LEGISLATIVE COUNCIL

Thursday 27 September 2001

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

STANDING ORDERS SUSPENSION

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 2.15 p.m.

Motion carried.

STATUTES AMENDMENT (ROAD SAFETY INITIATIVES) BILL

Adjourned debate on second reading.
(Continued from 7 June. Page 1766.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The opposition supports the second reading. It is most unfortunate that I can stand here confident that not one person in this chamber today would not have been affected by the tragic carnage on our roads. Road accidents are not only a major cause of human trauma and personal suffering but they also create a significant economic and social cost to the community. I believe that the changes proposed in this bill provide one more step towards improving road safety in this state. Although significant reductions in road accidents occurred nationally in the early and mid-1990s, the road toll has remained constant since the mid-1990s.

Unfortunately, last year saw South Australia's road fatalities rise to 166, an increase over the previous year of almost 10 per cent, the highest increase in any state or territory for that year. This trend clearly indicates that we must continue to develop and implement new initiatives for combating road crashes. Improved road safety is achievable, and we must never tire or become complacent in our efforts towards this end. A number of developed countries have achieved 60 per cent of our road accident rate. So, as members can see there is much more that we can do.

As all members would be aware, as part of the National Road Safety Strategy (endorsed by all states and territories last year) South Australia is committed to reducing our road toll by 40 per cent to no more than 86 deaths in the year 2010. Although many of you share my view that 86 is still too many, nevertheless, the proposals outlined in this bill go some way towards hopefully achieving this target—it is one more step in the right direction. The National Road Safety Strategy states:

The priority given to road safety should reflect the high value that the community as a whole places on the preservation of human life and the prevention of serious injury.

I turn now to the clauses of the bill. The first part relates to unlicensed drivers. In relation to unlicensed drivers (clause 4), I agree that existing penalties for driving unlicensed are insufficient to act as a deterrent to would-be offenders and do not adequately reflect the seriousness of the offence. This bill distinguishes between lesser offences involving those offenders who previously have held a licence and associated driver education, training and experience and the more serious offences involving those who have never held a licence for the class of vehicle they are driving.

In the first instance, the bill imposes a maximum fine of $1 250 which can be expiated. This reflects the present penalty for unlicensed drivers in South Australia. In the second instance where the risk of accident and injury is significantly increased for the offender, passengers and members of the public, the maximum fine is to be $2 500 for the first offence with rapidly escalating penalties for second and subsequent offences, including the possibility of imprisonment.

My extensive consultations with a wide range of organisations (including the RAA) generated overwhelming support for these changes to the provisions relating to unlicensed drivers. However, the RAA has written to me in the belief that the bill should be further amended to remove the opportunity for convicted drink drivers to expiate the offence in cases where they are detected to be unlicensed following a period of disqualification and to provide that such drivers be subject to the same penalty as that proposed for offenders who have not previously held a licence. I understand that the minister has written to the RAA, and perhaps in her second reading reply she will comment on its submission.

Feedback from the South Australian Law Society also indicates its general support for changes to the provisions relating to unlicensed drivers. However, where there has been a second or subsequent offence, the society believes that the bill should be further amended so that disqualification occurs for a period up to three years rather than the current proposal for a mandatory period of at least three years—although I note that in other sections of the act there are mandatory sentences.

A matter raised by my colleague the shadow minister for Aboriginal Affairs—he may well wish to comment further in committee—is that in the Aboriginal lands it is often more difficult for Aborigines to obtain a licence, and I understand that quite a lot of unlicensed driving takes place. Perhaps the minister will comment on the situation regarding the policing of unlicensed drivers in the lands and say whether any special measures have been adopted to help Aboriginal people to obtain a licence. I am not sure whether they understand the language on some of the forms or whether they are given extra assistance in that respect. Perhaps the minister will comment on that.

Regarding the production of a driver's licence (clause 5), I support the proposed amendments which will give police the ability to obtain a specimen signature from someone who is not carrying a licence so that the signatures can be compared when the licence is presented at a police station to make sure that it is presented by the same person. The time allowed for that person to produce their licence will be increased from the current 48 hours to seven days. I understand that the police have advised the minister that sometimes a different person presents their licence to the police station as a result of being stopped by the police, so this is a measure to try to assist the police in this respect.

A number of states already have these provisions in place or are moving that way. In New South Wales, it is compulsory at all times when driving for all drivers to carry their licence. Women in the parliament know that, when we change our handbags, often things get left out, so it is not such an onerous provision as New South Wales, although many countries of the world have that kind of provision. The RAA supports those provisions in the bill. The measure is also

consistent with the National Road Safety Action Plan 2001-02 Strategic Objective 1.7, which is to:

> increase deterrence of unlicensed driving and motor cycling and enable police to confirm the identity of drivers and riders.

I turn now to the issue of excessive speeding. Given the evidence which demonstrates a strong relationship between speed and road injuries, I also support the compulsory loss of licence for exceeding any maximum speed by more than 45 km/h. This penalty is consistent with the offence of reckless dangerous driving without the current ambiguities and witness requirements which are at times difficult to obtain. It is interesting to note that the National Road Safety Action Plan Strategic Objective 1.3 states, 'improve compliance with speed limits'. The suggested measures outlined in the plan include, 'extend integrated publicity and enforcement campaigns targeting speeding'.

The South Australian Law Society has indicated its support for mandatory loss of licence for speeding in excess of 45 km/h. However, they believe that the bill should be further amended so that disqualification occurred for a period of time up to a period of three months rather than the current proposal, which is a mandatory period of three months, and I look forward to the minister's comments on such an amendment.

I turn now to the issue of mobile random breath testing. One of the areas that generated a great deal of feedback in support of change was the proposal to extend existing random breath testing powers beyond designated RBT stations and eliminate the requirement for reasonable grounds for a motorist to be stopped. The RAA, in support of this measure, stated:

> . . . mobile random breath testing has the potential to significantly increase the perceived risk of detection among drink drivers, particularly those in the country where conventional RBT is less effective in deterring this behaviour.

The Australian Transport Council outlines statistics in its national road safety strategy which clearly demonstrate that the risk of road fatality increases with the distance from capital cities. Almost 66 per cent of last year's road fatalities in South Australia occurred on rural roads. It is also interesting to note the National Road Safety Plan Strategic Objective 1, which states, 'reduce the incidence of drink driving'. Possible measures suggested include, 'extend integrated publicity and enforcement campaigns'.

The RAA, in its letter to me, stated that it had some concerns about the issue of civil liberties and stated:

> Although the government has addressed this issue to some extent, the RAA believes the bill should be amended to require the prescribed periods of operation of mobile RBT, outside of school holidays and long weekends, to be made public. This would give the community greater confidence the police will not misuse their extended powers whilst at the same time adding to the deterrent value of the measure. For example, whilst the community could readily relate to mobile RBT operating on long weekends and during school holidays, operations during any of the other prescribed times will be less transparent. Publicising these operations will assist in gaining community acceptance of the concept.

My understanding is that the minister has agreed to do just that, and I think that is a very good move, but I would also like to point out that all other states of Australia have had mobile RBT for many years. I will talk about that in a moment.

The issue of civil liberties has been raised, especially in relation to the potential for such changes to discriminate especially against young people and indigenous Australians. Given that mobile RBT is already used in all other Australian jurisdictions, feedback that I have received from ministers for transport or the equivalent from Western Australia, New South Wales, Victoria, Queensland and Tasmania all concur in the value of such legislation. I will read from some of the letters that I have received, and it is interesting to note which different ministers have carriage of this legislation. The Hon. Michelle Roberts, Minister Assisting the Minister for Planning and Infrastructure, who is the minister with responsibility for road safety, writes:

> Random breath testing was introduced into Western Australia in 1988 and has played an important role in changing community attitudes to drink driving. While meeting initial resistance, this measure has now gained wide community approval and is an important weapon in reducing the state's road toll. I am unaware of any complaints regarding police misuse of powers in respect of random breath testing.

The Parliamentary Secretary of the Minister for Transport and Minister for Roads from New South Wales responded to me as follows:

> The New South Wales legislation pertaining to the power to conduct random breath testing is appended as Attachment A [which was enclosed]. . . Legislation regarding random breath testing was introduced in 1982 and the main principle of this legislation is that police stop drivers randomly, so that drivers cannot expect to avoid RBT, whatever their appearance or their driving behaviour.
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> The two modes of RBT operations are stationary, that is from roadside vehicle, and mobile from patrolling police vehicles. Stationary RBT is excellent for maintaining visibility, but mobile RBT is more effective at catching drink drivers. The proportion of drivers charged per test resulting from mobile RBT has been 7 to 10 times that resulting from stationary RBT operation. Ideally, they should be used in combination, with mobile units used to pick up drivers who avoid the stationary operation.
>
> With respect to the issue of police being overzealous in stopping vehicles driven by young people and/or Aboriginal people, there is no information which indicates that this has been an outcome of RBT in New South Wales.

The Minister for Police and Public Safety in Tasmania responded as follows:

> The random breath testing legislation in this state became law in 1982. . . Unlike the proposed legislation in South Australia 'that mobile RBT be available to police only during recognised holidays and on four other occasions within any given 12 month period (each of 48 hours duration)' as outlined in the second reading speech—

that is our minister's second reading speech—

> no similar restrictions have applied in this state since its inception. . . Tasmania Police advise that no complaints have been received from members of the public in relation to either random breath testing in general or alleged overzealousness by officers in stopping vehicles driven by young and/or Aboriginal people.
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> Civilian members of the Tasmanian Road Safety Task Force Board have from time to time visited police undertaking random breath testing duties and spoken with drivers intercepted. Generally speaking, all comments received have been of a positive and supportive nature.

The Queensland minister, the Hon. Steve Bredhauer, responded as follows:

> Queensland has been conducting RBTs since 1 December 1988 through mobile, fixed location and 'booze bus' operations. Breath testing may also be conducted as a result of a traffic incident or other infringements. Queensland Police records show that in 2000 more than 2.3 million breath tests were conducted.
>
> Queensland Transport's annual review of the road toll indicates that an estimated 199 lives are saved per year by detecting and deterring drink drivers.

When calculating using monetary values, RBT is saving Queensland more than $16 million per year, while costing only $1.8 million per year to implement. This makes RBT one of the most effective road safety initiatives introduced in Queensland in the past 30 years. The letter states:

> Queensland Police Service have advised that, in practice, vehicle interceptions for the purpose of RBT are conducted on a non-discriminatory basis. Whether or not a vehicle will be intercepted usually depends on the space available to ensure the vehicle can be safely removed from the line of traffic. There are no criteria established that restrict vehicle interceptions of particular types, ages or colours of vehicle, as any additional criteria would detract from the randomness of the exercise and could result in discrimination.

The Minister for Transport (Hon. Peter Bachelor) in Victoria says that Victorian legislation was enacted in 1986. His letter states:

> I am advised that the police power to stop and breath test any driver at any time has never been a significant civil liberties issue in Victoria, and I am not aware of any significant view that police are over zealous in breath testing some groups.

That is the final letter that I received. Nevertheless, because some concerns have been expressed, I am moving an amendment to the bill requiring that a report be brought back to the parliament and laid on the table after the second anniversary of the commencement of this amending bill, so that people can see what is occurring.

Bearing in mind that there were some sensitivities about this issue, would the minister discuss with her counterpart in another place, the Minister for Police, the necessity for police to be very careful about not discriminating against particular drivers? Perhaps an age profile would be useful.

The Hon. Diana Laidlaw: That is an issue of a general nature, is it not? It is not just specific in here.

The Hon. CAROLYN PICKLES: Yes. Clearly, each state has reported back to me that there is no evidence or complaints which would indicate that such legislation is discriminatory. I reiterate that New South Wales stated that the proportion of drivers charged per test resulting from mobile RBT has been seven to 10 times that resulting from stationary RBT operations. That is a pretty impressive result.

The proposed limit that the minister has put in her legislation in South Australia, given that we have not had it in this state when other states have had it for many years, is perhaps a minimalist approach: it will be advertised; it will be during special holiday periods and on four other periods during any one year; and it will be for only a 48 hour period at any one time. It is a pretty minimalist approach, and I think that, once people know the reason for it, there will be strong support.

I also draw members' attention to the report of the Environment, Resources and Development Committee which was tabled in parliament—I think the date on it is 1998, but I stand to be corrected on that if I am wrong. I refer members to page 23 of the report. The committee received evidence from a number of people. The committee was particularly looking at a South Australian rural road safety strategy. Mr Howie from South Australia Police reported to the committee:

> What comes out of the country drink driving picture is that people are inclined to risk drinking and driving in country areas later in their life. . . A comparative study in the metropolitan area indicates that the pattern changes in early adulthood. A number of potential reasons or excuses were put forward. The most notable was a lack of transport in country centres.

The RAA submission included figures and stated:

> . . . figures suggest that many rural drivers continue to drink and drive despite vastly increased levels of random breath testing (RBT). The most likely reason for this is the relative ease with which real drivers are able to avoid detection, particularly RBT sites. This is despite new tactics adopted by the police in recent times, including covert RBT operations.

Certainly I and other members have received anecdotal evidence that in country areas everyone knows the minute an RBT bus is set up and they can easily detect it and avoid it. The committee's recommendation 6 states:

> . . . that careful consideration should be given to the implementation of mobile random breath testing, taking note of the public's concerns regarding the potential infringement of civil liberties.

That was a unanimously supported report. The members of that committee were from all parties, and members from this chamber included the Hon. Terry Roberts and the Hon. Mike Elliott.

We can see that, while there has been some minor concern, the Law Society does not have a concern about this, and I believe that the RAA concerns have been addressed by the minister in her agreement, as I understand it, to have an advertising campaign. Of course an advertising campaign is a deterrent in itself. Once a big advertising campaign takes place indicating that there will be mobile RBT units on the roads, then sensible people will be very wary and will not drink and drive. Therefore, we achieve what we set out to do, which is to deter people from drinking and driving.

The final section of the bill deals with the area of speed cameras. Provisions in the bill allow for the introduction of digital cameras and fixed-housing speed cameras which are needed to enable us to take advantage of improved technology and to be able to utilise it to enhance road safety in more efficient and effective ways. Issues concerning security and privacy have adequately been addressed in the bill. Would the minister be able to give me a figure on how much was collected by the state government from all anti-speeding devices such as speed cameras, laser guns, and so on? I am sure there is a figure somewhere in the budget which she would be able to put her finger on more quickly than I.

I am pleased to note that the minister is foreshadowing government assessment of the effectiveness of immediate roadside impoundment of vehicles driven by unlicensed or disqualified drivers (as recently introduced in New Zealand) and options to require drivers disqualified for irresponsible practices to undertake a training course before they are able to regain their licence. Clearly a wide range of issues must be considered before such changes are legislated such as vehicle ownership, family reliance on the vehicle, especially for work, access and associated costs to training courses, particularly for country drivers, and such like. However, I believe it is worth our while to continue to investigate and assess the value of these initiatives, and I look forward to the minister's finding on this matter.

This bill provides us with a socially responsible package of measures to improve road safety. The initiatives outlined are in line with South Australia's commitment to the national road safety strategy, whilst maximising deterrent value, and enforcing appropriate penalties according to the level of risk associated with the offence. I therefore support the second reading.

The Hon. M.J. ELLIOTT: I will not speak for very long because I am not handling this bill for the Democrats. As a member of the ER&D committee, the recommendations of which were quoted, it is quite clear that there may have been a misunderstanding, although the words used were correct. In fact, there was a qualification which was also read out. I forget the exact wording of the qualification, but my understanding of the qualification as a member of the committee was that there really needed to be processes put in place, not just simply allowing random breath testing to occur in the way that is currently contemplated in this bill. It was expected

that there would have to be other things put in place to provide genuine protections. It was a real concern within the committee.

It was recognised that standard breath testing does not work particularly well in country areas. Having been born and raised in the country and having lived in the country prior to my election to parliament, I know that certainly there is some difficulty with ordinary breath testing techniques in country areas. It was in recognition of that that comments were made by the committee. There was also deep concern about the simple granting of powers to the police for random stopping without grounds—a very real concern about that.

It has been said before that the price of freedom is eternal vigilance. This is a matter that superficially may look very attractive. All I am doing is stressing that the report of the ER&D committee was qualified and that that qualification arose for very good reason. I will not expand further on my concerns at this stage because the lead speaker for the Democrats will be the Hon. Sandra Kanck. But I want to put on the record here and now that that qualification was really important, and although the qualification was acknowledged, I do not—

The Hon. Diana Laidlaw interjecting:

The Hon. M.J. ELLIOTT: I think it does.

The Hon. Diana Laidlaw interjecting:

The Hon. M.J. ELLIOTT: No. You have to understand that without the qualification being recognised and also acted upon as well—

The Hon. Diana Laidlaw: It doesn't override it.

The Hon. M.J. ELLIOTT: No, it does not override it, but it also makes it quite plain that to do it, without taking proper care of that, would not have been acceptable to the committee.

The Hon. Diana Laidlaw: Your statement assumes that proper care was not taken.

The Hon. M.J. ELLIOTT: That is why I said I was not going to speak at length at this stage. I just wanted to make sure that very special notice was taken of the fact that that was a qualified recommendation.

The Hon. CAROLINE SCHAEFER secured the adjournment of the debate.

TRADE MEASUREMENT (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 24 July. Page 2021.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The opposition supports the second reading. This legislation deals with 23 minor items of the uniform trade measurement legislation which were identified for amendment in 1995 by the standing committee and officials of consumer affairs. This is national legislation with the exception W.A.; I note the Attorney's report that Queensland has already proclaimed similar amendments, Victoria has followed and New South Wales is in the process, so why have we taken so long? I support the second reading.

The Hon. K.T. GRIFFIN (Attorney-General): I thank members for their indications of support for this bill.

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

The Hon. SANDRA KANCK: Mr President, I draw your attention to the state of the Council.

A quorum having been formed:

EQUAL OPPORTUNITY (MISCELLANEOUS) AMENDMENT BILL

The Hon. SANDRA KANCK: I move:

That standing orders be so far suspended as to enable me to move an instruction without notice.

Motion carried.

The Hon. SANDRA KANCK: I move:

That it be an instruction to the committee of the whole that it have power to consider new clauses in relation to amendments to the Racial Vilification Act 1996 and the Wrongs Act 1936 concerning ethno-religious discrimination.

Motion carried.

In committee.

Clause 1.

The Hon. SANDRA KANCK: I want to take this opportunity to put on record something about equal opportunity, regarding disability, in relation to an undertaking that my party made at the last election. Back in 1996, we had a deadlock conference over the Racial Vilification Bill and, as a consequence, the government undertook to seek a delegation of powers from the Human Rights and Equal Opportunity Commission so that we would have access to conciliation via our Equal Opportunity Commission for South Australians who were the target of racial vilification.

At the time it struck me that, if it could be done for racial vilification, it could also be done for disability. When this bill was introduced in the parliament a couple of months ago, I thought that it would present the opportunity to do that, but I found that that was not possible because, although I think having such a delegation would be very valuable, it is beyond the powers of the parliament to make a government do it. I place that on the record so that people who heard me make that promise at the last election know that it was not through want of trying. I thank the committee for the opportunity to make that comment.

Clause passed.

Clauses 2 and 3 passed.

Clause 4.

The Hon. CAROLYN PICKLES: I move:

Page 4, after line 18—insert new definition as follows:

'associate' of a person includes—

(a) a person who is a member of the same household;

(b) a carer of the person;

(c) a person who is in a business, sporting or recreational relationship with the person;

This seeks to define the term 'associate' that the opposition has now inserted in the bill. This definition is similar to that contained in the Disability Discrimination Act. I refer members to the report of Brian Martin QC, who wrote a very long report back in 1994 in which he referred to the issue of associates and relatives. He stated, in part:

There is a clear legislative trend throughout Australia toward protecting persons against discrimination based on a relevant characteristic possessed or presumed to be possessed by an associate or relative of the person against whom the discrimination is directed. This move appears to be consistent with the principles upon which equal opportunity/anti-discrimination legislation is based. If it is unlawful to discriminate against a person on the basis of a person's particular disability, it is difficult to justify the current law that permits discrimination against that person on the basis of a disability possessed by that person's associate or relative.

The individual is entitled to be judged on merit. It is unfair to discriminate against a person because of a characteristic possessed by an associate or relative of that person. The legislature in South Australia has already recognised that discriminating on the basis of the race of a person with whom a complainant resides or associates is sufficiently serious to warrant legislative intervention. Discrimination on the grounds of other characteristics possessed by associates or relatives is no less serious.

I recommend that the act be amended to prohibit discrimination against a person on the basis of age, sex, sexuality, marital status, pregnancy and impairment of an associate or relative of a person against whom the discrimination is directed.

In this context, 'marital status' should not be confused with 'identity of spouse', which he discusses later. For these reasons we support this kind of amendment. In the context of the debate on this legislation, I wish to express my thanks to the Attorney and officers from his department for providing some ongoing discussion, and trying to reach some kind of consistency and consensus on this. This has been my experience with the Attorney in most of the legislation I have ever had to deal with him on—

Members interjecting:

The Hon. CAROLYN PICKLES: The Hon. Terry Cameron says 'Lucky you!'

The Hon. T.G. Cameron interjecting:

The Hon. CAROLYN PICKLES: I am talking not about reaching consensus but about the way he attempts to get his own way by providing lots of information, and that is not a bad way to go. That practice was adopted by the former Attorney-General, the Hon. Chris Sumner. Given the level of legislation that the Attorney-General has to bring into this place, it would probably close down if he did not bring in legislation, as there does not seem to be much else to discuss. It is a good way to go. Clearly, there probably will not be much consensus on this legislation, given that it is tricky.

The Hon. K.T. GRIFFIN: I thank the honourable Leader of the Opposition for her complimentary remarks. Regrettably, though, there will be continuing differences of opinion on this legislation and possibly others. I suppose I should start the ball rolling by saying that I do not support this amendment. Notwithstanding that, generally I have been quite prepared to make my officers available for the purpose of consultation on all the legislation that I bring into the parliament. With this amendment, as with a number of other amendments which are being proposed by the opposition and the Democrats, the government does not see benefit in them, and will also see in some of them considerable difficulties. With this amendment, we certainly do not see any benefit in expanding the scope of the bill in the way that is proposed. One of the difficulties that periodically is voiced publicly is that the courts seem to make law when in fact it should be the responsibility of the parliament. Might I suggest that in the context of this amendment, as well as in the context of other parts of the bill, if this amendment and others pass, we will see increased litigation. We will see it because certain parts of these amendments lack clarity. Let me deal, firstly, with—

The Hon. T.G. Cameron interjecting:

The Hon. K.T. GRIFFIN: Yes, I will.

Members interjecting:

The CHAIRMAN: Order!

The Hon. K.T. GRIFFIN: This amendment inserts a new term 'associate'. If you look at what is encompassed by it, you see that the government is concerned that it is unworkably wide and vague. I concede, though, that it is modelled loosely on New South Wales and commonwealth disability discrimination act definitions. Let me work through a couple of the possibilities; for example, who will be considered a member of the same household? Does it include the children of one of the spouses from a former marriage who may visit each other once a fortnight or just for school holidays, or as part of a regime of contact which has been ordered by the Family Court? How many nights does the child need to spend in the household per year to be regarded as a member of the same household? What is the situation with temporary house guests? Are they members of the household? One can ask the same questions: for how long do they have to be there to be regarded as members of the same household? What about a nanny who does not reside at the home but is there with the children for a large part of each day and is involved with the children's care? Is that person part of the same household? Likewise, who—

Members interjecting:

The Hon. K.T. GRIFFIN: We cover that in other areas in caring responsibilities. But who is a carer? Presumably it is something narrower than a person with caring responsibilities, and that is defined later. Is it limited to paid carers or to persons who are recognised as carers by receipt of a carers pension? Does it extend to anyone who provides care such as a neighbour who looks in occasionally or a regular visitor, say, from the local church who lends a hand with household tasks?

Then there is another part of the definition: what amounts to a business, sporting or recreational relationship with the person? Does it mean regular contact or occasional contact which has not come to an end? Or does it mean some sort of partnership or cooperation with the person? If you buy goods on a regular basis from a shop, is that a business relationship, or do you need to be actually carrying on a business with that person?

The net effect of the definition is in my view broad enough to cover almost anyone with whom the person has contact. I would suggest that, because of the vagueness of it, it will be the source of considerable litigation to try to define the scope of it, and it will be some years before that scope is defined. I would submit to the committee that it is vague and uncertain, and extends the scope of the legislation quite dramatically. It is for those reasons that I oppose the amendment.

The Hon. CAROLYN PICKLES: We feel quite strongly about this issue, as obviously did Brian Martin QC, and it has certainly taken a long time to implement the recommendations of his report. I understand that he had a very wide-ranging consultation with all sorts of user groups. He indicated that he was aware of concerns expressed by employers, and he said that the government should look at something that is workable. So the government is really confining his recommendations. It is obviously a policy decision of the government. We wish to widen it. We know that the government is not supporting this, and the Attorney has made that quite clear. What kind of consultation did the Attorney undertake in relation to the recommendations and this specific recommendation from Brian Martin QC, over that long period of time from the report to the legislation? Was there any feedback on this clause?

The Hon. K.T. GRIFFIN: The Leader of the Opposition has made some reference to Brian Martin's report. It did take a long time to get to this point. However, after he had prepared his report and there had been consultation on it, it went to a work group who took submissions on his report. Then there had to be drafting and the bill went out for comment and a whole range of consultation. I do not have the

detail of the number of submissions, but there was a wide range of consultation on all the recommendations. The bill has been out for a long time. There was some consultation on some aspects of the drafting but I do not have at my fingertips the detail on every recommendation.

Ultimately, the government took the policy decision that this was just too wide. There are some things in the Martin report that the government did not agree with. He was given a broad brief and we respect his right to make the recommendations, but there was no commitment to implement all that he recommended. When we looked at some of the proposals, and even got down to drafting, we took the view that they were not workable. In equal opportunity law, particularly, there has to be some measure of clarity for those who, on the one hand, are proposed to be bound by it in terms of being an employer, an association or an education institution and so on, or, on the other hand, a person who might experience discrimination. So, there needs to be clarity in it, and for that reason the government did not agree to proceed with the definition of 'associate'.

The Hon. NICK XENOPHON: I have a question of the Leader of the Opposition. I am primarily concerned not so much about the breadth of the definition but about how the definition will be applied. I can see the Attorney's point in relation to the potential for a lot of uncertainty and, perhaps, unnecessary litigation. Paragraph (c) refers to a person who is in a business, sporting or recreational relationship with a person. I cannot see how that would be effectively applied in terms of who would fall within that. What is a sporting relationship: does it mean a person with whom you might play basketball socially once in a blue moon? What is a recreational relationship: is that someone whom you might run into in the pub once every six months and share a beer with? My concern is that it is so open to interpretation that there will be significant argument about getting to the threshold in the first place rather than looking at the more substantive issues that I think the leader is trying to address. I am inclined not to support it because I am concerned that it is so vague and imprecise.

The Hon. CAROLYN PICKLES: During the course of drafting these amendments, the opposition looked to legislation in other states, to the Disability Discrimination Act and to the New South Wales legislation. I am unaware of any difficulties that New South Wales has had in the application of its legislation. I recognise that it is broad terminology, but we feel that it reflects the society in which we live.

My understanding in regard to paragraph (c)—and I will seek advice on this—is that it would be somebody with whom you are actually in a business relationship or partnership. I am advised by parliamentary counsel that the amendment is taken from the New South Wales legislation and that there has been no difficulty with its application. It will be up to a court to decide the definition, but the experience is that it is more than just a one-off occasion.

The Hon. SANDRA KANCK: Although in principle I support what the opposition is attempting to do, I suspect that the weakness is in paragraph (c) and not so much in paragraphs (a) and (b). The definition in the New South Wales act is different. It provides:

> associate of a person means:
>
> (a) any person with whom the person associates, whether socially or in business or commerce, or otherwise, and
>
> (b) any person who is wholly or mainly dependent on, or a member of the household of, the person.

I am not all that comfortable with paragraph (a) of the New South Wales definition, but it seems to me that, in terms of the objections that the Attorney-General raised about who is a member of the household, the New South Wales definition of 'associate' in paragraph (b) is a much stronger version, because it says 'any person who is wholly or mainly dependent on'. I am inclined to support the Hon. Carolyn Pickles' amendment on the understanding that this is recommitted and, in the meantime, we will be able to have another go at the wording, looking particularly at what is in the New South Wales act.

The Hon. CAROLYN PICKLES: I thank the Hon. Sandra Kanck for her contribution. I am advised by parliamentary counsel that we took this from the New South Wales act, but we clearly did not—it has been a long time since we drafted these amendments during the last session. I take the point that the Hon. Sandra Kanck has raised: I think it is a sensible suggestion and, with the concurrence of the Attorney—who still may wish to not support it—we would like to look at this with some other members and to recommit. The numbers may not be there, but I think it would then clarify the issue for other honourable members.

The Hon. T.G. CAMERON: I will have to see the Hon. Carolyn Pickles after the passage of this bill to find out what her secret is in being able to reach consensus with the Attorney-General. I confess that it is something that I have failed miserably at over the past six years or so.

Members interjecting:

The Hon. T.G. CAMERON: I will see what tips the Leader of the Opposition can give me. We have three choices here, and to my mind they are Hobson's choice. We have the Attorney's option and the Leader of the Opposition's option—

The Hon. Carolyn Pickles interjecting:

The Hon. T.G. CAMERON: Yes, or the option of recommitting. That will drag it on a bit longer, I suppose. Can someone assist me with paragraph (c) of the definition of an 'associate'. What is a recreational relationship?

The Hon. CAROLYN PICKLES: I am advised that it is a friendship.

The Hon. T.G. CAMERON: If it means 'a friendship', does that mean that it is a person who is a friend of a person?

Members interjecting:

The Hon. T.G. CAMERON: You know what these lawyers are like when they start writing these things. If the person is a friend, that significantly widens the ambit of this provision, does it not? You would have to argue that the person was not your friend and that you were not in a recreational relationship with them.

The Hon. R.R. Roberts: Just two ships passing in the night.

The Hon. T.G. CAMERON: It could be that, too.

The Hon. CAROLYN PICKLES: I am advised that it is normal terminology and that it comes within the known definition of a friendship or a relationship—someone with whom you have a relationship.

The Hon. T.G. CAMERON: The mind boggles. It means that I am currently involved in a recreational relationship with the Hon. Trevor Crothers.

The Hon. CAROLYN PICKLES: With the concurrence of the Hon. Sandra Kanck, my advice is that it was taken precisely from the New South Wales legislation and that we gave a direction that it be taken precisely from the New South Wales legislation. If that is not the case, so as not to delay the passage of this bill, we are prepared to look at the wording

of the New South Wales legislation quickly to try to get some kind of understanding of how this provision has been applied in New South Wales and then perhaps recommit the clause.

The Hon. NICK XENOPHON: I do not support this amendment. I am grateful to the Hon. Sandra Kanck for pointing out the definition in the New South Wales Anti-Discrimination Act. I believe that the definitions in the New South Wales act are much tighter. Paragraph (a) provides that it is any person with whom the person associates whether socially or in business or commerce or otherwise. That is still fairly broad. However, paragraph (b) provides that it is any person who is wholly or mainly dependent on or a member of the household of the person.

I think that would allay a number of the concerns of the Attorney, and I think it would be better than the Hon. Carolyn Pickles' amendment. So, I do not support this clause. If the opposition or the Hon. Sandra Kanck wish to move another amendment based on the New South Wales act, I would certainly look at that with an open mind, particularly with respect to paragraph (b) of the definition that I have just read.

The Hon. K.T. GRIFFIN: I would prefer to avoid a recommittal. I will not stand in the way of anyone who wants to recommit a particular provision, but obviously I would prefer that not to happen. We will just have to wait and see what happens.

The Hon. Sandra Kanck: Would you prefer to report progress?

The Hon. K.T. GRIFFIN: I am not going to report progress. I said that I personally would prefer not to recommit, but I will not stand in the way of a member who wishes to recommit a particular clause. I am just putting on the record—

The Hon. Sandra Kanck interjecting:

The Hon. K.T. GRIFFIN: I understand but, if an amendment does not get up, there is no point in persevering with trying to recommit it. Again, that is a matter for members. I will not stand in the way. If people want to have that debate, that is fine. I am perfectly amenable, with a view to trying to help.

Regarding the definition of 'associate', paragraphs (a), (b) and (c) do not contain the only categories. They are specific categories because the amendment provides that '"associate" of a person includes'. So, it may be that other relationships will be encompassed which might be discovered in the future but which may not necessarily fall within those three categories. I think the New South Wales definition also has some problems. When I spoke against the amendment, I said that I understood that it was loosely based upon the New South Wales and commonwealth definitions but that I still did not support it. In this instance, I continue with my opposition to the amendment for all the reasons that are becoming obvious.

The Hon. T.G. CAMERON: Whilst I am not happy with the amendment of the Hon. Carolyn Pickles (particularly paragraph (c)), I indicate at this stage that I will support it.

The Hon. CAROLYN PICKLES: I thank the Hon. Terry Cameron for his support. It is probably because of his meaningful recreational relationship with the Hon. Trevor Crothers that he has come to this momentous decision. One of the things that we may look at before we recommit this amendment is discussion with members. We may be prepared to delete paragraph (c) if that makes their lives a bit easier. However, at this time I put it forward as a whole and I will seek to recommit it at a later stage.

The Hon. K.T. GRIFFIN: Even if paragraph (c) is deleted, it still means that 'associate' includes what is provided in paragraphs (a) and (b) and possibly a range of other relationships. So—

The Hon. Sandra Kanck interjecting:

The Hon. K.T. GRIFFIN: That is the next issue that we have to debate: caring responsibilities.

The Hon. Sandra Kanck interjecting:

The Hon. K.T. GRIFFIN: The whole definition is a problem for me, but I am saying that merely deleting paragraph (c) does not solve the problem because the wording is: '"associate" of a person includes'. That is not an exclusive definition. There may be other relationships picked up as people take matters to court.

The committee divided on the amendment:

AYES (8)

Cameron, T. G.	Crothers, T.
Elliott, M. J.	Gilfillan, I.
Kanck, S. M.	Pickles, C. A. (teller)
Roberts, R. R.	Sneath, R. K.

NOES (7)

Davis, L. H.	Dawkins, J. S. L.
Griffin, K. T. (teller)	Laidlaw, D. V.
Redford, A. J.	Schaefer, C. V.
Xenophon, N.	

PAIR(S)

Holloway, P.	Lawson, R. D.
Roberts, T. G.	Lucas, R. I.
Zollo, C.	Stefani, J. F.

Majority of 1 for the ayes.

Amendment thus carried.

The Hon. CAROLYN PICKLES: I move:

Page 4, lines 19 to 22—Leave out proposed definition and insert:
'caring responsibilities' of a person means responsibilities for providing care for another, whether or not that person is a dependant, other than in the course of paid employment;

This is the definition of 'caring responsibilities' and we propose to leave out the government's definition and insert our own. I notice that there are other amendments from the Hon. Sandra Kanck and the Attorney-General. We believe that the opposition's amendment represents a more realistic and culturally appropriate version of the nature of caring responsibilities in a modern and multicultural society. An individual's caring obligations cannot and should not be limited to a prescribed few members of a family, as in the government's bill.

For instance, the government's bill does not make any reference to siblings or the notion of an extended family, which is extremely important in European culture. Nor does the bill take into account a situation I am aware of where two women who are not in a relationship have owned and lived together in their house for the past 25 years. They are family to each other but would not meet the bill's definition as proposed by the government. They would, however, be covered under my amendment because they share a household.

The Hon. SANDRA KANCK: I do have an amendment on file but I will not move it, because I think the opposition's amendment is broader and therefore more appropriate in the sort of society that we now have. In attempting to come up with appropriate wording on this, I was working on what I had said in my second reading speech about the need for us to recognise interdependent relationships. That was not achievable by parliamentary counsel, and we came up with

the version that I have on file but, as I say, I believe that the opposition's amendment is slightly better than mine. I will therefore support the opposition's amendment.

The Hon. K.T. GRIFFIN: The government opposes the opposition amendment. I have an amendment that I will move so that it is on the record. I move:

Page 4, line 20—After 'parent,' insert:
step-parent,

The government amendment would extend the coverage of caring responsibility provisions to include a responsibility to provide ongoing care for a step-parent. The provision is already wide enough to cover care for a stepchild and it was considered on reflection that, because step-relationships have become common in present-day family structures, the provision should also cover the responsibility of the child to care for the step-parent.

Let me deal with the opposition amendment. The definition proposed in this amendment differs from that in the bill in removing any requirement that that care be ongoing.

The Hon. Carolyn Pickles: We are about to fix that up.

The Hon. K.T. GRIFFIN: So you are not going to do that?

The Hon. Carolyn Pickles: We are about to fix up the 'ongoing'.

The Hon. K.T. GRIFFIN: Are you circulating an amendment?

The Hon. Carolyn Pickles: No, the Hon. Mr Xenophon.

The Hon. K.T. GRIFFIN: The bill has been on the table since March and now we are having another amendment on the run, but I cannot stop it. As the amendment is drafted at the moment, it removes any requirement that the care be ongoing. Even a one-off, contingent or occasional responsibility to provide care is counted. As it is drafted at the moment, the only thing that it excludes is a caring responsibility arising from paid employment so that paid care under a contract for services is covered. There is no limit on the persons for whom one may assume this responsibility. Presumably it can include neighbours, remote relatives or anyone at all. That would appear to be wider than any current legislative definition of any such responsibilities in Australia.

The government opposes this extended definition as unworkable in practice and beyond the scope of what is really intended. The intention of the bill is that employers, educational authorities, associations and others be prohibited from treating employees, students, members, etc., unfavourably on the ground of ongoing responsibility to provide voluntary care for close family members, and that acknowledges the reality that most of us live in families and that at least for some period of our life span family membership may entail a binding responsibility to care for dependent members, particularly the very old and the very young. This responsibility is a fact of life and should not result in unfavourable treatment such as refusal to hire or promote the person, exclusion from courses of study or from membership of associations.

The bill does not seek to provide that any and every form of caring responsibility should be acknowledged in this way. If people choose to assume responsibilities to care for friends or neighbours, or if they set up a business providing care of one sort or another, that is a choice they make. It is not an inherent responsibility in the way that caring for a sick child or a frail elderly parent is a responsibility, because it is a voluntary personal choice. It is not an appropriate ground of discrimination in those circumstances. It is not inherent as age, disability or race are inherent.

The Equal Opportunity Act does not aim to legislate the equal treatment of all persons in all circumstances but rather to ensure that inherent characteristics do not exert an influence where they are irrelevant and do not thereby exclude people from participation in society. I suggest that the opposition amendment has really lost sight of that purpose and it is for those reasons that the opposition amendment is opposed.

The Hon. CAROLYN PICKLES: In the Attorney-General's definition, this would not include then a brother or a sister, one who looks after the other, who is disabled.

The Hon. T. Crothers interjecting:

The Hon. CAROLYN PICKLES: He has an amendment for 'stepchild'.

The Hon. K.T. GRIFFIN: We have not included siblings. It is a question of where you draw the line. We wanted some clarity rather than a broad description that is encompassed in the opposition's amendment, and it was consistent with industrial relations legislation very largely. My recollection is that it picks up the provisions in the Industrial Relations and Employees Act.

The Hon. CAROLYN PICKLES: There were some sections of that which we did not like. I think that this is a better definition and it is about to be improved. The point that the Attorney raised about ongoing care is a valid one and I understand that the Hon. Mr Xenophon will move an amendment, which we will support.

The Hon. T.G. CAMERON: I understand that the Hon. Sandra Kanck has withdrawn her amendment and I note that the substantive difference between the amendment standing in the name of the Hon. Carolyn Pickles and that standing in the name of the Hon. Sandra Kanck revolves around the word 'ongoing'. It seems that the nub of the Attorney's problems with the Leader of the Opposition's amendment, apart from the ambit of it, is that it does not contain the word 'ongoing.'

The Hon. K.T. Griffin: It is not just that.

The Hon. T.G. CAMERON: I conceded that, and maybe it is the ambit as well, but it seems that the main problem is the word 'ongoing'. I was attracted to the amendment standing in the name of the Hon. Sandra Kanck but, as I understand it, that has now been withdrawn.

The Hon. NICK XENOPHON: I take on board a number of concerns that the Attorney has with respect to the issue of providing care in terms of the Hon. Carolyn Pickles' definition. That is why I move to amend the Hon. Carolyn Pickles' amendment as follows:

By inserting between the words 'providing' and 'care' the word 'ongoing'.

I take on board what a number of members, including the Hon. Terry Cameron, have said. It makes sense to insert the word 'ongoing' because to say simply 'providing care' is too broad. I believe that the Attorney's definition in the bill is somewhat narrow. It will exclude a number of relationships and the Hon. Sandra Kanck made reference to that in her second reading speech. This is a fair and practicable way of dealing with it and it takes on board the opposition's concerns that the Attorney-General's definition was somewhat narrow, but it gets rid of the imprecision that the Attorney has quite rightly pointed out.

The Hon. K.T. GRIFFIN: I am not going to object to the amendment because I think it improves the definition

dramatically, but it does not improve it enough. As the Hon. Terry Cameron said, the definition proposed by the Hon. Sandra Kanck was better, in my view, than the proposed amended definition of the honourable Leader of the Opposition. However, even the Hon. Sandra Kanck's definition had some problems, which were similar to the definitions in relation to associate, because one has to ask who is a member of the household. Is it a nanny who might be paid, who does not reside in the house but who nevertheless cares for the children on a regular basis? Is it a boarder who pays board? At least with family there is a clear definition. We are not involved in litigation about who is a member of the family. That is why the provisions in the bill, broadened to deal with a step-parent, are, in my view, preferable because they have clarity.

If people have concerns about whether or not siblings, or others who can be clearly defined, are not included or should be included, then let us debate that. However, I can say that, in relation to both the Hon. Carolyn Pickles' amendment and the Hon. Sandra Kanck's amendment, there will be difficulties of definition. The description of 'household' is very broad. My plea is that, if we are to play around with the definition, it ought to be in terms of identifying relationships rather than merely fixing upon a generic description of 'household'. However, for the reasons I have already indicated, even the proposed amended definition of the Leader of the Opposition will not satisfy the government's requirement to get a significant measure of clarity and certainty into the definition.

The Hon. SANDRA KANCK: Having previously said that I was not going to move the amendment I had on file, I have been listening to the debate thus far and I am assessing the possible outcomes, and it looks as though the Hon. Carolyn Pickles' amendment will be defeated even if the Hon. Mr Xenophon's amendment is included. In the light of that, I am reversing my position and I now move:

Page 4, lines 19 to 22—Leave out proposed definition and insert: 'caring responsibilities' of a person means responsibilities for providing ongoing care for another who is a member of the person's family or household;

The Hon. CAROLYN PICKLES: My understanding is that the numbers—

The Hon. K.T. Griffin: What you thought you had you have now lost.

The Hon. CAROLYN PICKLES: No, that is not true. If the Hon. Mr Xenophon's amendment gets up—and I presume his amendment will be put first—then my amendment would read '"caring responsibilities" of a person means responsibilities providing ongoing care for another, whether or not that person is a dependant, other than in the course of paid employment.' So 'ongoing' will be in, because Mr Xenophon's amendment will be put first, and presumably mine will be put next and, if mine fails, then we will consider the Hon. Sandra Kanck's amendment. Can I get an indication from the Hon. Sandra Kanck that, if my amendment with 'ongoing' gets up, she will not proceed with her amendment?

The Hon. SANDRA KANCK: Yes, if the Hon. Carolyn Pickles' amendment, as suggested to be amended by the Hon. Nick Xenophon, passes, I see no need to proceed with my amendment.

The Hon. K.T. GRIFFIN: It is getting down into a stage of high farce. The Hon. Carolyn Pickles' amendment will not require that person for whom ongoing care is to be provided to be part of even the same household, let alone the same family: there is no limitation. If you happen to be providing ongoing care maybe once a week for some person down the street with whom you have been friendly for the past five or six years, or even a shorter period, then, in my view, that will be ongoing care for another. I do not believe that any employer or any association ought to be penalised for saying, 'If you have that caring responsibility, I believe that interferes with your capacity to do your job.' There is no relationship at all, necessarily.

At least the Hon. Sandra Kanck's amendment focuses upon the family—that has been the traditional position across Australia, and that is the position in industrial law—and that is preferable to having it at large. At large broadens the scope beyond anything that I am aware of that applies across Australia. I still have a major concern with the Hon. Sandra Kanck's amendment because of the broad nature of the word 'household'. In fact, that will open up a whole range of questions about who is a member of the household, but at least it is better than the Leader of the Oppositions' amendment. As I say, my preference and the government's preference is still to do it by defining the relationship clearly focused upon the family, and that would give the greatest level of certainty, and I think it will be a just outcome.

The Hon. T. CROTHERS: Independent Labour indicates that it will support the Kanck amendment, and I do so for the following reasons. The Attorney-General talked about buckets of litigation. I have some sympathy with the Pickles' amendment. It seems to me that it defines out some part of the spectrum in respect of your sibling relationship. For example, what does one do if it is a half brother or half sister, or a stepbrother or a stepsister? As I understand the Kanck amendment, it does not define those. Of course I am only a bush lawyer, as you know, but to me there would be less litigation if you do not define things such as that. On balance, I will support the Kanck amendment.

The Hon. CAROLYN PICKLES: To assist members and perhaps avoid two divisions, I indicate that I will be supporting the amendment moved by the Hon. Mr Xenophon to my amendment, and then, if my amendment is moved, I will clearly support that. If that is lost, I indicate that I will not divide but I will support the Hon. Sandra Kanck's amendment. This may then avoid two divisions.

The Hon. NICK XENOPHON: I indicate that, if my amendment to the Hon. Carolyn Pickles' amendment is unsuccessful, I will then support the Hon. Sandra Kanck's amendment.

The committee divided on the Hon. Mr Xenophon's amendment to the Hon. Ms Pickles' amendment:

AYES (7)

Elliott, M. J.	Gilfillan, I.
Kanck, S. M.	Pickles, C. A.
Roberts, R. R.	Sneath, R. K.
Xenophon, N. (teller)	

NOES (8)

Cameron, T. G.	Crothers, T.
Davis, L. H.	Dawkins, J. S. L.
Griffin, K. T. (teller)	Laidlaw, D. V.
Redford, A. J.	Schaefer, C. V.

PAIR(S)

Zollo, C.	Lucas, R. I.
Roberts, T. G.	Lawson, R. D.
Holloway, P.	Stefani, J. F.

Majority of 1 for the Noes.

The Hon. Mr Xenophon's amendment thus negatived; the Hon. Carolyn Pickles' amendment negatived.

The committee divided on the Hon. Sandra Kanck's amendment:

AYES (10)

Cameron, T. G.	Crothers, T.
Elliott, M. J.	Gilfillan, I.
Kanck, S. M. (teller)	Pickles, C. A.
Roberts, R. R.	Roberts, T. G.
Sneath, R. K.	Xenophon, N.

NOES (7)

Davis, L. H.	Dawkins, J. S. L.
Griffin, K. T. (teller)	Laidlaw, D. V.
Lawson, R. D.	Redford, A. J.
Schaefer, C. V.	

PAIR(S)

Zollo, C.	Stefani, J. F.
Holloway, P.	Lucas, R. I.

Majority of 3 for the Ayes.

The Hon. Sandra Kanck's amendment thus carried.

Progress reported; committee to sit again.

STATUTES AMENDMENT (ROAD SAFETY INITIATIVES) BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 2246.)

The Hon. T.G. CAMERON: My contribution will take only eight minutes, which I am sure will be a huge relief to the Minister for Transport. This bill is part of the government's road safety campaign, and it is intended to form part of the strategy to reduce the number of road deaths by some 40 per cent by 2010. It is a laudable objective. I agree with what the minister stated in her speech when she said that any road deaths are unacceptable. We are aiming to reduce the number of road deaths to 86—although one can only agree that any road deaths are unacceptable. Having set this target, we need to see what we can do to reach it. The bill divides the offence of driving without a licence into the less serious offence of driving with an expired licence and the more serious offence of driving when they never obtained a licence.

It is interesting to note that in the minister's contribution she stated that some 2 per cent of drivers of a vehicle involved in a fatal cash are unlicensed and that the figure is higher for drivers of vehicles involved in crashes where injuries other than death occur. If it is a fact that 2 per cent of drivers involved in these accidents—and it is more for accidents where death does not occur—is the case, when one looks at the sample size concerned, one can only reach the conclusion that 2 per cent or more of people who are driving their cars on the road today are doing so without any form of licence whatsoever. The figure could be a little higher than the 2 per cent the honourable member has alluded to. The reason I say that is that people who get around on the roads without a licence are usually petrified of being picked up by the police. They are usually inclined to be more cautious when it comes to speeding and breaking the law, particularly with a few hundred laser gun speed detection devices on the road. That being the case, I often wonder why more of these people are not picked up.

When the police pull someone over for a breach of a road traffic rule or when someone is pulled over for a speeding offence detected by a laser gun, it should be mandatory that their licence is checked then and there. The registration details of the vehicle should also be checked. I do not know how it can happen, but I have had people tell me that they have been pulled over—

The Hon. A.J. Redford: They always do.

The Hon. T.G. CAMERON: The simple fact is that they always don't. I have had two people tell me that they were driving an unregistered vehicle at the time they were pulled over by the police. However, the registration of the vehicle was not checked.

The Hon. A.J. Redford: Tell them to buy a lottery ticket.

The Hon. T.G. CAMERON: If the Hon. Angus Redford is correct, why is it that we are not picking up drivers who drive unregistered vehicles? I am worried about the effect on a vehicle's insurance if the driver is driving without a licence or it is an unregistered vehicle. If somebody does not have a licence or the vehicle is unregistered, the first thing the insurance company does is refuse to pay out. This often leaves the innocent at the mercy of lawyers if they want to try to do something about it.

I raise this because, if the statistics of people being pulled over by the police and found not to be in possession of a driver's licence have reached the sorts of levels the minister is talking about, there is something very wrong in the backyard of the police force. In fact, I am not even sure that these mandatory checks are mandatory. My request is to the government to follow that up. I have been pulled over as a result of laser gun speed detection. I was not asked for my licence, and the police officer did not check to see whether I was driving a registered vehicle. They can pick up the licence down the track. There is some good material in the documentation about licences. If the police officer asks the driver for a name and address but does not ask for the licence, once that driver is gone that is it. If he is driving around without a licence, the car is probably not registered in his name or the name he has given, and that person will get off scot-free.

I would be very interested to ascertain these statistics from the Minister for Police. I fully support what the minister is doing in her attempts to try to purge unlicensed drivers from the road. I do not necessarily accept the minister's argument that these unlicensed drivers have not had any training and are, therefore, bad drivers, etc. I have come across people who have admitted to me that they have been driving around on the roads for over 20 years without a licence. I said, 'Bullshit! How could anybody go 20 years without being caught?' They said, 'I never break the speed limit, and I have never been pulled over by the police.'

The Hon. A.J. Redford: They're obviously very good drivers.

The Hon. T.G. CAMERON: This person is a very good driver. I am making the point that a lot of unlicensed drivers—especially the young ones—lose their licence. They know that they will lose their job because their car is the only way they can get to work. So the young lads will take the risk, and they will drive their unlicensed vehicle for a month or two months and take the chance, because their attitude is such that, if they lose their job, they lose everything. The modus operandi of these young lads is such that, the moment they lose their licence, they immediately become very cautious and law abiding, particularly in relation to speed. They know that if they get caught again they are in very serious trouble. I would appreciate it if the minister could obtain that information. I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

[Sitting suspended from 1.01 to 2.15 p.m.]

PAPER TABLED

The following paper was laid on the table:

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

Committee Appointed to Examine and Report on Abortions Notified in South Australia—Report, 2000.

QUESTION TIME

MEMBER FOR SCHUBERT

The Hon. CAROLYN PICKLES (Leader of the Opposition): I seek leave to make a brief explanation before asking the Attorney-General a question about the member for Schubert.

Leave granted.

The Hon. CAROLYN PICKLES: The opposition has been given a copy of a letter from a senior Liberal backbencher, the member for Schubert, Mr Ivan Venning, to the Secretary of the Kapunda and Light Tourism Committee in which Mr Venning admits he has destroyed letters informing him about an apparent misuse of taxpayers' money. I seek leave to table a copy of the letter.

Leave granted.

The Hon. CAROLYN PICKLES: According to one news report aired last night, a member of the Kapunda and Light Tourism Committee applied to the Premier's office for a $2 000 grant. A letter was faxed on an official committee letterhead without the committee's knowledge or approval. This totally unauthorised letter also claimed that the Kapunda and Light Tourism Committee had raised a further $2 000 of its own money to put towards a project—a plaque in Kapunda to honour the memory of Sister Vivienne Bullwinkle.

According to last night's report, the committee chairman, Mr Russell Iles, was so concerned about this dishonest and unsupported application for taxpayers' money, which was granted by the Premier's office, that he wrote not one but two letters to his local MP, Mr Venning, seeking advice and action. The only advice he received was to shut up and not cause trouble. In his letter Mr Venning admits to destroying the letters alerting him to an abuse of taxpayers' money and also admits to informing some mysterious contact in the Premier's office to protect himself. My question is: will the Attorney investigate this blatant attempt at a cover-up and whether Mr Venning has acted inappropriately, if not illegally, in deliberately destroying the letters from the then chairman of the Kapunda and Light Tourism Committee?

The Hon. K.T. GRIFFIN (Attorney-General): I have just been given a copy of the letter and I have had an opportunity to read only the first paragraph. All that I can do is take the question on notice and I will give consideration to the issues raised by the Leader of the Opposition.

EDUCATION BUDGET

The Hon. P. HOLLOWAY: I seek leave to make a brief explanation before asking the Treasurer a question about the education budget.

Leave granted.

The Hon. P. HOLLOWAY: The opposition has received advice from within the education department that the education portfolio faces a massive budget blow-out. This advice includes allegations that the payment of accounts to suppliers is being delayed. Budget Paper 5 shows that the cash reserves held by the education department have fallen by $80 million over two years from $144 million in the 1999-2000 budget to $64 million this year. The opposition has a copy of the budget strategy for 2001-02 which shows that, in addition to specific savings targets and cash flow reductions, a cut of 2 per cent will be made across the education budget. My questions are:

1. Has the Treasurer been advised by the Minister for Education, officials of the department of education or by Treasury officials of serious budgetary problems within the education portfolio and, if so, what is the cause of these budgetary problems?

2. Can the Treasurer assure us that the reserves held by the education department are in line with the budget and are not being run down?

3. Why has a 2 per cent cut been imposed as a department savings target, and why was this not detailed in the budget papers?

4. Has funding for repairs and maintenance of schools, including minor works, been cut since the budget was handed down?

The Hon. R.I. LUCAS (Treasurer): I have been in parliament for almost 20 years, and for every one of those years education budgets have always been tight, whether under a Labor government or a Liberal government. When I was Minister for Education for four years the budgets were tight, and for the past four years they have been tight as well. The reason for the tightness is that this government has been putting huge, additional amounts of money into education. I will have to check the numbers, but something like an extra $200 million went into the portfolio over the past three or four years. I will check those particular numbers. I know that human services spending has increased by $400 million compared with four years ago, and there are huge, additional increases in the education budget. An independent report in the *Financial Review* yesterday, to which I refer the deputy leader, states that this government spends more per capita on important social services areas such as education, health and police services than almost any other state government in Australia.

So, money is always tight. Portfolio chief executives and ministers would not be doing their jobs if they were not always trying to ensure that they get value for every last dollar. Indeed, if one believes the shadow treasurer, he will be doing exactly the same thing, even though he is busily promising the world to education constituent groups—he is promising that there will be lower class sizes, that there will be more money spent on education—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Well, I am just saying that that is the answer. If it is a tight budget at the moment, imagine what it will be like if the shadow minister becomes the minister and he has promised—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Well, I said that at the outset.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: I said that at the outset. I said that the budget is tight. It is always tight, and you would not be doing your job as a chief executive or a minister if you did not constantly monitor, review and try to ensure that you were getting value for your dollars within education. You would not be doing your job.

The Hon. Diana Laidlaw: If you had lots of money, you would be criticised.

The Hon. R.I. LUCAS: Exactly—for pork-barrelling and holding up money during election periods. Heaven forbid! As always, the shadow minister and deputy leader wants to have his cake and eat it too in relation to this. The government is accused of profligate spending and wastage. On the other hand, if there is any sign of a portfolio trying to tighten up spending and reduce unnecessary expenditure within an agency, the shadow minister criticises that as well.

In relation to bill paying, there is an overall government policy that all bills should be paid within, I think, 28 days—I will check that—and we report on a monthly basis to all ministers and chief executives the performance of all portfolios in meeting that particular requirement. Obviously, not 100 per cent of all bills meet that particular payment—

The Hon. K.T. Griffin: It is 30 days.

The Hon. R.I. LUCAS: The Attorney reminds me that it is within 30 days, but that is not always possible. Sometimes if there is good cause or an account is questioned as to its accuracy in any agency—issues such as that—some of the accounts may not be paid within 30 days. We certainly monitor the payment and, as a positive initiative of small and medium sized businesses, we have been insisting on chief executives targeting that objective of paying their bills within 30 days.

Regarding the other specific issues such as the 2 per cent reduction in some programs and the impacts on maintenance, obviously I do not have the detail of those and I will need to take those issues up firstly with the minister. The experience of the last 24 hours in relation to questions in this Council and in another place means that we would be very wary of accepting as gospel information provided by opposition shadow ministers during question time.

WATER SUPPLY, SOUTH-EAST

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Treasurer a question about water allocations.

Leave granted.

The Hon. T.G. ROBERTS: In the South-East, as all members on both sides of the Council would know, questions are being asked in relation to the future allocation and licensing of water in that area of the state. I have a press release from Mr Rory McEwen MP, JP, the Independent member for Gordon, who makes some accusations against the member for MacKillop.

The Hon. R.I. Lucas: What date is this one?

The Hon. T.G. ROBERTS: This one is dated 13 September—and I checked the date. The date on which I misled the Treasurer yesterday was not on that sheet, and it made no reference to the date other than on the top of the faxed page.

The Hon. R.I. Lucas: Danny Price sent it to you before he sent it to me.

The Hon. T.G. ROBERTS: That is the Treasurer's explanation, not mine—I am not that close to it. Mr McEwen's press release states:

> The latest statements by the member for MacKillop look very much like the final desperate acts of a man in panic mode. The member for MacKillop is out of step with his own party, his minister, his Premier and the parliament and his desperate attempts to blame me will not fly. Williams wishes to destroy the timber processing industry in the region by forcing them to purchase land to secure their 'water rights' yet he suggests I am the 'enemy of the forests'! His proposal would require KCA [Kimberley Clarke Australia] to purchase 15 000 hectares of prime grazing land to secure their water use and further they would not be able to use that land to plant forests. This will cost many jobs. The Williams plan will guarantee we never see a world-size pulp mill in this region because such a mill would use around 25 000 megalitres of water a year, so under the Williams plan they would have to purchase 25 000 hectares of prime grazing land to secure their water. Naturally, if Mr Williams' wacky policy was successful it would have to apply to the whole state. Water users in Adelaide would need to buy land to secure their water. Unfortunately the land would probably be in Queensland (the other end of the river)!
>
> But Williams goes further, he also misrepresents all that I have said and written. I was the first to propose a plan that would not require forestry to hold annual licences and this policy has been published for all to see. I have NOT called on the government to introduce licences—Williams is dreaming again. We continue to have a freeze on forestry because of Mr Williams and the minister; they and their government introduced the freeze NOT ME. They have the power to lift it and should. I have tried to get this to happen. I even had parliament resume early to solve the problem but to NO avail.
>
> Mr Williams says my plan is unviable; yet he had the opportunity to work with me on it and chose not to. I gained the support of the Premier for a bipartisan approach, he agreed and convened such a meeting in January but there was NO SHOW from Mr Williams. I can only conclude that he wants to be part of the problem, not the solution. Mr Williams criticised me last week for proposing a solution to the blue gum problem. Again I had the Premier's support yet Mr Williams states the idea was silly and the government could not afford it. His government could not afford to help save jobs in the South-East, yet his government can afford to build soccer stadiums, football stadiums, wine centres and convention centres! The good news is that almost everybody following this debate knows that the failure to resolve this issue over the last four years is not mine, it is Mr Williams', his minister and his party's.

My questions to the Treasurer are:

1. Who is right in this propaganda war that is being waged by the member for MacKillop and the member for Gordon in the South-East?

2. What negotiations and discussions are taking place to ensure that the appropriate planning and use of South-East forests will take place in the future?

The Hon. R.I. LUCAS (Treasurer): I know there has been a lot of rain in the past 48 hours but I certainly did not come down in the last shower. I am certainly not going to take up the honourable member's kind invitation to choose between the Independent member for Gordon, Mr McEwen, and the Liberal member for Mackillop—

The Hon. R.R. Roberts: He has a gun.

The Hon. R.I. LUCAS: He has a gun, has he? I don't know.

The Hon. R.R. Roberts: At the Premier's head.

The Hon. R.I. LUCAS: Oh!

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: As I have vaguely followed the intricacies of this debate over the past 468 years, it seems, there appear to be shades of opinion between those views as well. Nevertheless, I am sure someone much wiser than I is working on the issue—maybe a number of people much wiser than I are working on this issue—with the objective of coming to that Solomon-like position that might happen to be able to be supported by a number of the interested parties in the South-East, perhaps even with the vague glimmer of hope that the position can be supported by all the interested parties in the South-East. However, having some knowledge of the South-East, I am not sure whether that will be possible, particularly on an issue that relates to something as complex as water.

On that basis, I am happy to take advice from the people in the government more learned than I on this issue to see whether I might be able to provide anything more useful than I have already said to the honourable member by way of some general response.

INTERNATIONAL ROSE GARDEN

The Hon. IAN GILFILLAN: I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning, representing the Minister for Environment and Heritage, a question about the fees for the rose garden.

Leave granted.

The Hon. IAN GILFILLAN: As we would all agree, I am sure, the parklands are a unique cultural, recreational and heritage asset to the Adelaide community and the many tourists who flock to our fair city, and we would all agree that the parklands open spaces should be retained for all members of the public to use. It was with some interest that I read an article in the *Advertiser* of 26 September entitled 'Too few pay to smell the roses'. The article said:

> Fewer than 7 000 fee-paying visitors attended Adelaide's International Rose Garden during its first eight months of operation.
>
> The State Government revealed yesterday that 6 734 fee-paying visitors attended the garden from its opening on October 19 to the end of May.
>
> Midway through this year, the garden had raised only $13 601 in ticket revenue. Running costs for the $1 million rose garden, managed by the Botanic Gardens of Adelaide, are about $173 000 a year.
>
> Recreation minister Iain Evans said extra revenue-raising activities were being considered for the garden.

There is another paragraph to which it is not necessary to refer. The government trend towards a user-pays system is disturbing and negates the accessibility of this wonderful asset to the public.

On that quote, we would need 70 families per day to pass through the gates of the rose garden just to cover the costs. The ticket revenue appears to be raising just 10 per cent of the annual operating costs for the garden. The minister has recognised the inelastic relationship between ticket costs and patronage of the rose garden. I refer to the minister's statement in the June 2001 report to the Legislative Review Committee regarding the regulated fees and charges under the various acts administered by the Department for Environment and Heritage in which he says:

> Fees for the Rose Garden have not been increased because they were only implemented in October 2000. Additionally, patronage levels have been below expectations and any price increase may further reduce demand.

My questions are as follows:

1. Will the minister rule out any increases to the entry fee for the rose garden?

2. What revenue raising activities, as mentioned in the article, are being considered for the rose garden?

3. Will they further restrict public access to the garden, which, as everyone knows, is situated in our parklands?

4. Will the minister consider abolishing the entrance fees to make the rose garden more accessible to the public as many people, including the Adelaide Parklands Preservation Association, fought for at the time it was being considered?

5. Does the minister intend to extend the so-called user-pays system of the rose garden to other facilities within the parklands such as the Botanic Gardens?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I think that a lot of deliberate alarm is expressed in the forming of those questions. I think also that some perspective is required. The honourable member has never wished this venture to succeed, and it is a bit harsh to make judgments when the rose bushes and the like were only planted last year and could still be regarded as immature plants and hardly at full bloom yet. A lot of work is still to be undertaken in terms of the growth. In addition, it is fair to say that the site has been lost to the public while so much work has been occurring on the adjacent site, the National Wine Centre. Now all that is coming together and will be so much more visibly obvious—

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. Ian Gilfillan: I may even go to the rose garden if you shout me a ticket!

The Hon. DIANA LAIDLAW: I see, you can be bought off.

Members interjecting:

The Hon. DIANA LAIDLAW: I see, it is not the parklands: you would visit.

The Hon. L.H. Davis interjecting:

The PRESIDENT: The Hon. Mr Davis will come to order!

The Hon. DIANA LAIDLAW: The Attorney has been rather harsh in suggesting that, in buying Mr Gilfillan a ticket, we could get it at seniors prices, half price. It is not listed as an option?

The Hon. Ian Gilfillan: I wouldn't say no. If I went as a family I would get in a bit cheaper.

The Hon. DIANA LAIDLAW: I think this debate has deteriorated and we are painting the honourable member as a rather mean and nasty older man. I think we had better cease comment. I will refer the honourable member's question, and all its innuendo, to the minister and bring back a reply.

ELECTRICITY, INTERCONNECTION PROJECT

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Treasurer (Hon. Rob Lucas) a question about electricity.

Leave granted.

The Hon. T.G. Roberts: This question won't give him a shock!

The Hon. L.H. DAVIS: It will. Electricity can give shocks, Terry. You should know that. In an interview on radio station 5AA last week, the Hon. Nick Xenophon criticised the state government and said that a parliamentary inquiry had heard evidence that there were problems with the Heywood interconnector, which meant that there were going to be problems for South Australia with the SNOWVIC interconnector project, which of course was discussed in this chamber only yesterday. Will the Treasurer provide details of the SNOWVIC project, and could he outline to the Council and, in particular, to the Hon. Mr Xenophon how that project will benefit South Australia?

The Hon. R.I. LUCAS (Treasurer): I am amazed at a number of the interviews that the Hon. Mr Xenophon gives on subjects outside his initial area of expertise, and this was one of them. In introducing him, I note that Mr Leon Byner said that, with difficult issues like this, one needs to get people with commonsense to explain the issues. I could understand if it had been referred to the Attorney-General. But I was shocked, and I will need to mention to Mr Byner when next I speak with him, that he indicated that when you had complicated issues one needed to speak to someone with commonsense to explain them to the people of South

Australia.

And who came across the line? I was waiting to hear who was this person with commonsense. Shock, horror! It was the Hon. Nick Xenophon who was going to explain the intricacies of the electricity market. I would ask members not to laugh too loudly yet at the Hon. Mr Xenophon: I have not outlined what he said. I know that members are all waiting in anxious anticipation. The Hon. Mr Xenophon, with commonsense, allegedly, seeking to continue to defend SNI and Riverlink in his crusade on behalf of Danny Price and others, had to debunk the SNOWVIC project. NEMMCO, in its independent draft report, had said that the SNI project does not pass the market benefit test although this project, SNOWVIC, does.

It provides 400Mw of power for $44 million: almost twice the power for less than half the cost. I would have thought that, at least on the surface, that might have twigged to someone with commonsense that we should reserve judgment before racing into battle trying to debunk this particular project. Nevertheless, the Hon. Nick Xenophon strode on regardless, having been, I guess, flattered a bit by Mr Byner as having been referred to as a man with commonsense who was going to sort all this out for listeners, and said:

> This report doesn't make sense for a couple of reasons. It makes a couple of key assumptions. One of them is—

it makes a lot of assumptions, actually—

> that the interconnector between Victoria and South Australia isn't. . . They're assuming that all this extra power from the Snowy will come through the Victorian interconnector, when the parliamentary committee you refer to has already said we've got problems with an interconnector in terms of capacity issues. So it simply doesn't make sense.

I will not go through the rest of what the Hon. Mr Xenophon was suggesting, except to say that he was asking, 'What's the point of having 400 megawatts of power coming into Victoria if a parliamentary inquiry has already been told that we've got a problem with the power getting from Victoria to South Australia over an interconnector?' The only problem is that clearly the Hon. Mr Xenophon and the myriad team of advisers—paid and unpaid—he has in his office obviously had not read the inquiry report. They obviously had not seen what Mr John Easton had said. The parliamentary inquiry had been told not that there was a problem with getting the power across but that there was not enough power in Victoria to send across the interconnector.

An honourable member interjecting:

The Hon. R.I. LUCAS: No, there was not enough power in Victoria to send across the interconnector. John Easton was highlighting that, at peak periods two and three years ago, in February, say, we were guaranteed to get 500 megawatts of power capacity right across that Victorian interconnector. So in February, when we needed 500 megawatts of power, we would get it. The last couple of NEMMCO statements have said that, because they are running out of surplus power in Victoria, in the peak periods you might be getting less than 100 megawatts of power across the interconnector. There is no problem with the interconnector. If there was 500 megawatts of power surplus in Victoria, they could shunt it across the powerline to us. NEMMCO has been saying that, because there is not enough surplus power in Victoria, we might only get 100 megawatts. They are suggesting that in a couple of years in peak periods we might get nothing across the interconnector. We have this fabulous interconnector, and we might get another one or two interconnectors. However, if there is no surplus power to come across, it does not matter how many interconnectors you have, it does not help you in South Australia.

That was the point the chair of the NEM task force, John Easton, was making to the parliamentary inquiry. He was not suggesting that, if you dumped extra power into Victoria, you could not get it into South Australia at all. The Hon. Mr Xenophon, the man with commonsense, was going to explain the problems of all this. That was the explanation the Hon. Mr Xenophon was giving not only to Mr Byner but all his listeners. He was giving them the impression that Snowy to Victoria could not assist South Australia in terms of a national market. If anything drops extra power into Victoria, either SNOWVIC or, indeed, Basslink, which is a 600 megawatt interconnector (and it is unregulated, so the Hon. Mr Xenophon might not like that one—and Danny Price might not like it either) from Tasmania to Victoria, the extra power from either of those projects, dumped in peak periods in Victoria, can then be shared between Victoria and South Australia. That is the logic of the national market, and that is how SNOVIC and, indeed, Basslink can assist South Australia.

The problem with Basslink is that there are massive protest meetings and uprisings all over the place through Gippsland against a transmission tower network going across the countryside. The advantage of SNOWVIC is that you do not have to construct a new transmission line. It is an existing line which has already been given planning and development approval. All that is required is to lift and separate the powerlines—if I can use a colloquial expression that some might have heard on television advertising in another context—and ensure that the lines do not droop too close to the ground because of the additional power that can be flowing through the interconnector. That is all that is required with the SNOWVIC proposal, and that is why you can get 400 megawatts of power coming into Victoria and South Australia for just $44 million, whereas something like SNI—or, indeed, Basslink—will cost much more, because you are having to construct a whole new transmission network to connect the states.

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: SNOWVIC is 400 megawatts of power for $44 million.

The Hon. T.G. Cameron: The cost?

The Hon. R.I. LUCAS: The sum of $44 million.

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: SNI is $110 million for 250 megawatts of power. So it is almost twice the power for a fair bit less than half the cost. It is $44 million over $110 million.

The Hon. L.H. Davis interjecting:

The Hon. R.I. LUCAS: With a name like that, you would think he might be able to work out the economics of it, but I am not sure. I am not sure how much Basslink costs. I have seen the number, but I cannot quote it. It depends ultimately whether any part of the Victorian component goes underground as opposed to the above ground proponent, which has been suggested.

The Hon. Mr Xenophon went on to say that that was assuming that we can get that power across the border and that we are already having problems with that. Let me acknowledge that there are some other problems we are having occasionally with the de-rating of power lines in storm periods, etc., but that is not the issue being addressed in relation to this.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Well, it is being addressed. Finally, Mr Xenophon said:

> Let's wait and see what happens, but it isn't over yet. This is in terms of the draft report. This is a draft report, and I think with summer coming up we need to get a solution here.

I will just disabuse the honourable member that this draft report finalised in any form will have no impact on this summer in terms of interconnectors. According to the Victorian minister, if it can get the approval, SNOVIC will be ready and up and going by the end of next year. Transgrid has indicated that, if it gets the tick on its estimate, it will not be ready until the summer of 2003-04.

The Hon. Mr Xenophon in his response talking about draft reports—and with summer coming up we need to get a solution—will not get a solution with his favourite SNI project. He will have to wait a number of summers before his much loved SNI project is operational, should it eventually get the seal of approval from NEMMCO—and, as I said, the only way that will happen now is if the project is drastically changed. It will have to increase significantly the capacity of it without significantly increasing the cost of the project to see whether or not it can actually pass the market benefit test.

Whilst I am delighted to see that there is at least someone in the community who thinks that the Hon. Mr Xenophon has a good degree of commonsense and can explain these issues to all and sundry, I have to say that, after two or three years of debating these issues, if I were to be asked to recommend somebody with commonsense to explain these complicated issues, the Hon. Mr Xenophon's name would not be the first that would spring to mind.

The Hon. NICK XENOPHON: I have a supplementary question, Mr President. Has the Treasurer now changed his previous opposition to regulated interconnectors in light of the SNOVIC proposal, and will he now share his commonsense with Mr Leon Byner and his listeners?

The Hon. R.I. LUCAS: I must admit that it has been some time since I had—

The Hon. Diana Laidlaw interjecting:

The Hon. R.I. LUCAS: No, it has been some time since I had the pleasure of discussing these issues with Mr Byner. I had the opportunity this morning to correct some of the statements of the Hon. Mr Xenophon—

The Hon. L.H. Davis: On Mr Byner's program?

The Hon. R.I. LUCAS: On Mr Byner's program. I thank the Hon. Mr Xenophon for his invitation, but we did take up that opportunity this morning with one or two other issues. In relation to the first question, the South Australian government position has been that, when given the choice, we would prefer to see an unregulated interconnector to a regulated interconnector. Basslink is an unregulated interconnector. I am not sure what the Hon. Mr Xenophon's attitude is towards Basslink, whether he is opposing it because it is unregulated. But in relation to the Riverland, it is certainly our view that, if you wanted to get an interconnector up quickly, the quickest way was an unregulated interconnector.

I think the fact that TransEnergie will have Murraylink up and going by April next year, and Transgrid is talking about maybe the summer of 2003-4, seems to suggest that the government possibly made the right choice in relation to ensuring that, if you want an interconnector, the quickest way of getting one was an unregulated interconnector. We are quite happy to see further regulated interconnectors if they pass the market benefit test. If SNOVIC passes the market benefit test, as it looks like doing, terrific. If a radically changed SNI passes the market benefit test, terrific.

The existing Heywood interconnector, our first interconnector, was a regulated interconnector into South Australia. The government is not so ideologically driven that it says it will not contemplate in any circumstances anything other than its preferred course. We are much more pragmatic than that. We prefer to see a competitive national market and if we can get quick interconnection into an unregulated interconnector, that is terrific; and if there are other proposals which are regulated which take a bit longer because of the processes, we will support those as well. At the same time, we will also try to shorten the processes in terms of the consideration of future regulated interconnector proposals, or unregulated interconnector proposals, in the national market as well.

The Hon. P. HOLLOWAY: Without SNI Riverlink, can the Treasurer give an assurance that the impending power shortages in the Riverland will be adequately addressed?

The Hon. R.I. LUCAS: Certainly, if one were going to wait for the SNI Riverlink proposal, one would have to wait, as I said, possibly until the year 2003-04. So, if you want to address the Riverland power issues, you will have to look at options that can come on stream much earlier than 2003-04. The 2003-04 option can assist the medium term options, but in the shorter term you would have to look at other options. There is no doubt that Murraylink being operational next year will assist.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: So is Basslink. Are you opposing Basslink?

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: No, you are not. Mr President, it is very interesting. The Hon. Mr Holloway says he does not oppose Basslink because it is an unregulated interconnector between two Labor governments (Tasmania and Victoria), but because there is an unregulated interconnector which is being supported by a Liberal government—shock, horror—you cannot support that because a Liberal government supports it. If Mr Bracks and Mr Bacon are prepared to support an unregulated Basslink interconnector, the Hon. Mr Holloway says, 'That is okay because our mates, two Labor governments, support that. But because there is an unregulated interconnector that a Liberal government supports, we cannot support that.' There is something wrong with that. The hypocrisy, the naivete and the ignorance of the Labor Party's policy in relation to the national market have been revealed in their starkest form by the Hon. Mr Holloway's response to my question to him.

BREAK EVEN GAMBLERS REHABILITATION NETWORK

The Hon. NICK XENOPHON: My questions to the Minister for Transport representing the Minister for Human Services are as follows. Following the release of the government's advertising campaign to advertise the Break Even gambling service a number of months ago, featuring a mime artist advertising the Break Even number, can the minister advise, first, how much has been expended on the campaign, with a breakdown of the amounts spent on various media forms? Second, how many calls were made to the Break Even toll free number following the campaign by comparison with the 12-month period before its launch? Third, has the minister assessed the comparative effectiveness of the Victorian government problem gambling campaign featuring quite

hard-hitting advertisements with the slogan, 'Think of what you are really gambling with,' offering assistance to problem gamblers? If not, will the minister at least liaise with and obtain this information from his Victorian counterpart? Finally, how much longer will the present—

The Hon. A.J. Redford interjecting:

The Hon. NICK XENOPHON: The Hon. Angus Redford interjects and asks whether the advertising campaign is working. It will be interesting to know the comparison: that is why I am asking the question.

The PRESIDENT: The Hon. Nick Xenophon should be asking his questions. He did not seek leave to make an explanation. He must ask his questions.

The Hon. NICK XENOPHON: Finally, for how long will the present advertising campaign run; at what cost; are there any proposals for a new advertising campaign to advertise problem gambling services and community education; and over what time frame will that new campaign be implemented?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I have had a lot of help in preparing to answer this question. First, the Treasurer reminds me that South Australians spend much less per head than Victorians on gambling. Also, the Hon. Angus Redford tells me that, if that is the case, Victoria's hard-hitting campaign does not seem to be working. Notwithstanding all the advice I have had to enable me to answer the question, I will refer it to the minister and bring back a reply.

AGED CARE

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for the Ageing a question about aged care facilities.

Leave granted.

The Hon. CAROLINE SCHAEFER: People in smaller country towns are desperate for more nursing homes and hostel care in their local area. I have heard of a number of families recently who have had to deal with the trauma of moving an elderly family member far away from their home town and familiar surroundings. I am aware that most nursing homes are funded by the commonwealth government. However, my question to the minister is: is there anything that the state government can do to alleviate this shortage and, if so, what?

The Hon. R.D. LAWSON (Minister for Disability Services): I am aware of the honourable member's interest in aged care facilities, especially in remote and regional areas. As she correctly acknowledges, the primary responsibility for the funding of aged care facilities in our federal system lies with the commonwealth government. That having been said, the state government is keen to ensure that people in areas other than the metropolitan area, especially the frail elderly, receive the very best of services.

There are many nursing home type patients in state hospitals. In fact, many smaller hospitals in rural and remote areas are largely occupied in looking after people who would otherwise be housed in nursing homes or hostels (as they used to be called), which are now called aged care facilities under the commonwealth act. In relation to those nursing home type patients in hospitals, in the current year we are spending a good deal of capital on improving facilities. In particular, at Crystal Brook, Cummins, Laura, Quorn and Tumby Bay, upgrades are being undertaken for the purpose of ensuring that we have good facilities.

Another initiative of which I am particularly proud is one which, of all the Australian states, the South Australian government is the only one to take, and it involves Home-Start, our low-cost housing lending authority, which of course is primarily designed to assist younger people to obtain finance in order to purchase a house. We have changed the charter of HomeStart so as to allow it to lend up to $5 million to an aged care facility in the charitable or not-for-profit sector to enable it to build capital improvements and, in particular, new places for older people.

I believe this is a great initiative. HomeStart exists for the purpose of providing accommodation for people, and by allowing organisations to build additional accommodation I think we are meeting the intention of HomeStart. This program has been well received in the country. The maximum that can be borrowed is $5 million. Some of the major metropolitan facilities which are run by charitable organisations have ready access to significant funds. They have assets and other things on which they can borrow. In the country it is a lot more difficult. This initiative has been very welcome. It is one that I am delighted the state government is able to provide. I think that is cooperative federalism at work. The commonwealth government provides and funds the places, but we are happy to assist local communities to build the facilities.

There has been a good deal of publicity about aged care, and the federal opposition has sought to obtain political advantage—I believe unfairly—from the commonwealth government, which has allocated more additional places to aged care across the country than any government has previously. The last two commonwealth allocations have been directed specifically at rural and regional areas. Another 1 400 places were allocated in January this year. The commonwealth has asked for applications for another 636 beds in South Australia and that round will be closing soon. I have been urging local communities to make application for those additional places because I agree with the honourable member's question that it is undesirable that older people and families have to be separated by long distances because of the unavailability of places locally.

Finally, I urge members with an interest in this area to look at the figures from the commonwealth Department of Health and Aged Care, which show a malapportionment of aged care places in South Australia. For example, the eastern metropolitan area of Adelaide is over-bedded, although I do not like the expression they use. It has over 1 100 places more than its share of places in high care, for example. However, in the regional areas such as Eyre Peninsula, where I know the honourable member lived and still has very close contacts, small places like Cleve, Elliston, Franklin Harbor, Kimba and Le Hunte are all about four beds under the proper allocation, and in a small community that is a significant number.

The commonwealth has allocated quite a number of the new aged care packages, which is a package of services where a nurse or aid worker goes out to the home to keep a person home, to the areas that I just mentioned, and on its formula they are a little oversupplied, but I do not believe they have sufficiently addressed the issue.

The Hon. R.R. ROBERTS: I have a supplementary question.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.R. ROBERTS: Given the minister's commitment to aged care facilities, why are he and Dean

Brown trying to force the Port Pirie Regional Hospital out of aged care through the closing down of Hammill House?

The Hon. R.D. LAWSON: There is a false assumption in the honourable member's question. The government is not seeking to close or force out Hammill House. For those members who are not aware, I advise that the local hospital in Port Pirie has an annexe called Hammill House which accommodates a number of long-term patients, as well as some commonwealth-funded places. Those facilities do not meet the current commonwealth standards and certainly will not meet them beyond 2008.

The Helping Hand Centre has established a very new, large and, I am sure the honourable member will agree, fine facility in Port Pirie, and St Joseph's, which is run by the Catholic Church, also has a very good facility. What is being examined in Port Pirie is a suggestion that Helping Hand or some other provider might be prepared to take over the patients who are presently housed in Hammill House which, as I say, is presently inappropriate. If that were to occur, it would require Helping Hand, or whichever part of the charitable or benevolent sector is prepared to do it, to build an entirely new facility which would be funded by the commonwealth. That would be in the best interests of the people in Port Pirie, and the proposal is still under very close examination.

GAMMON RANGES NATIONAL PARK

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Minerals and Energy, a question about the Gammon Ranges National Park.

Leave granted.

The Hon. M.J. ELLIOTT: The Gammon Ranges National Park was proclaimed in 1970 and is one of South Australia's most important and spectacular national parks. Subsequently, the Weetotla Gorge in the southern part of the park was added because of the significance of its ecosystems and the fact that it contained a large number of rare and endangered species. I note, for example, that the Weetotla Gorge is home to the yellow-footed rock wallaby. There has been some concern for many years that a mining lease held by BHP would see open-cut magnesite mining in Weetotla Gorge. This threat has occurred because most national parks in South Australia do not have a single proclamation as environmental protection zones but are subject to joint proclamation, which means that the environment minister can approve of mining at any time should he or she wish to do so.

Due to this concern, the Wilderness Society wrote to Minister Matthew on 2 March this year requesting information about the transfer of mining leases in the Gammon Ranges National Park. Some five months later, the Wilderness Society received a reply which did not address the substance of its request and which merely repeated what was already on the public record. Consequently, the Wilderness Society wrote a further letter on 4 September this year asking Minister Matthew to address the substance of the questions in that letter. What was put on the record in the letter from the minister was that BHP had made an application to transfer its mining leases in the Gammon Ranges to Manna Hill Resources and that this application was refused.

It did not address the issues of protecting the Gammon Ranges National Park by preventing new mining leases being issued in the future. At this time, the Wilderness Society is yet to receive a reply to the later letter. As a consequence, I ask the following questions which encapsulate the substance of the letter sent to Minister Matthew over six months ago:

1. Why were officers of PIRSA giving out incorrect or misleading information about the status of mining leases in the Gammon Ranges National Park?

2. What undertakings were given in court in relation to existing mining leases?

3. What is PIRSA's understanding of the current status of mining leases in the Gammon Ranges National Park?

4. To the minister's knowledge, has Manna Hill Resources applied for new mining leases in the park?

5. Will the minister grant a moratorium on granting new mining leases in the park pending a full assessment of the wilderness quality of the area?

The Hon. K.T. GRIFFIN (Attorney-General): I will refer the questions to my colleague in another place and bring back a reply.

HAMMILL HOUSE

The Hon. R.R. ROBERTS: I seek leave to make a brief explanation before asking the Minister for Disability Services a question about Hammill House, Port Pirie.

Leave granted.

The Hon. R.R. ROBERTS: Recently rumours have been circulating in Port Pirie that there was a move to close down Hammill House or significantly change its operations. Following those concerns, I wrote to the Chairman of the Board of Directors, Mr Mervyn Lewis, inquiring about the proposal. I will not read the whole letter, but he did say that during last year Dean Brown, Minister for Health, toured Hammill House and very quickly made comment that the facility was outdated and needed to be upgraded. He says:

> In the 2001-2002 Minor Works Program it was announced that $2 million had been made available for aged care services in Port Pirie, although it was not stated specifically that this money was for the upgrade of the Hammill House facilities.
>
> Following Mr Brown's visit, representatives from the Department also viewed the area and agreed the facility needed upgrading, however, they asked the question whether or not an aged care facility should be operated by a state funded hospital.

I interpose to say that in fact it has been for many years and it has been supported by local fundraising to ensure its continued operation. The letter continues:

> In March this year, a meeting was held between officers representing the Federal and State Governments along with Board Members and Executive of this Health unit. During this meeting the following options were discussed:
>
> · Upgrade infrastructure of the Hammill House Building—

that is the one that is most popular with the locals—

> · Build a new facility on a new site on campus—

which, indeed, would also be welcome—

> · Port Pirie Regional Health Service cease providing aged care accommodation with the retention of existing funds and for the Department of Human Services and the Board to facilitate a private provider taking responsibility for the services currently being provided from Hammill House.

He also said:

> An agreed outcome of this meeting was for the state and commonwealth representatives to explore the option of the state being able to purchase commonwealth funded beds—

and I assume that the hospital now has those beds allocated—

> and put them up for tender in the private market. In agreeing to this, the board made it very clear that they wanted to retain some control over who goes into the beds and the current recurrent funding used by Hammill House must be retained by the board for use in other previously identified areas of need. Since this meeting I [the

Chairman] am aware that the department have had meetings with the Sisters of St Joseph, Helping Hand and the commonwealth Department of Health. However, no outcome has been achieved.

I am advised—although not by Mervyn Lewis directly—that the scenario goes something like this. The government does not really want to be involved in it, therefore it wants to use the hospital to actually attract places and then they will put them up for tender, and the money that they save from Hammill House could go back into the normal running of the hospital. It is being put to me that that is Hobson's choice. When the hospital is screaming out for funds for the general area, the proposition that is being put is that the hospital wants to get out. It is my assertion that the people of Port Pirie do not want this to occur.

Is this proposal a cunning plan to ensure that Port Pirie Regional Hospital gets out of aged care and that the government can profit by having access to those beds to put to tender to the private sector? Does that not really mean that we are privatising aged care health services that are presently being provided by Hammill House?

The Hon. R.D. LAWSON (Minister for Disability Services): The short answer is no, it does not, and there is no cunning plan at all. The honourable member has selectively quoted from a letter: I would be delighted if he would give me the letter and I will ensure that he and its author receive a complete and considered response. It is worth saying that there are 17 000 aged care places in South Australia and something over 600 of those are actually in state-funded facilities, so the vast majority of older people who require residential care in South Australia are cared for in the benevolent (not for profit, charitable) and the for-profit sectors in this area. That has always been the case.

The South Australian government has been, in effect, a residual provider of services in certain areas. What we are looking at in Port Pirie is the possibility of offering the people of Port Pirie a better service than that which they now have. A better service can be provided in a specialist, specially designed, constructed and staffed aged care facility, rather than one that is associated with a hospital, with all its institutional connotations. The idea these days is to try to create a home-like atmosphere for people and to get away from the idea that older people are living in a hospital or in some institution.

In this state we not only have Helping Hand but a number of other organisations that provide the very best of care. What we are looking to do in Port Pirie is examine the possibility of this service (which is presently provided by the state government in a facility that requires upgrading) being provided in some other way that effectively uses the commonwealth government contribution as well as the expertise of other providers. One thing I can assure the honourable member and the community of Port Pirie is that, whatever the solution following this consultation process, they will be better served than they are at the moment.

PROOF OF AGE CARDS

In reply to **Hon. R.R. ROBERTS** (17 May) and answered by letter 17 August.

The Hon. R.I. LUCAS: The Minister for Transport and Urban Planning has provided the following information:

As the honourable member may be aware, the provision for the issue of a voluntary 'Proof of Age' card was introduced in November 1991. This followed a proposal to the then Minister for Transport by the South Australian branch of the Australian Hotels Association.

The proposal to introduce a 'Proof of Age' card was considered in consultation with the Office of the Liquor Licensing Commissioner, Drug and Alcohol Services Council, South Australia Police and other community organisations, and was seen as a positive step to assist operators of licensed premises in the prevention of underage drinking.

While any person aged 18 years or more is eligible to apply for a 'Proof of Age' card, recent discussions with the Office of the Liquor Licensing Commissioner indicate that the commissioner would not support the issue of a 'Proof of Age' card to other than persons aged 18 years or more. This is on the basis that the availability of 'Proof of Age' cards to persons under 18 years of age would undermine the integrity and original intention of the scheme, and would be inconsistent with other States and Territories. The Minister for Transport and Urban Planning has been advised that no other State or Territory has a scheme that allows for the issue of a 'Proof of Age' card to persons under 18 years of age.

In order to obtain a 'Proof of Age' card, a person is required to make application at any Transport SA Customer Service Centre and to provide certain documents to establish the applicant's date of birth and identity. The fee for the issue of a 'Proof of Age' card (currently $20) is designed to recover the costs incurred by Transport SA in processing the application and in the manufacture of the card.

The Minister for Transport and Urban Planning has also been advised that the waiting time between the photographing of the applicant and the delivery of the 'Proof of Age' card is the same as for photographic drivers' licences, which is currently between 4-7 days.'

The Minister for Education and Children's Services has provided the following advice:

ID cards are provided to secondary students in government schools for travel on public transport and the use of school facilities such as the school library.

The management of ID cards is a school based issue however the Department of Education, Training and Employment (DETE) assists by making available its distribution centre, to assist the Passenger Transport Board distribute secondary student cards.

I am advised that since 1998, the Passenger Transport Board (PTB) has determined specifications for the card, which are available in plastic or cardboard and include a barcode to allow schools to use them as library cards.

The PTB advises that any cards not produced in accordance with the specifications may not be recognised for the purpose of transport concessions and that any variation requires prior approval from the PTB. The PTB further advised that approval of variation is unlikely given the move to a standard specification.

In relation to the provision of cards to primary school students, who may look older than they in fact are, the PTB advises that upon receipt of a letter from the school confirming the person is a full time student, the PTB will issue a student card.

WORKCOVER

In reply to **Hon. R.R. ROBERTS** (11 April) and answered via letter 17 August.

The Hon. R.I. LUCAS:

1. The Minister for Government Enterprises has provided the following information on the WorkCover question:

WorkCover's responsibility to protect the compensation fund requires it to assess the cost effectiveness of a recovery action against a potentially negligent third party including the client of a labour hire firm.

Employers (the client) who engage labour through a labour hire firm do not have an employment relationship with that 'worker'. The employer is the labour hire firm.

If an employee of the labour hire firm is injured on the site of the client, WorkCover will assess if there is any contributory negligence by the client. The collapse of HIH Insurances has exposed some of these client firms, who had their public liability with HIH Insurances, to uninsured risk, depending on the arrangements that have been made with the acquiring insurers (Allianz and QBE). To say that there is no protection is not necessarily correct, each case needs to be examined on its own facts.

WorkCover must first assess whether the 'client' is negligent and then whether any action against that party will be cost effective. The client firms are at more risk from the employee of the labour hire firm if the employee decides to initiate their own action. Neither WorkCover, nor the government can make any guarantee in regard to the actions of those employees, any more than can those guarantees be made for liability actions against the designers or suppliers of equipment. WorkCover not only examines labour hire firms'

clients for potential negligence but the potential for negligence by suppliers and designers consistent with the duty of care established by the Occupational Health Safety and Welfare Act.

The risk is no greater than the risk for visitors to that client's site. WorkCover will do as it has always done, examine each case on its merits and consider the cost effectiveness of a negligent third party action.

2. With regard to the second question, it is the case that the New South Wales Government, not the Victorian Government, has announced that it will be providing stamp duty relief on the replacement of insurance policies previously held with the HIH Group provided replacement policies are taken out within a three month period from 15 March 2001.

The Tasmanian Treasurer also announced, early in June 2001, a full stamp duty concession, by way of ex gratia relief, for people who have been forced to take out replacement insurance policies following the voluntary liquidation of HIH Insurance Group.

No other jurisdiction, including South Australia, has provided stamp duty relief.

All jurisdictions, including South Australia, have however established assistance packages for unsettled claims in insurance categories not covered by the Commonwealth Government assistance package. In South Australia's case the only area where assistance is required is builders' indemnity insurance.

On 24 July 2001 the South Australian Government announced the implementation of a building indemnity insurance hardship relief scheme for consumers faced with financial difficulties as a result of the collapse of the HIH group on insurance companies. The consumer relief scheme will provide financial assistance to consumers who are suffering hardship as they are no longer able to rely on the protection of an HIH group building indemnity insurance policy as a result of the collapse of the HIH group.

While the government appreciates some former HIH policy-holders face additional costs from having to take out replacement insurance cover, the government is not in a position of being able to provide tax relief in all circumstances. The case for stamp duty relief is certainly of a lesser order to that for assistance to home buyers with unsettled claims against HIH. The provision of assistance to these people takes precedence, in the government's view, over stamp duty relief on the replacement of insurance policies.

GAMING MACHINES

In reply to **Hon. NICK XENOPHON** (31 May) and answered via letter 17 August.

The Hon. R.I. LUCAS:

1. The information requested, as at 30 June 2001, is attached.
2. The information requested, as at 30 June 2001, is attached.
3. Of the 725 machines, only 50 of those had not been installed as at 31 May 2001. Details of the outstanding machines are in attachment 3.

1. Gaming Machines Approved in non-live venues as at 30 June 2001

Licence Number	Venue Name	Approved GM	Grant Date	Date to be installed by	Comments
51201497	Cheltenham Park	40	3-Mar-98	30-Dec-00	Letter Sent
51204681	Azzuri Club Limited	10	13-Jun-00	31-Mar-01	Letter Sent. Have until 31 Jul 2001
50903428	Mount Barker District Golf Club	9	1-Jun-01	31-Aug-01	
50105038	St Kilda Hotel	20	14-Nov-00	30-Sep-01	
50102519	Astor Restaurant & Bar	15	22-Feb-01	30-Oct-01	
50103531	Mount Remarkable Hotel	6	23-Jun-00	No Date	Installation Date 6/7/01
Sub-Total	140				
Suspended Venues					Reason for suspension
50104943	The Southern Hotel	40	19-Jun-00	31-May-01	Major Renovations
50108379	Leonard's Mill	12	15-Dec-00	30-Jun-01	Under Receivership
50106610	Marinelli's Tavern	39	12-Jul-00	30-Jun-01	Major Renovations
50102153	Highbury Hotel	40	-	10-Jul-01	Was operating. Machines removed for Major Renovations
50900014	Adelaide Bowling Club	10	11-May-01	30-Aug-01	
50104600	Royal Hotel - Kent Town	40	11-Jan-01	30-Sep-01	Major Renovations
50105753	Whyalla Hotel	40	21-Dec-00	28-Jul-02	Major Renovations
50104155	Port Lincoln Hotel	40	21-Aug-00	-	Fire Damage
50100321	Birkenhead Tavern	40	11-Oct-00	-	Major Renovations
50900218	Glenelg Sailing Club	10	25-Jul-97	-	
50901670	RSL Blackwood	10	28-Jun-01	-	Administrator Appointed
50900690	Tanunda Club	31	24-May-01	-	Administrator Appointed
Sub-Total	352				
Total Outstanding		492			

2. Gaming Machines Approved in Live Venues but Not Installed - As at 30 June 2001

Venues currently Operating

Licence Number	Venue Name	Appr. GMs	Installed GMs	Not installed	Date of increase	Date to be installed by	Comments
50105119	Swan Reach Hotel	25	22	3	28-Oct-98	31-Mar-01	Installation Date 27/8/01
50100842	Heritage Hotel	40	34	6	20-Apr-00	30-Jun-01	Appl. lodged to vary layout of gaming area
50105680	Western Hotel - Port Augusta	40	38	2	2-Feb-98	30-Jun-01	Went Live on 15/6. Problem with 2 machines
50102713	Hotel Victory	30	10	20	30-Jun-00	5-Jul-01	Installation Date 5/7/01
50105517	Victoria Hotel - Port MacDonnell	15	14	1	6-Apr-01	6-Jul-01	Installation Date 12/07/01
50107218	The Office Bar and Bistro	27	3	24	18-Dec-00	31-Jul-01	Installation Date 30/7/01
50104951	Marrakesh Hotel	33	19	14	8-Aug-00	31-Jul-01	

50105559	Wakefield Tavern	21	14	7	6-Dec-00	30-Aug-01	
50100761	Charleston Hotel	5	4	1	-	30-Aug-01	
50100274	Bedford Hotel - Woodside	12	8	4	28-May-01	30-Aug-01	
51203342	Barossa Brauhaus	40	15	25	11-Apr-00	31-Aug-01	
51203677	St Pauls Reception and Function Centre	16	12	4	-	31-Aug-01	
50105313	Thevenard Hotel	20	19	1	1-Dec-00	1-Sep-01	
50103638	Newmarket Hotel - Port Adelaide	40	36	4	5-Jul-00	1-Sep-01	
50107810	Normanville Hotel	31	15	16	20-Jun-00	26-Sep-01	
50103654	Old Noarlunga Hotel	40	10	30	29-Aug-00	30-Sep-01	
50106238	Wee Willie's Tavern	40	30	10	15-Jun-00	30-Sep-01	
51204241	Royal Admiral Hotel	20	5	15	12-Dec-00	30-Oct-01	
50101644	Fountain Inn	35	28	7	20-Apr-01	31-Oct-01	
50105460	Uraidla Hotel	40	10	30	6-Nov-00	31-Oct-01	
51201413	Football Park	40	39	1	7-Feb-94	31-Oct-01	
50100575	Brompton Park	30	8	22	18-Apr-01	31-Oct-01	
50106084	The Planet Hotel	40	15	25	22-May-01	31-Oct-01	
50104286	Queens Head Hotel	10	9	1	21-Nov-00	8-Nov-01	
50101589	Flagstaff on Franklin Hotel	38	22	16	19-Jun-00	1-Dec-01	
50900739	Waikerie Club	20	14	6	18-Oct-00	31-Dec-01	
50104804	Sevenhill Hotel	40	20	20	30-Nov-00	31-Dec-02	
50105452	Union Hotel	15	3	12	15-Feb-01	No Date	
50105981	Yunta Hotel	6	3	3	7-Jan-97	No Date	Under Receivership
Total No of Venues		29					
Total Machines Approved:		809					
Total Machines Installed:		479					
Total Machines Not Installed:		330					

3. Of the 725 gaming machines that were approved but not on line as at 30 September 1998 the following machines have not been installed.

Licence No.	Type	Venue Name	Appr. No. at 28/9/98	Live At 28/9/98	Appr. No. at 31/5/01	Live at 30/6/00	Not installed	Grant date of last increase	Comments
50103654	H	Old Noarlunga Hotel	11	10	40	10	30	29-Aug-2000	Was granted a further increase to 40 on 29 Aug 2000. Machines to be installed by 30 Sep 2001.
50105981	H	Yunta Hotel	6	4	6	3	3	7-Jan-1997	This business is currently under receivership.
Venues	2	Total Machines	17	14	46	13	33		
51102473	S	Football Park	40	39	40	39	1	27-Apr-1994	Condition imposed for machines to be installed by 31 Oct 2001
51105413	S	Normanville Hotel	26	15	31	15	16	20-Jun-2000	Was granted a further increase to 31 on 20 Jun 2000. Machines to be installed by 26 Sep 2001
Venues	2	Total Machines	66	54	71	54	-	17	
Total No of Venues:			4						
Total Machines Approved:			83						
Total Machines Live:			68						
Total Machines Not Installed:			50						

STURT STREET PRIMARY SCHOOL

In reply to **Hon. CAROLYN PICKLES** (6 July) and answered via letter 17 August.

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

1. The Sturt Street Primary School site has been declared surplus to the needs of Department of Education, Training and Employment (DETE) and has been referred to the Land Management Corporation for disposal. As part of this process, the property was circularised to all government departments and the Adelaide City Council to determine any interest in purchasing. No government agency indicated interest. The Adelaide City Council expressed initial interest but has now indicated that the property is not required for community use. It is now intended to offer the property for sale on the open market. The net proceeds from the sale of the site will be directed to the DETE Capital program. A DETE funded Conservation Management Plan has been prepared in consultation with the Adelaide City Council to assist in the appropriate redevelopment of the site.

2. Any purchaser of the Sturt Street Primary School site will need to enter a Land Management Agreement (LMA) with the Adelaide City Council. This agreement ensures that the purchaser undertakes basic conservation work on the school building within a negotiated timeframe.

3. All school sites have asbestos registers maintained by DAIS that record the extent and location of any asbestos in school buildings. Any refurbishment of the former Sturt Street site which may require working on surfaces containing asbestos or the removal of asbestos would need to be conducted in accordance with legislative requirements.

4. The department has spent approximately $43 000 on the Sturt Street site since its closure at the end of 1996 to address matters associated with security and maintenance.

5. No costing exercise has been done to estimate construction costs of converting the building for community use.

AGL SERVICE STANDARDS

In reply to **Hon. SANDRA KANCK** (6 December 2000) and answered via letter 13 September 2001.

The Hon. R.I. LUCAS: I have received advice from the Office of the South Australian Independent Regulator (SAIIR) on the matter of service standards in relation to timeliness for customer appointments.

Section 24 of the Electricity Act 1996 requires that the Industry Regulator must, on the issue of a licence authorising the retailing of electricity, make the licence subject to conditions determined by the Industry Regulator. These conditions must include 'minimum standards of service for customers that are at least equivalent to the actual levels of service for such customers prevailing during the year prior to the commencement of this section and take into account relevant national benchmarks developed from time to time, and requiring the entity to monitor and report on levels of compliance with those minimum standards.'

That is, as a minimum, the service standards that AGL is required to meet are based on the service standards that ETSA Power attained in the year leading up to October 1999.

However, the Retail Code can be amended by the SAIIR at any time. Currently, the relevant service standard that is contained in the Standard Customer Sale Contract embodied in the Retail Code provides that in relation to appointments with a customer, AGL SA '…will do our best to be on time for any appointment with you. Unless due to circumstances beyond our reasonable control, if we are more than 15 minutes late we will credit your next bill with $20 (including GST) and phone you to apologise.'

In scheduling such appointments (the majority of which concern non-routine meter reads for particular purposes when access to the meter is difficult), I am advised that the established practice of AGL SA is, initially, to seek to negotiate an appointment time based solely on a particular day. Where a customer indicates that they are unavailable from 8am to 4pm on the proposed day, AGL SA suggests that a key be left in a appropriate place, (eg with a neighbour) to enable the representative to gain access to a meter.

If that option proves unacceptable, AGL SA would seek to negotiate a more refined time zone on the preferred day. Initially the option would be either 8am-12noon or 12noon-4pm. If that option were unsatisfactory AGL SA would seek to negotiate a progressively more refined time zone.

If necessary, AGL SA will seek to make an out-of-hours appointment (Tuesday evenings) although it appears that the need for this option is rare.

The SAIIR advises that it is still reviewing the effectiveness of the service standard for customer appointments. Further comment may be forthcoming in the next annual report of the SAIIR into the performance of regulated electricity businesses. However, the SAIIR does not envisage any major change to the service standard in the short-term.

Accordingly, I would note, that while these service standards are based on the service standards that ETSA Power attained, the standards are now at least as stringent and, in addition, they now include penalties for non-compliance, such as the $20 credit to a customer for being more than 15 minutes late for an appointment.

RIVERLAND FRUIT COOPERATIVE

In reply to **Hon. IAN GILFILLAN** (6 May) and answered via letter 4 August.

The Hon. R.I. LUCAS: It is assumed the question relates to assistance and support regarding the current financial situation and not to previous requests for assistance related to specific projects.

There have been several requests for assistance or support from the management of the Riverland Fruit Cooperative. The requests and the responses they received are set out in the following brief synopsis of the situation.

The government's involvement with the financial difficulties of the Riverland Fruit Cooperative began in October 2000. At that time the ANZ Bank was expressing concern about the financial position of Sunnyland Fruits Pty Ltd, a 50/50 joint venture between Riverland Fruit Cooperative and Robern Menz. The Department of Industry and Trade held several discussions with the respective parties including the ANZ Bank to see if there was any way that the government could assist in convincing the ANZ Bank to continue to provide financial facilities to Sunnyland Fruits Pty Ltd. During these discussions it also became evident that the ANZ Bank was also considering their exposure to Riverland Fruit Cooperative. This stemmed from the fact that Riverland Fruit Cooperative had provided a guarantee for the Sunnyland Fruits Pty Ltd's debt to the ANZ Bank. The potential impact of this guarantee on Riverland Fruit Cooperative also concerned the ANZ Bank.

The ANZ Bank responded that the only thing that could influence their decision would be a significant government guarantee. It was concluded that given the current financial position of the companies the provision of such a taxpayer funded guarantee could not be supported. The Department advised that the government would not be willing to become a primary financier of a commercial operation, but might consider assistance at the margins.

On 28 November 2000 the ANZ Bank advised Sunnyland Fruits Pty Ltd and Riverland Fruit Cooperative that it was withdrawing its facilities and gave them 7 days to re-finance.

The Companies immediately commenced seeking replacement financing from other banks. Officers of the Department of Industry and Trade subsequently became involved in some of these discussions. One bank initially offered some optimism regarding the provision of a facility but as they were unable to complete a comprehensive assessment of the industry in the short time frame available they too indicated that they would require a significant government guarantee. The ANZ Bank did extend the 7 day limit on its facilities to enable negotiations with other banks to continue.

Due to the potential impact on the companies and the region they requested an opportunity to put their case directly to me as Minister. I first met with Mr Michael Brookes, Chief Executive of Riverland Fruit Cooperative and Mr John Machin, Chief Executive Sunnyland Fruits Pty Ltd late in the week ending 8 December 2000. The Companies were seeking assistance to re-finance their debts to the ANZ Bank. They agreed to continue working with officers of the Department of Industry and Trade.

On the 11 December 2000 the ANZ Bank advised the companies that it would no longer roll forward the facility and as a result the companies were forced to appoint a Receiver. This development effectively voided the proposals currently being discussed with the companies and other banks.

The companies then sought the government's assistance to repay at least part of the ANZ Bank facilities in order to remove the Receiver. The Department of Industry and Trade suggested that before it could consider such assistance the views of the ANZ Bank needed to be obtained. The ANZ Bank subsequently advised that it did not wish to pursue this option.

The management of Riverland Fruit Cooperative and Sunnyland Fruits Pty Ltd then worked out several options to re-finance the companies that incorporated either government guarantees and/or loans. All of these options required the support of another bank. It was not possible to formally consider any government support until it was known what other re-financing would be available. Officers from the Department of Industry and Trade continued to participate in discussions with the companies and other financial institutions.

Just before Christmas 2000, the companies again requested a further meeting with me.

I met with Mr Michael Brookes, Chief Executive of Riverland Fruit Cooperative and Mr John Machin, Chief Executive Sunnyland Fruits again on Friday 22 December 2000. Again we agreed they should continue to work with officers of the Department of Industry and Trade on various options.

On the 9 January 2001 the Receiver commenced the asset sale program. The Department of Industry and Trade has continued to work with Mr Michael Brookes Chief Executive of Riverland Fruit Cooperative, and other financial institutions in an attempt to re-finance the ANZ Bank Debts. It appears that attempts of Mr Michael Brookes in this regard have been in vain. Even if the ANZ Bank as a secured creditor were repaid the company still had to satisfy its other creditors. As it would not have had the immediate funds to do so it would have had to enter into some form of arrangement with the unsecured creditors and in these circumstances it was always highly unlikely that another financial institution would step in.

In response to the supplementary question regarding my meetings with the CEO of Riverland Fruit Cooperative, in addition to the formal meetings outlined previously I may have also had some informal discussions with Mr Michael Brookes on occasions such as at

the community dinner following Cabinet's meeting in the Riverland earlier this year.

ELECTRICITY, PRIVATISATION

In reply to **Hon. SANDRA KANCK** (5 April).

The Hon. R.I. LUCAS: I have received advice from ETSA Utilities on the matter of staffing levels at ETSA Utilities since the business was leased and on the matter of timeliness of connecting new customers to the grid.

On the matter of staffing levels at ETSA Utilities, I have been advised that not only have staffing levels not decreased since the lease of the business in January 2000, but have actually increased by 60 full time equivalents.

Pursuant to the Electricity Corporations (Restructuring and Disposal) Act, employees that were transferred to the new private sector employer in accordance with the legislation cannot be forcibly made redundant for a period of two years from their transfer. After that time, an employee whose position is declared surplus by the employer must be offered the choice of a separation package in accordance with the formula contained in the legislation, or employment with the public sector.

The issue of timeliness of new connections to the grid has also been raised, specifically an example has been used in which the connection of a house owned by Mr Robin Maslen of Hove took 7 weeks.

It appears that this connection was not a standard connection but involved the extension of the three-phase electricity network, trenching and laying of underground cable and the upgrading of a pole top transformer, solely for Mr Maslen's connection and the adjacent property.

Further, it appears that there were some delays caused by the builders involved in this project.

ETSA Utilities advises that 'most new electricity connections are relatively simple and we connect within a two week period for minimal cost of $150 or less.' It appears that the example raised is an extraordinary situation and is certainly not the norm.

VISY INDUSTRIES

In reply to **Hon. CARMEL ZOLLO** (7 June) and answered via letter 4 August.

The Hon. R.I. LUCAS:

1. Visy Industries continues to advise that it remains committed to its proposed Adelaide Waste Paper Recycling Plant. It is my understanding however that it has a number of other major projects around the world that have diverted its attention from what is in world terms, a relatively small investment. They include the acquisition of Southcorp's packaging business, the construction of a world scale mill in Tumut in NSW, and a number of major developments in Europe and the US.

Until the company determines that it will proceed and engage with us there is little the government can do to expedite the project. I am unable to indicate therefore when it will proceed.

2. For these reasons the technical issues previously indicated remain unresolved.

3. My officers remain in contact with Visy, but as indicated have been unable to enter into serious negotiations pending a company decision to proceed.

4. Visy has a number of options open to it in relation to its electricity needs that need not require any material change from its earlier position.

5. Apart from normal Industry and Trade staff and admin costs $24 628 has been spent on investigating the issues confronting Visy.

6. I am unable to indicate when the project will proceed.

GOVERNMENT RADIO NETWORK

In reply to **Hon. IAN GILFILLAN** (25 July).

The Hon. R.D. LAWSON: In addition to the answer given on 25 July 2001 in relation to SA Government Radio Network (GRN) security, the following information is provided:

Radios used on the GRN are currently in production and do not represent outdated technology.

The ability to scan GRN analog radio transmissions should not be confused with hacking. I am not aware of any concerns or evidence of hacking into the GRN operating system.

Telstra advise that the need for a high level of security has been a key factor in the design, construction and operation of the network, and that Telstra is confident that the security surrounding the GRN operating system is sufficient to prevent illegal acts of this nature.

Before the inception of the GRN, agencies with a requirement for secure communications (ie, police) did not generally have such a capacity – ie, police radio communications were readily and regularly scanned.

Police are part way through their migration to the GRN. Police communications on their existing legacy system can readily be scanned. However their communications using the new GRN encrypted digital radio transmissions cannot. Encrypted digital communications as used by the GRN here or in other parts of the world have not, on my advice been scanned by unauthorised persons. Defence forces and the FBI use the standard employed in the GRN.

The web site to which reference is made in the question contains publicly and readily available information that does not represent a threat to GRN security.

ELECTRICITY, SUPPLY

In reply to **Hon. P. HOLLOWAY** (4 July).

The Hon. R.D. LAWSON: In addition to the answer given on 4 July 2001, the following information is provided:

Contracted quantity of electricity for 2001-02 is approximately 320 000MWh (320GWh). The contract allows for roll-in and roll-out of sites and any increase to consumption by sites.

The consumption of electricity by contestable sites for 2000-01 was approximately 300 000MWh (300GWh).

The contract itself does not require any government sites to implement conservation measures. However, it provides value-added services such as demand side management, energy efficiency and curtailment schemes under the contract that sites are able to access. These services will be communicated to sites as part of the contract implementation strategy including the benefits to sites for the commitment to such activities.

All government sites covered by the contract will be billed monthly with all electricity charges unbundled as required by the National Electricity Market (NEM). Additional information provided in the new billing structure will assist sites in better managing their electricity requirements. Bills will be administered as per previous arrangements. (Some agencies prior to NEM would have been billed quarterly.)

UNCLAIMED SUPERANNUATION BENEFITS (MISCELLANEOUS) AMENDMENT BILL

The Hon. R.I. LUCAS (Treasurer) obtained leave and introduced a bill for an act to amend the Unclaimed Superannuation Benefits Act 1997. Read a first time.

The Hon. R.I. LUCAS: 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 seeks to amend the *Unclaimed Superannuation Benefits Act 1997*, to ensure the State's unclaimed superannuation legislation remains complementary to the Commonwealth's *Superannuation (Unclaimed Money and Lost Members) Act 1999*.

The *Unclaimed Superannuation Benefits Act 1997*, provides that trustees of superannuation funds and approved deposit funds registered in South Australia shall pay any unclaimed benefits to the Treasurer of South Australia. Unclaimed benefits are those where the person has reached the age for payment of the commonwealth "Age Pension", and the trustee of the fund is unable to pay the superannuation benefit due to having lost contact with the member. The Act was specifically introduced to complement Commonwealth legislation. If the State does not have legislation that is complementary to the Commonwealth legislation, unclaimed superannuation benefits must be paid to the Commonwealth Commissioner of Taxation.

In October 1999, the Commonwealth repealed the superannuation and retirement savings account unclaimed benefit provisions incorporated in various Commonwealth Acts, and consolidated the provisions in the *Superannuation (Unclaimed Money and Lost Members) Act 1999 (Cth)*. To enable the States and Territories to continue to receive unclaimed benefits, the Commonwealth legislation provided a transitional period to allow the States and Territories to amend their legislation to reflect the Commonwealth changes. The Commonwealth's transitional period contemplates State and Territory legislation being amended by 31 December 2001.

The bill proposes a series of amendments which will ensure the Act continues to reflect the requirements of the Commonwealth's *Superannuation (Unclaimed Money and Lost Members) Act 1999*, and therefore ensure unclaimed benefits continue to be paid to the State Unclaimed Superannuation Benefits Register. The bill also proposes that the provisions of the Act be extended to included retirement savings accounts which are also covered by the Commonwealth legislation.

The State Unclaimed Superannuation Benefits Register kept in Treasury and Finance, held in the order of $0.5m at 30 June 2001. Most of this money is in respect of former employees of the State Government.

The proposals contained in this demonstrate South Australia's commitment to working in co-operation with the Commonwealth and the other States and Territories to provide complementary legislation in respect of unclaimed superannuation benefits and retirement savings accounts.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Amendment of s. 3—Interpretation

This clause amends definitions used in the principal Act. The Commonwealth legislation has been re-enacted as the *Superannuation (Unclaimed Money and Lost Members) Act 1999* and these amendments are required because of that change.

Clause 4: Amendment of s. 4—Application of Act

Clause 5: Amendment of s. 5—Statement of unclaimed superannuation benefits

Clause 6: Amendment of s. 6—Payment of unclaimed superannuation benefits

These clauses change references in sections 4, 5 and 6 of the principal Act to "trustee" to the term "superannuation provider" or "provider" used in the Commonwealth Act.

Clause 7: Amendment of s. 7—Treasurer to refund certain amounts

Clause 8: Amendment of s. 9—Discharge of liability

Clause 9: Amendment of s. 10—Superannuation provider not in breach of trust

These clauses make similar changes to sections 7, 9 and 10 of the principal Act.

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

PORT AUGUSTA AERODROME

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I seek leave to table a ministerial statement given today by the Minister for Aboriginal Affairs (Hon. Dorothy Kotz). It relates to the Aboriginal Heritage Act and certain allegations made yesterday in this place by the Hon. Sandra Kanck in relation to the extension of the airstrip at Port Augusta Aerodrome in 1998.

Leave granted.

EQUAL OPPORTUNITY (MISCELLANEOUS) AMENDMENT BILL

In committee (resumed on motion)

(Continued from page 2252.)

The Hon. CAROLYN PICKLES: I move:

Page 5, after line 2—Insert new paragraph as follows:

(da) by inserting after paragraph (f) of the definition of 'marital status' in subsection (1) the following paragraph:

(g) cohabiting with a putative spouse of the same sex;

This is to include a putative spouse of the same sex. It seeks to give same sex couples equal entitlements as heterosexual couples. It is fairly explanatory. It is not too complicated. I guess it is a policy issue whether or not one supports it.

I feel very strongly, as does the Labor Party, that many people live in a bona fide de facto relationship who are of the same sex and they often have children from either a previous relationship or some other arrangement which they come to. It is important that we recognise that we have a much more complex and different society than we had when this bill was first introduced, and it is a much more accepting society that accepts people who do cohabit. Same sex partners often have relationships that last longer than those of heterosexual couples who marry or live in a de facto relationship. So I think it is very important that we recognise it.

The Hon. K.T. GRIFFIN: This amendment would amend the definition of 'marital status' to include the situation of cohabiting with a putative spouse of the same sex as contemplated by a subsequent amendment. It would mean that discrimination against a same sex couple, or either member of the couple on the ground of their cohabiting relationship, would be unlawful. To some extent, the act already protects homosexual couples, because it already includes discrimination on the ground of sexuality. Thus, one cannot decline to serve homosexual patrons in a shop or restaurant, or refuse to let accommodation to them, and there are a variety of other areas where protection is given.

However, the inclusion of the same sex cohabitation as a marital status would extend this further. For example, it would probably become unlawful for an employer or educational authority, other than a non-profit organisation, which offers accommodation to staff or students, to refuse to provide accommodation for a homosexual couple where it would have provided accommodation for a married couple. Similarly, where an employer would engage a married couple, for example, to run a caravan park, he or she would have to be open to engaging a homosexual couple. Where a travel allowance or arrangement would include a spouse, it would be necessary to include a same sex partner.

Nothing in the extensive consultation which has preceded this bill has intimated that the definition of 'marital status' was under review in this way. There has been no opportunity for the community to express views on the practical results of this proposed expansion. Many in the community may find the notion that living in a same sex relationship constitutes a marital status very difficult to accept.

The issue of legal recognition of same sex relationships is a significant and controversial one. It does deserve debate and reflection. I am not seeking to prevent that debate. But it is not a matter to be dealt with by ad hoc amendments to a single piece of legislation without some process of consultation and public comment having been followed. If there is to be legislative change to give formal recognition to such relationships, this should be achieved by a carefully thought through package of amendments dealing with all legislation which touches on this issue and not by piecemeal and potentially inconsistent alterations as and when acts come before the parliament.

Whether or not one supports the legal recognition of such relationships, I submit that this is not the way to do it. Quite obviously, the issue of putative spouse has been addressed in the Family Relationships Act over a number of years, and that definition of a putative spouse has been adopted in a wide range of legislation. I know we will address that issue in later amendments but, if we are to suddenly change the whole nature of the relationships which are recognised by the law for property and other purposes, then we ought to do it as part of a substantive piece of legislation. I certainly do not have any intention of introducing it, but it is open to any private member to introduce it specifically.

Do not just deal with it in relation to, say, superannuation; and do not simply deal with it in relation to equal opportunity where the issue of marital status is used to equate same sex relationships with heterosexual relationships. Do it in a substantive piece of legislation. This is not the place to do it, because this is a specialist piece of legislation and not something that ought to be on the side, as it were, dealing with same sex relationships. I vigorously oppose this amendment.

The Hon. CAROLYN PICKLES: The Attorney summed it up by saying that, even if a bill is introduced by a private member to cover all the pieces of legislation that might incorporate this issue, he would not support it. I think that sums it up. So, really, it is a question of whether one feels that a piece of legislation which deals with equal opportunity should be the first piece of legislation in which we address this issue. I believe it is appropriate that it is in this bill.

It is not true to say that there has not been wide community consultation. I have certainly had wide community consultation over a number of years on this issue, as the Attorney will recall when we dealt with another bill some years ago—I think it was to do with wills. I tried, then, to introduce a very similar amendment. So, it is not an issue that has not been canvassed previously, on my understanding. New South Wales has similar legislation and Western Australia, I believe, intends to move along these lines, as does Victoria.

The Hon. T. CROTHERS: I do not want to stand in the way of electoral progress, but it seems to me that the timing of the introduction of a bill such as this, given the divisive nature of this issue in the community, is very inappropriate, given that an election is around the corner. However, if I thought that the numbers were the other way, I would, in fact, support some proposition about partners of the same sex or spouses of the same sex, because that is a fact of life. I do not particularly support that type of behaviour in humans, but I, even as an Independent Labour man, am a Liberal with respect to egalitarianism and liberalism.

One of the situations that particularly bothers me—and I realise that it is covered in some other areas—is where same sex partners are female. There was a recent case in Melbourne, I think, where a female in a same sex relationship decided to have a baby, and did so. So there is a situation—and this will have to be addressed sooner or later—where a child will be brought up in what is perhaps a very loving situation but feeling somewhat of an oddity and not being given the same chance as other children who are born to a male-female relationship. So, I think we have to address reality.

Although there is to be an election in the next few months, my time is not nigh and, although I believe the Attorney has the numbers on this occasion to succeed, I do not think that this matter should be left to private members. This is a matter for the government to put to the test, and I think it would be a conscience vote. It will be a matter for the government—either the current opposition or the present government—following the next electoral fiesta and for the Attorney of the day. I know that the current Attorney-General is retiring. He will be badly missed, but I understand that that is the fact of the matter. So, I think that the Attorney of the day, whichever of the major parties is in power, ought to draft legislation to address this issue and put it to the test. It will be a conscience vote. I am sure that much can and will be said by different members. I am sorry I will not be here for that debate, but I am sure that much can and will be said with respect to the matter.

It is a question of having to look at what is the norm and what is now considered the norm by a lot of people. I am not one of them, but I understand what happens. I think we have to look at it, because children do not ask to be born. So, we must look at the statements that are pending and those that have been given in the Westminster court system and are pending here in Australia. In the meantime, I support the Attorney's position.

The Hon. K.T. GRIFFIN: I appreciate the point that the Hon. Trevor Crothers raises about the issue ultimately being resolved by substantive legislation and resolved in a way that allows members to vote according to their conscience. I think that is an important consideration. It is one of the reasons I think it is inappropriate to deal with the issue in this bill. Later, there will be a debate about putative spouse, which changes, quite significantly, the current understanding of who is and who is not a putative spouse and not only turns on its head key ingredients of the definition in the Family Relationships Act but also extends the definition of a putative spouse to mean a person who is living in a same sex relationship.

They are issues which, in my view, ought to be dealt with substantively in stand-alone legislation which is the subject, if necessary, of select committee or standing committee deliberations so that everybody who has competing opinions can express a view. If this were included, first of all, many people in the community would be unaware of it, but subsequently they would find that if they preferred not—

The Hon. T. Crothers interjecting:

The Hon. K.T. GRIFFIN: I know that, but I am explaining it for the purposes of other members. If it were to be included in this bill, it would mean that some members of our community who have a different view from those who support the recognition of same sex relationships may find that, in some way or another, they are committing unlawful acts of discrimination even though currently under the act in a number of areas of human endeavour and relationships there is a prohibition against discrimination on the ground of sexuality. Everybody works with that, lives with it and accepts it, but it is taking it the next step which I think is the biggest hurdle of all.

The Hon. CAROLYN PICKLES: I think the Attorney and I have just lost consensus.

The Hon. T. Crothers interjecting:

The Hon. CAROLYN PICKLES: I have gone back on everything that I said this morning. I take it all back.

The Hon. T.G. Cameron: I knew it wouldn't last.

The Hon. CAROLYN PICKLES: Consensus is a fragile thing, Terry. For 10 years I have been raising this issue. The community is well aware of my views on this subject, and it has been raised with me over a period of 10 years: the inequality of the law when dealing with people who actually live in a same sex relationship. I know a couple who have

been living in a same sex relationship for 25 years, which is probably a lot longer than most of my friends who have been married in heterosexual relationships. I know many people (both male and female) in those kinds of partnerships. They are generally accepted now, but they are not covered by the law. The law is discriminatory in the way it deals with them, and I believe it is—

The Hon. K.T. Griffin: Not in relation to their sexuality.

The Hon. CAROLYN PICKLES: No, but in relation to a whole heap of other things. For instance, because of their relationship they are dealt with differently in the workplace. People have come to me with even more complicated sexual difficulties who are treated in a very discriminatory manner. We have tried to deal with those situations as they arise. I believe that now is the time to move this. I do not think we need a select committee to deal with this issue. I think it is—

The Hon. T. Crothers interjecting:

The Hon. CAROLYN PICKLES: Well, it's not a conscience vote in the party.

The Hon. T. Crothers interjecting:

The Hon. CAROLYN PICKLES: Well, you're not a member of my party.

The Hon. T. Crothers interjecting:

The Hon. CAROLYN PICKLES: Well, you're not any more.

The Hon. T. Crothers interjecting:

The ACTING CHAIRMAN (Hon. J.S.L. Dawkins): Order! The Leader of the Opposition has the call.

The Hon. CAROLYN PICKLES: It has gone to the convention and it has gone to the party room. We do not see this issue as being difficult. In fact, there is a bill in another place which deals with it in a different context. Clearly, we do not have the numbers here, but we will deal with the issue again in a similar way when we debate the definition of 'putative spouse' proposed by the Hon. Sandra Kanck.

The Hon. SANDRA KANCK: I support the opposition's amendment. I point out to Mr Cameron and Mr Crothers that this amendment is essential before we discuss the issue of whether or not the amendment to 'putative spouse' of either the minister, the Hon. Carolyn Pickles or me is carried. This is crucial to that. I do not understand what the Attorney is saying when he says that we need to deal with this in a substantive way.

The Hon. K.T. Griffin: If you are in a same sex relationship or marriage, many people in the community have very passionate views one way or another, and this is slipping it into an equal opportunity bill to equate marriage—

The Hon. SANDRA KANCK: No, it's not slipping it in.

The Hon. K.T. Griffin: Well, it is.

The Hon. SANDRA KANCK: We know how many years it is since Brian Martin reported. If the government wanted to deal with this in a substantive way, the Attorney could have introduced something a long time ago—and he has failed to. It is really important that—

The Hon. T. Crothers interjecting:

The Hon. SANDRA KANCK: Yes, and the Hon. Trevor Crothers knows what the chances are of getting a private member's bill up. What the Hon. Carolyn Pickles is asking for is not unreasonable. We have to look at the discrimination that exists at present against same sex couples. I draw the attention of members to a couple of examples given by the Let's Get Equal Campaign. I invite the Hon. Terry Cameron, the Hon. Nick Xenophon and the Hon. Mr Crothers to listen to these quotes. The first one is:

> I was devastated when the hospital wouldn't let me in to see my partner Jan. She had been in a car accident and I had no idea whether she was badly hurt. We had been a couple for four years but because we were both women, the hospital said I wasn't 'family'. . .

That is discrimination. We are dealing with a bill about equal opportunity. This sort of discrimination ought to be covered by this bill and this act. Another quote is as follows:

> The house had always been in my name but we decided to transfer it over to both my name and Maria's. This meant Maria's share would be worth about $100 000. Because we were two women, we were charged stamp duty on the transfer and the total cost with conveyancing fees was $3 555. If we had been a straight couple, all we would have had to pay was $350 for the conveyancing!

That is discrimination. At present, we are not offering people in same sex relationships equal opportunity. This bill seeks to amend the Equal Opportunity Act. We should seize this moment now and pass the amendment that the Hon. Carolyn Pickles has put forward for our consideration.

The Hon. T.G. CAMERON: We are all over the place on this one. Will the Attorney define exactly what a putative spouse is within the meaning of the Family Relationships Act?

The Hon. K.T. GRIFFIN: The Family Relationships Act was passed in 1975. The definition of 'putative spouse' is a heterosexual couple who have cohabited for a period of not less than five years over a period of six years—so, you can have intermittent absences—or there is a child of the relationship.

The Hon. T. Crothers: That is five continuous years?

The Hon. K.T. GRIFFIN: Yes, five years within a period of six years, or if there is a child of the relationship. That is used—

The Hon. T.G. Cameron: Irrespective of the length of the relationship?

The Hon. K.T. GRIFFIN: Yes. That is the definition of 'putative spouse', and there is a procedure by which that can be recognised in terms of intestacy, inheritance, family provision, superannuation and a range of other areas in which it becomes relevant.

The Hon. CAROLYN PICKLES: I want to ask a question about the Family Relationships Act. Does that mean that a same sex couple who have a child by whatever means are not covered under the Family Relationships Act?

The Hon. T.G. Cameron interjecting:

The Hon. CAROLYN PICKLES: Well, they are living in a same sex relationship and they might have had a child by artificial insemination.

The Hon. K.T. GRIFFIN: That reflects the complexity of the issues that we are talking about.

The Hon. Carolyn Pickles: Exactly!

The Hon. K.T. GRIFFIN: That is right. If we are going to overturn the accepted definition of 'putative spouse'—and if later on it is proposed that we do—in my view we have to focus upon all the consequences of doing so. We will have a differing view on it. What this proposes is to recognise, regardless of what many people in the community think or may not think, same sex relationships as the same as those who might be spouses or putative spouses.

The Hon. T. CROTHERS: I again want to address the matter of this being a conscience vote. I have had different blues as a former President of the Labor Party with previous and present leaders of our party who declare an issue to be a conscience vote within the caucus of the party.

The Hon. Carolyn Pickles interjecting:

The Hon. T. CROTHERS: You have been there when I have said it. The ALP rules are quite clear. A conscience vote can only—

The Hon. Carolyn Pickles interjecting:

The Hon. T. CROTHERS: You don't know the rules.

The Hon. Carolyn Pickles: Yes, I do.

The Hon. T. CROTHERS: No, you don't; not if you are disagreeing with me on this you don't! A conscience vote can only be declared a conscience vote by the President of the party, whoever he or she may be. On many occasions I challenged John Bannon and Mike Rann when they ruled what was or was not a conscience vote from the chair of a caucus meeting. This is a party issue: it is not an issue for MPs. If it was a conscience vote, I would be voting for the Pickles' proposition. I think it is the wrong bill for her to put this into, and I notice that the Liberals have not declared it a conscience vote, either. I go back far enough in the Labor Party to recall in Don Dunstan's time when we were dealing with the matter of homosexuality and it was ruled by the then chair of the day (and it has never been altered to my knowledge) that the issue was one of conscience. A ruling like that stands for all time unless it is rescinded.

The Hon. T.G. Cameron: How can you have a conscience vote? Labor Unity won't support this one.

The Hon. T. CROTHERS: I don't know about Mike or young Tommy. I do not really know what goes on. But I am just making the point that, if this issue was correctly following the rules, as it ought to, I would support the propositions that are emanating from the Hon. Ms Kanck.

The Hon. T.G. Cameron: But you would lose Carmel Zollo and Ron Roberts.

The Hon. T. CROTHERS: I might. That is exactly the point. I do not want to see people being bound on social issues against their conscience. Without getting into the mind of the Hon. Ms Zollo and the Hon. Ron Roberts, they have in times past on matters of conscience proved to have different views, as have all of us in the party. I hate to see people being bound in an endeavour by a particular element of the parliamentary Labor Party, the affirmative action element, to ensure that they have the numbers to get a matter such as this up in this chamber.

The Hon. Carolyn Pickles interjecting:

The Hon. T. CROTHERS: You know it is the truth. I cannot support that. As I said, I am a democrat. I believe that you must follow your conscience. I was a member of the Labor Party for nearly 50 years.

The Hon. Carolyn Pickles interjecting:

The Hon. T. CROTHERS: No, because I resigned. I was not expelled. I resigned, and thank God I got away from people like you, too, when I did resign. I was not a person who joined the Labor Party for what the Labor Party could do for me. I joined the Labor Party at 14 in Ireland for what I could do for the Labor Party. I never considered getting my bum in the red or green plush like so many people do in politics today. I must again oppose this issue on the basis that it is not a conscience vote because I believe it is an issue of social conscience and, as such, as the Attorney knows, although his own party has not done it, it ought to have been a conscience vote. In any case, I think this is the wrong bill.

The Hon. NICK XENOPHON: This question can be directed to the Attorney, the Hon. Carolyn Pickles or the Hon. Sandra Kanck. My concern with this amendment is that, by amending the definition of marital status, it goes beyond what it is trying to remedy, because there is a very firm definition in terms of what is understood by marriage, not only in a legal sense but in a broad social sense. I also acknowledge the point of the Hon. Sandra Kanck that, at the moment, a number of gross injustices are occurring, for instance, the cases that the Hon. Sandra Kanck has referred to, where a same sex partner cannot get to see their injured partner in hospital, and that to me seems anomalous.

I have real concerns about the marital status definition of the Leader of the Opposition. I understand what she is trying to do but my question, which I direct to either the leader or the Attorney, is: to what extent is this amendment a precedent, in a sense, for the putative spouse amendment of the Hon. Sandra Kanck? In other words, if this clause with respect to marital status is not passed, what does it do to any subsequent amendment moved by the Hon. Sandra Kanck with respect to putative spouse, and that of the Leader of the Opposition and the Attorney?

I understand the Attorney's point of view with respect to raising a number of broader issues and perhaps unintended consequences with respect to broadening the definition of marital status, but there is an issue of specific instances of injustice that are not isolated, that are unnecessary, particularly in the context of a same sex relationship when someone has been injured. I think that is an anomaly that ought to be remedied.

The Hon. T.G. CAMERON: I have a question for the Attorney-General. I am attracted to the proposition put forward by the Hon. Sandra Kanck in relation to putative spouse. I know that is not precisely the clause that we are dealing with but, in order to make up my mind about the clause that we are now debating, I wonder whether the Attorney-General could advise me in relation to the Hon. Sandra Kanck's amendment to page 5, lines 16 to 18, paragraph (b), which provides, 'and he or she has so cohabited continuously with that person over the last preceding period of one year'.

If there was support in this committee for the Hon. Carolyn Pickles' amendment concerning the definition of marital status, and we were then to pass the Hon. Sandra Kanck's amendment in relation to putative spouse, would that mean there would be a conflict between the definition of putative spouse for same sex couples as compared with couples that are not of the same sex? That concerns me. I am comfortable if we end up with a definition that is the same for both, but I cannot see why we should make an exception for one and not the other.

The Hon. K.T. GRIFFIN: If I do not fully answer the honourable member's questions, perhaps he can seek some further clarification. It is a somewhat complicated area. If the Hon. Sandra Kanck's amendment in relation to putative spouse were to be carried (it deals with both the heterosexual couple and the same sex couple), the definition of 'putative spouse' here would be different from that in the Family Relationships Act, so there would be a special meaning for 'putative spouse' for the purposes of equal opportunity law.

The Hon. T.G. Cameron interjecting:

The Hon. K.T. GRIFFIN: Even in the Medical Practice Bill (which is before us at the moment) and in the Dental Practice Bill (which passed a couple of months ago) there is a reference to putative spouse in the context of the ownership of a dental practice, as I recollect, and we have used it in the superannuation context—MPs' superannuation, public sector superannuation—all have a reference to putative spouse as defined in the Family Relationships Act. So there will be inconsistencies which will mean that, when one uses the term

'putative spouse', we will have to look carefully at the context in which it is being used.

I draw attention to the Hon. Sandra Kanck's paragraph (b) because, if one looks at it carefully, it is very difficult to understand what it means. It states:

> a person of the same sex—

that is understood—

> who is cohabiting with the person—

that is understood—

> in a relationship that has the distinguishing characteristics of a relationship between a married couple (except for the characteristic of being of a different sex and other characteristics arising from that characteristic) and. . . so cohabited continuously. . . over the last preceding period of one year.

If one takes away the sexual relationship, what is the distinguishing characteristic of a relationship between a married couple? It may be that it is the capacity to have children, but ordinarily that cannot be translated into a distinguishing characteristic that is applicable to a person of the same sex.

The Hon. T. Crothers interjecting:

The Hon. K.T. GRIFFIN: Is it a distinguishing characteristic? I think that there are definitional issues away from the substantive argument. Picking up the amendment proposed by the Hon. Carolyn Pickles to marital status, what that will do is to translate through to sex discrimination, that is, discrimination on the grounds of marital status, which will mean, for example—and I gave some examples—if one has a boarding school and advertises for a housemaster or mistress (as the case may be) and partner, it may be that it is a school that prefers not to have persons in same sex relationships, or even in a de facto relationship, being responsible for a boarding house, but this will mean that discrimination on the grounds of marital status that a person is in a same sex relationship will not be permitted, so there will be no choices possible.

It will translate through into all those areas of employment and education where it is provided that it is unlawful to discriminate on the grounds of marital status. I think that the issue is controversial. We might grasp the occasion, as the Hon. Sandra Kanck suggests, to do this, but it will certainly change the face of the Equal Opportunity Act and of course the relationships in respect of which, if there is so-called unlawful discrimination, offences will have occurred.

The Hon. T. CROTHERS: It has other impacts as well. As the former secretary of the liquor trades union, people were exempt from the terms of our award in hotels if they were the licensee and the spouse of the licensee. What happens if you have a same sex couple, one of whom is the licensee of a hotel and who is living in a relationship? Are they exempt from the award, because I have seen some funny things happen. I have seen a daughter-in-law claim against her father-in-law because he was trying to exempt them from the award. She joined our union and she got $15 000 off the father-in-law because she was not exempt from the award.

The same again applies to clubs, motels and licensed bottle shops. That is just one area and when you consider there are 600 hotels in this state, 1 300 clubs and I do not know how many motels, licensed premises, or whatever else. There are restaurants as well. I do not know how many other licensed premises there are, but there are probably around several thousand, at least 2 500. Were this act to be dealt with in this manner it could have a potential impact on an industrial award of this state. I cannot wear that as a former secretary of the liquor trades union. No way can I wear that. I think this matter is properly dealt with in a separate bill which has relevance, as most bills always do, to all other acts of parliament on which it may impact.

This certainly has not been done. It is something that is being slipped in in a fashion which I think will bring about bucket loads of litigation—in the words of Tim Fischer about another matter—in the not far distant future if it goes through this Council. My friend the Hon. Mr Cameron suggests that it may well be something that should go to a select committee. Perhaps that is the situation, I do not know, but certainly I suspect that numbers have been cobbled together in such a binding way so as to get the numbers to get it past this Council. Well, they have not won me with that tactic. I would probably vote for the more liberal situation if that were not the case, but it is.

In spite of any denial that might emanate from other people, I know the Labor Party very well and I know what goes on behind closed doors. I understand that, so I will not be—

The Hon. T.G. Cameron: You used to be behind them.

The Hon. T. CROTHERS: I used to make the doors; don't forget I am a carpenter by trade. I will not support this. First, this should be a conscience vote; secondly, it should be in a separate bill; and, thirdly, when Crown Law is doing it, it should get the usual instruction to look at all other acts to see what, if any, impact such a bill would have on them. I cited the hotel, clubs etcetera award, the motels award and other awards. There will be an impact. Just how big the magnitude of the impact will be, I do not know. This matter has not been thought through, and it certainly has been brought forward by people who have limited knowledge of industrial relations. I continue to stand by my position.

The Hon. CAROLYN PICKLES: Well, the Hon. Mr Crothers may be interested to know that in fact—

The Hon. T. Crothers interjecting:

The Hon. CAROLYN PICKLES: This is the truth. The amendments to the Equal Opportunity Act were canvassed for some 18 months with numerous people

The Hon. T. Crothers: I wasn't one of them.

The Hon. CAROLYN PICKLES: No, because you are not in the Labor Party and you are not part of the union movement any more. Numerous people who are in the trade union movement, including your old union—

The Hon. T. Crothers interjecting:

The Hon. CAROLYN PICKLES: Well, you think you are the only one who knows anything.

The Hon. T. Crothers interjecting:

The CHAIRMAN: Order, the Hon. Mr Crothers!

The Hon. CAROLYN PICKLES: You have talked a lot about a conscience issue in our party. You are no longer a member of our party. You can no longer in this place dictate to us what are the rules and conscience issues of our party. Under justice and the law—and I might say that this is not my area; I am carrying this bill on behalf of my colleague in another place, the shadow Attorney-General—it states, in relation to equal opportunity:

> ensure that same sex relationships are recognised in the same way as heterosexual relationships in terms of the provisions of the act.

We see this as an issue to do with equal opportunity, quite strongly, which is why we have amended the bill in this way. It has been widely canvassed in the Labor Party, at the state convention, in caucus and the shadow cabinet. Members have had copies of this hanging around since July. It has been

widely canvassed within the trade union movement and other interests groups over a period of some 18 months.

The Hon. T. Crothers interjecting:

The Hon. CAROLYN PICKLES: Well, interjections are out of order. Clearly we see this as an equity issue and one that is very important and one that we have been lobbied about over a long period of time. We have sought advice, we have talked to user groups, we have talked to trade unions and we have talked to members in our own party for a long period of time. It is not something that was dreamt up behind closed doors. It has been very open.

I think at one time the Hon. Ron Roberts was on the committee that looked at these amendments. Mr Ralph Clarke, the member for Ross Smith in another place, has also looked at this. Clearly, this is an issue for people in industrial relations, in goods and services, in all sorts of areas. The advice we have sought from parliamentary counsel is that, if this amendment is lost, it will not necessarily have the same strength as if it is passed in relation to either my amendment on putative spouse or the amendment of the Hon. Sandra Kanck. I will indicate that, even if this is lost, I will be—as I am sure the Hon. Sandra Kanck will be—pursuing the amendment in respect of putative spouse.

The Hon. K.T. GRIFFIN: I have an observation in response to the Hon. Trevor Crothers about conscience votes. The government has taken the view that this bill is not the appropriate place to address this issue. If this were to be dealt with in a substantive piece of legislation addressing the issue, then on that occasion it would be a conscience issue for members of the government party, but it is just not appropriate to be dealing with it in this way in this bill.

The Hon. T. CROTHERS: I wish to comment on the statements emanating from the Leader of the Opposition. I well recall one occasion when we went right through the Licensing Act and, in spite of the fact that I was a former Secretary of the Liquor Trades Union, in our caucus the bill was given by the current Leader of the Opposition to the Hon. Anne Levy to do. I am sure that the Attorney-General will recall this.

The Hon. K.T. Griffin: I remember it well.

The Hon. T. CROTHERS: Because I had such a love of my old union I stayed here for the whole of the bill, and I had to advise her on a number of clauses where the union had got it wrong. In fact, I was given the bill to do by Mike Atkinson. As the Attorney would know, I often used to act for Mike up here against the Attorney, as a bit of a Bombay lawyer. They sent a letter to Atkinson and I spent one Friday night here until 10 o'clock going through it. I think I got up to clause 87 with my notations and I just said, 'This is outrageous, Mike: I haven't got time to go through it any more.'

When he found out I was not handling the bill, he lost the bill I put on his desk. Then he told me a fortnight later that he had found it again. Eureka! When people tell me that they are Christians, I expect them not to behave like pathological liars. I expect that, but one is always doomed to disappointment. The Attorney will remember what I am saying, because he was the minister. The Hon. Anne Levy did a good job, but it was not within the compass of her knowledge and the advice that the union sent her was wrong. I tried to tell her on three occasions that there were serious flaws in the union's advice.

The Attorney will recall that I had to stand up on one or two occasions and say that to her and, to her credit, she withdrew and we carried on. But that is the sort of thing that happens amongst the democratic elements of our party. I will never forget that because, when that bill was handed to the Hon. Anne Levy by the present Leader of the Opposition, there was not a care, not a thought for the damage it might do to the conditions of the workers who worked under that bill. I do not wish to say any more, but that is the truth of the matter. I am sorry I had to place it on record, but that is so.

If the Leader of the Opposition has consulted with the unions she has been given bad advice, because the scope clause in the award excised the licensee and the licensee's spouse from any application of the award, and the impact is there, if this matter goes ahead in this bill. Truly, at times it is a folly to be wise.

The Hon. NICK XENOPHON: Earlier in this committee stage I asked a question in relation to what would happen if this amendment were not passed and how it would impact on the putative spouse amendments. It looks as though I have to get my own answer without any assistance from any other members.

The Hon. K.T. Griffin interjecting:

The Hon. NICK XENOPHON: That is fine, but I will stand corrected by the Attorney, the Leader of the Opposition or the Hon. Sandra Kanck. My understanding is that, if this amendment is not passed, the putative spouse amendments—either that of the Leader of the Opposition or that of the Hon. Sandra Kanck—would still have work to do but would be somewhat circumscribed. My understanding is that it would cover the situation that the Hon. Sandra Kanck was discussing earlier, in terms of what I see as discrimination against a same sex partner in a hospital context.

I do not believe that there ought to be discrimination against people in a same sex relationship, and that is why I support the spirit of what the Leader of the Opposition and the Hon. Sandra Kanck are doing. My understanding was that, if it was dealt with in the context of this act, it would solve many of those problems, but I now understand, as a result of what the Attorney has said and in terms of some advice I have sought, that the best vehicle to deal with it would be the Family Relationships Act, in that it would deal with a whole range of issues, including access to superannuation.

Having said that, I will oppose this amendment by the Hon. Carolyn Pickles but will support an amendment to broaden the putative spouse definition. I also say that the best vehicle for dealing with this in the long term, the most effective vehicle, is the Family Relationships Act. That is my understanding and I will stand corrected by any honourable member.

The Hon. CAROLYN PICKLES: The Attorney-General may not be able to answer this now and I am very happy to have the answer in writing at some stage. I understand that there would be at least 50 acts of parliament that are discriminatory in this regard, if one chose to think that it was discriminatory. Perhaps the Attorney might bring back a reply on that at some stage.

The Hon. K.T. GRIFFIN: I am happy to bring back some information on that. There will certainly be a large number of state acts that pick up the definition of putative spouse in the Family Relationships Act.

The Hon. T. Crothers interjecting:

The Hon. K.T. GRIFFIN: It depends on the form of the award. Industrial awards may stand or fall on their own inherent definitional provisions.

The Hon. T. Crothers interjecting:

The Hon. K.T. GRIFFIN: Yes. In the industrial area there has always been a tension between rights claimable

under the Equal Opportunity Act and those claimable under the industrial relations legislation. The other point I wanted to make was to respond to the Hon. Mr Xenophon, because, if he accepts that this bill is not the appropriate vehicle for dealing with the issue of marital status, it is illogical then to argue that what is not appropriate in relation to marital status should be appropriate in relation to putative spouse. With respect, it is totally illogical.

Either they are both treated in the same way on the basis that this is an appropriate bill in which to deal with that issue or they are not. My very strong argument is that it is not appropriate to deal with either of those definitions, because they both have the same outcome in terms of the description of same sex relationships and, therefore, ought to be dealt with in the substantive context of the Family Relationships Act.

The Hon. NICK XENOPHON: It seems that, if the marital status clause is unsuccessful and the putative spouse clause is successful, what it will mean is that the putative spouse clause will have less work to do than if the marital status clause—and I think the Attorney has indicated his agreement—

The Hon. K.T. Griffin interjecting:

The Hon. NICK XENOPHON: But flowing on from that, it would mean, for instance, that either the Hon. Carolyn Pickles's or the Hon. Sandra Kanck's clause will work in a more circumscribed manner in the context of the Equal Opportunity Act. So, in the situation that the Hon. Sandra Kanck was referring to, the hospital situation (which I think is a glaring case for reform), it would have some work to do. I accept what the Attorney says—that the Family Relationships Act would be a more appropriate vehicle to deal with this across the board. However, I do not accept that it is illogical to support a reform that would mean it will be more circumscribed in this application in the context of the issues of discrimination. It does not follow that the two are necessarily inconsistent. It means that the Family Relationships Act is the way to go for a broader approach and reform. It does not mean that the two are necessarily mutually incompatible.

The Hon. K.T. GRIFFIN: I remain to be convinced that the hospital example referred to by the Hon. Mr Xenophon will be solved by either of these amendments. With respect, my understanding of logic is different from that of the Hon. Mr Xenophon.

An honourable member interjecting:

The Hon. K.T. GRIFFIN: It does not matter how broad or narrow is the application of a particular description or definition. It is a question of the effect in substance. That is the point that I am making: whether you include both these definitions or include only one of them, it is still a substantial change to the substantive law. Logically, the arguments are the same, and the logic is not altered by the degree of application of the change being proposed. It is either a change or it is not and, if it is a change—as it is—it is my argument that it is not appropriate in this legislation to deal with something so significant a change when it ought to be dealt with under the umbrella of the Family Relationships Act, either as to marital status or putative spouse. The definition of 'putative spouse' we have accepted across the spectrum of legislation is one which originates in the Family Relationships Act 1975. There may be 50 pieces of legislation—and there may be more (we will do a check and see whether we can track them down and identify them)—since the 1975 act.

An honourable member interjecting:

The Hon. K.T. GRIFFIN: Maybe not more than that, because there are some pieces of legislation where we do not just adopt it by reference to the Family Relationships Act but it is adopted by describing 'putative spouse' in full. There are a number of areas where we will have to see whether we can track it down.

The Hon. SANDRA KANCK: I have provided examples that have been given to us of discrimination against people in same sex relationships. In relation to the hospital example, the Attorney just said that, even if we were to carry the Hon. Carolyn Pickles' amendment to marital status, it may not deal with it. I will raise another example. In the past, there have been a lot of deaths in male homosexual relationships because of HIV/AIDS. There have been cases where the surviving partner in such a relationship has been prevented from attending the funeral by the parents of the young man who has died. In such a situation what other remedy is available? All I am asking is that we have something in this act that allows a person in that situation to go to the Equal Opportunity Commission and say, 'The parents of my partner are preventing me from going to my partner's funeral. Please can you do something about it?'

The Hon. K.T. GRIFFIN: Surely you do not believe the law will change that sort of thing in a relationship. It is just unreal. The law cannot deal with those sorts of human relationships.

The Hon. SANDRA KANCK: The law cannot deal with arguments within families, but I am asking for something that gives a surviving partner in the example I cited the entitlement to say, 'You cannot bar me from attending my former partner's funeral.'

The Hon. K.T. GRIFFIN: I just do not think the law will ever resolve that sort of issue. If we did pass a law that said that in those circumstances there could not be so-called discrimination—and you have to question whether it is discrimination—what are you going to do? The day before the funeral are you going to run to court, the Equal Opportunity Commissioner or the tribunal to get an order? Let us face it: the law cannot address those areas of complex human relationships.

The Hon. Diana Laidlaw interjecting:

The Hon. K.T. GRIFFIN: As much as we might say anybody should be able to attend a funeral, as my colleague the Minister for Transport has interjected, there are so many different forces at work and emotions at play where people say, 'I don't want that person to come,' and it may even be a wife, a husband or a child. With respect, you cannot deal with everything in the law.

The Hon. Sandra Kanck: What about the hospital example? Why won't it work if we put in Carolyn Pickles' amendment?

The Hon. Carolyn Pickles interjecting:

The Hon. K.T. GRIFFIN: They are not next of kin. I was reflecting upon that. A boyfriend can go along to the hospital to see his female friend. They may say, 'We are living in a de facto relationship' but no-one can prove or disprove it. No-one can prove that you are a brother, a sister or whatever.

The Hon. Sandra Kanck interjecting:

The Hon. K.T. GRIFFIN: But it is not limited to issues of same sex relationships; it is broader than that. The law will not be able to—

The Hon. Sandra Kanck: Where are the examples of people in different sex relationships having that discrimination against them by a hospital?

The Hon. K.T. GRIFFIN: They regard it as discrimination, and they believe that it is same sex, but is it really? The problem is that you are trying to cover the law and bind everybody by a law and believe that it will all work smoothly when, in fact, it will never work smoothly.

The Hon. Sandra Kanck: So we should not try?

The Hon. K.T. GRIFFIN: Of course you can try, if you want to. It depends how far you want to go with the law in believing that the law can change everybody's attitude.

The Hon. Sandra Kanck: We are trying to amend the law so that we can make it more workable.

The Hon. K.T. GRIFFIN: Anti-discrimination law essentially deals with the provision of services, employer/employee relationships, education and accommodation—things which are of a more concrete nature. They are of a more substantial or obvious area. Anti-discrimination law does not deal with every aspect of human endeavour or every aspect of human relationships. It is unreal to think that we could legislate to proscribe certain behaviour between individuals. It will not happen.

The Hon. Sandra Kanck: You have a hospital saying—

The CHAIRMAN: Order! The Hon. Sandra Kanck has made her point.

The Hon. K.T. GRIFFIN: The Hon. Sandra Kanck should take a practical example of someone going up to the front desk of a hospital and asking, 'Can I see so and so?' They would be asked, 'Who are you?' They might reply, 'The same sex partner.'

The Hon. Carolyn Pickles interjecting:

The Hon. K.T. GRIFFIN: Some hospitals will say you can do it; others will say you cannot. I do not know what their practice is. There may be a whole range of different circumstances in which it is inappropriate for anybody, other than the very closest of family—maybe a same sex partner, maybe not—but hospital practices differ. What do you want to do? Do you want to say that no hospital shall refuse anybody in this relationship? With respect, it is just unreal. With regard to what I was talking about earlier, we have already passed a definition which relates to a person with caring responsibilities living in the same household. As I have said, there are so many difficulties in relation to this definition that they cannot be resolved overnight. It is all very well to have these fine examples but, with respect, we have to look carefully at what we want this law to do. This law is about sorts of relationships and the provision of goods, services and behaviour (such as sexual harassment, to which I partially referred, and to which a reference to the full act will, clearly, identify the scope of current legislation). Parliament can do anything, but it has to do things that are practical and workable.

The Hon. CAROLYN PICKLES: I will give an example that is known to me which also relates to a hospital. My understanding is that a hospital will take notice of the wishes of an adult person who is very sick. This particular person was very sick—he suffered from HIV-AIDS and was dying. He had lived with his partner for about 15 years. The hospital had very clear instructions that the partner was to be with him at all times, right up to the point at which he died. Then, the parents came and said, 'We want him out.' The hospital complied with the parents' wishes, against the strict instructions of the patient. I consider that that is a—

The Hon. K.T. Griffin interjecting:

The Hon. CAROLYN PICKLES: Well, is it not a delivery of service? Perhaps not in the strict sense of the word.

The Hon. K.T. Griffin: You are delivering the service to the patient.

The Hon. CAROLYN PICKLES: I imagine that delivering the service to the patient is acceding to the patient's wishes—

The Hon. Diana Laidlaw: That is not discriminatory.

The Hon. CAROLYN PICKLES: Yes, it is. It is very discriminatory.

The Hon. K.T. Griffin: If the patient happens to be homosexual and the hospital said, 'We are not going to treat you,' that is discriminatory. But if the hospital says, 'We are going to treat you and treat you like a normal patient—

The Hon. CAROLYN PICKLES: 'But we are going to ignore your wishes when you wish this person to be with you when you die.'

The Hon. K.T. Griffin: That may happen not because you are homosexual. It could be anybody.

The Hon. CAROLYN PICKLES: I would like a few examples. Anyway, I am ready to vote on this.

The Hon. DIANA LAIDLAW: I am not going to prolong this debate but I have quite strong views on this subject. I know many lesbian couples and they are very dear friends, but I will not support the measures proposed today, and perhaps that should go on the record. The examples that I have heard in the last 15 minutes are, to my mind, more emotional than relevant to this measure. I do not see them as discriminatory on the basis of delivery of service. I know of many circumstances in families that have nothing to do with same sex couples or homosexuality, where people's wishes may not be accepted because of other family members. I will not go into voluntary euthanasia and a whole range of things, but people's wishes are not always respected. It is not a matter of whether it is a same sex couple and it is not a matter of whether it is at a hospital counter or at funerals. There are many instances of family breakdowns where a parent may wish to attend but a child may still feel aggrieved about some earlier circumstance in their life, or vice versa. I think the circumstances in those examples would be relatively commonplace and not isolated to same sex couples issues and, certainly, could not be seen as discriminatory but, rather, more personal.

The Hon. T.G. CAMERON: I have been very patient waiting for everybody to have their say. I wonder if I could get back to the clause that we are dealing with which concerns marital status. I have always taken the view that the law should serve the people and it should not be the case that people serve the law. After listening to some of these arguments, I am not sure that we have not arrived at a point where we are being asked to be servants of the law rather than the law being our servants. As I indicated, I am disposed to support the amendment standing in the name of the Hon. Carolyn Pickles on marital status. I see that definition, unless the Attorney can persuade me otherwise, as being a separate issue to the definition of a putative spouse.

The Hon. K.T. Griffin interjecting:

The Hon. T.G. CAMERON: Yes, I think they are separate issues, and we have spent the last hour or so debating the two of them. I am concerned about the definition of 'putative spouse'. I have already indicated to the Hon. Sandra Kanck that I will support it, provided that that definition is the same definition that exists everywhere else: I have had a close look at it and it is not. The Hon. Sandra Kanck will have an opportunity, I guess, to respond to what I put to her, as I am going to introduce an amendment in relation to 'putative spouse'. We could deal with this all day,

but the Attorney is correct—people have strong feelings about same sex relationships. But it is the year 2001, it is not 1901, and the world has moved on a little bit over the last 100 years or so. I do not think that supporting the Carolyn Pickles definition of marital status in any way would signal that you are personally ready for a same sex relationship. The clause says, 'cohabiting with a putative spouse of the same sex'. Unless the Attorney-General can convince me to the contrary, I will support the amendment standing in Carolyn Pickles's name, but I indicate that I have real problems with the putative spouse amendment at this stage.

The Hon. A.J. REDFORD: I have listened with some degree of interest to the debate and I understand where the Hon. Sandra Kanck is coming from in the sense that I think that her example of someone who is in hospital having a loved one excluded from attendance because of the nature of their sexuality is very distressing and unfair. However—and I invite the Hon. Sandra Kanck to comment on this—I am not sure how changing this definition would change the effect of the act. Let me put it this way. If there is a ground upon which the commissioner could intervene on the basis of an exclusion of a same sex partner in those circumstances, surely, the commissioner could intervene under the law as it stands or, alternatively, under the law as it is proposed to be amended by the Attorney on the basis that it is not the relationship that has led to the discrimination but the sexuality of the person who has been excluded. I am not sure whether that is capable of an instant answer, but that, to me, seems to be an answer.

The Hon. Sandra Kanck interjecting:

The Hon. A.J. REDFORD: I am happy to direct it to the Attorney and invite the Hon. Sandra Kanck to comment. I think that in those circumstances when people behave in that fashion—if I can put it in the kindest way—they are acting inhumanely, and I can think of other examples where that might apply as well. However, I think it is a person's sexuality that could lead to the complaint—if you can found the complaint under another section of the act—rather than entering into redefining or including 'putative spouse' and leading us into a debate in the context of this bill as to whether or not 'putative spouse' means that a couple has cohabited for one or five years and all the other antecedent arguments. In a nutshell, I am sympathetic and I deplore people who behave in that fashion, but I would think that, all things being equal, there would be other bases upon which a commissioner might intervene in any event.

The Hon. SANDRA KANCK: In terms of what this bill sets out to achieve, I have already spoken in my second reading speech about the issue of sexuality. As currently drafted, I do not think that taking that particular example down the path of discrimination on the basis of sexuality would have any sort of strength in terms of either the current act or this bill. That is why I interjected that I thought the honourable member ought to direct his question to the Attorney-General because he has a particular position on the issue of sexuality in terms of the way in which this bill is drafted.

The Hon. K.T. GRIFFIN: I do not know what that comment is supposed to mean. The principal act deals with discrimination on the ground of sexuality—simple. In terms of the hospital, one of the ways in which this issue might be addressed is that, if a homosexual patient complains to the hospital that the hospital has denied access to a friend or partner, it may be that that is discrimination on the ground of sexuality under the Equal Opportunity Act.

The Hon. Nick Xenophon interjecting:

The Hon. K.T. GRIFFIN: Well, if a patient is in a coma, you could think of all sorts of variables, I suppose, such as whether the partner has a medical power of attorney. If a patient is in a coma and is not a homosexual, family, friends and others might be denied access.

The Hon. A.J. REDFORD: If the patient was in a coma and the hospital said, 'I'm sorry, but I am excluding you from access to your partner because of your relationship', that is discrimination under the sexuality provision rather than the relationship provision.

The Hon. Carolyn Pickles interjecting:

The Hon. A.J. REDFORD: If the hospital had a different policy in relation to a heterosexual relationship, that would be discriminatory. I think it would be trite to say that, and I would be interested to know why it would not be deemed to be discriminatory in that circumstance.

The Hon. K.T. GRIFFIN: This is in the realm of quite complex law and factual situations—

The Hon. A.J. Redford interjecting:

The Hon. K.T. GRIFFIN: That's right. It may be that, if the hospital specifically distinguishes between a homosexual patient and a heterosexual patient and allows one to have a visitor but the other not, in the way in which it delivers the service it is caught by the law against discrimination on the grounds of sexuality. But let us face it, those sorts of situations are not ever likely to arise in my view because hospitals are about caring for patients. Their ethical position is that their primary concern is the care of the patient.

My experience of private hospitals is that you can visit a patient at just about any time that you like, and in public hospitals visiting rights or opportunities are nowhere near as limited as they used to be when you could visit for only one hour at night and one hour in the middle of the day—that has changed dramatically. I respond to the issue raised by the Hon. Angus Redford in that way.

The Hon. A.J. REDFORD: My position can be put in this way. The discrimination relates not only to the relationship but just as much to their sexuality, which this bill and the act already seek to cover. I do not think that we should get into this difficult area of interpreting relationships and whether they do or do not fall within a particular definition, because in some cases it could be just as cruel if that conduct is engaged in whether they have been in the relationship for six or 10 months as opposed to 13 months but they happen to fall within a prescribed definition that the parliament might have come up with on a particular occasion. If their sexuality is attacked, you look at that and the relationship in terms of whether a service is provided equally, not as far as the relationship is concerned but as far as the sexuality is concerned.

I would have thought that that is far more fair and appropriate in terms of dealing with some of these complex issues than the parliament saying that, if you are in a relationship for 13 months, you are protected but, if you happen to be in a relationship for 11 months, you are not. I can imagine lawyers coming along in relation to a situation of 11 months and saying that the implication on the part of the parliament by introducing this is to exclude protection in relation to a same sex relationship in the sorts of circumstances that we have talked about earlier this afternoon because it has provided this particular definition. I am not sure whether that would do more damage in respect of what a commissioner may or may not do in terms of conciliating a dispute in these very difficult sorts of circumstances. It may

hinder and hamper them and cause greater problems rather than if we said generally that thou shalt not discriminate in terms of the provision of services because of someone's sexuality.

The committee divided on the amendment:

AYES (10)

Cameron, T. G.	Elliott, M. J.
Gilfillan, I.	Holloway, P.
Kanck, S. M.	Pickles, C. A. (teller)
Roberts, R. R.	Roberts, T. G.
Sneath, R. K.	Zollo, C.

NOES (11)

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

Majority of 1 for the Noes.

Amendment thus negatived.

The Hon. CAROLYN PICKLES: I move:

Page 5, line 5—Leave out proposed definition and insert: 'Mental illness' means a disorder, illness or disease that affects a person's thought process, perception of reality, emotions or judgment or that results in disturbed behaviour;

My amendment seeks to replace the bill's definition of mental illness which reflects the federal discrimination act as opposed to the government's definition which reflects the mental health act. The opposition amendment is a much broader and again more realistic reflection of the nature of mental illness. It is also desirable to achieve, where possible, legislative consistency between similar state and federal legislation, and this is one such example.

I will be very interested to hear why the Hon. Sandra Kanck thinks her amendment is different, and presumably the Attorney will indicate his view on this. I understood that he thought it was too broad, and he will probably repeat that in this discussion.

The Hon. SANDRA KANCK: I move:

Page 5, line 5—Leave out proposed definition and insert:
'mental illness' means a disorder, malfunction, illness or disease that affects a person's thought processes, learning ability, perception of reality, emotions or judgment or that results in disturbed behaviour;

This is different from the Hon. Carolyn Pickles' amendment because of the addition of the words 'malfunction' and 'learning ability'. The Hon. Carolyn Pickles' amendment refers to a disorder, illness or disease. Mine refers to a disorder, malfunction, illness or disease. The amendment moved by the Hon. Carolyn Pickles goes on to say that such things affect a person's thought processes, perception of reality, emotions or judgment or results in disturbed behaviour; whereas mine includes the phrase 'learning ability' and states that such things affect a person's thought processes, learning ability, perception of reality, etc. I have added those couple of extra words because of the definition of disability in the federal Disability Discrimination Act, which provides:

(f) a disorder or malfunction that results in the person learning differently from a person without the disorder or malfunction

I began with a definition of mental illness that was identical to that of the Hon. Carolyn Pickles. I then circulated that amendment to people in the ADHD community, and the feedback I received from a number of people included such comments as, 'If a child has ADHD and it does not present a significant barrier to learning, then ADHD sufferers will not be covered.' Another person said, 'DETE would be likely to claim that ADHD is medical and not a mental condition and get out of it that way.' Another said, 'A child with ADHD and a co-morbid learning disorder would be treated only for the co-morbidity under this definition.' That is why those two extra words are inserted in my definition.

Members interjecting:

The ACTING CHAIRMAN (Hon. J.S.L. Dawkins): Order! There is too much audible conversation in the chamber. The Hon. Sandra Kanck has the call.

The Hon. SANDRA KANCK: The purpose of the amendment is, as closely as possible, to have this definition reflect that in the federal DDA.

The Hon. K.T. GRIFFIN: I do not support either amendment. The opposition amendment would expand the definition of mental illness, as indicated, by adopting a definition extracted from that contained in the commonwealth Disability Discrimination Act. It is extremely broad, probably broader than most members would realise. It might include, for example, such normal and temporary states as fatigue or stress. It may include self-induced intoxication with alcohol or a drug. It probably includes rages induced by the excessive consumption of steroids and so-called road rage. These are not normally thought of as mental illnesses. Probably this definition would include gambling addiction, fairly certainly based on Federal Court authority; it would include drug addiction; it may include personality disorders; and it may even include paedophilia.

There could be far-reaching consequences of this broad definition. The amendment would make it potentially unlawful to treat persons with these conditions less favourably on account of the condition, even though some of these are conditions that society normally expects people to manage or control, or else intervenes to manage or control for them. It may also give rise to obligations to put in place special measures to assist persons who exhibit these conditions, and I refer to section 66(d).

The amendment could hamper reasonable and responsible action to minimise harm flowing from intoxication; for example, refusing the person certain services or expelling them from certain premises. The statute book elsewhere recognises the need for such action, and I would suggest that it is not appropriate that this legislation undermine those more specific provisions in other areas of the law.

The amendment might make it unlawful for a landlord to refuse to let a house to a person on the ground that the person is a drug addict. It might be unlawful for a bank to refuse to lend money to a person with a gambling addiction. Drug addicts would need to be considered equally with all other applicants. If the person appeared to have the capacity to repay, the addiction, even though known, would be an improper consideration. It might be unlawful for an association such as the boy scouts or a children's sporting organisation to refuse to employ or accept volunteer services from persons suffering from paedophilia.

The government accepts that it is right and proper that the act extend its protection to people who suffer from what are ordinarily regarded as mental illnesses—conditions such a schizophrenia, bipolar disorder, depression, and the like. But it is not right in the government's view that it should protect people from the consequences of temporary, self-induced states such as intoxication or seek to address such ordinary incidents of life such as stress or fatigue. Nor should it attempt to treat such serious problems as gambling addiction,

drug addiction or paedophilia as if they were irrelevant in dealings with that person.

To treat these conditions as illnesses is to use an analogy. While the illness analogy or model may be of value in treating persons who have these problems, it can give rise to significant difficulties if carried over into the equal opportunity context. It has to be remembered that this legislation has to work in practice in the real world of employment, accommodation and the sale or supply of goods and services. It is important to think through what the consequences of this fairly drastic or dramatic expansion of the act will mean in those practical consequences. I turn now to the amendment of the Hon. Sandra Kanck.

The Hon. T.G. Cameron: It's the same.

The Hon. K.T. GRIFFIN: It is a bit different. It is an expansion on the form of amendment proposed by the opposition. The two differences, as the Hon. Sandra Kanck has already explored, relate to the inclusion of malfunctions generally and, in particular, disorders of learning ability as mental illnesses. The inclusion of learning difficulties as mental illnesses means that the act will cover a person who suffers from dyslexia, memory problems, attention deficit hyperactivity disorder or any other disorder that impairs learning ability.

The expansion relates to disabilities which do not stem from an organic problem, because where the problem is traceable to a physical impairment of the brain, or any other organ or function of the body, that is already covered by the act. For example, learning difficulty traceable to intellectual disability, hearing loss, vision impairment or brain damage are already covered by the existing definition of impairment. It is important to note that, as a result of section 66 of the act, it is discrimination to fail to provide special assistance required by a person in consequence of his or her impairment in circumstances where the failure is unreasonable.

What that means is that a student who contends that his or her school has failed to provide some type of special assistance which the student requires may be able to make a complaint under this act. One has to understand the difficulties that that could pose for a school that is unable to provide children with one-to-one attention, extended hours of tuition, or with teachers specially qualified in dealing with the particular disorder to assist in overcoming the learning disability. We would certainly want that to occur in the normal circumstances of providing resources to schools, but to do it under the coverage of the Equal Opportunity Act is, in my view, not appropriate.

The same will be true of an employee who contends that assistance should be provided to the employee, for example, in reading or clerical tasks because of a relevant disorder. The employer will have to consider whether this assistance can be provided to such a person rather than simply refusing to hire the person. The government is concerned that an employer therefore will no longer be able to set as a basic hiring requirement, for example, that the employee be able to read and write English in a functional way or be able to perform basic arithmetic, unless he or she considers, in every case, whether such a requirement is reasonable in relation to the particular position and whether alternative means could be used to overcome an applicant's lack of these competencies. That suggests to me that an unreasonable burden is being placed on South Australian employers.

The government did give consideration to the commonwealth Disability Discrimination Act provisions and took the view that they were much too broad to be reasonable and, in those circumstances, both the amendments which have been proposed by the Leader of the Opposition and the Hon. Sandra Kanck are not acceptable to the government.

The Hon. T. CROTHERS: When I hear someone talk about mental disorders, I do not know why it is so, but my mind immediately goes back some 130 years to the McNaughten case, which, as members would know, was the first time ever in English law that mental illness had been able to be used as a successful defence. McNaughten also, to his credit, was, as I am, an Irishman. However, since that time, of course, by way of a number of accepted court precedents, a number of different pieces of medical knowledge that have become more available and so on, the original decision based on the McNaughten case has had an even further reaching impact.

There is some merit in what is being said, and apart from my principled stand in respect of conscience votes, I would like to deal with this as factually as I can. I do not know, for instance, how much medical advice the movers have had on these amendments. For instance, I was on the select committee into the Stirling bushfires and a number of people were suffering then from nervous disorders and, as I know so far, still do suffer from them. They were being treated by an authority on these particular mental or physical disorders at Adelaide University, a world authority. I think his name was Professor Sandy McFadden if I remember correctly—

The Hon. K.T. Griffin: Sandy McFarlane.

The Hon. T. CROTHERS: Well, I was very close—

The Hon. T.G. Roberts interjecting:

The Hon. T. CROTHERS: Anyhow, ignoring some of the other retards who are sitting around me, I want to say that we have progressed. For instance, we have the CAT scan now which enables the medical profession to better diagnose matters such as Alzheimer's disease, which, as it advances, does have an effect on people mentally. There is a whole plethora of complaints and medical diseases that would widen the scope of what constitutes a medical disorder even further than the movers of this amendment have done. I am not opposed to that in principle, but I do think that this is a matter where we ought to be taking the best medical advice available, as McNaughten did all those years ago and which has been expanded ever since—the Attorney would know better than I—in various courts of the English speaking world.

I am certain that, if we do that, then we will more comprehensively and equitably cover the matter when next we address it. For those reasons, I am with the Attorney in this one, apart from the fact that it almost chokes my nostrils of democracy with the vomit of its being a non-conscience vote.

The ACTING CHAIRMAN (Hon. J.S.L. Dawkins): Before the Hon. Mr Cameron starts, if I heard correctly, the Hon. Mr Crothers made an inference about other members in this place—

The Hon. T. CROTHERS: I was talking about mental defectives. In that case, Mr Acting Chairman—

The ACTING CHAIRMAN: I think the honourable member used the word 'retard'.

The Hon. T. CROTHERS: I will withdraw the matter. I really have no medical qualifications to pass opinion on it.

The Hon. CAROLYN PICKLES: In drafting this amendment, we took our definition from the Disability Discrimination Act 1992, a federal government discrimination act, where paragraph (g) provides:

a disorder, illness or disease that affects a person's thought processes, perception of reality, emotions or judgment or that results in disturbed behaviour.

Clearly that has been well researched and it is an act that has been applied since 1992 at the federal level, so it covers all levels of discrimination. It was for that reason that we wanted do go broader. As far as I am aware, perhaps rather unfortunately, madness has never been a matter for a conscience vote in the Labor Party.

The Hon. T.G. CAMERON: My disposition is the same as that of the Hon. Trevor Crothers; that is, to support the amendment standing in the name of the Attorney-General. It is easily understood: it means any illness or disorder of the mind. When one reads his definition—and I am not a lawyer—I do not understand why it does not pick up the others, anyway. I would have thought dyslexia might be categorised as an illness or disorder of the mind.

The Hon. K.T. Griffin interjecting:

The Hon. T.G. CAMERON: It is not. I am relieved to hear that, because as someone who suffers from dyslexia mildly, I would not want to vote for something that would mean that I was defining myself as having a mental illness. I will be supporting the Attorney's position.

The Hon. SANDRA KANCK: Will the Attorney go back over what he said previously? I think he said that, if a condition has an organic basis, it is already covered by the act. Will the Attorney elaborate on that?

The Hon. K.T. Griffin interjecting:

The Hon. SANDRA KANCK: A condition of mental impairment.

The Hon. K.T. GRIFFIN: It is covered under the mental impairment provisions in the act—

The Hon. Sandra Kanck: If it has an organic base.

The Hon. K.T. GRIFFIN: It is already in the act. I am sorry, I was wrong about mental impairment. Physical impairment is in the act already and means the total or partial loss of any function of the body, the total or partial loss of any part of the body, the malfunctioning of any part of the body or the malformation or disfigurement of any part of the body. Things such as Alzheimer's would actually be covered by physical impairment.

The Hon. Sandra Kanck interjecting:

The Hon. K.T. GRIFFIN: No. If it is established medically that it is a physical disorder within that definition of mental impairment, that is possible. I do not think that dyslexia or attention deficit hyperactivity disorder have yet been established as having any organic base. If they did, they would be covered by the physical impairment definition.

The Hon. SANDRA KANCK: But it is the brain. Is the Attorney saying that an organic-origin malfunction of the brain would be covered as physical impairment and not as mental impairment?

The Hon. K.T. GRIFFIN: Yes, that is right. Before the Hon. Sandra Kanck asks her next question, I am informed by the Commissioner for Equal Opportunity that she has actually received complaints in relation to dyslexia, but there are competing views about the cause of dyslexia and, as yet, there has not been a definitive ruling by the tribunal as to whether or not it falls within the current definition of physical impairment.

The Hon. SANDRA KANCK: That would surely mean that we need to have something in the act that does define it.

The Hon. K.T. Griffin: Not necessarily.

The Hon. SANDRA KANCK: I want to raise an issue that has been raised with me, where we have competing definitions between DDA and what we have in the Equal Opportunity Act. Because our schools generally operate under the Equal Opportunity Act, such conditions as ADHD and dyslexia may not be catered for within the school system, and under our current Equal Opportunity Act they are not required to be. However, I understand that a document has been distributed to P21 schools, called *Fair and reasonable*, based on the DDA criteria.

If that document is based on DDA criteria and a school does not provide services for children who have ADHD, there would appear to be at least a misalignment of services in the schools, and I wonder which would apply. If DETE puts out a document that says that DDA criteria are what is required and the school is operating under the Equal Opportunity Act and does not provide the services, which way should the school go?

The Hon. CAROLYN PICKLES: On the issue to do with this definition as to why the opposition decided to go with the federal act rather than the state act, which is the same definition, I would like the Attorney to tell me what is 'the mind'.

The Hon. T. CROTHERS: From time to time I become worried about some of the activities of the medical profession. This attention deficit situation, from which two of my grandsons are purported to suffer—

The Hon. T.G. Roberts: It's hereditary.

The Hon. T. CROTHERS: Coming from an expert, I will accept that. The position I see is that from time to time amongst the medical profession there are illnesses that become the flavour of the year. In my day in the union it was repetitive strain injury, which went from about 500 cases a year to about half a million. I was reading some information that came across my desk about a year ago from the medical benefits people and it stated that, in respect of pharmaceutical prescriptions for attention deficit, the number of cases has gone from something like 1 000 a year to about 100 000 a month.

I do not know whether it is the pharmacology or the pharmaceutical companies that push these drugs. I do not know what happens. Perhaps it is the pressure of the media. It might even be an advancement of medical knowledge but, in both those cases I have cited, I doubt that. Certainly, when my grandsons are with me (and their mother is a single mother bringing them up), I have no trouble whatsoever, but my youngest daughter has all the trouble in the world. My humble view is that she will not discipline them properly. That is the attention deficit disorder that they suffer from.

I am always very suspicious when from time to time I see these so-called illnesses diagnosed by psychiatrists, senior doctors or doctors, which are the flavour of the year in illness. It does happen, and I guess that, if we checked that out with the federal people who run Medicare, from the way they monitor the issue of different prescriptions we would see that borne out. I am not saying that there is not some merit but, when you see prescriptions going up about 10 000 times in two years, you have to ask the question. So, I am supporting the Attorney's position, for that reason and for others.

The Hon. CAROLYN PICKLES: I did ask the Attorney a question. Could he please give me a definition of 'the mind', because there is no such thing medically? Will he tell me where it is on my body? There is a brain, but there is no mind.

The Hon. K.T. GRIFFIN: Ultimately we have tried to pick up an existing definition. We picked up a definition in

the Mental Health Act, and that is narrower than the commonwealth's Disability Discrimination Act definition.

An honourable member interjecting:

The Hon. K.T. GRIFFIN: Disorder of the mind, yes. Schizophrenia is a disorder of the mind. Well established diagnosis ultimately is a matter for the court.

The Hon. Carolyn Pickles interjecting:

The Hon. K.T. GRIFFIN: Schizophrenia?

The Hon. Carolyn Pickles interjecting:

The Hon. K.T. GRIFFIN: They may all be traced back to a disorder of the brain, I suppose. However, we are using an established definition which has been around for many years in the Mental Health Act. It is a basis upon which they put people away or detain people. It is well understood—

The Hon. Carolyn Pickles interjecting:

The Hon. K.T. GRIFFIN: You might have to join Socrates, Sophocles and all the other great philosophers of the world. I will take the question of the Disability Discrimination Act issue on notice. My understanding is that in some areas it may not apply at the state level, but mostly it does. It is a grey area. I know when it was being brought into operation the states had a five year period of grace within which to do certain things, and transport was one of those areas. However, with this piece of legislation it is a question of which jurisdiction has the responsibility. In the bill we have tried to pick up mental illness in so far as it is defined in state law already, under the Mental Health Act, and not seek to expand it to quite unreasonable and unrealistic lengths as the commonwealth Disability Discrimination Act extends it.

One day there will be a High Court case to determine the limits of the respective jurisdictions. However, for the moment, the state and the government take the view that we should endeavour to work within what is already part of the framework of the law. We should remember that we are creating a situation where, if a person discriminates on the ground of mental illness, there are sanctions which follow, and they are sanctions in employment and education, and sanctions in relation to the provision of goods and services, including accommodation. It is a question of how to get a balance, because this will put increasing responsibilities upon employers, boarding houses and a whole range of other service providers—

An honourable member interjecting:

The Hon. K.T. GRIFFIN: —or schools. We are trying to draw a reasonable dividing line between the practical and sensible, and the extreme. As I have said, the definitions which are included in the amendments as proposed by the honourable the Leader of the Opposition and the Hon. Sandra Kanck are really quite extreme.

The Hon. SANDRA KANCK: I simply want to comment that I do not find trying to give extra assistance to parents of children with ADHD extreme.

The Hon. NICK XENOPHON: I am seeking clarification from the Attorney. In instances the Hon. Sandra Kanck has raised with respect to ADHD, is it the case that the government's definition of 'mental illness' or 'disorder' may not cover those cases of an individual or child suffering from ADHD? It is a grey area at this stage. In terms of the medical research, the issue is evolving, and it may not come within the ambit of, say, physical impairment as dementia would. There is an area of imprecision with respect to ADHD as to whether it would be covered under the definition of 'mental illnesses' in terms of the government's amendment, and it may not fall within the definition of a physical impairment. Is there a hiatus or is there a grey area here?

The Hon. K.T. GRIFFIN: There is a grey area; that is acknowledged. Even with existing definitions of 'physical impairment', there are grey areas such as dyslexia. Ultimately a lot of this depends upon medical evidence, and I have already indicated that things like Alzheimer's disease will be covered by the present definition of 'physical impairment'.

The committee divided on the question 'that the words proposed to be left out stand as part of the clause'.

AYES (12)

Cameron, T. G.	Crothers, T.
Davis, L. H.	Dawkins, J. S. L.
Griffin, K. T.(teller)	Laidlaw, D. V.
Lawson, R. D.	Lucas, R. I.
Redford, A. J.	Schaefer, C. V.
Stefani, J. F.	Xenophon, N.

NOES (9)

Elliott, M. J.	Gilfillan, I.
Holloway, P.	Kanck, S. M.
Pickles, C. A. (teller)	Roberts, R. R.
Roberts, T. G.	Sneath, R. K.
Zollo, C.	

Majority of 3 for the ayes.

Question thus carried.

Progress reported; committee to sit again.

GRAFFITI CONTROL BILL

Consideration in committee of the House of Assembly's amendments.

(Continued from 25 September. Page 2203.)

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

That the House of Assembly's amendments be agreed to.

Before I deal with the detail of the amendments, I will clarify several matters which arose in the committee stage of the consideration of this bill in the House of Assembly. In dealing with clause 12 of the bill, the member for Spence gave an explanation of the provisions in the bill dealing with the powers of local councils to remove graffiti. Because his commentary was not the subject of any correcting observation, it is important that I put on the record what the position is so that no-one can suggest that the government has misled the parliament.

The bill provides that, if a council wishes to remove graffiti from private property, it may serve a notice on the owner or occupier of the property and, if the owner or occupier has not objected to the removal within 10 days, the council may enter private property and take any action necessary to remove the graffiti. The bill further provides that the council must ensure that the work is carried out with reasonable care and to a reasonable standard. The bill goes on to provide that no civil liability attaches to a council or an employee of a council or a person acting under the authority of a council or anything done by a council, employee or agent under the provision.

The member for Spence suggested that this immunity from civil liability would extend only to liability in trespass and not to negligence by the employee or agent. This is not the case. The immunity from liability would extend, for example, to the accidental damage of property by an employee or agent in the course of removing the graffiti. There would be a limit to this liability. If the agent or employee acted outside the

bounds of the authorisation conferred by the provision and caused damage while fooling around on the property and not in the course of actually removing or preparing to remove graffiti, it is unlikely that the immunity would extend to such actions.

This is the same immunity that is provided to council employees and agents under the clean-up order provisions in Chapter 12 Part II of the Local Government Act 1999. Councils want this immunity because they are concerned about their potential liability if they remove graffiti from private property. Several councils were not willing to undertake such work without an immunity.

I will deal quickly with the amendments which have been made by the House of Assembly. They are government amendments. The first amendment deals with clause 4 of the bill. Clause 4 relates to the securing of cans of spray paint and provides that the section does not apply to the sale of cans of spray paint of a type prescribed by regulation. That is specifically to allow for spray cans to be fitted with a locking device which can only be activated by a sales assistant or electronic tagging or some other means of securing the spray cans. The paint manufacturers and aerosol paint manufacturers made representations to the government about an invention which would render inactive cans of spray paint unless they were specifically activated by a shop assistant. Unless this amendment was included in the bill, it would not be possible to facilitate the use of such cans of spray paint if it was established that the process was foolproof. In those circumstances, the government believes that there ought to be flexibility built into the act.

Clause 7 deals with the appointment and powers of authorised persons, and there are a number of amendments which address issues arising under clause 7. Essentially, there is a provision inserted that a person who aids or abets the commission of an offence is liable to be prosecuted for an offence, and that is perfectly proper; and a provision that a court finding a person guilty of an offence against the section must, if the court is satisfied that it will be reasonably practicable to do so, order that the person take action to remove or obliterate the graffiti and, in other cases, order the offender to pay to the owner or occupier compensation of such amount as the court thinks fit. There is then provision for enforcement of such an order.

Then there are amendments dealing with clause 13. Clause 13 deals with consequential amendments to the Summary Offences Act and facilitates the establishment of a mandatory code of practice, as opposed to the current voluntary code of practice, and authorises regulations to be made which might incorporate a code of practice. It has been established, under a voluntary code of practice, that many retailers, including some of the larger chains, follow the voluntary code of practice which was established about five years ago. The voluntary code of practice, though, has not been complied with by some retailers, particularly the smaller ones, and in those circumstances the government believes that a mandatory code of practice may, therefore, be more likely to be complied with if it is of a mandatory nature.

Paint manufacturers have accepted the concept of a mandatory code of conduct. I have undertaken quite significant levels of consultation with paint manufacturers in particular, and it is pleasing to note that they are now looking at innovative ways by which the sale of spray cans can be achieved in a controlled environment, and particularly in circumstances where there may be good ways of constraining access to spray cans other than by merely locking them away behind the counter. I think they are the major issues covered by the amendments.

The Hon. Ian Gilfillan: Did you mention clause 9?

The Hon. K.T. GRIFFIN: Yes, I did. Clause 9 concerns aiding or abetting or counselling or procuring the commission of an offence. Aiding and abetting are concepts that are well known to the criminal law.

The Hon. Ian Gilfillan: There is also the recovery of costs.

The Hon. K.T. GRIFFIN: I covered that, and I referred particularly, also, to the need for a compliance provision which is proposed to be subsection (4), that is, the order may be enforced as if it were an order requiring the performance of community service. And that follows the new subsection (3) which provides that a person may be required to obliterate the graffiti or to remove it, if that is, in the view of the court, reasonably practicable to achieve.

The Hon. P. HOLLOWAY: I indicate that the opposition supports the amendments that have come to us from the House of Assembly.

The Hon. IAN GILFILLAN: Members will realise that the Democrats oppose substantial parts of the bill, and I will not go over the arguments for that. The first amendment to clause 4 does not really relate to matters upon which I have a particular view as far as the Democrats are concerned, because I think it pertains to material that we oppose. However, we support the amendments 2 to 5 relating to clause 7 and we support the amendment to clause 9—we feel those are constructive amendments—but strenuously oppose the amendment to clause 13, which is consistent with our attitude to the bill.

Motion carried.

STATUTES AMENDMENT (GOVERNOR'S REMUNERATION) BILL

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

The Hon. K.T. GRIFFIN (Attorney-General): 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 seeks to amend the provisions in the *Constitution Act 1934* dealing with the Governor's salary and expenses, and to amend the *Governors' Pensions Act 1976* in order to accommodate the removal of the vice-regal exemption from income tax from the *Income Tax Assessment Act 1997* (Commonwealth).

In June 2001 the Prime Minister announced a proposal to remove the income tax exemption for vice-regal representatives in section 51.15 of the *Income Tax Assessment Act 1997* (Commonwealth) in preparation for the appointment of the next Governor-General. The changes took effect on 29 June 2001.

The income tax exemption had existed since 1922. In support of his proposal, the Prime Minister said that the income tax exemption belonged to an era when vice-regal representatives came from the United Kingdom and were treated as if they were non-diplomatic representatives of foreign governments. He noted that the Queen has paid income and capital gains taxes since 1993. He proposed that the amendment to the *Income Tax Assessment Act 1997* take effect from the date of appointment of the new Governor-General, who was sworn in on 29 June 2001. For the States, the amendments are to take effect before the appointment of the successor to each incumbent Governor, and the Prime Minister has requested that all States amend their legislation to this effect.

The current legislation fixing South Australian vice-regal remuneration assumes an income tax exemption. Hence, without adjustment to that remuneration, changes to the *Income Tax Assessment Act* will result in new Governors receiving considerably

smaller salaries and funding for expenses. There will be other flow-on effects. Certain expenditure incurred by future Governors in deriving that assessable income will be deductible for tax purposes. Future Governors' official salaries will be subjected to PAYG withholding tax, and payment statements will be required to be issued. The payer of future Governors' official salaries, as the Governors' 'employer', will be liable for any FBT payment in respect of fringe benefits provided to future Governors and their associates. Any reportable fringe benefit amount will need to be disclosed on future Governors' payment summaries.

The Governor's salary is fixed by section 73 of the *Constitution Act 1934.* In order to ensure that the Governor's effective post tax salary package (currently $92 777) is not diminished by the imposition of income tax, section 73 needs to be amended so that the Governor's gross salary is increased to, at least, $155 644. This estimate is based on current personal income tax rates, including the Medicare Levy, but does not take into account private assessable income or deductible losses.

Section 73 fixes the vice-regal salary at the final amount paid to the Governor's predecessor in office, increased in proportion to increases in the salary of a puisne judge of the Supreme Court occurring during the Governor's term of office.

The new taxation arrangements will complicate the calculation of an annual gross tax inclusive salary for the South Australian Governor, particularly if that salary continues to be calculated from a starting base of the salary of the previous Governor plus annual increments proportionate with those of a puisne judge.

In order to simplify the calculation, this Bill abolishes the present salary base and makes the vice-regal salary equivalent to 75 per cent of the salary of a puisne judge of the Supreme Court which, at present, would be a salary of $155 625 per annum. This level of salary is almost exactly equivalent, pre-tax, to the present Governor's tax exempt salary.

The expenses associated with the office of Governor are dealt with by section 73A of the *Constitution Act 1934.* Those expenses are used to host and entertain dignitaries and guests and to pay for capital and revenue items. The Governor's expenses are paid out of an annual allowance paid to the Governor out of general revenue. The allowance is calculated from a base fixed in 1974, adjusted by reference to the consumer price index. The current allowance for expenses is $123 000 per annum.

As a component of the Governor's income, the expense allowance will be taxable under the changes to the *Income Tax Assessment Act*. It is not possible to determine in advance which expenses paid for out of the allowance will be deductible for income tax purposes. It is difficult to estimate the amount of gross up that would be required to maintain the spending power of the allowance in the post-tax environment. In addition, the Governor's personal financial position would also impact on the amount of gross up required.

To overcome the difficulties in maintaining the spending power of the allowance without imposing adverse financial consequences on the Governor, this Bill replaces the allowance with a provision that the expenses of the office of Governor be paid directly by appropriation. This will eliminate the need to gross up the allowance to compensate for income tax and expenditure patterns; eliminate the administrative complexities in determining the appropriate amount of gross up required; alleviate the additional administrative burden that would have been placed on the Governor in relation to his/her personal income tax return; and allow the Governor's establishment to claim the input tax credits through its normal accounting function.

The final component of vice-regal remuneration is the Governor's pension, authorised under the *Governors' Pensions Act 1976*, which provides for an annual life pension paid out of Consolidated Account. There has never been a tax exemption for the Governor's pension. However, because the pension is calculated by reference to the last drawn salary of the Governor, adjusted for inflation, and that salary has in the past been income-tax exempt, any increase in that salary (as proposed in this Bill) will affect the pension entitlements of future Governors. The tax changes will also affect future Governors' personal superannuation surcharge liability, because they raise the adjusted taxable income over the surcharge threshold.

However, it should be noted that *Governors' Pensions Act* describes the pension as a maximum percentage of salary, under which threshold the Treasurer has a discretion as to the amount actually paid, and the Bill does not seek to change this. The Government proposes these changes to the *Governor's Pensions Act* as an interim measure, adjusting the way the Governor's pension is calculated to reflect the impact of the tax change on the Governor's salary, but pending a comprehensive review of the Act to update it to reflect changes to superannuation laws and entitlements since its enactment 25 years ago.

Hence, the Bill seeks to amend the *Governor's Pensions Act* so that the salary base on which future Governors' pensions will be calculated is a percentage of salary that reflects the difference between the tax-exempt salary paid to the current Governor and the new grossed up pre-tax salary to be paid to future Governors under the proposed amendments to section 73 of the *Constitution Act.* Accordingly, subject to the Treasurer's discretion, the amount of pension payable to a former Governor will not exceed 30 per cent of last drawn salary; the amount payable to the spouse of a deceased former Governor, no more than 45 per cent of the pension of that deceased former Governor payable immediately before his or her death; and the amount payable to the spouse of a deceased Governor, no more than 22.5 per cent of the last drawn salary of that deceased Governor. The Bill also amends the Governors' Pensions Act to provide for the Treasurer to have a discretion to pay the Governor an amount equivalent to what is required to satisfy his or her superannuation surcharge debt upon taking up the pension.

Members may wish to note that the proposed changes to the way the salary is paid to future Governors under sections 73 and 73B of the *Constitution Act* will not affect the current pension amount payable to presently surviving former Governors and the retiring present incumbent.

It is expected that the Government's annual taxation liability in respect of vice-regal remuneration will be approximately $100 000. This will comprise, on year 2001 figures, an additional amount of $62 867 to boost the Governor's salary to accommodate income tax, an indeterminate amount for fringe benefits tax on vice-regal expenses, an increase in the Government's annual superannuation guarantee contribution in respect in respect of the Governor of approximately $1 056, and an amount of approximately $3 000 per year of service to fund the Governor's superannuation surcharge liability.

In summary, this Bill adjusts the way vice-regal salaries, expenses and pensions are paid so that future South Australian Governors are not adversely affected by the removal of the tax exemption that the present and previous Governors have enjoyed. It is proposed that the Act be proclaimed to come into effect on 3 November 2001, the day the next Governor will be sworn to office.

I commend the Bill to the House.

Explanation of clauses

PART 1: PRELIMINARY

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Interpretation

A reference in this measure to the principal Act is a reference to the Act referred to in the heading to the Part in which the reference occurs.

PART 2: AMENDMENT OF CONSTITUTION ACT 1934

Clause 4: Amendment of s. 73—Salary of the Governor

Subsections (1), (1a) and (1b) of section 73 of the principal Act provide for a manner of determining the salary of Governors. The effect of subsection (1)*(a)* and (1a) has expired and a new method of computing the salary of a Governor is proposed. This clause provides for the striking out of section 73(1) to (1b) (inclusive) and the substitution of a new subsection (1) which will provide that the salary of the Governor is to be at the rate of 75 per cent of the salary payable to a puisne Judge of the Supreme Court.

As a consequence of these proposed amendments, the definition of 'consumer price index' is to be struck out from subsection (5) as it will no longer be used in the section.

Clause 5: Substitution of ss. 73A and 73B

It is proposed to repeal sections 73A and 73B of the principal Act and substitute the following sections.

73A. Costs associated with Governor's official duties

New section 73A provides for the Treasurer to pay the costs reasonably incurred by the Governor (or anyone acting in the office of the Governor) in carrying out, or for the purpose of carrying out, official duties.

73B. Appropriation

New section 73B provides that the principal Act is (without further appropriation) sufficient authority for the payment of the Governor's salary and the other costs that are to be borne by the Treasurer out of the Consolidated Account.

PART 3: AMENDMENT OF GOVERNORS' PENSIONS ACT 1976

Clause 6: Amendment of s. 3—Order for payment of pensions

It is proposed to amend section 3 of the principal Act by inserting after its present contents (now to be designated as subsection (1)) a new subsection (2) which will provide that the Treasurer may also pay to a former Governor or the estate of a deceased Governor an amount sufficient to defray any liability to tax (including interest on tax) under the law of the Commonwealth arising because of superannuation entitlements under the principal Act.

Clause 7: Amendment of s. 4—Amount of pension

Section 4(1) of the principal Act provides for an upper limit on the amount of a Governor's pension. Current subsection (1) provides as follows:

> Except as is provided in subsection (2) of this section, the amount of pension shall not—
>
> *(a)* in the case of a former Governor, exceed fifty per centum of the salary of that former Governor; or
>
> *(b)* in the case of the spouse of a deceased former Governor, exceed seventy-five per centum of the pension of that deceased former Governor payable immediately before the death of that former Governor; or
>
> *(c)* in the case of the spouse of a deceased Governor, exceed thirty-seven and one-half per centum of the salary of that deceased Governor.

It is proposed to amend this subsection by substituting the percentage amounts currently listed by other percentage amounts. Thus, 'fifty per centum' is to struck out from subsection (1)*(a)* and substituted by '30 per cent', 'seventy five per centum' is to be struck out from subsection (1)*(b)* and substituted by '45 per cent', and 'thirty-seven and one-half per centum' is to be struck out from subsection (1)*(c)* and substituted by '22.5 per cent'.

Clause 8: Substitution of s. 6

It is proposed to repeal section 6 of the principal Act and substitute the following section.

6. Appropriation

New section 6 provides that any payment to be made under the principal Act is to be made from the Consolidated Account (which is appropriated to the necessary extent).

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

FREE PRESBYTERIAN CHURCH (VESTING OF PROPERTY) BILL

The House of Assembly agreed to the bill with the amendment indicated by the following schedule to which amendment the House of Assembly desires the concurrence of the Legislative Council:

No.1 Exemption from stamp duty

9.(1) Where land vests by virtue of this Act, the vesting of the land and any instrument evidencing or giving effect to the vesting are exempt from stamp duty.

(2) No person has an obligation under the Stamp Duties Act 1923—

(a) to lodge a statement or return relating to the vesting of land under this Act; or

(b) to include information about such a vesting in a statement or return.

Consideration in committee.

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

That the House of Assembly's amendment be agreed to.

The amendment is the money clause which exempts the vesting from stamp duty. It was in erased type as it left this Council and it has now been inserted by the House of Assembly.

The Hon. P. HOLLOWAY: I indicate that the opposition will support this amendment. In doing so, I note that there was a surprisingly detailed debate on this matter in the House of Assembly. My colleagues in that place, I think, displayed a surprisingly large amount of knowledge in relation to the background of this matter. We certainly support the passage of this bill.

Motion carried.

WATERWORKS (COMMERCIAL LAND RATING) AMENDMENT BILL

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

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

The purpose of this Bill is to amend the *Waterworks Act 1932* to change the basis on which water bills are determined for commercial lands.

Under the *Waterworks Act*, water bills comprise an annual supply charge to reflect the availability of supply and a charge for water consumption based on the volume of water supplied. Most customers pay a fixed annual supply charge and any water consumed is charged at the applicable water rate. However, charges for commercial lands differ from other lands. The supply charge for commercial lands is determined on the basis of the capital value of the land, subject to a minimum. The supply charge is credited against the water consumption rate (the volume of water supplied to the land multiplied by the applicable water rate). This supply charge credit is commonly referred to as the 'free water allowance'. Consumption over and above the free water allowance is charged at the applicable water rate.

This free water allowance was identified as being inconsistent with consumption based pricing which is a basic principle of the National Competition Policy reform agenda. Consequently, an undertaking was given to the National Competition Council to phase out the free water allowance for commercial land to ensure the State receives the Second Tranche competition payments from the Federal Government.

The *Waterworks (Commercial Land Rating) Amendment Bill* removes the free water allowance resulting in full volumetric pricing for water. This would be achieved on a revenue neutral basis. The rate applied to calculate the supply charge for commercial lands will be reduced to offset the increase in water use revenues.

This proposal will lower the total water bill for over 50 per cent of commercial customers. There is a need to moderate the impact of the reform on customers with bill increases. Consequently, a transition arrangement is proposed whereby water bills for all commercial customers will gradually move to the new charging structure over five years. The transition pricing arrangement involves applying a discounted price to water consumed up to a volume determined each year. Water consumption above this level would be priced at the applicable water rate. It is proposed that the discount would be progressively reduced and then eliminated in 2006-07. The quantity of water that qualifies for the discount would be a function of each customer's supply charge. To achieve a smooth transition, the Bill provides for a positive adjustment to the calculation of the quantity of discounted water in order to compensate for the reducing supply charge.

As these proposals are intended to fulfil an undertaking the State has given in relation to the National Competition Policy, I commend the bill to the House.

Explanation of clauses

Clause 1: Short title

This clause is formal.

Clause 2: Amendment of s. 65B—Composition of rates

This clause amends section 65B of the principal Act by removing the provision for crediting the supply charge in respect of commercial land against the water consumption rate after the 2001-2002 financial year.

Clause 3: Insertion of s. 65D

This clause inserts new section 65D. The effect of this section is to direct the reader to the Schedule of the Act for transitional provisions for the amendments made by the Bill.

Clause 4: Amendment of Schedule—Transitional Provisions

This clause adds transitional provisions to the Schedule of the Act. They provide for the discounting of part of the water consumption

rate in each of the 4 years following financial year 2001-2002. The part of the rate to be discounted differs in each year and is determined by the formula set out in subclause (2) of new clause 2 of the Schedule. The amount of the discount reduces with each succeeding year in accordance with subclause (3).

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

ADJOURNMENT

At 6 p.m. the Council adjourned until Tuesday 2 October at 2.15 p.m.