LEGISLATIVE COUNCIL

Tuesday 8 June 1999

The PRESIDENT (Hon. J.C. Irwin) took the Chair at 2.15 p.m. and read prayers.

LISTENING DEVICES (MISCELLANEOUS) AMENDMENT BILL

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

That the sitting of the Council be not suspended during the continuation of the conference on the Bill.

Motion carried

QUESTIONS ON NOTICE

The PRESIDENT: I direct that written answers to the following questions on notice be distributed and printed in *Hansard*: Nos 133 and 185.

TOURISM, ADVERTISING CAMPAIGN

133. **The Hon. T.G. CAMERON:**

1. Does the Minister for Tourism approve of the Australian Tourism Commission's new $150 million tourism advertising campaign which portrays Australians as knockabout larrikins and yobbos and recent media statements by the Australian Tourism Commission's Chairman, Mr. Don Morris, that '. . . Australians should get used to such an image because foreigners would never see them as sophisticated or cultured'?

2. If not, what steps will the Minister take to ensure a more realistic view of Australia, and particularly South Australia, is shown in the future?

3. Was the South Australian Government consulted on the overall message of the new advertising campaign before it went to air?

4. How does this Australian Tourism Commission's portrayal of Australia fit with South Australia's attempts to advance its international reputation as an arts and wine destination?

5. (a) Has the State Government contributed any funds to the Australian Tourism Commission's campaign; and
(b) If so, how much?

The Hon. R.I. LUCAS: The Minister for Tourism has provided the following response:

1. In developing the campaign, the Australian Tourist Commission conducted extensive consumer research in Australia's key overseas target markets about the perceptions of Australia and what motivates these consumers to travel to our country. Research shows that the 'free spirited welcoming Aussie' image is one of our greatest assets, particularly in the United States. The campaign aims to capture the essence of Australia—from our relaxed unpretentious lifestyle that people overseas find so appealing to the diversity of our culture, food and wine, which is more extensively highlighted in the European and Asian component of the campaign.

2. The holiday images portrayed in the commercials like farmstays, the outback, food and wine, indigenous and city experiences are examples of tourism product that is readily available in South Australia. Whilst I am supportive of the $150 million initiative to bring additional tourists to Australia, I was disappointed that South Australia has not been represented proportionately to the experiences portrayed in the television component of the brand campaign. This concern has been raised with senior officers of the Australian Tourist Commission.

To ensure that South Australia is marketed as a unique and special destination, and maximises the opportunity associated with this branding campaign, the South Australian Tourism Commission provided advice for a stills image shoot specifically for the European, North American and New Zealand markets. This print advertising campaign, which is a key component of the Brand Australia umbrella campaign, will promote some of our key features such as our wine regions, the River Murray, the Outback and Adelaide city's many highlights. The stills will be used for print advertising and promotional activities as part of a co-operative South Australian branding campaign which is currently being developed for these international markets.

In addition to the Australian Tourist Commission campaign, to ensure we capitalise on the growth opportunities of the New Zealand market, the South Australian Tourism Commission has been working with key industry partners to develop and promote unique South Australian holiday packages for this market.

The Commission, working with the Australian Tourist Commission and Air New Zealand, has developed a number of holiday packages which include return airfares and provide a choice of accommodation in Adelaide as well as packages for the Barossa Valley and the River Murray. The campaign, which began on 19 February 1999, involves tactical television ads and supporting press advertising.

The South Australian Tourism Commission is also working with other industry partners on an exciting South Australian specific brand campaign for the New Zealand market which will focus on key themes of South Australian lifestyle—wine country, self drive and boutique accommodation and house-boating on the River Murray. This campaign will involve cinema, press and magazine advertising and is expected to commence mid year.

3. The South Australian Tourism Commission, together with other State Tourism Commissions, was given a preview of the commercials before they went to air at a Chief Executive Officers' Forum. The former Chief Executive Officer of the Commission viewed the campaign before it was launched but is not believed to have discussed its content with other officers of the Government or the Minister.

4. It is important to note that the Australian Tourist Commission's Brand Australia campaign is just one component of our comprehensive international tourism marketing campaign. In addition to the strategies mentioned above, the South Australian Government is committed to ensuring we get the maximum benefit from our growing international reputation as a major cultural centre with our specific emphasis on, and achievement in, the arts and the production of high quality food and wine.

The extraordinary success of the Wagner's Ring Cycle has strengthened our position as the Festival State and confirmed our ability to successfully stage work by an international opera company. Visitor surveys, which show that two out of three people who attended the Opera travelled from interstate and overseas to attend this event, are testimony to the Government's success in marketing Adelaide as the Festival State.

These events together with Womadelaide, the Barossa International Music Festival and the many regional cultural festivals held throughout our State reinforces our premier position as the Festival State.

The South Australian Tourism Commission is currently developing distinctive wine and food tourism experiences in South Australia, which can be packaged and promoted with other South Australian attributes specifically for our international markets. Events such as Tasting Australia assist in reinforcing our position as the nations' premier wine and food State.

Tourism marketing research shows that consumers gain information about a particular destination from a variety of sources including; advertising and marketing, media, international films, word of mouth and direct experience. An image, which depicts Australians as 'free-spirited and welcoming', is not mutually incompatible with one which depicts South Australia as the host of one of the world's most prestigious arts festivals.

5. The South Australian Tourism Commission has not contributed financially to the development of the global brand campaign.

ELECTRICITY SUPPLY

185. **The Hon. P. HOLLOWAY:**

1. Has ETSA previously stated that—
(a) electricity supply to the Riverland area of South Australia would need to be augmented between 2005 and 2007 in order to maintain adequate supply, capacity and quality; and
(b) the most likely augmentation would extend the 275kv supply from Robertstown to a point west of Berri at an estimated cost of $31 million?

2. If the SANI Riverlink interconnect does not go ahead, are these augmentations still planned?

3. If the Riverland augmentation does not go ahead, will customers in the Riverland suffer blackouts?

4. Were the costs of augmentation of the Riverland area included in the Government's analysis of the Pelican Point option, given that these costs were included in the cost of Riverland in a previous assessment undertaken on behalf of ETSA?

5. If the augmentation of the Riverland power supply goes ahead, will these transmission costs be included in the regulated asset base of ETSA?

The Hon. R.I. LUCAS:

1. (a) A joint report on technical issues, costs and benefits associated with the SANI proposal (previously known as Riverlink) issued by ETSA and TransGrid in December 1997 anticipated the need to augment the existing 132kV system that supplies the Riverland area some time from 2002 in order to maintain adequate supply reliability. It should be noted that there is currently more than adequate capacity to supply the Riverland load. However, at some point in the near future, the system will not have the ability to meet the peak load in the event of a simultaneous major plant outage.

(b) In the context of the SANI proposal, the Report also identified what was considered to be the most economic augmentation of extending the 275kV supply from Robertstown to a point west of Berri, with an estimated development cost of $31 million. Since this report much more work has been undertaken and a range of other possible options have been considered which are not as costly.

2. The issue of supply to the Riverland will remain a consideration in terms of future supply capacity and network reliability irrespective of SANI. For this reason, various options to meet the future demand requirements of the region are being explored, accepting that SANI is unlikely to be in place by the summer of 2000-2001, and in any event may never proceed as a regulated interconnect. Members would be aware that NEMMCO rejected an application for regulated status for SANI in June 1998. A range of technical supply options may be suitable based on the projected load growth of the region, not limited to the $31 million capital project originally envisaged in the context of the SANI proposal. Available supply options therefore need to be assessed and implemented, as required, to maintain supply capacity and quality to the Riverland in the most cost-effective manner.

3. Customers in the Riverland should not expect a significant deterioration in service quality if the SANI interconnection does not proceed, given that alternative supply options are being evaluated to determine the optimal augmentation option to meet the future supply requirements of the region.

4. The issue of maintaining adequate supply to the Riverland remains, irrespective of the Pelican Point project. Equally, various alternative supply options are available, regardless of whether the SANI project proceeds. Therefore, costs of supply augmentation in the Riverland are not directly relevant to the economics of the Pelican Point project, the capital cost of which is to be funded by a private sector developer in any case. It should also be noted that the prospect of an unregulated interconnector—which would also be constructed by a private sector developer—offers the technical possibility of similar supply benefits to the Riverland to that of a regulated interconnector.

5. If network augmentation is found to be the most appropriate supply option to maintain supply capacity and quality to the Riverland (based on even-handed assessment of the alternative options) it would be expected that an appropriate allowance would be made in the regulated asset base of ElectraNet or ETSA Utilities, as appropriate, to reflect the capital cost of the project. This decision would rest with the South Australian Independent Industry Regulator, on advice from the Electricity Supply Industry Planning Council, when it is possible to establish these bodies under the Government's proposed regulatory framework. In the meantime, interim arrangements are in place to replicate the processes that will apply on the formal establishment of these bodies.

QUESTION TIME

ELECTRICITY, PRIVATISATION

The Hon. CAROLYN PICKLES: Given reports that up to $150 million in proceeds from the lease of ETSA may be used to provide additional finance to the Alice Springs to Darwin railway, can the Treasurer advise the Council on the following: has the Government agreed to provide such additional moneys for the project and, if so, what is the total amount now committed by the South Australian taxpayer to the railway; has the Government approached the Howard Liberal Government and the Liberal Country Party Northern Territory Government for additional matching funding and, if so, for how much? It changes day by day.

The Hon. R.I. LUCAS: Immediately after Question Time we will be proceeding with the Committee stages of the Electricity Corporations (Restructuring and Disposal) Bill where, as I understand it, this issue will be discussed in relation to commitments from the State Government. The Premier has made it clear that at this stage the Government has made no commitment for anything over and above the stated amount of $100 million announced some time ago as the State Government's commitment. We will have the opportunity during the Committee stages of the ensuing debate to consider a possible amendment in relation to this issue.

My understanding is that it canvasses options. It does not dictate in relation to what a Government may or may not have to do but it nevertheless provides options for certain circumstances which may or may not eventuate at some time in the future. When the debate comes, the honourable member will be in a position to participate in that debate and will see, as I understand it, anyway, a very flexible proposition or option which might be canvassed and which will allow, as I said, depending on the circumstances, a number of different responses from the Government of the day.

ETSA TAX

The Hon. P. HOLLOWAY: Given the Government's decision not to proceed with the ETSA tax, can the Treasurer tell the Council, first, by how much the budget brought down for 1999-2000 will now be in deficit unless corrective action is taken? Secondly, what corrective actions and amendments will the Government be making to the 1999-2000 budget to reduce or eliminate that deficit? Finally, by how much does the Government expect the budget to add to the State debt as a result of the decision not to proceed with the ETSA charge?

The Hon. R.I. LUCAS: The honourable member asked a similar question last week and I can only give him a very similar response. As with all the Government's budgets, there are upsides and downsides during any particular budget year. The Government's intention will be to bring it in on budget. In itself, this decision not to proceed with the Rann power bill increase has been warmly received by all in the community, with the exception of the Australian Labor Party and the shadow Minister for Finance and the shadow Treasurer, who evidently have a view that we should keep the Rann power bill increase going, even though the Parliament may well be endorsing or supporting a long-term lease of our electricity assets.

The Government, through the Premier, has given a clear and explicit commitment that, if the Parliament was to approve the sale or lease of the assets, then the Rann power bill increase would not proceed. As I openly indicated last week, that will of itself potentially have a negative impact on our deficit. We will look to see what we can do in a whole variety of different areas.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: It will depend on what other impacts we have. For example, it will depend on how soon

we are able to lease our assets. If we are able to expedite the passage and consideration of legislation and have a very smooth lease process to new lessees, then the proceeds will flow through to Treasury and Consolidated Account much earlier and we will therefore benefit from interest rate reductions much earlier. If we could get some debt paid off by the end of this year or the start of the next year (in this financial year), for almost six months we would have some reduction in the total level of interest costs and this would clearly reduce our interest costs on the expenditure side of our budget.

There are a number of areas where the Government will seek to put in train action to try to minimise the impact of the removal of the Rann power bill increase but, as I said last week, I am sure that the community would warmly receive or accept the Government's decision, even if it means a one-off negative impact on the state of the budget deficit for the 1999-2000 year, because it would not be an ongoing or recurrent deficit. It would be something which would be impacting on the budget position for only the one financial year until we were able to complete all of the lease transactions for our electricity assets.

PITJANTJATJARA LANDS MINING AGREEMENT

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Attorney-General a question about the recently struck Pitjantjatjara lands mining agreement.

Leave granted.

The Hon. T.G. ROBERTS: The media have carried some reports in relation to agreements that have been struck between some of the stakeholders in the Pitjantjatjara lands. My understanding is that a consortium is acting on behalf of perhaps future consortia who will have an interest in exploration rights for the Pitjantjatjara lands. Some of the comments made by the chief negotiators have been that, although the Aboriginal people in the area have had land rights since the Dunstan era, their progress has been impeded by the fact that they have not been able to exploit any of the natural resources within their lands.

The position described to me is that, although some agreements have been struck, they do not include all the stakeholders, nor do they include a lot of the representatives who, but for tribal reasons, would like to have been involved. I am in no position to be able to gauge or judge that and I guess in all negotiations there would be people making claims of that nature. My questions are as follows:

1. Is it true that agreements have been struck between all stakeholders, traditional owners, custodians and agents for exploration in respect of any future ore bodies?

2. If agreements have been struck, what are the full details of the agreements?

3. Do the agreements compromise State or Federal legislation?

4. What is the future of the amendments to the Native Title Act currently being drafted by the Government?

The Hon. K.T. GRIFFIN: I am not familiar with the agreement that is alleged to have been struck involving the Pitjantjatjara lands. There is no reason why I should have been made aware of the detail. I am certainly aware from newspaper reports and media reports that some agreement has been reached. I will endeavour to obtain some details from within Government but, if none are available, that is where it rests. My recollection is that the Anangu Pitjantjatjaraku are not required to get the approval of the Government to such a transaction and, in those circumstances, it would not be appropriate to make special efforts to obtain the details from that body merely to satisfy the questioner.

I will endeavour to find out what information is available and, if possible, bring back a reply. In relation to Native Title Act amendments, we are having a range of amendments drafted for further consultation with the Aboriginal Legal Rights Movement, the Farmers Federation and the Chamber of Mines in particular, before they are brought back into the Parliament in conjunction with the Bill which is already on the Notice Paper. There are a variety of amendments, some of which are complex and some technical but, I would suggest, nothing of such substance as would warrant any concern. When the drafting and the consultation processes have been concluded, I will certainly ensure that the honourable member is aware of that because, obviously, to get those amendments through, along with the amendment Bill, we do seek the support of the Opposition, the Australian Democrats and others.

SHOP TRADING HOURS

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief statement before asking the Attorney-General a question about shop trading hours.

Leave granted.

The Hon. CAROLINE SCHAEFER: Over the weekend I noted reports in the weekend media where the Opposition has claimed that the Government has fouled up on extended retail trading hours in South Australia. Ralph Clarke also claims that the Government has forgotten or failed to address the Retail and Commercial Leases Act. As I recall, during the debate on the Shop Trading Hours (Miscellaneous) Amendment Bill in this place last December, the Attorney-General very strongly argued against the amendment to the Retail and Commercial Leases Act proposed by the Opposition which dealt with core trading hours on the basis that it would make the situation unworkable. The Attorney-General put forward a Government amendment and wanted to consult with the Retail Shop Leases Advisory Committee on the issue. However, as I recall, he was defeated on the floor of this Council. Given the recent statements by the Opposition, can the Attorney-General clarify this issue for me and for the general public of the State?

The Hon. K.T. GRIFFIN: One of the difficulties regarding the Retail and Commercial Leases Act that is now enshrined in the legislation is an amendment moved by the Hon. Terry Roberts, which the Hon. Mr Gilfillan in the debate called 'the famous Roberts-Clarke amendment', because I understand that it was also moved in the House of Assembly. That amendment sought to give the retail tenants an opportunity to call for a meeting to vote on the issue of core trading hours. At the time, as honourable members might recall, we did take some time to consider that amendment. I put up an alternative proposition that would have enabled the issue to be properly worked through and, ultimately, the procedural requirements addressed by regulation, with the principle enshrined in the Act. The other members here on the Opposition and the Australian Democrats side took the view that they knew best. So, an amendment was made which right from the start, I indicated, was likely to be unworkable.

It is a bit rich for Mr Clarke to be out there in the public arena saying that the Government has forgotten to do something in relation to core trading hours—that is, in

relation to a ballot by tenants as to whether or not there should be any change in core trading hours—when, in fact, he was the instigator of an amendment which is unworkable and which is largely the source of the current difficulties. Either he was not paying attention to the amendment which he moved or he did not read the *Hansard* of the Legislative Council, or he is just trying to cover up an error which he and the Opposition made in relation to the issue of core trading hours.

In enclosed shopping centres, core trading hours under a lease can be no less than 50 hours and certainly no more than 65 hours. A meeting of tenants can be convened for the purpose of determining what the core trading hours should be within those parameters, and a vote of 75 per cent of those entitled to vote and present can either agree core trading hours or amend core trading hours to some alternative.

The difficulty that has been highlighted has been who is entitled to vote; who is entitled to attend; can they attend through an agent; does the agent have to identify for whom the agent is a representative; can these meetings be called on a regular basis, or can there be only one a year to consider what core trading hours should be; and how is the vote to be cast? Those are all issues to which I drew attention as being not covered in the amendment which was moved and subsequently supported by the majority in this Council.

I indicated that there was a preferable way to deal with this issue. But no, the Opposition, presumably also aided by Mr Clarke, who appears to be the spokesperson (even though not a shadow spokesperson) on this issue—

The Hon. A.J. Redford: Who is the shadow?

The Hon. K.T. GRIFFIN: I don't have a clue, because they keep losing the numbers. The Government is still anxious to have these sorts of issues resolved but, while there is the difficulty that has been created on the other side of the Parliament and on the other side of this Council, it will not be possible to address that issue appropriately. One recognises that there had to be a vote but, whatever changes were made in relation to core trading hours, if they were to take up the option of extended trading hours, I wanted to ensure that there was proper consultation, not just with the landlords, property owners and managers but also with the representatives of retail tenants.

We must remember that it is not just the small retailers who represent small or large tenants: the retail traders, Small Business Association and the Newsagents Association all have a stake in this and all are members of my Retail Tenants Advisory Committee, which I had intended to call together to deal with this issue but for the amendment that was ultimately passed—against what I regarded as my good advice. Members can be sure that that advisory committee is aware of the difficulties. It was made aware of them in December after the amendment was passed by the Legislative Council, but it was made very clear that the problem had been foisted upon them not by the Government but by the Opposition and those who supported it in relation to this amendment.

ELECTRICITY, PRIVATISATION

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Treasurer a question about electricity prices.

Leave granted.

The Hon. SANDRA KANCK: Prior to the privatisation of the Victorian electricity industry, the Kennett Government increased the price of domestic electricity by 10 per cent and more than doubled from $16 to $34 the connection fee for domestic users, thus making it more attractive to buyers. Will the Treasurer guarantee that before the privatisation of South Australia's electricity assets there will be no increase in the domestic supply charge, the domestic per kilowatt hour cost or the domestic connection fee?

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: I am indebted to my colleague the Hon. Mr Redford, who has just indicated that the Government had already announced a significant increase in electricity bills to South Australian consumers, and in percentage terms it might have been almost double the Victorian price increase, because for some consumers—

The Hon. Sandra Kanck interjecting:

The Hon. R.I. LUCAS: Hold on; we are just telling them that. The increase would have been about 20 per cent for householders—the domestic tariff customers in South Australia. If, as would appear likely, the legislation can pass both Houses of Parliament this week, as the Premier has indicated, the Rann power bill increase, which would be almost double the rate of the Victorian increase to which the honourable member just referred, would not be implemented. That is a cast iron guarantee from the Premier and the Government.

If the honourable member is still dissatisfied with that response, I assure her that the Government has no intention of increasing electricity tariffs by 10 per cent, or whatever it is, in the next six months. I presume there will be the standard CPI or CPI-related potential increase in electricity tariffs and, given that the CPI is of the order of 2 per cent or so, it might be of that order. If the import of the honourable member's question is whether this Government will ratchet up electricity prices for long suffering consumers in South Australia by 10 per cent or more, the answer is 'No.' Through the actions of the Parliament this week, we might be able to prevent a 15 to 20 per cent increase in power prices for domestic consumers in South Australia.

The Hon. A.J. REDFORD: As a supplementary question, is not the difference between the sale that occurred in Victoria some years ago and the sale that is likely to occur now the fact that we are now in a national electricity market, whereas there was no electricity market in those days, and therefore less competition?

The Hon. R.I. LUCAS: That is certainly one of the very significant changes between the timing of the sale in Victoria and the timing of a lease here in South Australia. There have been a number of other issues in addition to the national electricity market, but I can only agree with the view put by the Hon. Mr Redford that there is indeed a significant difference between the timing of the sale in Victoria and the timing of the lease arrangement here in South Australia.

HEAVY VEHICLES, YORKE PENINSULA

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning a question about road trains and B double traffic on Yorke Peninsula.

Leave granted.

The Hon. CARMEL ZOLLO: At a recent meeting in the Yorke Peninsula, constituents raised with me the issue of road train trials on the Ardrossan-Port Giles roads and the increased B double traffic on the main coastal roads of Yorke Peninsula. In my own travels to the area I have noticed

signage pointing to the use of some roads by road trains and B doubles. This included a telephone number which, evidently, connects to offices of Transport SA. My constituents made some attempts to follow up inquiries using this number but experienced some difficulty. On first telephoning the Transport SA number staff did not seem to be aware of the signs or their intentions but, after further questions, they were able correctly to direct the questions to the responsible area.

I appreciate the importance of grain movement on the peninsula but I am also mindful of the need to ensure that the local community is safeguarded against detrimental effects of the increased road traffic and that the community is fully consulted in this process. My questions to the Minister are:

1. Which roads presently allow B double and road train traffic?

2. What criteria is used in the selection of routes, and is the local community consulted?

3. When will the results of the Ardrossan-Port Giles results be available and will the Minister table the report?

4. How much has been budgeted for up-grade and maintenance of the main routes on Yorke Peninsula, and how many accidents have occurred involving road trains or B doubles since the trials commenced?

The Hon. DIANA LAIDLAW: Certainly, it is my understanding in terms of the last question that no accidents have been reported. As part of the trial certainly I would have been made aware of any such accidents because of the nature of the trial. I am looking to see whether I have some more particular information for the honourable member in terms of the duration of the trial. I do not, but I will provide the honourable member with that information and also in relation to the other questions she asked. I want to put to rest one contention made by the honourable member about the increased road traffic arising from A trains and B doubles.

In fact, one major benefit of these vehicles is that it reduces the number of heavy vehicles using the roads because, with A trains, you have one prime mover to two semitrailer lengths rather than the two—

The Hon. Caroline Schaefer interjecting:

The Hon. DIANA LAIDLAW: I will get to that, too. It is good to be prompted.

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: Yes, it is a very active backbench and very keen on these issues where there is competitiveness for our rural producers in particular. I wanted to highlight that issue. It does not lead to an increase in road traffic unless we have an increase in production in grain, for instance, a matter about which we should all be rejoicing. This measure comes in response to representations from the transport sector and in consultation with the councils and, I understood, the local community.

I wanted to highlight, too, that A trains have proved the case now they are permitted through Port Augusta to northern Adelaide areas under certain accreditation conditions. They have saved the transport industry and therefore producers of goods, both from country areas and to country areas, about $7 million in the time they have been in use on South Australian roads. That is a major saving and of great benefit to a State such as South Australia in terms of distance from markets or where we are trying to ensure that our regional economies remain strong and attract further business.

HINDMARSH SOCCER STADIUM

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister representing the Minister for Recreation, Sport and Racing a question about the Hindmarsh Soccer Stadium.

Leave granted.

The Hon. J.F. STEFANI: I refer to the funding deed signed by the South Australian Government and the South Australian Soccer Federation (clause 33—Change of circumstances). Under this heading, the federation is required to advise the Minister of 'any matter, thing, event, state of affairs or change in circumstances materially affecting or reasonably likely to affect the federation's ability to service the loan or to perform, observe or comply with the loan contract or this deed, including, without limitation, to pay its proportion of any quarterly instalment payable in relation to the loan'.

My questions are: will the Minister advise whether the South Australian Soccer Federation has informed him of any change in circumstances as described under clause 33 of the funding deed; and, if so, what are those changes in circumstances and what steps has the South Australian Soccer Federation taken to address this issue?

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

TAXIS

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning questions about taxi licences and blue plates.

Leave granted.

The Hon. T.G. CAMERON: A recent article in the Australian *Financial Review* of 7 May (dealing with taxi plate numbers) stated that deregulating the taxi industry and issuing more cab licences would not solve the shortage of taxis at peak times. According to Dr Paul Hooper, a Senior Fellow at the National University of Singapore, unbridled competition would undermine standards of service, compromise passenger safety and drive down economic rewards to the point where drivers had an incentive to engage in unethical and even criminal behaviour. In the light of the article and in anticipation of the outcome of the competition policy review into the Passenger Transport Act, I ask the following questions:

1. What are the Minister's plans regarding the further release of taxi licences?

2. How long will it be before suppliers of personal transportation other than licensed taxi cabs will be able to participate in the Government Transport Subsidy Scheme?

3. Will there be another alteration of the design of the blue plates; and, if so, what is this change designed to achieve and what will it entail?

4. In the Minister's opinion, does the Northern Territory model of buy-back have any merit for the South Australian situation?

The Hon. DIANA LAIDLAW: Regarding any further release of taxi-cab plates or further operators (other than taxis) being eligible to participate in the Transport Subsidy Scheme—to date, only taxis are eligible—both those matters are being addressed by Mr Barry Burgan and Ms Bronwyn Halliday, who have been engaged by the Passenger Transport Board and the Government to review the Passenger Transport

Act for competition policy purposes. They have undertaken extensive consultation, and I think I wrote to all members indicating that they were undertaking this review for competition policy purposes.

I was advised yesterday that I will receive their report within the next fortnight. I know that their report is eagerly awaited. This will be the first report received by a State Government in terms of competition policy issues related to passenger transport, and the outcome will probably be keenly sought across Australia.

There is a great deal of anxiety in the taxi industry about the issue of any further licences and about deregulation in general. At this stage South Australia has a different circumstance, in that the former (Labor) Government (when Hon. Frank Blevins was a member) deregulated hire cars but not taxis. That is not a situation that applies in other States, where hire cars and taxis are both heavily regulated. What we do here will be of great interest not only to taxi drivers and hire car operators in this State but also across Australia. I know that in the past the honourable member has advocated the release of at least 100 taxi plates, which probably is a matter taken up in the review. As I noted, I have not yet received it.

In terms of the design of the blue plates, my understanding is that SA Great and the Passenger Transport Board, which were involved in the issue of new plates for taxis, are now considering the design for hire cars, in terms of the promotion of the State generally. On taxi cabs we have 'a great place to live and work': there is some difficulty with hire cars, because I am told that hire cars are also used for funeral purposes and we do not want 'a great place to live and work' on such vehicles! So, there have been some snags in terms of the promotion of this idea, although it has been actively discussed between operators, the PTB and TransAdelaide.

The buy-back of taxi plates operates only in the Northern Territory. Whether or not it is a matter discussed in the competition policy review of the Act I am not sure, but the Government does not have such a policy at this time.

ROAD SAFETY

The Hon. G. WEATHERILL: I seek leave to make a brief explanation before asking the Minister for Transport a question about road safety.

Leave granted.

The Hon. G. WEATHERILL: Recently, we had a meeting with the Minister's staff about bike lanes and school crossings, at which we raised the issue of main roads such as Henley Beach Road, which had no crossings but signs saying 'between these hours you must drive at 25 km,' where the problem was that many people driving through there would drive at 60, as on a normal road. The crossing being put there has stopped a lot of confusion, and I congratulate the Minister on the swiftness with which this has been done, because we spoke about it only last week and the crossings are already up there. This is really good and stops a lot of confusion in the area.

The other point I wish to raise relates to bike lanes. On television at present we have an item showing drivers that they must look in their mirrors at all times to check for cyclists, in particular. I have spoken to several people in the emergency services, in particular ambulances and the fire brigade, and they complain that people must never look in their mirrors, because their problem is getting past them. I realise that the Minister has only a very short grab on television on bike lanes, more or less educating people to look in their mirrors, and I wonder if we cannot do the same about emergency services: people using their mirrors when the emergency services are trying to get to accidents or to a fire.

The Hon. DIANA LAIDLAW: I commend the honourable member for his ongoing interest in road safety and certainly will pass on to officers within Transport SA his praise for their efforts in addressing school crossings and school zone issues in the Henley Beach area. In terms of cyclists and the issue of motorists using their rear vision mirror, this matter is part of a three year campaign (being paid for by Transport SA) to encourage a high degree of respect between motorists and cyclists for each other in the use of the road system.

Certainly, the need for motorists to look into mirrors to be aware of cyclists using bike lanes is a major part of this three year campaign. It helps, too, if cyclists wear bright colours and make themselves very obvious, and that is an important aspect of cycling on our roads. But motorists—because they are probably thinking of their shopping list or are picking up a child—do not always think that, when they open their door without looking into the mirror to see whether somebody is using a bicycle, they can easily skittle a cyclist.

I will raise the issue of the use of mirrors for detecting emergency vehicles with Transport SA, because there may well be some way in which we can adapt the Share the Road campaign for other purposes. I highlight, however, that we may embrace such a campaign in a major public relations exercise that we will be obliged to run later this year and into next year following the passage of a national road law which I hope will be debated and passed through this Parliament this session so that it can be implemented in South Australia from 1 December this year.

WOOD HEATERS

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning, both in her own right and also representing the Minister for Environment, a question about wood fires.

Leave granted.

The Hon. M.J. ELLIOTT: My office has received, as I think it often does each year, some correspondence from constituents concerned about environmental pollution caused by domestic wood fires. In asking this question—

The Hon. A.J. Redford: The commercial ones are okay, are they?

The Hon. M.J. ELLIOTT: I am not aware of any commercial wood fires—in urban areas, anyway. In asking this question I point out that I have a wood fire at home.

The Hon. Diana Laidlaw: Is that why you've got a cold?

The Hon. M.J. ELLIOTT: The problem is that I didn't light it one cold night. The letter I received from my constituent coincided with newspaper articles about moves by the Environment Protection Authority to introduce a code of practice for the use of wood heaters. With winter weather now well and truly upon us, there is concern that we have to ensure that, while people are using wood heaters, as far as is practicable we limit the potential for associated pollution. I note so far that a great deal of the focus has been on the design of the fires themselves, but most people would say that the biggest single problem in relation to wood fires is whether or not the wood is dry. Therefore, what is important is the storage of the wood. In those circumstances I ask the Minister, first, whether or not any consideration has been

given to requiring places that sell wood to store it under cover in some way so that the wood remains as dry as possible; and, secondly—

The Hon. A.J. Redford: It is dear enough as it is.

The Hon. M.J. ELLIOTT: It is more expensive when it is wet because, as they sell it by weight, you pay for the water in it.

Members interjecting:

The Hon. M.J. ELLIOTT: Absolutely; but I try to keep it dry. Secondly—and this relates to the Minister in her urban development portfolio—in relation to new homes with a wood fire included in their design, is any consideration being given to expecting that an area be provided for the storage of wood, particularly to keep it dry?

The Hon. DIANA LAIDLAW: Not that I am aware of in terms of the building code; I would have thought it was just simply good practice. At my retreat in the Barossa it would not occur to me to leave out in the rain the wood that I had gathered. It is hard enough to get it to light, let alone having it smoke up the room. Perhaps not everybody has the good sense I have in terms of keeping wood dry for warming purposes.

I understand from the Attorney that there was an article recently about new wood burners being most efficient in terms of combustion and cost but that would not apply if the wood was wet. Perhaps it is a matter not so much of amending the building code to provide for such a thing but of just general good practice to which we could alert people, in terms of both the delivery and the storage of timber. I can explore the issue further for the honourable member and bring back a more considered reply.

ADELAIDE CASINO

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Treasurer a question about the Adelaide Casino.

Leave granted.

The Hon. CARMEL ZOLLO: Because of my general interest in the issue of electronic commerce and data protection, I recently attended a gambling regulation conference interstate. Regardless of my personal views of on-line gambling, it is nonetheless a taxation measure for Governments. It has been put to me that, if people are going to gamble, should not the jurisdiction in which people gamble benefit as well? At the time of attending the conference, Lassiters Casino was the only licensed casino on line in Australia. I now understand that Gocorp, a Queensland based private company, is set to become the second, with the Queensland Government facilitating legislation last year. At the conference, Crown Casino's chief indicated that it, too, was exploring the possibility of entering the market, and the Victorian Parliament is now in the process of legislating. My question to the Treasurer is whether the Adelaide Casino is seeking to enter the e-commerce market and, if so, will it require this Parliament to legislate for its entry into that market.

The Hon. R.I. LUCAS: I will take advice on that. I am aware that there have been discussions by Casino management about the possibility of going on line. The honourable member has mentioned a number of casinos that are either on line or going on line. From a visit to Tasmania 18 months ago, I am also aware that the Wrest Point Casino had indicated that it was intending to go on line at that stage. I think it had tried to limit it to non-Tasmanians being able to gamble with their casino product and to prevent Tasmanians from participating in their casino product. I would be surprised if any of the casinos have not contemplated or had discussions about their casino product going on line, given that most of the other casinos are doing so.

My recollection—but I will need to check this—is that there has been a proposal from somewhere within the Casino for going on line. My recollection is that I probably indicated that it ought to put that on hold whilst the Parliament resolves its views in relation to the current select committee we have up and going on interactive gambling.

I am responding at present on the basis of memory, which is occasionally flawed. I will certainly check my records to find out whether my answer correctly reflects the true situation and, if there is any difference, I will come back and place on the record more detail in my response. In terms of whether the Parliament has to legislate, the answer to that is probably 'No.' As with all the other States and Territories, I am not sure that there is a requirement for the Parliament to approve it. My recollection was that it was a decision for me to take as the appropriate Minister. Again, I will check that and provide further advice to the honourable member.

TAXATION REFORM

The Hon. G. WEATHERILL: I seek leave to make a brief explanation before asking the Treasurer a question on corporation tax reform.

Leave granted.

The Hon. G. WEATHERILL: Some business quarters have repeatedly suggested that 'full expenditure based taxation' be adopted federally, as opposed to that contained in the Ralph corporation taxation review. Can the Treasurer describe the difference of effect on the South Australian economy between a tax rate of 30 per cent with the elimination of accelerated depreciation and full expenditure based taxation?

The Hon. R.I. LUCAS: It would be very wise for me to take considered advice on this and provide the honourable member with some considered advice on this issue. It is fair to say (and I have been surprised about this, I must admit) that the original view of those of us from manufacturing based States was that it was likely that our industries probably would not support the removal of accelerated depreciation, because it is commonly seen as being of advantage to manufacturing industry and manufacturing based States such as South Australia. Originally, the common view was that industry in South Australia would not support the removal of accelerated depreciation and would prefer to keep it rather than move to the 30 per cent corporate tax rate or some reduction. I have been surprised by some responses which I have seen from industry groups which represent manufacturing industry and engineering based industry in South Australia. Their position has been quite the reverse of that. A number of them supported the removal of accelerated depreciation and its replacement by a lower corporate tax rate.

I therefore think that, in relation to the initial views that a lot of people had as to what our industry might support and what might be in the best interests of the State, the reality has been that a number of those industry groups have a different view. In the end, as to what is in the best interests of the State, that is a very difficult question. I know that the Department for Industry and Trade has had consultation with Treasury, but I think the Department for Industry and Trade

has had the major carriage of this issue. I will be happy to take further advice for the honourable member and bring back a more considered reply in terms of the Government's judgment as to what the overall impact on the State might be.

ASSET SALES

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

Leave granted.

The Hon. P. HOLLOWAY: In table 2.4 of budget paper 2, Budget Outlook, it is indicated that the estimated results for 1998-99 of costs associated with asset sales is $25 million, and there is a further $2 million estimated in the 1999-2000 budget for costs associated with asset sales. In view of that, my questions are:

1. Will the Treasurer give a breakdown of the components of those $25 million costs for the 1998-99 year?

2. Will he also say whether the $2 million estimated for next year's budget is likely to be exceeded if the sale of electricity assets proceeds?

The Hon. R.I. LUCAS: I am happy to take that question on notice. If that line refers to the total cost of asset sales, it obviously does not relate just to our electricity assets. The Minister for Government Enterprises is involved in an asset sale process in relation to the South Australian Ports Corporation, and certainly, some moneys have been expended on scoping studies for the TAB and Lotteries Commission underneath the authority of the Minister for Government Enterprises. It may be that those scoping study amounts might be included in the cost of sale of assets; I am not sure. I need to check the accounting treatment of those costs for scoping studies. I am happy to take the question on notice and consult my other Ministers who might be involved in that line and bring back a more considered reply.

In relation to the second question, it is highly likely, given the recent decision taken after the budget documents were prepared, that not only will the assets proceeds line be significantly larger than was anticipated in the budget documents, not only will the net debt and interest costs be significantly lower, but there might be an increase in the cost of the sale of assets line to which the honourable member has referred. Certainly, if that is the case, we will openly account for that at the end of the process or at the end of this coming financial year.

MITSUBISHI MOTORS

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

Leave granted.

The Hon. T.G. ROBERTS: There have been numerous recent media reports concerning the future of this vital employer in South Australia, Mitsubishi Motors, and I understand that several weeks ago the Premier met with Mitsubishi executives in Japan to discuss the company's future operations in this State. The Hon. Trevor Crothers—

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: I am not sure: I do not think he was invited. The Hon. Trevor Crothers, a very well read and in most cases a very well briefed individual and member of this Chamber, indicated that he might be pressing for additional moneys from the ETSA privatisation proceeds for jobs generation and retention and to secure the future of Mitsubishi in this State. Internationally the motor industry is in a very precarious state in relation to its aggregation and restructuring internationally. My view and the view of many people in this State is that we have to retain such large employers as Mitsubishi and their future needs to be nourished.

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: Technology and its maximisation in relation to assistance is one way in which companies can reinvest in their own futures and Governments can assist companies not only by direct funding injections but they can also assist with infrastructure support. Despite calls from company executives for a stop to such speculation, which they fear may be depressing company sales, as expressed at the media conference yesterday, the Premier responded to a question on Mitsubishi's future by 'Mmm' and an 11 second delay in the report—

The Hon. Carolyn Pickles interjecting:

The Hon. T.G. ROBERTS: It was very embarrassing for the journalists asking the questions and certainly the Premier. My questions are:

1. Can the Treasurer give South Australians an assurance about the future of this vital employer and of its future activity and employment levels?

2. Is the Government considering use of ETSA privatisation proceeds to assist Mitsubishi and on what basis?

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: Equity is one way in which the honourable member's questions can be answered.

3. What amount of assistance would the Government be contemplating?

The Hon. R.I. LUCAS: I do not intend to comment publicly on a particular company, whether it be in the automotive industry or any other, in terms of its future prospects. Others in the international media have already commented and I do not intend to add to that. I note the comments from the company, to which the member referred, in the national paper the *Australian* today and I do not intend to add to those comments at all.

In relation to the possibility of an amendment being supported by this Parliament for industry restructure generally, again I can only respond in terms similar to those in which I replied to the question from the Leader of the Opposition, namely, that after Question Time we will have an opportunity to debate a particular amendment which, on my understanding, will not mention particular companies, or indeed mention particular industries. Each of us in consideration of that amendment may well have either a particular industry or a particular company in mind. I can assure the honourable member that it is not just one industry and it is not just one company that anyone might have in mind should they be prepared to support the amendment to be moved in Committee.

As I understand it—again, as I have said, we will debate the matter this afternoon—the rationale behind such an amendment and such a use of a small amount of the proceeds would be the intention that it be used in the interests of assisting working-class men and women who work within some of these major industries and employers within South Australia who might, in certain circumstances, at some stage in the future, be significantly impacted. I would have thought that, given the Hon. Mr Roberts' 'metalese' background—whatever the name of that union is these days—he would be

the last person in the world to object to any member who was—

The Hon. T.G. Roberts: I don't think there was any objection in the question.

The Hon. R.I. LUCAS: No, I have not said that you are objecting. I just said that I would have thought the honourable member would be the last person in the world. The Hon. Mr Roberts is far too defensive. Here I am defending the honourable member: I said that I would have thought he would be the last person in the world, given his 'metalese' background, not to be wanting to support someone who might be wanting to support working-class men and women working in core industries or companies vital to the future development prospects of South Australia. I would be very surprised if the Hon. Mr Terry Roberts, having heard the arguments put for possible assistance, could find himself in any way not wanting to support working-class South Australians should there be the prospect of some—

The Hon. Diana Laidlaw: What is working class? I am a worker.

The Hon. R.I. LUCAS: You may well be.

Members interjecting:

The Hon. R.I. LUCAS: It is the Peter Duncan theory of socialism—levelling upwards to his level; as long as everyone was equal at his level, we would have an ideal South Australia.

Members interjecting:

The PRESIDENT: Order! Question Time is drawing to a close.

The Hon. R.I. LUCAS: We will have greater opportunity later on today to explore that issue.

ELECTRICITY CORPORATIONS (RESTRUCTURING AND DISPOSAL) BILL

In Committee.

(Continued from 3 June. Page 1336.)

The CHAIRMAN: I remind the cameraman in the gallery only to take photos of members standing in their place.

Clause 3.

The Hon. R.I. LUCAS: I move:

Page 1, lines 25 and 26—Leave out these lines and insert:
and includes, in relation to a transfer made or lease granted by a transfer order, sale/lease agreement or special order, a present or future cause of action in favour of the transferor or lessor;

I am advised that this is a drafting change to the definition of 'asset' and that it is intended to expressly accommodate the leasing of assets, whether pursuant to a transfer order or a sale/lease agreement.

The Hon. P. HOLLOWAY: What are examples of a present or future cause of action, and why was this provision included in the Bill?

The Hon. R.I. LUCAS: I am advised that a cause of action is any court action in relation to any proceedings. We do not intend to list hypothetical examples. There are other changes where the wording has added to 'transferor' or 'lessor'. Clearly, that is consequential or a flow-on from the now proposed lease arrangement for our electricity assets.

The Hon. SANDRA KANCK: Although we are on clause 3, I want to go back and make some comments about what occurred last Thursday, because effectively the Parliament had its voice severely curtailed. In fact, at the time I was standing up to ask a question—

The Hon. A.J. REDFORD: I rise on a point of order, Sir. What is the relevance of this to the clause?

The CHAIRMAN: The Chair is listening to the honourable member.

The Hon. SANDRA KANCK: My problem is that I still have some questions relating to clause 2.

The Hon. A.J. Redford interjecting:

The Hon. SANDRA KANCK: I was not allowed to ask them last Thursday, in case the honourable member did not notice what was happening. At the time, when the Hon. Mr Lucas stood up and claimed that people were filibustering, the opportunity to ask questions was cut.

The Hon. A.J. Redford interjecting:

The Hon. SANDRA KANCK: I think you needed to look at the pressure that was being applied; you must have closed your eyes.

An honourable member interjecting:

The CHAIRMAN: Order! The honourable member is on her feet; members will speak one at a time.

The Hon. SANDRA KANCK: I would have to agree with what the Hon. Paul Holloway is saying—

Members interjecting:

The CHAIRMAN: Order!

The Hon. SANDRA KANCK: A lot of questions need to be asked in the course of the Committee stage of this debate, and I hope that we will not see that sort of tactic used again to suggest that trying to seek information is filibustering. I am seeking clarification at this point: is the Treasurer moving all the new definitions at once?

The Hon. R.I. LUCAS: Just the definition of 'asset'.

The Hon. SANDRA KANCK: And will we vote on that and then go on to 'body' and 'dispose'?

The Hon. R.I. LUCAS: I indicate at the outset that it is my intention to be as friendly, amiable and amenable as is reasonably possible for anyone to be with regard to a complex piece of legislation about which there are strongly held views. If members have reasonable questions and are prepared to ask those reasonable questions, I am prepared to answer them as reasonably as I can based on the advice that I can provide. I have no intention of trying to prevent members from asking their questions. We will do what we can to assist members, as we always do, during Committee in terms of these complicated Bills. I indicate that that is the Government's intention.

In relation to how we will proceed with these amendments, as per the normal procedure I have just moved an amendment to the definition of 'asset' and, as members will see from my list of amendments, I will move through the individual amendments separately. I suggest to members that there are approximately 25 pages of superannuation provisions which, if members wish, I am very happy to move clause by clause but I would have thought that we could have a substantive debate on the superannuation provisions, about protections for workers and so on but, in that regard, it would seem to make some sense, as we have done on a number of other occasions, to debate the issue *en bloc* and then to approve it or not, unless, of course, members have issues about particular parts of those provisions: we can support six clauses or six pages and then move onto the section about which there might be some dispute or questioning. I am in the Committee's hands. I indicate to the honourable member that

at this stage we are moving only an amendment to the definition of 'asset'.

The Hon. P. HOLLOWAY: Do assets include the cross border leases into which the Government has entered with Edison Capital and also the former cross border lease that was entered into by the previous Bannon Government? What is their categorisation under the Bill?

The Hon. R.I. LUCAS: I am advised that assets do include those sorts of contractual assets.

The Hon. P. HOLLOWAY: Given that this goes right to the core of the philosophy of the Bill, what will be the impact of those particular clauses, and what will be the implications in terms of the lease price as a result of those cross border leases?

The Hon. R.I. LUCAS: I will refer to the cross- border lease with which the honourable member will be most familiar—that which the Bannon Government engaged in in 1986 relating to some of the assets of the Northern Power Station now within Flinders Power. I think, as I indicated on a previous occasion, that that particular lease does not conclude until 2006. There will obviously need to be some sensitive and confidential discussion and negotiation with the interested parties in relation to that matter. As I indicated last week, there may well be—and we would hope we could minimise it—some small level of break cost because of that particular contractual or lease arrangement.

Clearly, we have not had the approval of the Parliament to commence negotiations with the other interested parties. However, our commercial advice is that we will need to go through that process and we would hope to keep the break costs of that to the smallest degree possible.

The Hon. T.G. ROBERTS: Will it also include the shale mines at Leigh Creek?

The Hon. R.I. LUCAS: Yes. When the honourable member says 'shale mines', does he mean the coal mines from which the shale is extracted?

The Hon. T.G. ROBERTS: Yes.

The Hon. R.I. LUCAS: Yes, it does include the Leigh Creek coal mines which do include shale.

The Hon. P. HOLLOWAY: In terms of the cross border leases, can the Treasurer indicate what discussions he has had to date with Edison Capital?

The Hon. R.I. LUCAS: I have not had any discussions with Edison Capital to this stage. We had not reached the stage, until recent times, when it looked as if this legislation was going to be passed by the Parliament. There might or might not have been discussions at officer level; I am not aware of those. We obviously will not be in a position to have serious discussion with other interested parties—not just the group to which the honourable member refers but those associated with the sale/lease of assets at Flinders Power—until we can conclude the legislation this week and we know that we have finally to resolve those particular issues.

The Hon. P. HOLLOWAY: I can understand that the Government may not have had formal consultations, but surely it has received advice on what the impact of those across border leases would be and how they would need to be dealt with. So, again I ask the Treasurer whether he will tell us what impact these leases are likely to have on the ultimate lease price of the assets.

The Hon. R.I. LUCAS: I do not intend to add any more to the advice I have already given the honourable member in response to his previous question, and that is that we have received some initial advice from our commercial advisers. It is the view of those commercial advisers and others that we can resolve these leases within the construct of the long-term lease that we are talking about.

This will require sensitive discussion and negotiation. It is not the sort of thing that we ought to speculate about in the media or publicly prior to trying to resolve it. Our commercial advisers believe that the net impact will be relatively small when compared with the total value of the sale proceeds that the State is likely to receive from the long-term lease of all its electricity assets.

The Hon. P. HOLLOWAY: Given what the Treasurer has just said about the impact, how will those additional costs be treated within the presentation of the lease? In other words, will there be some accountability in relation to those costs or will they be absorbed within the lease process?

The Hon. R.I. LUCAS: I indicated last week when last we discussed this legislation that netted off against the sale proceeds will be the transaction costs and possible break costs in respect of some of these financial lease transactions.

The Hon. P. HOLLOWAY: Will the Treasurer present those figures?

The Hon. R.I. LUCAS: No. All I indicated last week was that there would be an offset against the total sale proceeds of the costs of doing the transaction, that is, the costs of advisers, consultants and other costs that might be involved and also some possible—I say 'possible'—break costs of some of these transactions.

The Hon. P. HOLLOWAY: Will the public ultimately be informed of what those costs are?

The Hon. R.I. LUCAS: I will need to take some commercial advice on that. I am not sure. It is possible that that might be the case but, in the context of the total sale proceeds or the lease proceeds that the State of South Australia is likely to receive, the Government has received commercial advice regarding the break costs. The commercial advice that the Government has received in terms of the relative order of magnitude is that the break costs in respect of the Bannon Government lease might be more costly than those in respect of the Edison lease. If the State of South Australia wants to manage some sensitive negotiations with other interested parties, I do not think it is productive that we flag too many of our punches before we even start the formal negotiations on these issues.

The Hon. NICK XENOPHON: Regarding the break costs, whether they are in connection with the Bannon Government leases or the Edison leases, will the Treasurer be able to indicate that at the end of the process, at the end of the day, the public will be able to pinpoint how much those costs are? I am not talking about now in terms of commercial confidentiality; I am talking about whether, at the end of the day, we will ultimately know what those costs are. The Treasurer said that in the order of magnitude they are not great, but will he give an undertaking that at the end of the day we will know those costs?

The Hon. R.I. LUCAS: It is likely that we might be able to do that but, as I said to the Hon. Mr Holloway, I will need to take some commercial advice without locking myself in, at this stage of the discussion, to a commitment which, for a variety of reasons further down the track, we might not be able to keep. If it is possible for us to report publicly through the Parliament at the end of the process, bearing in mind that the Government has indicated its willingness to table the lease contracts at the end of all the lease arrangements, the Government is endeavouring throughout this process to open the account to the greatest degree that it reasonably can. The Government, and I as Treasurer, will try to share as much

information as possible. Whilst I think it likely, I would need to take some commercial advice to see whether or not in the end we will be able to.

The Hon. A.J. REDFORD: My question to the Treasurer comes in two parts. First, will the Treasurer advise whether or not any work has been done to date to determine precisely what assets ETSA (and I use that term in its broadest sense) has? I well recall my office being involved in one of South Australia's largest takeovers, where we acted for a vendor company, which was an American multinational—they were in fact two substantial petrol multinational companies—and the purchaser company bought the enterprise holus-bolus. Much to the purchaser's delight and the vendor's annoyance, they discovered that literally dozens of blocks of land that were part of the sale price were not taken into account, which led to some subsequent legal discussion. Arising from that, it has been my experience that some large corporations—and ETSA falls into that category—often do not have as good an asset register as a smaller company.

First, how does the Treasurer propose to deal with that issue and, secondly, would he hive off those assets in those circumstances? One might think that ETSA would own small parcels of land in different suburbs, which are not critical at all to the purchase but which may be of some value either to South Australia in retaining ownership or to the Government in selling to people who might be interested in them. I will be interested to know how the Treasurer will treat that.

The other question I ask the Treasurer is: in relation to determining the ownership of assets, what steps will be taken to ensure that we do not have the problems that arose with the sale of SAMCOR—where we inadvertently sold a bowling green, much to the chagrin of the bowling club—and whether any steps will be taken to avoid a repeat of that performance? I know that the Treasurer does not want to share that inglorious moment with the former Treasurer.

The Hon. R.I. LUCAS: Having inherited the bowling green debate to which the honourable member refers, we will be doing everything in our power to ensure that that set of circumstances does not occur again. Much work has been done by our team. One of the easy criticisms of any sale process is the total cost of the advisory team one has to put together to manage the process. Some of the examples that the honourable member used in his questions are exactly the reasons why we have to have a competent, professional team of people, to make sure you do not have these sorts of problems left hanging around—selling bowling greens without people knowing, or whatever the circumstances might have been, and the other case of someone purchasing property and finding some bonus spare land, etc.

If this Parliament sanctions a long-term lease, it is in the best interests of the State of South Australia to make sure that we get the best value for whatever assets we have. I would have thought that, irrespective of the particular political views members have on this debate, at the end of the process members ought to share that objective: that is, if the decision has been taken, let us make sure we get the best value from the assets in terms of debt reduction. Much work has gone on already in terms of the asset registers. Also, I know that the companies have spent a lot of time in recent years making sure their asset registers, inventories, etc. are in much better shape.

But, even relatively simple things—and we will come to the debate later on in relation to street lighting—who owns the pole and who owns the light connection—are a matter for debate in some council areas. Most councils accept that ownership of the asset is with ETSA; in this case, ETSA utilities. But in some cases—and with some justification—councils might be able to claim ownership of at least the light connection rather than perhaps the pole. As I said, there is a further clause in the Bill where we will have an opportunity to debate the street lighting issue. I merely canvass that matter to indicate that a lot of work has gone and will go into it. The due diligence work that will have to be done by the team and the businesses will be geared to trying to ensure that the sort of circumstances the honourable member has highlighted will not be allowed to occur during this lease process.

The Hon. A.J. REDFORD: I shall just make one comment in that regard: I hope that the Treasurer makes that as inclusive a process as possible, because I know that the hierarchy of ETSA may not know as much as the workers at the lower end of the scale. They may be of great assistance in ensuring that we have as full and as accurate an asset register as possible.

The Hon. CAROLYN PICKLES: In response to a question asked by the Hon. Mr Holloway, the Treasurer said that he would need to seek commercial advice. How long will it take the Treasurer to get that advice? Is it possible to bring that back to the Committee before we complete the debate on this Bill? At what point will the Treasurer advise us whether the commercial advice allows him to divulge the information that the Hon. Mr Holloway and the Hon. Mr Xenophon seek?

The Hon. R.I. LUCAS: I will certainly be taking commercial advice, and I will be able to indicate the Government's response to that before the end of this debate. Whether in the end the Government's answer is entirely satisfactory to the honourable member and others, I will leave it for them to judge; but certainly I am happy to come back with a further response. It may or may not add to the response that I have already indicated.

The Hon. SANDRA KANCK: There has been some discussion in the last few minutes about the Edison capital lease and what cost may be associated with getting us out of that. Of course, matters such as that will reduce the price that we can expect on the assets. I know the Government does not like to give an indication of price, so let me make it clear that I am not asking that question. I want to know whether the Government has a cut-off point. Does the Government have a bottom line price at which it will say 'No sale', or will we just have a fire sale in this case?

The Hon. R.I. LUCAS: The Government certainly will not go ahead with a fire sale. We would not have reached this stage if we believed we would have to go through a fire sale process. On behalf of taxpayers we have already expended considerable sums of money in terms of investigating the sensibility of this proposal. Whatever position we might adopt in relation to ownership or leasing of these assets, the Government has already spent a reasonable amount of taxpayers' money in trying to ensure that this will be a reasonable deal for the taxpayers of South Australia. It is our commercial advice, and the Government's judgment having looked at that advice, that the range of figures suggested to us by our advisers put it certainly within the context of its being a good deal for South Australia.

We do not accept the views of the John Spoehrs of this world who argue that you need to get $7 billion to break even or that if we get less than $7 billion we will lose $1.6 billion over the next 10 years. I am not sure sometimes from where John Spoehr gets his figures, but the Government does not accept his particular view of the world or his particular

assessment. The answer to the honourable member's question is that we have done a lot of work on this. We will not engage in a fire sale. We would not have reached this stage if we believed that we were about to enter into a fire sale. In the end, if we did—and I am saying that we are not doing so—it would be to the cost of this Government, to the cost of my integrity and credibility as a Treasurer and the Premier's as a Premier, if we came back into the Parliament and said, 'Have we done a terrific deal! We have leased these assets for $1 billion; you all ought to be grateful.' The reality is that we are much further down the path than that, and we are not intent on having a fire lease of our electricity assets.

The Hon. CARMEL ZOLLO: Will the Treasurer give an example of 'privilege' or 'immunity' under asset B?

The Hon. R.I. LUCAS: Privileges are something like licences for a whole variety of different reasons.

Amendment carried.

The Hon. R.I. LUCAS: I move:

Page 1, after line 27—Insert:
'body' includes a Minister;

This amendment is a drafting change and introduces a definition of 'body'. A number of proposed amendments make reference to a body to which assets or liabilities have been transferred by a transfer order. This definition makes it clear that such references include a Minister, if assets or liabilities have been transferred under proposed new clause 8 to a Minister.

The Hon. P. HOLLOWAY: Why has the Treasurer used this form? Why did the definition have to be changed to include 'body', and why is the Minister put under that definition rather than being kept separate, as it was previously? What was the reason for the change between the original Bill and these amendments?

The Hon. R.I. LUCAS: I am told it is just purely a drafting amendment.

Amendment carried.

The Hon. R.I. LUCAS: I move:

Page 1, after line 28—Insert:
'dispose' of an asset includes grant a lease in respect of the asset;

This amendment introduces a definition of 'dispose', which is a term used in, for example, clauses 5 and 6. This definition makes it clear that the disposal of an asset includes the grant of a lease in respect of the asset.

Amendment carried.

The Hon. R.I. LUCAS: I move:

Page 2, after line 6—Insert:
'electricity infrastructure' has the same meaning as in the Electricity Act 1996;

This amendment introduces a definition of 'electricity infrastructure' for the purposes of proposed new clauses 1 and 2 of schedule 1. Those proposed clauses relate to electricity infrastructure not being fixtures and to statutory easements relating to electricity infrastructure.

The Hon. P. HOLLOWAY: Could the Treasurer briefly indicate exactly what that definition includes? Does it include power stations, transmission lines and depots? How broad is that definition?

The Hon. R.I. LUCAS: I am advised all of the foregoing.

The Hon. P. HOLLOWAY: Are there any electricity assets that are not considered electricity infrastructure under that meaning of the Electricity Act?

The Hon. R.I. LUCAS: Things such as stationery, computer systems, office buildings, and a range of other assets—that are not electricity infrastructure. It would include stationery and computer systems, and office buildings as opposed to generating plant.

The Hon. P. HOLLOWAY: Would a line depot be included?

The Hon. R.I. LUCAS: My advice is that if it is used in the distribution of electricity supply it is likely to be included under the definition.

The Hon. P. HOLLOWAY: If the depot involves a base for electricity activity, is that electricity infrastructure? It might be a base from where workers go or it might deal with the council and so on. Is that electricity infrastructure?

The Hon. R.I. LUCAS: I am advised that if it is used for the parking of cars, for example, and it is not involved in the distribution or transmission of electricity, then it might not be included in that definition. If it has a much closer linkage with the distribution or transmission of electricity, it might be included in the definition.

The Hon. CARMEL ZOLLO: In relation to easements, which cause quite a few problems for some people, will they be treated in exactly the same way under this lease?

The Hon. R.I. LUCAS: I am not sure whether we have entirely understood the honourable member's question, but there will still be easements and they will continue with the businesses. There are provisions later in the Bill where we will address that in greater detail but, clearly, there will be the need for the businesses to continue to have the easements they currently have.

The Hon. CARMEL ZOLLO: Will they maintain the same status?

The Hon. R.I. LUCAS: Yes.

The Hon. P. HOLLOWAY: In relation to the definition, the Hon. Terry Roberts earlier raised a question about the mine at Leigh Creek and its resources. He was talking about shale reserves. Will they be considered electricity infrastructure for the purposes of this part of the Bill?

The Hon. R.I. LUCAS: I have received some quick legal advice. I guess we could go through every asset in South Australia—

Members interjecting:

The Hon. R.I. LUCAS: My quick legal advice is that it is unlikely to be deemed to be electricity infrastructure.

Amendment carried

The Hon. R.I. LUCAS: I move:

Page 2, after line 7—Insert:
'employee transfer order'—see section 15A.

This is the first provision which relates to the amendments that the Hon. Mr Crothers will move in a substantive way to clause 15A. It would be my recommendation that we have the substantive debate on clause 15A. I understand that the Hon. Mr Roberts, and maybe other members, wants to have a closer look at those provisions. So, in the event that clause 15A was struck out of the Bill—which I do not imagine will happen—we always have the power to come back and reconsider various clauses as a result of that. My recommendation would be to agree to this clause at this stage and have the substantive debate on clause 15A.

The Hon. P. HOLLOWAY: On behalf of the Opposition, we obviously would not want the substantive debate on the employee transfer provisions at this stage because we have not had the amendments for long—certainly less than 24 hours. We would need to look at those amendments more closely before that debate. We will certainly have plenty more to say when clause 15A is introduced, which hopefully will

be sometime later in order to give us a chance to look at the amendments properly.

Amendment carried.

The Hon. R.I. LUCAS: I move:

Page 2, line 9—After 'includes' insert:
a written agreement, undertaking or understanding,

This amendment elaborates on the definition of 'instrument' by including 'a written agreement, undertaking or understanding' within that concept.

The Hon. P. HOLLOWAY: Why has this amendment been proposed? Why was it overlooked in the original Bill? Why is it deemed necessary to amend the original Bill to include this provision?

The Hon. R.I. LUCAS: In the interests of perfection we are always striving to improve our drafting, and our legal advice suggests that this additional provision would add to the clause: that is why we are moving it.

The Hon. P. HOLLOWAY: The original definition in the Bill provides:

'instrument' includes a legislative instrument and a judgment, order or process of a court;

In other words, the original definition was restricted to legislation, legislative instrument or some judgment, order or process of a court. It seems to me that it is being extended—

The Hon. Sandra Kanck: Very widely.

The Hon. P. HOLLOWAY: Yes, as the Hon. Sandra Kanck says, if we are talking about 'a written agreement, undertaking or understanding'. I would have thought that the original definition of 'instrument' was fairly precise. With these additions it seems to be taking on an extremely broad range. An 'undertaking' seems to be a fairly vague entity. In what context would some undertaking or understanding be necessary with regard to this clause?

The Hon. R.I. LUCAS: I guess that, if the honourable member wants to restrict it, he can test the will of the Committee. For example, ETSA may well have not had a legislative instrument or a judgment order of process of a court; it might have had a written agreement with someone. As we lease the ETSA company to someone else, we would want that company to continue with that written agreement; or, if, for example, they have written to someone and undertaken to do something (it might not be a written agreement), we would like those undertakings to be continued by the lessee.

If the honourable member and the Hon. Sandra Kanck are expressing concerns about this being too broad a provision, then perhaps they might indicate why they have concerns that written agreements or undertakings that are given might be required of the new private sector lessee to be continued. If the honourable member is uncomfortable with that, then perhaps he can put that to the Committee and we can listen to his argument.

The Hon. P. HOLLOWAY: All I wanted was an explanation from the Minister as to why the amendment was being moved, and that is a reasonable request. However, now that he has issued a challenge, let us take an example of an agreement. It is my understanding—and the Treasurer can correct me if I am wrong—that, at present, ETSA makes an *ex gratia* payment to the Corporation of the City of Port Augusta in relation to the power station that is located within that particular area. It makes an *ex gratia* payment in lieu of rates. I know that other later clauses in the Bill deal with that matter. Does that mean that, if ETSA Corporation has an agreement, say, with the Corporation of the City of Port Augusta in relation to a payment in lieu of rates, that agreement will continue with a new owner?

The Hon. R.I. LUCAS: The honourable member is correct: we will be addressing that issue later on. However, this drafting does give that capacity to be able to do that either through this or through the various lease agreements that the Government might want to contract with the various prospective new operators.

The Hon. CARMEL ZOLLO: Will the Treasurer confirm that any undertakings or understandings will be in writing?

The Hon. R.I. LUCAS: I cannot confirm what undertakings or understandings there are and what forms they take. As I read it in the way in which it is drafted, there is a written agreement and 'undertaking' does not say whether or not it is written. So, it is possible that it might cover a range of issues, although one would have to be able to prove it in some way. One cannot just claim that an undertaking was given; there would need to be some evidence of it. If it was not in writing, perhaps someone might have a tape-recording of it.

The Hon. Carmel Zollo: 'Understanding' is a very broad word.

The Hon. SANDRA KANCK: I am a little concerned at the broadness of this. Is there any possibility of litigation arising out of something such as this? As the Hon. Carmel Zollo said, '"Understanding" is a very broad word.'

The Hon. R.D. LAWSON: I suggest that this is a very fair and reasonable measure. One can imagine with ETSA, for example, that there would be many understandings and undertakings by officers of ETSA. For example, 'We undertake that, when we replace the poles in front of your paddock in future, we will not use stobie poles; we will use timber, bulk bundle cable or we will apply for an easement'—all those sort of arrangements into which any business enters. I think it would be very unwise and unfair to limit those to formal understandings or written understandings, because people do act on the faith of undertakings given by enterprises, especially Government enterprises, and I can—

The Hon. T.G. Cameron interjecting:

The Hon. R.D. LAWSON: Of course there is a difference: there are nuances. I am simply saying that, in an enterprise of this kind, I would imagine that there are very many undertakings which all honourable members would want to see any successor to ETSA complying with and honouring in the interests of fair dealing.

The Hon. P. HOLLOWAY: I think we take the point made by the Hon. Robert Lawson that, obviously, there are some requirements that may want to be transferred. But I suppose the question is: to what extent do these complicate or create problems in relation to the overall lease agreement? What will happen? Will all this list of undertakings, understandings, agreements be 'table-ised' as part of the lease process—in other words, will they all be on the table before the overall lease is transacted? One would think that any new lessor would want to be very clear of its obligations prior to taking the lease. Can the Treasurer indicate what happens in relation to due diligence, or whatever the process is in relation to determining all these particular undertakings, agreements or understandings?

The Hon. R.I. LUCAS: Obviously, we will consider all these issues that we can get an appreciation of as a team prior to any lease contract.

The Hon. P. HOLLOWAY: Will it all be table-ised, so that they will all be identified prior to any lease being signed—or is that done after the event?

The Hon. R.I. LUCAS: Obviously, it will be in our best interests, before any lease contract, to get all this detail that it is humanly possible to get prior to any lease contract. There is not much use getting it afterwards. This is a similar question to that of the Hon. Mr Redford. Good due diligence will mean that, hopefully, all these issues that can be located or established will be established prior to any lease contract. The reality is that, with respect to any major institution or asset, there is sometimes a whole variety of letters, or whatever else it is, which may or may not be still part of the historical record of the particular company but which might be held by a third party. So, it is not possible to be able to guarantee absolutely that everything will be able to be established prior to a particular event. But, to the extent that it is possible to do so, the due diligence team will establish all those issues.

The Hon. T.G. Cameron: Quite simply, it is in everyone's interests to do it.

The Hon. R.I. LUCAS: Exactly.

The Hon. P. HOLLOWAY: I take the interjection: but is that process under way? Perhaps this is an appropriate time to ask some questions about that due diligence process and the Probity Auditor that was appointed with respect to this process. Have those arrangements that were entered into when this issue was first discussed 12 months ago (I think it was) continued? I understood from the Minister, in answer to a question on notice, that some probity auditors had been appointed for the process. Are they still in place, or will there be a reappointment as a result of this new lease?

The Hon. R.I. LUCAS: I am advised that the Probity Auditor that we appointed last year has been in recent times used as the Probity Auditor for the Pelican Point project, and the same Probity Auditor will now be an important part of our ongoing work.

The Hon. P. HOLLOWAY: My prior question (which the Treasurer did not answer) was whether the work of identifying those undertakings has already begun, or did it begin 12 months ago when this matter was first raised?

The Hon. R.I. LUCAS: The work was proceeding apace late last year but with the vote that took place it was put on hold. So, a good amount of work has commenced but a good amount of work still has to be done and, with the successful passage of the legislation this week (we hope), we will need to complete that process very quickly.

The Hon. R.D. LAWSON: From my experience, written agreements, undertakings and understandings of this kind are not usually listed in the way in which the Hon. Paul Holloway envisaged, but there is an obligation to provide details of any that have a material bearing on the transaction. Many of them will not have a material bearing on the price to be paid or any other consideration, and in my experience they are not listed unless they are highly material.

Amendment carried.

The Hon. R.I. LUCAS: I move:

Page 2, after line 9 insert—

'lease' includes a sub-lease or other derivative of a lease (and 'lessor' and'lessee' have corresponding meanings);

'leased asset' means an asset in respect of which a lease is granted by a transfer order or sale/lease agreement;

These amendments introduce the definitions of 'lease' and 'leased asset'. A number of proposed amendments which are intended to expressly accommodate the leasing of assets make reference to these concepts. This is obviously consequential on our vote last week.

The Hon. P. HOLLOWAY: I guess we could ask some questions here about the leasing process. If this Bill is passed, what process will be used for the calling of tenders for the lease of ETSA and what will be the timetable of that lease? What breakdown of the assets will be involved; in other words, will there be one lease for poles and wires? Obviously there will be different leases for the different assets. Will the Treasurer indicate what those different leases will be and what process will be used? Will it be the same for each of these leases?

The Hon. R.I. LUCAS: As the honourable member would know, there are three generating companies, one distribution company and one transmission company. We also have a retail company, which is stapled to the distribution company. At this stage it is the Government's intention to have separate lease contracts for each of those businesses. Obviously, similarities among a number of the lease agreements are likely, but obviously a generation company is different from a distribution company, as the honourable member will appreciate, and obviously different provisions will relate to the differences of the businesses that are about to be leased. In terms of timing, the Government has not concluded its view yet. We hope to have the legislation through the Parliament as soon as possible.

Our advice is that there is still considerable worldwide interest in distribution assets at the moment, and we are likely to see considerable interest in our distribution assets here in South Australia. The Premier has indicated that we would hope to see the first concluded lease agreement within a period of six to nine months, and we would hope to see all the lease agreements concluded by about 12 to 15 months. I hasten to say that these are just ballpark estimates at this stage. Obviously, as a result of the momentous events of last week, we have only just engaged again in discussions with commercial advisers, and we are in the early stages of preparing exactly how we might go through this bidding process.

The Hon. P. HOLLOWAY: Will the Treasurer at least indicate which assets are likely to be leased first? Will they all be put on the market together, or which assets will he be looking at first?

The Hon. R.I. LUCAS: We have not made any final decisions. As I said, as a result of the momentous events of last week we have only just been able to commence discussions with our commercial advisers. Obviously, we will be guided, at least in part, by the commercial advice as to what makes sense. Certainly, we will not be putting all the assets up for lease at the same time: the lease-bidding process will be of a sequential nature. However, at this stage we have no concluded view on the order in which the assets might be leased.

The Hon. P. HOLLOWAY: I do not think the Treasurer answered the question about what process would be used for the calling of tenders. Will it be advertised worldwide? Will some sort of expressions of interest be called for? How will this process proceed?

The Hon. R.I. LUCAS: I am surprised at the honourable member's question, given that he is the shadow Minister for Finance. Obviously—

The Hon. P. HOLLOWAY: I want it on the record, that is all.

The Hon. R.I. LUCAS: It is on the record; there is nothing different. The Government will go through some sort

of process. We have not yet established a procedure for seeking expressions of interest, or some appropriate phrase. The phrase might be 'expressions of interest' or 'request for tender' or 'request for proposal'. I am not sure exactly what phrase we will use eventually. In some cases it seems to have different connotations in terms of how one might proceed. But already, through our commercial advisers, we are indicating that there is a strong likelihood that a significant leasing program might be about to commence in South Australia, so that people throughout the world are aware of it.

I can assure the honourable member that these sorts of events do not go unnoticed in other parts of Australia or, indeed, in other parts of the world, even though we are a small regional State of Australia. One of our commercial advisers indicated that the telephone had been ringing off the hook since last Thursday in terms of people wanting to know what the process might be and how soon the assets might be up for some form of bidding process. Certainly, some sort of open expression of interest or similar process will be utilised. I imagine that, based on all the past experience, it will be narrowed down to some form of short list, or some other phrase that describes a filtering process, and then ultimately someone will be successful.

The Hon. P. HOLLOWAY: We now have some details about what will happen in relation to the calling of them, but what about the process for vetting and awarding the tenders? How will that be undertaken and who will undertake it?

The Hon. R.I. LUCAS: The final decision will be taken by the Cabinet, based on the commercial and other advice that is provided to it.

The Hon. P. HOLLOWAY: But who will be providing that advice? The Treasurer noted earlier that his commercial advisers would be involved in the calling of tenders and, obviously, in the assessment. Who are they? Are they the same advisers the Treasurer had last year? The Treasurer might care to tell us exactly who they are.

The Hon. R.I. LUCAS: The Government's commercial advisers remain the commercial advisers it had through the process last year, together with their legal counsel and accounting advisers. They are listed in *Hansard*. I do not intend—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: They are the commercial advisers, but we have legal and accounting advisers. They were all listed last year, and I do not intend to go through the list again for the honourable member. I just refer him to the *Hansard* records, which indicate the Government's advisory team. Towards the end of this financial year, I will be reporting on the costs incurred this year in terms of disaggregation of our assets and also the sale preparation process or lease preparation process which, again, will list all of the advisers or consultants and how much is being spent on them in the current 12 month period.

The Hon. P. HOLLOWAY: I still think it is important that we know clearly who will perform the task of assessing the tenders. Obviously, Cabinet will make the final decision, but who will make any recommendations to Cabinet? Will these commercial advisers undertake that task?

The Hon. R.I. LUCAS: I am happy to continue responding to the naive questions that are coming at the moment. The Government will take advice from its advisers. We have the Electricity Reform and Sales Unit, headed by some senior Treasury officers, of which the honourable member is fully aware. There will be a combination of the advice from some sort of a process which comes out of our commercial advisory team and our senior advisers within the Electricity Reform and Sales Unit. There will be an established process, which will probably involve a Cabinet committee, and ultimately the final decision will be made by the Cabinet.

The Hon. P. HOLLOWAY: What probity checks will be in place during the tender process?

The Hon. R.I. LUCAS: As I have already indicated, we have a probity auditor. There will be whatever requirements the probity auditor requests.

The Hon. P. HOLLOWAY: The Treasurer is being fairly glib about all this. Given that we are talking about the sale of this State's most important assets, one would have thought that the Government would at least have some idea or be able to provide some information about how it will go about this task. After all these questions that I have asked the Treasurer, it seems to me that he does not have any idea of exactly how the Government intends to proceed. I do not think that that could give much confidence to the community of South Australia that the processes that the Government has put in place will lead to an outcome in their best interests.

To complete this line of questioning, as we do not seem to be getting very far with the Government—I think it will stand on record that the Treasurer has a cavalier approach to these matters—I ask the Treasurer: will the highest bidder win, or are other criteria to be considered; and, if so, what are the criteria that will be involved in the awarding of the tender?

The Hon. R.I. LUCAS: I think the honourable member is wounded by the fact that, so far, after a couple of hours, he has not been able to draw blood with his questions. All his questions have been answered fully and comprehensively and, so far, he has not been able to establish any problems with the process. The Government rejects the notion that, in any way, it is adopting a cavalier approach to the lease of these assets.

The Government has assiduously put together the best possible team that it can to manage the sale or lease process. It has appointed a probity auditor of some standing in South Australia to oversight the process, and it will be the responsibility of the probity auditor to ensure that, regarding these issues, due process is followed and, if it is not, to ensure that it is corrected or changed or, ultimately, to report to me as Minister and to the Government. One cannot ask for any more rigorous a process than that.

If the honourable member has further questions, I am quite happy to continue to respond to them, but the broad brush explanation that in some way the Government is adopting a cavalier approach bears no scrutiny at all. Every question that the honourable member has asked has been responded to fully and comprehensively, and I intend to continue in that way.

The Hon. P. HOLLOWAY: There is one particular question which I asked but which was not responded to. I will ask it again: will the highest bidder win?

The Hon. R.I. LUCAS: The Government will take the appropriate commercial advice on that issue. As has occurred with a number of other asset sales, there may well be issues regarding industrial development or economic development or other related matters. I think that, in most processes, the Government would expect that, if the highest bid comes from a reputable company, one which is able to deliver on the contract and implement it, is a good corporate citizen and can meet a number of other requirements, that may well be the sort of company to which the Government would award the

tender. However, it is not just an issue of price, although that is obviously critical.

The Hon. P. HOLLOWAY: The Treasurer mentioned economic development: is that likely to be part of the requirement associated with this lease?

The Hon. R.I. LUCAS: The Government has no concluded view on that at this stage. We have in only the past week received information that we may be able to pass the leasing legislation. As soon as the legislation has been passed by the Parliament, we will sit down and look at all these issues in terms of how we will ultimately make some sort of judgment as to the successful tenderer. The Government has indicated its willingness to table the lease contract in the Parliament and, ultimately, after all the lease contracts have been concluded, the successful deal will be there for the scrutiny of the honourable member and other members to make their own judgments.

It might surprise the honourable member, but at this stage of the proceedings final decisions have not been taken in relation to some of the detail that he suggests. As I said, only in the past week have we established that the Government potentially would be able to lease the electricity assets over the long term. Obviously, in the past few days we have not been able to conclude a view, nor should we have been able to conclude a view, on what are literally hundreds or thousands of complex issues that will need to be resolved before we conclude any lease agreement with any prospective private operator.

Amendment carried.

The Hon. R.I. LUCAS: I move:

Page 2, line 14—Leave out paragraph (b) and insert:
(b) in relation to a transfer made or lease granted by a transfer order, sale/lease agreement or special order, a present or future cause of action against the transferor or lessor;

This amendment is a drafting change to the definition of 'liability' and is intended to expressly accommodate the leasing of assets, whether pursuant to a transfer order or a sale/lease agreement.

The Hon. P. HOLLOWAY: In relation to liabilities, I note that the ETSA annual report records a non-current provision of $96 million for future losses on cogeneration contracts. That may not be the most recent report: I am not sure when the last ETSA report came out. Certainly, there was a non-current provision of $96 million for future losses on cogeneration contracts. This represents the present value of the difference between the contracted purchase price of cogenerated electricity and the estimated wholesale sale price. Who are these cogeneration contracts with?

The Hon. R.I. LUCAS: I am advised that it is just one contract, the CUBE contract.

The Hon. P. HOLLOWAY: What is the quantity purchased and the price paid for electricity under that contract?

The Hon. R.I. LUCAS: We do not have here the detail of the price charged, the quantities and so on. If the honourable member wants to list a series of questions that relate to the contract, we will see what information we are able to provide. But we do not have available to us here a detailed breakdown of every aspect of each of the electricity businesses' balance sheets or profit and loss statements.

The Hon. P. HOLLOWAY: I would like that detail. How will these contracts be treated in the lease process?

The Hon. R.I. LUCAS: I am advised that this will be one of the thousands of issues which will need to be negotiated with the successful lessee of the particular business that inherits the CUBE contract.

The Hon. P. HOLLOWAY: In that case I would probably be pushing my luck if I asked whether these contracts would be transferred to the lessee of ETSA Distribution?

The Hon. R.I. LUCAS: I am advised that the CUBE contract will go with the particular electricity business in which it currently resides to the new lessee of that electricity business.

The Hon. P. HOLLOWAY: Given that the present value of expected losses under those contracts is $96 million, is it anticipated that the sale or lease price of ETSA would also be reduced by that amount?

The Hon. R.I. LUCAS: This will obviously be an issue of negotiation with a prospective, successful lessee. In some circumstances there might be favourable tax treatment of losses, and that might well mean that one cannot just assume that the impact might be a particular figure. So, they will be issues that we will have to try to negotiate with the successful lessee of the particular electricity business.

The Hon. SANDRA KANCK: In relation to the fires that result when wires clash together on occasion—the historic thing that happened in 1983—would the liability rest under those circumstances with the lessor or the lessee?

The Hon. R.I. LUCAS: In cases of negligence, it will be the responsibility of the lessee.

The Hon. P. HOLLOWAY: While we are discussing the transfer of liabilities, the Treasurer would be well aware of the complex issue of vegetation clearance which we dealt with in a special Act in this Parliament several years ago. I am sure that all those involved in that debate know how difficult it was to try to reach agreement with the Local Government Association about how liability for tree clearance would be treated. How will those vegetation arrangements be affected under a lease? Does the Government have any views as to how that will be affected by this provision?

The Hon. R.I. LUCAS: I am advised that the lessee will have to comply with the vegetation clearance schemes that currently exist.

The Hon. P. HOLLOWAY: As I recall that legislation, provision was made for a technical Regulator to be the arbiter of any disputes between local government and ETSA over vegetation clearance. Will those provisions remain intact for a new lessee?

The Hon. R.I. LUCAS: Not having participated in that debate, I do not have the same recollection as the honourable member. However, if the honourable member's recollection is correct, the provisions would continue.

Amendment carried.

The Hon. R.I. LUCAS: I move:

Page 2, after line 14—Insert:
'public lighting infrastructure' means poles, equipment, fittings or wiring associated with the provision of lighting in a street or other public place;

This amendment introduces a definition of 'public lighting infrastructure' for the purposes of proposed new clause 10B. This proposed clause relates to the vesting of certain public lighting infrastructure in a specified electricity corporation State-owned company or council. Again, I would suggest that, for the benefit of members, it might make more sense if we had the substantive debate on public lighting under clause 10B and, if clause 10B happened to be struck out or amended significantly, we would need to reconsider and amend this provision, although we may not.

The Hon. P. HOLLOWAY: The Opposition wishes to raise a number of issues on public lighting infrastructure. It is an important matter, because it is my understanding that the cost to local government for electricity alone for public lighting is about $18 million a year. There are a number of issues in relation to the ownership and costing of public lighting, and we will certainly be raising those at the appropriate time.

The Hon. T. CROTHERS: I rise to indicate that I will be supporting the Government on those measures, simply because I believe—and I will probably repeat this—that, if we are to maximise the price that the Government is to get for the sale of the lease, we have a small window in time opportunity prior to New South Wales selling off its electricity generating capacity for some $23 billion to $25 billion. Should the progress of this Bill be delayed, the more we eat into that time, the closer we get to that point where, because of potential outlay of capital for New South Wales, we would risk getting half of nothing for the lease of ETSA. That is a risk I am not prepared to take. I understand that, whilst local government may have some interest in getting its hands on some of the extra money—not unlike a statement made recently by the President of the Teachers Union (Janet Giles)—that will emanate out of a successful lease negotiation by the Government, I certainly intend to press on with my avowed intention of seeing the bulk of the money being used to discharge debt.

Provided that nothing much differs from the present arrangements with local government, I shall certainly not be delaying this Bill to any prolonged measure of debate or, indeed, any amendment moved by the Independents, the Democrats, or the Labor Party Opposition which will put the timing of the execution of the passage of this Bill out of the hands of this Parliament and, indeed, as an effort by somebody to get in early relative to trying to extract even more money than is currently the case. I make that point known to members so that they can well understand it. Perhaps when we come to clause 10B, I shall feel the need to elaborate further on that which I have said.

Amendment carried.

The Hon. R.I. LUCAS: I move:

Page 2, line 17—Leave out definition of 're-transfer order'.

This amendment deletes the definition of 're-transfer order' because proposed new clause 8 will render that type of order redundant.

Amendment carried.

The Hon. R.I. LUCAS: I move:

Page 2, after line 125—Insert:
'specially issued licence' means a licence under the Electricity Act 1996 issued in accordance with an order of the Minister under Part 3B;
'special order'—see section 11D;

This amendment introduces definitions of 'specially issued licence', being a licence issued in accordance with an order of the Minister under proposed new Part 3B for the purposes of proposed new clause 5A of schedule 1, and 'special order' being an order made under proposed new clause 11D to which reference is made in various provisions including clauses 13, 15C and 23 as proposed to be amended.

The Hon. P. HOLLOWAY: Why do we need a specially issued licence, and what is its status?

The Hon. R.I. LUCAS: I am advised that this is to take into account the circumstances where I, as Minister, would direct the Regulator to ensure that the new lessees would have a licence to run the business, whether it be a generation business, distribution business or a transmission business, and that is to be distinguished from a licence that would be issued by the Independent Regulator in the normal course of events.

The Hon. SANDRA KANCK: I actually have not understood that answer. What does a normal licence do and what does a special licence do? What is the difference between the two?

The Hon. R.I. LUCAS: They could cover exactly the same reasons for the licence. The specially issued licence is in the first instance where I, as Minister, direct the Regulator to ensure that whoever leases the assets to run a generation company gets a licence to be a generation company. There is not much point if we lease the asset and they do not have a licence to run a generation business. Further down the track, the Independent Regulator will issue, I presume, exactly the same licences on renewal to the generation company, and that is a decision then for the Independent Regulator. In the first instance, if we are going to lease an asset, they need a licence to run a business, otherwise they will not have anything of value to lease.

Amendment carried.

The Hon. R.I. LUCAS: I move:

Page 2, line 27—Leave out 'public'.

This amendment enables a State-owned company to be a proprietary as well as a public company.

Amendment carried.

The Hon. P. HOLLOWAY: I think we are now at the place where the definition of a State-owned company is in the original Bill. What is the current structure of ETSA Corporation? So many changes have been made to that structure that perhaps the Treasurer could tell us exactly what is the status of each of the entities within the ETSA Corporation. Are electricity corporations also State-owned companies as defined by clause 3?

The Hon. R.I. LUCAS: I am advised that ETSA Corporation, ElectraNet and the SA Generation Corporation are public corporations under the Electricity Corporations Act. The other companies in our electricity businesses are corporation law companies.

The Hon. P. HOLLOWAY: That tells us what corporations are under the Electricity Corporations Act, but what is the difference between an electricity corporation and a State-owned company as defined in the Bill?

The Hon. R.I. LUCAS: An electricity corporation is a subsidiary of SAGC or ETSA Corporation. A State-owned company is a corporations law company in which the Minister holds shares.

The Hon. P. HOLLOWAY: In which companies do you hold shares?

The Hon. R.I. LUCAS: None at present, I am advised.

The Hon. P. HOLLOWAY: If I am correct, the State-owned companies will be part of the process, but we do not have any at this stage?

The Hon. R.I. LUCAS: I am advised that that is correct. I move:

Page 2, after line 30—Insert:
'statutory corporation' has the same meaning as in the Public Corporations Act 1993;

This amendment introduces a definition of 'statutory corporation'. This is one of the categories of bodies to which, under proposed new clause 8, assets and liabilities could be transferred.

Amendment carried.

The Hon. R.I. LUCAS: I move:

Page 3, lines 8 to 12—Leave out the definitions of 'transferee' and 'transferor'.

This amendment deletes the definitions of 'transferee' and 'transferor' because they are not required.

The Hon. SANDRA KANCK: Perhaps I have not matched the amendments with the Bill at this stage, but are not some of the definitions in this clause still using 'transferor'? Have I missed something? If they still use the word 'transferor' within the definitions, then surely we need to have it defined. For example, the Treasurer's earlier amendment at page 2, line 14, talks about:

. . . a present or future cause of action against the transferor or lessor;

We are using the term 'transferor', and I find it strange that we are now ditching any definition of the word.

The Hon. R.I. LUCAS: This is a fine legal argument. It is true that we still use 'transferee' and 'transferor' in other parts of the Bill, but my legal advice tells me that, nevertheless, we still need to remove these definitions because 'transferee' (as it is currently drafted and about to be deleted) includes or encompasses lessee. My legal advice is that, unless we can make a clear distinction about the various uses of the words 'transferee' and 'transferor' within the Bill, we will have—and the honourable member is right to say that we still have those definitions—some confusion if we leave it in there, that is, legal confusion as opposed to perhaps our confusion. Whilst I understand the question the honourable member is putting, the legal advice is that it is important that we do not have the definitions of 'transferee' and 'transferor' in the way in which we had previously defined them in the Bill.

The Hon. SANDRA KANCK: I simply make the observation that I find it peculiar. I really am very concerned. I expect that in the transfer of assets we will find multinational companies owning the assets in the future and, with the prospect of some of them and their smart-arsed lawyers whom they are likely to have with them, I am really worried that we could be taken to the cleaners. I have no way of challenging what the Treasurer has said, but all I can say is that it seems very peculiar.

Amendment carried.

The Hon. R.I. LUCAS: I move:

Page 3, lines 14 to 23—Leave out the definitions of 'transferred asset,' 'transferred instrument' and 'transferred liability' and insert:

'transferred asset' means an asset transferred by a transfer order, sale/lease agreement or special order;

'transferred instrument'—see sections 8, 11B and 11D;

'transferred liability' means a liability transferred by a transfer order, sale/lease agreement or special order;

'vesting order'—see section 10B.

This amendment revises the definitions of 'transferred asset', 'transferred instrument' and 'transferred liability' as a result of the introduction of the concept of a leased asset and special order—see proposed new clause 11D. The definition of 'vesting order' is also inserted—see proposed new clause 10B.

Amendment carried; clause as amended passed.

Clause 4.

The Hon. R.I. LUCAS: I move:

Leave out this clause and insert:

Application of Act

4. It is the intention of the Parliament that—

(a) this Act apply within the State and outside the State to the full extent of the extra-territorial legislative capacity of the Parliament; and

(b) the provisions of this Act, and orders and agreements made and other things done under this Act, have effect in relation to assets, liabilities, transactions, acts and matters situated, arising, entered into, done or occurring within or outside the State whether the applicable law would, apart from this Act, be South Australian law or the law of another place; and

(c) a court, tribunal or other body exercising judicial powers in a place outside the State apply South Australian law to the determination of any question about the effect of this Act, or the effect of an order or agreement made or other thing done under this Act, despite any inconsistent law of that other place.

Clause 4 is substituted by this amendment. It makes it clear that the Act and transfer orders, sales/lease agreements and other things made or done under the Act are intended to apply to assets, liabilities and matters that are outside as well as within South Australia, irrespective of whether those things will be governed by South Australian law or some other law, and that any court exercising judicial power outside of South Australia should apply South Australian law in relation to those matters.

The Hon. P. HOLLOWAY: Why was it necessary to amend the original provision contained in the Bill?

The Hon. R.I. LUCAS: I am advised that this is intended to give some guidance to South Australian courts. If there is any question as to which law ought to apply in relation to any particular case, it ought to be South Australian law rather than the law of another State or, indeed, another country, as it might apply.

The Hon. T. Crothers interjecting:

The Hon. R.I. LUCAS: Mr Crothers raises an important issue. There are others in relation to a series of contracts that our electricity businesses might have written with interstate companies or, indeed, companies in other nations. As I said, I am advised that it is intended to try to provide some guidance to South Australian courts in relation to any issues that might present before them.

The Hon. P. HOLLOWAY: How realistic is it that an Act of this Parliament will apply outside the State? What is the full extent of the extraterritorial capacity of this Parliament?

The Hon. R.I. LUCAS: Ultimately, I suppose that that matter will be determined by the courts. I am not a lawyer, as the honourable member knows, and that will be a judgment call for the courts to take. My legal advice is that this is an indication of the intent of the Parliament to the degree that it can do so and to the degree of its extraterritorial legislative capacity—to use the phrase quoted by the honourable member. So, with whatever powers that we have, we are seeking to ensure that South Australian law will prevail. But, ultimately, it will be a question for the courts in terms of how they might rule if there is a particular contractual dispute. We can only give an indication through the legislation that we think that, to the degree that it can, South Australian law will prevail.

The Hon. SANDRA KANCK: Does that mean that, if the new owner has a head office in Melbourne, for instance, we would be trying to apply South Australian law to a company that has its head office located in Victoria, which would be operating under Victorian law?

The Hon. R.I. LUCAS: The honourable member will be pleased to know that the answer to that question is 'No.' This has to do with the transfer of assets and liabilities.

The Hon. P. HOLLOWAY: What impact, if any, will this clause have on cross border leases? Is it designed with that in mind?

The Hon. R.I. LUCAS: My legal advice is that it might, but you would not want to rely on this provision. It is more likely to revolve around the successful negotiation between the commercial parties for the cross border leases rather than this provision.

Amendment carried; new clause inserted.

Clause 5.

The Hon. R.I. LUCAS: I move:

Page 4, line 9—Leave out 'transferred to a State-owned company or the Minister under this Act' and insert:

of a body by which assets or liabilities have been acquired under a transfer order.

The amendments to this clause are as a consequence of the fact that the transfer order may not just transfer assets but may also grant a lease in respect of assets. They are also a consequence of proposed new clause 8, which expands the bodies to which assets or liabilities may be transferred by way of a transfer order.

The Hon. P. HOLLOWAY: I have some questions in relation to this clause, which applies to the preparation for restructuring and disposal. I asked a question earlier about the break-up of ETSA Corporation and Optima Energy. When was that restructuring completed? I understand that seven or eight entities have evolved from the original two bodies, ETSA Corporation and Optima Energy. So, my first question is: when was that construction completed?

The Hon. R.I. LUCAS: It was completed on 12 October 1998.

The Hon. P. HOLLOWAY: Under what legislation was that restructuring carried out?

The Hon. R.I. LUCAS: The Electricity Corporations Act.

The Hon. SANDRA KANCK: I note that this clause is headed 'Preparation for restructuring and disposal'. It is fairly clear to us what disposal is, but is further restructuring now proposed?

The Hon. R.I. LUCAS: I take the honourable member's question to involve whether or not we are likely again to aggregate the disaggregated businesses that we have established. The answer to that question is 'No.'

The Hon. SANDRA KANCK: So, why have a heading 'Preparation for restructuring and disposal'?

The Hon. R.I. LUCAS: The honourable member has found a weakness. The heading was in the original drafting of the Bill and has simply remained.

The Hon. P. HOLLOWAY: What instruments were employed to give effect to the restructure of ETSA Corporation and Optima Energy? Will the Treasurer table those documents that establish those new corporations?

The Hon. R.I. LUCAS: The power came under the Electricity Corporations Act; they were transfer orders under the Electricity Corporations Act and they are not public documents.

The Hon. CARMEL ZOLLO: Do they comply with the requirements of the ACCC?

The Hon. R.I. LUCAS: I think the honourable member would need to explain how she believes the ACCC would apply to a transfer order for disaggregating our businesses.

The Hon. P. HOLLOWAY: I think my colleague's question deserves a better answer than that. Certainly, the NCC and the ACCC are involved. We were told by the Premier some time back that this disaggregation was necessary as a consequence of the requirements of the NCC and the ACCC. So, will the Treasurer say whether he has had authorisation from the ACCC or the NCC in relation to this restructuring of the electricity entities?

The Hon. R.I. LUCAS: I am advised that, in relation to the restructure implemented on 12 October (whilst there was no requirement for the ACCC or the NCC to approve that restructure), at that time we did have consultation with them and they had no concerns with the proposed Government disaggregation of industry. I do not have the information with me but I think that it was marginally stronger than that. They acknowledged that a number of aspects of the Government's restructuring program met their preferred model in terms of disaggregation. There might have been other aspects about which they would like to have seen farther down the path but I would have to take further advice on that.

The Hon. P. HOLLOWAY: I would appreciate the Treasurer's answer because it is an important point. The Premier, in one of his speeches some time ago, suggested that the particular structure we now have for ETSA Corporation and Optima Energy was imposed upon this Government by the NCC or the ACCC. I would like the Treasurer to answer this question: is the structure we now have a structure that was required specifically by the NCC or the ACCC, or did the Government decide to restructure the industry in the way that it has?

The Hon. R.I. LUCAS: The Government is required, under national competition policy (and that is, of course, what the NCC looks at), to get as close as possible to a competitive market in South Australia. The model of a single monopoly generator in South Australia is not a model that fits comfortably with a Government that wants to introduce a competitive market in South Australia. The requirements of national competition policy, the requirements of the NCC and the sort of funding that is made available for the States in terms of having a competitive electricity business, in essence, necessitated the sorts of changes we were looking at.

We had to decide whether we were to continue with a monopoly generator and its power to control absolutely price for large amounts of the time in any particular year as opposed to disaggregation into three electricity generators. The encouragement of new competition at Pelican Point, the encouragement of unregulated interconnectors from New South Wales to South Australia and the encouragement of, for example, Boral's establishing new peaking capacity in the South-East are the sorts of policy constructs the Government put together to try to establish a competitive market as opposed to having a single monopoly Government-owned generator dictating price for large periods of the time in a year.

It is correct to be saying that the requirements of national competition policy were such that we had to have something much closer to a competitive market in South Australia than existed prior to disaggregation in October last year. As I have indicated on a number of occasions, I believe we are only in the first stages of an implementation of a competitive market. Not until we get the new private sector competitor, through National Power at Pelican Point with 500 megawatts of capacity at the end of next year and the start of the following year, will we have the next stage of much more intense competition in terms of generation in South Australia.

The Hon. P. HOLLOWAY: Did the NCC or the ACCC ever specifically require the break-up of Optima into more than one generator? Was that ever specifically requested by the NCC or the ACCC?

The Hon. R.I. LUCAS: I have just answered the question. It is a requirement of the national competition policy, which is overseen by the NCC, that we have, as close as we can get it, a competitive market in South Australia. If we

want to get continued access to competition funds from the Commonwealth (and the NCC distributes those funds) and they want to see a competitive market and South Australia's situation is that it has one Government-owned monopoly generator, it does not take a Rhodes scholar to work out, on that background, the sorts of changes that had to be implemented by the Government.

Whether there are two, three, four or five generators and whether they are Government or privately owned, I suspect that, ultimately, some degree of discretion or flexibility will be involved. But we have to try to develop a competitive market. We did not have a competitive market; therefore, there needed to be significant change.

The Government took advice, and the best advice that it received regarding the development of a competitive market in South Australia was that the sort of disaggregated structure that the Government developed with three generation companies, together with the encouragement of a new and significant private sector generator and the other issues that I have highlighted in my earlier response to this question, was the best way of trying to develop a competitive market in South Australia.

Those who took the view that we should persist with one Government owned monopoly generator as the way to have a competitive market in South Australia did not, in the Government's judgment, understand the reality of the markets and the impact that such a policy would have on the level of price in South Australia.

The Hon. P. HOLLOWAY: I think it is worth making the point that in other States such as New South Wales, where they have several competing generation systems, all those systems are larger than the entire generating plants in this State (the former Optima Energy) would be. Given that we have at least one interconnect with the Eastern States, then, of course, we are competing with those States.

However, to come back to the point, it seems to me that the Treasurer is really saying that the Government, based on the advice that it took from its advisers, decided to come up with this structure and then sought approval from the ACCC or NCC. It was certainly not the other way around: that the Government took this action because it was specifically requested to do so by either of those two bodies.

The Hon. R.I. LUCAS: The honourable member asserts a number of things in his response to my earlier indication of Government policy, and his assertions do not match my earlier statement. I do not intend to repeat it but, for the sake of the record, I indicate that his assurances about what I have just said do not match what I did say.

The Hon. P. HOLLOWAY: Can the Treasurer table any document from either of those two bodies which would dispel what I have just said?

The Hon. R.I. LUCAS: I can only repeat for the third time that the Government is required under national competition policy and the NCC arrangements to develop a competitive market in South Australia. As we did not have a competitive market, we had to make some major changes, and therefore the Government went through this process.

The Hon. SANDRA KANCK: What sort of oversight will the ACCC and the NCC have in the future over any arrangements that are entered into? For instance, will they have any comment to make if a company wants to buy two of the generation corporations? What I want to know is: to what degree is the Government and ERSU communicating with the ACCC and the NCC at present?

The Hon. R.I. LUCAS: The Electricity (Miscellaneous) Amendment Bill, which will be visited in July, contains a significant section on cross ownership rules, and there are significant restrictions in respect of which companies with which current assets can purchase or lease other assets. So, there are significant restrictions. We have already had significant discussions with the ACCC regarding those issues, and we understand that they would have a continuing interest, which we would welcome.

The Hon. NICK XENOPHON: In terms of the discussions with the ACCC and the competitive framework that the Treasurer was referring to, can the Treasurer indicate whether it is proposed that the vesting contracts and contractual arrangements be provided to the ACCC in due course, in the context of the leasing transactions?

The Hon. R.I. LUCAS: I am sure that the honourable member will be delighted, because he seems to have a fixation about this particular issue, to hear that the Government has already had discussions with the ACCC about the draft vesting contracts. As the honourable member would be aware from his interest in this particular issue, the original vesting contracts from late last year have now been reviewed, on a couple of occasions at least, and the Government will be submitting the contracts to the ACCC for authorisation, as it had always intended.

The Hon. NICK XENOPHON: Further to the Treasurer's response, my understanding is that Treasurer has argued, or his department has argued, that the ACCC does not have the right to look at those contracts. I am not sure whether you are relying on an immunity or whether it is because the Treasurer is a corporate soul for the purpose of the Trade Practices Act. Can the Treasurer assure the Committee that there will be full disclosure of contracts to the same extent that the New South Wales and Queensland electricity utilities provided information to the ACCC seeking authorisation with respect to the contracts?

The Hon. R.I. LUCAS: I think I have just given that undertaking, and the *Hansard* record will probably make it clear that the Government had always intended to do so. As I understand it, as soon as we enter into some sort of privatisation program where non-government interests are involved in these vesting contracts, we are required to submit the vesting contracts to the ACCC for authorisation. The Government always intended to do that. We had had discussions with the ACCC about the draft vesting contracts, and that went on late last year sometime, way before the honourable member became interested in vesting contracts. So it is not something which has arisen as a result—

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: You might have been; before the honourable member was publicly interested in vesting contracts the Government had engaged in discussions. The point that the honourable member might have been advised of, perhaps not 100 per cent accurately, is that legally, I am told, whilst these entities remain within Government ownership, we are not required to submit the vesting contracts to the ACCC for authorisation. However, in the spirit of openness and accountability, which is legendary amongst the Ministers of this Government, I am advised that we were—

The Hon. A.J. Redford: And the people of South Australia.

The Hon. R.I. LUCAS: And the people of South Australia. I am advised that if the momentous events of recent weeks had not occurred the Government had intended to submit the contracts to the ACCC for authorisation once they

had been finally reviewed for the last time. Those circumstances now do not look like eventuating, that is, we are likely to have private sector interests and we are therefore required to submit them for authorisation. It will not be the same as New South Wales because there are no private sector interests there.

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: That is what I am saying; that is what the South Australian Government was going to do. I noted some unkind things that the honourable member said recently that this Government had not been prepared to assist the ACCC. Certainly, when we revisit his motions in July I will address a number of the claims that the honourable member made in his correspondence with the ACCC, and in other correspondence, because the Government does not agree with a number of the claims that the honourable member made in his correspondence with Professor Fels. We can have that debate in July when we address the honourable member's questions.

The Government has been involved in discussions with the ACCC on a whole variety of issues: the cross-ownership issues the Hon. Sandra Kanck raised, the disaggregation issues and the vesting contracts. As I said, the Government has tried, to the degree that it can—and in some cases we are required to but in other areas we are not—to ensure that the ACCC is comfortable with the Government's approach in relation to these issues. We are not a Government deliberately and cynically about trying to subvert the proper role of the ACCC. I know that there are some who advise the honourable member who seek to put that view about the Government and about me personally. It is not the way I like to operate. My advisory team has been operating, to the degree that it can, to work with the ACCC. As I said, I do not want to get into a debate about the honourable member's motion at this stage; it is not appropriate. We can return to the detail of it at another stage.

The Hon. NICK XENOPHON: Before I ask the Treasurer a further question, I put on the record that I have never suggested that the Treasurer or the Government have been cynically trying to subvert the workings of the ACCC. Any such suggestion on the part of the Treasurer is fanciful or paranoia on his part. In terms of the contracts that the Treasurer has indicated will be disclosed and provided to the ACCC for authorisation in due course, will that undertaking also apply to the contract between any Government instrumentality and National Power, whether it is National Power PLC or National Power South Australia Investments Limited—in other words, between National Power and Pelican Point—or whether it is ETSA Utilities or any other entity? Will they be included in the contracts to be forwarded to the ACCC?

The Hon. R.I. LUCAS: I am advised that we are not required to provide those contracts to the ACCC. As the honourable member knows, I have already provided a broad summary of those contracts to the Council. At the moment we are in the process of getting the Parliament to authorise a process which involves the Auditor-General in summarising contracts. The honourable member may well recall the process that this Parliament endorsed in terms of these major contracts where the Auditor-General as an independent authority signs off on a proper and fair summary of the contract details without obviously revealing anything which he and others might deem to be commercially confidential.

The Auditor-General, as an independent person, signs off on the contract, and that document is in the process of being prepared. There has been some tardiness in terms of when it will arrive, but I understand that it is a work in progress. We will table the Auditor-General's summary of those contracts for the honourable member and others to look at closely and to question the Government on. That was a process which this Parliament authorised, and we will certainly be following that. The Auditor-General will be able to raise issues, having seen them and being able to report on them if he wishes, but he will have to sign off that that is a fair reflection of what the contract involves.

The Hon. NICK XENOPHON: Given that contracts will be provided to the ACCC, as the Treasurer has already indicated, what distinction is there between those contracts that the Government will be providing to the ACCC for authorisation and the contract between National Power and ETSA Utilities?

The Hon. R.I. LUCAS: For the information of the honourable member—and we will have to check this—I am advised that, before we went through the request for proposal process for Pelican Point, the contracts that would be offered to the successful tenderer were raised with the ACCC. I will have that information checked because the individual who conducted the discussions with the ACCC is not with us. I am happy to check that issue, and we might be able to explore that further when we debate the honourable member's motion. The recollection of my advisers here at present is that those contracts were raised with the ACCC during that process. The honourable member may recall that the power purchase agreement involved a contract of up to seven years. In the end, the Government settled on a contract of a much shorter duration of only 20 months rather than the seven year contract. I will have that information checked to see whether the recollection of events of my advisers who are here is correct.

In relation to the honourable member's question as to why these contracts are different from vesting contracts, again I will need to get some considered legal advice from a legal adviser who is not with me at present, and I am happy to bring back a response for the honourable member.

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: I will not be able to get it this afternoon. I will endeavour to see whether I can get it tomorrow; if not, I am sure this issue will be raised by the honourable member when his motion is debated and also in the select committee he has had set up. I am sure I will not escape further opportunities to discuss the issue with the honourable member.

The Hon. A.J. REDFORD: Last week I had dropped in my box anonymously—and I suspect on this rare occasion it was not Michael Atkinson—an article entitled 'Electricity Week'. It refers to a number of articles, including one which is entitled 'TransEnergie and Northpower confirm new NSW-SA link'. The article states:

> The New South Wales Government distributor Northpower and private energy firm TransEnergie announced last week the two will compete with New South Wales Government firm TransGrid to build an SA-NSW electricity interconnector.

It continues to state that this new consortium, unlike the TransGrid proposal—and we have heard a lot about the TransGrid's proposal through the Hon. Nick Xenophon on a number of occasions—does not require any market subsidy. Indeed, the article states:

> TransGrid seeks regulated status through application to the national market management organisation NEMMCO. TransEnergie has not—it will auction capacity, an idea new to Australian markets.

In the light of that and if, in fact, that is true (and I would be grateful if the Treasurer could confirm whether or not that is true), then it appears some way down the track that the market, in terms of generation of electricity, will be far greater in terms of what is available to the ultimate consumer than that which exists today. The only competitor today against the overall Government monopoly is that electricity which comes from the Victorian interconnect, and my understanding is that that is at full capacity and that, if this non-subsidised interconnect is built, that will change the nature of the generation market at some stage down the track.

In the light of that development, are there likely to be any changes—and the Treasurer may not be able to answer that—in the ACCC's attitude as to whether or not there would be scope for South Australia to have, perhaps, only one or two generators as opposed to the three existing generators so that they may well be able to compete on the national market through economies of scale? If that is the case, what role will the State have?

The Hon. R.I. LUCAS: First, I am sure that we will have a number of opportunities in the July debates to talk in greater detail about the interconnector proposals of TransGrid and TransEnergie. The member is correct to say that there have been very significant movements in the past couple of months in terms of unregulated interconnectors. They are consistent with the views that the Government has been putting for some time. I do not think at this stage I would want the delay the Committee stage with a long debate about the arguments of unregulated versus regulated interconnectors. The member is correct, and we will have a significant debate and discussion about that issue.

In relation to the second part of his question, that is, whether it might impact on the shape and structure of our industry and the three existing generation companies, it may or may not but, ultimately, that will be a decision that significant private sector players will need to take. It is the Government's intention, as I have outlined, subject to the passage of this Bill, that we will have three privately operated generation companies in South Australia taking over from the three existing Government generators. We will also have National Power at Pelican Point and Boral in the South-East; we might have Western Mining and BHP at Whyalla; and we might, as the honourable member has indicated, have TransEnergie and NorthPower with an unregulated interconnector.

In those circumstances, and if there are other generating plants, there might be capacity for some rationalisation within the industry, but I suspect that will be some way down the path. It then would not be an issue that the Government would be controlling. It would obviously have an interest in it, but it would not be an issue that it would control—or indeed the ACCC would control. Of course, it would take an interest in relation to whether it would lessen in some way competitive tension within our electricity market in South Australia.

The honourable member has raised an important question and I think he probably forecasts possible changes in our electricity industry further down the track, but they will not be issues that will directly relate to this Government and this Parliament during the next six to 12 months when we are trying to lease our existing Government owned generators in South Australia.

The Hon. P. HOLLOWAY: The Treasurer said earlier, in answer to the Hon. Nick Xenophon, that authorisation was required for the vesting contracts when a private operator was involved, in other words, when the lease came into play. What impact will that authorisation process have on the letting of this lease? How long is the authorisation likely to take? What are the implications for any lease, should it be approved by the Parliament?

The Hon. R.I. LUCAS: I had a meeting on Friday afternoon, just in case the Parliament passed the legislation by the end of this week. The early commercial advice was, as I indicated in the debate on clause 2 or 3, that we thought we could see the first leased contract resolved within six to nine months and the total resolved within 12 to 15 months. Their advice was that they believed that within the first time frame (six to nine months) the process with the ACCC, etc., could be satisfactorily resolved together with all of the other issues we will have to resolve within that timeframe.

The Hon. P. HOLLOWAY: Clause 5(1) refers to an authorised project. Where considerable effort and resources have already been expended on preparation of the proposed sale and then the lease of ETSA, what is the estimated cost of work on the authorised project as described in clause 5 to date?

The Hon. R.I. LUCAS: The Government will be reporting at the end of this financial year, I suspect possibly at the Estimates Committee, as I did last year, in terms of the total cost of the consultants involved in both (a) the disaggregation and (b) the preparation of assets for sale. There will be two categories. As I indicated on a number of occasions to the honourable member and other members, I will report before the end of the financial year on the total costs for each of the consultants involved in these processes.

The Hon. P. HOLLOWAY: Does the Treasurer have an estimate for the cost of the whole authorised project as described in clause 5?

The Hon. R.I. LUCAS: Is the honourable member talking about past costs or future costs?

The Hon. P. HOLLOWAY: The entire project. Future cost plus past costs.

The Hon. R.I. LUCAS: In part, that depends on the lease proceeds of the assets because, as we have discussed before, for a small number of our consultants part of their fee is based on the success of the process, so it will depend in some part on the lease proceeds that we gather. We have had some ballpark estimates provided but I do not intend at this stage to share those ballpark estimates. I am happy to report on the facts in terms of the actual costs rather than ballpark estimates of what might be.

The Hon. P. HOLLOWAY: In his answer can the Treasurer say exactly which advisers are entitled to a success fee and what is the rate of that success fee?

The Hon. R.I. LUCAS: No, not at this stage. Certainly Morgan Stanley is, if I can answer the first part of the question rather than commenting on the exact amount. We have discussed this issue before: Morgan Stanley is entitled to a success fee and we will obviously be reporting on that, as I indicated earlier. That applies also to KPMG. The other consultants to the Government are generally paid a fee for service or a retainer.

The Hon. P. HOLLOWAY: Are Morgan and Stanley and KPMG also paid a fee for service as well as a success fee?

The Hon. R.I. LUCAS: I will need to take some advice on that. Certainly in relation to Morgan and Stanley there is a combination of monthly fees and success fees but some of the monthly fees come off the success fee, if the honourable member understands. So, some of the fees that have been

incurred will actually be deductions or deductions against what might have otherwise been a success fee.

The Hon. P. HOLLOWAY: Under what authority have the costs to date been expended?

The Hon. R.I. LUCAS: There have been provisions, by and large, in last year's budget and again in this year's budget appropriations. Costs have also been incurred by the businesses for disaggregation. As Minister responsible for the businesses, I have the power to do all sorts of things—to direct. The Treasurer is able to account for these sorts of activities in a number of ways.

The Hon. P. HOLLOWAY: Does that mean that any of those costs, to date, have been met out of the budgets of the entities or has it been a specific budget appropriation? I think that is an important point. Is the Treasurer suggesting that some of the internal earnings of the electricity entities have been used to pay for the costs of the sale to date?

The Hon. R.I. LUCAS: I think there is some reference to that in the budget documents. There is no secret about the disaggregation costs, which were considerable. This happens when you are trying to disaggregate two big companies such as ETSA Corporation and SAGC into half a dozen operating companies. A considerable amount of time, effort and money went into that disaggregation process and appropriately the costs of that disaggregation were the costs of those businesses.

The Hon. A.J. Redford interjecting:

The Hon. R.I. LUCAS: No, could not wave a wand; someone had to pay for the costs of disaggregation, and they were appropriately costs for the businesses. Other costs were directly related to the sale/lease process, and they have been accounted for appropriately.

The Hon. P. HOLLOWAY: The disaggregation costs would otherwise have been potentially provided as a dividend to the Government through profits in their ordinary way. If they had been met internally, how do they appear on the balance sheets of those particular corporations that have had to incur the costs?

The Hon. R.I. LUCAS: I cannot really add much more detail than my last answer; that is, they are costs of the businesses in terms of the disaggregation. They will be reported in their annual reports which will be made available to the Parliament and publicly within three months of the end of the financial year. Again, there is no secret to this. When ETSA was disaggregated into ETSA and SAGC, I understand that the costs of disaggregation, at least in part, were met by the businesses, and a similar process is being followed on this occasion.

The Hon. P. HOLLOWAY: I turn now to clause 5(2)(c) and (d), which allow for the authorised project to be carried out by certain persons. Can the Treasurer provide a full list of those persons who have been engaged in work on the ETSA sale and can he provide an indication of how much they have been paid to date? I will understand if the Treasurer does not have the information now, but I would like an undertaking from him that he can provide that on notice.

The Hon. R.I. LUCAS: I have already indicated that I will provide the answers to these questions, in terms of how much the various consultants have cost the taxpayers, at the end of each financial year. I do not intend to change my position in relation to that. I indicated in response to—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: I will provide those details with respect to each of the consultant firms. I will indicate that, for example, Morgan Stanley earned X and KPMG earned Y. I do not intend to name the individuals who might have worked at various stages for the various companies. However, with respect to the companies, I did so at the end of last financial year and I have indicated that I will do so at the end of this financial year in terms of publicly reporting and accounting for the moneys that were expended on various consultants for both the disaggregation process and the asset sale/lease process.

The Hon. P. HOLLOWAY: Were any checks made with respect to those people who are working on the authorised project to ensure that there was no conflict of interest?

The Hon. R.I. LUCAS: With respect to all these big issues—particularly those which, through no fault of our own, have extended over a long period of time—the whole issue of potential conflicts of interest is an important one and it is an issue that we have assiduously followed through. The honourable member asks whether checks were made when people were employed about conflicts of interest. That is only part of the issue. It is not necessarily what occurs at the appointment stage: it is what occurs for the next 16 months. So, as best as we can, we have strict requirements in terms of the appointment of our consultants in terms of conflicts of interest. As soon as a consultant becomes aware of a potential conflict of interest they are required to advise the Government and the senior officers, and there is a process that we need to work our way through in terms of whether they can or cannot continue with certain work.

Given the nature of broad based advisory consultants and the small nature of the South Australian market, inevitably there will be questions of potential conflicts—and, as I said, particularly with respect to a long process such as this. We have set in place the very best sort of structure we can to ensure that (a) we are advised as soon as possible of potential conflicts and (b) we then sort through a process of ensuring whether or not they are able to be accommodated, and that will obviously involve different judgments for different circumstances.

The Hon. NICK XENOPHON: Further to the Hon. Paul Holloway's question in relation to potential conflicts of interest, does the Government consider that there may be a potential conflict with respect to the role of the advisers providing advice in the restructuring of the various electricity entities and being involved in the sale process and obtaining a commission or a success fee in relation to that sale process?

The Hon. R.I. LUCAS: No, I do not. I think the conflicts that the Hon. Mr Holloway is talking about are probably different from that sort of, I suppose, internal conflict, if I can categorise the Hon. Mr Xenophon's question in that way. The simplest example I can give is that I know our commercial advisers Morgan Stanley, whom I must say I will happily defend publicly and privately to anybody. The common criticism that a number of people from New South Wales made when they criticised the Government's approach to Transgrid and the Riverlink interconnector was that the Government was solely driven by commercial advisers who were trying to ratchet up the price of the assets to the cost of the competitive market and to the cost of the Riverlink interconnector so that they could make a quid for themselves.

That was fed through to a number of journalists. The honourable member will be aware that a number of journalists were fed that line and a number of stories were produced. If anyone wanted to maximise sale value and therefore their success fee, they would have adopted the position which I understood the Hon. Ms Kanck adopted or had as policy for some time, namely, the notion of a single generator and

Optima. First, there is no doubt that, if you were interested only in sale value and you were not interested in establishing a competitive market, you would have kept a monopoly owned, Government controlled generator in South Australia, because that would be more valuable than disaggregating the generators into three competing businesses.

Secondly, if you were interested solely in maximising your success fee, the last thing in the world you would do is recommend fast tracking a major competitor such as National Power at Pelican Point. As I have already indicated, National Power will have an impact on the future viability and profitability of Optima at Torrens Island and its sales value. So, if the Government and its advisers were driven only by sales value, we would have kept a single Government owned monopoly in Optima and left National Power to fight its way through a dozen departments over the next two years to try to get a power station up at a particular site.

I take offence at the underhand criticism which I know New South Wales Government paid advisers and lobbyists have fed to the media, members of Parliament and others that in some way the Government or I as Treasurer have been driven by trying to maximise the success fee for Morgan Stanley—or that in some way Morgan Stanley has manipulated me as the Treasurer and the Government into a set of circumstances which maximises its success fees. In those two areas alone we have taken significant decisions which have been all about trying to generate a competitive market in South Australia and have had an impact in terms of the sale or lease value that we will get from our Government owned assets. We have done so knowing that. We have discussed that in our various meetings. I have sat through all these meetings for 16 months. I know the debates we have had over the impact on our sale or lease value and the impact on the competitive market. I know we took the decisions with goodwill and good intent in trying to establish a competitive market in South Australia, as opposed to being driven solely by some notion of maximising our sale proceeds.

The Hon. Sandra Kanck: How much value did we give away?

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Cameron's response is probably spot on; the answer is very apt. Because of the delays we have had in this whole process, there is a significant potential impact. Until we go through this process we will not know what our sale/lease proceeds will be. I will not put a figure on it; it is impossible to give an exact figure. I have been provided—

The Hon. T. Crothers: It would be commercially unwise.

The Hon. R.I. LUCAS: It would be commercially unwise, as the Hon. Mr Crothers indicates, and I do not intend to be commercially unwise during this whole debate if I can help it. We had advice regarding the possible impact on sales value. They are guesstimates, but I do not intend to put those pieces of commercial information on the public record. As we finish this clause and move to the dinner break, I will say that I object to the inference that highly paid Government lobbyists from New South Wales have been putting to the media and to members of Parliament that in some way we the Government and Morgan Stanley have put our interests in terms of sale or lease proceeds and their interests in terms of success fees ahead of trying to develop a competitive market in South Australia.

Amendment carried.

[Sitting suspended from 6 to 7.45 pm.]

The Hon. R.I. LUCAS: I now move:

Page 4, lines 11 and 12—Leave out 'transferred to a State-owned company or the Minister under this Act' and insert:

of a body by which assets or liabilities have been acquired under a transfer order

Page, 4 lines 21 to 25—Leave out subclause (3) and insert:

(3) The Minister (or the Minister's delegate) may, despite any other law or instrument, authorise prospective purchasers and their agents to have access to information in the possession or control of—

(a) an electricity corporation; or

(b) a body by which assets or liabilities have been acquired under a transfer order,

that should, in the Minister's opinion (or the delegate's opinion), be made available to the prospective purchasers for the purposes of the authorised project.

Page 4, lines 26 and 27—Leave out 'The directors and employers of an electricity corporation or State-owned company must, despite any other law, instrument, contract or undertaking—'and insert:

Members of the governing body and employees of an electricity corporation or a body by which assets or liabilities have been acquired under a transfer order must, despite any other law or instrument—

Page 4, line 29—Leave out 'State-owned company' and insert: body

These amendments are a package. We can debate them as one and, if members wish, we can vote on them separately, but the same explanation applies to all amendments to clause 5. They are a consequence of the fact that the transfer order may not just transfer assets but also grant a lease in respect of assets. They are also a consequence of a proposal under clause 8 that expands the bodies to which assets or liabilities may be transferred by way of a transfer order.

The Hon. P. HOLLOWAY: My first question relates to subclause (3) which relates to the Minister's powers to delegate. The subclause provides:

The Minister. . . may. . . authorise. . . prospective purchasers and their agents to have access to information in the possession and control of an electricity corporation. . .

To whom does the Treasurer intend to delegate the powers provided under clause 3?

The Hon. R.I. LUCAS: This is one of those delicious powers that I still have. I have made no decision as to whether I will delegate it (I may exercise all those powers myself), but should I get tired I might delegate them to a senior Treasury officer. That sort of detail we have not—

The Hon. T. Crothers: I'm here.

The Hon. R.I. LUCAS: I cannot say that it will be the Hon. Mr Crothers or the Hon. Mr Cameron. That is not the sort of decision we have yet taken. There is a series of provisions which give Ministers powers to delegate. If they do delegate, they will do so in accordance with the appropriate procedures, and that may well be to a senior Treasury officer within the Electricity Reform and Sales Unit.

The Hon. P. HOLLOWAY: This clause allows the Minister to authorise prospective purchasers and their agents to be given certain information. Regarding any of the sale preparation processes that have taken place to date, has any information in the possession of ETSA or any of the other State-owned electricity corporations been provided to any prospective purchasers?

The Hon. R.I. LUCAS: Not to my knowledge.

The Hon. P. HOLLOWAY: Specifically, regarding the Pelican Point proposal, was any information in the possession of ETSA provided to the agents of National Power which, for instance, might be necessary for the vesting contracts in terms of National Power's arrangements with ETSA?

The Hon. R.I. LUCAS: I am informed by my legal advisers that Pelican Point is outside the scope of the authorised project. The authorised project that we are discussing now is the leasing of the Government-owned assets. If the honourable member is interested in Pelican Point, we will have more than enough opportunities to explore that when other issues listed on the Notice Paper come to the fore. This is about the authorised project; it is not about Pelican Point.

The Hon. P. HOLLOWAY: I take that point. Nevertheless, I think it raises a precedent for the circumstances under which information may be given to the purchasers of these electricity assets. It was my understanding that information was to be provided by ETSA to the successful tenderers for that new power station project. So, I think that may well set a precedent for what is being done here. My real point is: first, how does the Minister intend to screen the information that is given to prospective purchasers and their agents; and, secondly, how will he screen the agents themselves who will be provided with this information which is in the possession of ETSA and its subsidiaries?

The Hon. R.I. LUCAS: The Government will use the tried and tested techniques of a data room and the information memorandum process. Those who get down to the final short lists will have to sign a confidentiality agreement. The tried and true traditional methods will be used. I am told that the Government and its team are experienced in these sorts of issues, and they will follow those processes and, where appropriate, improve upon them.

The Hon. P. HOLLOWAY: What constraints has the Minister imposed on its commercial advisers? Obviously, these people are not public servants; they work for the Government. What constraints has the Minister placed upon these people in respect of information which is in the possession of ETSA?

The Hon. R.I. LUCAS: All the contracts for consultants and advisers have the standard Crown Law endorsed confidentiality and conflict of interest provisions.

The Hon. SANDRA KANCK: If a potential lessee goes through the due diligence stage and then pulls out, what qualifications or restrictions are on it as regards the use of information it may have gained through this process?

The Hon. R.I. LUCAS: Again, I am advised that this is standard procedure, and the standard confidentiality requirements will be placed upon those parties who get down to the short list for the particular electricity business.

The Hon. P. HOLLOWAY: I will move on to subclause (4) of clause 5, which effectively requires the directors and employees of electricity corporations to provide information that the Minister requests them to provide. Has the Minister given direction so far under his existing powers to those directors and employees of ETSA to provide any information outside the organisation?

The Hon. R.I. Lucas: To whom?

The Hon. P. HOLLOWAY: To any other Government instrumentalities or to any prospective purchaser.

The Hon. R.I. LUCAS: I am advised that subclause (4) does not specifically refer to the Minister's direction; in effect, it requires of the directors and employees that they must provide information under those sorts of circumstances. I am not sure where the honourable member is coming from with his question about ministerial direction: there is not anything in subclause (4) that refers to the Minister's powers to direct.

The Hon. P. HOLLOWAY: Subclause (4) requires directors and employees of the electricity corporations to allow persons engaged on the authorised project access to information in the possession or control of the electricity corporation. Clearly, those people working on that project—the Geoff Andersons, Alex Kennedys, Morgan Stanleys, KPMGs and everyone else—have been getting a large amount of information on the electricity assets. Under what authority have they been getting that information?

The Hon. R.I. LUCAS: If the honourable member is now going back into the past tense as to how they have been getting information, they get it under my power—the power to direct and require information. If he is talking about this particular provision, talking about the authorised project as we head from here to the passage of the legislation, all this is talking about is requiring directors and employees to provide information. No provision in subclause (4) talks about ministerial direction.

The Hon. P. HOLLOWAY: That leads to the second question. Given that the Minister has had power and has obviously exercised power to require the directors and employees of the electricity corporations to provide information, why do we actually need this clause?

The Hon. R.I. Lucas: What is the problem?

The Hon. P. HOLLOWAY: It is not so much a problem: I am just asking why we actually need the power in this part of the Bill, given that the Treasurer apparently already has the power?

The Hon. R.I. LUCAS: Again, I can only repeat that this does not provide the Minister with the power to direct: it sets down a requirement for the directors and employees to provide this information. My legal advisers tell me that there might be some greater comfort for those directors and employees, but the legislation has specified that they must provide this information. In practical effect it does not matter whether they had been directed by me or whether the Act requires it of them: they will still have to provide the information. In my experience, having been the Minister for just on 12 months, there is not actually a problem. These people know they are working for the Government; they are appointed by the Government. I have not run into any problems, to my recollection, so far, where they have said, 'Minister, I am not going to tell you', or, 'I am not going to give you that information.' Who knows what might be further down the track, but it really is there to make it quite explicit that under this arrangement the directors and employees have requirements placed upon them and are expected, according to the law, to abide by them.

The Hon. P. HOLLOWAY: Because this is a significant clause related to the sale or lease of ETSA, we will be opposing it.

Amendments carried.

The Committee divided on the clause as amended:

AYES (10)

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

NOES (9)

Elliott, M. J.	Holloway, P. (teller)
Kanck, S. M.	Pickles, C. A.
Roberts, R. R.	Roberts, T. G.
Weatherill, G.	Xenophon, N.
Zollo, C.	

PAIR

Davis, L. H. Gilfillan, I.

Majority of 1 for the Ayes.

Clause as amended thus passed.

Clause 6.

The Hon. R.I. LUCAS: I move:

Page 5, lines 7 to 9—Leave out paragraphs (a) and (b) and insert:
(a) an electricity corporation or a body by which assets or liabilities have been acquired under a transfer order; or
(b) a current or former member of the governing body or employee of an electricity corporation or body by which assets or liabilities have been acquired under a transfer order; or

This amendment is a consequence of the fact that a transfer order may not just transfer assets but may also grant a release in respect of assets. It is also a consequence of proposed new clause 8 which expands the bodies to which assets and liabilities may be transferred by way of a transfer order. It is similar to the amendments, in part, to clause 5, the one on which we have just voted.

The Hon. P. HOLLOWAY: Clause 6 provides for 'The disclosure or use of information in the possession or control of—'and it then lists a number of categories of entities: the first is an electricity corporation or body, the second is a current or former member of the governing body or employee of an electricity corporation, and the third is persons involved in the authorised project. They are able to disclose or use information as reasonably required for or in connection with the carrying out of the authorised project. First, how many people will be involved in receiving this information and, secondly, how many people will be involved in the entire project itself?

The Hon. R.I. LUCAS: It is a similar question to one I answered earlier, but I can give a ballpark figure. There are about 30 to 40 people involved in the project at the moment. That may grow as we get into the comprehensive and extensive part of the preparation of information, but it is of that order at the moment.

The Hon. P. HOLLOWAY: For this clause to take effect, what determines whether people are involved in the authorised project? How is it determined whether or not those people are involved in the authorised project?

The Hon. R.I. LUCAS: It is one of the powers I have as Treasurer in terms of who I appoint.

The Hon. P. HOLLOWAY: Does the Treasurer specifically appoint them as part of the project?

The Hon. R.I. LUCAS: Yes.

The Hon. P. HOLLOWAY: How does the Treasurer do that? Are they gazetted, do they get a letter or what is the process?

The Hon. R.I. LUCAS: I appoint them as contract consultants or as members of the Electricity Reform and Sales Unit. It is fairly simple.

The Hon. P. HOLLOWAY: Is it correct that everyone in the Electricity Reform and Sales Unit is deemed to be working on the authorised project?

The Hon. R.I. LUCAS: I can only repeat what I have just said: the people who I appoint as contract consultants to the Government for the authorised project and others who I appoint to the reform and sales unit generally from out of Treasury.

Amendment carried.

The Hon. R.I. LUCAS: I move:

Page 5, line 12—After 'authorised' insert:
despite any other law or instrument.

The purpose of this amendment is to make it clear that the disclosure or use of information referred to in clause 6 is authorised despite any other law or instrument to the contrary.

The Hon. P. HOLLOWAY: Clearly, this clause is to be inserted as an afterthought, as it were. Why has that happened? Is there some other law or instrument in existence that prevents that?

The Hon. R.I. LUCAS: I seek leave to amend my amendment as follows:

By inserting after 'instrument' the words 'to the contrary'.

Leave granted; amendment amended.

The Hon. P. HOLLOWAY: Why is it necessary to include this proviso? It was not in the original clause when it came out of the House of Assembly. Presumably someone has discovered that there is a law or instrument somewhere that prevents this happening. Why is it being done? What is the impediment that it seeks to overcome.

The Hon. R.I. LUCAS: As with many things, I am told there is nothing specific in mind, but the fine legal minds who have been working on this say that it is consistent with other drafting provisions within the Bill, and through an excess of caution it has been drafted in this way. There is nothing that my legal team or others have in mind that might cause a problem. It is consistent with other drafting and it is through an excess of caution.

The Hon. P. HOLLOWAY: As to clause 6, why cannot the public see this information? What is in the information that is likely to be provided that requires these quite strong powers?

The Hon. R.I. LUCAS: We could have a long debate about commercial confidentiality and business contracts. Some of our electricity businesses would hold confidential information which relates to a number of other South Australian Government businesses or perhaps even State businesses if they are writing contracts in terms of their electricity load profile and so on. There is a range of information which most people would accept is not part of the public record.

Amendment as amended carried; clause as amended passed.

Clause 7.

The Hon. SANDRA KANCK: Can the Treasurer give us some idea of the sorts of circumstances envisaged where there might be legal proceedings?

The Hon. R.I. LUCAS: We are entering into the realms of the hypothetical: we do not have anything particular in mind, but I am advised that this is a relatively standard provision. A possible example might be that a third party has a customer contract with one of our electricity businesses and it believes the information it has provided to the electricity business is confidential to the electricity business and that third party, say, a South Australian business. Under these provisions, a consultant to the Government would have access to that information for the purposes of the authorised project. For some strange reason they might take offence at that and say, 'You should not have provided that information to a consultant to the Treasurer during this lease process because that information was confidential.' As I said, it is entirely hypothetical and we are not aware of any problems or issues.

The Hon. T.G. Roberts: The gaols are not overflowing.

The Hon. R.I. LUCAS: No, they are not, but again there have not been too many examples of major leases of electrici-

ty assets in South Australia, either. That is the best we can do in coming up with hypothetical scenarios.

The Hon. P. HOLLOWAY: Clauses 5 and 6 which we just debated allow for the preparation of the lease or sale of the ETSA corporations and they provide that information can be supplied by officers or people involved in the project. What about the reverse of that? The Treasurer has told us that the public cannot see any of this information because it is commercial in confidence. What provision is the Government relying on to ensure that there is no wrongful disclosure of information?

The Hon. R.I. LUCAS: I think that has been partly answered two or three times already. There are onerous confidentiality and conflict of interest provisions within the consultants' contracts upon which they are appointed, and these provisions in the Bill only authorise the use of the information for the authorised project. It is specific in terms of what it can be used for.

The Hon. P. HOLLOWAY: I will again state: the breach of employment contract has statutory provision that prevents the improper disclosure of this information.

The Hon. R.I. LUCAS: I am told that a person in those circumstances could be sued for breach of contract.

Clause passed.

Clauses 8.

The Hon. R.I. LUCAS: I move:

Leave out this clause and insert:

Orders to effect transfers, leases and other restructuring

8. (1) The Minister may, by order in writing (a transfer order), do one or more of the following:

(a) transfer to a State-owned company, Minister, electricity corporation or any instrumentality of the Crown or statutory corporation, or the Crown, assets or liabilities (or both) of an electricity corporation;

(b) transfer to a State-owned company, Minister, electricity corporation or any instrumentality of the Crown or statutory corporation, or the Crown, assets or liabilities (or both) of a body by which assets or liabilities have been acquired under a transfer order;

(c) grant to a State-owned company, Minister, electricity corporation or any instrumentality of the Crown or statutory corporation, or the Crown, a lease, easement or other rights in respect of assets of or available to an electricity corporation;

(d) grant to a State-owned company, Minister, electricity corporation or any instrumentality of the Crown or statutory corporation, or the Crown, a lease, easement or other rights in respect of assets of or available to a body by which assets have been acquired under a transfer order;

(e) extinguish a lease, easement or other rights held by a State-owned company, Minister, electricity corporation or any instrumentality of the Crown or statutory corporation, or the Crown, in consequence of a transfer order.

(2) If—

(a) an electricity corporation has an easement in relation to electricity infrastructure on, above or under land; and

(b) the Minister, by a transfer order, transfers part of the infrastructure, or grants a lease or other rights in respect of part of the infrastructure, to a body of a kind referred to in subsection (1),

the Minister may, by the transfer order, transfer to the body rights conferred by the easement but limited so they operate in relation to that part of the infrastructure (which rights will be taken to constitute a separate registrable easement) and may, by a subsequent transfer order, transfer to the same or a different body rights conferred by the easement but limited so they operate in relation to another part of the infrastructure, whether on, above or under the same or a different part of the land (which rights will also be taken to constitute a separate registrable easement).

(3) In exercising powers under this section in relation to assets or liabilities of, or available to, a body other than the Minister, the Minister is to be taken to be acting as the agent of the other body.

(4) A transfer order takes effect on the date of the order or on a later date specified in the order.

(5) A transfer order effects the transfer and vesting of an asset or liability, or the grant or extinguishment of a lease, easement or other rights, in accordance with its terms by force of this Act and despite the provisions of any other law or instrument.

(6) The transfer of a liability from a body discharges the body from the liability.

(7) If a transfer order so provides—

(a) a security to which a transferred asset is subject ceases to apply to the asset on its transfer by the transfer order;

(b) a security to which a leased asset is subject ceases to apply to the asset on the grant of the lease by the transfer order.

(8) A transfer order may provide that references to a body of a kind referred to in subsection (1) (the first body) in a specified instrument or an instrument of a specified class (a transferred instrument) are replaced by references to another body of a kind referred to in subsection (1) (the second body), and in that case—

(a) the instrument is modified as provided in the order; and

(b) the second body accordingly succeeds to the rights and liabilities of the first body under the instrument as from the date on which the transfer order takes effect or the date on which the instrument takes effect (whichever is the later).

(9) The Minister may, by order in writing, declare that the effect of the whole or part of a transfer order is reversed and in that case (despite the provisions of any other law or instrument)—

(a) the order will be taken to have come into effect contemporaneously with the transfer order; and

(b) transfers or grants identified in the order are cancelled and will be taken never to have been made; and

(c) transferred instruments identified in the order are to be construed as if they had never been affected by the transfer order.

(10) A power may not be exercised under this section in relation to a company that has ceased to be a State-owned company.

In speaking to clause 8, I will also speak to clause 9. I know I will have to move the amendments to clause 9 in due course. The purpose of the amendment is to replace the existing clauses 8 and 9 with new clauses. The principal differences between the existing clauses 8 and 9 and the proposed new clause 8 are that, first, the range of bodies to and from which assets and liabilities may be transferred or leased pursuant to a transfer order is increased so as to permit transfers of assets and liabilities between. and the grant of leases, easements, licences and other rights in respect of assets to, State-owned companies, Ministers, electricity corporations, instrumentalities of the Crown, statutory corporations and the Crown.

This will, for example, enable the Minister by way of a transfer order to transfer assets and liabilities of an ETSA subsidiary to ETSA and any planning related assets of ETSA Transmission Corporation to the Electricity Supply Industry Planning Council which is to be established under proposed amendments to the Electricity Act. This will also enable transfer of assets and liabilities to be made where it is subsequently decided that the initial transfer of those assets or liabilities was not to the appropriate body.

For this reason, existing clause 9, which deals with retransfers of assets or liabilities, is superfluous and is deleted. This expanded operation of clause 8 has necessitated a number of consequential amendments to the succeeding provisions of clause 8 which have been consolidated in this amendment.

Secondly, the proposed new clause 8(2) permits the Minister by transfer order to transfer to a body rights conferred by an easement that an electricity corporation has in relation to electricity infrastructure on, above or under

land, being rights that are limited so that they may operate in relation to a part of the infrastructure to which the easement relates. These rights will constitute a separate registrable easement. This will, for example, enable both the transmission entity and the distribution entity to be granted an easement so that they may access different powerlines which are carried by the same poles.

Thirdly, the revised clause 8(3) is intended to enable the Minister, in exercising the Minister's powers under clause 8, to act as agent in relation to the transfer or lease of any assets or liabilities of or available to the relevant body and not just as agent in relation to the transfer or lease of land of that body.

Fourthly, the revised clause 8(7) is intended to expressly accommodate the leasing of assets pursuant to a transfer order. Fifthly, a transfer order need no longer be permitted to take effect retrospectively, because the Minister has the power under proposed new clause 8(9), which is similar to the existing clause 9(5), to reverse a transfer order with effect from the date of the transfer order. Sixthly, it is made clear that a power under clause 8 may not be exercised in relation to a company that has ceased to be a State-owned company.

The Hon. SANDRA KANCK: I move:

After proposed subclause (10) insert:

(11) A transfer order cannot take effect until—

(a) a copy of the order has been laid before each House of Parliament; and

(b) the order has been approved by resolution of each House of Parliament.

I am doing this because, as clause 8 stands in its amended form (assuming that the amendments are carried), the Government has the right, basically, to do what it likes with infrastructure without any further reference to Parliament. So, my amendment brings back some of that power to the Parliament, which is, after all, the body elected to represent the people of South Australia. I compare it, perhaps, to the Roxby Downs Indenture Act, so that, if the Minister is planning to transfer, grant or extinguish anything under this Act, it would have to come back to Parliament—that is, to do it via a transfer order. I am not quite sure exactly how much the Government intends to be transferring via this clause, but we are possibly talking about the largest aggregation of assets in this State, and I think it is very important that Parliament is at least able to have some say in this.

The Hon. P. HOLLOWAY: I indicate that the Opposition supports the amendment moved by the Hon. Sandra Kanck, because it does at least put some measure of parliamentary scrutiny into this whole process.

I have a number of questions in relation to clause 8, because I think this, again, is one of the most important clauses of the Bill. It is the clause by which transfers of assets within the electricity entities take place. We have already canvassed within this debate what has happened to the split-up of the South Australian Generating Corporation (Optima) and ETSA Corporation. How has the Treasurer achieved that without these transfer orders? How has this split-up been achieved to date—what mechanism has been used?

The Hon. R.I. LUCAS: I answered that question this afternoon: transfer orders under the Electricity Corporations Act. I indicate that the Government is strongly opposed to the amendments being moved by the Hon. Sandra Kanck. We believe that they are designed, I suppose, to give her credit, deliberately to put a halt to and to delay significantly the leasing process, and we believe that they could potentially impact on the value that we might get from our assets. I think that the Hon. Sandra Kanck would probably acknowledge that. I understand from which direction she is coming into this debate.

However, as I said, from the Government's viewpoint, if we are to now be proceeding down a path of leasing these assets, we want to be able to do so expeditiously, as the Hon. Mr Crothers indicated earlier in his comments in relation to New South Wales and other events in other parts of Australia; and, secondly, we want to be able to reasonably maximise the lease proceeds. The package of amendments that the honourable member has moved will place both of those objectives at risk should they pass the Committee stage. So, I indicate the Government's strong objection to the amendments being moved by the Hon. Sandra Kanck.

The Hon. T.G. CAMERON: I indicate that SA First opposes the amendments moved by the Hon. Sandra Kanck and supports the Government's position, not only for the reasons outlined by the Treasurer: it could unnecessarily hold up what will probably be the most complex, complicated series of negotiations that any Government in this State has ever had to enter into. I am also concerned that if the Government was forced to go through this process (and I do not see that it is about accountability) it could hold up the process, and that delay could cost South Australians tens of millions of dollars. I can only concur in what the Hon. Trevor Crothers said, that on the passage of this Bill the leases should be entered into expeditiously.

The Hon. T. CROTHERS: Like the Hon. Mr Cameron, the other Independent Labor delegate here, I will also oppose this measure, for all the reasons that he and the Treasurer have outlined, as well as another reason, which bears repeating. Whether by deliberate or accidental intent, this is again an act of temporary estoppel relative to the capacity of proceeding with this lease as expeditiously as possible in order to maximise any gains that this State might get from it. In addition, I reiterate what the Treasurer has said: it would have the effect that, more likely than not, we would minimise the returns below a standard that we could reasonably expect to obtain for the sale or lease. I will resolutely oppose this amendment, as I will oppose any other amendment aimed by either accident or design at permanent or temporary estoppel with respect to making progress with this Bill—and what it means—as expeditiously as possible.

The Hon. P. HOLLOWAY: When we come to debate clause 11 shortly I am sure we will revisit the question about maximising the return to the State, and I am sure we will have cause to debate that matter there. However, I want to continue with my line of questioning. The Treasurer has told us that the split-up of Optima has been achieved under the Electricity Corporations Act. Again that raises the question that, if it has been done under that Act, why do we need this specific clause in the Bill to provide for transfer orders? Why does it have to be put in this Act if the powers already exist under a current Act?

The Hon. R.I. LUCAS: I am advised that the existing provisions have allowed us to go only so far in the disaggregation process. As one example, we have easements with both distribution poles and transmission poles. The existing provisions under the Electricity Corporations Act do not allow us to split the easements in terms of the distribution asset and the transmission asset. This Act as drafted will allow us to do that. If we are to lease a distribution company and a transmission company to two different operators, we will need to be able to get down to that degree of sophistication and complexity in terms of our asset structure. This Act

allows a finer grained disaggregation than the Electricity Corporations Act will allow. That is just one example; I understand there are a number of others.

The Hon. P. HOLLOWAY: That has answered one of my later questions about the need for multiple easements. What assets held by ETSA and SAGC remain to be transferred to their new State-owned companies? This process has gone on under the Electricity Corporations Act; what is left to be achieved under this clause of the Bill?

The Hon. R.I. LUCAS: I remind the honourable member that, earlier this afternoon, he asked whether we had any State-owned companies. We do not yet have any, therefore no assets have been transferred to State-owned companies.

The Hon. P. HOLLOWAY: Although, of course, we do have a number of other entities. In relation to the structure that we now have with the seven (or is it eight) electricity entities under the SAGC and ETSA Corporation, are those entities in their final form? Has the process by which all the assets that need to be assigned to each of those individual entities been completed or are some assets still sitting in a sort of grey area, as it were, awaiting to be assigned to an entity?

The Hon. R.I. LUCAS: I understand that substantially the issues have been resolved, but I refer to the previous example of an easement that has transmission and distribution lines running down it. I am presuming that one of those companies has probably got one of those shared easements at the moment. Before we can lease we will have to ensure that the distribution assets are properly with the distribution company and that the transmission asset is with the transmission company. Substantially the disaggregation of assets has followed the disaggregation of the companies. Some issues must still be resolved and we will obviously be doing that as expeditiously as possible.

The Hon. NICK XENOPHON: I indicate that I support the Hon. Sandra Kanck's amendment, although with a degree of reluctance. I am concerned as to its practicability, but I do see that the ethos behind it is to make the transactions more accountable in the context of the entire process.

The Hon. P. HOLLOWAY: In relation to subclause (1)(c) of new clause 8 as proposed by the Treasurer, why has this clause been amended in the later drafts to include assets available to an electricity corporation? This provision did not exist in the earlier drafts. What sort of assets are intended to be covered by this reference?

The Hon. R.I. LUCAS: I am advised that it is intended to cover leased assets.

The Hon. SANDRA KANCK: Proposed new subclause (2)(b) relates to easements that currently exist on private property. Obviously there is access now via a public company. What is the effect of this when a private company wants access to private property?

The Hon. R.I. LUCAS: It will be the same access. Clearly, if someone is running an electricity business, whether it is the Government or a private company, they will still need access via the easements to their assets or whatever else it might be. It will be the same access.

The Hon. P. HOLLOWAY: Proposed new subclause (7)(b) provides that if a transfer order so provides a security to which a leased asset is subject ceases to apply to the asset on the grant of the lease by the transfer order. What types of leased assets are currently subject to securities for which that subclause might apply?

The Hon. R.I. LUCAS: I am advised that we do not have anything specific in mind here but it may well be that it might apply to a cross border lease, for example, where there might be a security over the leased asset.

The Hon. SANDRA KANCK: Will the Treasurer provide an example of what is intended by proposed new clause 8(8)?

The Hon. R.I. LUCAS: This is a flow-on from an earlier discussion where we said that, if ETSA is a party to a contract with a third party, by virtue of the lease the expectation will be that the lessee will take over ETSA's responsibility to the third party via that contract. So, it is a flow-on from the earlier discussion where we said that the lessee would be required to take over ETSA's responsibilities to third parties.

The Hon. R.I. Lucas's amendment carried; the Hon. Sandra Kanck's amendment negatived; new clause inserted.

Clause 9.

The Hon. R.I. LUCAS: I move:

Leave out this clause and insert:

Subcontracting performance of obligations to State-owned companies.

9. Despite any other law or instrument, an electricity corporation may, if authorised to do so by the Minister, subcontract to a State-owned company the performance of all or part of the electricity corporation's obligations under a contract.

Proposed new clause 9 enables an electricity corporation, if authorised by the Minister, to subcontract to a State-owned company the performance of all or part of its obligations under a contract. The purpose of this amendment is to enable Optima Energy, ETSA or any of its subsidiaries to subcontract the performance of their contractual obligations to the operator of one of the State's electricity businesses. This will be necessary where a contract is not transferred to such an operator, for example, because of the nature of the obligations or liabilities which are attached to it.

The Hon. P. HOLLOWAY: Will the Treasurer provide some examples of those sorts of contracts which might exist at the moment and which make this clause necessary?

The Hon. R.I. LUCAS: Nothing springs to mind immediately. Again, I think this provision has been drafted by legal counsel to protect us against all eventualities. The most hypothetical—and I stress 'hypothetical'—example that my team has been able to come up with is where ETSA has software licensing agreements. There might be provisions about restricting the handing over of the whole of that, but you might in some way subcontract the use of part of it by way of payment of fees, or something. We do not hold that position very strongly: it is the best we can come up with at short notice in terms of what a hypothetical provision might entail in relation to this clause.

The Hon. P. HOLLOWAY: What is the position in relation to the EDS contract? I understand that ETSA is (I forget the term used now) party to the EDS contract, so what will happen to that contract under any proposed lease?

The Hon. R.I. LUCAS: That is a significant question, and I do not have the answer with me, although I think that I have provided a significant answer to the Hon. Sandra Kanck on this issue. We are in the process, we hope, of finalising a disengagement of the contract so that the individual businesses will have separate shorter term contracts with EDS. The cost of IT is an important competitive advantage that some companies will have in this area, therefore the companies will be tied to EDS for a shorter period. It may well be that they have their own association with another company and that they choose at the expiration of the short-term EDS contract to contract with an alternative supplier of IT services. The Government is going through a complicated process of

disengagement so that the individual companies will be able ultimately to make decisions for themselves in this area.

The Hon. P. HOLLOWAY: What impact will the fact that such a major customer may be removed from the contract have on the viability of the entire contract with EDS?

The Hon. R.I. LUCAS: My advice is that it will not be the difference between the contract continuing or not continuing: it will continue to be a viable contract. It will be possibly somewhat smaller if the companies choose not to continue. If they choose to continue, that is a commercial decision for them. For the foreseeable future, it will continue as is and then will depend on the commercial judgment of the companies. I have noted from the IT pages of the *Age* and the *Australian* that EDS seems to have been relatively successful in recent times in signing up a number of major Government and corporate clients. It will need to try to convince the new lessees of the worth of its wares.

The Hon. P. HOLLOWAY: My concern was about the impact of the overall whole of Government contract with EDS. I understood that the Government needed a certain minimum level of activity and that at one stage it was having a lot of trouble getting sufficient business to comply with the contract.

The Hon. R.I. LUCAS: EDS has been a part of the ongoing discussions for some time now, and I am not aware of any significant problem along the lines the honourable member is suggesting. If he wants to explore that issue, I am sure that his colleagues will be happy to explore it with the appropriate Ministers during the upcoming Estimates Committees.

Amendment carried; new clause inserted.

Clause 10.

The Hon. R.I. LUCAS: I move:

Page 7—
Line 25—Leave out '(or re-transfer order)'.
Line 28—Leave out '(or re-transfer order)'.

These amendments are a consequence of the deletion of the concept of a re-transfer order done in one of the earlier clauses.

Amendments carried; clause as amended passed.

New clause 10A.

The Hon. R.I. LUCAS: I move:

After clause 10—Insert:
Conversion of electricity corporation to State-owned company.
10A. If the Governor so declares by proclamation, Schedule 1A applies to an electricity corporation specified in the proclamation.

Proposed new clause 10A and the associated schedule 1A enable an electricity corporation to be registered as a corporations law company limited by shares. It does this by permitting the relevant electricity corporation to issue shares to specified Ministers and by providing for the relevant electricity corporation with the approval of the Minister to take such action as is necessary or desirable to be taken for the purpose of its being registered as a proprietary or public company limited by shares under the corporations law.

These provisions will apply only where the Governor declares them to apply by proclamation to a particular electricity corporation. This amendment will, for example, enable ETSA Transmission Corporation to be converted into a corporations law company the shares in which are held by a Minister or Ministers. Subject to the restrictions specified in proposed new clause 11A, these shares could then be sold to a purchaser.

The Hon. P. HOLLOWAY: How will the value of transferred assets be determined under any transfer order?

The Hon. R.I. LUCAS: I am advised that it is almost an accounting transfer, so it will not impact on the value of the assets. I am not sure whether we understood the honourable member's question completely. According to my advice, it is just an accounting transfer and will not therefore impact the value of the assets.

The Hon. P. HOLLOWAY: Clause 10(3) provides:

The conditions attaching to a transfer order. . . may, for example. . . assign a value to particular transferred assets. . . assign a value to particular transferred liabilities. . . assign a net value to particular transferred assets and liabilities. . .

Is the Treasurer suggesting that this is some notional value? I would assume that it had some meaning.

The Hon. R.I. LUCAS: Some of our electricity corporations or entities might value their assets or use different depreciation methodologies. Therefore, in terms of transferring, it may well be deemed, in an accounting way, to be necessary to make some sort of amendment to those provisions to ensure some consistency in the accounts of wherever they end up. So, again, my advice is that there is nothing specifically in mind here. Again, an excess of caution may be being exercised by legal counsel.

The Hon. P. HOLLOWAY: In relation to clause 10A, which electricity corporations will be converted to State-owned companies? If I understood his answer correctly, the Treasurer told us earlier that none of them had yet been converted. Will all the corporations be converted to State-owned companies and, if so, what is the purpose of this process?

The Hon. R.I. LUCAS: There is no hard and fast rule on that. It will depend on the negotiation with the prospective lessees. It might depend on the tax regime in the operating entity's country of origin or where they operate; it might depend on their own personal or corporate preference. It will be a decision that we take in relation to each of the individual assets, and it is not something on which we have a predetermined view which says, 'Each of the assets to be leased will be turned into a State-owned company.' Some might well be; some might not be.

The Hon. P. HOLLOWAY: For those that will be converted, at what stage of the lease process is that likely to occur?

The Hon. R.I. LUCAS: It is more likely to be what I would call at the short-list stage, when you have it down to the final group of really serious bidders for a particular asset. At that stage, the Government advisory team would obviously be through the process, having discussions with the short-listed bidders. The discussions would commence at that stage, where you would get some idea of what might be in the best interests of both the Government as the owner of the assets and the potential purchaser or lessee. Then, obviously, when you have a successful tenderer or bidder, it would be at that stage when you would conclude whether you established the State-owned company structure or whether you would use some other structure.

New clause inserted.

New clause 10B.

The Hon. R.I. LUCAS: I move:

Insert proposed new clause as follows:
10B. (1) In any case where there appears to the Minister to be a dispute or doubt as to the ownership of public lighting infrastructure, the Minister may, by order in writing (a vesting order), declare that the ownership of public lighting infrastructure specified in the order is vested in an electricity corporation, State-owned company or council specified in the order.

(2) Before making a vesting order that relates to public lighting infrastructure, the Minister must consult with the council of the area affected.

(3) A vesting order effects the vesting of the specified public lighting infrastructure in accordance with its terms by force of this Act and despite the provisions of any other law or instrument.

This clause empowers the Minister, where there appears to the Minister to be a dispute or doubt as to the ownership of public lighting infrastructure, to declare that the ownership of public lighting infrastructure specified in an order in writing made by the Minister is vested in an electricity corporation, State-owned company or council specified in the order. Before making such an order called a 'vesting order', the Minister must consult with the council of the area affected.

We referred to this briefly earlier indicating that this would be the significant clause on the issue of street lighting. One of the interesting things of this process has been learning a lot more about a whole series of issues you never thought anything about prior to this process of trying to sell or to lease ETSA. One of the things that due diligence has established is that the records of ownership of street lights are appalling in some cases. It goes back over many decades, and the records in the various companies or in the various councils are seriously deficient in terms of being able to establish one way or another the ownership of either all or part of some of these poles. I remember hearing the figure of the number of poles at some stage and there is an extraordinary large number of them, obviously.

The reality is that the overwhelming majority are owned, that is both the pole and the lighting infrastructure at the top of it, by ETSA and now by ETSA Utilities, and in the overwhelming majority of cases councils actually pay a charge or a fee to ETSA Utilities for the maintenance and ongoing operation of those assets. I understand that at least in one case there is probably a very strong argument that the council owns both the pole and the lighting infrastructure. In another case, there is a strong argument that the Electricity Trust probably owns the pole, but the council might own the lighting infrastructure at the top of it—although there is some contention that no-one can prove it one way or another.

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: Who wants one? That is the interesting thing in this: if you are going to lease a business you have to be able to list the assets. One of the issues we have to resolve before we reach the final stage is to be able to ask the distribution company how many poles it intends to have in this lease and whether or not it has all the lighting infrastructure at the top and who owns what. At the moment there is no register which indicates who owns exactly which assets.

One of our officers (who shall remain nameless) spent some weeks trying to resolve this issue at the end of last year when we thought this issue was about to come to a head. It got to the stage where he now says that he can no longer walk the streets without wondering who owns the electricity poles and the lighting infrastructure. Certainly, it is our view that some councils might own part or all of some of the historic types of light.

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: The City of Adelaide is one example I used, although I did not name it. We understand that that is the council that probably owns the poles and the tops, and there is probably not much dispute about that.

The Hon. Carmel Zollo: What about places like West Lakes?

The Hon. R.I. LUCAS: I do not know the area. Clearly, there are some examples, but all I am saying is that this is an extraordinarily complicated and complex area. It has the potential to delay and cause complications unless we have a fast track method of resolving the issue. There is no way I can tell members that during this debate we will be able to come up with a list of the assets that either the old Electricity Trust and now the electricity entities actually own. Most people accept that it is a minority of those poles that a council may seek to lay claim to, therefore there has to be some way of resolving this. I am told that in a number of cases there is no documentation either in the council or in the electricity entity to prove ownership one way or the other. Ultimately, it is an issue that we will need to try to resolve sensibly with the councils.

Given that it is a minority of cases, we do not see this as having a multi hundred million dollar impact on the issue. It is just one of those issues that will need to be tidied up and resolved because, as I said, in the majority of cases no-one is disputing that the trust owns the poles and the lighting infrastructure on the top of them. When we first put the Government's proposition, our suggestion was a bit indelicate, because the Minister was to be given power to decide to which particular electricity corporation it would be assigned. There was consultation with the Local Government Association, which protested at that, and we have now changed it to say that the Minister will have the power to decide and, in the case of Adelaide City Council, they will be assigned as the property of that council.

Therefore, it will be clear that, when we seek to lease ETSA Utilities, the lighting poles and whatever else in the Adelaide City Council area will not be part of the asset base leased in that case. It might be—and this is problematic—that in another council area we might say that the poles themselves are the property of ETSA Utilities but the lighting infrastructure at the top is the property of the council. In the end, because it involves a minority of cases, it will not have a multi hundred million dollar impact on the value: it is just an extraordinarily complicated and complex situation, which has the potential to delay the preparation of the lease documents unless we have a process to cut through.

The other problem that the LGA has raised—and I think the Hon. Mr Cameron or someone mentioned this earlier—is that councils are paying about $18 million to ETSA in terms of operating costs. I do not know if that figure is right or not, but the LGA has obviously added up the figures. The LGA had expressed concern about a couple of things, the first one being what the cost might be. Under the current arrangements, as Minister I can overnight double or treble that charge. Under the existing arrangements, with the monopoly supplier under the Government, the Minister has the power to do what he or she likes with the cost of that, and there is no protection for the LGA or for local councils.

However, under the Government's scheme, which I presume will be more clearly laid out in the Bills we will debate in July, in terms of the power of the Regulator and the Electricity Pricing Order, for the first time we will actually place some sort of restriction on the prices that the Regulator, through the Electricity Pricing Order, can charge to councils for those street lights. Contrary to the letters that members have received, that is, that in some way the bold new world to which we might head will leave them mightily exposed, it is actually the reverse. At the moment, they are mightly

exposed to me and any capricious or whimsical act that I might undertake should I ever be disposed to double or treble their charges. They have no come back; there is no appeal provision. They are—

The Hon. T.G. Cameron: It is like the emergency services tax.

The Hon. R.I. LUCAS: No, I can assure the honourable member that it is not like the emergency services levy. An Act of Parliament restricts what you can do in that regard, and Crown Law (supported by the Opposition and the Government) is very assiduous in ensuring that the law is implemented, but we will debate that at another time. On this issue, it is quite the contrary to what their letters have indicated to members. We will be moving from a position where they are at the mercy of me as the Minister—and I am sure they would not want to be at the mercy of me in terms of the prices that I might like to charge or direct businesses that they charge—to a situation where someone independent of the Government and the Minister, in the long term, will set their charges. The second issue about which they have asked that they be consulted—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Yes, it will be both because the Industry Regulator sets up the broad Regulator. The powers that the Regulator will have for electricity will be in the Electricity (Miscellaneous) Amendment Bill. So, it really is a package.

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: That is right, but I am just saying that on this aspect they have not been informed correctly because they are moving from a position where, as I said, I can treble their rates overnight, so that their $18 million could become $54 million and they could not do a thing about it. I can just take an extra dividend from the electricity businesses, whereas—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: They could, but they would not be the first group to make life difficult.

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: In essence, their complaint is that they will be left exposed. What I am saying is that under the new arrangements with the Regulator there will be much greater controls than exist over me as a Minister at the moment, in terms of setting down what is a reasonable rate of return for that public lighting infrastructure. The second issue about which they wanted to talk was the standards. I assume that, when they talk about standards, it relates to how quickly ETSA replaces broken light fittings or blown light globes. There has been some correspondence with one of the Spencer Gulf cities recently concerning complaints about how soon ETSA utilities repair their street lights.

An honourable member interjecting:

The Hon. R.I. LUCAS: It might have been, but I think it was Port Augusta. Under the new arrangements, when we debate the Electricity Act Amendment Bill and the Industry Regulators Bill, we will be looking at a scheme which puts in a code of practice in terms of standards and, as part of their discussion, that includes some requirements in relation to street lighting. I think we announced some time last year some sort of a scheme whereby the electricity business would discount a person's bill if it did not meet a particular standard or something. I do not have the details with me but, when we get to that debate in July, I will inform members of the details. It is a provision to try to improve standards.

The Local Government Association has asked whether it can be involved in consultation about the establishment of the standards. We have already indicated—and I do so again publicly—that, in relation to that provision of the code, we are happy to talk to the LGA and to anyone else about an appropriate level of standard that should be met by the new operators of the business.

However, given the complaints that we are currently getting, it would appear that the new operators may well be able to at least match (which would be the Government's intention) and, hopefully, improve on the existing levels of standard and service in relation to the public lighting infrastructure.

The Hon. P. HOLLOWAY: I am pleased that the Treasurer has at least provided some information in relation to the requests of the Local Government Association, because I spoke to representatives of that body just last night and they were most aggrieved that the Treasurer had not replied to their requests. They said that they had written to the Treasurer on a number of occasions over a period of several months seeking to meet with him but he had not agreed to do that. The Local Government Association wrote to the Treasurer in August and on 17 November, 24 November and 7 December last year and on 23 March this year, and I am told that the Treasurer responded on only one occasion (apart from two officer level acknowledgments) in a letter dated 8 February this year. The most recent letter that the LGA wrote to the Minister, dated 23 March, sought the opportunity to meet and a prompt response which, as of today, it had not received.

I am sure that it will be pleased with what the Treasurer has said tonight about at least being consulted with respect to the preparation of the price and service standards. Can the Treasurer inform the Committee exactly what work has been undertaken to date with respect to the price and service standards that will be required of these private electricity entities regarding street lighting?

The Hon. R.I. LUCAS: With respect to the first issue, I quote from the first paragraph of my letter of 8 February to Rosemary Craddock, President of the LGA, as follows:

> I refer to your letters of 17 November, 24 November, 7 December, the media release of 25 November, and local government circulars of 24 November and 7 December. I am also responding on behalf of the Premier and the Minister for Local Government.

I provided a comprehensive five page response to the LGA in February. It is true to say that, I think in March or April, the LGA then responded and, basically, repeated the same arguments and said that it was not prepared to accept the Government's assurances in respect of a number of these issues. As the honourable member would know, in March there was a certain happening in this Parliament which, from the Government's viewpoint, we thought probably was the end of proceedings for a while, so the Government did not continue with any discussions with the LGA on these issues.

My senior advisers have spent a lot of time with officers from the LGA with respect to these provisions. Also, I was to attend a meeting with the LGA with the Minister for Local Government (I think it was), but I could not make it at the last moment. The Minister for Local Government met with the LGA, together with my advisers, and put the Government's response. A lot of work has gone into trying to resolve these three or four issues that the LGA has raised and, as I said, I think that, with respect to this issue (and, frankly, two or three others), it has either been poorly advised or does not understand the particular provisions. I can only repeat that, with respect to the complaints of the LGA, it wrote to all

local governments around South Australia and I received probably 40 or 50 letters, I suppose, faithfully mirroring the LGA's complaint that the Ceduna Council, or someone, or the council in the middle of the Murray-Mallee, said that this street lighting problem would be a significant issue if the Government did not change its position. So, a lot of work has gone into it.

In relation to the second part of the question about standards, the Government's advisory team has done a lot of work with respect to what the appropriate levels of standards might be. Until late last year or early this year we have had a consumer consultative committee, which included SACOSS, SAFF, the Property Council, the Conservation Council and one or two other broad based community organisations, with which I met almost on a monthly basis for a while. That consumer consultative committee looked at all these codes and standards, and made a number of very useful suggestions and amendments.

I can only repeat what I said earlier to the Hon. Mr Holloway: when we come to the debate in July on the Industry Regulator Bill and the electricity Bill we will then be in a position to hear in broad terms some of the suggested codes, etc., that might be laid down by the industry Regulator. We must bear in mind that ultimately the Government's view is that the Independent Regulator will establish the codes and standards.

The process that we have been going through is to establish the first set of those, but they will be subject to review and amendment by the Independent Regulator, advised by his or her own independent consumer consultative committee. Ultimately therefore, it will not be a decision for the Government or the Parliament to set down these codes and standards: it will be a requirement of the Independent Regulator. We think that is an appropriate process.

The Hon. P. HOLLOWAY: To follow that up a little, it is my understanding that councils pay a figure per pole, regardless of whether or not a light works. I know that a number of councils to which I have spoken around this State are concerned that the standard of service for which they are paying has fallen in recent times. Because ETSA is getting ready for a sale, they ask why they should bother spending anything at all on maintenance. Why should they replace lights that are not working unless they have to? Certainly, I have heard complaints that a far greater number of lights are not working at night now than there would have been several years ago. Will the Minister give us an assurance that the service that is being provided by ETSA until a lease is negotiated—if that is the will of the Parliament—will continue? Secondly, after a lease is negotiated, if that is the case, will he assure us that the standard will improve rather than stay at the present level which, as I have indicated, most councils regard as unacceptable at the moment?

The Hon. R.I. LUCAS: I have seen a draft response from ETSA Utilities to the complaint from the Port Augusta Council, and it rebuts very strongly the claims about poor service. I think the point that ETSA Utilities is making is that it is a bit like when the power goes out at your home: unless they are actually told that the lights are out they cannot be expected to repair them. I think the local council takes the view that ETSA Utilities should know when they are out. ETSA Utilities' response is that it does not have people walking around tens of thousands of poles every day of every week, just as it does not have people walking around to see whether your power has gone out at home. When it goes out you complain to the appropriate business or entity, and then there is an expectation that it will be repaired in a certain period of time.

I have seen the draft response to the Port Augusta Council which indicates that a very high percentage of the repairs to street lights is done within five or seven days of first being notified. The council's complaint was that they had been out for months. ETSA Utility's response is that someone should tell it, because as soon as it is told it measures its efficiency of service. I think that is a reasonable position. I do not think any business could be expected to monitor on a daily basis how many street lights are out. If a street light is out, the local council, the local neighbourhood or somebody ought to ring ETSA or the council to advise ETSA of that.

As I said, the response I have seen does show a pretty reasonable level of service. Nevertheless, I have heard the complaints, as too has the honourable member. Many people are saying, as we move into private sector provision of services, 'We will have a lessening of service' yet, at the same time, a whole series of people around South Australia are complaining about the existing level of service. The Government is hopeful of maintaining the excellent service standards that ETSA has provided in a number of areas. Where particular areas do require improvement, we will be very hopeful that we see some improvement. The Industry Regulator will have the power over these electricity entities in the future to ensure that we get maintenance and, hopefully, improvement of service standards.

The Hon. P. HOLLOWAY: Perhaps part of the problem is in relation to knowing whom to notify that a street light is not working. I suspect that part of the problem might be that with such reduced ETSA staff numbers, as well as the number of depots in country areas being greatly decreased, it is far more difficult for people to report lights that are not working than it may have been in the past. We will have to wait to see what happens and we will revisit these issues when we debate the other Bills.

New clause inserted.

New clause 11A.

The Hon. R.I. LUCAS: I move:

Before clause 12—Insert proposed new clause as follows:

Disposal of electricity assets and limitations on disposal

11A. (1) The Crown, an instrumentality of the Crown or a statutory corporation must not—

(a) sell or transfer prescribed electricity assets; or

(b) sell or transfer interests or rights as a lessee under an unauthorised lease in respect of prescribed electricity assets; or

(c) grant an unauthorised lease in respect of prescribed electricity assets.

(2) Shares in a prescribed company must not be issued and, in the case of shares owned by an instrumentality of the Crown or a statutory corporation, must not be sold or transferred—

(a) if the company or a subsidiary of the company owns prescribed electricity assets; or

(b) if the company or a subsidiary of the company is the lessee under an unauthorised lease in respect of prescribed electricity assets.

(3) Subject to the limitations under subsections (1) and (2), the Minister may by agreement (a sale/lease agreement) with another (the purchaser) do one or more of the following:

(a) transfer to the purchaser assets or liabilities (or both) of an electricity corporation;

(b) grant to the purchaser a lease, easement or other rights in respect of assets of or available to an electricity corporation;

(c) transfer to the purchaser assets or liabilities (or both) of a State-owned company;

(d) transfer to the purchaser shares in a State-owned company;

(e) grant to the purchaser a lease, easement or other rights in respect of assets of or available to a State-owned company;
(f) transfer to the purchaser assets or liabilities (or both) that have been acquired by a Minister, any instrumentality of the Crown or a statutory corporation under this Act;
(g) grant to the purchaser a lease, easement or other rights in respect of assets that have been acquired by a Minister, any instrumentality of the Crown or a statutory corporation under this Act.

(4) A lease is an unauthorised lease for the purposes of this section only if—
(a) it confers a right to the use or possession of prescribed electricity assets for a term extending to a time, or commencing, more than 25 years after the making of the lease; and
(b) the exercise of the right is not expressed in the lease to be conditional on approval of the right by a resolution passed by each House of Parliament in accordance with this section.

(5) If a lease confers a right of a kind referred to in subsection (4)(a) and provides that the exercise of the right is conditional on approval of the right by a resolution passed by each House of Parliament, it is not lawful to waive, vary or remove that condition.

(6) Subsections (1) and (2) do not apply to—
(a) the sale or transfer of prescribed electricity assets, or interests or rights under a lease in respect of prescribed electricity assets, to the Crown, an instrumentality of the Crown or a statutory corporation;
(b) the granting of a lease in respect of prescribed electricity assets to the Crown, an instrumentality of the Crown or a statutory corporation;
(c) the issuing, sale or transfer of shares to an instrumentality of the Crown or a statutory corporation;
(d) the sale or disposal of prescribed electricity assets in the ordinary course of the maintenance, repair, replacement or upgrading of equipment;
(e) the exercise by a person other than the Crown, an instrumentality of the Crown or a statutory corporation of a right under an instrument executed before 17 November 1998;
(f) the performance by the Crown, an instrumentality of the Crown or a statutory corporation of an obligation under an instrument executed before 17 November 1998.

(7) Subject to subsection (8), the following provisions must be complied with in relation to the approval of a right of a kind referred to in subsection (4)(a) by a resolution of each House of Parliament:
(a) the resolution may relate to rights of that kind conferred by more than one lease; and
(b) no more than one resolution approving rights of that kind may be passed; and
(c) if a motion of a Minister for a resolution approving rights of that kind has been defeated, no further motion may be moved for such a resolution; and
(d) the resolution must be passed—
(i) after the return of the writs for the first general election of the members of the House of Assembly that occurs after the commencement of this section; and
(ii) not later than five years after the first lease conferring a right of that kind was made; and
(e) each lease to which the resolution relates, and a prescribed report relating to that lease, must have been laid before each House of Parliament—
(i) not later than 14 sitting days after the end of two years from the date on which the first lease conferring a right of that kind was made; or
(ii) if, before the end of the period referred to in subparagraph (i), sale/lease agreements have been made providing for the disposal of all prescribed electricity assets of or available to an electricity corporation, State-owned company, Minister or any instrumentality of the Crown or statutory corporation (whether by the granting of a lease or the disposal of shares)—not later than 14 sitting days after the date on which the last such sale/lease agreement was made.

(8) If the right to possession of prescribed electricity assets reverts to the Crown, an instrumentality of the Crown or a statutory corporation through the expiry or termination of a lease, subsection (7) does not apply in relation to a further lease conferring a right of a kind referred to in subsection (4)(a) in respect of all or some of those assets, but a resolution approving the right may only be passed if the lease and a prescribed report relating to the lease have been laid before each House of Parliament not later than 14 sitting days after the end of two years from the date on which the lease was made.

(9) If a lease in relation to which a resolution has been passed by each House of Parliament in accordance with subsection (7) or (8) is terminated, subsections (1) and (2) do not apply in relation to a further lease granted to another person on substantially the same terms and conditions as, and for the balance of the term of, the former lease.

(10) If a resolution is passed by each House of Parliament approving a right of a kind referred to in subsection (4)(a), a variation that has the effect of increasing the term for which the right is or may become exercisable may not be made to the lease conferring the right unless the variation is approved by further resolution passed by each House of Parliament.

(11) In this section—
'prescribed company' means a company any of the shares in which are owned by an instrumentality of the Crown or a statutory corporation other than as a passive investment only;
'prescribed electricity assets' means any of the following situated in South Australia:
(a) electricity generating plant (other than plant with a generating capacity of less than 10 MW);
(b) powerlines (within the meaning of the Electricity Act 1996);
(c) substations for converting, transforming or controlling electricity;
(d) land on or under which infrastructure of a kind referred to in paragraph (a), (b) or (c) is situated,
but does not include anything excluded from the ambit of the definition by resolution passed by each House of Parliament;
'prescribed report', in relation to a lease, means a report prepared at the request of the Minister—
(a) giving a true and fair assessment, in present value terms, of both of the following:
(i) the total amount paid or to be paid to the State under or in connection with the lease and any related transactions;
(ii) the total amount that would be repaid or foregone by the State if a resolution were not passed approving any right of a kind referred to in subsection (4)(a) conferred by the lease; and
(b) setting out the information and assumptions on which the assessments are based;
'right' includes a contingent or future right.

I understand the opponents of the Government's lease proposition may well want to speak at length on this provision. However, I can say that when we voted last Thursday we were actually voting on this key clause, 11A. We voted on a test clause, as was agreed by all members in the Chamber. The debate we had last Thursday was a vote on whether or not we would have a staged long-term lease of ETSA. I therefore do not intend to repeat my long explanation of the provision because, as I said, the Government indicated last Thursday that the vote was a test vote on this clause. We see that the vote on this clause is really a reinforcement of last Thursday's vote. Obviously members might have a series of questions and I will happily endeavour to respond to those as they are put to me.

The Hon. P. HOLLOWAY: The Treasurer is right about one thing: this is a key clause to the Bill and the Opposition will certainly be strenuously opposing it. We do remain opposed to the sale or lease of the electricity assets of this

State. We were opposed to it before the last election, we have opposed it subsequently and we are opposed to it now. This clause is a most complicated beast. It is really a mongrel lease, if I can use that term.

Let us, first, examine the history of this lease proposal. It first saw the light of day when the Government was negotiating with the Hon. Nick Xenophon in November last year. The clause before us today is essentially the Xenophon clause—if I can call it that—of November last year.

The Hon. T. Crothers: Now it's the Xenophobic clause.

The Hon. P. HOLLOWAY: That is probably correct. Whilst it might be a Xenophon clause, it is interesting that the Government should persist with this clause having negotiated its arrangement with the Hon. Trevor Crothers. We need to ask why the Government is sticking with this arrangement. Let me describe what this lease proposal does, because I do not think that it is widely known within the community.

The Hon. Sandra Kanck interjecting:

The Hon. P. HOLLOWAY: Well, that is another matter. The lease proposal put by this Government is effectively—

The Hon. T. Crothers interjecting:

The Hon. P. HOLLOWAY: Yes, it is. It is effectively a 97 year lease including a right of renewal of 74 years. Remember, I am describing exactly what the Treasurer told us; in fact, I will quote some of that later in this debate and ask the Treasurer to reaffirm some of those statements. Let us look at what we had back in November, because, essentially, that is unchanged in this Bill.

The Treasurer then referred to a 97 year lease, which is what the Government would sign under this proposal. The extension of that lease after the first 25 years must take place within five years of the lease being signed, but that is subject to approval by both Houses of Parliament after the next election. In other words, after two to five years into a 25 year lease of our electricity assets, the Parliament must either approve or disallow the renewal of that lease for the 74 years following its expiry. I think we need to ask why. In the historic context we can see that the reason is that the Government had negotiated with the Hon. Nick Xenophon in respect of its proposal. To complete that history, the Hon. Nick Xenophon ultimately rejected that proposal. We need to ask what possible logic is contained in this proposal? Why would we decide in the year 2002 or 2003 whether a lease which expires in—

The Hon. T. Crothers interjecting:

The Hon. P. HOLLOWAY: The Hon. Trevor Crothers interjects. He ought to listen to this, because I am not sure whether he understands the details of this lease.

The Hon. T. Crothers interjecting:

The Hon. P. HOLLOWAY: Well, let me describe the lease, because what will happen under this proposal—

The Hon. T. Crothers interjecting:

The Hon. P. HOLLOWAY: The Hon. Trevor Crothers said he would listen to the debate. Under this clause, why would we decide in the year 2002 or 2003 (after the next election) whether a lease which expires in 2025 should be renewed until 2099? That is what would happen under this legislation. If it was signed next year, it would expire in 2025 but we would decide by 2005 whether it should be renewed until 2099. That is the lease structure that is provided in this Bill.

We need to ask why. I do not know whether this is a requirement of the Hon. Trevor Crothers, whether he decided that he would not support this Bill unless it contained this structure, but I think we need some answers. The Opposition expects to get those answers as to why we need this structure. It does not make sense and, arguably, it is not in the best interests of this State. I will ask the Treasurer later this evening to provide more details about this lease.

This is essentially the proposal that the Government placed on file back in November 1998. It has no amendments of any substance to it. There is no logic in this approach and, as I said, if it is required by the Hon. Trevor Crothers, then let us hear why that is the case. I think we are entitled to that answer. I suggest that there is only one reason why there is a post election renewal, and that is to try to seek political mileage at the next election. The Government wants to bring this into some—

The Hon. T. Crothers interjecting:

The Hon. P. HOLLOWAY: If it is not true, why do you review a 25 year lease two years into it?

An honourable member interjecting:

The Hon. P. HOLLOWAY: That might have been the case back in November. But we are still dating it now. If the Hon. Trevor Crothers wants a different sort of lease—

An honourable member interjecting:

The Hon. P. HOLLOWAY: Let us get to the guts of this issue: why would you review a 25 year lease two years into the lease, after an election?

The Hon. T. Crothers interjecting:

The Hon. P. HOLLOWAY: I hope we will hear it.

The Hon. T. Crothers interjecting:

The CHAIRMAN: Order! The honourable member's interjections are out of order.

Members interjecting:

The Hon. P. HOLLOWAY: I have asked the Hon. Trevor Crothers to explain it and I hope he will explain why, for some reason, he has decided to support this mongrel proposal, if I can call it that. Incidentally, the Treasurer has told us that a lease of this type exists nowhere else in the world.

An honourable member: World leaders!

The Hon. P. HOLLOWAY: What a joke! So the next 74 years of this regressive lease will recover, presumably, the remainder of any price. I again repeat the commitment that we made back in November, and I repeated it again just a week or so ago: we will have none of this nonsense, and I am surprised that the Government itself would want anything to do with this nonsense—unless, of course, it wishes to play politics. Perhaps that is the explanation. We made it quite clear back in November last year, we made it clear last week and we will make it clear again that we regard this as a farce, as a fiasco. It is a nonsense lease, it does not exist anywhere else in the world, and it should not exist anywhere else in the world. It should not exist here. I repeat what we said: that, under this proposal that is before us, once that lease is signed, that is it, it is gone. The Treasurer is laughing. He is giving himself away. He knows what a joke it is. Why would you not laugh at this lease? It is a joke. Even the Treasurer obviously thinks so. He is laughing at it. It is a joke.

An honourable member interjecting:

The Hon. P. HOLLOWAY: Well, there will not be any lease-backs. Once they are gone, they are gone. That is the whole point. I do not know whether the Hon. Trevor Crothers believes that in two years time we can somehow reverse this lease. But in two years time you are voting on what happens in 2025. You are not voting in two years time whether you can unravel something. You are voting about what happens in 25 years time.

The Hon. T. Crothers interjecting:

The Hon. P. HOLLOWAY: I think that perhaps says something; but I would have hoped that the Hon. Trevor Crothers would understand the difference.

Members interjecting:

The CHAIRMAN: Order! Every member can contribute to the debate.

The Hon. P. HOLLOWAY: We have dealt with this furphy on a number of occasions. The lease that John Bannon entered into, the lease that Graham Ingerson entered into with Edison Power, all of those leases were about exploiting the tax laws of a foreign country. There was no transfer of control.

The Hon. T. Crothers interjecting:

The Hon. P. HOLLOWAY: Well, I mean, what do I say? Apparently under this lease there will be no transfer of control. What does one say? Where are we going? Of course under this particular lease arrangement that the Government is putting up the control of the assets will pass out of the hands of this State. The so-called cross border leases that we were talking about before were simply contrivances to take advantage of the tax laws of other countries but, of course, the control of the electricity assets of this State remained in the State.

We are talking about getting rid of the assets; these assets will go. If you speak to any person from the finance community, they will tell you that, after about 40 years, that is it: it is exactly the same as a sale once you have leased for this period. This Government is according to the Treasurer's earlier indications by signing up to a 97 year lease, but under this proposal there would be a renewal beyond 25 years after the next election; however, it would take place only 22 or 23 years after that date. That really is a nonsense. I am not surprised that the Treasurer was laughing before, because it is a joke. Instead, the Treasurer should be embarrassed about putting such a nonsensical proposal before us; indeed, the Treasurer acknowledged this in November last year. Perhaps it is appropriate to find the Treasurer's words at the time we made our statement on this issue in November last year.

At that time the Treasurer made some statements in relation to this proposal. Later on in this debate I would like the Treasurer to reiterate exactly what this clause means, and then I will put a number of questions to him. First, the Treasurer needs to say whether the nature of the lease he proposes to enter into for our electricity assets is exactly the same as the proposal that he outlined in the debate on 24 November last year when he referred to a 97 year lease with an initial 25 years and three 24 year renewable leases. At that time the Treasurer claimed that approximately 80 per cent of the value of a lease would be recovered at the first stage, with a ballpark figure of 20 per cent from the renewal of the lease once that was undertaken. The Treasurer referred to a maintenance security bond which would be the difference with this lease renewal. I want the Treasurer to say during the debate whether that is still his intention.

The Treasurer also indicated during that debate that the payment would be up front—and one would hope that the entire payment for the lease will be up front. Again, I would like the Treasurer to tell us whether that is the case because, if it is not, if we are not to get the entire amount up front, the value of this lease to this State could be even more disastrous. We in the Labor Party will be opposing this lease. As I indicated earlier, we will be dividing on this clause. We do not believe that it can be shown to be in the best interests of this State. It has never been shown that we will get a positive overall return. If one looks at the—

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: The Hon. Terry Cameron says that it is not true. It is the honourable member's faith; he would like to believe it, because he has staked the whole future of SA First on this. This is the defining issue for him, so it has to be true. However, the people of our State would want more than—

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: I suggest that the Hon. Bulldog Blandy has probably looked into this matter much more closely than most other people.

Members interjecting:

The Hon. P. HOLLOWAY: I will ignore those interjections, because we are distracted from the point at issue. The important issue about this lease is whether it gives a positive return to this State. We have discussed this at length on a number of occasions. The important issue is whether or not this returns positive benefits to the people of this State. That is the key issue and we have argued continually that this proposal of the Government does not do that. Last November, the Opposition made quite clear that it would tell any prospective investor who came here, 'We will oppose it all the way but, once this lease is done, once it is voted for, once it is agreed to, that is it. That is the end of the procedure. The assets have gone. We will move on.' Indeed, the Treasurer acknowledged that. During that debate, he even indicated that our stance on that matter would be noted in the course of any sale should it proceed. It is worth reminding the Treasurer of what he said.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: I am pleased the Treasurer is not doing that. I will find the quote later: I am sure we will have plenty of opportunities to do that. During the debate earlier, the Treasurer acknowledged our position, so he would not be surprised by it now. It is important that we all understand the nature of this lease on which we are voting. As I said, it is a mongrel lease—a type of lease that exists nowhere in the world. Even if it was a straightforward lease, the Opposition would still vote against it. The fact that it is a mongrel lease makes it even worse, because this Government is tampering with things. Not only do we lose control of our assets but we do so in such a way as to add unnecessary expense to the process and arguably put at risk the return.

That is why I want to revisit a point that the Hon. Trevor Crothers made earlier. He talked about maximising returns to the State. He has to tell us how this proposal maximises the returns to the State. If that is what he is interested in, let him explain how this sort of lease—which is highly complicated, which has this linkage and which is subject to an election result and a future determination—will help us maximise the return. How does it do that? I fail to see how it could do so by adding uncertainty: indeed, it will not. As we have said, the Opposition believes that there really is no option. Once this thing has gone, it has gone. Everybody who understands the nature of electricity assets would know that, after 25 years, once we have gone down this track, we will have scrambled the egg and we will not be able to put it together again. I will conclude my remarks, as I am sure others will want to debate this issue. We will certainly be pressing the Treasurer for answers about the details just so we can expose what a crazy deal this really is.

The Hon. R.I. LUCAS: I do not think the honourable member's heart was really in that contribution. Never mind; he is putting the Party's position as it is today. Last Thursday I outlined fully the Government's position on this staged

long-term lease. I am not sure why the honourable member keeps going back to the December debate. However, if he wants to, I am happy for him to do so. In terms of explaining to the honourable member what this provision is about, I outlined it again last Thursday. I outlined the one significant difference from the package to which the Hon. Mr Xenophon had agreed. Mr Xenophon had insisted that the 20 per cent to 30 per cent what might have been called security bond or guarantee be held by the lessee in a trust fund or something similar and not be paid across to the Government.

He thought that we were being unfair to Mike Rann and Kevin Foley by having the money paid across to the Government. If the Labor Party was elected and if Mike Rann and Kevin Foley still happened to be Leader and Treasurer at the time, they would then be forced into a position of having to pay back the $1 billion, or whatever it might be, to the companies. The Hon. Mr Xenophon did not want Mike Rann and Kevin Foley to be placed in that position.

The Government believes that all the money should be paid across to the Government. That was the Government's preferred course of action. In the discussions with the Hon. Mr Crothers, I indicated that here was one key difference that the Government would like to see in the staged long-term lease, that is, all the money coming across to the taxpayers and to the Government to the benefit of the Government and the taxpayers, at the time of the leasing arrangement.

The Hon. T. Crothers: That's when I insisted that it be—

The Hon. R.I. LUCAS: And the Hon. Mr Crothers at that meeting said that the bulk of the money should be paid off the State debt. There is that significant difference in relation to the package but, by and large, as I indicated last Thursday, it is much the same package as that which we discussed at the end of last year. There is nothing new about that; I indicated that last Thursday and I am happy to do so again today. I am happy to answer questions about the package today.

I will not waste time today. There will be plenty of time over the next 2½ years to engage in vigorous debate with the Hon. Mr Holloway and whoever the Leader, the Deputy Leader and the shadow Treasurer happen to be about the issue of the quixotic Labor Party stance on this issue, although other members in this Chamber might want to address it this evening.

The lack of substance of the Labor Party's argument is exposed when the Hon. Mr Holloway says that we all know that at the end of 25 years it might well have been leased for 100 years, or whatever else it might be, the assets having gone. It is a 40 year asset and 25 years; what is the point of having a vote at that stage?

The Hon. Mr Holloway is part of a Party that supported a 20 year sale/lease provision. Let me explain the sale/lease provision at Port Augusta. I do not have the details of Torrens Island with me at the moment, but I must say that statements made by the Leader of the Opposition in relation to that on talkback radio may come back to haunt him in terms of some of the claims he has made—and that might gladden the heart of others in relation to his position.

In relation to Port Augusta, the Labor Party—including the Hon. Mr Holloway, Mr Rann, Mr Foley and others—have supported a situation where Japanese investors actually own the assets.

The Hon. T. Crothers: Now that's not true—not Mr Holloway.

The Hon. R.I. LUCAS: I do not know about Mr Holloway but, in terms of who supports it, the Labor Party, of which they are members, supports a position where the electricity assets at Port Augusta are owned by Japanese investors and we lease them back. That is the sort of sale/lease back provision that John Bannon—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: No, in relation to the sale/lease back with Edison, the ownership of the assets resides here in South Australia. Edison and the others are the lessees. In relation to Torrens Island, the technical ownership resides with Japanese investors. We lease them back. That is the sort of 21 year sale/lease arrangement in which the Bannon Government, the Labor Government (which I understand never went to Caucus; never came to Parliament) engaged.

The Hon. T. Crothers interjecting:

The Hon. R.I. LUCAS: Not until someone blew the whistle. That is the sort of deal that the Labor Party has supported in relation to the assets. So, how does the Labor Party now argue against the position which originally the Hon. Mr Xenophon and now the Hon. Mr Crothers are putting, that is, 'We will vote here on a 25 year lease and after the next election people can make a decision and they can vote for the Democrats for that matter—they are the only ones who will vote against it after the next election?' If that is such a significant issue, they may well all flood over to the Democrats in terms of their support. After the next election people will have the opportunity to decide whether or not to continue that lease for subsequent periods. The 20 year sale/lease arrangement with Torrens Island generation assets is in a very similar position where, at the end of the 20 years or at any time before the end of the 20 years, Governments have to decide whether or not they want to extend the sale/lease arrangements or any other lease agreement that any Government might have entered into.

I do not intend to repeat all the debate of last Thursday tonight, but I am happy to respond to any questions of members. There will be plenty of time over the next 2½ years to debate these issues and what I believe is the unusual position of the Australian Labor Party in relation to its position now and what it proclaims its position will be after the election. As I said on radio this morning, I welcome the position that it announced it will adopt after the next election: that is the appropriate position. I cannot understand why it is not adopting the position now. If it is right to do it in two years' time, why not adopt the position now? Indeed, even as we speak a number of commentators have made public statements about options the Labor Party has on that matter even as we speak.

[Sitting suspended from 10 to 10.15 p.m.]

The Hon. SANDRA KANCK: I move:

After proposed clause 11(10) insert:

(11) A sale/lease agreement (other than one that consists of or includes an unauthorised lease) cannot take effect until—

(a) a copy of the agreement has been laid before each House of Parliament; and

(b) the agreement has been approved by resolution of each House of Parliament.

This is similar to the amendment I moved to clause 8, although in this case it refers to a sale or a lease agreement—and obviously we are talking lease at the moment. That lease needs to be tabled in Parliament and an agreement needs to be reached by both Houses of Parliament for it to come into effect. I think I put the arguments when I spoke on clause 8, but again it is an issue of accountability. We are talking about the State's largest asset and I believe that the representative

democracy that we are here in Parliament ought to be having a say on it.

While I am on my feet, I will also make some comments on the whole concept of this proposed new clause 11A. When we spoke on Thursday, I said that when the Tasmanian Government was looking at the option of lease it was advised by Credit Suisse First Boston that there would be a 10 to 30 per cent reduction in sale price, and hence I believe that the option of lease that has been agreed to by the Hon. Trevor Crothers is really the worst possible deal that we can have for South Australia. Last week the Hon. Trevor Crothers told us that he would not agree to sale, but he would agree to lease because they were very different creatures. However, for the past 16 months everyone in the industry has been telling me that a long-term lease is regarded by the industry as freehold. I certainly agree with the comments of the Hon. Paul Holloway that, once it has gone, it has gone. I cannot see that there is any other way of looking at that. If there is, I would be very interested to hear from the Treasurer what he thinks it is that the South Australian Government will have back in its hands in 100 years' time. I suspect probably nothing. But I would be curious to know what it is that the Treasurer thinks will be there and I would also be interested, in fact, to hear what the Hon. Trevor Crothers thinks is there, because he says that a lease is different from a sale.

The Hon. R.I. LUCAS: I suppose we had the debate before about the Hon. Sandra Kanck's amendment, and the Government's position again remains strongly opposed to that and also to her subsequent amendment to proposed new clause 11D(4). Again, the reasons are exactly the same. It may well prolong the leasing arrangement and it may well also impact upon value and, for all those reasons, the Government's position remains the same.

In response to the honourable member's question, I am not sure about the Hon. Sandra Kanck, but I certainly will not be here in 100 years time should the Parliament, first, vote for a 25 year lease—

The Hon. R.R. Roberts interjecting:

The Hon. R.I. LUCAS: —thank you—and should the Parliament again endorse the notion of a long-term lease after the next election. The arrangement will be that there will be an Independent Regulator, who will have to insist upon continued standards within our industry in terms of maintenance of supply and the maintenance of those particular service standards. Undoubtedly, the industry will be remarkably different 25, 50, 75 and 100 years down the track. We might not even be able to conceive of the shape and structure of our electricity industry in 100 years time. The responsibility of this Parliament is to establish, in particular, not only in this debate but in the next two debates, the shape and structure of the regulatory arrangements through the regulatory authority and through the Electricity (Miscellaneous) Amendment Bill, the sort of framework that will govern the evolution of our electricity industry in South Australia. The Government is confident that the sort of structure that it is recommending to the Parliament will be capable of adapting to the change but, we trust, will ensure that appropriate standards are provided for future South Australian consumers. Ultimately, that will be for people other than myself as Treasurer (and, indeed, I suspect all other members in this Chamber) to make their determinations upon.

The Hon. P. HOLLOWAY: Can the Treasurer inform the Council what will be the term of lease for our electricity assets that any potential purchaser will be signing up for under this clause—what will be the term that they will understand they are signing up for?

The Hon. R.I. LUCAS: As I outlined last Thursday, we are looking at a staged long-term lease. The Parliament will be approving a 25 year lease. There will be a clear option, I suppose is the best way of putting it, for three further 24 year leases, subject to a vote after the next election, within the framework of the provisions that have been outlined before in the Bill.

The Hon. P. HOLLOWAY: In other words, as indicated in November last year, a prospective lessee of our electricity assets will be signing up for a 97 year lease knowing that, beyond the first 25 years, it will have to be ratified between the timing of the next election and five years; is that correct?

The Hon. R.I. LUCAS: I do not know how many times I have to mention it to the honourable member so it sinks in: they will be signing up for a 25 year lease with the option for some renewals.

The Hon. P. HOLLOWAY: Will the payment be one only up-front payment for the entire term of the lease?

The Hon. R.I. LUCAS: Our commercial advice at the moment is that that certainly is the intention. I saw a statement in one of the morning newspapers that the Government would accept a very low up-front sum and then an ongoing stream of significant payments over the next few years. That is certainly not the commercial advice that the Government received late last year—or, indeed, that it has received recently. We will be looking for the up front payment for the 25 year lease for which it is signing up, plus the option it will pay up front. As I said prior to the evening supper break, that will be paid. If the Parliament endorses the extension of the lease, that money will be retained by the Government in the Consolidated Account. If for whatever reason the Parliament chose not to extend the lease (and I acknowledge the position of the Labor Party on this issue, so that is highly unlikely), that money would have to be returned to the lessees.

The Hon. P. HOLLOWAY: So, any potential lessee will be paying what they believe to be the value of our assets for a 97 year period up front, in full, subject to the caveats.

The Hon. R.I. LUCAS: As I replied to the two previous questions, they will be paying for a 25 year lease, with the option for three rights of renewal.

The Hon. P. HOLLOWAY: Which they will be paying for up front.

The Hon. R.I. LUCAS: Yes.

The Hon. P. HOLLOWAY: In November the Treasurer said that as ballpark figures he thought the value of the first 25 year lease would be 80 per cent and about 20 per cent for the remainder of the term, in other words, the other 74 years. Does he have any reason to change that projection, or does he still stand by that?

The Hon. R.I. LUCAS: This is one of the points I was making just before the break. I am not sure why the honourable member keeps going back to the December speech. Last week I outlined the Government's current proposition. In my contribution last Thursday I said that, rather than the proposition of last December, the Government believed that the ballpark figure would be of the order of 70 to 80 per cent and 20 to 30 per cent in terms of the components. At the stage at which I gave the ballpark estimates last week we had had no further commercial advice from our commercial advisers. At this stage we have had no further commercial advice in relation to that issue, but they are the sort of rough ballpark figures we would anticipate.

The Hon. P. HOLLOWAY: Does the Government expect that there will be any discount as a result of the renewal of the lease having been delayed effectively by between two and five years under the provisions of this clause, because of the requirement for parliamentary approval?

The Hon. R.I. LUCAS: I am not prepared to speculate too much more about the valuations that the Government expects. One would not expect the Government to be placing too much on the public record at this stage. We have said a couple of things. First, we will not put down what we expect the total value of our assets to be. We have indicated what the industry has speculated, but we will not put down our position. Our commercial advice has been that we can capture virtually all the trade sale value of our assets through this staged long-term lease, and that advice has given the figure which I used last Thursday of over 90 per cent of the trade sale value of the lease.

I indicated last week, as I did in December, that the Government's preferred position has always been a trade sale of our electricity assets. The reality is that we do not have the majority in both Houses of Parliament to be able to achieve that, and we believe this to be a very good second option for the Government and the people of South Australia.

The Hon. P. HOLLOWAY: The Treasurer's answer may have been helpful, but it did not answer the question I asked, which was: will there be a discount as a result of the right of renewal of the lease being delayed by two years and being subject to the parliamentary process? That should not involve any commercial confidentiality or any problems for the Government in relation to the deal; I thought it was a pretty straightforward question.

The Hon. R.I. LUCAS: It was a straightforward question and I gave a straightforward response and I do not intend to add to it. As I indicated, that is all the Government is prepared to say about its commercial advice on the valuation of the assets. That is, we will not put a total estimate on the value. We are prepared to say that at this stage we believe the staged long-term lease will capture virtually all the equivalent of the trade sale value of our assets, and the commercial advice provided to us has been of the order of 90 per cent plus.

This is very much in the realms of best estimates in a whole variety of areas. At this stage no-one is in a position to be able to say with any degree of specificity what people will buy, what they will pay, or what they might pay in a slightly different set of circumstances, for a staged long-term lease as opposed to a straight out lease, as opposed to some other differently structured lease. My commercial advice is that we believe we can capture virtually all the value of a trade sale through this particular staged long-term lease.

The Hon. T.G. CAMERON: From where did that advice come?

The Hon. R.I. LUCAS: It has been our commercial advice from Morgan Stanley and, I guess, assisted by others within our advisory team. It was the position that the commercial advisory team put to the Government in its discussions with the Hon. Mr Xenophon and the Hon. Mr Cameron at the end of last year. It remains the commercial advice of the Morgan Stanley team and others who provide advice to the Government on these commercial issues.

The Hon. NICK XENOPHON: I oppose this clause. I have previously indicated the basis of my opposition in this Chamber on a number of occasions. I can confirm that, notwithstanding the discussions with the Treasurer last year, ultimately I could not support the clause for the reasons I outlined. Having said that, I have a number of questions to ask the Treasurer. I know that the Treasurer has made a more recent statement, and he can correct me if I am wrong, but does he stand by his statement of 24 November 1998 when he said:

> . . . I am happy to stand here on behalf of the Government and indicate, based on that advice, that with those returns we will see a significant net benefit to the public sector for the long-term lease, and we will also see a net benefit to the public sector from, indeed, even a 25 year lease.

The Hon. R.I. LUCAS: Certainly. The commercial advice provided to the Government remains the same in June 1999 as it was in November or December 1998.

The Hon. NICK XENOPHON: In terms of the net benefit of a stand alone 25 year lease—and the Treasurer has indicated that there would be such a net benefit—on what basis does the Treasurer say there will be a net benefit? Is that in terms of interest payments saved? What criteria has the Treasurer used to make that undertaking with respect to a net benefit on a 25 year stand alone lease?

The Hon. R.I. LUCAS: We went through the process with the honourable member at great length and we did, on that occasion, convince him and his economic team of the net benefit calculations that had been done at that time. I guess, put as simply as I can, it is essentially a comparison of the interest cost savings to Government as off-set against the loss of whatever projected dividends there might be coming from those businesses into the budget over the foreseeable future.

The Hon. NICK XENOPHON: My recollection is that we were not given any particular financial analyses in relation to a net benefit of a 25 year lease but, having said that, does the Treasurer concede that a stand alone 25 year lease would in fact be marginal—that there could be either a marginal net benefit or, indeed, a marginal negative effect in the budget's bottom line on a 25 year stand alone lease?

The Hon. R.I. LUCAS: I am not going to use the word 'marginal'. Clearly, if the potential lessees are to pay significantly less—'if' that is, and we will find out when we go through the process for the up-front 25 year component as compared with the renewals—one would have to make one's assessment on that basis. Our commercial advice is that the overwhelming majority of the up-front payment will relate to the first 25 year lease. I would have to correct the honourable member: I recall explicitly sitting down with the honourable member, the commercial advisers from Morgan Stanley and the team with the quite detailed and specific dot point summaries. The Hon. Mr Xenophon and I worked through those at great length using the analysis, of which, I suppose, we were not entirely accepting, which was the public sector benefit analysis used by the Auditor-General in his analysis.

We believed that there was an alternative way of measuring the net benefit, but in the interests of trying to be consistent with the Auditor-General we looked at those figures. So, I will not use the term 'marginal' but, clearly, the more money you get up front with the longer lease, the greater will be the net benefit to the people of South Australia. That is a statement of simple logic—make of it what you will—but I am not in a position to say much more other than that the Government will not use the word 'marginal' in terms of the 25 year lease.

The Hon. NICK XENOPHON: Does the Treasurer concede that the net benefit must be measured in terms of the lease receipts and interest savings made? In order to deter-

mine savings and interest payable, an assumption must be made by the Treasurer about the actual rate of interest. Will the Treasurer provide a ballpark figure for the rate of interest that is being taken into the calculations to determine whether there is a net benefit?

The Hon. R.I. LUCAS: The honourable member knows that, in the discussions that the Government conducted with him, a range of interest rate scenarios were put. The Government is not in a position to be able to stipulate exactly what the interest rate scenario will be in the future. In the analyses that were done for the honourable member, a number of interest rate scenarios were used. I think we used the 6 per cent scenario, and we might have used 7 per cent and 8 per cent to demonstrate to the honourable member the impact of the interest rate variable on the calculations that were being done on net benefit.

The Hon. P. HOLLOWAY: Given that interest rates currently are at an historic low and given that the Treasurer has said that he will not say and cannot know how much we will receive for our electricity assets, how can he assure the people that the sale will be financially beneficial?

The Hon. R.I. LUCAS: I hope that the Hon. Mr Holloway is never in charge of the State budget as the Minister for Finance, as those are the sorts of judgments that he would have to make. If he does not feel that he is in a position to take advice—

The Hon. Diana Laidlaw: Or confident enough.

The Hon. R.I. LUCAS: —or confident enough—

The Hon. T.G. Roberts: It's a big risk.

The Hon. R.I. LUCAS: It is a big risk to have the Hon. Mr Holloway as the Minister for Finance—I agree with that.

The Hon. T.G. Roberts: No, I meant the ETSA sale.

The Hon. R.I. LUCAS: I thought the honourable member was saying that having the Hon. Mr Holloway as the Minister for Finance was a risk. These are the sorts of judgments that have to be made when you look at any commercial deal. They are the sorts of judgments that you and your officers and advisers must make when putting together any budget. Treasury officers have to make judgments about interest rates for the forward or out years, the level of economic activity in the economy, and the impact that there might be on payroll tax collections and gambling tax. These are all based on the best advice from the best people that you can put together.

I do not think that Treasury (Federal or State) would ever say that it can guarantee that its estimates are 100 per cent accurate. No-one could say that: it would be foolish even to contemplate that or to ask a question along those lines. No-one can guarantee anything along those lines in this world. You get the best commercial advice and Treasury advice that you can put together, and then you make mature and responsible judgments about it. All that advice adds up to this being a good deal for South Australians and one which will have a net benefit for South Australians now and in the future.

The Hon. P. HOLLOWAY: The Treasurer has effectively put a value on the electricity assets as a whole. Working back through the budget papers, we know what dividends ETSA will be paying this year. We know that, according to budget figures, it is $78 million short of what he expected, which gives us a figure of about $140 million. We know that he had a sales premium of $100 million. Putting that all together we can work back and, at interest rates of 5 to 6 per cent, come up with a figure of about $5.5 billion to $6.5 billion, depending on which interest rate figure we take. So, the Treasurer has in a sense provided those figures indirectly in the budget.

In relation to the sale of our electricity assets, there is of course a range of assets. There are the poles and wires, the natural monopoly business, which is essentially a licence to print money, and there are also the generator businesses. Will the Government set a reserve price on each of its assets or will it have a reserve price only on the whole electricity system, lock, stock and barrel?

The Hon. R.I. LUCAS: As I indicated earlier, the Government will go through the process on some sort of sequential basis. We would not have reached this stage if we had not believed, based on commercial advice that we have, that as a package of electricity assets we would be able to do a good deal for South Australia in the interests of South Australians. So, the total value of that package is something that will see a net immediate benefit by way of a significant reduction in State debt and then an ongoing annual benefit available to the budget because of the reduced interest costs in our budget. Obviously, some of our assets are very valuable while others, self-evidently, are of less value.

As I said earlier, in the Government's view, had we been able to go to the market last year when we wanted to prior to the establishment of the national electricity market, we would have been in the position of greatest potential in terms of maximising the value of our assets. The reality is that we have not been able to do that. We still think that we are in a pretty good market and are very hopeful that we will be able to get pretty close to the sorts of values that were being talked about last year. However, as I said, it would have been much better for us to have been out in the marketplace last year. We will go through the process. As I said, we would not have reached this stage without being confident that we can maximise the value to the people of South Australia.

If, for example, for our very smallest generator we were to get not as much as we had expected but that for our other four or five assets we got what we expected or more, I can assure the honourable member that we will not hold on to what might be our riskiest asset because we believed we did not get as much for that particular asset. What we might be contemplating then would be to sell two generators, a distribution company and a transmission company, but hold on to the smallest and riskiest generator—

An honourable member: You mean 'leased.'

The Hon. R.I. LUCAS: —sorry, leased—when we might not have got as much for the lease of that generator but might then be mightily exposed to risks in the marketplace as the owner and operator of that particular genco in the national electricity market. There are a number of issues here, one of which we talked about earlier today, which was price, but the other issues relate to making sure that we are not exposed to risk. They are issues that the Government will need to take into account in terms of managing this whole process. We will work our way through that process and, ultimately, Cabinet will need to take final decisions on each of those assets as we proceed through the lease process.

The Hon. P. HOLLOWAY: Given the comments the Treasurer has just made about that risk, does that mean that the Government will try to lease the riskiest assets, that is, the generators, first?

The Hon. R.I. LUCAS: No; nothing I have said this evening should be construed by the honourable member as suggesting that we will put the generators on the marketplace first. In terms of timing, there are issues in relation to how quickly we can get particular assets ready for lease. There are

also issues that we have to consider in terms of maximising total proceeds. For example, if the best time to put a distribution asset on the marketplace is straight away, it would seem to make sense, given that is the most valuable asset, to do that very quickly. This is because the difference of a few per cent in terms of the total value between, say, this year and next year and getting that on to the marketplace when you are talking about some billions of dollars may well be enormous in terms of the potential benefit from the lease of all our assets, whereas that same percentage on a much smaller asset such as a generator may or may not be the case.

Offset against that is the issue that the honourable member has raised, namely, risk, and obviously we have to try to balance that. As I said earlier, we have not yet made a decision about the sequential nature of the lease process. We will need to take advice on that and work our way through it in the next few weeks.

The Hon. T.G. CAMERON: The Hon. Paul Holloway said that interest rates are at historical lows. I can only concur in that view; in fact, I think they are at about a 30 or 35 year low. Will the Treasurer comment on what levels interest rates have reached over the last decade and indicate whether he is aware of the fact that Alan Greenspan, Chairman of the American Federal Reserve Bank, has stated that he believes that the next interest rate movement in America is more likely to be up rather than down? Will the Treasurer outline to the Committee what the impact of a 2 per cent increase in 10 year bond rates might mean if we keep ETSA and roll over the debt in two years?

The Hon. R.I. LUCAS: I will need to take some advice on that overnight in terms of the specifics of the honourable member's question, but I can certainly respond this evening in general terms as I am sure the honourable member would expect me to do. As those of us who look at future budget estimates have to take into account, this State remains mightily exposed to interest rate shock. If there is a debt of about $7.5 billion and interest rates are at historically low levels, a 1 per cent or 2 per cent general increase in interest rates leaves the State budget mightily exposed to that sort of interest rate shock. I do not remember which year it was, but in one year of the first four years of the Liberal Government between 1993 and 1997 a very small change for some reason in the overall average level of the interest rate—I cannot remember, but Minister Laidlaw I am sure will recall the event—meant that, although we thought we had been through all the pain in one year, in the following budget the Treasurer at the time and Treasury reported there had been this blip in interest rates or whatever else it might have been in terms of—

The Hon. T.G. Cameron: Is this when we were in the home straight?

The Hon. R.I. LUCAS: Well, we were in one of the straights at the time; we found out that we still might have had a lap to go. With just a very small change in the estimates for interest rate costs, with SAFA, our financing authority, and Treasury using a formula where very easily some tens of millions of dollars in out-year forward estimates are churned out, those of us in the spending portfolios such as education and health were told, having been through one round of reductions—

The Hon. Diana Laidlaw interjecting:

The Hon. R.I. LUCAS: —and transport—that we would have to go through another round even though to all intents and purposes we did not think much had changed in the world. We thought that we had actually taken the hard decisions, but it was just an issue of some changes in interest rates.

Whilst I am happy to get the specifics for the Hon. Mr Cameron, the brutal reality is that relatively small changes in interest rates over the long-term for the State with a debt of $7.5 billion leave us exposed. Anybody in the Parliament who wants to spend money on roads, schools, hospitals or anything will just see even more money than we are currently chewing up and spitting out on interest costs being chewed up and spat out on interest costs in the future. It is for that reason that the Hons Mr Crothers and Mr Cameron and the Government are so passionate about trying to reduce the level of the State's debt—to try to reduce some of that exposure. Again, I will not indicate it, but we have some modest estimate of what the increases in interest costs might be should there be some movement against us. Certainly, we are not estimating increases of a couple of per cent in interest costs in terms of our forward estimates. If that was to occur and if we did not repay out debt through this mechanism, we would then have to find significant additional millions to pay in increased interest costs.

The Hon. Diana Laidlaw: Because of debt.

The Hon. R.I. LUCAS: Yes, and that means either more revenue raising or reduced expenditure in other areas. The honourable member's other question involved how the recent interest rate costs compare and the 30 year lows. I have a graph that indicates those details. I have shown it to the Hons Mr Xenophon, Ms Kanck, Mr Cameron and others over the past six months or so, and I will make that available to members who are interested in having a look at it.

The Hon. SANDRA KANCK: The Hon. Paul Holloway described this lease as a mongrel. It certainly is a unique sort of framework. I understand from what the Treasurer said that this was structured to accommodate what the Government perceived would satisfy the needs of the Hon. Mr Xenophon last November. November has been and gone, and we now have different arrangements. I am still not quite clear why the Government has stuck to this arrangement, given that there are no precedents for it anywhere else in the world, and why it did not go back to something a little bit more of a standard variety.

The Hon. R.I. LUCAS: There is a simple answer to that: you need 11 votes in the Parliament. The Government's preferred position was a trade sale. We have said that 1 000 times. We have 10 votes for a straight out sale. That is the brutal reality. There is not much point in debating it at great length. If you want to get something through the Parliament, you need a majority in both Houses of the Parliament. This staged long-term lease, for the reasons the Hon. Mr Crothers outlined—and I do not intend to repeat those: I do not have to—he is prepared to support this package.

The Hon. SANDRA KANCK: There have been buyers—at least of poles and wires—floating around for quite some time in this State. Have you tried the concept out on them for an initial reaction to it?

The Hon. R.I. LUCAS: I do not know which buyers the honourable member has been talking to in this State. Our commercial advisers with their widespread commercial experience in Australia and throughout the world have taken soundings and that has guided their advice to the Government on this staged long-term lease and the way it has been structured. We hope it will be passed by the Parliament without additional restrictions and inhibitions of the nature that the Hon. Ms Kanck is moving by way of her amend-

ments. As long as we do not have those sorts of restrictions placed before it or, indeed, any others, we believe we can capture virtually all the value of a trade sale. That is based on the commercial advice from our advisers, based on some informal soundings about the shape and structure of this lease which, as the member would know, was in contemplation for a number of weeks at the end of last year and which, of course, has been on the table in one form or another since then.

The Hon. SANDRA KANCK: I think from earlier questions I asked it is quite clear that there will be a number of buyers, because it would contravene competition policy for it to be any other way. Does this structure have to fit for each one of those? For example, if one company takes over Synergen, a different company takes over the poles and wires and a different company takes over Optima, will they all have to go through the same process of signing a 25 year lease and then, after the next election, having it put before Parliament, and so on? Will each one of those companies have exactly the same structure?

The Hon. R.I. LUCAS: In relation to our three generation companies, ElectraNet (which is the transmission company) and ETSA Utilities, the staged long-term lease will relate to all those five companies and it will be along the shape and structure that we have been discussing this evening.

The Hon. SANDRA KANCK: In terms of the utilities that are being sold, is Terra Gas Trader also included in that, because that is not an electricity asset *per se*?

The Hon. R.I. LUCAS: No. As I indicated, the five companies to which this will apply are the three generation companies, the distribution company and the transmission company. Terra Gas Trader is a new being or new entity which is not subject to these provisions or, indeed, the others. So, with Terra Gas Trader there is the capacity to have a straight sale without any requirement for further legislation.

The Hon. SANDRA KANCK: Has the Treasurer been given any advice on the possibility that some of the assets might not sell and, if so, where does that put this Parliament in relation to those assets?

The Hon. R.I. LUCAS: I have not been given any advice that any of the assets cannot or will not sell.

The Hon. SANDRA KANCK: I would like to ask a question of the Hon. Trevor Crothers. The Treasurer has indicated that the reason we have a lease of this variety, which is unique in the world and which has not been tried anywhere else, is that this is what was acceptable to the Hon. Trevor Crothers. Will the honourable member explain to the Parliament why this was the type of lease he wanted?

The Hon. T. CROTHERS: What particular explanation are you seeking? Can you be specific? We are limited to three days; be more specific, and I will endeavour to answer the honourable member's question.

The Hon. SANDRA KANCK: The lease that is described in the Government's proposed new clause 11A which we have been debating for the past half an hour.

The Hon. T. Crothers interjecting:

The Hon. SANDRA KANCK: No; proposed new clause 11A specifically.

The Hon. T. CROTHERS: What is your specific question?

The Hon. SANDRA KANCK: As the Treasurer has said that this framework for the lease is what was acceptable to the honourable member, rather than going back to a more standard type of lease, what was it about this style of lease that attracted the honourable member? Why is it preferable to the Hon. Trevor Crothers to have this style of lease where we have the companies sign up for 25 years and then, after the next election, Parliament gets to vote on it and we extend it for three further terms after that. Why was that an acceptable form of lease rather than a more common form of lease?

The Hon. T. CROTHERS: I still do not know where the honourable member is coming from, but I will endeavour to answer in a much shorter form and more succinctly than she framed the question. My humble view was that it would maximise the return on the sale of the lease which could then be used to greater effect for the benefit of this State and its people—a benefit that seems to have been forgotten in this debate. I believe that only 30 or 40 per cent of the questions asked in this debate have been genuine and that many other questions have been filibustering.

The Hon. R.I. LUCAS: As I said, we can continue to debate proposed new clause 11A for the rest of the evening, but I am hoping that members have further questions in relation to the detail. As I said before, in the discussions I have had with the Hon. Mr Crothers on this issue, his views were explicitly stated in his contribution last week and explicitly stated in a number of his discussions with me where he made quite clear that what he wanted to see was a vote in this Parliament for a 25 year lease. He was very interested, as he indicated this evening and last week, that there had already been 20 year leases by the Bannon Government of a number of electricity assets, that the people would have the opportunity, at the next election, to make a decision about the Parties that they wanted to govern—the make-up of the Parliament—and that, after that election, there could be a vote on whether or not we extend the 25 year lease into a long-term lease.

As to the provisions in proposed new clause 11A, the Government's position has been clear right from the end of last year when this issue was first raised. Whilst there are a limited number of provisions which are different, and I have explained them this evening, this package should be no great surprise to members like the Hon. Sandra Kanck and others because it has been on the table in one form or another for six months or so. In response to the question from the Hon. Mr Holloway or the Hon. Mr Cameron, I indicated earlier that the Government's commercial advice had been that this is a package in which the commercial world would be interested. Our commercial advisers are saying that they believe it is a package that will capture virtually all the value that a trade sale might otherwise have captured.

Yes, the Government's position has always been that we would like to support a trade sale, but the Hon. Mr Crothers was firm in his view: he would not be moved on the issue of a sale as opposed to a lease, as indeed other members have been in this Chamber, and we were always one vote short of a sale of our electricity assets. However, we believe that this is the next best option for the Government and the people of South Australia. There is significant net benefit for the people in this staged long-term lease.

The Hon. P. HOLLOWAY: During his speech explaining his position on the Bill, the Hon. Trevor Crothers made a distinction between a lease and a sale. Why are we supporting it in this form? Why does the Hon. Trevor Crothers want it in this form so that we have to decide the renewal of a lease two years into it after an election? That is the question we would like answered.

Members interjecting:

The Hon. P. HOLLOWAY: The Hon. Terry Cameron's comments should go on the record. He claimed that, if it was amended, there would be a better price from the lease.

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: Why are we debating—

Members interjecting:

The Hon. R.I. Lucas: We had a vote on the clause on Thursday as a test vote; you have been going for an hour and a half on this clause and you have said nothing.

The Hon. P. HOLLOWAY: We are now getting to the guts of the whole issue. This is a very important vote. If for no other reason than for the benefit of historians who might come back in 10 or 20 years to ask why it was done this way, it is important that we have an explanation about why this sort of lease is proposed. It is one thing for the honourable member to say that he prefers a lease to a sale, but why does he prefer a 25 year lease that is renewed two years into its term after an election? That is the question that needs to be answered.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: The Treasurer has said it was done for the Hon. Trevor Crothers' benefit. Let us hear why.

The Hon. T. CROTHERS: A lot of people have talked about sale when they wished to characterise this. It is the same as my being compared with Mal Colston in other matters. When they wish to characterise and symbiotically link the supporters of this provision or the so-called de facto or the defector, if you like, in such a way as to show him in malodour in order to diminish his character stand in respect of supporting the Government on this issue, they have done so.

The Hon. R.R. Roberts interjecting:

The Hon. T. CROTHERS: Well, you would know. I want to say this to members, and to Paul Holloway in particular: the difference between a lease and a sale is as follows. I put it in the simple terms as it was explained to me tonight. The DNA of the human being and the chimpanzee is 98 per cent the same, but all human beings are not chimpanzees and all chimpanzees are not human beings, and even that small marginal difference is a wide gap of difference. There is, believe it or not, Paul, a considerable difference between a lease and a sale because the State Government does not lose control ultimately—

The Hon. Sandra Kanck: Less value.

The Hon. T. CROTHERS: There are many things around me of less value, but I do not criticise that. Ask someone who has rented a house or bought a house what the difference is between a sale and a lease. I am surprised that these people with economic expertise should be wasting my time, the time of this Chamber and the time that we have left in which to try to effect beneficial change for the people of this State by asking of me questions which are verging on either inanity or insanity.

The Hon. T.G. CAMERON: I would like to put a couple of things on the record. It is true to say that I have always maintained a preference for a trade sale. The reason for that is that I believed that a trade sale would maximise the value which we would get from our assets and which would maximise the amount of funds that we would have available to reduce the South Australian State debt. They say politics is the art of the possible: a sale was just not possible. I think the Government was the first one to recognise that it was not able to get the numbers for a trade sale. If one has a look at a range of options that may be available, I do not have any hesitation in saying that, in my opinion, a straight out 100 year lease (or 97 year lease, call it what you like) would achieve a higher price than a 25 year lease or a 25 year lease with three options.

You can actually come up with 20 or 30 different options if you want to, but the simple fact is that, the longer you make the lease, the more likely you are to get a higher price. I understand the Australian Labor Party's position is that it will support the lease after the next election. Perhaps I could ask the Hon. Paul Holloway to set down what the Australian Labor Party's position will be when this legislation comes back into the Chamber after the next election.

The Hon. P. HOLLOWAY: I can only repeat the statement that was made in November, last week and earlier on this evening, that is, that the Labor Party will renew the lease. Once the lease is passed by this Parliament, whether it is passed tomorrow or Thursday, that is it as far as the Labor Party is concerned. That is the end of ETSA, as far as we are concerned. It has gone. Whether it is for 25 years, some mongrel lease, a straight lease or whatever, it is our view that it has gone. That is why we have clearly indicated that, yes, of course we would not put the pieces back together because we could not do so even if we wanted to.

The Hon. R.I. LUCAS: I want to indicate (and I just have to double check the advice we have received) that our commercial advice has been that we believe that, if this staged long-term lease is structured appropriately, we can capture (as I have indicated on a number of occasions) virtually all the value of the trade sale—although, as I said, we are talking about a 90 per cent plus margin. Our commercial advice is that, structured in the way that is intended, we believe that we might be able to capture the equivalent value to a straight out 100 year lease.

I understand the point that the Hon. Mr Cameron has just put and, certainly, that is a view that has been put to me also. I readily acknowledge that, at least on the surface of it, that would appear to be the case. However, the advice from Morgan Stanley has been (and I have just confirmed it) that it believes that, as long as we can structure this deal along the lines that we are talking about, we think that we can get so close to the equivalent of a 97 year or a 100 year straight out lease as to not really be a significant difference. In the end, as I said in answer to some earlier questions, one will never be able to prove whether that is the case or not, as to whose judgment is correct. Certainly, I think everyone's view is that it will be a little less than the trade sale value: we all accept that. The Hon. Mr Cameron's position has been the same as the Government's position: that we would prefer a trade sale in terms of maximising it. So, I think everyone's advice on that is consistent.

There are varying views as to whether a straight out 100 year lease and a staged long-term 97 year lease would be different. The Hon. Mr Cameron has shared some commercial advice that I am sure he has had in relation to it. I just place on the record that there is a view from our commercial advisers that we think that, structured appropriately, we might be able to get virtually the same as we would get for a straight out 97 year or 100 year lease. In the end, no-one will be able to prove whether or not the straight out 100 year lease or the staged long-term lease were slightly different.

The Hon. SANDRA KANCK: When the Treasurer addressed Parliament last Tuesday he said that, because it is a lease and not a trade sale, we cannot get rid of all the risk. Can the Treasurer indicate what risk would remain with the State?

The Hon. R.I. LUCAS: Again, we cannot give any specific example. I suppose a sort of general circumstance would be where someone tries to sue the lessee for negligence or some similar problem, and then decides that they want to try to sue the owners. There are provisions in this Bill which seek to even further limit the possibility of that occurring, and we believe that we can do that. The advice to me at the moment is that we cannot really think of any specific examples, and that is why we have said that we think we can get rid of virtually all of the risk.

The Hon. M.J. ELLIOTT: Which clauses are at risk—to which clauses are you referring?

The Hon. R.I. LUCAS: Clause 22B—that is the one that is over and above. I am advised that under common law options are obviously available in relation to whose responsibility it is. For example, in relation to the operation of our electricity assets it would clearly be the responsibility of the lessee who has taken over the operation of the electricity assets to maintain the ongoing supply of electricity, etc. So, there are the common law provisions together with the additional provision encompassed in this legislation as well. My advice is that we do not have any specific example for the Hon. Ms Kanck but, through an excess of caution, we have used the phrase 'virtually all risk'. Clearly, if you are selling, that is the cleanest distinction, but the Parliament is not prepared to support that, and we are therefore looking at the next best option.

The Hon. M.J. ELLIOTT: I will follow the question of risk a little further. A few years ago a bushfire was attributed to the clashing of wires, and as I recall ETSA was held responsible for those fires. Clearly, there is a significant risk in terms of the size of actions that might occur, and in South Australia one would have to believe that that sort of thing could occur again. Is the Treasurer absolutely confident that clause 22B will eliminate an action in circumstances which it might be claimed relate to the Government's actions before the sale regarding maintenance, design or whatever else; and that the simple act of leasing it to someone else, even with clause 22B, may not in fact remove all liability?

The Hon. R.I. LUCAS: This issue was canvassed in part earlier this afternoon in the debate, so I would refer the honourable member to the *Hansard* response. In summary, negligence is the lessee's responsibility. In answer to the second part of the honourable member's question, my legal advice is that clause 22B would cover the sort of circumstances to which the honourable member refers.

The Hon. M.J. ELLIOTT: I could understand that a lessee might have to accept responsibility for a failure of maintenance but, if there was a design flaw, would the lessee be held ultimately culpable for that?

The Hon. R.I. Lucas: A design flaw in what?

The Hon. M.J. ELLIOTT: That is the sort of thing you would go to court and argue. You would argue that—

The Hon. Sandra Kanck interjecting:

The Hon. M.J. ELLIOTT: Yes, that is right. I suspect that, in relation to the latter, some responsibility would still reside with the designer, which would be the Government, and not with the lessee.

The Hon. R.I. Lucas interjecting:

The Hon. M.J. ELLIOTT: I refer to the poles and wires as they now stand: the infrastructure that has been designed, assembled and put in place by the Government. The Government may lease it out and it may well be true that the lessee then picks up responsibility for maintenance. However, given that somebody could go to court and argue that it was not the maintenance but the fact that the lines were designed a certain way which caused the clashing, or insulator failure or whatever else, and that those sorts of things had nothing at all to do with maintenance, the Government might still be left holding a good deal of the responsibility.

The Hon. R.I. LUCAS: Any of these issues that can be identified through the provision of clause 22B can be excluded using the powers under that clause. In the end, if the honourable member wants to get rid of all liability he should support a straight sale, because that is the only way of being able to remove absolutely the taxpayers and the Government of South Australia from some of these sorts of arguments. For all those issues that the Government is able to identify through the due diligence process, clause 22B exists to allow that to be identified in the contracts and for the responsibility to rest therefore with the lessee as part of their lease arrangement. That is, they would take on those responsibilities.

I do not even understand the example about which the honourable member is talking in terms of design, which might be found by a court to be held responsible for a particular issue. As I understand it, it was not designed for the 1983 bushfires. I am not a lawyer but it was actually deemed to be negligence from the electricity company. I am not sure. I will need to take advice, but my recollection was that a finding was made in relation to negligence. If issues relate to negligence then that will be the responsibility of the lessee. Under the current arrangements it is the responsibility of the Government and the taxpayers.

The Hon. M.J. ELLIOTT: Just looking at other questions of responsibility for situations that may go astray, as a consequence of the fires we had some years ago, ETSA was given quite significant powers in terms of vegetation clearance. Will those powers be transferred directly to the new owners and will they have all the freedoms that ETSA currently enjoys?

The Hon. R.I. LUCAS: I do not wish to be rude, but we have already answered that question this afternoon. We have been through these particular questions. I appreciate that members cannot be here for the whole of the debate but the issues of vegetation clearance were answered this afternoon. They will be transferred. I am happy to go over the questions again but it will make the debate difficult.

The Hon. M.J. ELLIOTT: 'They will be transferred' is fine.

The Hon. R.I. LUCAS: It will make it difficult if we have questions that were asked earlier in the day repeated.

The Hon. SANDRA KANCK: In relation to the question of risk—and I do not have the documents with me, I have them in my room, so I am a little worried about using the wrong technical term—I am aware that the powerline that goes to Port Lincoln has some inappropriate or incorrect equipment installed. I am not sure whether it is insulators, for instance, but let us say that the powerline has the wrong insulators. If that line is sold with those insulators and problems emerge as a consequence of that, which they certainly will, who will be liable then?

The Hon. R.I. LUCAS: Given that we will be here tomorrow and that I do not understand the question, I think it would be probably easier if the honourable member checked with her file in her office and, if she would like to give me the information, I will get some advice and see whether I can respond. I am not sure what sort of problems the honourable member is talking about. I would be happy, if she can provide me with a better description of the problem, to try to get some advice. I am sure that the

honourable member would understand that, in the nature of her description of what the problem might be, it is a bit difficult for us to construct a response.

The Hon. CARMEL ZOLLO: In terms of proposed new clause 11A(2)(b), can the Treasurer give an example of an unauthorised lease? Also, in terms of subclause (3)(a) could one understand that if an entity has assets and liabilities that both would be transferred over?

The Hon. R.I. LUCAS: I am advised that the unauthorised lease is just a lease that has not been authorised by the Parliament under the process outlined in clause 11A. In relation to the question on subclause (3)(a) in terms of transferring assets and liabilities, the answer is yes, both will be transferred.

The Hon. SANDRA KANCK: We are talking about possibly not having an asset in 100 years. It is certainly no surprise to find that most of the companies that were registered 100 years ago are no longer in existence. So, what will be the situation regarding companies which go out of existence, companies which go bust, companies which are taken over by another, or companies which simply transfer the lease to a third party? Does this legislation address those situations or will they be addressed within the contract itself?

The Hon. R.I. LUCAS: If the Independent Regulator were to say to a particular company, 'You can no longer hold the licence because of an appalling performance record'—or whatever reason the Regulator might give—in those circumstances the Government would have a role to play in saying to whom the lease would go. However, in terms of normal corporate behaviour regarding a takeover or matters such as that, if a listed company took over another company that already had a particular asset, obviously the Government would not be in a position to stop the takeover of that company which might be the lessee of the Government's electricity assets. It depends on the set of circumstances. The honourable member raised a number of different circumstances: the response would depend on the set of circumstances.

The Hon. M.J. ELLIOTT: Regarding ownership, clearly the Government will be in a position to determine to whom it makes the initial sale, and ultimately the lease can be on-sold. Has the Government contemplated a situation where perhaps Flinders Power is leased privately and then another company comes along and leases it and we find that that lessee is Western Mining? Western Mining has at last got its cheap power; in fact, it has removed the major source of cheap power in South Australia. Then, with a relatively small amount of coal generated power, it bids back into the marketplace (probably at zero)—and it does not really matter, Western Mining gets the gas price.

The net effect of that would be to drive up the price of electricity in South Australia. Has the Government given any consideration to having some veto over ownership in those circumstances? I suppose the other risk might be that, in private hands, Flinders Power could have a major contract to supply Western Mining, with only a relatively small amount going back into the grid, which would drive up the price of electricity in South Australia.

The Hon. R.I. LUCAS: I am advised that the ACCC has power over anti-competitive behaviour of the type and nature described by the honourable member.

The Hon. M.J. ELLIOTT: Would it be deemed anti-competitive for a company to buy a power station because it wanted to use a good deal of the power itself? Would the ACCC deem that to be anti-competitive?

The Hon. R.I. LUCAS: It well might.

The Hon. M.J. ELLIOTT: It might, but I think that there is a strong chance that it might not.

The Hon. R.I. Lucas interjecting:

The Hon. M.J. ELLIOTT: Well, that is the way that—

The Hon. R.I. Lucas: It would drive up the prices, you said.

The Hon. M.J. ELLIOTT: Well, the major cause of the price going up is the fact that a significant slab of the power generated at—

The Hon. R.I. Lucas: They already have the hidden power. They are not using any more power.

The Hon. M.J. ELLIOTT: It is a question of how and where they buy it. As I understand it, so far there has been some resistance to their getting the cheap power which is immediately available within South Australia. I thought that was what they were complaining about for some time. Clearly, if they or a subsidiary purchased Flinders Power, they would have grabbed virtually half the cheap power generated within South Australia, and that must have the effect of driving prices up, because the last bidder sets the price and the last bidder is virtually guaranteed to be a gas generator most of the time.

The Hon. R.I. LUCAS: I am advised that in ball park terms Flinders Power has about 500 megawatts of power and Western Mining needs about 100 megawatts of power. In the circumstances the honourable member is talking about, I am not sure why they would be bidding zero on 500 megawatts of power and trying to drive up the prices. The honourable member's example was that Western Mining in some way would drive up the prices in the marketplace through some sort of manipulation of its bidding behaviour. I cannot speak for the ACCC but, if some sort of manipulation of behaviour resulted in driving up the prices in the South Australian section of the national market, it may be that the ACCC would be interested in that sort of behaviour. The honourable member could come up with a number of hypothetical examples. In the end, one can only speculate as to what might be the responses of the regulatory authorities.

The Hon. T. CROTHERS: I wish to direct a couple of questions to the Treasurer, and I preface them by saying the obvious: the Hilmer report into national competition policy, certainly as it specifically pertained to the monopoly that the States had on the generation of their own electricity, virtually ensures that it will be much easier for private capital to build a power station. We have witnessed a small one that the Premier opened the other week of, I think, 58 megawatts capacity, and I am led to believe, from the inquiries I have made, that when Pelican Point comes on stream those two privately owned power stations between them will generate some 25 per cent of the annual capacity required by the State at this time.

Is it not a fact that New South Wales and Victoria have power surplus to their requirements between them (I think Victoria for the next 40 years and New South Wales for the next 15 or 20 years); that they could build a connector that entered into our main grids, or even establish their own grids here; and that Torrens Island Power Station, in respect of service and maintenance (as both Parties when in government have been cash strapped because of the State Bank debt), I am told by senior ETSA management, will require some $450 million to be spent to bring it on stream in the next several years to full capacity again (I understand that it is used now only to offset things at peak load)? If you put together all those factors, you could see the Government

owned ETSA assets wither on the vine and not one employee left there who was in the employ of the Government, the only employees left in respect of supplying our requirements for electricity being either employed from without the State or, indeed, from within the State in private quarters.

Is it not a fact that, under the Hilmer arrangements signed by the Labor Government in this State and signed into law by the Keating led Federal Government, big companies such as BHP and Western Mining, not just here but all over the place, have very seriously from time to time and in recent times contemplated the option of generating their own power? If they were to do that—and I highlight this to the members of the press (if they are here) because I do not want to be misquoted in the way I was with Mitsubishi, which we will return to later—is it not a fact that our own power generating capacity through the Government's being put into a position of not being able to influence the outcome could wither on the vine?

The Hon. R.I. LUCAS: The honourable member makes a number of good points. There is no doubt that the Pelican Point power station will be a very significant contributor to the State's power supply from the end of next year onwards. As the honourable member knows, it is absolutely critical to the future of the State that Pelican Point is built—and built quickly—so that it is available and on stream by the end of next year. Again, as the honourable member is aware, Pelican Point will operate at about 55 per cent efficiency rate in terms of the usage of gas. Torrens Island, because of the age of the assets and the time that they were constructed, operates in the 30s in terms of its efficiency. The honourable member knows—and, sadly, a number of other members do not appreciate—that the efficiency and the competitiveness of Pelican Point will place our existing generators such as Torrens Island at a significant disadvantage.

The honourable member's comments in relation to the potential impact on our Government-owned assets are correct. It will mean that the lessee of the assets at Torrens Island will have to look at the future of those assets and at whether they are prepared to expend significant sums of money either to try to re-power Torrens Island or in some other way expend additional capital to make it more competitive against the Pelican Points of this world.

The other points that the honourable member made about the possibility of unregulated interconnectors with the New South Wales market and others indeed will place pressure on our existing Government-owned generators and the employment within those generators in South Australia.

The Hon. NICK XENOPHON: My question to the Treasurer relates to the provision which provides for an up-front payment to be made. I understand, as the Treasurer has indicated, that it will now be an up-front payment for any extensions of the lease, notwithstanding that the extensions have not necessarily been granted. Has the Treasurer received any legal advice as to the potential legal implications, particularly under equitable principles, in terms of whether there could be an expectation or a right of action by any corporation which entered into a lease and which for whatever reason did not get an extension, if they have already paid for one but there is some difficulty or hitch or if indeed an extension is not granted? Would the State be exposed to fairly significant legal action, given that an up-front payment has been made and notwithstanding that a formal extension has not been granted?

The Hon. R.I. LUCAS: No, I have not had any commercial or legal advice which would indicate that the staged long-term lease that we have put before the Parliament will do anything other than what I outlined both last Thursday and in the debate today.

The Hon. NICK XENOPHON: Perhaps I should rephrase that question to make it more succinct. Has the Treasurer sought, or will he seek, legal advice as to whether there are any legal implications in the Government's obtaining money up front for an extension of a lease, notwithstanding that an extension of lease has not been granted at this time? In other words, does the Treasurer concede that potential legal implications are attached to obtaining moneys up front for the extended period of the lease, notwithstanding that the extension has not been granted?

The Hon. R.I. LUCAS: The Government's response to the member's question is the same as our response to his first question, that is, I have received no legal advice, and our lawyers and commercial advisers have been involved. So it is not a question of the lawyers not having had a look at this. We have a considerable team of accountants, lawyers and commercial advisers who pored over this proposed deal for many weeks at the end of last year and obviously for some of the weeks this year. I have received no accounting, legal or commercial advice that raises in any way the sorts of issues that the honourable member has indicated.

The Hon. NICK XENOPHON: Essentially, in the event that a lease is not extended, is there a formula or structure for the moneys to be repaid back to the lessee?

The Hon. R.I. LUCAS: We have canvassed this. We will go through a bid process of some sort, where bidders will bid for the first 25 year lease and for the rights of renewal. That will be part of the competitive tension of it. Some might bid more for the first 25 year lease and less for the renewals or vice versa. In the end, the Government will make a judgment not only on that but on other factors as well in terms of who is successful. Whatever that component is for the renewal will need to be repaid within a short period afterwards—I do not know whether we have set down a time period—if the Parliament voted not to approve it. We have not set down a time period, but it would be very soon afterwards. If the Government did not pay it back at the time I am sure they would consult lawyers like the Hon. Mr Xenophon and take the Government to court.

The Hon. Nick Xenophon: I don't do commercial law.

The Hon. R.I. LUCAS: Well, then, some of your friends who do commercial law. I am sure they would be very quickly after them to get the money out of the Government. We have not stipulated how soon we would pay it back, but clearly if the Parliament votes not to renew it that component of the bid would need to be repaid.

The Hon. NICK XENOPHON: The Treasurer's answers raised a question. He has indicated they would need to weigh up what the mix is for the tenderers as to whether it is more or less an up front payment. Will preference be given to those bidders who make a bid with a greater proportion of an up front payment than other bidders? In other words, what are the criteria that the Government will be looking into for the successful bidder?

The Hon. R.I. LUCAS: We cannot put down a hard and fast rule. In the general nature of things, all other things being equal—and they never are—clearly someone who bids significantly more up front for the first 25 year lease, which will be absolutely locked in by the vote of this Parliament we hope this week, and a smaller amount for the renewals may well have some sort of competitive advantage over other bidders who do not bid as much up front but more in terms

of the renewals. My advice is that there is no hard and fast rule, because we will need to look at other issues. I return again to the questions the Hon. Mr Holloway was asking this afternoon. In the totality of things, the Cabinet will look at the price, and that will be critical. However, the Government may well have to consider other issues regarding its final decision as to who is successful.

The Hon. NICK XENOPHON: I appreciate that the Government will be providing for the lease to be tendered at the end of the process. I congratulate the Government for its spirit of openness in relation to that. However, given that there are no hard and fast rules in terms of the bids and that there could be a question of a value judgment as to which bid is accepted, and given the structure of the lease, will the Government give an undertaking that, at the very least, sufficient details will be given publicly as to all the bids made—at least in terms of the mix of raw data offered by the unsuccessful bidders?

The Hon. R.I. LUCAS: I do not think so, but it is a good try. Basically, the Government will be in that spirit of openness and accountability for which it is renown and it will be tabling all the lease contracts at the end of the total process. We do not go through a process of saying, 'Here are the successful bids. Here is the contract. By the way, these are the unsuccessful bids. This is the nature of their bids and this is why they were different—'. It is not the Government's intention to go through a ball by ball description of the unsuccessful tenderers or bidders for each of the assets.

The Hon. SANDRA KANCK: Earlier this evening, the Treasurer indicated that the Government gave away value on Torrens Island Power Station by encouraging a development of the Pelican Point Power Station. I was interested, just a short time ago, to hear the Treasurer again making some comments about Pelican Point. This time he told us that the existence of Pelican Point will create a threat to the viability of Torrens Island Power Station. He has told us that the Government has squeezed Torrens Island at both ends. It certainly looks to me as if the Government has designed a generation sector to advantage the private sector over the public sector. Then the Treasurer expects us to believe that we will get a good price on these assets. That was not my purpose in standing at this time: I was just so surprised at that revelation. In relation to the South Australian generators at large, last year before—

Members interjecting:

The CHAIRMAN: Order! I am having trouble hearing the honourable member.

The Hon. SANDRA KANCK: —the national electricity market came on stream, I was shown some figures that demonstrated that once the interconnect was constrained the South Australian electricity market would be setting the price and that theoretically this could occur 96 per cent of the time. At the Power and Gas Conference I attended in March, we were told that it has actually panned out to be 75 per cent of the time. While for the Democrats a public entity or entities controlling the price has been acceptable, because we do not believe a public entity in the control of the Government would be taking the electricity consumers of this State for a ride, we do not find it acceptable for a private entity to be doing the same thing.

So, if it is possible at the present time under public ownership for the generators to be controlling the price 75 per cent of the time, then it is equally possible for a private entity to do so, except that it has a duty, first and foremost, a duty required by the Stock Exchange, to cater for its shareholders which means that it must do what it can to increase prices. It does mean that, ultimately, prices will be increased. What measures will the Government put in place to prevent this happening?

Members interjecting:

The CHAIRMAN: Order!

The Hon. R.I. LUCAS: I cannot understand why the honourable member can stand up and say that it surprised her to have me indicate that there will be some value impact and some impact on the current operations and viability of Torrens Island as a result of the introduction of a 500 megawatt state-of-the-art magnificent power station at Pelican Point. I have said it on at least three or four occasions in Question Time. I cannot understand why tonight she said she was staggered to hear me concede that. I have said it three or four times—

The Hon. A.J. Redford interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Redford's response is exactly correct. It is competition. The reality in terms of price in our market—

The Hon. T. Crothers interjecting:

The Hon. R.I. LUCAS: We will not talk about the balance of power in this Chamber. The reason we are going to have a 500 megawatt state of the art power station at Pelican Point is that it will provide for us in South Australia, for the first time, true competition with our existing Government-owned generators. If you want to see downward pressure compared to what the price level might otherwise be, we have to have a situation where the current supply demand balance in South Australia, which is very tight, as opposed to New South Wales and Victoria where they have surplus capacity, then we have to have additional capacity in South Australia so that the retailers and generators can compete and write contracts for that smaller number of customers who constitute the demand base in South Australia.

To get that level of supply, which will only be provided, at least in the first instance, by the 500 megawatts of National Power—further down the track it might be an unregulated interconnector from New South Wales to South Australia and further down the track it might be a second power station if Western Mining and BHP want to build a power station at Whyalla—is why the Government has so strongly fought and resisted the critics from the Port Adelaide area and others who are trying to stop the current construction of Pelican Point at its site, because we need that station fast tracked and on stream by the end of next year so that we can see competition in our marketplace.

The honourable member has had figures quoted to her which she says involve generation dictating the price. I think she was meaning that a particular generator might have been dictating the price 75 per cent of the time but, if that is what the member is talking about, the only way you can combat that is to have more competition in the marketplace and that is why the Government has fast tracked Pelican Point. It is not because we want to impact Government owned generators and favour privately owned generators and not because we want to do anything in relation to value. If we want to have a competitive marketplace and drive prices down below where they might have otherwise been, we have to have additional supply. We have to have it quickly and the only way to do it is to fast track Pelican Point.

I have resisted the temptation of getting into a long debate about Pelican Point, Transgrid and a variety of other options in the interests of trying to get through this debate in a reasonable time today, but I have to respond to the honour-

able member's questions because the answers are self evident. As the Hon. Mr Redford indicated, it is the issue of getting competition into our marketplace so that we can get prices down.

The Hon. NICK XENOPHON: Given the hour, I also resist the temptation to be involved in a long dispute with the Treasurer on the questions of competition, connectors, regulated or unregulated and Pelican Point. Given what the Treasurer has said in terms of Pelican Point being important in terms of competition in the South Australian market, can the Treasurer assure us that once Pelican Point is on line there will be a reduction in the average pool price in South Australia compared to the average pool price we have seen in the past 12 months? Can we expect to see a reduction in electricity prices in South Australia with the advent of Pelican Point?

The Hon. R.I. LUCAS: I am not in a position personally to guarantee anything but all of the advice given by advisers to the Government is that the only way we will see downward competitive pressure on prices is to see the South Australian market start to replicate what we have seen in Victoria and New South Wales. What is the difference in Victoria and New South Wales compared to South Australia? One of the key differences—and obviously there are a number—is an excess of supply compared to demand and therefore people are fighting for customers. When you have competitors fighting for customers in terms of writing contracts, you have competition and people competing to lower the price to get the contracts. In South Australia we do not have that. We have supply and demand which is virtually in balance. In Queensland the pool prices are even higher—

The Hon. A.J. Redford interjecting:

The Hon. R.I. LUCAS: They might have gone down but they are still higher than South Australia. We know who the advisers were in that marketplace, but I will not mention them. One of the key differences in South Australia is that we have this very tight supply demand situation. Until we can get the extra supply in the market, we will not have the competitive environment for people to compete for customer contracts, and we hope to see a level of prices lower than they otherwise would have been without that competition. All our commercial advice indicates that they are the sort of circumstances for which we should be fighting, and that is why we are doing it. If an unregulated interconnector wants to come on stream, that is fine. The Government has indicated publicly its willingness to try to assist the establishment of an interconnector of that nature to New South Wales.

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

AYES (9)

Elliott, M. J. Holloway, P.
Roberts, R. R. Roberts, T. G.
Kanck, S. M. (teller) Pickles, C. A.
Weatherill, G. Xenophon, N.
Zollo, C.

NOES (10)

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

PAIR(S)

Gilfillan, I. Davis, L. H.

Majority of 1 for the Noes.

Amendment thus negatived.

The Committee divided on the new clause:

AYES (10)

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

NOES (9)

Elliott, M. J. Holloway, P. (teller)
Kanck, S. M. Pickles, C. A.
Roberts, R. R. Roberts, T. G.
Weatherill, G. Xenophon, N.
Zollo, C.

PAIR(S)

Davis, L. H. Gilfillan, I.

Majority of 1 for the Ayes.

New clause thus inserted.

Progress reported; Committee to sit again.

SITTINGS AND BUSINESS

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

That Notices of Motion and Orders of the Day, Private Members' Business, set down for Wednesday 9 June be now set down for Thursday 10 June and have precedence over Government business on that day.

Motion carried.

The Hon. R.I. LUCAS: I move:

That statements on matters of interest for Wednesday 9 June be taken into consideration on Thursday 10 June.

Motion carried.

ADJOURNMENT

At 12.5 a.m. the Council adjourned until Wednesday 9 June at 11 a.m.