within the electorate. The level of disadvantage suffered by persons who are unable to gain registration as a political party in South Australia—

The Hon. T.G. Cameron: The Electoral Commissioner is supposed to be unbiased and not aligned to the major parties.

The Hon. K.T. GRIFFIN: He is not. He must administer the electoral system.

The Hon. T.G. Cameron interjecting:

The Hon. K.T. GRIFFIN: He is not.

The Hon. T.G. Cameron: It would be like the last Electoral Commissioner.

The Hon. K.T. GRIFFIN: I really do not think that is an appropriate reflection upon the Electoral Commissioner. The Electoral Commissioner—

The Hon. T.G. Cameron: I will ask the Attorney a few questions in a minute.

The Hon. K.T. GRIFFIN: The government made the policy decision, not the Electoral Commissioner.

The Hon. T.G. Cameron: Then do not hide behind the Electoral Commissioner.

The Hon. K.T. GRIFFIN: I am not, but I am telling the honourable member what the Electoral Commissioner represented to us. We then made a decision as a government—

The Hon. T.G. Cameron: The new one or the old one?

The CHAIRMAN: Order! The Hon. Mr Cameron should stand on his feet and ask questions, not ask questions from his seat.

The Hon. K.T. GRIFFIN: The current Electoral Commissioner—

The Hon. T.G. Cameron interjecting:

The CHAIRMAN: Order!

The Hon. K.T. GRIFFIN: The level of disadvantage suffered by persons who are unable to gain registration as a political party in South Australia is not as great as in other jurisdictions. This is because, in South Australia, Independent candidates can be described in a manner which indicates to the electorate the platform upon which that candidate stands. These candidates can also be grouped together and can form a ticket for the purposes of above the line voting. Therefore, there is nothing to prevent genuine candidates standing as Independents. As South Australia is a smaller jurisdiction than most other states, it is not considered appropriate to raise the membership requirement to the same level as that of other states. It is considered that an increase to 300 members will strike an appropriate balance between the need to ensure a reasonable level of community support for registered political parties and the need to ensure that minority voices within the community are able to form political parties to raise their concerns. Then some other issues are raised about relying on shared membership and other matters.

What puzzles me is that the amendment which we are talking about is an amendment, which, I acknowledge, does not deal with the numbers: it deals with parliamentary parties and it is similar to the amendment which the Hon. Terry Cameron has on file. What puzzles me is that the Hon. Terry Cameron does not have an amendment on file to deal with the numbers issue, and I presume therefore that what he will do is oppose the whole clause, maybe supporting the amendments, and then—

The Hon. T.G. Cameron interjecting:

The Hon. K.T. GRIFFIN: I can tell the member that there was no deal in relation to these sorts of issues. The bill came in without consultation with the Labor Party or other parties. These amendments arise as a result of some of the amendments put on file by the Hon. Mr Cameron. Later we will get to the issue of disclosure of political donations, and that is an issue which we have picked up. We have not picked up the issue of disclosure of electoral expenditure, but they have triggered issues which we needed to have a look at. The honourable member can make the allegations about collusion, but all I can say is that these have to be considered on their merits—and I do not mind a good debate about the merits of these things. I have—

The Hon. T. Crothers: What merits? That is the question.

The Hon. K.T. GRIFFIN: That is the position in relation to this particular amendment and also the issue to which the Hon. Terry Cameron referred.

The Hon. T.G. CAMERON: I apologise to the Attorney for not paying full attention, but I am wondering whether he could outline to me again—or perhaps, if he has the correspondence there, read it into the record—just what the Electoral Commissioner wrote to him about in relation to the Electoral Commissioner's concerns, the plethora of new political parties and bogus parties running in South Australia. If he did do that, to me it demonstrates a lack of understanding of the act itself and how they vote in the Legislative Council, and one would have thought that a new Electoral Commissioner would avail himself of that.

The Hon. K.T. GRIFFIN: It was some time—

The CHAIRMAN: Does the Hon. Mr Cameron wish to hear the answer?

The Hon. K.T. GRIFFIN: It was some time ago that this issue was drawn to my attention by the Electoral Commissioner. I will endeavour to obtain the information. I do not bring all the dockets with me on these sorts of issues when we have bills in the parliament. The concern arose out of the fact that in South Australia there was one registered officer who appeared to be registering a number of parties relying on the same membership. Drawing on the experience in New South Wales, where as I understand it similar practices were occurring and steps were taken to address that issue, it was proposed that, in some way or another, the government should address that in amendments to the Electoral Act of South Australia.

The Hon. T.G. CAMERON: Has the Electoral Commission proffered any advice as to what form those amendments might take? I am sure that the Attorney has already recognised that, if his concern was with one individual using a common membership and registering a number of political parties, there is a more specific way of dealing with that problem than increasing the membership to 300. Increasing the membership to 300 does not resolve the problem that you have just referred to. Other amendments that you have moved resolve that problem. Can we get a little bit of honesty on the table here? Just what did the Electoral Commissioner say to you?

The Hon. K.T. GRIFFIN: Well—

The Hon. T.G. Cameron: With respect—

The CHAIRMAN: Order! The honourable member has asked his question.

The Hon. T.G. CAMERON: If that is what he said to you, then from my point of view someone is misrepresenting the situation: either you or the Electoral Commissioner.

The Hon. K.T. GRIFFIN: No-one is misrepresenting anything. I have given you the best recollection of the way in which the issue was raised. The Electoral Commissioner did not suggest to the government what should or should not be done. The Electoral Commissioner is scrupulous in trying to observe objectivity and independence. He does not come and tell me that I have to amend the act or that I have to do this or that. He draws attention to the issue, and then it is a matter for me and the government as to whether or not we decide to address that issue.

It was quite obvious that there are a number of issues relevant to the formation, registration and membership of political parties, whether parliamentary parties, registered political parties, or political parties that wish to be registered as such.

The Hon. T. Crothers interjecting:

The Hon. K.T. GRIFFIN: Because if you only have residents of the state—

The Hon. T. Crothers interjecting:

The Hon. K.T. GRIFFIN: The electoral roll provides the basis for our electoral system.

The Hon. T. Crothers interjecting:

The Hon. K.T. GRIFFIN: It is already electors in the act. The membership now relies on electors. It does not rely on residents or those who are aged over 18. Presumably, because of the way in which our act is structured, almost everyone who is aged over 18 and who satisfies the qualifications for residency in South Australia will be on the electoral roll. There are a few who are not because there is still a choice, as far as the South Australian roll is concerned, whether or not you apply to enrol—but that is only a handful of people. Most people are enrolled when they satisfy the residential qualifications in South Australia.

There is nothing sinister about referring to electors, because that is the way it is dealt with now, and that is the way it is dealt with in other jurisdictions. What is the alternative if you do not rely on electors? Do you want to rely on residents, which means people who are not on the electoral roll such as, for example, children or people who do not have Australian citizenship? I do not know what the alternative is; if you want to retain the integrity of the system, it is my view that, if you are going to register political parties with a minimum requirement for membership, you have to rely on electors as the qualification for membership.

The Hon. M.J. ELLIOTT: I want to clarify amendments: we have an amendment on file from the Attorney-General to clause 7, page 4, after line 10; is there another amendment that I have missed? I just wanted to make sure that I was taking everything into consideration.

The Hon. K.T. GRIFFIN: You have got three from the Hon. Terry Cameron; you have one from the Hon. Nick Xenophon—

The Hon. M.J. ELLIOTT: On clause 7?

The Hon. K.T. Griffin: Yes.

The CHAIRMAN: There is one from the Attorney-General, one from the Hon. Mr Cameron and another one from the Attorney-General.

The Hon. M.J. ELLIOTT: I am sorry, but it really does not help that several members have filed not just one set of amendments, but three or four in some cases. There are not three sets to go through; there are about 10 sets to go through and it is extraordinarily difficult to make sure that you are taking them all into account. But I will keep going—

The CHAIRMAN: Do you want to mark these three off so that you know?

The Hon. K.T. GRIFFIN: There are three of them. I was mistaken; I thought there were more.

The Hon. M.J. ELLIOTT: So, there is one from the Attorney-General.

The CHAIRMAN: Yes, that is page 4, after line 10. And then there are two together, one from Mr Cameron, which is page 4, lines 12 to 14 and one from the Attorney-General, which is page 4, lines 12 to 14.

The Hon. M.J. ELLIOTT: I will find those. There has been some discussion about the size of a political party and the number of electors it needs to qualify. That is covered under clause 8 of the bill. I am wondering why it has been raised now. How does that link in? How has it entered the debate on clause 7? It is probably in one of those amendments that I have not found.

The Hon. T.G. CAMERON: I want to go back to the question that I raised before with the Attorney. The Electoral Commissioner wrote to you expressing concern about the multiplicity of new parties being registered with the common registered public officer as the reason for expanding the membership of parties that seek to be registered from 150 to 300—is that what you are saying?

The Hon. K.T. GRIFFIN: He did not suggest that.

The Hon. T.G. CAMERON: Are you saying that the decision was a decision taken by your party related to that advice or not?

The Hon. K.T. GRIFFIN: I do not have all the correspondence and my notes here so all I can do is to rely on the advice. The Electoral Commissioner provides the information and in the Attorney-General's office there is a policy and legislation section, and when issues like that arise I ask one

of the officers to have a look at it. In addition to the issue of the one registered officer registering numerous parties relying on the same membership, there was also the experience in New South Wales of 81 parties and a Legislative Council ballot paper that was like a broadsheet newspaper. In those circumstances I would have thought that I and the government have an obligation to look at ways in which that can be properly addressed. We are not in the business of stifling public debate or stifling the—

An honourable member interjecting:

The Hon. K.T. GRIFFIN: We are not. If there is a group that has a reasonably persuasive argument on a particular issue, 300 electors should not be too difficult to get. If you have a member of parliament who belongs to that party, you can have a parliamentary party without the numbers. These proposals evolve from information, by seeing something—

The Hon. T. Crothers: That is aimed at getting the support of the Independent members of this parliament.

The Hon. K.T. GRIFFIN: That is fine. The issue is on the table. It is ultimately up to the parliament what it does with the electoral system.

The Hon. T. Crothers interjecting:

The Hon. K.T. GRIFFIN: I do not have a problem with that.

Progress reported; committee to sit again.

[Sitting suspended from 6.02 to 7.45 p.m.]

The Hon. R.D. LAWSON: The Hon. Terry Cameron was asking the Attorney some questions about advice from the Electoral Commissioner about certain matters. I commend to him the report of the South Australian Electoral Office for the year ended 30 June 2000, tabled in this place, which it does seem to me contains quite eloquent statements, if neutral, from the Electoral Commissioner on the point we are discussing. On page 18 of that report, there are listed the 25 registered political parties as at 30 June 2000. Six of those parties have the same registered officer and address, one Jenni Dobrowolski of Kidman Park, whose parties were Overtaxed Motorists, Drinkers and Smokers Association, registered on 10 April 1997, and then all registered on 17 July that year as separate parties: For Goods and Services Tax Association, Smokers Rights Association, Overtaxed Smokers Association, Overtaxed Drinkers Association and Overtaxed Motorists Association.

It seems to me that the Electoral Commissioner understood full well the act, and it was entirely appropriate to point out the fact that these parties were registered and the fact that some four parties been deregistered during a recent review of legislative compliance, namely the Australian Recreation and Fishing Party, Australian Reform Party, the Socialist Alliance and the United Australia Party.

So, it seems to me that, certainly in relation to registered political parties, the need to have a more sensible regime was highlighted by that particular passage in the report. Only two of those so-called parties, as far as I can see, contested the 1997 election that was held on 11 October, notwithstanding the fact, as I say, that five of them were first registered only a couple of months before. The Electoral Commissioner pointed out in the report the fact that five of those six parties were affiliates of a 'parent' party, which is a fairly plain signal, to my mind at least, that they really comprise the same membership, or have the same claim to membership.

The Hon. M.J. ELLIOTT: I do not think I have commented on the question of size of membership for which a party should be eligible, and it is something that I have given some consideration to. I do not believe that the number of 300 is particularly onerous. It is a number that our party, really from day one, has never struggled to meet, and I think it would probably be true of many parties when they start. I suspect that when One Nation started in South Australia it had quite a dramatic influx of members; and, frankly, if a new party does not get to 300 members quickly, then it really has no future in any realistic political sense. So, I am wary of an increase in numbers because you can get to a point where it becomes anti-democratic and you are juggling a couple of competing concerns. The concerns raised by the government are legitimate, but there is a concern that the size could become so great that it becomes difficult—particularly if a party ended up not being a state-based party but perhaps had more regional affiliations.

It is quite possible that one would have to be careful about what the triggering number should be. But a membership of 300, really, at the end of the day, is not onerous. Parties often restrict the size of their membership by how much they decide to charge in membership fees. If people are really committed to what they believe in, they will still sign on the dotted line.

It is a little like when a person wants to nominate for a seat: they have to collect a certain number of signatures. Not everyone who signs up is absolutely committed to your candidacy necessarily, but they would support your right to contest a seat. I suspect that some people would have an attitude such as that with memberships, as long as one did not make the membership fees too onerous. I do not think a membership number of 300 is too onerous, but I would be cautious going much beyond that while the state's population is its current size. While the comment was made that interstate they have larger membership requirements, it should be noted that those states with larger membership requirements have larger populations as well. In per capita terms, the 300 figure is probably reasonably comparable with what is happening in other states. I indicate preparedness to support the figure of 300, but I would be concerned if there was a push to make it much higher without a significant rise in the population of the state.

The Hon. T. CROTHERS: I understand that my colleague the Leader of SA First has an amendment which is now being photocopied to give to the Clerk to distribute. I cannot move it at this stage; I was simply getting up to indicate that it is a compromise amendment that he will no doubt present.

The Hon. T.G. CAMERON: I have an amendment standing in my name that I would like move.

The CHAIRMAN: You have an indicated amendment for clause 7 which, as I understand it, is prior to line 10 which we are now discussing.

The Hon. T.G. CAMERON: It is line 10.

The CHAIRMAN: Technically, I am told that one way in which we can move is for the Attorney-General to withdraw his amendment so that your amendment can come in to accommodate discussion on your amendment. The second way is by recommittal because we have gone past the clause we are going to recommit anyway. The technicality is that in discussion we have gone past where your amendment comes in.

The Hon. K.T. GRIFFIN: Can I make a suggestion? We can recommit the clause at a later stage. I have undertaken to recommit one clause already. If we can get through the bill, we can come back and recommit clause 7 in relation to the

300 or 250, as the case may be. I am happy to facilitate consideration of it.

The CHAIRMAN: It certainly can be tried at clause 8.

The Hon. T. CROTHERS: You are sticking with standing orders, and you are quite right, Mr Chairman; I have no argument with that. My colleague tells me he does not have many problems with the rest of the bill. The position is this. If we recommit at the finish of the third reading then some of his ammunition which might assist him in getting the support of other people over this amendment will be long gone and it will be down the track like a stolen steam engine, without any redress whatsoever. If the Attorney recommits the bill it will be with fewer cards in the honourable member's pack of cards. That is the problem. I understand what you are saying. I have no axe to grind with what you will do and probably no axe to grind with what others do, but that is a factual position, Mr Attorney. Mr Cameron should have been here, I agree.

Amendment carried; clause as amended passed.

Clause 8.

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

Page 5, line 3—Leave out '300' and insert '250'.

I am more than happy to speak to the amendment if the committee wishes. I think I have said enough on this subject.

The CHAIRMAN: The committee never denies an opportunity for a member to speak.

The Hon. K.T. GRIFFIN: The Hon. Mr Cameron has made an eloquent presentation and compelling arguments have been put. There are arguments to the contrary but, after very carefully weighing the arguments for and against, I indicate that, as an expression of goodwill in the hope we will finish the whole thing by midnight, I would be prepared to indicate acceptance of the 250.

The figure of 150 is much too low and 300 in all honesty was a figure that I worked out on the basis of trying to get a feel for what was happening in other jurisdictions. Whether it is 250 or 300 is immaterial because the other amendments in the bill are of a much more substantial nature than just the membership numbers. I am prepared to go along with the 250, but I would hope in doing so that it would help us to expedite consideration of the remainder of the bill.

The Hon. CAROLYN PICKLES: Well, it does not. We will still go with 300. We do not have the numbers, so we will not divide.

The Hon. T.G. CAMERON: I wish you would not get that expression on your face, Mr Chair, when I stand up—it is a little off-putting. All I wished to do was briefly thank the government for listening to the erudite arguments I put forward and accepting them.

The CHAIRMAN: The honourable member needs to be a bit more nimble when getting to his feet.

Amendment carried; clause as amended passed.

New clause 8A.

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

Page 5, after line 16—Insert new clause as follows:

Amendment of s.42—Registration

8A. Section 42 of the principal Act is amended—

(a) by striking out from subsection (2)(c) "(not being a related political party)";

(b) by striking out from subsection (2)(d) "(not being a related political party)";

(c) by inserting after subsection (3) the following subsection:

(3a) An application for the registration of a political party must be refused if, in the opinion of the Electoral Commissioner, that party is related to a registered political party.

The Hon. K.T. GRIFFIN: As I understand the Hon. Terry Cameron's amendment, it seeks to get rid of related parties completely, and I am not prepared to support that. The provisions which the government has in relation to related parties retain related parties but still require them to have the minimum number of members, so that there is no real benefit to being a related party, as I understand it, other than that they can get access to the Electoral Commissioner, and so on. My amendment, which is for a new clause 8A, is similar to the Hon. Mr Xenophon's amendment, but goes slightly further, by virtue of the revised subclause (f).

The clause will provide that the Electoral Commissioner must not register a party name if, in the Commissioner's opinion, the party name contains words that are a distinctive part of another party's name. In addition, the government amendment will provide that the Electoral Commissioner must not register a party name if, in the Commissioner's opinion, the party name contains words that so nearly resemble a distinctive part of another party's name that it appears that the other party's name is being adopted. However (and this is important), a party may consent to the use of a distinctive part of its name being used by another party.

Concerns have been raised regarding the practice of some parties or candidates using other parties' names, and my amendment is designed to minimise the risk of confusion, as well as to recognise that there is some proprietary interest in the name, whether it be Liberal, Labor, SA First, Australian Democrats—

The Hon. T. Crothers: Independent Labour, with a 'u'?

The Hon. K.T. GRIFFIN: That will be out of the running, 'Independent Labour', because it is almost as though they are passing off as having some connection with the Labor Party.

The Hon. T. Crothers: They are? But not in the sense you explained.

The CHAIRMAN: The Hon. Mr Crothers will have the opportunity to put his point of view—as I am sure he will, at great length.

The Hon. T. Crothers interjecting:

The CHAIRMAN: Order!

The Hon. K.T. GRIFFIN: I wish to deal with the Hon. Mr Cameron's amendment in a little more detail. As I said, it seeks to remove related parties from the electoral process. The government amendments remove the power of related parties to rely on one another's membership for the purposes of registration, but will not completely remove related parties. The government amendments retain the definition of 'related political party', and I think the only application this will have will be to the name of a political party.

Currently, a party cannot have a name that either is the name, or is an abbreviation or acronym of the name, of another political party, or that so nearly resembles the name, abbreviation or acronym of another political party that it is likely to be confused with or mistaken for it unless the two parties are related political parties. We retain that distinction. It allows a party which is related to another political party to include the name, acronym or abbreviation of that party or something which resembles it in its name, but it adds the requirement that the membership numbers should be satisfied. To that extent it is a significant change, but we retain the concept of related parties.

The Hon. T. CROTHERS: Attorney, you said that I could not run as Independent Labour as it would not comply with the amendment.

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

The Hon. T. CROTHERS: Could I run as an Independent?

The Hon. K.T. GRIFFIN: Yes, and you can run as an Independent X, Y and Z.

The Hon. T. Crothers: Independent Democratic Socialist.

The CHAIRMAN: Notwithstanding that the Attorney has moved his amendment and spoken to it, advice to me is that the Hon. Mr Cameron's amendment can stand on its own and that it would be better to deal with his amendment first and then some clerical work can be done. The amendments of the Attorney-General's and the Hon. Mr Xenophon's can then be discussed concurrently. Is there any further discussion on the Hon. Mr Cameron's amendment, new clause 8A?

The Hon. T.G. CAMERON: As the chair has pointed out—not that this will make much difference to the numbers here, I suspect—the two amendments, as I understand them, are not in competition with each other. They can both be carried or both rejected. They both deal with different types of problems. Again, I have no joy in saying this, but I believe that the Attorney is being somewhat disingenuous or deceitful in the way that he is handling this bill. As I said, I do not get any enjoyment in saying this, but I think you are being downright deceitful in the way that you are dealing with this. Why don't you debate my amendment—

The Hon. K.T. Griffin: Well, I will.

The Hon. T.G. CAMERON: —instead of debating yours and putting that forward as some kind of substitution for mine? It is not a substitution for my amendment at all.

The Hon. A.J. Redford interjecting:

The Hon. T.G. CAMERON: That was the drift of what I got. The amendments are quite separate. My amendment talks about trying to stop the practice of political parties registering other political parties and using a common membership base. The Attorney's amendments go a whole lot further than my amendment. I am not fussed if someone wants to stand up and say that they are running as an SA First Independent—I would welcome the publicity. It is only the Labor Party and the Liberal Party that are worried about people running as Independent Labor or Independent Liberal. I understand that Bob Such is not going to run as an Independent Liberal. His view is he does not want to poison his chances of winning as an Independent. Why would he attach 'Liberal' to his name?

The Hon. A.J. Redford interjecting:

The Hon. T.G. CAMERON: The amendment standing in my name has nothing to do with the amendment standing in the name of the Attorney-General. You could carry both if you wanted to. They do not interact upon each other. My amendment is trying to do something about the practice of political parties registering a whole bunch of political names and then, perhaps, running candidates under them and deceiving the electorate, such as the Australian Labor Party and Country Labor.

The Hon. K.T. GRIFFIN: I am not trying to be deceitful about the way in which this is being run. I understood that the Chairman called me to move my amendment—simple—and that is what I did. If the honourable member checks *Hansard*, he will notice that I addressed the issue about the Hon. Mr Cameron's amendment, and I drew the distinction between what the government is proposing in the bill with what he proposes with his amendment. The government is seeking to prevent dummy parties, but we are saying that there is some advantage potentially of retaining a description of 'related political party', but the related political party cannot rely upon common membership.

We are seeking to achieve similar things. It is a question of which of the form of amendments is to be preferred. The Hon. Mr Cameron goes further, in the sense that he gets rid of any concept of related political party. The government proposes to retain that but add the requirement that the parties will have to have separate memberships; they will not be able to rely on a common membership. Whether members go down the Hon. Mr Cameron's path or they go down the government's path, a 'quasi' related political party can still set up under a name similar to that of a principal party, if it gets the consent of the principal political party. We will get the same sort of approach, but the government's view is that there is no ill in retaining the concept of related political party for the very limited purposes to which I have referred.

The Hon. CAROLYN PICKLES: I indicate briefly that we will be supporting the government on this issue and not the Hon. Terry Cameron.

The Hon. NICK XENOPHON: In relation to the Hon. Terry Cameron's amendment, my understanding is that he is attempting to prevent rorts of a common membership list being used to register a number of dummy parties. I would like to ask both—

The Hon. Carolyn Pickles interjecting:

The Hon. NICK XENOPHON: I would just like to clarify it with the Attorney and the Hon. Terry Cameron. In terms of the intent and the substance of the Hon. Terry Cameron's amendment, is the Attorney saying that these issues have been dealt with, or is it still open for someone with a common membership base to register several political parties?

The Hon. T.G. CAMERON: Under my amendment, the answer is no, they would not be able to. Under the Attorney's amendment, yes, they would still be able to rort the system.

The Hon. K.T. GRIFFIN: I do not see how they can rort the system. What we are providing under the transitional provisions is that any related political party will have until December this year to gain 150 members, but then they have until 30 June to get them up to 250. I do not see how that can be regarded as rorting the system, and I would be interested to know how the honourable member believes that that could be the case.

The Hon. T.G. CAMERON: What would stop a political party—let us call it the XYZ Party—that has 5 000 members and has no problem qualifying for both parliamentary and political representation under the act from registering another couple of new parties—let us call them the New XYZ Party and the Country XYZ Party? They simply print a membership form under the name of that party and sign members in a new sub-branch or in a couple of country sub-branches, meet the 250 qualifying level and then run candidates, sponsored, paid for and so on out of the main party.

The Hon. K.T. GRIFFIN: We are both seeking to avoid deceiving the electorate. The Hon. Mr Cameron's amendment quite clearly prevents the Electoral Commissioner from approving the registration of a political party if that party is related to a registered political party. I think the difficulty will be in how the commissioner is to establish that the party is related to a registered political party, because if the Hon. Mr Cameron's amendment is carried there could still be a Country Liberal Party—

The Hon. T. Crothers: The Liberal and Country League. It has probably never been cancelled; it probably still exists.

The Hon. K.T. GRIFFIN: The Liberal and Country League is not a registered business name and never has been; it is not incorporated either. In those circumstances, it would be quite possible for the membership to be at arm's length from the membership of the Liberal Party. Nevertheless, it would be able to call itself the Country Liberal Party if the Liberal Party assented to that course of action. It may be that the honourable member is seeking to avoid that consequence as well.

The Hon. T. CROTHERS: I want to try to simplify this debate. I am sure that the barristers here who have some knowledge of industrial law will comprehend what I am about to say. When I was a trade union official—and long before that—there was a split in the trade union movement between unions (or parts of unions) that were following the Democratic Labor Party and unions that were in the camp of the Australian Labor Party. What happened was that a lot of the left of centre unions in the Newcastle area, such as the ironworkers and the Transport Workers Union—we can well remember the test case with the Transport Workers Union—registered themselves separately.

The Hon. A.J. Redford interjecting:

The Hon. T. CROTHERS: To get away from the DLP influence—the Sydney based state branch was in the camp of the DLP—if they were not already registered (a lot of them were not, back in the early 1950s) they would then register the union federally so that they had a branch that they could set up to get out of the DLP camp. A union here that was registered that had two branches was the commonwealth AFULE and the state AFULE. The commonwealth AFULE had a branch in Port Augusta and the state AFULE had a branch in Adelaide.

The Hon. R.I. Lucas: It sounds like the AWU.

The Hon. T. CROTHERS: Not quite. The AWU was always right of centre. With the exception of a small period here in the days of the former worker on the Adelaide City Council, Mr O'Connor, and some other camp followers, I do not think that the AWU was ever in the camp of the Democratic Labor Party in this state. A certain Clyde Cameron and a certain Don Cameron, whose successors live on today, were basically responsible for that.

However, those were the things that happened (and more) in the trade union movement in spite of all the assurances we were given when the state Industrial Registrar was set up—I suppose in electoral terms that he would be the equivalent of the State Electoral Officer—and when the federal unions were set up—which would if you like be the equivalent of the federal Electoral Office—and run under the aegis of the former Electoral Commissioner, Mr Becker, of South Australian fame. It is not the beyond the ken of man, and I do not agree with my comrade that the Hon. Mr Griffin is being devious. I do not think that I have ever found him to be so, but I have found him, on occasions, to be wrong, and I think he is wrong this time in so much as his amendment does not go far enough. We could make an analogy or a parallel.

I have quoted only some of the instances that I am aware of in the trade union movement. For instance, the Whyalla Combined Union Council was registered separately from the Trades and Labor Council so that it could have a delegate, the same as the Port Pirie Trades and Labor Council and the Combined Union Council (to which the Hon. Mr Ron Roberts would attest) so that they could have a delegate to the ACTU conferences. I even recall when the delegate from Whyalla from time to time was the proxy delegate on the ACTU national executive. Is it correct that the young Mr Blevins was proxy on one or two occasions? Anyhow, those are the sorts of things that can and do happen and, whilst I do not believe that the Hon. Mr Cameron's amendment is absolutely rat proof—

The Hon. T.G. Cameron: Rort proof.

The Hon. T. CROTHERS: Rort proof; that is the phrase I was looking for. How unusual.

An honourable member interjecting:

The Hon. T. CROTHERS: Okay. It is rort proof but it is tighter than the amendment moved, in my perception, as well meant as it is, by the Attorney. I have seen all these events, in my 40-odd years of living in Australia, unfold before my very eyes. We had the ASC&J; and the Carpenters Union of Australia under the aegis of the DLP. When I came here I had my clearance from the Irish Carpenters Union and I proceeded to refuse to join it because, as a Catholic, I detested the DLP, and still do. I would not even go and say mass in Gaelic over Archbishop Mannix's body when it was lying in state in the cathedral—

The Hon. R.R. Roberts: I bet he was glad of that.

The Hon. T. CROTHERS: I do not know whether he was glad or not. I could say even more but I shall not because the man is dead. Two of my mates who were going down were members of the blooming Communist Party and they were Gaelic speakers too. I thought that was a bit of hypocritical humbug; they were having two bob each way, in case, after all, there was a land of the golden fleece, which I still do not believe in.

However, I have pointed out some of the problems that confronted the trade union movement in the days of the DLP and in other days. I have pointed out how they were able to get around it. I suspect they can do the same here under the Attorney's amendment. I do not believe that he is being capricious; I do not believe he is being deceitful; but I do think that this amendment does not go far enough. I do not think that the Hon. Mr Cameron's amendment is the answer, either. I have never seen any proposition or resolution that, sooner or later, the devious mind of man has not been able to get around—

The Hon. R.R. Roberts: Or woman.

The Hon. T. CROTHERS: Or woman—I had forgotten about you, Carolyn. But I think it is a more appropriate and stronger answer than what we are given in the Attorney's amendment. I appreciate what he is trying to do. I think he is wrong and I think that the Hon. Mr Cameron's amendment is stronger and, if we really care about the electoral act, we will look very carefully in the light of what I said in terms of the analogy with the trade union movement and when the DLP came into existence.

The Hon. A.J. REDFORD: I have a question of the Hon. Terry Cameron. I do not quite understand what he is driving at. Is this directed at the Country Labor that I have read about?

The Hon. T.G. Cameron: Have a look at the clause and you can see what it is directed at.

The Hon. A.J. REDFORD: What is it directed at? I do not understand it.

The Hon. T.G. CAMERON: My clause, as best as I could have it drafted, was designed to stop political parties from registering a plethora of other political parties. I use the example—

The Hon. A.J. Redford: Like Country Labor?

The Hon. T.G. CAMERON: That is one example and New Labor is another. In my opinion, they are new political parties that have been registered and are capable of running

at the next election, with their own how-to-vote cards, their own campaign slogans, their own candidates, etc. If you look at the amendment to section 42 standing in the name of the Attorney, 8A seeks to ban using a whole series of words. I hope that everyone has read it. Australian Democrats—you cannot use Democrats; Australian Labor—you cannot use Labor; but when you go to the end of the clause it says:

Subsection (2)(f) does not apply. . .

We will have a ban on anyone else being able to use any of these names but it:

does not apply if the relevant parliamentary party or registered political party consents to the use of a particular word or set of words.

All he is doing is sanctioning the rort.

The CHAIRMAN: Order! The Hon. Angus Redford.

The Hon. T.G. Cameron: It hasn't closed any loopholes at all.

The CHAIRMAN: Order! You have had your say.

The Hon. A.J. REDFORD: Given that that is the case, could anyone on the Labor side of politics confirm—whether the Hon. Carolyn Pickles or the Hon. Paul Holloway could answer—is Country Labor an organisation affiliated with the Australian Labor Party and does it share a common membership?

The Hon. CAROLYN PICKLES: It is a section of the party. It is a country sub branch of the party.

The Hon. A.J. REDFORD: Is it the same sort of thing—

Members interjecting:

The CHAIRMAN: Order! We do not need interjections. There is one person asking questions.

The Hon. A.J. REDFORD: It is my understanding, in the middle of the interjections, that the Labor Party registered this to protect the name 'Labor' in case some other third party came along and registered it themselves—

An honourable member: Like the Liberal Movement.

The Hon. A.J. REDFORD: Yes; and, therefore, if the Attorney's amendment had been in existence some years ago, there would have been no need, on the part of the Australian Labor Party, to register 'Country Labor'. Is that a fair summation?

The Hon. Carolyn Pickles: That is right.

The Hon. A.J. REDFORD: And the same applies in relation to the term 'New Labor'?

The Hon. CAROLYN PICKLES: Yes.

The Hon. A.J. REDFORD: So there is no other basis upon which the Australian Labor Party did it? Certainly not, as some might suggest, to confuse the public during the course of an election campaign? I am asking this question quite genuinely.

The Hon. CAROLYN PICKLES: We have enough trouble funding one campaign and one name let alone three.

The Hon. T. CROTHERS: I think that his design is to give Dr Such and Ralph Clark the chance as Independents in the lower house. I think that is the thinking of the Attorney; that is where his amendment is aimed. However, let me give you a real example of what I was talking about in respect of political parties. Until the early 1950s—which would probably not be known by most of you—the British Labour Party was comprised of two constituent parts. One was called the British Cooperative Party, which held sway in the north of England and used to return as many, when I was a boy—in 1948, for instance—as 60 or 70 members to the Parliament of Westminster. It was separate from the Labor Party, but they were founded by the same element of the community—the working class. Both the Cooperative Movement and the British Labour Party, of which I might say, without being one to be boastful, a relative of mine was the first Westminster Labour man returned in England—

An honourable member interjecting:

The Hon. T. CROTHERS: You wouldn't know, you are just still a kid. You be quiet. Until the early 1950s, it was a separate entity that never voted any other way except for the Labour Party when it was under the leadership of Atlee, McDonald and Lansbury in the 1920s and the 1930s. However, it became an affiliate of the British Labour Party in the middle 1950s. It still continued to run a few candidates but over a period of time, by the 1960s, no more cooperative candidates were run. At one time it would supply as many as a fifth or even a quarter of the number of socialist members of Westminster. They were able to run.

We could get the same thing here, where they form up and then seek the affiliate with the major party, as happened in the United Kingdom. It is there for all to see. You get the electoral department to check it out. You will see it; it is as clear as day. That is why I will support the Hon. Cameron's amendment, because it goes a little further than the Attorney's amendment, although it does not totally stop the rorts. However, as I said before (and it bears repeating), I have never seen yet—and I was a union president for nine years—where sooner or later the mind of man and woman was incapable of getting around.

If the law was such a perfect instrumentality, we would not need thousands of lawyers to operate the legal profession in Australia; we would need one in each state and a federal person. However, the law is not a perfect mechanism, and that is why we have so many lawyers. They are up every day arguing in the High Court, before the magistrates, in the Supreme Court and in the Federal Court. Some they win and some they lose. The law is really a pit of disaster for any legal wordsmith.

I know the Attorney is a fair man, and I have put forward a reasonable argument. We must support the Cameron amendment—not that I think it is perfect. I would be even more draconian if I were to move an amendment. However, I shall not; I shall support the Cameron amendment. I put on record the fact we may even have to revisit this at some time in the future. However, at least his amendment may mean that we will not have to revisit it for 10 years. The Attorney's amendment is somewhat weaker and may mean that we will have to revisit the matter after the next election.

The Hon. A.J. REDFORD: With regard to this sort of provision, it is disappointing that we have to go down this path—and I am saying this in support of the proposition that the Attorney has put. However, that is the price of a preferential system of voting. If we had a first past the post system of voting (which I would be inclined to support), we would not need to bother ourselves about this. We all know that substantial games have been played over the years—and I will not point the finger at any party.

The Hon. T. Crothers interjecting:

The Hon. A.J. REDFORD: I think you were heard in silence.

The Hon. T. Crothers interjecting:

The CHAIRMAN: Order! Has the Hon. Mr Crothers finished?

The Hon. A.J. REDFORD: We all know that substantial games have been played over the years where political parties or even candidates have actually changed their names in order to present themselves in a certain fashion, sometimes with an

element of humour, sometimes to make a political point. However, on occasion the public has been confused into voting a certain way to benefit a certain political cause.

All of us in this chamber who are involved in the political process know that when members of the public walk into a polling booth, as a rule, they are not all that sophisticated in understanding precisely how their vote works and how it operates. That is one of the prices we pay for having a preferential system of voting and, indeed, one of the consequences of a compulsory voting system. That is the system within which we have to operate.

I have viewed with increasing concern some of those activities and I think they reached their zenith recently in the Western Australian election when a group calling themselves Liberals for Forests unfolded their particular agenda. As I understand it, a group of people who were sympathetic to the cause of retaining native forest—and that is their right—sought to have a candidature for particular critical seats at the last Western Australian election. That is a right that we all enjoy and we all should thoroughly endorse. But these people went further than that. Not only did they want to support the forests, but they also claimed that they were supporting the Liberal Party during the initial stages of the election campaign. As such, they described themselves as Liberals for Forests. When the election process unfolded, it came to the attention, as I understand it, of those on the Liberal Party side of politics that this group was not seeking to support the Liberals in any way, shape or form: in fact, they were seeking to undermine the Liberals in the electoral process.

Again, I have no problem with people expressing their political and democratic right to achieve that end if that is what they see fit to do. However, by calling themselves Liberals for Forests, they held themselves out as supporters of the Liberal Party and, as such, they engaged in what I could only describe as misleading and deceptive conduct. I know that the Hon. Mike Elliott, being the political opportunist that he is, would applaud that sort of process, but the tragedy of it is that a number of people thought that these people were supporting the Liberal Party when, in effect, they were seeking to do precisely the opposite. If one engaged in that sort of conduct in a commercial enterprise, one would leave oneself open to fines and other processes.

I suppose one option would be to enable the Electoral Commissioner to intervene during the course of an election campaign if a group held themselves out as supporters of one of the major political parties—let us say it is called Labor for Small Business—and then sought to give their preferences to the Liberal Party. The difficulty is that that puts the Electoral Commissioner in a very difficult position because it forces the Electoral Commissioner to make decisions which have a political impact during the most critical time of any political phase, and that is during an election campaign. So, when one looks at all the options and if one believes that we should run election campaigns where people are fully informed and know what people stand for, the best way to achieve that is by ensuring appropriate registration of names.

The Hon. T.G. Cameron: So you are supporting my amendment?

The Hon. A.J. REDFORD: No, I am supporting the Attorney-General's amendment.

The Hon. T.G. Cameron: They are separate amendments. Why not deal with mine and then deal with his?

The Hon. A.J. REDFORD: The difficulty that I have with the honourable member's amendment is that I do not know what he is trying to achieve. In answer to a question that I put to the honourable member, I said 'Is this aimed at getting things such as Country Labor or New Labor, the registration of those names by the Australian Labor Party?'. In response the Leader of the Opposition quite candidly said, 'No, it is not. We are not seeking to say that Country Labor or New Labor is anything but the Australian Labor Party.' All they are seeking to do is to ensure that they are not treated in the same way as the Hon. Nick Xenophon was treated by One Nation, or a One Nation candidate at the last federal election who sought to register the name No Pokies when he had absolutely no association with any No Pokies groups whatsoever.

As I understand the Labor Party's response to my questions in relation to the honourable member's amendment, the name 'Labor' was sought to be protected by the Australian Labor Party; and I believe, with the greatest respect to the Hon. Terry Cameron, that that is its right and its entitlement. Indeed, it is unfortunate that it had to go down that path because of the way in which some people seek to distort and pervert the political process in our society at the moment. I am sorry if I misunderstand the Hon. Terry Cameron's amendment, but I asked him the question and that was the answer I got.

The Hon. T.G. Cameron interjecting:

The Hon. A.J. REDFORD: I asked the Hon. Terry Cameron whether or not the amendments were drafted to deal with the registration of Country Labor and New Labor, and the honourable member answered yes. I cannot go behind that and, when I read the words, that is what I suspected to be the case. I have no problem as a Liberal member, and my principal political opponent in society is—

The Hon. T.G. Cameron interjecting:

The Hon. A.J. REDFORD: I can read *Hansard*—entitled to protect its name and the goodwill, such as it might be, that it has developed over many years. A clause such as this would have made that process unnecessary.

The Hon. M.J. ELLIOTT: Frankly, I do not think any of the amendments currently before us will stop a lot of contrivances that people say they are seeking to prevent. For example, if there is a party with a membership of 500, it has 250 members to spare. It can go off and start another party and some people will hold dual membership. This other party can run under a separate name. It can garner votes—

The Hon. A.J. Redford: What is wrong with that?

The Hon. M.J. ELLIOTT: I have heard some members around this place express some concern about it. It might not concern you. That is fine: it is on the record that you do not mind.

The Hon. A.J. Redford interjecting:

The Hon. M.J. ELLIOTT: You do not mind people pretending to be in a separate party when indeed they are not. That is fine: it is on the record. I have heard a number of people—

The Hon. A.J. Redford interjecting:

The ACTING CHAIRMAN (Hon. J.S.L. Dawkins): Order! The Hon. Mr Elliott has the call.

The Hon. M.J. ELLIOTT: A number of people in this place did express some concern that there might be the creation of parties that are not separate, so we have sought to define what related parties are. What it said essentially was that you cannot count a member in both parties but, if the party goes beyond 500, you do not need to—you ignore 250 of them and use them to start off the other party.

The Hon. K.T. Griffin interjecting:

The Hon. M.J. ELLIOTT: I am telling you that people expressed concern about the problem. I am saying that, in relation to all the talk about related parties, at the end of the day that contrivance is still available. Before I offer a solution I am saying that it seems to me that many of the solutions hanging around here are not stopping that contrivance at all, so that is still possible. We know that the major parties have run bogus other parties and other candidates for a long time.

In every election one former federal Labor member contested he ran at least one if not two or three Independent candidates. He paid students to hand out how-to-vote cards for him and all the preferences went straight back to him. He did that for election after election, and at least one state Liberal member has done similar things over recent elections as well. But the voters are not made aware of that relationship in any way. The notion of relationship is being hidden from the public at present. I do not think any of the amendments are addressing that at all. It seems to me that these amendments are being set up by the big parties to protect anybody from trying to do something to them but they effectively enable them to continue to play the games they have played for years.

The Hon. T.G. Cameron interjecting:

The Hon. M.J. ELLIOTT: That is right. They will grant the permission; they can choose to do so. I am not saying for a moment that there is not the potential to misuse names. I know that recently the Hon. Nick Xenophon was almost a victim of that, although I imagine it took him a little time in court to try to solve it.

The Hon. A.J. Redford interjecting:

The Hon. M.J. ELLIOTT: We don't have to worry about you. So, despite copious pages of amendments trying to address the matter, I would suggest that in large part there is still substantial room for rorting as it currently stands. I have not had an amendment drafted at this stage. There is potentially one way of addressing it.

The Hon. A.J. Redford interjecting:

The Hon. M.J. ELLIOTT: Who was that?

The Hon. A.J. Redford: It was your lot.

The Hon. M.J. ELLIOTT: Who was that? Come on; name them. You know there wasn't one.

The ACTING CHAIRMAN: Order! The Hon. Mr Elliott should address the chair and ignore interjections.

Members interjecting:

The ACTING CHAIRMAN: Order!

The Hon. M.J. ELLIOTT: It is pretty hard to know whether Annie Seaman knew that Ian's brother was handing out how-to-vote cards for her, because she was down at Victor Harbor, so we are told, and she did not even know she had how-to-vote cards, so she said. If you want to go along with that I am quite happy to keep that conversation going. We know very well who was playing the games up in Davenport. So, there is no question that dummy candidates and dummy parties are a major problem within our current system, and I frankly do not believe that the amendments we have before us will stop that. In fact, the major parties will continue to be in a position to carry out every rort they have carried out over recent years. I think that one could consider that, where a person is being counted as one of the 250 or 300 necessary to qualify as a party, they should not be able to be a member of another political party at the same time: they should not be able to carry dual membership. That might be one way of getting people to—

The Hon. A.J. Redford interjecting:

The Hon. M.J. ELLIOTT: As defined in this act, you pea brain.

The Hon. T.G. CAMERON: It looks as if it will be a long night. I wish to address the contribution that was made by the Hon. Angus Redford when, somewhat naively in my opinion, he accepted members of the Labor Party's answer that they have registered these political parties only to protect their name. The Hon. Angus Redford is a lawyer—still a practising one as I understand it—so he would know more about the law than I would.

If you look at my amendment and at the amendment standing in the name of the Attorney-General, what is there in either amendment to stop the Liberal Party or the Labor Party from supporting them? Look at them. The Labor Party could easily support my amendment and then support the amendment standing in the name of the Attorney-General and it would have picked up the best of both worlds: it would have protected its name and stopped the practice of political parties registering a whole bunch of related parties. It begs the question of how they even got registration for New Labor. What is it registered as? It is registered as a political party.

The Hon. A.J. Redford interjecting:

The Hon. T.G. CAMERON: They got registered because they merely applied. The Electoral Commissioner does not ask you whether or not you have 150 members.

The Hon. A.J. Redford: Why not?

The Hon. T.G. CAMERON: I don't know—you'll have to ask the Electoral Commissioner. They are not required to. We are about to put provisions in the act to require the Electoral Commissioner to substantiate the fact that you have real members. When SA First moved its registration from a parliamentary party to a political party, we were not asked to substantiate the fact that we had 150 electors on the roll—nothing in the act requires you to. Why is it that both the Liberal Party and the Labor Party are not prepared to support the amendment standing in my name but hide under what the Electoral Commissioner said?

The Hon. A.J. Redford interjecting:

The Hon. T.G. CAMERON: We have your spurious comparison of the two amendments. It was obvious that you did not understand what was going on. The amendment standing in the Attorney's name fully protects the Labor Party, but you did not bother to ask them, in your endeavours to support the amendment standing in the name of the Attorney, whether or not if the amendment standing in the name of the Attorney is carried they will be removing the registration of those political parties. I can tell you they will bloody have to anyway because they do not have 250 members in them.

The Hon. A.J. Redford: What are we arguing about?

The Hon. T.G. CAMERON: I do not know why you are trying to protect them.

The Hon. A.J. Redford: I'm not.

The Hon. T.G. CAMERON: Yes, you are—you damn well are.

The Hon. K.T. GRIFFIN: Parliamentary parties presently do not have to have, and will continue not to have to have, any members. Their existence will depend upon retaining a member in the state legislature.

The Hon. T. Crothers: We told you why you put that in there.

The ACTING CHAIRMAN: Order!

The Hon. K.T. GRIFFIN: Related political parties do not have to have members at the moment. We are requiring that they will have to have members, but registered political

parties that are not parliamentary parties have to establish their membership and the Electoral Commissioner vets the membership of registered political parties where they are not parliamentary parties. The bill in relation to those parties actually strengthens the provisions because it simply requires evidence from members that they are not members of other political parties and, if they are, they have to elect for which party they will be voting and wish to be counted for the purposes of determining whether or not the minimum number of members has been achieved.

The Hon. T. CROTHERS: I again must get up and tell the Attorney that I am so disappointed.

The Hon. T.G. Cameron interjecting:

The Hon. T. CROTHERS: No, he is not: I think he is wrong.

The Hon. T.G. Cameron: He is usually fair.

The Hon. T. CROTHERS: He is always fair. I am just so disappointed that he has got it so wrong. He was saying that if you are already in the parliament then you are okay to run. A rort is a rort by any name and that is a rort. Let me tell you why it is so.

The Hon. K.T. Griffin: You have not understood what I was saying.

The Hon. T. CROTHERS: No, you have put that in there because of the numbers in the lower house. You would desperately seek to get the support of, say, Peter Lewis, Doc Such—screaming Doc Such—Maywald, McEwen and the potential Labor Independents, Clarke and De Laine. Whether or not they win their seats, their preferences may be decisive in those areas. I want to say to the Attorney that, if he or any member of his party has had discussions with the major opposition party here, they have duped you, because it will be the distribution of the Clarke and De Laine preferences, in my view, that will determine the results of the seats—I think it is Prospect and Price.

The Hon. T.G. Cameron: Ross Smith.

The Hon. T. CROTHERS: Ross Smith, is it? Sorry, I was flying blind then when I said Prospect.

The Hon. A.J. Redford interjecting:

The Hon. T. CROTHERS: Will you be quiet. I have to say this to the Attorney—

The ACTING CHAIRMAN: I would appreciate it if the member would direct his comments to the chair.

The Hon. T. CROTHERS: Yes, sir, I will take your direction.

The Hon. A.J. Redford interjecting:

The ACTING CHAIRMAN: Will the Hon. Angus Redford cease interjecting.

The Hon. T. CROTHERS: Throw him out; you have the power to throw him out. I am bitterly disappointed in the Attorney. I have supported him through thick and thin because I admired his integrity and honesty, which I still think is there. But I think that this day this discussion has taken place between the two major parties, and I do not know who was involved—

The Hon. K.T. Griffin interjecting:

The Hon. T. CROTHERS: Your party? I am not saying that the Attorney did, but maybe others. The Attorney's party has been duped, because it could cost his party the support of two people in the lower house. If, in effect, you are going to support Rory McEwen (I am told that he might get up) and Karlene Maywald, which is what you are doing, after the way in which they have behaved with their vote, I am glad that up to two days ago I was going to leave politics, but that may now have a certain change, a certain inevitability, that I must in the interests of democracy recontest the next state election for the upper house seat.

An honourable member: What do we have to do to correct that?

The Hon. T. CROTHERS: Shutting your mouth would be a fair start, you fool.

The Hon. Carolyn Pickles interjecting:

The Hon. T. CROTHERS: You're going, anyway, aren't you.

The Hon. Carolyn Pickles interjecting:

The Hon. T. CROTHERS: Then you are a lame duck, so be quiet.

The ACTING CHAIRMAN: Order!

The Hon. Carolyn Pickles interjecting:

The Hon. T. CROTHERS: You will not have to; you are going shortly. You have been told to get out. Butler told you to go. Anyway, we know what happened—in fact, I told Butler you had to go. Through this position that the Attorney has adopted in respect of his amendment, the Attorney is getting the worse end of the stick in the longer term. The potential is there for it to happen. That, again, is why I am supportive of the Cameron amendment: it is tighter. It will not stop it, but it is tighter. He has no need, because he has more than 250 members. But, futuristically, people who might want to genuinely run for parliament will have an act of estoppel imposed on them if the Attorney's amendment and other parts of this act are carried. I abhor that.

That is an absolute kick in the guts to democracy, which must be abhorred by every decent, thinking human being in this parliament. I am just a bit upset, to say the least. I do not think that the Attorney is being dishonest, but I think he is terribly wrong. I really do not think that he has thought this thing through totally, which is amazing to me, because he is generally very perceptive and very forward thinking and very deep thinking, but I do not think that he has been on this occasion.

With those few words at this time, I will resume my seat. However, I am available again to defend the honour and dignity of democracy, if called upon as a consequence of the ongoing tenor of this debate. I urge members to support the Hon. Mr Cameron's amendment. I said that I do not think it is right, but it is stronger in respect of what it is trying to do than the Attorney's amendment.

The Hon. M.J. ELLIOTT: I indicate that I intend to support the amendment of the Hon. Terry Cameron but reiterate the point that I do not think that it is closing off loopholes, particularly those that are available to the larger parties. If we are going to revisit some clauses at the end of the committee stage, this might be one that we need to take another look at.

The Hon. T. Crothers interjecting:

The Hon. T.G. CAMERON: I have just been told to be nice. I will be nice. I will echo the comments made by my colleague in that I, too, am bitterly disappointed in the attitude of the Attorney on this matter. I too, have, at some personal cost on occasions supported positions the Attorney has put to this place because I happen to have a great deal of respect for his integrity and honesty but, on this occasion, I do not.

The amendment standing in my name seeks to stop political parties from registering other political parties if they are related. That is it in summary. Yet the amendment moved by the Attorney-General seeks to stop anyone from using any distinctive name in any of the political parties, and the Attorney has given some examples. That is reasonably

admirable. However, he has a let-out clause, that is, if any registered political party consents to the use of a particular set of words, that is okay. Well, my God, if that is not base political hypocrisy, I do not think I have ever seen it.

The Hon. A.J. Redford interjecting:

The Hon. T.G. CAMERON: What is the honourable member's interjection this time?

The Hon. T. Crothers: Just ignore him and he will go away.

The Hon. A.J. Redford interjecting:

The Hon. T.G. CAMERON: Sorry; he is not even interjecting to me: he is talking across the chamber. If everyone is being above board and honest here, what is the problem with my amendment? Then, if the Attorney wants, he can go ahead and carry his amendment as well because, as I understand it, they are mutually exclusive. But, no, he does not want to do that. He wants to knock off my amendment and, to rub salt into the wound, he is going to carry his amendment and give himself the right to register any political party, which is basically snubbing his nose at what I am attempting to do. Well, so be it. It will be on your head, Attorney.

The Hon. P. HOLLOWAY: I will make one brief contribution. In the United Kingdom several years ago, the British Labour Party, under Tony Blair, ran as New Labour. Everyone knew that Tony Blair was the Labour leader. He has just been re-elected by a massive margin, but he chose to use that label to convey a message to the electorate. Why should he not have done that? He did it. What was wrong with that? Essentially, the Hon. Terry Cameron is saying that that should be prohibited. Why?

The ACTING CHAIRMAN: The Hon. Trevor Crothers.

Members interjecting:

The ACTING CHAIRMAN: Order! The Hon. Trevor Crothers has the call.

Members interjecting:

The Hon. T.G. Cameron: If you only registered those names for that reason, why do you not stand up and say that you withdraw them?

The Hon. T. CROTHERS: The Hon. Mr Holloway—

The Hon. T.G. Cameron interjecting:

The ACTING CHAIRMAN: Order!

An honourable member interjecting:

The Hon. T.G. Cameron: Because you are being deceitful; that is why.

Members interjecting:

The ACTING CHAIRMAN: Order! The Hon. Mr Holloway will resume his seat. The Hon. Trevor Crothers has the call.

The Hon. T. CROTHERS: Thank you, sir; thank you very much. I cannot believe what I have heard the Hon. Paul Holloway just say. He is not comparing an apple with an apple when he talks of Tony Blair in respect of New Labour. The honourable member knows, or he should know, as well as I know, that there are a number of very old socialist parties in Britain, some of which are even older than the Labour Party, New Labour, old Labour, or whatever Labour. As I said, a relative of mine was the first member at Westminster. William Crookes was elected to a seat in London. He was the first Labour member elected in England to Westminster, something of which I am fairly proud.

But let me say this, you are not comparing an apple with an apple, and you know better because you are a fairly good student of political history. You know better, Mr Holloway. The Socialist Party of Great Britain is a very old political party and it puts out a journal here (which you can get from some newsstands) called the *Socialist*. There was the Trotskyite Party. There was the Militant Tendency, which is still in existence and which, by the way, when my cousin was deputy mayor of Liverpool, it knocked him off for preselection in a safe Labour seat. Now he, Blair, is running as New Labour, but there was no other element of his party that was running in that election as a dummy candidate, unless you want to count the Liberal Democrats.

An honourable member interjecting:

The Hon. T. CROTHERS: Well, listen and learn, will you, you absolute ignoramus at times. The point is that Tony Blair's party only ran as New Labour—and they have a first past the post system, they do not have a preferential system like us, for heaven's sake; their system is first past the post. But the difference here in respect of what we are talking about is we have a preferential system and it does make a difference if you rort the system by running three other parties and then get the second or the third preferences directed to the major party that is conducting the clandestine campaign. I am just amazed that you would refer to New Labour. It is like so many other things about these amendments we are talking about, they have not been totally thought through.

I know that we may not have the numbers, but let me tell you, the public of this state must be apprised of this rort, and let the chips fall where they lie over the next dozen years or so. Let it never be forgotten the rort against decent democracy that was perpetuated this day in this house by the two major parties in this state and, if they did not collude over this, then I have to tell you, I will go and do what Socrates did and drink some hemlock—and I may well feel relieved to get out of this cesspit.

The Hon. K.T. GRIFFIN: One of the difficulties I see with what the Hon. Mr Cameron is proposing in his amendment is that—

The Hon. T. Crothers interjecting:

The ACTING CHAIRMAN: Order! The Attorney has the call.

The Hon. K.T. GRIFFIN: The difficulty I see with the Hon. Mr Cameron's amendment is that, whilst it may prevent a political party—not 'will definitely', because there are still issues about how you define a related political party—forming, in a sense, a subsidiary, but that is so far as political parties are concerned. The government's amendment deals with names. It also deals, to some extent, with the poaching of the name of the organisation, so the organisation—

The Hon. T. Crothers: But it does not get to the heart of what it is trying to do, that is the problem.

The Hon. K.T. GRIFFIN: Maybe if I start again, it might help. In relation to the Hon. Mr Cameron's amendment, I understand what he is trying to do but, with respect, I do not think in the longer term it will achieve what he wants.

The Hon. T. Crothers interjecting:

The Hon. K.T. GRIFFIN: The Hon. Mr Crothers acknowledged earlier that devices will be adopted so that a person will be able to avoid the consequences of that amendment. In the end, although there has been criticism of the government amendment, which is a separate amendment which relates to names such as Independent Labor or Independent Liberal, etc., it will not be impossible for candidates outside political parties to describe themselves as Independent Liberal or Independent Labor provided they have the consent of the party which has the entitlement to that name.

It may be that we are coming at things from different perspectives to achieve the same outcome. Between now and when the matter is considered in the House of Assembly I will have another look at the *Hansard* and the issues. For the moment, I will not support the Hon. Mr Cameron's amendment—I will move my amendment—but I am happy to look again at the issue. With respect, I do not believe that I have been duped, and I do not accept any reference to the fact that I have sought to behave in any way other than properly in the context of dealing with this bill.

The Hon. R.I. LUCAS: I have not involved myself in the debate, and I do not intend to speak for any length of time, but I support the comments of the Attorney-General in relation to the issue. The Hon. Mr Cameron has put a position where he believes that his amendments can live happily with the government's amendments. The Attorney-General has outlined a course of action. Obviously, we will need to look at the drafting of that between the Council debate and the House of Assembly debate—and I think that is appropriate.

However, from the government's viewpoint, if I could just explain briefly: under the Liberal Party constitution we used to have a provision which allowed defeated Liberal Party candidates to stand as Independent Liberal candidates. So, it was recognised within the Liberal Party constitution that if someone was defeated at a preselection they could stand as an Independent Liberal. Various things happened and we got rid of that provision.

Members interjecting:

The Hon. R.I. LUCAS: Nevertheless, this is an example of where as a political party our constitution recognised that these people were Liberals and when certain things occurred and they lost their endorsement or whatever we allowed them to stand as Independent Liberals. One of the intentions of this drafting is to allow a party to make a decision on whether or not it wants to agree to someone standing as an Independent Liberal. That is a decision for that particular party.

The honourable member seeks to stamp out a practice in relation to parties registering related party political affiliations or registered political parties that are affiliated or associated with the party. I understand where the Hon. Mr Cameron is coming from. As the Attorney has clearly indicated, he is prepared to have a look at this on behalf of the government between now and the House of Assembly debate.

The Hon. T. Crothers: In a meaningful way.

The Hon. R.I. LUCAS: In a meaningful way, as the Attorney-General always does. I think the Hon. Mr Crothers would—

The Hon. T. Crothers interjecting:

The Hon. R.I. LUCAS: Yes. There can be discussions with the Hon. Mr Cameron or, indeed, anyone else who might have a view on this issue. We have two weeks, so there is enough time to have a sensible discussion about this. We appreciate the Hon. Mr Cameron's position that he believes that both amendments can live with each other. We obviously need to have further discussions and explore that. Certainly, I will be interested to have discussions with the Attorney-General and anyone else who is interested in this issue between now and the House of Assembly debate.

The Hon. M.J. ELLIOTT: On the Attorney-General's amendment, it seems to me that if—

An honourable member interjecting:

The Hon. M.J. ELLIOTT: The Attorney just did the same thing; I can do it now or I can do it later. It seems to me that the effect of paragraph (b) is to say that, whilst paragraph (a) stops somebody who is perhaps not linked to the Liberal Party or the Labor Party in a direct sense and the members are calling themselves Independent Liberal or Independent Labor—which is a dreadful thing to do—the party itself could decide that it does not mind doing that because it might be a great way of harvesting votes. So, what they are saying is that the contrivance is allowed but it is allowed on the terms of the party that enjoys that key word within the name.

An honourable member interjecting:

The Hon. M.J. ELLIOTT: If you go to Europe you have Christian Democrats, Social Democrats and all sorts of things.

An honourable member interjecting:

The Hon. M.J. ELLIOTT: No, I think the point I was actually making was that it seems to me that it is a very one-way thing, the way this currently works; it stops other groups from perhaps using the contrivance against the parties but it allows them to use the contrivance, I guess, against the electorate.

The committee divided on the new clause:

AYES (6)

Cameron, T. G. (teller)	Crothers, T.
Elliott, M. J.	Gilfillan, I.
Kanck, S. M.	Xenophon, N.

NOES (15)

Davis, L. H.	Dawkins, J. S. L.
Griffin, K. T. (teller)	Holloway, P.
Laidlaw, D. V.	Lawson, R. D.
Lucas, R. I.	Pickles, C. A.
Redford, A. J.	Roberts, R. R.
Roberts, T. G.	Schaefer, C. V.
Sneath, R. K.	Stefani, J. F.
Zollo, C.	

Majority of 9 for the noes.

New clause thus negatived.

New clause 8A.

The Hon. NICK XENOPHON: I move:

Page 5, after line 16—Insert new clause as follows:

Amendment of section 42—Registration

8A. Section 42 of the principal act is amended—

(a) by inserting after paragraph (e) of subsection (2) the following word and paragraph:

or

(f) comprises or contains a word or set of words that constitute a distinctive aspect or part of the name of another political party[1] (not being a related political party) that is a parliamentary party or a registered political party.

[2]For example, the underlined words constitute distinctive aspects or parts of the names of political parties:

Australian Democrats (South Australian Division Inc.)

Australian Labor Party (South Australian Branch)

The Liberal Party of Australia (SA) Inc.

No Pokies Campaign Inc.

SA First:

(b) by inserting after subsection (2) the following subsection:

(2a) Subsection (2)(f) does not apply if the relevant parliamentary party or registered political party consents to the use of a particular word or set of words.

The wording of the amendment is quite straightforward. I note that the Attorney is moving a similar amendment but goes further with respect to electoral material. I will, of course, address that when the Attorney moves his amendments. This amendment seeks to ensure that a political party, a parliamentary party or a registered political party cannot have another entity registering a similar name in the absence of the permission of that party, or to use the words, for

instance, 'Independent Democrats', 'Independent Labor' or 'Independent Liberal'.

The purpose of this amendment is to ensure that mischief is not caused in the course of elections with respect to registration so that candidates cannot pass themselves off as having the values of a particular party when, in fact, they might have quite contrary values. Members are aware, and I should disclose, that last year Mr Len Spencer, a former One Nation senate candidate, attempted to register the name 'No Pokies'. I subsequently took out an application in the Supreme Court to resist that and, in the end, Mr Spencer withdrew his application. That is the sort of thing that would be avoided under this amendment and I note that the Attorney has picked up on some of the concepts in respect of that.

In relation to the substance of this amendment coexisting with what the Hon. Terry Cameron is attempting to do with respect to membership being split off so that there could be a number of other parties being formed, this amendment coexists with that amendment. Just because it has the same clause number does not mean that it does not coexist. The principles are quite different but they can coexist. I am happy to take questions from honourable members but I think that the wording is fairly self-explanatory.

The Hon. K.T. GRIFFIN: I have already spoken at some length on my amendment and have made some comments in relation to the Hon. Mr Xenophon's amendment. I prefer the more comprehensive drafting of the amendment that I am proposing because I think it goes further than his amendment. I support the principle of what the Hon. Mr Xenophon is seeking to achieve. In fact, my recollection is that he had the idea first and I sought to develop it to try to address the issue comprehensively. My preference is for my amendment and, in that context, I will be opposing the Hon. Mr Xenophon's amendment as drafted, although I support its sentiments. I move:

Page 5, after line 16—Insert new clause as follows:

Amendment of s. 42—Registration

8A. Section 42 of the principal Act is amended—

(a) by inserting after paragraph (e) of subsection (2) the following word and paragraph:

or

(f) comprises or contains a word or set of words—

(i) that constitute a distinctive aspect or part of the name of another political party[1] (not being a related political party) that is a parliamentary party or a registered political party; or

(ii) that so nearly resemble a distinctive aspect or part of the name of another political party[1] (not being a related political party) that is a parliamentary party or a registered political party that it appears that that distinctive aspect or part of that name is being adopted by the political party applying for registration.

[1.]For example, the underlined words constitute distinctive aspects or parts of the names of political parties:

Australian Democrats (South Australian Division Inc.)

Australian Labor Party (South Australian Branch)

The Liberal Party of Australia (S.A. Division)

The National Party of Australia (S.A.) Inc.

No Pokies Campaign Inc.

SA First;

(b) by inserting after subsection (2) the following subsection:

(2a) Subsection (2)(f) does not apply if the relevant parliamentary party or registered political party consents to the use of a particular word or set of words.

The Hon. T.G. CAMERON: Will the Attorney outline why proposed new subsection (2a) has been included?

The Hon. K.T. GRIFFIN: The honourable the Treasurer touched upon that and indicated, as I have previously indicated, that the government believes that it is appropriate to give to a parliamentary party or registered political party which has the proprietary interest in its name the ability to be able to consent to others using it; for example, as he indicated, the Liberal Party constitution used to have a provision in it that if a member were unsuccessful in his or her candidacy in a preselection then that person was entitled to stand as an independent Liberal and to expect the preferences to flow from the Liberal candidate to the independent Liberal candidate. Over time that has fallen into disrespect. It is generally felt by the government that at least there ought to be some opportunity if a party with a proprietary interest in a name is at least able to consent to a candidate otherwise using that name. I am wrong, because this relates to parties rather than to the candidates. The candidates issue follows.

An honourable member interjecting:

The Hon. K.T. GRIFFIN: Yes, fair enough. You make mistakes, too.

The Hon. R.R. Roberts: I'm not suggesting I don't.

The Hon. K.T. GRIFFIN: No, I know.

The Hon. T.G. Cameron: I know it's getting late but don't get touchy.

The Hon. K.T. GRIFFIN: That's all right. I haven't been too touchy; you know that.

The Hon. Carolyn Pickles interjecting:

The Hon. K.T. GRIFFIN: I make no observation about that. This does relate to parties, and the government believed it was important at least to have a provision where a party with a proprietary interest in its name could issue a form of consent to the use of its name.

The Hon. M.J. ELLIOTT: In what way does the Attorney feel this amendment offers extra protection to parties that effectively is not already offered by existing section 42? That section does not just deal with distinctive aspects or parts of names—and we are given examples of Democrats, Labor, Liberal and National. Already section 42 talks about abbreviations or acronyms of names of parties, or they nearly resemble the name, or abbreviations and acronyms of names. It also covers the notion of 'independent' married with 'party'. In what way does the Attorney feel his amendment adds anything to what is already in the act—other than the fact that his subclause (b) does something the current act does not do, which is to allow parties themselves to authorise the use of the name? That seems the only substantial change.

The Hon. K.T. GRIFFIN: If one looks at the existing section 42(2), one sees that it deals with the name or an abbreviation or acronym of the name; it does not deal, as the amendment deals, with a distinctive aspect or part of the name of another political party. So there is a difference in the way in which it is drafted. If you look at the amendment, you will see that it relates to a distinctive aspect or part of the name of another political party.

The Hon. M.J. ELLIOTT: This is the point of confusion. Is that not really what (c) and (d) address, namely, the concern that people might confuse these two groupings? I thought the concern was about the use of core words such as 'Labor', 'Liberal' or 'Democrat'.

The Hon. K.T. GRIFFIN: You might have 'Liberals'. You can have variations.

The Hon. M.J. Elliott: Well, that nearly resembles the name.

The Hon. K.T. GRIFFIN: It is not an abbreviation and it is not the name. It is different. We are dealing with fairly fine points.

The Hon. M.J. ELLIOTT: 'Resembles' means you are likely to be confused or mistaken. I would have thought that paragraphs 1(c) and (d) covered all of what is in the new paragraph (a) that you are adding. It is just paragraph (b) that is, effectively, providing anything new.

The Hon. K.T. GRIFFIN: An excess of caution is being exercised: if the name is used in combination with other words in a name. Section 42(2)(d) uses the words 'so nearly resembles the name or an abbreviation or acronym of the name of another political party'. It may not say 'nearly resemble' but it may use the word 'Liberal' or 'Labor' or 'Australian Democrats'. This is designed to try to ensure that we have covered the field.

The Hon. M.J. ELLIOTT: It seems to me that in many ways paragraph (d) is broader because when you talk about 'resembles' it not only stops people from calling themselves the Independent Labor Party, but it also stops them from calling themselves the Independent Labourers Party, which I suppose is broader; but would it already be captured? If it captured something which resembles and which is broader—as I am sure paragraphs (c) and (d) would—I do not see the point of this. In many ways, although it has specific words mentioned, it is, in fact, narrower than what is offered by paragraphs (c) and (d), and it is only the new subparagraph (b) of paragraph (f), I think it is, which I would have thought was in any way substantially different.

The Hon. K.T. GRIFFIN: As I say, we are demonstrating an excess of caution, I suppose, but I can see a distinction between what is in the act at the moment and what is in the bill. We are trying to avoid technical argument—at the time of an election, particularly, but also before an election—about a part of the distinctive name of the Liberal Party, the Labor Party, the Democrats, or whatever, being used in combination with other words which might then be argued to not so nearly resemble the name of another political party. It may not be an abbreviation, it may not be an acronym and it may be difficult to establish clearly that it so nearly resembles the name. So, we are trying to deal with a situation already dealt with in the act but, also, if you use one word or two words of a name in which a political party has a proprietary interest, then we are endeavouring to ensure that whatever combination of words is used it is prohibited unless it is done with the consent of the particular political party.

We have all been pretty slack about the way we use the names of parties in the past, but so many are now being registered in various formats that I think parties are entitled to be concerned about the way in which their names are being used by others without authority. That is what it is about.

The Hon. T.G. CAMERON: I want to go back to subclause (b) because I am not satisfied that the Attorney-General answered my question. I would like the Attorney-General to outline to me why subclause (b) has been inserted into his amendment; and does the Attorney-General agree that by inserting subclause (b) into the amendment he increases the opportunity for collusion and perhaps political corruption between parties and other minor parties by giving the major parties the power to register them or not? In effect, that is what subclause (b) does. It gives the major political parties, including SA First, a right of veto over a particular name.

But one can imagine a situation where Fred Bloggs came forward to a political party and said, 'I will give you all my preferences if you let me use Liberal or Labor or SA First in my name. We will do a deal on preferences.' I think the inclusion of subclause (b) increases the likelihood of political collusion. I would be interested to know whether the Attorney-General agrees or disagrees with that. Again, why does the government—the Liberal Party—after banning the use of the name, then want to insert a clause to give the right to sanction or authorise anyone to use it?

The Hon. K.T. GRIFFIN: It is there because the government took the view that if a political party, just like a company or business, has a proprietary interest in a name then it was entitled to grant consent to other persons or groups using that in some combination if it believed that it was appropriate to do so. We do not set down criteria by which that consent may or may not be given. We took the view that, whether it was politics or anything else, if you have the right to use the name then equally you should have the right to say someone can or cannot use it. This is primarily focused upon protecting the name, but in protecting the name the government took the view that what is protected the party can also allow others to have the use of in one form or another.

I am not quite sure of all the detail of the rorts to which the honourable member refers—but I can understand that exchange of preferences and attraction of votes for that purpose may be among those—but I do not believe that if there are to be those sorts of rorts they will be stopped either by what the honourable member is suggesting or by what the government is suggesting.

The Hon. Nick Xenophon's new clause negatived.

The committee divided on the Hon. K.T. Griffin's new clause:

AYES (16)

Davis, L. H.	Dawkins, J. S. L.
Griffin, K. T. (teller)	Holloway, P.
Laidlaw, D. V.	Lawson, R. D.
Lucas, R. I.	Pickles, C. A.
Redford, A. J.	Roberts, R. R.
Roberts, T. G.	Schaefer, C. V.
Sneath, R. K.	Stefani, J. F.
Xenophon, N.	Zollo, C.

NOES (5)

Cameron, T. G. (teller)	Crothers, T.
Elliott, M. J.	Gilfillan, I.
Kanck, S. M.	

Majority of 11 for the ayes.

New clause thus inserted.

Clauses 9 to 11 passed.

New clause 11A.

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

Page 6, after line 15—Insert:

Amendment of s.47—Issue of writ

11A. Section 47 of the principal Act is amended by striking out subsection (2) and substituting the following subsection:

(2) If an election to fill a vacancy in the membership of the House of Assembly is declared void by the Court of Disputed Returns, the Speaker of the House of Assembly must issue a writ for a by-election.

This issue is about filling a vacancy. As I understand it, we have to vote on this clause. If we vote on this clause we then have to deal with the amendment of the other acts attached to the schedule. There will need to be amendments to the City of Adelaide Act, the Constitution Act, the Local Government Act, and so on. We will need to test this one and, if this one gets up, we will move on to the others.

The Hon. K.T. GRIFFIN: The amendment, as the Hon. Mr Cameron has said, seeks to deal with the issue of casual vacancies. In the schedule there is an amendment to the Constitution Act which provides that, if there is a casual vacancy which occurs by death, resignation or otherwise in the seat of a member of the House of Assembly, a person will be chosen to occupy the vacant seat by an assembly of the members of both houses of parliament. So, effectively what is proposed is that, rather than a by-election where the electors will vote, a joint sitting of both houses will fill that vacancy, although, if an election for a particular seat is declared void as a result of a Court of Disputed Returns, there is a writ for a by-election and that is perfectly logical.

Whilst the proposition may have some attraction, there is still the fundamental question as to whether or not electors or a joint sitting should be given the opportunity to fill that vacancy when a seat is vacated by reason of either death or retirement. The government takes the view that it should be the electors who make the choice, notwithstanding that it is out of the context of a general election and in the context of a by-election where, of course, all sorts of different consequences may flow to the party whose member previously held the seat. On balance, the government takes the view that the democratic principles require the electors to make a determination by way of election rather than leaving that to a joint sitting of both houses.

The Hon. CAROLYN PICKLES: The opposition supports the views of the government. We certainly have had one case, from my memory, of a member of the House of Assembly dying while in office and a by-election being necessary. I think it is in the interests of democracy for electors in the lower house to proceed immediately to a by-election. We are facing one right now at the federal level where the member has died and there is a by-election to fill the vacancy.

The Hon. M.J. ELLIOTT: I take it that the Hon. Terry Cameron is attempting to address, in particular, the question of the cost of a by-election, and I can understand that. The Democrats would have a preference that, indeed, we had a system such as the Tasmanian system, with its multi member structure. If a member resigns, there is a recount of all the ballot papers and, as a consequence of that, another person is elected. Usually, that would be a member of the same party. They do not have tickets, as such, because they have a Robson rotation which jumbles it up, and then the electors have chosen, effectively, the next person at the time of the election. It is one of a number of advantages that you can get out of a multi member system that you simply cannot get with single member electorates. There is unquestionably a problem there. It is a matter of how best to address it. I am not convinced that the methodology being offered by the Hon. Terry Cameron is the way to go, but there is no question that the issue that he is seeking to address is an important one.

The Hon. NICK XENOPHON: In the absence of a Hare-Clark multi member electoral system, I support the government's position.

The Hon. T. CROTHERS: I think that the government might just have the record on this occasion. But I want to make one point. I want to come back to it again—I have already made it. It may not be the Attorney-General's fault, but it is absolutely as sure as there is an eye on a goat that negotiations have taken place between the two major parties. I suppose the analogy is the old French singing group, Les Compagnion de la Chanson who, when they sang, sang the same song in perfect harmony. And so has it been on every matter that we have considered thus far in respect of the debate on this bill. I rest my case on that point. I will be fascinated to see how this pans out in respect of the agreement and disagreement between the two major parties when the bill is finalised on this occasion in this place.

New clause negatived.

New clause 11A.

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

Page 6, after line 15—Insert new clause as follows:

Amendment of s.58—Grouping of candidates in Legislative Council election

11A. Section 58 of the principal act is amended—

(a) by striking out from subsection (1) 'where' and substituting 'subject to this section, if';

(b) by inserting after subsection (3) the following subsection:

(4) The number of candidates in a group must not exceed the number of candidates required to be elected at the particular election (the relevant number) and if an application under subsection (1) proposes more candidates in a group than the relevant number then those candidates down to the relevant number on the list provided for the purposes of subsection (2)(c) will be taken to form the group and the remaining candidates will be taken to be candidates who are not in any group.

This amendment seeks to impose a limit on the number of candidates who can be included in a group for a Legislative Council election. Groups will not be permitted to put forward more candidates than the number of vacancies to be filled. The general practice of parties and other groups has been to put forward fewer candidates than the number of vacancies to be filled. Most major parties have between six and eight candidates for the 11 vacancies in a general Legislative Council election.

However, recently, groups have contacted the Electoral Commissioner suggesting that they may put forward a significantly higher number of candidates than the number of vacancies to be filled. This behaviour is inappropriate. It has the potential to distort the appearance of the ballot paper and may, indeed, make it impossible to create a ballot paper that is reasonably able to be used by electors. It is possible that a party may seek to gain an advantage by drawing attention to itself by having a significantly higher number of candidates than any other party. While a deposit of $450 applies in relation to each candidate nominated, if a group has significant financial backing this is unlikely to be a great deterrent.

It is difficult to conceive of a reason why any group would need to nominate more candidates than there are vacancies to be filled. It is self-evident that no group can hope to have more candidates elected than the number of vacancies. It is therefore proposed to limit the number of candidates that can be a member of any one group for the purpose of a Legislative Council election to the number of vacancies to be filled in that election, and I move the amendment accordingly.

The Hon. CAROLYN PICKLES: The opposition supports the amendment. It does seem that there have been, of late, particularly I believe interstate, some rather mischievous candidates who seek to have an enormous upper house voting ticket. I can recall the days when the Australian Labor Party would run 11 candidates for 11 vacancies. Those days are long gone.

The Hon. M.J. Elliott: There are two or three of you now.

The Hon. CAROLYN PICKLES: Well, we run six.

New clause inserted.

Clause 12 passed.

Clause 13.

The Hon. CAROLYN PICKLES: I indicate that I will not be moving my amendments.

The Hon. NICK XENOPHON: I move:

Page 6, lines 28 and 29—Leave out all words in these lines after 'amended by' in line 28 and insert:

striking out subsection (3) and substituting the following subsections:

(3) The Electoral Commissioner may reject an application under subsection (1)(d) if—

(a) the description to which the application relates is, in the opinion of the Electoral Commissioner, obscene or frivolous; or

(b) the word or words constituting the description could not be registered as the name, or as part of the name, of a political party under Part 6 because of the operation of section 42(2)(e) or (f), other than where the relevant parliamentary party or registered political party has consented to the use of the relevant word or words.

My amendment relates to the Electoral Commissioner's discretion to knock out frivolous or vexatious naming of political parties. Initially, the Attorney told me that he thought that his amendment was more effective. I understand that the amendments are word for word but, because it is coming from the government—

The Hon. Diana Laidlaw interjecting:

The Hon. NICK XENOPHON:—that is probably why he said that.

The Hon. M.J. Elliott interjecting:

The Hon. NICK XENOPHON: That is right. There is nothing more to say. I am happy to take questions from members, but the Attorney is in the same position too, because his amendment is identical.

The Hon. K.T. GRIFFIN: I support the Hon. Mr Xenophon's amendment.

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

Page 6—

Line 29—Leave out 'subsection' and insert:

subsections

After line 29—Insert:

(3a) The Electoral Commissioner must reject an application under subsection (1)(d), if the description to which the application relates includes the registered name of a registered political party.

The Hon. N. Xenophon's amendment carried; clause as amended passed.

Clause 14 passed.

New clause 14A.

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

Page 7, after line 6—Insert new clause as follows:

Amendment of s.66—Display of certain electoral material

14A. Section 66 of the principal act is amended by inserting after paragraph (d) of subsection (2) the following word and paragraph:

and

(e) must not identify a candidate—

(i) by reference to the registered name of a registered political party or a composite name consisting of the registered names of two registered political parties; or

(ii) by the use of a word or set of words that could not be registered as the name, or as part of the name, of a political party under part 6 because of the operation of section 42(2)(e) or (f),

unless—

(iii) the candidate is endorsed by the relevant parliamentary party or registered political party (as the case may be); or

(iv) the relevant parliamentary party or registered political party has consented to the use of the relevant name or names or word or words (as the case may be),.

This clause will provide that a candidate may not use a party name on a how-to-vote card submitted to the Electoral Commissioner for inclusion in the display of how-to-vote cards in polling booths, unless the candidate is endorsed by the relevant party, or the relevant party has consented to the use of the name.

Previous amendments, which have been carried, impose limitations on the use of party names on the ballot paper. This extends this principle to apply it to how-to-vote cards displayed in polling booths.

The Hon. M.J. ELLIOTT: I want to explore the ramifications of that. How-to-vote material could potentially misrepresent a party in some way and use its name, but sometimes when you produce a how-to-vote card you list the names of the parties replicating the structure of the ballot paper so that people can compare it to what is on the ballot paper, and, as such, you would use the name. I have not had a chance to look at this as closely as I might, but I wonder whether, without intent, we are picking up the use of the name in that regard.

The Hon. K.T. Griffin interjecting:

The Hon. M.J. ELLIOTT: I am saying that it is not unusual with a how-to-vote card for the names of the parties on it to appear in the same way as they appear on the ballot paper. Therefore, are you not effectively using a party name, and do you need consent to do so, although I do not believe that is the intent?

The Hon. K.T. GRIFFIN: I do not think that will be a problem because section 66, which relates to the display of certain electoral material, must not identify a candidate by reference to the registered name of a registered political party unless the candidate is endorsed by the relevant parliamentary party. That does not refer only to Australian Democrat candidates. If you have an accurate depiction of the ballot paper, for example, and that refers to different political parties against particular candidates, one must presume that, having been allowed to go on the ballot paper in that form, they are authorised to use that name.

You are not representing that a candidate is endorsed by a particular political party when that person is not so endorsed; you are actually representing that, in respect of each of the candidates on that ballot paper which you might represent on the how-to-vote card, designated by reference to their party membership or they are Independent Liberals or whatever, that is an accurate reflection of their description on the formal ballot paper. So you are not usurping any role or function of other political parties.

New clause inserted.

Clauses 15 and 16 passed.

Clause 17.

The Hon. CAROLYN PICKLES: I move:

Page 7—

Line 33—After 'amended' insert:

(a) [Bring in all words after 'amended' in clause 17];

After line 34—Insert:

(b) by inserting after subsection (4) the following subsection:

(4a) A person who is given an envelope containing a declaration vote of an elector for transmission to a returning officer must lodge it with, or forward it by post to, the appropriate district returning officer as expeditiously as possible.

These amendments require a person who is charged by an elector with passing on to an appropriate authority the election application for a declaration vote to do so expedi-

tiously. This would require the same of a person who is given an envelope containing the postal vote of another elector.

The Hon. K.T. GRIFFIN: Support.

Amendments carried; clause as amended passed.

Clauses 18 to 21 passed.

Clause 22.

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

Page 8, line 31—Leave out 'section is' and insert 'sections are'.
Page 9, after line 19—Insert:

Certain descriptions not to be used

112B.(1) A person must not publish or distribute an electoral advertisement or a how-to-vote card that identifies a candidate—

(a) by reference to the registered name of a registered political party or a composite name consisting of the registered names of two registered political parties; or

(b) by the use of a word or set of words that could not be registered as the name, or as part of the name, of a political party under part 6 because of the operation of section 42(2)(e) or (f),

unless—

(c) the candidate is endorsed by the relevant parliamentary party or registered political party (as the case may be); or

(d) the relevant parliamentary party or registered political party has consented to the use of the relevant name or names or word or words (as the case may be).

Maximum penalty: $2 500.

(2) Subsection (1) applies to publication by any means (including radio or television).

(3) Subsection (1) does not prevent publication of background information, a personal profile, or a declaration of policy, by or in relation to a candidate.

(4) In this section—

'distribute' an electoral advertisement or how-to-vote card includes make the relevant advertisement or how-to-vote card available to other persons.

The amendments are really an extension of the earlier provisions which relate to the use of a party's name. We have dealt with that in relation to the registration of a political party, the description on the ballot paper and the description on the how-to-vote card in the polling booth. This extends it to an electoral advertisement and a how-to-vote card and contains the same limitations as have been incorporated earlier in relation to the use of names of political parties and descriptions of candidates.

The Hon. NICK XENOPHON: I have some reservations about this clause. I would like to ask the Attorney a question in respect of this clause because, if a candidate publishes electoral material and that candidate says, 'I have been brought up on Labor principles but now I am independent of those principles', this does go further than the initial amendments that protect registration. I agree with the Attorney's position on this but, in terms of a candidate trying to describe their position and if they say, 'No, I am a John Stuart Mill liberal and I subscribe to liberal principles and I am a liberal traditionalist', does the Attorney concede that there can be difficulties with respect to that because this amendment could potentially capture that?

I am not sure whether that was an intended or unintended consequence. It does raise some issues of going beyond protecting the intellectual property and proprietary rights in the sense of political parties, particularly where, for instance, the labour movement, liberal principles, and the liberal movement (not the Liberal Movement of Robin Millhouse's era, but John Stuart Mill liberalism in the 19th century) could be impacted by this amendment.

The Hon. K.T. GRIFFIN: We have tried to accommodate that with new subsection (3) which provides:

Subsection (1) does not prevent the publication of background information, a personal profile, or a declaration of policy, by or in relation to a candidate.

So I think it is quite conceivable that a candidate who might have been a member of one of the political parties in the background information, personal profile, declaration of policy, talkback radio, or an interview with a journalist where the candidate says, 'I used to be a member of XYZ party; I still support the fundamental principles but I think that the party is rotten and that is why I got out', that is still something that a candidate can say without running foul of this provision. If you want to describe yourself as a person with a 'labour' or 'Labor' background then there is nothing to stop that in the way in which I have indicated in relation to the earlier example.

The Hon. NICK XENOPHON: What happens in circumstances where there is a television or radio interview and a person explains all that and where they are coming from but in the edit, in terms of the 7 second or 10 second grab, or whatever, it just comes across as, 'I am an independent Labor person' without all the expanded material saying, 'I have left them and I am doing my own thing', and explaining his or her broad labour principles.

The Hon. K.T. GRIFFIN: I would not have thought that that was an electoral advertisement.

The Hon. NICK XENOPHON: I am grateful for the Attorney's amendments, but I still have some reservations about the clause in the sense that it may have some unintended consequences. I appreciate the Attorney's explanation but, subject to the rest of the debate, I have some reservations about supporting it, even though I can see that the subclause ameliorates the effect of the earlier clauses.

Amendments carried; clause as amended passed.

Clauses 23 and 24 passed.

New clause 24A.

The Hon. NICK XENOPHON: I move:

Page 9, after line 32—Insert new clause as follows:

Insertion of section 115A

24A. The following section is inserted after section 115 of the principal act:

Act overrides Local Government Act

115A. (1) An electoral advertisement that complies with the provisions of this act may be exhibited during an election period on—

(a) private land; or

(b) a road, or a building or structure on a road (being a road within the meaning of the Local Government Act 1999); or

(c) a public place, other than local government land within the meaning of the Local Government Act 1999 (except to the extent that paragraph (b) applies),

despite any by-law under the Local Government Act 1999 and without the need for an authorisation or permit under Part 2 of Chapter 11 of the Local Government Act 1999.

(2) Except as otherwise permitted by a council, an electoral advertisement exhibited for the purposes of a particular election on a building or structure on a road or other public place must be removed within seven days after polling day for that election (and if the electoral advertisement is not so removed, then a council may remove the electoral advertisement itself and dispose of it in such manner as the council thinks fit).

(3) The reasonable costs and expenses incurred by a council in taking action under subsection (2), not exceeding an amount or amounts calculated in accordance with the regulations, may be recovered by the council as a debt from the person who authorised the exhibition or distribution of the relevant advertisement.

This amendment relates to the Electoral Act overriding the Local Government Act. As there are some differences in

terms of what the Attorney seeks to do, I will highlight those differences. This new clause provides that an electoral advertisement can appear on private land, a road, a building or structure on a road, or a public place, other than local government land within the meaning of the Local Government Act, despite any by-law under the Local Government Act.

We have had a situation where I understand the Burnside council, by virtue of its by-laws, has prohibited electoral advertising. I think that in the context of an election period that is not necessarily a good thing. In the course of an election campaign, there ought to be robust debate, and part of that debate and informing the public means allowing election material to be placed in public places, subject, of course, to people's proprietary rights; but, if by-laws prohibit that, those by-laws will be overridden.

I will highlight the three principal differences between the Attorney's amendments (which are similar) and mine. My amendment refers to the election period but, as I understand it (I am sure the Attorney will correct me if I am wrong), in New South Wales, where they now have fixed dates and are now moving towards fixed terms, you get the situation where the election is the third week of March, or something similar, and I understand candidates in some electorates are putting up their election posters as early as January. This amendment would limit it to the period of the writs being issued for that four or five week campaign period. That is the first difference.

The second difference is that advertisements must be removed within seven days rather than the 10 days suggested. The final difference is one on which I have consulted with the Local Government Association, which I think has a point that has some merit. I understand that KESAB has supported the general intent of this clause. In circumstances where candidates or parties do not remove their election material (election posters on stobie poles, or wherever), in terms of the reasonable costs and expenses incurred by council in accordance with regulations (in other words, it is not something that council can set: it must be set by the government) there can be some cost recovery.

So, that would act as a fairly powerful disincentive for election material not to be removed. There is an issue of safety where material comes loose from stobie polls and can be a traffic hazard, and it is also an issue of litter. They are the three main differences between my amendments and those of the Attorney. I seek the support of honourable members in relation to this new clause.

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

Page 9, after line 32—Insert new clause as follows:

Insertion of s. 115A

24A. The following section is inserted after section 115 of the principal act:

Act overrides Local Government Act by-laws

115A. (1) An electoral advertisement that complies with the provisions of this act may be exhibited on—

(a) private land; or

(b) a road, or a building or structure on a road (being a road within the meaning of the Local Government Act 1999); or

(c) a public place, other than local government land within the meaning of the Local Government Act 1999 (except to the extent that paragraph (b) applies),

despite any by-law under the Local Government Act 1999 and without the need for an authorisation or permit under part 2 of chapter 11 of the Local Government Act 1999.

(2) Except as otherwise permitted by a council, an electoral advertisement exhibited for the purposes of a particular election on a building or structure on a road or other public place must be removed within 10 days after polling day for that election (and if the electoral advertisement is not so removed, then a council may remove the electoral advertisement itself and dispose of it in such manner as the council thinks fit).

I prefer my amendment to that of the Hon. Mr Xenophon. His amendment reduces the period within which posters have to be removed from 10 days to seven days. His amendments limit the exclusion of by-laws to the election period and require the person who authorised the exhibition or distribution of an advertisement to reimburse the council for expenses incurred in removing any posters that have not been removed within the time limit. The government does not support the reduction of the time period within which posters have to be removed. I acknowledge that any time that is chosen is arbitrary. Ten days was chosen as this was considered to be a reasonable time within which candidates could be expected to remove electoral advertising. It really gives the candidates a clear weekend.

The Hon. M.J. Elliott interjecting:

The Hon. K.T. GRIFFIN: They might all be out celebrating, commiserating or drowning their sorrows. Who knows? They would hardly want to pull them down on the election Saturday. The 10 days gives the candidates a clear weekend after the election to remove the advertising. It also allows for the involvement of volunteers following the election when they may well be occupied in scrutineering and other activities. We do not support restricting the application to an election period. If the principle is accepted, there is no good reason to limit the application of the section merely to an election period.

An electoral advertisement, of course, under the definition must contain electoral matter, that is, matter calculated to affect the result of an election. So, if an advertisement can truly be described as calculated to affect the result of an election, it is the type of advertisement that should be able to be displayed at any time, I think on general democratic principles.

The government does not support a requirement that councils be reimbursed for expenses incurred in removing posters that have not been removed within the time limit. Certainly, we sympathise with the concerns of some councils over the issue, but there are a number of practical considerations. The amendment proposes that the person who authorises an advertisement would be liable to pay the council for expenses incurred. However, the person authorising an advertisement may have no control over where the advertisement was displayed and, hence, no control over whether it was removed or not. Furthermore, where electoral advertising on behalf of more than one candidate is not removed, how would the costs incurred be calculated? In addition, how great an expense is it likely to be for the council? The act, of course, imposes no obligation on the council. It simply empowers the council to remove the advertisement should it wish to do so. The government's view is very strongly that the provisions of the Electoral Act governing issues of state elections ought not to be in any way under the direct or indirect jurisdiction of local government.

The Hon. T. CROTHERS: Just to prove that I look at things on merit, I am supportive of the Hon. the Attorney-General. I think it matters not one jot whether things are there for seven or 10 days, except for this one point, that you may well have country members—for instance, the Hon.

Mr Gunn, a member in another place—who have notices all over the place and they may well have to do a fair bit of boot slogging because they have no members on that polling booth. They may, in fact, have the assistant returning officer to put up—as is their right—a how-to-vote card within the booth and then themselves, over a period of some days before, wire up a how-to-vote sign—I think it now has to be 12 metres from the entrance to the polling booth.

So, I am on side with the Attorney in respect of that matter, particularly as it relates to country members. I do think they need a bit of extra time. I well remember the sight of the successful member in the South-East, the Hon. Rory McEwen, running along, because he was on his own without much infrastructure, removing his how-to-vote posters from telegraph poles and other like places, and I then gave some thought to that because his electorate is a rural electorate. But, 'Lord love him,' I thought, 'It will take him an awful length of time, unlike being in a city electorate, to remove those.'

A member such as the Hon. Mr Gunn would have an even larger task if, in fact, he has a number of areas where there are polling booths (not mobile polling booths, which he would have up around Olary and up the Oodnadatta track) where he has no members to stand at the booth for him—or, indeed, for her, in the case of female members with large electorates like that.

So, I think it matters not a jot, except that I would be more inclined to support 10 days because it gives that extra period of time. I do not think any members who were elected would be inebriated. I nearly took a point of order, as putting a slight on the members of parliament.

The Hon. K.T. Griffin: No, their supporters.

The Hon. T. CROTHERS: I can well understand the euphoria of supporters. But I just show that I judge things on merit, not like Les Compagnions de la Chanson or the Everly Brothers who sing the same thing with complete harmony. I am capable of making a decision on merit and it gives me some reasonable delight to be able to support the Attorney and the Leader of the Opposition in respect of this particularity.

The Hon. T.G. CAMERON: I rise to indicate that SA First will be supporting the amendment standing in the Attorney's name in preference to the amendment standing in the name of the Hon. Nick Xenophon. The reasons why I do that have nothing to do with the seven to 10 days. I note that in the amendment moved by the Hon. Nick Xenophon he has included an additional clause which picks up the Local Government Association's request in relation to the reasonable costs and expenses incurred by council in taking action, and so on.

The Hon. Nick Xenophon interjecting:

The Hon. T.G. CAMERON: I am not prepared to give the councils this power, and I note that this power is not contained in the Attorney-General's amendment. Some of these councils have become so greedy and preoccupied with revenue raising. If the Hon. Nick Xenophon's amendment got up, council officers would be running around on the eighth day gathering as many signs as they could to try to send out as large an account as they could to raise extra money. I do not trust them on this, so I prefer the Attorney-General's amendment.

The Hon. M.J. ELLIOTT: I indicate that there are aspects of both amendments with which I have some difficulty at this stage. As we will revisit some parts of this bill, I ask that a few things might be considered. The concern I have with the government amendment is that it is not limited simply to the campaign period. I do think that it is legitimate that local government be in a position to restrict signage outside that election period. There seems to be quite a few private companies that are starting to use power poles in a similar way to the way in which political parties do; the more common ones are, 'Work, ring this number', and 'Lose weight, ring this number', but all sorts of other things are being put on the poles as well.

This parliament is already giving political parties a special exemption, if you like, from rules that generally cover advertising. I do not think the exemption should go outside the election period which, as I read the government amendment as it currently stands, it does. I do not think there is justification for advertising a free go until the writs are issued.

Having commented on that concern about the government's amendment, I was initially attracted to that of the Hon. Nick Xenophon. The seven days does not worry me. The fact is that any candidate worth their salt gets their posters up within 24 hours; in fact, some try to get them up within the first hour of the election's being announced. If they can get them up in an hour or two, seven days does not seem to be an unreasonable requirement. So, seven days does not worry me, and in the first instance I was attracted to recovering costs. But then I thought, 'What a wonderful bit of vandalism.' We already know that many people lose their posters. All you do is wait until the eight days are up, then put them back up on the Stobie pole, and for every one that gets taken down by council it costs the other party $20. It is an effective form of vandalism: steal their posters during the campaign and put them back after eight days and get them to pay the bill. That is effectively what the amendment would allow. I know you do not intend that to happen.

Members interjecting:

The Hon. M.J. ELLIOTT: What I have practised over the years is to think in the ways in which you do to try to anticipate. For that reason, realising that that potential rort is there, I cannot support the Hon. Nick Xenophon's amendment because he has opened up a wonderful opportunity for some expensive political games. In my view, both amendments are flawed at this stage. I do not think there is disagreement on the overall thrust of either of them. I would hope that there might be an opportunity to revisit this, perhaps with an amendment that addresses those two issues.

The Hon. CAROLYN PICKLES: I support the amendment standing in the name of the Attorney-General. Some councils have been quite precious about advertisements, particularly the council in which I live. Burnside Council has been very precious about electoral advertisements. I think I talked to somebody from the Local Government Association who said that when we were running state and federal elections it was a prerogative of state or federal parliament to make decisions about when and where signs go up, so I support the amendment. I do not support the concept of just having seven days for reasons that have already been canvassed about country areas and having another weekend in between. I must say that if it has been a close run election the hangovers can last for days, so it is a good idea to give them a bit more time. I do not believe we should commit local council to incur reasonable costs.

Sometimes the Attorney is quite right, but in the case of the Australian Labor Party the state secretary would authorise the posters but would not have any control over where they go, so it is a bit thick to expect the party to be responsible. However, having said that we always make great efforts with

all our candidates to say they must take down their posters by the required time. If we are driving around and see any, we will ring the candidate and say, 'Please take them down.'

The Hon. M.J. ELLIOTT: Another thought could have been included in this. I think that, rather than councils having to remove them after eight days, it should be a possible for the council to ring up the candidate and say they have identified posters at particular spots.

The Hon. Carolyn Pickles interjecting:

The Hon. M.J. ELLIOTT: They do that now, but it is not recognised in the bill. It would be worth contemplating having some regulations to handle the removal of signs. We are trying to do it all in a couple of sentences within the act itself. I would rather have regulations that addressed the removal of signs. That would allow us to put in detail which would include council notifying that if signs at a particular place are not removed within a certain period there might be a charge, and that would be reasonable at that point. I raise that as a possibility with the Attorney-General.

The Hon. K.T. GRIFFIN: I have always taken the view that the greatest sanction against leaving your signs up is the public odium it attracts if they are up for too long. I would not be at all keen on building in a regulation making provision which tried to set up a code or course of conduct which gave at least some indication of steps that should or could be taken by councils or candidates. I have always taken the view that, if the signs are left up for too long after an election campaign, public odium will be enough to embarrass the person into having them removed.

The Hon. Nick Xenophon's new clause negatived; the Hon K.T. Griffin's new clause inserted.

New clause 24B.

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

Insert new clause as follows:

Amendment of s.116—Published material to identify person responsible for political content

24B. Section 116 of the principal Act is amended by inserting after paragraph (d) of subsection (2) the following paragraph:

(e) Any other prescribed material or class of material.

Proposed new clause 24B would amend section 116 of the act. Section 116 provides that published material is to identify a person responsible for political comment. The government considers that letters which identify the name and address of the author of the letter should not have to carry any further authorisation under this section. Such letters are already exempted by regulation from the operation of section 112, which relates generally to the authorisation of political advertising. This clause would insert a power to prescribe material that is exempt from section 116. The government could then prescribe letters identifying the name and address of the author as material to which section 116 does not apply.

New clause inserted.

New clause 24A.

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

Page 9, after line 32—Insert new clause as follows:

Insertion of s.122A

24A. The following section is inserted after section 122 of the principal Act:

Distribution of how-to-vote cards on polling day

122A. (1) A person must not, on polling day, distribute, or cause or permit to be distributed, to the public in a public place, a how-to-vote card relating to the election.

Maximum Penalty: $1 250.

(2) Subsection (1) does not apply to—

(a) the distribution of how-to-vote cards by an officer under another provision of this Act; or

(b) the distribution of how-to-vote cards in a newspaper or magazine; or

(c) any other distribution authorised by the regulations.

This amendment relates to the distribution of how-to-vote cards. It is something the Democrats have sought to address on countless occasions over the years. I note once again that how-to-vote cards are displayed already in the polling booths on election day and as such are not necessary in themselves. Having said that, we certainly know that so long as other parties are distributing them we have no choice but to distribute them as well.

The Hon. P. Holloway interjecting:

The Hon. M.J. ELLIOTT: They are effective insofar as if you do not distribute them when others are it creates a difficulty. If people are made fully aware that how-to-vote cards are on display in the polling booths, there is no need for the cards to be distributed. It seems to be an incredible waste of resources and, if one talks to ordinary members of the public, they almost unanimously say they wish they did not exist. Most political parties know that that is the case. That needless waste of resources and money cannot be justified.

I understand that in Tasmania how-to-vote cards are rarely used. One of the reasons is that with their multi-member electorates they have Robson's rotation, which means that every voting card looks different, so it is impossible to produce a how-to-vote card that looks anything like the ballot people vote on. I am sure that is the ultimate solution. Even in the absence of multi-member electorates, the idea of rotating positions on cards with an equal number sharing rather than relying on the vagaries of a ballot, the donkey vote and everything else would be the fairest way to decide elections anyway. At the end of the day, as long as people know the candidates or which party they represent, they are quite capable of making a decision without a how-to-vote card.

The Hon. T. CROTHERS: I rise to oppose this proposed new clause for the following reasons. If the Democrats and the environmentally caring party want to save our forests—and I think of the distinct advantage of saving paper with the how-to-vote card—they may as well start with a lot of the rubbish advertising mail that we get through our mailboxes, which not only increases the price of the products the big stores sell us but also chops down our trees. It reminds me of the comment of A.J. Taylor, the famous British historian, who said of the migration of my people from the defeated confederacy states as they were moving west that they felled timber and Indians with equal ferocity.

I would think that there is some merit here in respect of this matter. Even if we start at the start, the merit is in saving paper in respect of the matter the honourable member addresses. As a first step in respect of that, he ought to be prepared to deal with the fact that all this rubbish mail is being pumped into our letter boxes ad nauseam and not the emotional issues such as clubbing poor little white harp seals to death. I understand now that in Canada those harp seals in that area are dying of starvation, there are that many that they have eaten out the fishing beds that were providing the tucker to sustain them for hundreds of years. I rest my case.

The Hon. K.T. GRIFFIN: The amendment is opposed. It might appear to be limited in some respect, but the government is of the view that, if political parties wish to have their helpers at the polling booth handing out how-to-vote cards, they are entitled to do so.

The Hon. R.I. Lucas: What will we do on polling day?

The Hon. K.T. GRIFFIN: Of course, if you think about what might happen on polling day, this prohibits how-to-vote cards. A how-to-vote card is a card in the form of a ballot paper indicating the manner in which a particular candidate or group of candidates suggest that a vote should be recorded by a voter.

An honourable member: You will give out leaflets.

The Hon. K.T. GRIFFIN: You will give out leaflets. The mood on polling day that the parties wish to communicate is active, positive, vibrant and vigorous and all the rest, as part of the electoral process, on the basis that a substantial percentage of electors do not make up their minds until they either get to the polling booth or get into the polling booth. For us to seek to regulate this I think is an inappropriate means by which we control aspects of the electoral process. I oppose the amendment.

The Hon. CAROLYN PICKLES: We oppose the amendment. This matter has been debated over a period of many years within the Australian Labor Party, and our party helpers would be at a loss if they could not go out on polling day and stand in the stinking heat for hours on end and hand out how-to-vote cards and share conversations with the other parties.

An honourable member interjecting:

The Hon. CAROLYN PICKLES: Every now and again lively interactions between people have occurred—probably contrary to the Electoral Act. I think that, on balance, this kind of interaction with the public is a good thing and that it should continue.

New clause negatived.

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

Page 9, after line 32—Insert new clauses as follows:

Insertion of Part 13A

24A. The following Part is inserted after section 130 of the principal Act:

PART 13A
ELECTION FUNDING AND FINANCIAL DISCLOSURE
DIVISION 1—PRELIMINARY

130A. (1) In this Part—

'associated entity' means an entity that—

(a) is controlled by one or more registered political parties; or

(b) operates wholly or mainly for the benefit of one or more registered political parties;

'broadcast' means broadcast by radio or television and 'broadcaster' has a corresponding meaning;

'disposition of property' means any conveyance, transfer, assignment, settlement, delivery, payment or other alienation of property, and includes—

(a) the allotment of shares in a company; and

(b) the creation of a trust in property; and

(c) the grant or creation of any lease, mortgage, charge, servitude, licence, power, partnership or interest in property; and

(d) the release, discharge, surrender, forfeiture or abandonment, at law or in equity, of any debt, contract or chose in action, or of any interest in property; and

(e) the exercise by a person of a general power of appointment of property in favour of any other person; and

(f) any transaction entered into by any person with intent thereby to diminish, directly or indirectly, the value of the person's own property and to increase the value of the property of any other person;

'election' means an election of members of the Legislative Council or an election of a member of the House of Assembly;

'electoral expenditure', in relation to an election, means expenditure incurred (whether or not during the election period) on—

(a) the broadcasting, during the election period, of an electoral advertisement relating to the election; or

(b) the publishing in a journal, during the election period, of an electoral advertisement relating to the election; or

(c) the display, during the election period, at a theatre or other place of entertainment, of an electoral advertisement relating to the election; or

(d) the production of an electoral advertisement relating to the election, being an advertisement that is broadcast, published or displayed as mentioned in paragraph (a), (b) or (c) ; or

(e) the production of any material (not being material referred to in paragraph (a), (b) or (c)) that is required under section 112, 112A or 116 to include the name and address of the author of the material, of the person who has authorised the material, or of the person taking responsibility for its publication, and that is used during the election period; or

(f) consultants' or advertising agents' fees in respect of—

(i) services provided during the election period, being services relating to the election; or

(ii) material relating to the election that is used during the election period; or

(g) the carrying out, during the election period, of an opinion poll, or other research, relating to the election;

'entity' means—

(a) an incorporated or unincorporated body; or

(b) the trustee of a trust;

'financial controller', in relation to an entity, means—

(a) if the entity is a company—the secretary of the company;

(b) if the entity is the trustee of a trust—the trustee;

(c) in other cases—the person responsible for maintaining the financial records of the entity;

'gift' means any disposition of property made by a person to another person, otherwise than by will, being a disposition made without consideration in money or money's worth or with inadequate consideration, and includes the provision of a service (other than volunteer labour) for no consideration or for inadequate consideration, but does not include an annual subscription paid to a political party by a person in respect of the person's membership of the party;

'group' means a group of two or more candidates nominated for election to the Legislative Council who have their names grouped together on ballot papers in accordance with section 58;

'journal' means a newspaper, magazine or other periodical, whether published for sale or for distribution without charge;

'property' includes money;

'registered industrial organisation' means an organisation registered under the Industrial and Employee Relations Act 1994 or under a law of the Commonwealth or another State or a Territory concerning the registration of industrial organisations.

(2) For the purposes of this Part, the amount or value of a gift consisting of or including a disposition of property other than money is, if the regulations so provide, to be determined in accordance with principles set out or referred to in the regulations.

(3) For the purposes of this Part—

(a) a body corporate and any other body corporate that is related to the first-mentioned body corporate is to be taken to be the same person; and

(b) the question whether a body corporate is related to another body corporate is to be determined in the same manner as under the Corporations Law.

(4) For the purposes of this Part—

(a) a gift made to a candidate who is a member of a group is made to the group (and not to the candidate) if it is made to the candidate for the benefit of all members of the group; and

(b) a gift made to a group all of whose members are endorsed as candidates by the same registered political party is to be treated as a gift made to the party (and not to the group).

(5) For the purposes of this Part, electoral expenditure incurred by or with the authority of members of a group all of whose members are endorsed as candidates by the same registered political party is to be treated as electoral expenditure incurred by the party (and not by the group).

(6) For the purposes of this Part, a campaign committee appointed or formed to assist the campaign of a candidate or group in an election is, if the candidate is endorsed as a candidate by a registered political party, or all members of the group are endorsed as candidates by the same registered political party, to be treated as a part of the party.

(7) A reference in the Part to things done by or with the authority of a political party is, if the party is not a body corporate, to be read as a reference to things done by or with the authority of members or officers of the party on behalf of the party.

DIVISION 2—AGENTS

Appointment of agents by parties, candidates and groups

130B. (1) A political party must appoint a person to be the agent of the party for the purposes of this Part.

(2) A candidate in an election (including a member of a group of candidates) may appoint a person to be the agent of the candidate, for the purposes of this Part, in relation to the election.

(3) Subject to subsection (4), the members of a group of candidates in an election may appoint a person to be the agent of the group, for the purposes of this Part, in relation to the election.

(4) If all the members of a group of candidates have been endorsed by the same registered political party, the agent of the party is the agent of the group, for the purposes of this Part, in relation to the election.

(5) During any period during which there is no appointment in force under subsection (2) of an agent of a candidate, the candidate is to be taken to be his or her own agent for the purposes of this Part.

(6) Subject to subsection (4), during any period during which there is no appointment in force under subsection (3) of an agent of a group, the candidate whose name is to appear first in the group on the ballot papers is to be taken to be the agent of the group for the purposes of this Part.

Requisites for appointment

130C. (1) An appointment of an agent under this Part has no effect unless—

(a) the person appointed is an elector and is eligible for appointment; and

(b) written notice of the appointment is given to the Electoral Commissioner—

(i) if the appointment is made by a political party—by the party; and

(ii) in any other case—by the candidate, or each member of the group, making the appointment; and

(c) the name and address of the person appointed are set out in the notice; and

(d) the person appointed has signed a form of consent to the appointment.

(2) A consent under subsection (1) may be incorporated in, or written on the same paper as, a notice under that subsection.

(3) If a person who is the agent of a political party, of a candidate or of a group is convicted of an offence against this Part in relation to a particular election, the person is not eligible to be appointed or to hold office as an agent for the purposes of this Part for the purposes of any subsequent election.

(4) An appointment (other than an appointment by a political party) is not effective in relation to anything required by this Part to be done—

(a) in respect of a return under this Part in relation to an election; or

(b) during a specified period after polling day for an election,

if notice of the appointment was given to the Electoral Commissioner after the close of nominations for the election.

Registration of party agents

130D. (1) The Electoral Commissioner must establish and maintain a register, to be known as the Register of Party Agents.

(2) The Register must contain the name and address of every person appointed to be an agent of a political party for the purposes of this Part.

(3) The appointment of an agent by a political party—

(a) takes effect on the entry of the name and address of the agent in the Register; and

(b) ceases to have effect if the name and address of the agent are removed from the Register.

(4) The name and address of a person may not be removed from the Register unless—

(a) the person gives to the Electoral Commissioner written notice that he or she has resigned the appointment as agent; or

(b) the political party that appointed the person gives to the Electoral Commissioner written notice that the person has ceased to be an agent of the party and also gives notice under this Part of the appointment of another person as agent of the party; or

(c) the person is convicted of an offence against this Part.

(5) If a person who is an agent of a political party dies, the party by which the person was appointed must, within 28 days after the death of the person, give to the Electoral Commissioner—

(a) written notice of the death; and

(b) notice under this Part of the appointment of another person as agent of the party.

(6) If a person who is an agent of a political party is convicted of an offence against this Part, the party must give notice under this Part of a fresh appointment within 28 days after the conviction or, if an appeal against the conviction is instituted and the conviction is affirmed, within 28 days after the appeal is determined.

(7) An entry in the Register of Party Agents is, for all purposes, conclusive evidence that the person described in the entry is the agent, for the purposes of this Part, of the political party named in the entry.

Responsibility for action in case of political parties

130E. (1) If this Part imposes an obligation—

(a) on a political party; or

(b) on the agent of a political party and there is no agent of the party,

the obligation rests on each member of the executive committee of the party, and this Part applies to each such member as if the obligation rested on that member alone.

Termination of appointment of agent of candidate or group

130F. (1) A candidate or the members of a group may, by giving written notice to the Electoral Commissioner, revoke the appointment of a person as the agent of the candidate or group, as the case may be.

(2) A notice under subsection (1) has no effect unless it is signed by the candidate or by each member of the group, as the case requires.

(3) If the agent of a candidate or group dies or resigns, the candidate or the member of the group whose name is to appear first in the group on the ballot papers must, without delay, give to the Electoral Commissioner notice in writing of the death or resignation.

DIVISION 3—DISCLOSURE OF DONATIONS

Campaign donations returns for candidates or groups

130G. (1) The agent of each person (including a member of a group) who was a candidate in an election must, within 15 weeks after the polling day for the election, furnish to the Electoral Commissioner a campaign donations return for that candidate, in a form approved by the Electoral Commissioner.

(2) The agent of each group must, within 15 weeks after the polling day for an election in relation to which the

members of the group had their names grouped together on the ballot papers for the election, furnish to the Electoral Commissioner a campaign donations return for that group, in a form approved by the Electoral Commissioner.

(3) Subject to this section, a campaign donations return for a candidate or a group of candidates in an election must set out—

(a) the total amount or value of all gifts received by the candidate or group, as the case may be, during the disclosure period; and

(b) the number of persons who made such gifts; and

(c) the amount or value of each such gift; and

(d) the date on which each such gift was made; and

(e) in the case of each such gift made on behalf of the members of an unincorporated association, other than a registered industrial organisation—

(i) the name of the association; and

(ii) the names and addresses of the members of the executive committee (however described) of the association; and

(f) in the case of each such gift purportedly made out of a trust fund or out of the funds of a foundation—

(i) the names and addresses of the trustees of the fund or of the funds of the foundation; and

(ii) the title or other description of the trust fund or the name of the foundation, as the case requires; and

(g) in the case of each other such gift—the name and address of the person who made the gift.

(4) A campaign donations return need not set out—

(a) any details required by subsection (3) in respect of a private gift made to a candidate (including a member of a group); or

(b) any details required by subsection (3)(c) to (g) in respect of a gift if—

(i) in the case of a gift made to a candidate (including a member of a group)—the amount or value of the gift is less than $200; or

(ii) in the case of a gift made to a group—the amount or value of the gift is less than $1 000.

(5) For the purposes of this section—

(a) the disclosure period is the period that commenced—

(i) in relation to a candidate in an election who was a new candidate (other than a candidate referred to in subparagraph (ii))—on the day on which the person announced that he or she would be a candidate in the election or on the day on which the person was nominated as a candidate, whichever was the earlier;

(ii) in relation to a candidate in an election who was a new candidate and when he or she became a candidate in the election, was a member of Parliament chosen by an assembly of members of both Houses of Parliament under the Constitution Act 1934 to fill a casual vacancy—on the day on which the person was so chosen to be a member of Parliament;

(iii) in relation to a candidate in an election who was not a new candidate—at the end of 30 days after polling day for the last preceding election in which the person was a candidate;

(iv) in relation to a group of candidates in an election—on the day on which the members of the group applied under section 58 to have their names grouped together on the ballot papers for the election,

and that ended, in any case, at the end of 30 days after polling day for the election; and

(b) a candidate is a new candidate, in relation to an election, if the candidate had not been a candidate in an earlier election the polling day for which was within five years before the polling day for the election; and

(c) two or more gifts (excluding private gifts) made by the same person to a candidate or group during the disclosure period are to be treated as one gift; and

(d) a gift made to a candidate is a private gift if it is made in a private capacity to the candidate for his or her personal use and the candidate has not used, and will not use, the gift solely or substantially for a purpose related to an election.

Returns by persons incurring political expenditure

130H. (1) A person (other than a registered political party, an associated entity, or a candidate) must, within 15 weeks after the polling day for a general election ('the current election'), furnish to the Electoral Commissioner a campaign donations return, in a form approved by the Electoral Commissioner, if the person incurred political expenditure of a total amount not less than $1 000 in relation to the current election or any other election during the disclosure period.

(2) Subject to this section, a campaign donations return under this section must set out—

(a) the total amount or value of each gift received by the person during the disclosure period—

(i) the whole or a part of which was used by the person to enable the person to incur or to reimburse the person for incurring political expenditure in relation to an election during the disclosure period; and

(ii) the amount or value of which is not less than $1 000; and

(b) the date on which each such gift was made; and

(c) in the case of each such gift made on behalf of the members of an unincorporated association, other than a registered industrial organisation—

(i) the name of the association; and

(ii) the names and addresses of the members of the executive committee (however described) of the association; and

(d) in the case of each such gift purportedly made out of a trust fund or out of the funds of a foundation—

(i) the names and addresses of the trustees of the fund or of the funds of the foundation; and

(ii) the title or other description of the trust fund or the name of the foundation, as the case requires; and

(e) in the case of each other such gift—the name and address of the person who made the gift.

(3) For the purposes of this section—

(a) expenditure is political expenditure if it is incurred in connection with or by way of—

(i) publication by any means (including radio or television) of electoral matter; or

(ii) by any other means publicly expressing views on an issue in an election; or

(iii) the making of a gift to a political party, a candidate in an election or a group; or

(iv) the making of a gift to a person on the understanding that that person or another person will apply, either directly or indirectly, the whole or a part of the gift as mentioned in subparagraph (i), (ii) or (iii); and

(b) the disclosure period is the period that commenced at the end of 30 days after polling day for the last general election preceding the current election and that ended at the end of 30 days after polling day for the current election; and

(c) two or more gifts made by the same person to another person during the disclosure period are to be treated as one gift.

Returns by persons making gifts to parties or candidates

130I. (1) A person (other than a registered political party, an associated entity or a candidate) must, within 15 weeks after the polling day for an election ('the current election'), furnish to the Electoral Commissioner a campaign donations return, in a form approved by the Electoral Commissioner, if the person—

(a) made a gift to a political party during the disclosure period the amount or value of which is not less than

the amount prescribed for the purposes of this paragraph, or, if no amount is prescribed, $5 000; or

(b) made a gift to a candidate in the current election or any other election during the disclosure period the amount or value of which is not less than the amount prescribed for the purposes of this paragraph, or, if no amount is prescribed, $500; or

(c) made a gift to a person or organisation prescribed by regulation.

(2) A campaign donations return under this section must set out—

(a) the amount and value of each gift referred to in subsection (1) made by the person during the disclosure period; and

(b) the date on which each such gift was made; and

(c) in the case of each such gift made to an unincorporated association, other than a registered industrial organisation—

(i) the name of the association; and

(ii) the names and addresses of the members of the executive committee (however described) of the association; and

(d) in the case of each such gift purportedly made to a trust fund or paid into the funds of a foundation—

(i) the names and addresses of the trustees of the fund or of the foundation; and

(ii) the title or other description of the trust fund, or the name of the foundation, as the case requires; and

(e) in the case of each other such gift—the name and address of the person or organisation to whom the gift was made.

(3) For the purposes of this section—

(a) the disclosure period is the period that commenced at the end of 30 days after polling day for the last general election preceding the current election and that ended at the end of 30 days after polling day for the current election; and

(b) two or more gifts made by the same person to another person or organisation during the disclosure period are to be treated as one gift.

Certain gifts not to be received

130J. (1) It is unlawful for a political party or a person acting on behalf of a political party to receive a gift made to or for the benefit of the party the amount or value of which is not less than $1 000, unless—

(a) the name and address of the person making the gift are known to the person receiving the gift; or

(b) at the time when the gift is made, the person making the gift gives to the person receiving the gift his or her name and address and the person receiving the gift has no grounds to believe that the name and address so given are not the true name and address of the person making the gift.

(2) It is unlawful for a candidate or a member of a group or a person acting on behalf of a candidate or group to receive a gift made to or for the benefit of the candidate or the group, as the case may be, the amount or value of which is not less than—

(a) in the case of a gift made to a candidate—$200; or

(b) in the case of a gift made to a group—$1 000,

unless—

(c) the name and address of the person making the gift are known to the person receiving the gift; or

(d) at the time when the gift is made, the person making the gift gives to the person receiving the gift his or her name and address and the person receiving the gift has no grounds to believe that the name and address so given are not the true name and address of the person making the gift.

(3) For the purposes of this section—

(a) a reference to a gift made by a person includes a reference to a gift made on behalf of the members of an unincorporated association; and

(b) a reference to the name and address of a person making a gift is—

(i) in the case of a gift made on behalf of the members of an unincorporated association, other than a registered industrial organisation—a reference to—

(A) the name of the association; and

(B) the names and addresses of the members of the executive committee (however described) of the association; and

(ii) in the case of a gift purportedly made out of a trust fund or out of the funds of a foundation—a reference to—

(A) the names and addresses of the trustees of the fund or of the funds of the foundation; and

(B) the title or other description of the trust fund or the name of the foundation, as the case requires; and

(c) a person who is a candidate in an election is to be taken to remain a candidate for 30 days after the polling day for the election; and

(d) persons who constituted a group in an election are to be taken to continue to constitute the same group for 30 days after the polling day for the election; and

(e) two or more gifts made by the same person to or for the benefit of a political party, a candidate or a group are to be treated as one gift.

(4) If a person receives a gift that, by virtue of this section, it is unlawful for the person to receive, an amount equal to the amount or value of the gift is payable by that person to the Crown and may be recovered by the Crown as a debt by action, in a court of competent jurisdiction, against—

(a) in the case of a gift to or for the benefit of a political party—

(i) if the party is a body corporate—the party; or

(ii) in any other case—the agent of the party; or

(b) in any other case—the candidate or a member of the group or the agent of the candidate or of the group, as the case may be.

Nil returns

130K. (1) If no details are required to be included in a campaign donations return under this Division for a candidate, the return must nevertheless be lodged and must include a statement to the effect that no gifts of a kind required to be disclosed were received.

(2) If no details are required to be included in a campaign donations return under this Division for a group, the return must nevertheless be lodged and must include a statement to the effect that no gifts were received.

DIVISION 4—ELECTORAL EXPENDITURE

Electoral expenditure returns

130L. (1) The agent of each person (not being a member of a group) who was a candidate in an election must, within 15 weeks after the polling day for the election, furnish to the Electoral Commissioner an electoral expenditure return, in a form approved by the Electoral Commissioner, setting out details of all electoral expenditure in relation to the election incurred by or with the authority of the candidate.

(2) The agent of each group must, within 15 weeks after the polling day for an election in relation to which the members of the group had their names grouped together on the ballot papers for the election, furnish to the Electoral Commissioner an electoral expenditure return, in a form approved by the Electoral Commissioner, setting out details of all electoral expenditure in relation to the election incurred by or with the authority of the members of the group.

(3) If—

(a) electoral expenditure in relation to an election was incurred by or with the authority of a person and not with the written authority of a registered political party or a candidate in the election; and

(b) the total amount of the electoral expenditure was not less than $200,

the person must, within 15 weeks after polling day for the election, furnish to the Electoral Commissioner an electoral expenditure return, in a form approved by the Electoral Commissioner, setting out details of the electoral expenditure in

relation to the election incurred by or with the authority of the person.

Electoral advertising returns by broadcasters and publishers

130M. (1) Subject to this section, where an election has taken place, each broadcaster or publisher of a journal who, during the election period, broadcast or published in the journal electoral advertisements relating to the election with the authority of a participant in the election must, within 8 weeks after the polling day for the election, furnish to the Electoral Commissioner an electoral advertising return, in a form approved by the Electoral Commissioner.

(2) An electoral advertising return in respect of an election must set out particulars—

(a) identifying the broadcasting service by which or the journal in which each electoral advertisement relating to the election broadcast or published by the broadcaster or publisher during the election period with the authority of a participant in the election was so broadcast or published; and

(b) identifying the person at whose request each such advertisement was broadcast or published; and

(c) identifying the participant in the election with whose authority each such advertisement was broadcast or published; and

(d) specifying the date on which each such advertisement was broadcast or published; and

(e) in the case of broadcast advertisements—specifying the times between which each such advertisement was broadcast; and

(f) in the case of advertisements published in a journal—specifying the page in the journal on which each such advertisement was published and the space in the journal occupied by each such advertisement; and

(g) showing whether or not a charge was made by the broadcaster or publisher for each such advertisement and, if so—

(i) specifying the amount of the charge; and

(ii) showing whether or not the charge was at less than normal commercial rates having regard to all relevant factors.

(3) A publisher of a journal is not required to furnish a return in respect of an election if the total amount of the charges made by the publisher in respect of the publication of advertisements referred to in subsection (1) and any other advertisements relating to any other election that took place on the same day as the first-mentioned election is less than $1 000.

(4) If, under a law of the Commonwealth, a broadcaster furnishes to a body constituted under such a law a return that contains the particulars that the broadcaster is required to furnish under this section in respect of an election, it is sufficient compliance with this section if the broadcaster furnishes to the Electoral Commissioner a copy of the return furnished to that body.

(5) In this section—

'participant' in an election means—

(a) a political party or a candidate; or

(b) some other person by whom or with whose authority electoral expenditure was incurred in relation to the election.

Annual reporting by government administrative units of expenditure on advertising, etc.

130N. Subject to this section, the chief executive officer of each administrative unit of the Public Service of the State must attach a statement to its annual report setting out particulars of all amounts paid by, or on behalf of, the unit during the preceding financial year to—

(a) advertising agencies; and

(b) market research organisations; and

(c) polling organisations; and

(d) direct mail organisations; and

(e) media advertising organisations,

and of the persons or organisations to whom those amounts were paid.

(2) Nothing in subsection (1) requires particulars of a payment made by an administrative unit in a financial year to be included in a statement attached to its annual report if the value of the payment is less than $1 500.

Nil returns

130O. If no electoral expenditure in relation to an election was incurred by or with the authority of a particular candidate or the members of a particular group, a return under this Division in respect of the candidate or group must nevertheless be lodged and must include a statement to the effect that no expenditure of that kind was incurred by or with the authority of the candidate or the members of the group.

Two or more elections on the same day

130P. If—

(a) the polling at two or more elections took place on the same day; and

(b) a person would, but for this subsection, be required to furnish two or more returns under this Division relating to those elections,

the person may, in lieu of furnishing those returns, furnish one return, in an approved form, setting out the particulars that the person would have been required to set out in those returns.

(2) If—

(a) a return is furnished by a person pursuant to subsection (1); and

(b) particular electoral expenditure details of which are required to be set out in the return relates to more than one election,

it is sufficient compliance with this Division if the return sets out details of the expenditure without showing the extent to which it relates to any particular election.

DIVISION 5—ANNUAL FINANCIAL RETURNS BY REGISTERED POLITICAL PARTIES AND ASSOCIATED ENTITIES

Annual financial returns by registered political parties

130Q. (1) The agent of each registered political party must, within 16 weeks after the end of each financial year, furnish to the Electoral Commissioner an annual financial return in respect of the financial year, in a form approved by the Electoral Commissioner.

(2) Subject to this section, an annual financial return in respect of a financial year must set out—

(a) the total amount received by, or on behalf of, the party during the financial year; and

(b) the total amount paid by, or on behalf of, the party during the financial year; and

(c) the total outstanding amount, as at the end of the financial year, of all debts incurred by or on behalf of the party; and

(d) if the sum of the amounts received, the sum of the amounts paid, or the sum of the outstanding debts incurred, by or on behalf of the party during the financial year from or to the same person or organisation is not less than $1 500—

(i) the amount of the sum; and

(ii) in the case of receipts or payments, the amount of each receipt or payment and the date on which it was received or paid; and

(iii) in the case of a sum received from or paid or owed to an unincorporated association, other than a registered industrial organisation—

(A) the name of the association; and

(B) the names and addresses of the members of the executive committee (however described) of the association; and

(iv) in the case of a sum purportedly paid out of or into or payable into a trust fund or the funds of a foundation—

(A) the names and addresses of the trustees of the fund or of the foundation; and

(B) the title or other description of the trust fund, or the name of the foundation, as the case requires; and

(v) in any other case—the name and address of the person or organisation.

(3) For the purposes of subsection (2)(d)—

(a) in calculating the sum of the amounts received by or on behalf of the party from the same person or organisation, an amount that was received from the

person or organisation in the course of a fundraising event need not be counted unless the total amount received from the person or organisation was not less than $500; and

(b) in calculating the sum of the amounts paid by or on behalf of the party to the same person or organisation—

(i) an amount of less than $500; or

(ii) an amount paid under a contract of employment or an award specifying terms and conditions of employment,

need not be counted.

(4) For the purposes of this section—

(a) a reference to an amount includes a reference to the value of a gift or bequest; and

(b) without limiting the kinds of events that are fundraising events, events of a prescribed class are to be taken to be fundraising events if the regulations so provide; and

(c) events of a prescribed class are to be taken not to be fundraising events if the regulations so provide; and

(d) returns are not to include lists of party membership; and

(e) the regulations may require greater detail to be provided in returns than is otherwise required by this section, including further breaking down of the total amounts of receipts, payments and outstanding debts.

Annual returns by associated entities

130R. (1) If an entity is an associated entity at any time during a financial year, the financial controller of the entity must, within 16 weeks after the end of the financial year, furnish to the Electoral Commissioner an annual financial return in respect of the financial year, in a form approved by the Electoral Commissioner.

(2) Subject to this section, an annual financial return in respect of a financial year must set out—

(a) the total amount received by, or on behalf of, the entity during the financial year; and

(b) the total amount paid by, or on behalf of, the entity during the financial year; and

(c) the total outstanding amount, as at the end of the financial year, of all debts incurred by or on behalf of the entity; and

(d) if the sum of the amounts received, the sum of the amounts paid, or the sum of the outstanding debts incurred, by or on behalf of the entity during the financial year from or to the same person or organisation is not less than $1 500—

(i) the amount of the sum; and

(ii) in the case of receipts or payments, the amount of each receipt or payment and the date on which it was received or paid; and

(iii) in the case of a sum received from or paid or owed to an unincorporated association, other than a registered industrial organisation—

(A) the name of the association; and

(B) the names and addresses of the members of the executive committee (however described) of the association; and

(iv) in the case of a sum purportedly paid out of or into or payable into a trust fund or the funds of a foundation—

(A) the names and addresses of the trustees of the fund or of the foundation; and

(B) the title or other description of the trust fund, or the name of the foundation, as the case requires; and

(v) in any other case—the name and address of the person or organisation.

(3) For the purposes of subsection (2)(d)—

(a) in calculating the sum of the amounts received by or on behalf of the entity from the same person or organisation, an amount that was received from the person or organisation in the course of a fundraising event need not be counted unless the total amount received from the person or organisation was not less than $500; and

(b) in calculating the sum of the amounts paid by or on behalf of the entity to the same person or organisation—

(i) an amount of less than $500; or

(ii) an amount paid under a contract of employment or an award specifying terms and conditions of employment,

need not be counted.

(4) If any amount paid by or on behalf of the entity and required to be set out in a return under subsection (2)(d)—

(a) was paid to or for the benefit of one or more registered political parties; and

(b) was paid out of funds generated from capital of the associated entity,

the return must also set out the following details about each person who contributed to that capital after the commencement of this section:

(c) the name and address of the person;

(d) the total amount of the person's contributions to that capital, up to the end of the financial year.

(5) Subsection (4) does not apply to contributions that have been set out in a previous return under this section.

(6) For the purposes of this section—

(a) a reference to an amount includes a reference to the value of a gift or bequest; and

(b) without limiting the kinds of events that are fundraising events, events of a prescribed class are to be taken to be fundraising events if the regulations so provide; and

(c) events of a prescribed class are to be taken not to be fundraising events if the regulations so provide; and

(d) amounts received or paid at a time when an entity was not an associated entity are not be counted; and

(e) returns are not to include lists of party membership; and

(f) the regulations may require greater detail to be provided in returns than is otherwise required by this section, including further breaking down of the total amounts of receipts, payments and outstanding debts.

DIVISION 6—RELATED MATTERS

Public inspection of returns

130S. (1) The Electoral Commissioner must keep at his or her principal office each return furnished to the Commissioner under this Part.

(2) Subject to this section, a person is entitled to inspect a copy of a return under this Part, without charge, during ordinary business hours at the principal office of the Electoral Commissioner.

(3) Subject to this section, a person is entitled, on payment of a fee determined by the Electoral Commissioner to be the cost of copying, to obtain a copy of a return under this Part.

(4) A person is not entitled to inspect or obtain a copy of a return until the end of eight weeks after the day before which the return was required to be furnished to the Electoral Commissioner.

Records to be kept

130T. (1) If—

(a) a person makes or obtains a document or other thing that is or includes a record relating to a matter particulars of which are or could be required to be set out in a return under this Part relating to an election; and

(b) the record is not a record that, in the normal course of business or administration, would be transferred to some other person,

the person must retain that record for at least three years commencing on the polling day for that election.

Investigation, etc.

130U. (1) In this section—

'authorised officer' means a person authorised by the Electoral Commission under subsection (2).

(2) The Electoral Commissioner may, by instrument in writing signed by the Electoral Commissioner, authorise a person or a person included in a class of persons to perform duties under this section.

(3) If an authorised officer has reasonable grounds to believe that a person is capable of producing documents or other things or giving evidence relating to a contravention,

or possible contravention, of this Part, or relating to matters that are set out in, or are required to be set out in, a return under this Part, the authorised officer may, by notice served personally or by post on that person, require that person—

(a) to produce, within the period and in the manner specified in the notice, such documents or other things as are referred to in the notice; or

(b) to appear, at a time and place specified in the notice, before the authorised officer to give evidence, either orally or in writing, and to produce such documents or other things as are referred to in the notice.

(4) An authorised officer may require any evidence that is to be given to him or her in compliance with a notice under subsection (3) to be given on oath or affirmation and for that purpose the authorised officer may administer an oath or affirmation.

(5) A person must not, without reasonable excuse, refuse or fail to comply with a notice under subsection (3) to the extent that the person is capable of complying with the notice.

(6) If—

(a) an authorised officer has reasonable grounds for suspecting that there may be, at any time within the next following 24 hours, on any land or on or in any premises, vessel, aircraft or vehicle, a document or other thing that may afford evidence relating to a contravention of this Part; and

(b) the authorised officer has reasonable grounds to believe that, if a notice under this section were issued for the production of the document of other thing, the document or other thing might be concealed, lost, mutilated or destroyed,

the authorised officer may make an application to a magistrate for the issue of a warrant under subsection (7).

(7) Subject to subsection (8), if an application under subsection (6) is made by an authorised officer to a magistrate, the magistrate may issue a warrant authorising the authorised officer or any other person named in the warrant, with such assistance as the officer of person thinks necessary and if necessary by force—

(a) to enter on the land or on or into the premises, vessel, aircraft or vehicle;

(b) to search the land, premises, vessel, aircraft or vehicle for documents or other things that may afford evidence relating to a contravention of this Part, being documents or other things of a kind described in the warrant; and

(c) to seize any documents or other things of the kind referred to in paragraph (b).

(8) A magistrate may not issue a warrant under subsection (7) unless—

(a) an affidavit has been furnished to the magistrate setting out the grounds on which the issue of the warrant is being sought; and

(b) the authorised officer applying for the warrant or some other person has given to the magistrate, either orally or by affidavit, such further information (if any) as the magistrate requires concerning the grounds on which the issue of the warrant is being sought; and

(c) the magistrate is satisfied that there are reasonable grounds for issuing the warrant.

(9) If a magistrate issues a warrant under subsection (7), the magistrate must state on the affidavit furnished in accordance with subsection (8) which of the grounds specified in that affidavit he or she has relied on to justify the issue of the warrant and particulars of any other grounds so relied on.

(10) A warrant issued under subsection (7) must—

(a) include a statement of the purpose for which the warrant is issued, which must include a reference to the contravention of this Part in relation to which the warrant is issued; and

(b) state whether entry is authorised to be made at any time of the day or night or during specified hours of the day or night; and

(c) include a description of the kind of documents or other things authorised to be seized; and

(d) specify a date, not being later than one month after the date of issue of the warrant, on which the warrant ceases to have effect.

(11) If a document or other thing is seized by a person pursuant to a warrant issued under subsection (7)—

(a) the person may retain the document or other thing for so long as is reasonably necessary for the purposes of the investigation to which the document or other thing is relevant; and

(b) when the retention of the document or other thing by the person ceases to be reasonably necessary for those purposes, the person must cause the document or other thing to be delivered to the person who appears to be entitled to possession of it.

Inability to complete returns

130V. (1) If a person who is required to furnish a return under this Part considers that it is impossible to complete the return because he or she is unable to obtain particulars that are required for the preparation of the return, the person may—

(a) prepare the return to the extent that it is possible to do so without those particulars;

(b) furnish the return so prepared; and

(c) give to the Electoral Commissioner notice in writing—

(i) identifying the return; and

(ii) stating that the return is incomplete by reason that he or she is unable to obtain certain particulars; and

(iii) identifying those particulars; and

(iv) setting out the reasons why he or he is unable to obtain those particulars; and

(v) if the person believes, on reasonable grounds, that another person whose name and address he or she knows can give those particulars—stating that belief and the reasons for it and the name and address of that other person,

and a person who complies with this subsection is not, by reason of the omission of those particulars, to be taken, for the purposes of this Part, to have furnished a return that is incomplete.

(2) If the Electoral Commissioner has been informed under subsection (1) or (3) that a person can supply particulars that have not been included in a return, the Electoral Commissioner may, by notice in writing served on that person, require the person to furnish to the Electoral Commissioner, within the period specified in the notice and in writing, those particulars and, subject to subsection (3), the person must comply with that requirement.

(3) If a person who is required to furnish particulars under subsection (2) considers that he or she is unable to obtain some or all of the particulars, the person must give to the Electoral Commissioner a written notice—

(a) setting out the particulars (if any) that the person is able to give; and

(b) stating that the person is unable to obtain some or all of the particulars; and

(c) identifying the particulars the person is unable to obtain; and

(d) setting out the reasons why the person considers he or she is unable to obtain those particulars; and

(e) if the person believes, on reasonable grounds, that another person whose name and address he or she knows can give those particulars—setting out the name and address of that other person and the reasons why he or she believes that that other person is able to give those particulars.

Amendment of returns

130W. (1) If the Electoral Commissioner is satisfied that a return under this Part contains a formal error or is subject to a formal defect, the Electoral Commissioner may amend the return to the extent necessary to correct the error or remove the defect.

(2) A person who has furnished a return under this Part may request the permission of the Electoral Commissioner to make a specified amendment of the return for the purpose of correcting an error or omission.

(3) A request under subsection (2) must—

(a) be by notice in writing signed by the person making the request; and

(b) be lodged with the Electoral Commissioner.

(4) If—

(a) a request has been made under subsection (2); and

(b) the Electoral Commissioner is satisfied that there is an error in, or omission from, the return to which the request relates,

the Electoral Commissioner must permit the person making the request to amend the return in accordance with the request.

(5) If the Electoral Commissioner decides to refuse a request under subsection (2), the Electoral Commissioner must give to the person making the request written notice of the reasons for the decision and the decision is reviewable under Division I of Part 12.

(6) The amendment of a return under this section does not affect the liability of a person to be convicted of an offence against this Part arising out of the furnishing of the return.

Offences

130X. (1) A person who fails to furnish a return that the person is required to furnish under this Part within the time required by this Part is guilty of an offence.

Maximum penalty: In the case of a return required to be furnished by the agent of a political party—$10 000.
In any other case—$2 500.

(2) A person who furnishes a return or other information—

(a) that the person is required to furnish under this Part; and

(b) that contains a statement that is, to the knowledge of the person, false or misleading in a material particular,

is guilty of an offence.

Maximum penalty: $5 000.

(3) A person who furnishes to another person who is required to furnish a return under this Part information—

(a) that the person knows is required for the purposes of that return; and

(b) that is, to that person's knowledge, false or misleading in a material particular,

is guilty of an offence.

Maximum penalty: $5 000.

(4) A person who, otherwise than as referred to in this section, contravenes, or fails to comply with, a provision of this Part is guilty of an offence.

Maximum penalty: $5 000.

(5) If a person commits an offence against another provision of this section by reason of the failure to furnish a return or other information, or to do any other thing, within a particular period as required under this Part—

(a) the obligation to furnish the return or other information, or to do the other thing, continues despite the expiration of the period; and

(b) the person is liable, in addition to the penalty otherwise applicable to the offence, to a penalty for each day during which the failure continues of not more than an amount equal to one-fifth of the maximum penalty prescribed for the offence; and

(c) if the failure continues after the person is convicted of the offence, the person is guilty of a further offence against that provision and liable, in addition to the penalty otherwise applicable to the offence, to a penalty for each day during which the failure continues after the conviction of not more than an amount equal to one-fifth of the maximum penalty prescribed for the offence.

(6) An allegation in a complaint that a specified person had not furnished a return of a specified kind as at a specified date will be taken to have been proved in the absence of proof to the contrary.

Non-compliance with Act does not affect election

130Y. A failure of a person to comply with a provision of this Part in relation to an election does not invalidate that election.

Clause 26, page 10, after line 24—Insert:

(5) No return required to be furnished under Part 13A of the principal Act (as inserted by this Act) need contain any details relating to any gifts made or received, any expenditure incurred, or any electoral advertisements broadcast or published, before the commencement of this subsection.

(6) No statement required to be attached to the annual report of an administrative unit of the Public Service under Division 4 of Part 13A of the principal Act (as inserted by this Act) need contain particulars of payments made before the commencement of this subsection.

(7) No return is required to be furnished under Division 5 of Part 13A of the principal Act (as inserted by this Act) in respect of a financial year other than a financial year commencing on or after the commencement of this subsection.

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

New clause, page 9, after 32—Insert new clauses as follows:

Insertion of Part 13A

24A. The following Part is inserted after section 130 of the principal Act:

PART 13A
DISCLOSURE OF CAMPAIGN DONATIONS
DIVISION 1—PRELIMINARY

130A. (1) In this Part—

'associated entity' means an entity that—

(a) is controlled by one or more registered political parties; or

(b) operates wholly or mainly for the benefit of one or more registered political parties;

'disposition of property' means any conveyance, transfer, assignment, settlement, delivery, payment or other alienation of property, and includes—

(a) the allotment of shares in a company; and

(b) the creation of a trust in property; and

(c) the grant or creation of any lease, mortgage, charge, servitude, licence, power, partnership or interest in property; and

(d) the release, discharge, surrender, forfeiture or abandonment, at law or in equity, of any debt, contract or chose in action, or of any interest in property; and

(e) the exercise by a person of a general power of appointment of property in favour of any other person; and

(f) any transaction entered into by any person with intent thereby to diminish, directly or indirectly, the value of the person's own property and to increase the value of the property of any other person;

'election' means an election of members of the Legislative Council or an election of a member of the House of Assembly;

'entity' means—

(a) an incorporated or unincorporated body; or

(b) the trustee of a trust;

'financial controller', in relation to an entity, means—

(a) if the entity is a company—the secretary of the company;

(b) if the entity is the trustee of a trust—the trustee;

(c) in other cases—the person responsible for maintaining the financial records of the entity;

'gift' means any disposition of property made by a person to another person, otherwise than by will, being a disposition made without consideration in money or money's worth or with inadequate consideration, and includes the provision of a service (other than volunteer labour) for no consideration or for inadequate consideration, but does not include an annual subscription paid to a political party by a person in respect of the person's membership of the party;

'group' means a group of two or more candidates nominated for election to the Legislative Council who have their names grouped together on ballot papers in accordance with section 58;

'property' includes money;

'registered industrial organisation' means an organisation registered under the Industrial and Employee Relations Act 1994 or under a law of the Commonwealth or another State or a Territory concerning the registration of industrial organisations.

(2) For the purposes of this Part, the amount or value of a gift consisting of or including a disposition of property other than money is, if the regulations so provide, to be determined in accordance with principles set out or referred to in the regulations.

(3) For the purposes of this Part—

(a) a body corporate and any other body corporate that is related to the first-mentioned body corporate is to be taken to be the same person; and

(b) the question whether a body corporate is related to another body corporate is to be determined in the same manner as under the Corporations Act 2001 of the Commonwealth.

(4) For the purposes of this Part—

(a) a gift made to a candidate who is a member of a group is made to the group (and not to the candidate) if it is made to the candidate for the benefit of all members of the group; and

(b) a gift made to a group all of whose members are endorsed as candidates by the same registered political party is to be treated as a gift made to the party (and not to the group); and

(c) a gift made to a candidate who is endorsed as a candidate by a registered political party and who is not a member of a group is to be treated as a gift made to the party (and not to the candidate).

(5) For the purposes of this Part, a campaign committee appointed or formed to assist the campaign of a candidate or group in an election is, if the candidate is endorsed as a candidate by a registered political party, or all members of the group are endorsed as candidates by the same registered political party, to be treated as a part of the party.

DIVISION 2—AGENTS

Appointment of agents by parties, candidates and groups

130B. (1) A political party must appoint a person to be the agent of the party for the purposes of this Part.

(2) A candidate in an election (including a member of a group of candidates) may appoint a person to be the agent of the candidate, for the purposes of this Part, in relation to the election.

(3) Subject to subsection (4), the members of a group of candidates in an election may appoint a person to be the agent of the group, for the purposes of this Part, in relation to the election.

(4) If all the members of a group of candidates have been endorsed by the same registered political party, the agent of the party is the agent of the group, for the purposes of this Part, in relation to the election.

(5) During any period during which there is no appointment in force under subsection (2) of an agent of a candidate, the candidate is to be taken to be his or her own agent for the purposes of this Part.

(6) Subject to subsection (4), during any period during which there is no appointment in force under subsection (3) of an agent of a group, the candidate whose name is to appear first in the group on the ballot papers is to be taken to be the agent of the group for the purposes of this Part.

Requisites for appointment

130C. (1) An appointment of an agent under this Part has no effect unless—

(a) the person appointed is an elector and is eligible for appointment; and

(b) written notice of the appointment is given to the Electoral Commissioner—

(i) if the appointment is made by a political party—by the party; and

(ii) in any other case—by the candidate, or each member of the group, making the appointment; and

(c) the name and address of the person appointed are set out in the notice; and

(d) the person appointed has signed a form of consent to the appointment.

(2) A consent under subsection (1) may be incorporated in, or written on the same paper as, a notice under that subsection.

(3) If a person who is the agent of a political party, of a candidate or of a group is convicted of an offence against this Part or Part 20 of the Commonwealth Electoral Act 1918 in relation to a particular State or Commonwealth election, the person is not eligible to be appointed or to hold office as an agent for the purposes of this Part for the purposes of any subsequent election.

(4) An appointment (other than an appointment by a political party) is not effective in relation to anything required by this Part to be done—

(a) in respect of a return under this Part in relation to an election; or

(b) during a specified period after polling day for an election,

if notice of the appointment was given to the Electoral Commissioner after the close of nominations for the election.

Registration of party agents

130D. (1) The Electoral Commissioner must establish and maintain a register, to be known as the Register of Party Agents.

(2) The Register must contain the name and address of every person appointed to be an agent of a political party for the purposes of this Part.

(3) The appointment of an agent by a political party—

(a) takes effect on the entry of the name and address of the agent in the Register; and

(b) ceases to have effect if the name and address of the agent are removed from the Register.

(4) The name and address of a person may not be removed from the Register unless—

(a) the person gives to the Electoral Commissioner written notice that he or she has resigned the appointment as agent; or

(b) the political party that appointed the person gives to the Electoral Commissioner written notice that the person has ceased to be an agent of the party and also gives notice under this Part of the appointment of another person as agent of the party; or

(c) the person is convicted of an offence against this Part or Part 20 of the Commonwealth Electoral Act 1918.

(5) If a person who is an agent of a political party dies, the party by which the person was appointed must, within 28 days after the death of the person, give to the Electoral Commissioner—

(a) written notice of the death; and

(b) notice under this Part of the appointment of another person as agent of the party.

(6) If a person who is an agent of a political party is convicted of an offence against this Part or Part 20 of the Commonwealth Electoral Act 1918, the party must give notice under this Part of a fresh appointment within 28 days after the conviction or, if an appeal against the conviction is instituted and the conviction is affirmed, within 28 days after the appeal is determined.

(7) An entry in the Register of Party Agents is, for all purposes, conclusive evidence that the person described in the entry is the agent, for the purposes of this Part, of the political party named in the entry.

Responsibility for action in case of political parties

130E. (1) If this Part imposes an obligation—

(a) on a political party; or

(b) on the agent of a political party and there is no agent of the party,

the obligation rests on each member of the executive committee of the party, and this Part applies to each such member as if the obligation rested on that member alone.

Termination of appointment of agent of candidate or group

130F. (1) A candidate or the members of a group may, by giving written notice to the Electoral Commissioner, revoke the appointment of a person as the agent of the candidate or group, as the case may be.

(2) A notice under subsection (1) has no effect unless it is signed by the candidate or by each member of the group, as the case requires.

(3) If the agent of a candidate or group dies or resigns, the candidate or the member of the group whose name is to appear first in the group on the ballot papers must, without delay, give to the Electoral Commissioner notice in writing of the death or resignation.

DIVISION 3—DISCLOSURE OF DONATIONS

Campaign donations returns for candidates or groups

130G. (1) The agent of each person (including a member of a group) who was a candidate in an election must, within 15 weeks after the polling day for the election, furnish to the Electoral Commissioner a campaign donations return for that candidate, in a form approved by the Electoral Commissioner.

(2) The agent of each group must, within 15 weeks after the polling day for an election in relation to which the members of the group had their names grouped together on the ballot papers for the election, furnish to the Electoral Commissioner a campaign donations return for that group, in a form approved by the Electoral Commissioner.

(3) Subject to this section, a campaign donations return for a candidate or a group of candidates in an election must set out—

(a) the total amount or value of all gifts received by the candidate or group, as the case may be, during the disclosure period; and

(b) the number of persons who made such gifts; and

(c) the amount or value of each such gift; and

(d) the date on which each such gift was made; and

(e) in the case of each such gift made on behalf of the members of an unincorporated association, other than a registered industrial organisation—

(i) the name of the association; and

(ii) the names and addresses of the members of the executive committee (however described) of the association; and

(f) in the case of each such gift purportedly made out of a trust fund or out of the funds of a foundation—

(i) the names and addresses of the trustees of the fund or of the funds of the foundation; and

(ii) the title or other description of the trust fund or the name of the foundation, as the case requires; and

(g) in the case of each other such gift—the name and address of the person who made the gift.

(4) A campaign donations return need not set out—

(a) any details required to be furnished to the Australian Electoral Commission under Part 20 of the Commonwealth Electoral Act 1918; or

(b) any details in respect of a private gift made to a candidate (including a member of a group); or

(c) any details required by subsection (3)(c) to (g) in respect of a gift if—

(i) in the case of a gift made to a candidate (including a member of a group)—the amount or value of the gift is less than $200; or

(ii) in the case of a gift made to a group—the amount or value of the gift is less than $1 000.

(5) For the purposes of this section—

(a) the disclosure period is the period that commenced—

(i) in relation to a candidate in an election who was a new candidate (other than a candidate referred to in subparagraph (ii))—on the day on which the person announced that he or she would be a candidate in the election or on the day on which the person was nominated as a candidate, whichever was the earlier;

(ii) in relation to a candidate in an election who was a new candidate and when he or she became a candidate in the election, was a member of Parliament chosen by an assembly of members of both Houses of Parliament under the Constitution Act 1934 to fill a casual vacancy—on the day on which the person was so chosen to be a member of Parliament;

(iii) in relation to a candidate in an election who was not a new candidate—at the end of 30 days after polling day for the last preceding election in which the person was a candidate;

(iv) in relation to a group of candidates in an election—on the day on which the members of the group applied under section 58 to have their names grouped together on the ballot papers for the election,

and that ended, in any case, at the end of 30 days after polling day for the election; and

(b) a candidate is a new candidate, in relation to an election, if the candidate had not been a candidate in an earlier election the polling day for which was within five years before the polling day for the election; and

(c) two or more gifts (excluding private gifts) made by the same person to a candidate or group during the disclosure period are to be treated as one gift; and

(d) a gift made to a candidate is a private gift if it is made in a private capacity to the candidate for his or her personal use and the candidate has not used, and will not use, the gift solely or substantially for a purpose related to an election.

Returns by persons incurring political expenditure

130H. (1) A person (other than a registered political party, an associated entity, a candidate or a member of a group) must, within 15 weeks after the polling day for a general election ('the current election'), furnish to the Electoral Commissioner a campaign donations return, in a form approved by the Electoral Commissioner, if the person incurred political expenditure of a total amount not less than $1 000 in relation to the current election or any other election during the disclosure period.

(2) Subject to this section, a campaign donations return under this section must set out—

(a) the total amount or value of each gift received by the person during the disclosure period—

(i) the whole or a part of which was used by the person to enable the person to incur or to reimburse the person for incurring political expenditure in relation to an election during the disclosure period; and

(ii) the amount or value of which is not less than $1 000; and

(b) the date on which each such gift was made; and

(c) in the case of each such gift made on behalf of the members of an unincorporated association, other than a registered industrial organisation—

(i) the name of the association; and

(ii) the names and addresses of the members of the executive committee (however described) of the association; and

(d) in the case of each such gift purportedly made out of a trust fund or out of the funds of a foundation—

(i) the names and addresses of the trustees of the fund or of the funds of the foundation; and

(ii) the title or other description of the trust fund or the name of the foundation, as the case requires; and

(e) in the case of each other such gift—the name and address of the person who made the gift.

(3) For the purposes of this section—

(a) expenditure is political expenditure if it is incurred in connection with or by way of—

(i) publication by any means (including radio or television) of electoral matter; or

(ii) by any other means publicly expressing views on an issue in an election; or

(iii) the making of a gift to a political party, a candidate in an election or a group; or

(iv) the making of a gift to a person on the understanding that that person or another person will apply, either directly or indirectly, the whole or a part of the gift as mentioned in subparagraph (i), (ii) or (iii); and

(b) expenditure of a prescribed class is to be taken not to be political expenditure if the regulations so provide; and

(c) the disclosure period is the period that commenced at the end of 30 days after polling day for the last general election preceding the current election and that ended at the end of 30 days after polling day for the current election; and

(d) two or more gifts made by the same person to another person during the disclosure period are to be treated as one gift.

Returns by persons making gifts to parties or candidates

130I. (1) A person (other than a registered political party, an associated entity, a candidate or a member of a group) must, within 15 weeks after the polling day for an election ('the current election'), furnish to the Electoral Commissioner a campaign donations return, in a form approved by the Electoral Commissioner, if the person—

(a) made a gift to a political party during the disclosure period the amount or value of which is not less than the amount prescribed for the purposes of this paragraph, or, if no amount is prescribed, $5 000; or

(b) made a gift to a candidate in the current election or any other election during the disclosure period the amount or value of which is not less than the amount prescribed for the purposes of this paragraph, or, if no amount is prescribed, $500; or

(c) made a gift to a person or organisation prescribed by regulation.

(2) A campaign donations return under this section must set out—

(a) the amount and value of each gift referred to in subsection (1) made by the person during the disclosure period; and

(b) the date on which each such gift was made; and

(c) in the case of each such gift made to an unincorporated association, other than a registered industrial organisation—

(i) the name of the association; and

(ii) the names and addresses of the members of the executive committee (however described) of the association; and

(d) in the case of each such gift purportedly made to a trust fund or paid into the funds of a foundation—

(i) the names and addresses of the trustees of the fund or of the foundation; and

(ii) the title or other description of the trust fund, or the name of the foundation, as the case requires; and

(e) in the case of each other such gift—the name and address of the person or organisation to whom the gift was made.

(3) A campaign donations return need not set out—

(a) any details required to be furnished to the Australian Electoral Commission under Part 20 of the Commonwealth Electoral Act 1918; or

(b) any details in respect of a private gift made to a candidate (including a member of a group).

(4) For the purposes of this section—

(a) the disclosure period is the period that commenced at the end of 30 days after polling day for the last general election preceding the current election and that ended at the end of 30 days after polling day for the current election; and

(b) two or more gifts made by the same person to another person or organisation during the disclosure period are to be treated as one gift; and

(c) a gift made to a candidate is a private gift if it is made in a private capacity to the candidate for his or her personal use and the candidate has not used, and will not use, the gift solely or substantially for a purpose related to an election.

Certain gifts not to be received

130J. (1) It is unlawful for a political party or a person acting on behalf of a political party to receive a gift made to or for the benefit of the party the amount or value of which is not less than $1 000, unless—

(a) the name and address of the person making the gift are known to the person receiving the gift; or

(b) at the time when the gift is made, the person making the gift gives to the person receiving the gift his or her name and address and the person receiving the gift has no grounds to believe that the name and address so given are not the true name and address of the person making the gift.

(2) It is unlawful for a candidate or a member of a group or a person acting on behalf of a candidate or group to receive a gift made to or for the benefit of the candidate or the group, as the case may be, the amount or value of which is not less than—

(a) in the case of a gift made to a candidate—$200; or

(b) in the case of a gift made to a group—$1 000,

unless—

(c) the name and address of the person making the gift are known to the person receiving the gift; or

(d) at the time when the gift is made, the person making the gift gives to the person receiving the gift his or her name and address and the person receiving the gift has no grounds to believe that the name and address so given are not the true name and address of the person making the gift.

(3) For the purposes of this section—

(a) a reference to a gift made by a person includes a reference to a gift made on behalf of the members of an unincorporated association; and

(b) a reference to the name and address of a person making a gift is—

(i) in the case of a gift made on behalf of the members of an unincorporated association, other than a registered industrial organisation—a reference to—

(A) the name of the association; and

(B) the names and addresses of the members of the executive committee (however described) of the association; and

(ii) in the case of a gift purportedly made out of a trust fund or out of the funds of a foundation—a reference to—

(A) the names and addresses of the trustees of the fund or of the funds of the foundation; and

(B) the title or other description of the trust fund or the name of the foundation, as the case requires; and

(c) a person who is a candidate in an election is to be taken to remain a candidate for 30 days after the polling day for the election; and

(d) persons who constituted a group in an election are to be taken to continue to constitute the same group for 30 days after the polling day for the election; and

(e) two or more gifts made by the same person to or for the benefit of a political party, a candidate or a group are to be treated as one gift.

(4) If a person receives a gift that, by virtue of this section, it is unlawful for the person to receive, an amount equal to the amount or value of the gift is payable by that person to the Crown and may be recovered by the Crown as a debt by action, in a court of competent jurisdiction, against—

(a) in the case of a gift to or for the benefit of a political party—

(i) if the party is a body corporate—the party; or

(ii) in any other case—the agent of the party; or

(b) in any other case—the candidate or a member of the group or the agent of the candidate or of the group, as the case may be.

Certain loans not to be received

130K. (1) It is unlawful for a political party or a person acting on behalf of a political party to receive a loan of $1 500 or more from a person or entity other than a financial institution unless the loan is made in accordance with subsection (3).

(2) It is unlawful for a candidate or a member of a group or a person acting on behalf of a candidate or group to receive a loan of $1 500 or more from a person or entity other than a financial institution unless the loan is made in accordance with subsection (3).

(3) The receiver of the loan must keep a record of the following:

(a) the terms and conditions of the loan; and

(b) if the loan was received from a registered industrial organisation, other than a financial institution—

(i) the name of the organisation; and

(ii) the names and addresses of the members of the executive committee (however described) of the organisation; and

(c) if the loan was received from an unincorporated association, other than a registered industrial association—
(i) the name of the association; and
(ii) the names and addresses of the members of the executive committee (however described) of the association; and
(d) if the loan was paid out of a trust fund or out of the funds of a foundation—
(i) the names and addresses of the trustees of the fund or of the foundation; and
(ii) the title or other description of the trust fund, or the name of the foundation, as the case requires; and
(e) unless paragraph (b), (c) or (d) applies—the name and address of the person or entity from whom the loan was received.

(4) For the purpose of subsection (2), a person who is a candidate in an election is taken to remain a candidate for 30 days after the polling day in the election.

(5) For the purpose of subsection (2), persons who constituted a group in an election are taken to continue to constitute the same group for 30 days after the polling day in the election.

(6) If a person receives a loan that, by virtue of this section, it is unlawful for the person to receive, an amount equal to the amount or value of the loan is payable by that person to the Crown and may be recovered by the Crown as a debt by action, in a court of competent jurisdiction, against—
(a) in the case of a loan to or for the benefit of a political party—
(i) if the party is a body corporate—the party; or
(ii) in any other case—the agent of the party; or
(b) in any other case—the candidate or a member of the group or the agent of the candidate or of the group, as the case may be.

(7) For the purposes of this section, if credit is provided on a credit card in respect of card transactions, the credit is to be treated as a separate loan for each transaction.

(8) In this section—
'credit card' means—
(a) any article of a kind commonly known as a credit card; or
(b) any similar article intended for use in obtaining cash, goods or services on credit,
and includes any article of a kind that persons carrying on business commonly issue to their customers or prospective customers for use in obtaining goods or services from those persons on credit;
'financial institution' means an entity which carries on a business that consists of, or includes, the provision of financial services or financial products and which is—
(a) a bank; or
(b) a credit union; or
(c) a building society; or
(d) an entity prescribed by the regulations for the purposes of this paragraph:
'loan' means any of the following:
(a) an advance of money;
(b) a provision of credit or any other form of financial accommodation;
(c) a payment of an amount for, on account of, on behalf of or at the request of, an entity, if there is an express or implied obligation to repay the amount;
(d) a transaction (whatever its terms or form) which in substance effects a loan of money.

Nil returns

130L. (1) If no details are required to be included in a campaign donations return under this Division for a candidate, the return must nevertheless be lodged and must include a statement to the effect that no gifts of a kind required to be disclosed were received.

(2) If no details are required to be included in a campaign donations return under this Division for a group, the return must nevertheless be lodged and must include a statement to the effect that no gifts were received.

DIVISION 4—ANNUAL FINANCIAL RETURNS BY REGISTERED POLITICAL PARTIES AND ASSOCIATED ENTITIES

Annual financial returns by registered political parties

130M. (1) The agent of each registered political party must, within 16 weeks after the end of each financial year, furnish to the Electoral Commissioner an annual financial return in respect of the financial year, in a form approved by the Electoral Commissioner.

(2) Subject to this section, an annual financial return in respect of a financial year must set out—
(a) the total amount received by, or on behalf of, the party during the financial year; and
(b) if the sum of the amounts received by or on behalf of the party during the financial year from the same person or organisation is not less than $1 500—
(i) the amount of the sum; and
(ii) in the case of a sum received from an unincorporated association, other than a registered industrial organisation—
(A) the name of the association; and
(B) the names and addresses of the members of the executive committee (however described) of the association; and
(iii) in the case of a sum purportedly paid out of a trust fund or out of the funds of a foundation—
(A) the names and addresses of the trustees of the fund or of the foundation; and
(B) the title or other description of the trust fund or the name of the foundation, as the case requires; and
(iv) if the sum was received as a result of a loan—the information required to be kept under section 130K(3), or the name of the financial institution, as the case requires; and
(v) in any other case—the name and address of the person or organisation.

(3) For the purposes of subsection (2)(b), in calculating the sum of the amounts received by or on behalf of the party from the same person or organisation, an amount of less than $1 500 need not be counted.

(4) An annual financial return need not set out any details required to be furnished to the Australian Electoral Commission under Part 20 of the Commonwealth Electoral Act 1918.

(5) For the purposes of this section—
(a) a reference to an amount includes a reference to the value of a gift, loan or bequest; and
(b) returns are not to include lists of party membership; and
(c) the regulations may require greater detail to be provided in returns than is otherwise required by this section, including further breaking down of the total amounts of receipts.

Annual returns by associated entities

130N. (1) If an entity is an associated entity at any time during a financial year, the financial controller of the entity must, within 16 weeks after the end of the financial year, furnish to the Electoral Commissioner an annual financial return in respect of the financial year, in a form approved by the Electoral Commissioner.

(2) Subject to this section, an annual financial return in respect of a financial year must set out—
(a) the total amount received by, or on behalf of, the entity during the financial year; and
(b) if the sum of the amounts received by or on behalf of the entity during the financial year from the same person or organisation is not less than $1 500—
(i) the amount of the sum; and
(ii) in the case of a sum received from an unincorporated association, other than a registered industrial organisation—

(A) the name of the association; and
(B) the names and addresses of the members of the executive committee (however described) of the association; and

(iii) in the case of a sum purportedly paid out of a trust fund or out of the funds of a foundation—
(A) the names and addresses of the trustees of the fund or of the foundation; and
(B) the title or other description of the trust fund or the name of the foundation, as the case requires; and

(iv) in any other case—the name and address of the person or organisation.

(3) For the purposes of subsection (2)(b), in calculating the sum of the amounts received by or on behalf of the entity from the same person or organisation, an amount of less than $1 500 need not be counted.

(4) An annual financial return need not set out any details required to be furnished to the Australian Electoral Commission under Part 20 of the Commonwealth Electoral Act 1918.

(5) For the purposes of this section—
(a) a reference to an amount includes a reference to the value of a gift, loan or bequest; and
(b) amounts received at a time when an entity was not an associated entity are not be counted; and
(c) returns are not to include lists of party membership; and
(d) the regulations may require greater detail to be provided in returns than is otherwise required by this section, including further breaking down of the total amounts of receipts.

DIVISION 5—RELATED MATTERS

Public inspection of returns

130O. (1) The Electoral Commissioner must keep at his or her principal office each return furnished to the Commissioner under this Part.

(2) Subject to this section, a person is entitled to inspect a copy of a return under this Part, without charge, during ordinary business hours at the principal office of the Electoral Commissioner.

(3) Subject to this section, a person is entitled, on payment of a fee determined by the Electoral Commissioner to be the cost of copying, to obtain a copy of a return under this Part.

(4) A person is not entitled to inspect or obtain a copy of a return until the end of eight weeks after the day before which the return was required to be furnished to the Electoral Commissioner.

Records to be kept

130P. (1) If—
(a) a person makes or obtains a document or other thing that is or includes a record relating to a matter particulars of which are or could be required to be set out in a return under this Part relating to an election; and
(b) the record is not a record that, in the normal course of business or administration, would be transferred to some other person,

the person must retain that record for at least three years commencing on the polling day for that election.

Investigation, etc.

130Q. (1) In this section—
'authorised officer' means a person authorised by the Electoral Commissioner under subsection (2).

(2) The Electoral Commissioner may, by instrument in writing signed by the Electoral Commissioner, authorise a person or a person included in a class of persons to perform duties under this section.

(3) If an authorised officer has reasonable grounds to believe that a person is capable of producing documents or other things or giving evidence relating to a contravention, or possible contravention, of this Part, or relating to matters that are set out in, or are required to be set out in, a return under this Part, the authorised officer may, by notice served personally or by post on that person, require that person—
(a) to produce, within the period and in the manner specified in the notice, such documents or other things as are referred to in the notice; or
(b) to appear, at a time and place specified in the notice, before the authorised officer to give evidence, either orally or in writing, and to produce such documents or other things as are referred to in the notice.

(4) An authorised officer may require any evidence that is to be given to him or her in compliance with a notice under subsection (3) to be given on oath or affirmation and for that purpose the authorised officer may administer an oath or affirmation.

(5) A person must not, without reasonable excuse, refuse or fail to comply with a notice under subsection (3) to the extent that the person is capable of complying with the notice.

(6) If—
(a) an authorised officer has reasonable grounds for suspecting that there may be, at any time within the next following 24 hours, on any land or on or in any premises, vessel, aircraft or vehicle, a document or other thing that may afford evidence relating to a contravention of this Part; and
(b) the authorised officer has reasonable grounds to believe that, if a notice under this section were issued for the production of the document of other thing, the document or other thing might be concealed, lost, mutilated or destroyed,

the authorised officer may make an application to a magistrate for the issue of a warrant under subsection (7).

(7) Subject to subsection (8), if an application under subsection (6) is made by an authorised officer to a magistrate, the magistrate may issue a warrant authorising the authorised officer or any other person named in the warrant, with such assistance as the officer of person thinks necessary and if necessary by force—
(a) to enter on the land or on or into the premises, vessel, aircraft or vehicle;
(b) to search the land, premises, vessel, aircraft or vehicle for documents or other things that may afford evidence relating to a contravention of this Part, being documents or other things of a kind described in the warrant; and
(c) to seize any documents or other things of the kind referred to in paragraph (b).

(8) A magistrate may not issue a warrant under subsection (7) unless—
(a) an affidavit has been furnished to the magistrate setting out the grounds on which the issue of the warrant is being sought; and
(b) the authorised officer applying for the warrant or some other person has given to the magistrate, either orally or by affidavit, such further information (if any) as the magistrate requires concerning the grounds on which the issue of the warrant is being sought; and
(c) the magistrate is satisfied that there are reasonable grounds for issuing the warrant.

(9) If a magistrate issues a warrant under subsection (7), the magistrate must state on the affidavit furnished in accordance with subsection (8) which of the grounds specified in that affidavit he or she has relied on to justify the issue of the warrant and particulars of any other grounds so relied on.

(10) A warrant issued under subsection (7) must—
(a) include a statement of the purpose for which the warrant is issued, which must include a reference to the contravention of this Part in relation to which the warrant is issued; and
(b) state whether entry is authorised to be made at any time of the day or night or during specified hours of the day or night; and
(c) include a description of the kind of documents or other things authorised to be seized; and
(d) specify a date, not being later than one month after the date of issue of the warrant, on which the warrant ceases to have effect.

(11) If a document or other thing is seized by a person pursuant to a warrant issued under subsection (7)—
(a) the person may retain the document or other thing for so long as is reasonably necessary for the purposes of

the investigation to which the document or other thing is relevant; and

(b) when the retention of the document or other thing by the person ceases to be reasonably necessary for those purposes, the person must cause the document or other thing to be delivered to the person who appears to be entitled to possession of it.

Inability to complete returns

130R. (1) If a person who is required to furnish a return under this Part considers that it is impossible to complete the return because he or she is unable to obtain particulars that are required for the preparation of the return, the person may—

(a) prepare the return to the extent that it is possible to do so without those particulars;

(b) furnish the return so prepared; and

(c) give to the Electoral Commissioner notice in writing—

(i) identifying the return; and

(ii) stating that the return is incomplete by reason that he or she is unable to obtain certain particulars; and

(iii) identifying those particulars; and

(iv) setting out the reasons why he or he is unable to obtain those particulars; and

(v) if the person believes, on reasonable grounds, that another person whose name and address he or she knows can give those particulars—stating that belief and the reasons for it and the name and address of that other person,

and a person who complies with this subsection is not, by reason of the omission of those particulars, to be taken, for the purposes of this Part, to have furnished a return that is incomplete.

(2) If the Electoral Commissioner has been informed under subsection (1) or (3) that a person can supply particulars that have not been included in a return, the Electoral Commissioner may, by notice in writing served on that person, require the person to furnish to the Electoral Commissioner, within the period specified in the notice and in writing, those particulars and, subject to subsection (3), the person must comply with that requirement.

(3) If a person who is required to furnish particulars under subsection (2) considers that he or she is unable to obtain some or all of the particulars, the person must give to the Electoral Commissioner a written notice—

(a) setting out the particulars (if any) that the person is able to give; and

(b) stating that the person is unable to obtain some or all of the particulars; and

(c) identifying the particulars the person is unable to obtain; and

(d) setting out the reasons why the person considers he or she is unable to obtain those particulars; and

(e) if the person believes, on reasonable grounds, that another person whose name and address he or she knows can give those particulars—setting out the name and address of that other person and the reasons why he or she believes that that other person is able to give those particulars.

Amendment of returns

130S. (1) If the Electoral Commissioner is satisfied that a return under this Part contains a formal error or is subject to a formal defect, the Electoral Commissioner may amend the return to the extent necessary to correct the error or remove the defect.

(2) A person who has furnished a return under this Part may request the permission of the Electoral Commissioner to make a specified amendment of the return for the purpose of correcting an error or omission.

(3) A request under subsection (2) must—

(a) be by notice in writing signed by the person making the request; and

(b) be lodged with the Electoral Commissioner.

(4) If—

(a) a request has been made under subsection (2); and

(b) the Electoral Commissioner is satisfied that there is an error in, or omission from, the return to which the request relates,

the Electoral Commissioner must permit the person making the request to amend the return in accordance with the request.

(5) If the Electoral Commissioner decides to refuse a request under subsection (2), the Electoral Commissioner must give to the person making the request written notice of the reasons for the decision and the decision is reviewable under Division I of Part 12.

(6) The amendment of a return under this section does not affect the liability of a person to be convicted of an offence against this Part arising out of the furnishing of the return.

Offences

130T. (1) A person who fails to furnish a return that the person is required to furnish under this Part within the time required by this Part is guilty of an offence.

Maximum penalty: In the case of a return required to be furnished by the agent of a political party—$10 000.
In any other case—$2 500.

(2) A person who furnishes a return or other information—

(a) that the person is required to furnish under this Part; and

(b) that contains a statement that is, to the knowledge of the person, false or misleading in a material particular,

is guilty of an offence.

Maximum penalty: $5 000.

(3) A person who furnishes to another person who is required to furnish a return under this Part information—

(a) that the person knows is required for the purposes of that return; and

(b) that is, to that person's knowledge, false or misleading in a material particular,

is guilty of an offence.

Maximum penalty: $5 000.

(4) A person who, otherwise than as referred to in this section, contravenes, or fails to comply with, a provision of this Part is guilty of an offence.

Maximum penalty: $5 000.

(5) If a person commits an offence against another provision of this section by reason of the failure to furnish a return or other information, or to do any other thing, within a particular period as required under this Part—

(a) the obligation to furnish the return or other information, or to do the other thing, continues despite the expiration of the period; and

(b) the person is liable, in addition to the penalty otherwise applicable to the offence, to a penalty for each day during which the failure continues of not more than an amount equal to one-fifth of the maximum penalty prescribed for the offence; and

(c) if the failure continues after the person is convicted of the offence, the person is guilty of a further offence against that provision and liable, in addition to the penalty otherwise applicable to the offence, to a penalty for each day during which the failure continues after the conviction of not more than an amount equal to one-fifth of the maximum penalty prescribed for the offence.

(6) An allegation in a complaint that a specified person had not furnished a return of a specified kind as at a specified date will be taken to have been proved in the absence of proof to the contrary.

Non-compliance with Act does not affect election

130U. A failure of a person to comply with a provision of this Part in relation to an election does not invalidate that election.

Clause 26, page 10, after line 24—Insert:

(5) No return required to be furnished under Part 13A of the principal Act (as inserted by this Act) need contain any details relating to any gifts made or received, or any expenditure incurred, before the commencement of this subsection.

(6) No return is required to be furnished under Division 4 of Part 13A of the principal Act (as inserted by this Act) in respect of a financial year other than a financial year commencing on or after the commencement of this subsection.

My amendments are similar in form to those moved by the Hon. Terry Cameron. In fact, it was not until he put his amendments on the file that the government decided to look at the issue of public disclosure.

Having looked at the honourable member's proposals, I believed there were aspects of them that were not agreed with by the government. The main differences are that the government amendments provide that information which is required to be lodged with the Australian Electoral Commission under the commonwealth act need not also be lodged with the State Electoral Office under the state act. The government has not included a provision equivalent to new section 130N of the Hon. Terry Cameron's amendment—and that is about declaration of government expenditure on advertising—and the government amendments do not require details of expenditure to be lodged.

There is an interesting debate, I think, about whether or not expenditure should be disclosed. One can have an argument in favour of disclosure of donations because that gives some insight as to whether or not there may have been some undue influence or pressure on a particular candidate, but expenditure is a different matter. The government looked at the issue of disclosure of expenditure. Certainly, from the point of view of the Liberal Party, all our expenditure is discloseable under the federal legislation, anyway, and that will continue to be the position—even expenditure at a state election level. But the rationale for disclosure of electoral expenditure is not easy to find, particularly where there is no public funding.

At the commonwealth level there is public funding and, although disclosure of expenditure is not the direct requirement to achieve an entitlement to the public funding, nevertheless, I think that the disclosure of electoral expenditure was regarded as being a means by which it could be identified as to how a particular party, publicly funded, might be expending its funds, particularly at election time. The government's amendments focus upon disclosure of donations.

The government's amendments also seek to mirror the commonwealth provisions. There is one aspect of those which we might need to address in a moment, and that is the period for which records are required to be kept. Under the federal act it is three years because you have three year election periods, and that is mirrored in my amendments. What I would be proposing is to move the amendment in a slightly amended form to require five years, because even with four years that will be inadequate in the time between one election and 15 weeks after the subsequent election.

The object is to ensure that those parties that already have to account for donations, because they are registered at the federal level and therefore all their donations are discloseable in a federal return, should not be required to duplicate that or to modify it under the state regime, because that information is available on the public register. So, this amendment will essentially apply to parties that are not required to lodge at the federal level, but it will place no more onerous or any less onerous provisions—that is, one way or the other—on such a political party than already applies to parties that are required at the federal level to lodge these returns.

In respect of candidates who are not members of political parties and who are state candidates, the intention of the government's amendments is to apply to them the same rules that apply under the federal disclosure legislation to candidates. That is the range of emphasis which the government's amendments give to this particular issue.

The Hon. NICK XENOPHON: I move the following two amendments:

New clause, after heading to Division 3 of proposed new Part 13A—Insert new clause as follows:

Special campaign donations returns during election period

130FA. (1) During an election period, if a registered political party or a candidate (including a member of a group) for the election receives a gift the amount or value of which equals or exceeds—

(a) $200; or

(b) an amount which means that the registered political party or candidate has, in the preceding period of 30 days, received more than $200, in aggregate, from the same person,

then the agent for the political party or candidate, as the case may be, must furnish to the Electoral Commissioner an election period campaign donations return, in a form approved by the Electoral Commissioner.

(2) An election period campaign donations return must be furnished to the Electoral Commissioner by 5 p.m. on the first business day immediately following the day on which the relevant gift is received.

(3) For the purposes of this section—

(a) a person is a candidate for an election if the person has announced that he or she will be a candidate in the election (even if he or she is yet to be nominated); and

(b) an election period campaign donations return may relate to more than one gift made on a particular day.

(4) Subject to this section, an election period campaign donations return must set out, in relation to the gift, or each gift, to which the return relates—

(a) the amount or value of the gift; and

(b) the name and address of the person who made the gift.

(5) An election period campaign donations return is not required in relation to a private gift made to a candidate (including a member of a political party or group).

(6) For the purposes of this section, a gift made to a candidate is a private gift if it is made in a private capacity to the candidate solely for his or her personal use and the candidate has not used, and will not use, the gift solely or substantially for a purpose related to the relevant election.

(7) In this section—

'business day' means a day that is not a Saturday, Sunday or public holiday.

New Clause 130G—After paragraph (b) of subclause (4) insert:

(c) any details previously furnished in a return under section 130FA.

New clause 130J—After subclause (2) insert:

(2a) During an election period, the amounts referred to in subsection (1) and (2)(b) are reduced to $200.

New Clause 130S—Leave out subclause (1) and insert:

(1) The Electoral Commissioner must—

(a) keep at his or her principal office each return furnished to the Electoral Commissioner under this Part; and

(b) ensure that details of each return are made publicly available on an internet site maintained by the Electoral Commissioner.

New Clause 130S—Leave out subclause (4) and insert:

(4) A person is not entitled to inspect or obtain a copy of a return until one month after the day on which the return is furnished to the Electoral Commissioner.

(5) The Electoral Commissioner should publish details of any return on the internet—

(a) in the case of an election period campaign donations returns—within 24 hours after receiving the return;

(b) in any other case—within one month after receiving the return.

New clause, after heading to Division 3 of proposed new Part 13A—Insert new clause as follows:

Special campaign donations returns during election period

130FA. (1) During an election period, if a registered political party or a candidate (including a member of a group) for the election receives a gift the amount or value of which equals or exceeds—

(a) $200; or

(b) an amount which means that the registered political party or candidate has, in the preceding period of 30 days, received more than $200, in aggregate, from the same person,

then the agent for the political party or candidate, as the case may be, must furnish to the Electoral Commissioner an election period campaign donations return, in a form approved by the Electoral Commissioner.

(2) An election period campaign donations return must be furnished to the Electoral Commissioner by 5 p.m. on the first business day immediately following the day on which the relevant gift is received.

(3) For the purposes of this section—

(a) a person is a candidate for an election if the person has announced that he or she will be a candidate in the election (even if he or she is yet to be nominated); and

(b) an election period campaign donations return may relate to more than one gift made on a particular day.

(4) Subject to this section, an election period campaign donations return must set out, in relation to the gift, or each gift, to which the return relates—

(a) the amount or value of the gift; and

(b) the name and address of the person who made the gift.

(5) An election period campaign donations return is not required in relation to a private gift made to a candidate (including a member of a political party or group).

(6) For the purposes of this section, a gift made to a candidate is a private gift if it is made in a private capacity to the candidate solely for his or her personal use and the candidate has not used, and will not use, the gift solely or substantially for a purpose related to the relevant election.

(7) In this section—

'business day' means a day that is not a Saturday, Sunday or public holiday.

New Clause 130G—After paragraph (c) of subclause (4) insert:

(d) any details previously furnished in a return under section 130FA.

New clause 130J—After subclause (2) insert:

(2a) During an election period, the amounts referred to in subsection (1) and (2)(b) are reduced to $200.

New Clause 130O—Leave out subclause (1) and insert:

(1) The Electoral Commissioner must—

(a) keep at his or her principal office each return furnished to the Electoral Commissioner under this Part; and

(b) ensure that details of each return are made publicly available on an internet site maintained by the Electoral Commissioner.

New Clause 130O—Leave out subclause (4) and insert:

(4) A person is not entitled to inspect or obtain a copy of a return until one month after the day on which the return is furnished to the Electoral Commissioner.

(5) The Electoral Commissioner should publish details of any return on the internet—

(a) in the case of an election period campaign donations returns—within 24 hours after receiving the return;

(b) in any other case—within one month after receiving the return.

This amendment is consequential to the amendments moved by the Hon. Terry Cameron and the Attorney-General. First, I want to place on the record my congratulations to the Hon. Terry Cameron for moving these amendments in relation to campaign disclosure, which is something that I have supported. The Hon. Terry Cameron needs to be congratulated for putting this very clearly on the agenda in the context of this bill. These amendments are overdue. It is certainly very positive that the government has picked up many of the amendments of the Hon. Terry Cameron and introduced its own amendments. I know from some of the press which I have read about federal disclosure laws that there are concerns with various trusts, foundations and so on and that there can be ways to circumvent federal laws in terms of the spirit of the those laws.

That has been the subject of press every time there is a disclosure under the federal laws. I know the *Financial Review* has covered a number of interesting stories about political donations and the adequacy of existing disclosure laws. I think that we should always be vigilant and go further in the future, but at least this is a first step. It gives a framework for disclosure laws in the context of state elections, and it means that state candidates—that is, those who fall outside federally registered political parties—are liable to file returns. It is interesting to note that the Hon. Terry Cameron's party is a state registered party. He has consistently called for the disclosure of donations, in terms of public donations, to be put out in the public arena and he ought to be congratulated for that.

My amendments essentially are identical. The Attorney-General's amendments go somewhat further. Essentially they say that during an election period—in other words, when an election is called—there ought to be a disclosure on the internet virtually on a daily basis. In a nutshell, that is what it says. I think most members are underwhelmed by it at this stage, but we ought to have the issue of using the internet as a tool out in the arena to ensure that the public is informed about political donations. Of all people, George W. Bush at the last United States presidential election, when all the squillions of dollars were rolling into his election campaign, said publicly, 'Well, look, if people are concerned about the money I am getting and undue influence, the way around it is to place the political donations I have had on the internet virtually instantaneously.' However, there is a requirement, and whether he follows that through remains to be seen.

The Hon. T.G. Cameron: He will not be allowed to; his party will not let him.

The Hon. NICK XENOPHON: The Hon. Terry Cameron says, 'He will not be allowed to; his party will not let him'—and he may well be right. Using the internet as a tool for disclosure for engaging the public in the electoral process and the public disclosure of donations is something that ought to be debated. I understand and appreciate that it will not be supported by the majority of members, but I still believe that it ought to be on the agenda and perhaps be revisited after we have seen how the current provisions work to see whether they ought to be modified, as I suspect they will. My amendment essentially deals with that. Again, the effect of the Hon. Terry Cameron's introducing these amendments, effectively, is the government's moving its amendment. This is a very positive step in terms of transparency and disclosure of political donations.

The Hon. K.T. GRIFFIN: I indicate that the government opposes the amendments. There are a significant number of problems with the proposal. The most fundamental is that it imposes a substantial administrative burden on parties, candidates and the Electoral Commissioner at a time when there are a number of other matters to be attended to. I do not think any candidate would wish to be burdened with additional administration during the campaign period when the campaigning itself is all-consuming, and I think political parties are in a similar position. The Electoral Commissioner is busy preparing for polling day and conducting pre-polling in nursing homes and isolated areas.

The sheer volume of returns is another factor. In the 1997 election, there were 51 candidates for the Legislative Council and 197 candidates for the House of Assembly. Although gifts to endorsed candidates for registered political parties will be considered to be gifts to the party rather than to the candidate, there would still be a large number of candidates who are not endorsed by parties. At the last election, there were 28 of those. I do not think that this will result in any improvement in reliability and timeliness of information provided.

The Hon. T.G. CAMERON: I will be brief. My amendments are not too dissimilar from those of the Attorney,

although I think mine go further. I would like to comment briefly on the amendment standing in the name of the Hon. Nick Xenophon. Whilst I support the general thrust of what the Hon. Nick Xenophon is attempting to do with his amendment, I think it contains two flaws which I respectfully suggest he look at and perhaps address in the future. The first one is the $200 threshold for the notification of a donation on the internet. We have had some experience with election campaign donations during the—

The Hon. R.I. Lucas interjecting:

The Hon. T.G. CAMERON: I do not think that anyone thinks that $200 will be enough to influence a member of parliament, a minister or a government. I suggest that the honourable member have a look at a more realistic threshold of perhaps $2 000. The other problem with the amendment is that I suggest he look at extending the period for longer than just the election campaign itself because, if anyone was going to make a sizeable donation but was up to mischief of some kind, they would be cognisant of the act and would merely ensure that they made their donation—

An honourable member interjecting:

The Hon. T.G. CAMERON: Yes, a few months before the election campaign. In the event, it looks as though we will get fixed four-year election terms. Perhaps the honourable member could have a look at raising the threshold and extending the period to perhaps the final 12 months of the four-year election cycle.

The Hon. CAROLINE SCHAEFER: I have sat here all night trying to stay awake and refrain from commenting in the hope that we would get finished, but the picture of every person who helps in an electoral campaign having to put the proceeds, sometimes in $1 and $2 coins, from every chook raffle into a bank account daily and reveal it on the internet defies logic. It is one of the silliest things I have ever heard anyone say in this place.

The Hon. CAROLYN PICKLES: The opposition will support the Attorney-General's amendment and oppose the amendment of the Hon. Nick Xenophon.

Hon. Nick Xenophon's amendment to Hon. Terry Cameron's new clause negatived; Hon. T.G. Cameron's new clause negatived; Hon. Nick Xenophon's amendment to Hon. K.T. Griffin's new clause negatived; Hon. K.T. Griffin's new clause inserted.

Clause 25 passed.

Clause 26.

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

Page 10, after line 10—Insert:

(a1) Subject to subsection (1), the amendments effected to section 36 of the principal Act by this Act will apply from 1 January 2002 with respect to a political party registered under Part 6 of the principal Act immediately before the commencement of this subsection.

The amendment relates to transitional provisions. It does speak for itself. I am happy to explain it if members wish me to do so but, as I say, it should be relatively clear.

The Hon. NICK XENOPHON: I move:

Page 10, after line 10—Insert:

(a1) The Electoral Commissioner must, by notice in writing addressed to the relevant person at his or her principal place of residence noted on the roll, notify any elector who has made a request under subsection (3) of section 27A of the principal Act of the repeal of that subsection by this Act.

This amendment is, in a sense, consequential to the amendment moved by the opposition and supported by the government earlier today—only a few hours ago; it seems much longer—where subsection (3) of section 27A of the Electoral Act has now been deleted, where it says:

However, information is not to be disclosed to a person of a prescribed class if the elector has requested the Electoral Commissioner in writing not to do so.

The opposition, together with the government, have deleted that clause. So, with the provisions as provided in my amendment, those electors who have actually made that conscious decision, ticked the form and said, 'We don't want this information to be provided to members of parliament', if they suddenly start getting material and correspondence from members of parliament, where it is obvious that their personal details have been disclosed, then I think it is only fair that the Electoral Commission should notify those electors that there has been a change in the law.

The Hon. K.T. GRIFFIN: I indicate that the government is not prepared to support that amendment. I understand the principle that the honourable member wishes to pose, but I come back to the earlier information presented about the wide range of this material that is currently available under federal legislation. I think that alone should suggest that the information is already available to members of parliament. As I said earlier, and the Hon. Trevor Crothers acknowledged, the genie is out of the bottle.

The Hon. M.J. ELLIOTT: It is worth noting that the Attorney-General has been a champion for opposing retrospective legislation, but, effectively, that is what this does.

The Hon. K.T. Griffin interjecting:

The Hon. M.J. ELLIOTT: No, that is what you are doing. I think it is important that these people—as required under the law—have filled in a form. The eighth question on that form asks:

Do you authorise the release of information provided in 5, 6, 7 to state members of parliament?

They then tick either 'yes' or 'no'. This parliament will change that and those people will have no idea that there has been a reversal of their authorisation. All that is happening is that they are being told—

The Hon. T.G. Cameron interjecting:

The Hon. M.J. ELLIOTT: That is right. So, people have a presumption and, unless they are told, they will never know that their authorisation has been revoked by the parliament.

The Hon. CAROLYN PICKLES: The opposition opposes the amendment. I think we have had this long circuitous argument ad infinitum since about 11 a.m. It seems to me that these issues are being—

An honourable member interjecting:

The Hon. CAROLYN PICKLES: Yes, that is right; we are back where we started. It seems to me that we have canvassed these issues and noted that, under the federal act, all these details are public knowledge. I therefore think it is superfluous.

The Hon. T. CROTHERS: I do not think I can support what the Hon. Nick Xenophon is trying to do. The Hon. Mr Cameron interjected to say that over 50 per cent of people tick the particular box and they will be very annoyed at having that right taken away from them. I would hope that this change will be made prior to the next election. Let us see what the people who have lost the right, through this parliament making it retrospective, will do then. I do not think it is as bad as has been put out by the other five democrats like myself in the chamber. I do not think it is as bad as it seems because there will be a price to pay if this has to be done prior to the next election.

If it is not passed before the next election, the question would have to be asked, 'If not, why not?' It will be a political rort that will then have to be brought into play by the undemocratic members of this parliament relative to how it is used in the next election if 50 per cent of voters believe that this parliament was taking a right away from them by making a bill retrospective. We have often heard the Attorney-General say, 'Retrospectivity is the last card in the pack'. I agree with him. I can remember only one occasion when we all agreed that there was no other option but to make a matter retrospective.

On many occasions I can remember the Attorney and others saying, 'We cannot support retrospectivity.' I voted for that, because I thought that was the proper thing to do. That is being done here—whether by stealth, accidentally or deliberately. Both major parties may have signed a political death warrant if those—perhaps including me—are going to offer themselves as candidates in the next state election. Time will tell. It can be put to the test, but time will tell. I said I thought that the Attorney and the leader of the government had been sucked in and, perhaps as a consequence of that, the leader of the government said that he would look at that between the bill going down to the other place and coming back here.

The Hon. K.T. Griffin interjecting:

The Hon. T. CROTHERS: Okay. If these matters have to be changed because of retrospectivity before the next election, so be it. I do not think that that will hurt the six democrats in this place. In fact, I have an opposite point of view to that.

The Hon. T.G. CAMERON: I am just a little puzzled by the comments that I have heard on this clause, so I have some questions for the Attorney. First, let me congratulate the Hon. Nick Xenophon for being fleet footed enough to get this clause in on time; it was lodged only this afternoon. He is to be commended, because what he is seeking to have the Electoral Commissioner do is patently fair. With regard to these people who have ticked the box between 1997 and now—and I do not know how many tens of thousands of people that might be—are we to assume that their instructions once this bill is assented to will be ignored by the Electoral Commissioner and that their information will then be placed on the roll for the next election? If the answer is yes, then one can only concur with the comments made by the Hon. Trevor Crothers. You had better get off your backside and work out how you will let people know that you have taken this right away from them. I have heard some very detailed and complicated answers from the Attorney on previous occasions. I ask you bluntly to explain to me how this is not supporting retrospective legislation.

The Hon. K.T. GRIFFIN: With respect, I do not believe it is. The points which have been made are points of importance. I acknowledge that, and I acknowledged that earlier when we were talking about it.

The Hon. T.G. Cameron interjecting:

The Hon. K.T. GRIFFIN: I am not condemned by anyone.

The Hon. T.G. Cameron interjecting:

The ACTING CHAIRMAN (Hon. J.S.L. Dawkins): Order! Mr Cameron, you have had your go.

The Hon. K.T. GRIFFIN: You do not want to start throwing those sorts of slanderous statements around at this time of the night.

The Hon. T.G. Cameron: I don't mind. You are being unfair here.

The Hon. K.T. GRIFFIN: Why don't you listen to what I am going to say to you? I have already said that the points being made are good points, and you did not let me finish by saying—

The Hon. T.G. Cameron: I won't pay any more attention when you point, all right?

The Hon. K.T. GRIFFIN: All right. I was going on to say—but you would not let me finish—that I was prepared to give consideration to these issues, and I would do so between now and when the matter was considered in the House of Assembly. That may mean that some administrative course of action can be taken. I am not insensitive to the points that members have been making. It may be that there is a way in which it can be accommodated; for example, it may be a matter of notice. It may be also—although I do not suggest that this will or will not be the position—that we actually isolate the people who have already indicated that they would prefer not to have this information on the roll, and we just keep them on the electoral roll as a cohort whose information is not made available.

I have already, earlier today, talked to the Electoral Commissioner about whether or not that would be feasible. So, I have anticipated some of the criticism but also the argument. I will give an undertaking, if you need an undertaking. I will certainly give a commitment that it will be looked at between now and when the matter is dealt with in the House of Assembly. I cannot take it any further than that at this stage. But, I am not prepared to accept it as a legislative requirement on the run: I am prepared to consider the issue.

The Hon. T. CROTHERS: I accept your word, but remember that we are talking about retrospectivity, either by accident or by design.

The Hon. K.T. GRIFFIN: We are talking about a range of issues, and I have indicated what I am prepared to do.

The Hon. P. HOLLOWAY: I wish to make one point. We know that the date of birth is available on federal electoral rolls. It was available, and so was occupation, if I recall correctly, back in the 1980s. I used to work for a federal member then and I remember that when computers were first used occupation and date of birth were on the roll. Those details then, under federal law, became unavailable, then they became available again. But it is very easy, with computer technology, to match it up with the early rolls.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: But the thing is, as people change, all these things can be matched up. It may well be that for some of those people who tick the 'no' box the information is already in the public domain—and it is, anyway, in the federal arena. Terry Cameron says that people are going to get upset, but how are they going to know where the letter comes from? If they get a letter from a federal MP who has this information available because they are entitled to have it, why are these people going to get so upset? This is the dilemma that we face. The information is out there now and has been in some form or another for many years.

The other thing you can do with a database is to match it up with the *White Pages*, and it is all on the internet now—people's telephone numbers, in street order. It is all there, nowadays, on other databases. That is an issue for another day: it is not an issue, perhaps, to be resolved in the context of the electoral bill, but the fact is that that information is very widely available, and has been for many years.

The Hon. Nick Xenophon's amendment negatived; the Hon. K.T. Griffin's amendment carried.

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

Page 10, line 12—Leave out 'section' and insert:
subsection

Amendment carried.

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

Page 10, line 13—Leave out '300' and insert '250'.

Amendment carried.

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

Page 10—
Lines 14 to 16—Leave out subclause (2).
Line 18—Leave out 'section' and insert:
subsection

Amendments carried.

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

Page 10, affter line 24—Insert:

(5) No return required to be furnished under Part 13A of the principal Act (as inserted by this Act) need contain any details relating to any gifts made or received, or any expenditure incurred, before the commencement of this subsection.

(6) No return is required to be furnished under Division 4 of Part 13A of the principal Act (as inserted by this Act) in respect of a financial year other than a financial year commencing on or after the commencement of this subsection.

The first amendment provides that returns need not disclose gifts made or expenditure incurred before the commencement of the subsection and that the requirement to provide annual returns only applies in relation to a financial year commencing on or after the commencement of the subsection.

Amendment carried.

The Hon. K.T. GRIFFIN: The next amendment is a transitional provision to which I referred in the early stages of my contribution during committee. I move:

Page 10, after line 24—Insert:

(5) If—

(a) an application for the registration of a political party under Part 6 of the principal act was made on or after 3 July 2001 and before the commencement of this subsection; and

(b) on the commencement of this subsection the Electoral Commissioner considers that the name of the party, or an abbreviation of its name (if any), provided for the purposes of registration falls (or would have fallen) within the ambit of paragraph (f) of section 42(2) of the principal act (as inserted by this act),

then the Electoral Commissioner must, despite any other provision of the principal act, reject the application of, if the political party has been registered, immediately deregister the political party.

(6) However, subsection (5) does not apply if the relevant parliamentary party or registered political party (as contemplated by section 42(2a) of the principal act) has, by notice in writing furnished to the Electoral Commissioner before the commencement of that subsection consented to the registration of the political party.

The amendment provides that where a party applies for and is granted registration between 3 July 2001 and the commencement of section 26(5), the Electoral Commissioner must deregister the party if the party would not have been entitled to registration under the amended section 42. This amendment is intended to prevent parties from attempting to circumvent the legislation by applying before the new provisions come into operation.

Amendment carried; clause as amended passed.

Title passed.

Bill recommitted.

Clause 5.

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

Page 3, lines 19 to 21—After paragraph (d) insert new paragraph as follows:

(e) By inserting after subsection (5) the following subsection:

(6) A person to whom information is provided under subsection (2) must, at the request of an elector to whom the information relates—

(a) make that information available for inspection by the elector; and

(b) if that information is incorrect—correct that information.

This amendment is self explanatory.

The Hon. K.T. GRIFFIN: This raises some very big issues, and I am not prepared to agree with this on the run. I acknowledge the privacy issues to which the honourable member has referred. It raises the matter in the context not just of members of parliament but of any database on which information relating to a person may be kept, from a commercial context to a charitable organisation to a voluntary association. With respect to the Hon. Mr Cameron, those are certainly not the sorts of issues which I want to address on the run. So, in that context and for those reasons that I indicate that I am not prepared to support this amendment.

The Hon. CAROLYN PICKLES: We do not support the amendment.

The Hon. M.J. ELLIOTT: I think there is merit in what the Hon. Terry Cameron is trying to do, but I do not want to do it in the sort of rush that is currently being considered. The information held can be fairly broad. When I look at the sorts of things that come in, sometimes people are making some very serious allegations about other people, about members of the bureaucracy and members of parliament, police and all sorts of things. That sort of material goes in your files and in fact the inquiries you make do also.

The Hon. T.G. Cameron interjecting:

The Hon. M.J. ELLIOTT: Your amendment does not talk about computer files but about information more generally.

The Hon. T.G. Cameron interjecting:

The Hon. M.J. ELLIOTT: I think your interest is particularly about personal information of the sort MPs tend to put in their databases; but in fact it is a catch-all and says 'anything in any file anywhere'.

The Hon. T.G. CAMERON: But they only have to show the information. They will have to keep two separate files: they can keep all the electoral information on one file and all the other stuff they have got on another file.

The Hon. M.J. ELLIOTT: If you are keeping the electoral roll information, one would assume it is absolutely accurate anyway. I thought it was the other information you were interested in. That is my understanding of the way it was drafted. I have sympathy with the notion, but I am concerned about handling the issue on the run as I think there could be a number of unintended consequences.

The Hon. T. CROTHERS: I am inclined to agree with the sage point touched on by the Hon. Mr Elliott, even though I seconded the original resolution in respect to the Council resolving itself into a committee of the whole. I agree with the Attorney that it would be considering this recommittal notion on the run. I agree with the Attorney that it is asking the committee of the whole to consider matters on the run. I agree there are a number of ramifications in this matter, but again that brings me back to the fact that it would appear that only one other interested group in this place was consulted by the government.

If we want to get agreement, if there are such issues that raise grave complications—and I do not say the Attorney did the negotiations, but I ask the Liberal Party, through its leadership or whoever did the negotiations: why were not other members talked to? We are all involved in changes to the Electoral Act. I find that exceedingly strange. However, I believe negotiations did take place and that is why it took so long and why there are so many amendments standing in

the name of the Attorney-General and why it took so long for the bill to come before us to be dealt with. Having said that, though, I take the Attorney's point and we will see in two weeks time if he does consider the matter and the ramifications.

The Hon. K.T. Griffin: I did not say I was going to consider this in two weeks.

The Hon. T. CROTHERS: But that is what I am saying. What I am saying to you, sir, is that if you are genuine then you will and you will bring back some form of an answer when next we meet, because as you know, sir, and as I know, the next week's sitting of parliament will be the last in this parliamentary session and matters will then fall off the *Notice Paper*. You know that, sir.

The Hon. K.T. Griffin: Not if they've passed the second reading.

The Hon. T. CROTHERS: Okay, we will see how we go. We are not at the second reading stage yet, but we will see how we go. The Attorney knows that this is the last parliamentary sitting week of this session. I ask you to reconsider what you said and in respect of the other guarantees you have given us through the leader of the government here that you will have a look at at least one other bill in the intervening time between when the bill goes from us to the lower house, is dealt with their and comes back to us.

A fortnight is not exactly a jack swift period of time; it is a period of 14 days—15 days, if we count the Monday of the following week when we are sitting. That should give the Attorney some time, given the number of staff he has who can give expert political advice, to make some comment when he comes back. This will test the genuine nature of the troubled waters that are currently confronting this committee over the contents of this bill—largely brought about, I suspect, through the usual form of consultation generally undertaken by most ministers with all interested parties. However, I have made my point, and I will not belabour it. I understand that the witching hour draws near—and, besides, the test cricket is on. We will see just how genuine the Attorney is over this matter when next we meet.

The Hon. K.T. GRIFFIN: I have not said that this is the issue upon which I will give further consideration in the next fortnight. But I have said—

The Hon. T. Crothers interjecting:

The Hon. K.T. GRIFFIN: I know you are. But I have given a commitment that there are other issues that I will seriously consider in the intervening period between now and when the bill gets to the House of Assembly, and I will do that. The only other matter to which I want to make reference is that the Hon. Trevor Crothers is, I think, suggesting some sort of conspiracy in relation to this.

The Hon. T. Crothers: Not by you, sir. I have not suggested that you were—

The Hon. K.T. GRIFFIN: All right, thank you. This bill was developed as a result of consultations between the Electoral Commissioner in my office and my legal officers. It then went through the cabinet process to the joint parliamentary party before it was introduced here. All members know that I sent them copies of amendments, with briefing notes on the amendments, which the government believed were appropriate.

The Hon. T. Crothers interjecting:

The Hon. K.T. GRIFFIN: The consultation frequently occurs in the chamber. Anyway, I do not want to take up a lot of time debating that point. I just want to make it clear.

The Hon. CAROLYN PICKLES: I would like to make the point that I put my amendments on file on 11 April, and I think that other members put their amendments on file a lot later. So, members had a good chance to look at them if they wanted to.

Amendment negatived; clause passed.

Clause 7.

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

Page 4, line 10—Leave out '300' and insert '250'.

The Hon. K.T. GRIFFIN: The government supports the amendment.

Amendment carried; clause as amended passed.

Title passed.

The Hon. K.T. GRIFFIN (Attorney-General): I move:

That this bill be now read a third time.

I want to thank members for their consideration of the bill and the attention they have given to it. The Electoral Act is probably the most closely scrutinised piece of legislation that ever comes before a parliament because it affects the electoral fortunes, potentially, of candidates, members and parties. Although this issue does evoke debate and create tensions, and whilst it has been a slow process on this bill, I appreciate the attention that has been given to it.

Bill read a third time and passed.

STATUTES AMENDMENT (TAXATION MEASURES) BILL

Adjourned debate on second reading.

(Continued from 3 July. Page 1810.)

The Hon. R.I. LUCAS (Treasurer): I thank members for their indication of support for the second reading of the bill.

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

FIRST HOME OWNER GRANT (NEW HOMES) AMENDMENT BILL

The Hon. R.I. LUCAS (Treasurer): I thank members for their indications of support for the second reading.

Bill read a second time.

In committee.

Clause 1.

The Hon. NICK XENOPHON: I am picking up on something I heard about whilst I was overseas recently. The shadow treasurer raised an issue about the first home owner's scheme and claimed that it could be rorted, or that the grant might not necessarily be spent on a person's first home. In other words, a person might receive the grant but does not use it for that purpose. Can the Treasurer elaborate? Is there an issue in terms of safeguards so that, if there is a grant in respect of the first home, it is not spent on something else? I think the example given by the shadow Treasurer was poker machines. In other words, are there safeguards in place?

The Hon. R.I. LUCAS: I am very happy to provide to the honourable member about 1¼ hours of *Hansard* transcript from the estimates committees debate. Very briefly, all the states are implementing a commonwealth government scheme. The commonwealth government has given the recommendations which the state governments are implementing. Put simply, you have to be either purchasing a first home or building a first home to receive the first home

owner's grant. However, the commonwealth government has not placed a means test on it. So, if you happen to be a wealthy lawyer with $200 000 sitting in your bank account and you have not bought a first home and you see a bargain for $150 000, you can buy your first home for $150 000 and, if you are building it, for example, you can receive a $14 000 first home owner's grant.

There is no means test or income test on the scheme. In that circumstance, you do not have to go to a bank to obtain a loan. You can just pay cash for your $150 000 house out of your Nick Xenophon legal fund trust account, or whatever it is, but you are also eligible for the $14 000 first home owner's grant. It is as a result of the structuring of the scheme and eligibility that that can occur. In 90 per cent of cases the money is paid through a financial institution as part of settlement—

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: Exactly. In relation to 10 per cent of cases, people either have their own money or they have borrowed from their mum or dad, or from someone else they know, and not a financial institution, and they make application directly through Revenue SA. I do not intend to go into all the detail of the scheme and the allegations raised by Mr Foley: I am happy to give copies of the *Hansard* transcript to the honourable member.

The Hon. NICK XENOPHON: The Treasurer said something about taking money out of my firm's trust account. I think that would be quite a serious offence. I am sure that he did not mean it in those terms—

The Hon. Diana Laidlaw interjecting:

The Hon. NICK XENOPHON: No, I just want to clarify that, if moneys are held in a solicitor's trust account, it is the client's money: it can be used only on the client's behalf.

Clause passed.

Remaining clauses (2 to 8) and title passed.

Bill read a third time and passed.

APPROPRIATION BILL

Second reading.

The Hon. R.I. LUCAS (Treasurer): I move:

That this bill be now read a second time.

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

Leave granted.

On 31 May 2001, the 2001-02 budget papers were tabled in the Council. Those papers detail the essential features of the state's financial position, the status of the state's major financial institutions, the budget context and objectives, revenue measures and major items of expenditure included under the Appropriation Bill. I refer all members to those documents, including the budget speech 2001-02, for a detailed explanation of the bill.

Explanation of clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

This clause provides for the Bill to operate retrospectively to 1 July 2001. Until the Bill is passed, expenditure is financed from appropriation authority provided by the *Supply Act*.

Clause 3: Interpretation

This clause provides relevant definitions.

Clause 4: Issue and application of money

This clause provides for the issue and application of the sums shown in the schedule to the Bill. Subsection (2) makes it clear that the appropriation authority provided by the *Supply Act* is superseded by this Bill.

Clause 5: Application of money if functions etc., of agency are transferred

This clause is designed to ensure that where Parliament has appropriated funds to an agency to enable it to carry out particular functions or duties and those functions or duties become the responsibility of another agency, the funds may be used by the responsible agency in accordance with Parliaments's original intentions without further appropriation.

Clause 6: Expenditure from Hospitals Fund

This clause provides authority for the Treasurer to issue and apply money from the Hospitals Fund for the provision of facilities in public hospitals.

Clause 7: Appropriation, etc., in addition to other appropriations, etc.

This clause makes it clear that appropriation authority provided by this Bill is additional to authority provided in other Acts of Parliament, except, of course, in the *Supply Act*.

Clause 8: Overdraft limit

This sets a limit of $50 million on the amount which the Government may borrow by way of overdraft.

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

ADJOURNMENT

At 12.05 a.m. the Council adjourned until Friday 6 July at 11 a.m.