EQUAL OPPORTUNITY (MISCELLANEOUS) AMENDMENT BILL – 7th February, 2007

Adjourned debate on second reading.
(Continued from 26 October. Page 1165.)

Mrs REDMOND (Heysen): First, I indicate that I will be the lead speaker for the opposition on this bill, although I expect that a number of other members will wish to address the issues raised by this bill. I say at the outset that I am a little puzzled by a comment that the Attorney made today on radio when we were having a bit of a debate about this. He said, `This will take months, if not years, to get through'. I thought that was rather odd because, according to my list, the debate is listed for completion tonight. I do not think that that is likely to happen, given the number of speakers and the number of matters that I wish to raise as the lead speaker with no time limit.

I wonder whether the government would like to indicate what its intentions are in respect of this bill, because clearly there is considerable community agitation about it. At the outset, I note a couple of things. First, while we have a party position on most of the bill and that party position is to oppose the second reading, in accordance with our Liberal tradition we will have a conscience vote on matters pertaining to religion. Potentially, there will be a conscience vote on that one issue but, other than that, it will be a party position, and the party position is to oppose the second reading. I also at the outset thank the officers, particularly the Equal Opportunity Commissioner. Some briefings were provided to us last year, and I do thank Linda Matthews and other people from her office for the time they gave us.

I know that I attended three briefings. Whilst those briefings did serve to clarify some of the issues—and members will see that I have a fair pile of paperwork relating to this bill—even the commissioner could not answer all the questions which arose in the course of the briefings that we had towards the end of last year. I am glad that the debate on this was adjourned until at least this year so that we have had a little more time to get through some of the issues. I thank the officers involved for those briefings. It would have to be said that it is conceded that large parts of this bill simply repeat what already binds people in this state by virtue of commonwealth legislation, in particular the following commonwealth legislation (and I will put them in the date order in which they occurred): the Racial Discrimination Act 1975; the Sex Discrimination Act 1984; the

Disability Discrimination Act 1992; the Age Discrimination Act 2004; and overarching all those as the mechanism by which those acts are then managed and with which complaints under them are dealt is the Human Rights and Equal Opportunity Act 1986.

I have confirmed with the federal Human Rights and Equal Opportunities Commission that, indeed, everyone in this state—not just commonwealth employees or anyone such as that—is already bound by the provisions of those acts. The only minor exception is that apparently public servants in this state who wish to make a complaint of sexual harassment within the Public Service are bound to do so under the state system but, other than that, everyone is bound by the commonwealth legislation.

It might be reasonable to ask: why has the Liberal Party decided to oppose the second reading of this bill if, in fact, it merely reflects what binds us already? And, indeed, large parts of this bill reflect what the Liberal Party had in a bill which was not finalised but which was introduced during the final stages of the last Liberal government. I will detail our reasons for that possibly at some length.

However, in summary, the fact is that there are not just one or two areas where we feel this bill goes too far, but a whole raft of areas. They could generally be divided into areas where this law goes further than existing commonwealth law—it canvasses the same issues across the same area, but goes further than the commonwealth law; areas where the government has decided to introduce brand new grounds of discrimination; and areas where certain what I have classified as administrative changes are being made that we believe are so unfairly prejudicial to the ordinary person who is not a complainant—the shop proprietor, or the person in the street—that they should never be allowed to become law.

My approach will be, firstly, to go through what the bill says and then to go back and highlight those areas where we think that what the government is trying to do is objectionable. As I said, we believe that there are so many. It is not just a case of one or two issues where we disagree; there are so many issues where we think this bill goes too far that it is necessary for us to oppose the whole of the bill. Clearly, it is not just the Liberal Party; there is a lot of community disquiet about this bill. I had a brief conversation with Dennis Hood and Andrew Evans from Family First at lunch time, and they said that they have already received in excess of 6 000 letters and emails of concern regarding this bill.

I just want to give a bit of flavour about what some of the concerns are. I will refer firstly to a couple of things that have reached my desk this week marked `urgent'. Some people's concerns, I think, are probably misconceiving what the bill is about, but this is typical. The following is a letter from Patricia Buchiw, who wrote:

> ***Dear Madam,***
>
> ***It has been brought to my attention that there is a bill, the Equal Opportunities (Miscellaneous) Amendment Bill 2006, that is in fact in breach of our nation's standards and no doubt our constitution. This bill gives:***
>
> - ***·No place for truth***
> -
> - ***·Disallows freedom of speech.***
> -
> - ***·Disallows religious freedom.***
> -
> - ***·Disallows moral standards to be voiced.***
> -
> - ***·It takes away the right of the individual to live free from fear, (if one speaks the truth he will be under this fear of retribution to the tribunal constantly).***
> -
> - ***·It takes away the right of the individual to be considered innocent until proven guilty. It takes away the right of the poor to defend themselves—for the tribunal must be paid for out of one's own pocket, and the poor would be unable to do this.***
> -
> - ***·This bill takes away religious exemptions.***
> -
> - ***·The commissioner will have broad powers to investigate possible breaches of the Equal Opportunity Act without cause and without government oversight.***
>
> ***The Rann Government considered introducing religious discrimination laws here in 2002, but these laws were then overwhelmingly rejected due to major concerns raised by the public. What has changed since then, why have these laws been resubmitted under a different guise? Laws are aready in***

place protect folk in all the areas necessary for harmony in our society.

Does the S.A. government want a similar situation to occur as has in Victoria where the Victorian Supreme Court in December 2006, upheld an apeal by pastors Danny Nalliah and Danny Scot against their conviction for breaching Victorian religious vilification laws after the tribunal, under Justice Higgins found them guilty.

I beseech you to vote against this Bill and do everything possible to maintain the freedoms we have in our great country.

Yours faithfully
Patricia Buchiw.

The letter continues in a similar vein. I do not know about other members but, certainly, members on this side of the house have received literally hundreds of letters from people in that vein. Also this week I received an open letter signed by a number of barristers and solicitors. The letter stated:

As lawyers, we are deeply concerned about the effect of clause 61 of the Equal Opportunity (Miscellaneous) Amendment Bill, currently before the SA parliament.

Clause 61 expands the definition of victimisation significantly. It is quite different to the current definition. It would make it unlawful by a public act to incite `hatred, serious contempt or severe ridicule' of a person or group of persons on a ground of discrimination under the Equal Opportunity Act. Such grounds include race, nationality, lawful occupation, sex, marital status, pregnancy, potential pregnancy, age, disability, sexuality, chosen gender and religious appearance or dress.

There is no definition of `hatred, serious contempt or severe ridicule'. It is quite foreseeable that religious bodies proclaiming the moral tenets of the religion, or social commentators expressing their opinions on the broad range of matters which are caught up in the definition of victimisation or even talk back hosts involved in legitimate robust discussion

may be open to a claim being made against them, if clause 61 were enacted.

While `inciting of hatred etc' is to be rejected, churches and other religious bodies and social commentators at all levels should be free to fearlessly and openly debate the issues that confront us as a community. If that offends some that is merely a result of living in a free society. The effect of clause 61 could well be to stifle such debate.

There is no demonstrated need for such legislation in South Australia, and the clause should not be enacted.

I will come later to the letter that I received from the Children and the Law Committee, which has responded on a specific issue that arises under the act. However, generally, I have received literally hundreds of letters (as have, no doubt, other people), a lot of them concerned with freedom of speech, freedom to preach according to the tenets of one's religion and a range of other issues that they perceive under the legislation.

I think it needs to be said at the outset that, whilst I have already conceded that some of these people may misconceive some of the implementation and the likely effects of the bill, nevertheless, some of the concerns raised are quite legitimate and, at the very least, the spectre of potential ongoing problems is there and plainly in sight on any reasonable reading of what is being put into this bill. As I said, 6 000 people have already contacted Family First and gone to the bother of writing or emailing with respect to the issues concerning them—and I am reminded of that wonderful saying: `I may not agree, sir, with what you say, but I will defend to the death your right to say it.' That is at the very heart of some of the provisions in this bill.

We need to be careful that we do not stifle reasonable debate and discussion, because in that way we lead our society into far more problems. No-one is suggesting that it is all right to vilify; no-one is suggesting that it is a good thing to incite hatred. However, to legislate in the way in which this legislation attempts to do, I think, will be quite a mistaken notion.

I will move on to what this bill states because even that will take a fair while; it is a complex bill. First, I will deal with a couple of the related amendments to other acts which come as part of the package because they are actually quite simple and, I think, completely non-controversial. They

are the related amendments to the Civil Liability Act 1936 and the Racial Vilification Act 1996.

In the case of the Civil Liability Act, the bill simply prevents double dipping so that a person cannot make a claim for compensation under section 73 (that is the racial vilification clause) and also a claim for compensation for racial vilification under the Equal Opportunity Act, and that is a standard thing to do so that people are not allowed to bring both an unjust dismissal claim and a sexual harassment claim, for instance. We do not allow people to double dip into two separate systems and get compensation for the same act from each system.

In the case of the Racial Vilification Act, the court must consider any award of damages made under the Equal Opportunity Act in determining what damages it should give under the Racial Vilification Act. A person can still make an application and, clearly, there could be circumstances where someone gets little or no compensation under the Equal Opportunity Act and, if they can then make out a claim for the same act under the Racial Vilification Act, that amendment simply provides that they have to take into account what they have already received for their earlier compensation claim. That, of itself, is relatively unobjectionable.

I turn to the actual contents of what this bill seeks to do and, as I said, I will outline firstly what it seeks to do and then I will come back to what we are objecting to. First, the bill amends the definition of disability to reflect the definition in the commonwealth Disability Discrimination Act. As I have already indicated, people in South Australia are already bound by the terms of that act, so the effect of the bill is essentially to make a remedy available in the South Australian commission and, at the moment, they would be required to go to the federal Human Rights and Equal Opportunity Commission. As far as that goes, it is probably not objectionable and, indeed, that will mean that this act will now cover mental illness.

The minister said—and I have no dispute with him over this—in his second reading speech:

Mental illness is not the sufferer's fault, it is not shameful and there is no justification for treating sufferers unfavourably.

I agree that it is not the sufferer's fault and it is not shameful; however, if I were employing someone, I have some doubt about whether or not it is all right to prefer someone who does not suffer from psychosis, for instance. If a person has a drug-induced psychosis and if they are suffering a mental

illness as a result of that, I agree wholeheartedly that it should be treated as just another illness by society at large but, if the effect of the act is to say that an employer cannot decline to employ someone on that basis, I think that is going too far.

On the issue of HIV, the act also prohibits discrimination on the ground that a person is infected with a virus such as HIV, and I note that it does not specify HIV. It provides that it is a defence to say that the refusal was a reasonable measure to prevent the spread of an infectious disease and, as far as that exemption goes, that is sensible. In my view, that exemption does not go far enough because, if I were, for instance, a cafe proprietor—and even though I know that HIV is not spread by someone simply preparing sandwiches, serving food or washing dishes or whatever—I would not necessarily want to take the risk of my business being damaged by having someone who is known to be HIV positive engaged in serving in my business.

The act also extends the idea of disability to not just traceable intellectual disabilities but also to learning disabilities. The Attorney did not give any examples in his second reading speech, but I can only presume that one can no longer discriminate against a person because they have dyslexia if you are employing someone to do your secretarial work, for instance. I spend a lot of time making sure that documents that leave my office are, as far as I can ensure it, accurate and perfectly correct in grammar and spelling and, even though dyslexia is not an insurmountable problem, to extend it to learning disabilities is so broad as to be a real difficulty.

The next area under this heading of disability is that access to premises must be provided. Most commercial and retail premises in the state already provide access for disabled people, particularly those in wheelchairs or with walking difficulties, so the effect of this amendment is not to impose any new burden—they are already entitled to those things and they already exist largely. All that amendment does is to bring us in line with the commonwealth legislation and provide an alternative mechanism for the bringing of complaints so that you can bring your complaint in the local jurisdiction—the local tribunal or commission, for example—and not necessarily have to go to the federal Human Rights and Equal Opportunities Commission. Bringing it there has the advantage not just of being local but more likely to be a conciliated outcome than is likely to be the case if it goes to the federal jurisdiction.

As to carers, the bill extends the coverage of the act to carers by providing that it is unlawful to discriminate against someone on the ground of their caring responsibilities. That is the same as in the commonwealth except that this bill takes the definition wider than the commonwealth legislation. So, it is not limited, for instance, simply to caring for people who live in the same house, and it is broad enough to, in theory, encompass issues of Aboriginal kinship.

A lot of the time when I am assessing the issues in these bills—and I recognise that it is always a balancing act—I am trying to find the reasonable balance between the small business proprietor. There are 85,000 small businesses in this state. They are the backbone of the economy, and the vast majority of them are very small—mum and dad businesses with maybe one or two employees, but they are not big corporations; they are quite small. Members may have heard me before the break talking about the work/life balance select committee that is being proposed by the member for Hartley. I absolutely accept that people have caring responsibilities but, in my view, it is not appropriate to try to legislate to deal with how those relationships between employer and employee should be managed, and it is not reasonable to say to an employer, `You cannot discriminate against someone on the basis of their caring responsibilities.'

So, even if it is self-evident that someone with five preschool and early school-age children is unlikely to be able to hold down a full-time job and work the hours without having in place all sorts of care, it will not be lawful for someone to say, `Well, I will prefer someone who hasn't got those responsibilities'. I think that that is an important distinction to make. We need to think about what constitutes discrimination and what constitutes mere preference, because we all have preferences in life. We prefer things, one against another, every day of the week.

In the early 1990s, Brian Martin QC, as he then was, was commissioned to review this act. He made a recommendation that the coverage for carers should be limited to direct discrimination, but this bill actually extends it to indirect discrimination. It is a little complicated to explain what is direct and what is indirect, but perhaps I could give an example. If I simply said to someone, `Well, I don't want to employ you because you have caring responsibilities', that is clearly direct discrimination. I am simply stating the reason. But, if I said to someone, `I don't want to employ you because I'm going to make the hours such that it becomes impossible for you to get there', that then becomes indirect discrimination. Or, if I said to someone, `I don't employ women', that is direct discrimination against the female

gender. But, if I said to someone, `I don't employ anyone who is under the height of 5 feet 10 inches', then it is indirect discrimination, because although there might occasionally be someone who is 5 feet 10 inches and who is female, most females are under 5 feet 10 inches, and so it is indirect discrimination. Perhaps those couple of examples give enough of a flavour of what is meant by indirect discrimination.

Brian Martin QC's view was that coverage for carers should be limited to direct discrimination; that is, declining to hire or promote because of someone's caring responsibilities. However, the bill proposes to cover both direct and indirect discrimination, so that would cover the setting of requirements that are especially difficult for someone with a carer's responsibilities to meet. Bear in mind, as I said, that the definition of `carer' is extended so far that it will be inclusive of notions of kinship in Aboriginal communities or in other communities where, clearly, people have caring responsibilities.

The second reading speech on that issue suggests that the bill does not entitle carers to special treatment, but it nevertheless leaves open the possibility that employers potentially will have to prove that the requirements that they have imposed were reasonable in the circumstances. As soon as you get to that point, I have a difficulty, because it means that the small business proprietor can be hauled in before the tribunal and forced to explain himself or herself, and there is a range of things that flow from that which I will come to later.

The issue of nursing mothers is also extended. It will be unlawful to discriminate, in the provision of education services or in the provision of goods and services, against a breast-feeding mother. I was a nursing mother for many years. I extensively breast-fed my children, and I fed them in all sorts of peculiar situations. It seems that this particular provision will simply lead to trouble, because there will always be someone who wants to push the envelope and test the boundaries. I do not know of any cafe or anything like that that I have ever been into where a proprietor or manager has been prepared to say, `No, madam, you can't breast-feed your baby in here'. But, first, I think it should be their right to say that if they want to. Secondly—more importantly—they will not even be allowed to say, `I think you should sit in a quiet corner and breast-feed discreetly.'

As I think I said on the radio this morning, any breast-feeding mother knows that if you are feeding your infant you want a quiet corner where you can feed discreetly, because babies, particularly the ones that are not

brand new, are easily distracted from the task. It is not because it is offensive to see someone sitting out in the middle of the cafe or out on the street. I do not have any problem at all with seeing breast-feeding mothers exposing their breasts when feeding their baby. It is the most natural thing in the world; I have no objection to it whatsoever. But I do think that the cafe proprietor, or whatever the business is, should have the right to say, `Could you please sit somewhere where it is a little bit discreet because it may upset other customers.' I have no difficulty with trying to balance those instances in a sensible way. This bill, I think, goes too far in that regard.

Significantly, on this issue of indirect discrimination, the bill reverses the onus of proof. At present, the complainant has to prove that the other party acted unreasonably. That will now change so that the respondent will have to show that he acted reasonably, although, to be fair to the Attorney, that is actually the case under the commonwealth legislation.

I will comment briefly on racial victimisation. Racial vilification is already unlawful under a specific act that we passed in this state, the Racial Vilification Act 1996. Racial victimisation means a public act that incites hatred, serious contempt or severe ridicule for a person or group on the ground of race. The amendment basically has the effect of adding a new remedy or a new potential remedy to what is already unlawful under the existing legislation.

In the government's view, the equal opportunity path of conciliation is more likely to lead to a better outcome. There may be some merit in that argument. Certainly, the remedies available in the equal opportunities legislation and under the Equal Opportunities Commission are broader, such as an apology or an order to perform a particular service, or something like that. So, there may be some merit in the government's argument on racial victimisation.

Then we come to the idea of fomenting public hatred. It will be an offence to foment public hatred against anyone or against any group on the ground of race, age, sexuality or disability. The offence will require a public act which, on an objective assessment, incites hatred, serious contempt or severe ridicule. There is no definition of what those things mean, how one incites those things, or how you prove that hatred, serious contempt or severe ridicule have indeed been incited by an act. There is a defence of what you have done being a reasonable act or a fair report in good faith in the public interest.

However, as I already indicated, part of the problem is that as soon as these sorts of provisions are created in legislation, there will always be someone who wants to test the water and there will therefore be situations where people who are really doing nothing more than expressing an opinion face the potential of being dragged in and having to justify themselves. I will come back to that in a good deal more detail later. As I said, I am just going through to explain what is in this legislation at the present time. That provision, by the way, reflects the existing commonwealth legislation.

The bill also deals with independent contractors. It provides that it will be unlawful to discriminate against independent contractors in a workplace, wherever discrimination against an employee would be unlawful. Of course, this is a result of the fact that so many people now are engaged not as employees but as independent contractors, particularly in the trades. People set up their own business and become independent contractors in building, or whatever organisation or whatever type of employment. They are engaged on a contract of service as an independent contractor rather than becoming an employee who has entitlements to regular wages, holiday pay, long service leave, superannuation, and so on. Mostly, it is now the burden of the independent contractor. They are now very common and what this does is to make it unlawful to discriminate against someone in the workplace who is an independent contractor, just as it is already unlawful to discriminate in the workplace against someone who is an employee. So, there will be no distinction between an employer's obligations with regard to independent contractors compared to their obligations with regard to their own employees.

The existing exemption for employing people or engaging independent contractors in one's own home will be continued, although the mechanism by which that is achieved is slightly different. But if you engage people to work in your own home through an employment agency, the exemption will not apply and the discrimination provisions will apply.

As I indicated earlier, there are several new grounds of discrimination. The first of these is the identity of your spouse. Brian Martin, the QC who made recommendations in the 1990s about the revision of this act, recommended that it should be unlawful that anyone be treated unfavourably because of the identity of their spouse, although he did recognise that there may be circumstances where the identity of a person's spouse was a reasonable basis for discrimination. It is easy to imagine that if any of our spouses applied for a job in the office of a member on the

opposite side of the chamber, then there would probably be grounds to say that it is reasonable to discriminate.

I have not seen any evidence as to this being a problem, so that is my first issue with that particular aspect. It is a new ground of discrimination, but I have not actually come across anyone having a problem with spouses and people being denied employment because of one's spouse. Although, if there were such a problem, apart from in a public institution, I cannot see that it should be a ground of discrimination. For instance, if my spouse applied for a job and the employer said, `You're married to Isobel Redmond. I hate her; I'm not going to employ you,' why shouldn't they be allowed to say and do that? That should be their right. So, I have some little difficulty with the concept of extending to the identity of one's spouse, although I accept that there is a provision for discriminating where there is a reasonable basis for discrimination.

The next new ground for discrimination is that based on a person's profession, trade or other lawful occupation. It is all right to discriminate against someone on the basis of an occupation which is not lawful, so presumably one can discriminate against prostitutes. So, it will be lawful to discriminate against people, such as criminals, who have an unlawful occupation, but not otherwise lawful to discriminate against someone whose job may attract hostility, for instance.

That was the essence of what the government referred to in the second reading explanation, I believe. It argued that there are many necessary and lawful jobs which, by their very nature, may attract hostility. That is true, but it seems to me that it should be lawful to discriminate if one chooses to. By way of example, I suggest that if I were running a cafe and someone like an overly officious parking inspector was pinging my customers as soon as they were one minute past the expiry time on their meters outside my cafe, then I should be allowed to say, `I'm sorry, I don't want to serve you. You are destroying my business because you're being such an overbearing so and so and I don't want to serve you because of that.'

I do not have a problem with anyone being allowed to do that, nor do I have a problem if someone says, `I hate politicians: I'm not going to serve you.' Why should they not be allowed to say that? It seems to me that we are legislating to a point of political correctness that is just going mad. Another new ground of discrimination is that of one's area of residence. This new ground is limited to the field of work, so it is only in the case of employment, but an employer cannot refuse to hire a worker or subject him to any detriment because of where he lives or has lived. I presume that it

would nevertheless be lawful for an employer to say, for instance, `I'm a bit doubtful about whether you can get from the far southern suburbs to my factory at the other side of the city and north of Elizabeth by 6 o'clock in the morning when I need to start', although that could be deemed to be indirect discrimination.

So, I have a number of questions about this. First, why is it necessary? I have not come across it being a problem. I actually want to be able to prefer local people in employment. Indeed, I have had several trainees in my office since I have been in this parliament, and I always try to give the job to a local kid. I would continue to do that were it not to become unlawful for me to do so because it is an objectionable act under the proposed area of residence provision. It seems to me that there are problems with that and, again, there is no justification for it. There is no evidence that this is actually a problem. Why should an employer not be free to choose who they want for whatever reasons they want to employ them?

The next point is probably one of the most contentious items and, indeed, one on which I will make comments but these comments are very much my own comments, because we have a party decision that this will be a conscience vote. This is the idea of not being able to discriminate against someone on the basis of their dress, adornment or appearance if that dress, adornment or appearance is because of religious reasons, such as a nun's habit, a hijab worn by Muslim women or, indeed, a crucifix or whatever it is. It will be unlawful to discriminate for the purposes of education or employment because of anyone's religious dress or appearance. There are some exceptions for genuine safety reasons so, presumably, if you were wearing full flowing robes or something like that, that might be a problem for safety reasons in an area where you have to wear a hard hat and steel-capped boots.

Nevertheless, that is the nature of the exemption. I have really significant difficulties with this. I note that the member for Mitchell is here, and he is proposing an amendment that would at least make the provision consistent, but the effect of this is that it would be lawful for me to say to someone, `I'm not going to employ you, because you're a Muslim and I hate Muslims', but it will be unlawful for me to say to someone, `I'm not going to employ you because you are dressed in Muslim dress.' That is just such a huge inconsistency. I cannot understand how the government can possibly mount an argument to say that you can discriminate on the basis of someone's religion but you cannot discriminate on the basis of their religious attire. That is just inconsistent.

My view is that you should either go the whole way, which the member for Mitchell is proposing—that is, that it becomes unlawful to discriminate against someone because of their religion or because of their religious appearance—or you do neither. This crazy halfway house where I can discriminate against someone on the basis of their religion, by saying, `I hate Catholics', or whatever it is, but I cannot discriminate against someone on the basis of their wearing a religious outfit makes no sense at all to me. It strikes me as being totally inconsistent. As I said, it will be a conscience vote and, no doubt, we will deal with it when the member for Mitchell's amendment is being debated.

It also becomes unlawful to discriminate on the basis of past or presumed characteristics. The law currently makes it unlawful to discriminate on the ground of a characteristic that a person now has but it will also be unlawful to discriminate because a person had a characteristic in the past or may have it in the future. The only example I can think of—because none is mentioned in the second reading explanation—would be a pregnancy of a female, but that is dealt with under another specific piece of the legislation. The essence of it, if you apply this to a pregnancy, would be that not only is it illegal to discriminate on the grounds of a current pregnancy but it would be illegal to discriminate on the ground that a female has already had one or more children and may be likely to have children in the future.

As I said, I am a bit puzzled as to exactly what the government is trying to get at. It did not explain this in the second reading explanation and, with the only example I can think of being a female's pregnancy being dealt with in a separate section, I am a little bit puzzled as to actually what it is trying to get at.

Another extension is in the area of characteristics of associates, and this refers to discrimination on the ground of associating with persons who have any of the characteristics protected by the act. So it is unlawful to discriminate against someone because they are in the company of someone who, for instance, has a disability or (and more likely, I suspect) if someone decided they were not going to allow Aboriginals into a pub—and it is not so many years ago that that was probably quite common. I find that objectionable. This particular measure provides that a person accompanied by an Aboriginal who is refused entry cannot be refused entry because they are in the company of that person who is being refused entry.

Again, there are some exemptions pointed out in the act so there are certain characteristics of associates which may be lawful considerations in some circumstances—for example, if someone was applying for a security licence and they were a known associate of bikie gangs then that becomes lawful. Now, whilst I agree with the thrust of that it is very difficult to understand how it will be policed, how we can say we will not give a licence to this person, who has an otherwise unblemished record, because we believe they associate with someone else. Again, `associate' is an ill-defined term.

That really covers the new areas of discrimination. The next area I want to canvass under the bill is that of sex discrimination, and there are a number of aspects of this which I believe are highly objectionable. Replacing references to `trans-gender' and instead referring to `chosen gender' is consistent with other legislation and not objectionable. As I indicated earlier, the coverage of the act is extended to potential pregnancy—that comes in under this sex discrimination area—so it will be illegal to discriminate in employment on the basis that a woman may become pregnant. That is where the specific provision now appears about pregnancy. The provisions relating to marital status are also moved in here, although they are the same as they appear in the current act.

Most importantly, the bill does a couple of things. It changes the present law about the rights of religious institutions to discriminate on the ground of sexuality. At the moment there is an exemption for any institution that is run in accordance with the precepts of a particular religion; such an institution comes under the exemption so they can discriminate in their administration on the ground of sexuality, provided that the discrimination is based on the precepts of the religion. So religious schools can use the exemption to avoid hiring homosexual staff if they say that, as part of their religion, they are against homosexuality.

The government says it consulted with the Independent Schools Board and also says that to date the exemption has only been used for that purpose—that is, of discriminating against the employment of a homosexual staff member in a religious school. The government wants to narrow the operation so that that is all that the exemption can be used for; if, for instance, the same religious institution ran a hospital they would not be allowed to use that same exemption to avoid employing a homosexual doctor. That makes no sense. It seems to me that the government is creating an inconsistency if it restricts the exemption so that it can only be used to avoid the hiring of homosexual teachers. It also goes on to make

some obligations about publicly disclosing that policy and allowing the Commissioner to put that onto the web.

The Association of Independent Schools has written me a comprehensive letter. I will not go through all the details of it, but it is interesting that the government says it consulted with the Independent Schools Board yet the letter from the Association of Independent Schools of South Australia states, in part, that:

> ***Many of the amendments proposed by the government will directly impinge on the ability of independent schools to operate within their religious faith. . . other amendments will generate complex administrative procedures that we consider will be detrimental to the management of schools.***

The letter goes on to make a number of suggestions regarding what the association would like to see.

The narrowing of that exemption is unnecessary, and it creates an illogical divide between the way religious institutions can deal with their employees, volunteers and everyone else on the one hand and the way they can deal with hiring staff of a school on the other. It seems to me that there is no basis upon which to change the existing exemption.

A further narrowing of the exemption will prevent associations such as clubs and charities—service clubs and sporting clubs and so on—from discriminating on the ground of sexuality. The only exemption now will be a limited exception for associations administered in accordance with the precepts of religion. Now, talking to people who have been in footy clubs and the like, the reality is that they do not really care what anyone's sexuality is, they just want the best football players (or whatever) in their club. It is not an issue, it is not a problem that is actually rearing its head and needing to be addressed. The government is taking this political correctness way out there for no apparent reason, saying that it is going to narrow the exemptions and when they apply.

There are a couple of other areas which I will cover briefly before I get on to the issue of sexual harassment, which is probably the main provision of this particular section. Section 33(2) of the Equal Opportunity Act currently provides that a partnership of up to five people can refuse a person partnership on the ground of sexuality. That exemption is peculiar to this state; it is not the same in commonwealth legislation and not is not the same in any other state.

I have not had time to look up the debate that led to that being in there, but it is a little odd to find that if you have up to five people in the partnership you can decide that you will not have a partner because they are gay. Again, in other places there is no restriction. If you have a partnership you cannot exclude someone on the basis of their sexuality. However, it seems to me to be a bit of a nonsense to be legislating about it. People go into partnerships for all sorts of reasons, and people are hardly likely to sit there and say, `Well, we didn't engage him as a partner because he is gay.'

The fact is that partners must get on with each other. They must work in a combined joint effort to achieve a concerted outcome for the good of them all. Unless they get on really well, they will not operate successfully in a partnership. It seems to me that, in any partnership of whatever size, it should be up to the partners to decide who they want to have as a partner for whatever reasons they want to. Nevertheless, at least that provision where the government is proposing to remove that limit would bring us into line with the other states and the commonwealth.

A further amendment makes it clear that the existing exemption, which allows discrimination and the taking in of lodgers if it is where your own family resides, will now be limited to lodging in one's own home. I do not understand the difference between lodging in one's own home and lodging where your own family resides. Indeed, at one of the three briefings I attended last year, an officer of the department said that they would get clarification on how the proposed clause differs from the current situation, because they were not able to explain it. This is one of the issues they could not explain at the briefings, and they have not got back to me to explain the difference. I still await further information.

The issue of sexual harassment is one where I have particular difficulty with what the government proposes. Some bits of it I do not have a problem with. First, it makes the language consistent with what appears in the commonwealth legislation so that everyone is using the same language, and that is almost always a helpful thing. It then extends the existing coverage to include not only harassment by providers of goods, services, lodgings and so on but also harassment against them. That gives rise to some interesting possibilities. For example, if someone who is selling things in a shop, or whatever, feels they have been sexually harassed by a customer they can bring a complaint against the customer. Mind you, there might be difficulties with identifying who it is, and so on. The third principle, involving vicarious liability, that is, where an employer is liable

for the acts of their employee, is extended to sexual harassment under the state law—

The Hon. M.J. Atkinson interjecting:

Mrs REDMOND: I prefer my pronunciation of harassment.

The Hon. M.J. Atkinson: That is American.

Mrs REDMOND: I married an American. It is already the case under the federal law and, indeed, it is a provision with which I do not have a particular problem. It does not make any sense to me that employers can avoid being vicariously liable for harassment by their employee for the most part, unless they can show that they have taken reasonable steps to prevent the harassment from occurring. The bill then goes a little further and compels an employer to have in place an appropriate policy to prevent harassment and to take reasonable steps to carry out that policy, including reasonable steps to make the policy known to the staff.

I know that this is an issue of particular concern to the member for Unley, who wants to keep more of a tab on the extent to which this government is imposing red tape on businesses. Insisting that every business write a policy about sexual harassment is a nonsense. However, in order to access that defence—that they have taken reasonable steps to prevent anything occurring in the way of harassment—they will have had to develop the policy, had it published in some way to their staff and taken reasonable steps to carry it out, which presupposes that the policy will involve some sort of investigation and conciliation procedure, and so on.

Most importantly, though, this bill extends these sexual harassment provisions to schools and, in particular, to all secondary students. That goes way too far, in my view. In his report, Brian Martin QC did recommend that the provisions with respect to sexual harassment be extended to school students, in particular those over the age of 16. However, this bill imposes these obligations on all secondary students. One can imagine what imposing a legislative framework to try to control the relationships among 12 year olds does, because that is how young our high school students generally are when they start. I was still 11, I think, when I started high school.

It is way too young to be imposing a legislative framework on these students. The bill says that there will be a requirement for it to be dealt with in-house (within the school), that (I forget the exact wording)

reasonable steps will be taken to deal with it in-house and that there cannot be an award of monetary compensation for this sort of situation. However, that does not mean that there will not be people who, again, push the envelope, test the water. I am aware that young women are around who will make outrageous allegations about the behaviour of people, particularly young boys, that could land them in tribunal proceedings.

It could incur significant costs for their parents. It could result in significant emotional distress for all the parties concerned. It is simply, in my view, inappropriate to try to create a legislative framework to govern kids growing up and going through all the sorts of things that we all went through when we were growing up. I am aware that state schools already have harassment policies and so do independent schools. I am absolutely fine about having that, but to then extend it and say, `We will involve the possibility of tribunal hearings' and the whole thing getting blown way out of the level with which it should be dealt is inappropriate to me.

Lastly, I come to the areas which I would classify as the administrative provisions. The administrative provisions basically change some of the basic mechanisms and the ways in which this act deals with complaints. The first one is that the present six month limit to bring a complaint will be extended to 12 months. No evidence was given, or a statement made, or anything else as to why it was considered that such an extension of time would be necessary.

The Hon. M.J. Atkinson: It's in the second reading.

Mrs REDMOND: The Attorney refers to the second reading, but there was not any justification in his second reading for why we have to move suddenly to having 12 months to bring a complaint. For instance, when you think that, under our unfair dismissal laws at the state level, it is three weeks to bring a complaint of unfair dismissal. However, this legislation seeks to extend the limit from six months to 12 months for no reason. It also allows a representative complaint to be made; that is, a union can become involved in bringing a complaint. Indeed, the bill will allow a non-aggrieved party to bring a complaint. So, a trade union could bring a complaint and, what is more, they can bring that representative complaint as a non-aggrieved party without there even being someone complaining about the act in question.

It will bind whoever consents to be represented, but for no reason that just hands power to unions. I can only guess that the government wants to be a sop to the unions and to try to get the unions a little more power than

they have been enjoying for the last few years as their membership has dropped off. Certainly, if they can come into a workplace and institute proceedings in the tribunal without anyone even bringing a complaint, then they have considerable power, which is unnecessary and unwarranted and which will be detrimental to the management of business in this state.

I would have to agree with the government in terms of the role of the commissioner. At the moment, the commissioner basically has two roles and there is a conflict between those two roles. In the first instance, the commissioner has to investigate the complaint and then try to conciliate it but, if the conciliation does not work and it goes on to a hearing, then the commissioner becomes the advocate for the complainant in the proceedings. Even those without a legal background readily see that there is a conflict of interest in the commissioner's role: on the one hand, to be the investigator and conciliator and, on the other hand, then to go to the tribunal as the advocate for the complainant. No respondent in those proceedings, in my view, would feel confident that the commissioner was even-handed when the commissioner then turns around and acts for one party to the detriment of the other. Certainly as a legal practitioner you would never have been allowed to.

I am all in favour of that change. It was recommended by Martin and I am quite comfortable with that particular change. However, one of the consequences which the government says flows from that is something with which I do not agree. At the moment, the complainant is then represented by the commissioner. This bill will take away the ability of the commissioner to represent the complainant and the government will fund the complainant. The government will ensure that the complainant gets legal services funding. As I have already mentioned, many respondents in these claims will be some of the 85,000 small businesses in this state. They do not receive a guarantee of funding.

No doubt they could apply for legal aid funding but, given the restrictions on legal aid funding, I suggest it would be extremely difficult for them to succeed in getting any. So, we end up with a situation where the complainant gets automatic entitlement to legal funding, regardless of merit, if it is referred off by the commissioner, but the respondent gets no equivalent right. That, in my view, is unfair and an unreasonable imposition on the respondent who, as I said, will largely be the people running small businesses.

The bill also takes up the recommendation of Brian Martin that the commissioner's role will be limited to deciding whether a complaint should

be accepted in the first instance and, if it is accepted, then conciliating it. If the conciliation is not successful, then any further task of fact finding is to be left to the tribunal. This again relates to this issue of the conflict of interest which currently exists in the commissioner's powers. The commissioner will still have powers to make submissions to the tribunal—not as a representative of either party or any party, but rather to assist the tribunal. The commissioner will also be able to intervene, if given leave, in industrial proceedings under the Fair Work Act.

The bill also authorises the commissioner to investigate suspected unlawful conduct even if there is no complaint. Whilst I have every confidence (as does the Attorney) in the current commissioner, there is no guarantee about how one appointed in the future might behave.

In line with what the federal legislation does, it is important to understand that, with respect to the grounds of discrimination that are set out in this legislation, consistently, through all the different grounds of legislation, the bill provides that, if someone makes a decision and the decision is based on two or more reasons, one of which happens to be something that is objectionable under the act—so, they might have all sorts of other reasons; they might have a dozen different reasons for not employing someone, but if one of the reasons for not employing someone is a ground of discrimination under the act—this will deem that they have discriminated. It would not matter if there were 100 different reasons why they did not employ someone: if one reason was a ground of discrimination under the act, then they are deemed to have discriminated. That basically outlines where this act is heading and what the government is doing.

Interestingly, it did not adopt the recommendation of Brian Martin to replace the Equal Opportunity Tribunal with a division of the District Court and it did not propose other new grounds of discrimination, such as political activity, industrial activity and physical features. I have seen situations where people who are perfectly competent in their job and who are perfectly clean and tidy, have been asked to leave a firm because they did not fit the image that that firm wanted to promote of being young and gorgeous, and so on—not even fat or ugly; just an ordinary looking person who did not fit the young, trendy image.

It certainly does happen, but I do not think it is up to us to legislate to stop people from doing that. If that is what they want, then let them go. They will soon learn that looking young and trendy is not the be-all and end-all of running a successful business. If they want to discriminate or

prefer on that ground, I do not think it is up to governments to try to stop them and to try to be so politically correct that we hogtie everyone who is trying to run a business. People running businesses are interested in having good employees and good relationships with employees and, for the most part, that is what happens. However, there will always be—

The Hon. M.J. Atkinson: So in Belfast where they have signs saying, `No Catholics welcome', you are happy with that? They are running a shipbuilding business and they don't need papists on their staff.

Mr Hanna interjecting:

Mrs REDMOND: As the member for Mitchell said, so is the Attorney-General. I will now return to the issues about which the Liberal Party is particularly disquieted by what the government is seeking to do in this legislation. As I said (although I think the Attorney was not here when I mentioned it), I was a little puzzled by his comment this morning—

The Hon. M.J. Atkinson: All members are always in the chamber. Ask Gunny.

Mrs REDMOND: I am glad that the Attorney has reminded me that all members are always in the chamber. Therefore, no doubt, he did earlier hear me say that I was puzzled by his comment on the radio this morning that this will take months, if not years, to progress—

The Hon. M.J. Atkinson: That's right.

Mrs REDMOND: —given that it is listed for completion tonight.

The Hon. M.J. Atkinson: Yes—fat chance! They didn't ask me. I could have told them.

The ACTING SPEAKER (Mr Kenyon): Order, Attorney!

Mrs REDMOND: I want to canvass, for my own benefit as much as anyone else's, the issue of religious dress versus religion. As I have already pointed out, the member for Mitchell's amendment, whichever way people vote on it, would at least make things consistent. Either it becomes illegal to discriminate on both the ground of religious dress and the ground of religion or it is neither. To have this straight halfway house is just a little bit odd. By way of background, the current Equal Opportunity Act in this state does not prohibit discrimination on the grounds of religion. It

currently prohibits discrimination on the grounds of race (and there may sometimes be an overlap), disability, sex, sexuality, marital status, age or pregnancy. Those grounds of discrimination are restricted to the areas of employment, education, superannuation, the supply of goods and services and accommodation. In other words, there is no blanket prohibition on those forms of discrimination; they are simply forms of discrimination that are objectionable in employment, and so on.

There is a common assumption that a prohibition against religious discrimination was in the legislation that was passed all that time ago, but that is not so. It has been banned in a number of other jurisdictions—although, notably, not here or in New South Wales. What happened was that, in 1994, Brian Martin was commissioned by the Liberal government to report on the operation of our existing act. However, he did not have religion included in his terms of reference, so nothing happened then. He recommended a number of amendments, but nothing much changed in terms of religion. Then this government put its toe in the water on the issue of religion some time ago, but took it out very quickly.

In 1996, the Liberal government passed the Racial Vilification Act. That act creates an offence of committing a public act which incites hatred, serious contempt or severe ridicule (so, the same terminology) on the ground of race. As I said, a lot of people confuse race and religion, and sometimes there will be an overlap. It said that it is an offence to commit a public act which incites hatred, serious contempt or severe ridicule of a person or a group on the ground of race by threatening physical harm to person or property. The offence is contained in our Criminal Law Consolidation Act as well as being a civil remedy available under the Racial Discrimination Act. So, it is aimed at racial discrimination and there can be a perception that people of a particular religion will also be people of a particular race and, therefore, people often assume that there is already legislation in place about religious vilification. For instance, Jews or Sikhs or so on may be perceived as being covered by the racial vilification act when, in fact, they may not be.

At the 2002 election, the ALP had a policy which, no doubt, the member for Mitchell remembers, if no other Labor member. That policy was that Labor would make it illegal to discriminate against someone on the basis of their religion. The Liberal opposition opposed the government on this issue both as to discrimination and vilification, and the leaders of churches—not just Christian churches but also Muslim and other churches—agreed with us and, in fact, the government abandoned that proposal. Interestingly, the government has chosen to put such victimisation into the

act now and to do so it is using an existing clause, which is quite narrow in its scope, to expand it in an extraordinary way.

The existing provision for victimisation in the Equal Opportunity Act only relates to victimising someone because they have brought a claim under that act, or they are involved in a claim or the giving of evidence in a claim, or in some way they are victimised because of their association with a claim under the act for all the other sorts of discrimination that already exist. However, the proposal in this bill—and this is probably the clause which is of most concern in most of the hundreds of letters—expands that enormously to say that, `We will include in the idea of victimisation a public act inciting hatred, serious contempt or severe ridicule of a person or group of persons on the ground of discrimination that is unlawful by virtue of the act.'

A lot of people have been very concerned. No doubt the Attorney will go into some detail about this in his response. Quite famously, a lot of people would be aware of what is known as the Catch the Fire case in Victoria where section 8 of the Victorian Racial and Religious Tolerance Act 2001—

The Hon. M.J. Atkinson: Something like that will happen in South Australia over my dead body. Is that clear enough for you?

Mrs REDMOND: In 2002, two Assemblies of God pastors spoke at a seminar on Islam and holy jihad. They quoted the Koran and they made disparaging comments on aspects of Islam. For example, the Koran teaches that women are of little value and so on, and you and I and everyone here knows that you can selectively cite scripture from any book and make it sound as though it is preposterous, and I would hate to think that, as a Christian, my religious beliefs are identified with some of the Deep South of America.

The Hon. M.J. Atkinson: What an appalling reflection on Southern Baptists! They're fine people. I was in South Carolina last week.

Mrs REDMOND: Not necessarily the Southern Baptists but, you know, some of the very fundamentalist religions.

Ms Fox interjecting:

Mrs REDMOND: Okay, back to the Assemblies of God pastors. They gave this seminar and—

The Hon. M.J. Atkinson: No, Catch the Fire Ministries. Could you get it right, please?

Mr Hanna: She did get it right.

The ACTING SPEAKER: Order!

Mrs REDMOND: The seminar—

The Hon. M.J. Atkinson: We know you hate the Assemblies of God.

The ACTING SPEAKER: Order!

Mrs REDMOND: The seminar was advertised and some people came along from the Islamic Council of Victoria and they recorded those proceedings. They complained.

Ms Fox: Rightly so.

Mrs REDMOND: When the pastors refused to apologise, the Islamic Council of Victoria instituted proceedings against the pastors. I note that the member for Bright is saying `And rightly so.' It is interesting then that the member for Bright does not agree with her government's position on this, and I would be interested to hear her second reading contribution extolling the virtues which are in direct opposition to what her government is proposing to do because I can only assume—

Ms Fox: It was racial vilification.

The ACTING SPEAKER: Order!

Mrs REDMOND: —that the member for Bright is intending to cross the floor and vote against the party. It has been nice knowing you, member for Bright.

Ms Fox interjecting:

The ACTING SPEAKER: Order! Comments will be directed through the chair.

Mrs REDMOND: Thank you, Mr Acting Speaker. After a very long hearing the Victorian tribunal ruled against the pastors and ordered them to publish detailed apologies and, yes—

The Hon. M.J. Atkinson: It is awful what they went through and it won't happen in South Australia on my watch. It will not happen.

Mrs REDMOND: They then ended up in the Supreme Court of Victoria and, on 14 December 2006, very recently, the Victorian Supreme Court upheld the appeal on the ground that many errors were made in the tribunal which originally heard the case. Having won at that level, it has been referred back to another judge of the tribunal for proper orders to be made.

The Hon. M.J. Atkinson: That's Victoria, but it won't be happening here unless you bring it in.

Mrs REDMOND: The Festival of Light, for instance, raised the issue in their letter about the fact that the Racial and Religious Tolerance Act sounds quite similar in its terms—namely section 8(1), which was the section under which the complaint was made in Victoria—to what is proposed here. That is as follows:

> ***a person must not, on the ground of the religious belief or activity of another person or class of persons, engage in conduct that incites hatred against, serious contempt for, or revulsion or severe ridicule of, that other person or class of persons.***

I note that the Attorney has been interjecting that not under his watch would any such law be brought in here in South Australia.

In fact, the Festival of Light is correct. It is not often that I agree with the Festival of Light, but it is correct in saying, `Well, that sounds pretty much like what is in the proposed clause that is being introduced in South Australia.' Given that, as I have already indicated, the matter is not actually completely resolved inasmuch as the pastors have been absolved at the Supreme Court, but the matter has actually been referred back for reconsideration in the tribunal where it was originally heard.

The government has consistently said that this cannot happen in South Australia on the basis that the inclusion of `on a ground of discrimination that is unlawful by virtue of this act' makes it clear that victimisation is

prohibited only if it is based on the particular forms of discrimination that are made unlawful under the act. Those existing grounds include: race, sex, sexuality, disability, marital status, age, pregnancy, identity of a spouse, association with a child, caring responsibilities, and so on. Religious discrimination per se will not be unlawful under the act, but I think that the public concern that has been loudly and strongly voiced is legitimate. No matter what guarantee the Attorney gives, there can be no guarantee that a complaint will even get off the ground, because the Attorney is not the decision-maker on whether or not a complaint has legs.

Even if ultimately there is no substance in the complaint and it is not upheld, it nevertheless exposes people to the possibility of having to face a tribunal and then possibly, as in Victoria, appeal to a higher court to absolve themselves of having done wrong. There is a significant concern which is, in my view, quite soundly based. I want to make it very clear that I do not approve of racial or any other form of vilification. But, as I said earlier, I may not agree, sir, with what you say, but I will defend to the death your right to say it. This is about freedom of speech; this is about engaging and encouraging open public debate. We do not want to create a society where people are afraid to voice their opinions, because in my view that, in fact, allows hatred to fester more than if you have proper debate.

Maybe the answer in the `Catch the Fire' case would have been for the Islamic Council of Victoria to be invited to speak at the same seminar and say, `Well, no; you are misrepresenting what we believe.' I am not suggesting that that has to occur; I am merely saying that, as a society, we hold very dear—is it not enshrined in our Constitution—the idea that people should be allowed to speak their mind. I have considerable difficulty with the idea that we will now put in this section 61. It is illogical, in the first place, because it only prohibits vilification on the ground of religious appearance or dress. It would be lawful to incite contempt for Muslims or Christians generally, but unlawful to incite contempt for people who wear Muslim headdress or a crucifix, or whatever, and it will give a forum for zealots on either side of this debate.

I think, in fact, that the Attorney and I are at one about the idea that it is impossible to try to legislate for some of these issues. But trying to control and inhibit reasonable discussion and the ability of any person to get up and say what they think seems to be a vast backward step.

As members may be aware, I grew up in Sydney where the Domain was famous for providing soap boxes. People used to just go to the Domain on a Sunday morning and get up and spruik whatever their views might be.

The more people expose their views to the public, the more likely we are, in my view, to have a settled society which is tolerant and accepting, and people who have what I would consider to be crazy views will soon be identified as being a bit loopy. I do not particularly have a problem with the issues that have been raised by all of these people. I think that they are actual issues of concern, and they are, indeed, part of the fundamental reason why we will be opposing the second reading of this bill.

We are also opposed to the new grounds of discrimination of the identity of the spouse, the issue of a lawful occupation, or the area of residence. As I think I have already explained, each of these do not suggest themselves as obvious areas where people are concerned about having been discriminated against. I have not seen anything to suggest that there has been a rash of complaints because people feel that they have been discriminated against because of where they live or because of the identity of their spouse.

Mr Pisoni: The Premier should live up north in his electorate instead of in Norwood.

Mrs REDMOND: Well said. As the member for Unley commented, perhaps the Premier should live up north in his electorate instead of in Norwood. I do not have any difficulty with the idea that we should be able to prefer or not prefer or to discriminate or not discriminate against people on the basis of their occupation. As I said, if I went into a cafe in the proprietor said, `Well, I'm not going to serve you because you're a politician, and I hate politicians', that is, in my view, a perfectly good entitlement of the proprietor of any business to say that. I do not think it is particularly sensible for proprietors of businesses to go around doing that.

The Hon. M.J. Atkinson: What if he says he is not going to serve you because you are an Aboriginal? What about that? Do you support that too?

Mrs REDMOND: That is already illegal under the Racial Discrimination Act.

The Hon. M.J. Atkinson: Yes; but what is your view? Don't try to escape it that way; tell us what your view is.

Mrs REDMOND: I am not trying to escape it; I am not answering it. The opposition believes that those new grounds of discrimination are unnecessary. They represent an unnecessary infringement on the freedom

of individuals to address a problem that has not been shown to exist. As for the administrative changes, as I termed them, we oppose—

The Hon. M.J. Atkinson: And you are voting against the mental illness provisions.

Mrs REDMOND: Well, we are voting against the whole of the second reading, but we oppose the majority of the administrative changes. There is no basis for an extension of the time limit from six months to 12 months. There is no basis for allowing a trade union to initiate a complaint and bring a representative complaint without there even being a person wanting to complain. There is certainly no basis for providing preferential treatment to the complainant in guaranteeing legal aid funding as against the respondent who will not have a guarantee of any such funding. We also oppose the idea that the onus of proof in cases of indirect discrimination will be reversed. So, there are various things.

We do not actually have a problem with the extension of vicarious liability to employers for sexual harassment, and we do not have particular difficulty with the removal of the threshold for partnerships. It does not make much sense that partnerships of less than six people should have different rules to partnerships of more than six people. We completely understand and support the nature of the change of the role of the commissioner so that, if a complaint proceeds beyond the conciliation stage, the commissioner is not then the advocate for the complainant. So, on those administrative type things, with a couple of exceptions, we oppose them, but where they are quite sensible, we are prepared to indicate that they are not problems to us. Although, as I said, we will be opposing the whole of the bill because there are so many areas. I explained at the beginning of my remarks in the Attorney's very quiet presence in the chamber—since he was present at all times—that in circumstances where there were less things to complain about, we might have been minded to—

The Hon. M.J. Atkinson: Fewer things to complain about.

Mrs REDMOND: That is twice today you have picked me up on `less' instead of `fewer'.

The Hon. M.J. Atkinson: Would you correct yourself, please?

Mrs REDMOND: And it is correct. There are fewer things to complain about.

The Hon. M.J. Atkinson: Thank you.

The ACTING SPEAKER: Don't let him get away with that.

Mrs REDMOND: But he is correct. If there were fewer matters on which we disagreed, we might have been minded to support this legislation because, as I indicated, a large majority of it is simply reflecting what already binds everyone in this state under the commonwealth legislation. A large part of it is what, indeed, a previous Liberal government introduced.

The Hon. M.J. Atkinson: Yes, 80 per cent.

Mrs REDMOND: Well, I have not actually calculated the exact percentage. I must say that I attempted to calculate it with some exactness, and approximately 80 per cent would probably be about right. Approximately 80 per cent of this bill is not objectionable, but the other 20 per cent is so objectionable that we feel bound to oppose the whole of the second reading and to try to put the brakes on the government, because we believe very strongly that they are heading down the wrong path.

The idea of extending sexual harassment legislation to cover students as young as 12 is preposterous. It is a step backwards. It is the wrong way to go. I do not know how many ways I can say it. The idea of potentially exposing 12-year-olds to proceedings in a tribunal is a nonsense and should not be indulged. We will continue to oppose that. The idea of narrowing the exemption that currently exists in relation to religious institutions creates an unnecessary and silly inconsistency. The idea that you will be allowed to discriminate on the ground of sexuality if you are a religious institution and you are employing staff in an education institution, but you cannot discriminate in the case of other religious institutions—so, the same religious institution running a hospital or anything else cannot use the same basis for the employment of its staff. It makes no sense to create a dividing line where there should not be a dividing line and to make a distinction where there is no distinction at the moment is unnecessary.

The idea of the broader definition of caring responsibilities is also problematic to us. The idea that caring responsibilities will be so broad as to not just include making it unlawful to discriminate on the basis of caring responsibilities because you have someone in your household, or a relative, but someone who is not even necessarily in the household or an actual relative is, in our view, taking it too far. It certainly goes beyond what the commonwealth legislation does.

In essence, what we are trying to say to the government is: stop and think again. There is too much inconsistency. There is too much at stake here in terms of freedom of speech. There is too much agitation in the community. The community is concerned. Tonight is one of the few nights that we actually have an audience up in the gallery listening to the debate, because people are concerned enough to be sitting here at this hour of the night listening to the debate on this topic, simply because they are concerned about what this bill has the potential to do to the freedoms that we normally enjoy.

If there was some great problem being addressed then maybe we would be prepared to move a bit, but the fact is that the government has not indicated or demonstrated that there is a problem that needs to be addressed. We think that the government should just put the brakes on this, take it away and think again. I was very interested that the Attorney said that this will take months, if not years, to get through. I am hopeful that that is the case, simply because I do not believe that it is necessary for us to move further down. If all this bill did was simply reflect what already binds us, then what objection could be made? But it does not.

The Hon. M.J. Atkinson: Then we wouldn't need a bill.

Mrs REDMOND: Exactly, so if you do not need a bill to reflect what is already binding us and you do not actually have a problem to address to justify the extensions, in my view we do not need a bill. I commend to the Attorney the idea that it would be appropriate to reconsider these matters. He may have some time to do that, because I suspect that there will be, at least on this side, a number of people who want to speak to the bill. I know that on his side the member for Bright is intending to cross the floor and vote against what the government suggests, because she has indicated her liking for what the member for Mitchell is going to recommend in his amendment so, no doubt, she will be indicating her support for the position of the member for Mitchell, as she has already done during my comments on the clause. I look forward to that contribution and to a number of other contributions from members on this side of the house.

Mr HANNA (Mitchell): I support this bill, which contains many good provisions. It has a history going right back to the review conducted by Mr Martin QC, as he then was. His review of the equal opportunity legislation was comprehensive and produced many positive recommendations. The next step, in a sense, was the legislation brought in by the Liberal Party in 2001, where many of the Martin recommendations were brought into the parliament. Of course, there was not time to complete that

legislation prior to the 2002 election and now, 4½ years later, the Labor government has finally managed to bring in this legislation, which is in accordance, by and large, with Labor Party policy.

This legislation has some special significance for me because I can remember many years ago, perhaps more than 10 years ago, sitting down with fine Labor Party members such as the current member for Ashford and Senator Wong, as she then was not, discussing the ideas that are reflected in this legislation. I am unashamedly a supporter of it, because it does many good things. I refer particularly to its consideration of people with mental illness, people with the HIV virus, for example, people with learning disabilities, people with caring responsibilities and nursing mothers. I think it is appropriate to have grounds of discrimination made unlawful when people discriminate on the ground of people's spouses rather than the characteristics or behaviour of the person concerned.

Also, let us not forget that with the equal opportunity legislation we are generally talking about the nuts and bolts of goods and services provision and accommodation. These are the most important aspects of life given protection by this bill. Essentially, the equal opportunity legislation is about a fair go. It is about giving people a fair go despite whatever innate attributes they might have, whether it be a disability or their racial or sexual characteristics. When we talk about Australian values, one of the most important of those values is a fair go: the fact that, no matter what innate characteristics a person has, they are going to be treated equally according to law; and I am glad that we have legislation that has an educative role to say that it is wrong to exclude people from things like goods and services or accommodation on the basis of those characteristics.

By all means, we should discriminate on the basis of people's behaviour. If people are not behaving well they should be excluded from shops, nightclubs or premises as people wish, but not because of their innate physical or even mental characteristics. The legislation also makes some changes to the law concerning sexual harassment and brings it into line with commonwealth legislation. That just makes sense. The law in relation to vicarious liability is changed for the better. It is important to make employers vicariously liable so that people in positions of authority ensure that those working for them are playing the game the right way and complying with the law. The legislation also brings in some useful provisions concerning the procedure and the role of the Equal Opportunity Commission. I will not deal with those in detail now. I was content with the Attorney-General's explanation of those matters.

Perhaps the most controversial issues that have been raised relate to religion, or at least those who speak in the name of religion. Before I turn to that point, I should say that, compared to some members in this place, I am relatively conservative in relation to equal opportunity legislation. Some Labor members would go so far as to outlaw discrimination on the basis of stature, on the basis of one's appearance (whether beautiful or otherwise) and even on the basis of merit.

In case members think that I am being too far-fetched in suggesting that members of the ALP would wish to outlaw discrimination on the basis of merit, I can assure the house that very principle operates in the ALP factions. The contentious issue to which I referred was that of religion. It is important to note in this regard that the Attorney-General had published a discussion paper which particularly referred to the prospect of religious discrimination being the subject of further legislation. The Attorney-General honestly reported back to the house in April 2003. In referring to some of the responses, the Attorney said:

Some of these, such as the Buddhists, Baha'is, Beit Shalom Synagogue, Church of the Jesus Christ of Latter-Day Saints, Greek Orthodox Community, Hindu Society, the Church of Scientology, Islamic Society and the Seventh Day Adventist Church supported the proposal or supported it with qualifications, sometimes heavy qualifications.

The Attorney went on to say that all the main western Christian denominations opposed it, that is, the coverage of religion as an unlawful ground of discrimination. I will come back to that point in a moment. The Attorney further said:

Secular commentators, such as the Commissioner for Equal Opportunity, the Aboriginal Legal Rights Movement, the Bar Association and the South Australian Multicultural and Ethnic Affairs Commission supported the proposal.

Those bodies to whom the Attorney referred on 2 April 2003, I think, know something about people's rights and how to protect them. In relation to, shall I say, mainstream Christian denominations, in the time since this legislation was introduced, to some extent I have been able to consult with the mainstream Christian organisations around town. I honestly can say only to a limited extent, because with the intervening Christmas and January period it has not been that easy. However, I received a letter from His Grace Archbishop Philip Wilson, the substance of which states:

The Catholic Church strongly supports the view that freedom of religious faith and expression are fundamentally important for a just and decent society which respects and upholds human rights. Church teaching recognises that every human being has the right to honour God according to the dictates of an upright conscience, and therefore the right to profess their religion in private and public. Indeed, the Second Vatican Council's Declaration on Religious Liberty insists that the human person not only has a right to religious freedom but also a duty to follow conscience in the search for truth. Religious groups and communities must be afforded the same rights that are valid always, every where and for everyone. We see ourselves as called to respect human dignity and rights, and to conform our lives to the demands of Christian love.

I note that your amendments are being proposed in the context of a range of measures being put forward in the government's Equal Opportunity (Miscellaneous) Amendment Bill, which is their legislative response to the recommendations of a comprehensive report by Mr Brian Martin QC and also to recent changes to the corresponding commonwealth legislation. This is quite a different context to that in 2002, when we were invited to comment on the discussion paper issued through the justice portfolio. That discussion paper proposed a new stand-alone law against religious discrimination and vilification. After making clear our support for the intent of that proposal, we expressed a number of reservations about the necessity, effectiveness and practical implementation of the measure as outlined in the discussion paper. At that time, we were not convinced that the need for specific new legislation outweighed the practical problems and difficulties which might have been posed by enacting such a law and creating a new crime.

Your currently proposed amendments to the Equal Opportunity (Miscellaneous) Amendment Bill 2006 would add an extra dimension to the government's attempts to modernise the Equal Opportunity Act and would ensure more comprehensive protection of South Australians against unjust discrimination, including on the basis of religion or religious belief.

I commend you for the care you have taken in drafting your amendments to strike a balance between, on the one hand, protecting individuals and groups against unjustified discrimination on the basis of their religious beliefs, and, on the other, the genuine requirements of individuals and institutions operating in good faith under the auspices of, or in accordance with, the precepts of a particular religion.

In particular, I appreciate the way your amendment 9 (inserting a new section 86(5)(ba)) would protect `a reasonable act done in good faith in the course of religious preaching in a place of worship' from the scope of the victimisation provisions, along with your proposed addition of the phrase `religious or other' to the list of purposes in the public interest in section 86(5)(c).

I leave the quotation there. During committee I will introduce religion as a ground for discrimination, which should be unlawful.

I have taken care to add those precautions which I think should satisfy the many representations members have received in relation to this legislation from religious groups, and specifically I repeat: I have included an exemption for preaching in good faith in a place of worship. That would pretty well exclude the Catch the Fire Ministries sort of case. After all, we should continue to live in a society where, whether in churches or in the street, people can openly debate religious views and even disapprove of the lifestyle or the beliefs of others, as they see fit.

Much of the heat that has been generated by some religious quarters, particularly the Festival of Light, in relation to this proposed legislation I think derives from a confusion between vilification, on the one hand, and disapproval, on the other hand. There is a vast difference between the two. When it comes to debate or disapproval, everyone in this chamber is agreed that people should have freedom of speech. When it comes to inciting hatred, that is another matter, and I am one of those who believe that the state should intervene on behalf of society to discourage the preaching of hatred. As a believer, I cannot contemplate in any fashion how a Christian or a spiritual leader of any domination could possibly wish to preach hatred or incite hatred of other groups, whether they be homosexuals or those who follow a different religion. It is absolutely inconceivable to me.

I am ready to condemn as hypocritical those who call themselves Christian yet are willing to preach hatred of other religious groups. The response to some of Sheikh Al-Hilaly's comments, the Muslim leader in Sydney, has indicated the strong displeasure in the community when other religious groups are attacked by a religious leader. I think this is a case where the commandment should apply that where we do not wish others to do that in relation to the Christian religion, then it should also apply to Christian religious leaders in respect of those who follow other religions. Once again I repeat that it is not a matter of avoiding disapproval or debate

—that will always be part of our society for as long as we have a free society—but there is a difference between that and inciting hatred, and I think it is entirely appropriate that parliament discourages, even with the force of the law, that sort of behaviour. I humbly dare to say that it is not Christian behaviour.

I close my remarks there. As I have said, there is much good in the bill and I am happy to support the bill. It will be a long and contentious consideration of the clauses in detail when we get to that. I see that the government is in no hurry to proceed with the bill, nonetheless I am glad to have had the opportunity this evening to have put my position on the record.

Mr RAU (Enfield): I want to say very briefly that I commend the Attorney-General for bringing this matter before the parliament in the manner that he has. As far as I am concerned, the only way in which this bill could be improved beyond its present excellent form would be perhaps to include a reference to stature or merit as grounds of unlawful discrimination.

The ACTING SPEAKER: The member for Unley.

Mr PISONI (Unley): Thank you, Mr Acting Speaker. May I commend you on your sense of fairness and your control of the chamber which we are experiencing tonight. Our lead speaker has already indicated that we will be opposing this bill due to a number of extensions of what we describe as freedoms and the introduction of more red tape. I wonder whether the Attorney-General has actually run this legislation through his red tape-o-meter. I notice that an aim of the Strategic Plan (which has been reviewed recently) is to reduce business red tape by I think 25 per cent. Perhaps the Attorney-General could use his reply to explain whether this will increase or decrease red tape for small business. If this does increase red tape for business, then perhaps the Attorney-General might be able to tell us from where he has taken it to at least keep that line straight on the red tape-o-meter.

At the moment, the red tape-o-meter has a blue line running through it which tells us where the red tape is. We have a green line underneath showing where the Strategic Plan says it will go, but then there is a red line going north. The Strategic Plan is aiming for a 25 per cent decrease in red tape, but the legislation coming through this parliament over the past few months is sending that red tape-o-meter north. Another area that I find a little difficult to understand is racial vilification. There is an exemption for

comedians. I wonder whether there is a qualification as to whether that comedian needs to be funny, and if they are not funny, are they a comedian or are they just telling a story? I always thought that a joke was supposed to be funny. If it was not funny, it was a story. I think that an exemption for comedians is a very interesting line, and I can see it being used to bend the rules or stretch the bow to get a particular message across. I am not sure that some of the clauses in this bill have been terribly well thought of—

The Hon. M.J. Atkinson: You mean `thought through'.

Mr PISONI: I apologise to the Attorney-General if he has trouble dealing with those who grew up in working-class areas. If he is having difficulty with that and with those in his electorate, that is something he will have to deal with. I do not have any problem with it at all; I am very comfortable, thank you very much, Attorney-General. Perhaps the Premier has trouble with that as well; perhaps that is why he lives in Norwood when his electorate is Salisbury. And the member for Napier is another: Urrbrae is a lovely suburb, but it is a very long way from Napier.

The Hon. M.J. Atkinson: I just wish you had paid attention in English class.

Mr PISONI: Unfortunately, I went through the public education system when Don Dunstan was running it. I think that is the problem I have, Attorney-General: I am an innocent victim of circumstance. Let me just raise what some might describe as a hypothetical situation but, given our growing multicultural society, this could very well be an example of where no thought, or very little thought—or lack of experience—has been given to identify a problem which might occur which could make the situation worse for a victim of racial hatred or racial discrimination. What about my mate Abu Mohammed in the QuickEMart? He has the seven-day —

The ACTING SPEAKER: Apoo.

Mr PISONI: Obviously, the Acting Speaker has children and watches *The Simpsons*. I believe that we may very well have a situation where Apoo might like to refuse service to a group of men he knows who come into his shop and pickpocket and steal things. They may very well decide, `We can put in a complaint. We are from Elizabeth. He is not serving us because of where we come from. That is why he is not serving us.' Not only that, but they will also have the case paid for, and poor Abu will, in fact, have to cover his own expenses. That is a situation that could very

well occur. These are some examples of political correctness gone too far that have not been thoroughly thought through. Consequently, we have the situation of political correctness gone mad.

Mr HAMILTON-SMITH (Waite): In the nearly 10 years that I have been here, this is probably one of the most stupid pieces of legislation that I have seen any minister present to the house. It is an unnecessary bill; no-one in the community seems to be screaming for it. It seems to be an invention of the Attorney and, somehow or other, he has managed to convince some sensible members of cabinet and the caucus that it should be introduced in the face of considerable public opposition. As my friend the member for Unley mentioned, it is a case of political correctness gone mad. There are so many illogical provisions in the bill that it simply beggars belief. As I said, it is not wanted.

A number of provisions in the bill are, frankly, stupid. It is an effort, in many cases, to legislate commonsense and good manners. In fact, if one believes in freedom as a general principle that should guide our democracy, this bill is an affront because, although it purports to protect people's freedoms, it has the effect of doing precisely the opposite. In effect, it seeks to gaol, fine or punish people for expressing their opinion, by and large even when no offence is given or taken. It is a licence for a myriad array of idiots, crackpots, nuts and point makers to sue, prevaricate, complain, write letters, commence legislation or offend others using the bill as their crutch.

One only needs to read the bill to fully understand its absolute stupidity. If anyone on the benches opposite has been an employer, for example, they should just think about some of the implications involved in this bill, many of which would ordinarily be quite beyond the means of a small business employer to control. I know that a lot of members opposite came from the union movement, or were drawn into politics through the union movement or industries linked to the union movement. Some of this might seem quite manageable for big business, and it might seem quite sensible from the point of view of a union that seeks to litigate on behalf of members against a big business proprietor.

However, I ask members to think about the implications of it for small to medium enterprises (the hairdressing salon, the deli, the small retail outlet or the restaurant) and associations (the sporting club, the Sunday school or the church community group). Some of the provisions this bill seeks to foist upon small people—ordinary South Australians, like many of us—who just want to get on with their day-to-day life really are staggering.

I think it strikes at the question of whether or not there is an ounce of commonsense in this government in bringing this matter forward.

Both cabinet and caucus should have simply told the Attorney to take this nonsense away. It is not wanted; it is not serving any purpose and it should not be brought forward. It will hurt the government, and I think it is already hurting the government, if the number of letters, telephone calls, emails and contacts that we are having over this side is anything like the number that members opposite are having. It is a bit like when the minister for transport talks about 70 per cent of people supporting the tramline down King William Street. He does not provide any statistics to support it but he says these ridiculous things. People have been ringing up talkback radio all week ridiculing him over it and here is another example. Where is the polling that shows this bill is so urgently needed? For a start, so many of the provisions in the bill are already provided for in the commonwealth act and this bill simply seeks to give some new impetus to them.

The Hon. M.J. Atkinson: So, the Liberal Party brought these to the federal level. You support that.

Mr HAMILTON-SMITH: They are already in the law. If they are already in the law, why do we need to reiterate them? Of course, that is not enough for the Attorney. He has to go further; he has to take those provisions and those in the existing state act and go further into terrain like Star Trek Voyager. He wants to go bravely and fearlessly where no man has ever gone before. No-one has ever been stupid enough to venture into those terrestrial regions except for the Attorney. Not only that, he has dragged his caucus and his cabinet with him. There are new grounds for discrimination in producing this bill which simply just strike at the commonsense of ordinary South Australians. Many of the most difficult and objectionable provisions, which according to the Attorney if this bill became law will now be binding on all South Australians, are either already covered by other acts or they are simply commonsense and good manners. That is what they are. Far be it for the Labor Party to feel a need to leave people—families, associations and small businesses—with the freedom to apply their own commonsense and good manners.

Let's have a law for it. Let's legislate it and make sure that nothing is left to doubt. Of course, that raises the obvious question: what is not included? If we are going to legislate everything, what is not in there that needs to be in there? It has similar leanings to debate about whether or not one needs to specify all of the powers of the sovereign and the Governor-General, whether or not we need to have a bill of rights and whether we

need to legislate this or that and specify this or that, so that we can have lawyers' picnics day after day while we argue what is legitimate and what is not. Thank our lucky stars that we do not at the moment live in a community like this.

This bill contains all sorts of wonderful things. We cannot discriminate on a whole range of new provisions: viruses, AIDS, learning disabilities, ADHD or dyslexia, sex, gender, sexuality—

Mr Bignell: Army service?

Mr HAMILTON-SMITH: I take it that this is another swipe from the member for Mawson at people who have served in the military. This is a common theme from members opposite. They want to have a swipe at servicemen and servicewomen and their families.

Mr Bignell interjecting:

Mr HAMILTON-SMITH: Here we go. We have the member for Mawson now getting into it because puppy dog, the minister for transport of whom he is a clone, does it so he has to do it.

The Hon. M.J. ATKINSON: A point of order.

Mr HAMILTON-SMITH: I just say—

The DEPUTY SPEAKER: Order! The member for Waite, resume your seat. You have a point of order, Attorney.

The Hon. M.J. ATKINSON: Yes, the member for Waite referred to a member of the house as a puppy dog, to wit an animal. Erskine May contains dozens of precedents which show that, when it is drawn to the attention of the chair that one member has referred to another as an animal, that is unparliamentary and it must be withdrawn.

The DEPUTY SPEAKER: Member for Waite, the reference to another member as an animal is impolite at the very least and in many cases unparliamentary, and I invite you to withdraw.

Mr HAMILTON-SMITH: Madam Deputy Speaker, I will not have a fight with you over this. I am happy to withdraw but I say that I have heard members opposite call people over here galahs and all sorts of references to animals—

The DEPUTY SPEAKER: Member for Waite, please address—

Mr HAMILTON-SMITH: I just will not waste time arguing with you, Madam Deputy Speaker. I am quite happy to withdraw it. Let's just get on with the issue.

The DEPUTY SPEAKER: Please address the bill.

Mr HAMILTON-SMITH: Some of the silly provisions in this bill provide that we are not allowed to discriminate against people. We are going to have a raft of laws about identity of spouse, occupational trade, religious dress, etc. There are all sorts of twists and shakes here. It is all right to discriminate against someone because of religious dress but not all right because of their religion. There are all sorts of twists and shakes with this—

The Hon. M.J. Atkinson: No, the other way around actually.

Mr HAMILTON-SMITH: Is it the other way around? Okay, I will quickly reread the multiple pages of the bill and maybe make some sense of it.

Mrs Redmond interjecting:

Mr HAMILTON-SMITH: Okay. We can discriminate on religion but not on religious dress and, of course, there are all sorts of exemptions. If you are a religious school, that is okay but, if you are somebody else, that is not okay. It is a dog's breakfast. The public know it; the government knows it; we know it. Everybody knows it. The bill is never going to proceed. You know it, Attorney. I cannot believe that your party has let you bring it in here. However, there is one particular issue that I found particularly interesting—and I hope I can find the relevant page.

It deals with the provision in the bill whereby employers will be responsible for sexual discrimination by employees when they have no knowledge whatsoever that it has even occurred. They are not complicit; they are not involved; they had nothing to do with it. They just find out one day that, of their 30 employees, Nos 28 and 29 have been in some sort of a situation where there has been sexual discrimination, and all of a sudden the employer has breached the law. Lock them up, handcuff them, take them to gaol, pillory them, throw away the key!

In a large business this all sounds fine. You have policies for this, you have policies for that; you have a hundred different rules and regulations. Try it at the hairdressing salon, try it at the restaurant, try it at the small business. Do members think that mum and dad employers, small partnerships and farmers have a policies and procedures book this thick that they give all their employees? Where does commonsense come into it? It is like the classic case of the employer who says to his or her employee a hundred times, `Wear your goggles, or you will hurt your eyes on the lathe.' After a hundred warnings the employee does not wear his glasses, hurts his eyes, and all of a sudden the employer is in trouble.

Members interjecting:

Mr HAMILTON-SMITH: Oh yes; here come all the union officials. Oh yes; but if they have done it in writing and got it signed in triplicate, and logged it in their diary, all of that is fine. I know all that. I know all the union rules, but there is another rule called the rule of commonsense. It is the rule of commonsense that was completely forgotten when this bill was drafted, when this bill was considered in cabinet, when this bill was considered in the Labor Party caucus, and when the decision was made to bring this bill to us.

I will not repeat the detail covered by my friend the member for Heysen when she ran through many of the faults with this bill. I will not read out to the house, although I could, some of the letters that I have received from members of the public. I will not repeat the information that has already been given to the house on behalf of various church organisations and religious bodies about the doors that this bill will open for the very thing that it seeks to prevent—religious discrimination and attempts by the legislature to interfere with the way people worship, with the way they express their opinions, with the way they exercise their very freedom of speech. I think that any application of commonsense will show members that this bill should not be passed.

I just say to members opposite that this bill is awash with contradictions; it is awash with provisions that are unfair. It introduces the very discrimination it purports to prevent in one way or another. Religious schools are exempt from certain provisions of the bill, but other employers are not. Is that not discrimination? If I am the baker, can I not get up and say, `I'm being discriminated against because the church school opposite me in the street is exempt from these laws and I'm not. I'm going to be fined or sent to gaol because I breached them.' You are introducing a raft of discriminations in the bill—the very thing the bill purports to prevent.

I say to members opposite, look, you won the election—congratulations. You won it convincingly. I say one thing: I do not want to discourage you too much from going ahead with this sort of legislation, although it is stupid. Please keep it coming, because if you do the people of South Australia will get a feel for just how silly and disconnected from reality so many of the members of the government are. This is a stupid bill. No-one wants its. It is unnecessary. It seeks to legislate political correctness as only the Labor Party can. It should be thrown in the rubbish bin. I hope it proceeds no further, and that the government comes to its senses and postpones it out into the never-never. Feel free to raise it again in the six months leading up to the next election, because I would really love to see it back on the *Notice Paper* at that time.

The Hon. L. STEVENS secured the adjournment of the debate.

ADJOURNMENT

At 9.58 p.m. the house adjourned until Thursday 8 February at 10.30 a.m.