LEGISLATIVE COUNCIL

Tuesday 3 August 1999

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

LISTENING DEVICES ACT 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 190, 195 and 216.

BOLIVAR SEWAGE TREATMENT WORKS

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

1. Is the dust from the drying sewage sludge at the Bolivar Sewage Treatment Works in any way a health hazard to residents living in the vicinity?
2. What steps will now be taken to address this, considering the Environmental Protection Agency has advised that large amounts of waste dust are escaping into the atmosphere?
3. Have any health and/or environmental studies been undertaken by the Government on the possible impact of dust from the Bolivar Sewage Treatment Works on nearby residents?
4. If so, what were the results of the studies?
5. If not, will the Government now undertake to immediately conduct a study?

The Hon. DIANA LAIDLAW: The Minister for Government Enterprises has provided the following information:

1. The Department of Human Services does not consider that the dust from dried sewage sludge (often referred to as biosolids) is a health hazard to nearby residents at Bolivar. Recent dust complaints were associated with earth moving equipment engaged in the removal of biosolids from the sludge drying and stabilisation lagoons, and also from a milling operation on some of the stockpiled biosolids material.

At Bolivar, biosolids from the sludge drying lagoons undergo extensive treatment consisting of anaerobic digestion (for approximately 15 days) followed by air drying in large open lagoons (for several months) and then stockpiled on site (for several years) before being reused. Anaerobic digestion, air drying in lagoons and stockpiling inactivate pathogens in the raw sludge. Pathogens are also inactivated by desiccation (i.e., thorough drying) which also takes place prior to the production of any dust. Biosolids from the stabilisation lagoons undergo long periods of retention (for several years in the stabilisation lagoons) followed by air drying and desiccation which is also effective in inactivating pathogens. Dust from the biosolids, therefore, poses no higher health risk than dust from unmodified topsoil to nearby residents at Bolivar.

2. The following dust reduction improvements have been endorsed by the Environment Protection Agency (EPA) and implemented—

- fitting of dust shrouds and water sprays to the biosolids milling machine to suppress dust production;
- increased use of water carts to reduce dust from trucks using loading areas and access roads; and
- closer supervision of the activities generating the dust so that operations can be suspended if dust is likely to affect nearby residents.

The improvements have been effective in minimising dust emissions from the site.

3. to 5. Guidelines for the handling and use of biosolids have been developed by the EPA, with input on the public health aspects from the Department of Human Services. Prior to their finalisation, significant testing was done to confirm the level of pathogen destruction achieved by stockpiling. This research and overseas studies have demonstrated the effectiveness of pathogen destruction in the biosolids treatment processes in place at Bolivar. All operations at Bolivar are licensed and the biosolids reuse activities are subject to EPA approval.

WORKPLACE SAFETY

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

1. Is the State Government considering any proposals that individual industries be able to establish their own specific workplace safety standards?
2. If so, what are the specific proposals?
3. Did consultation with interested parties occur during the formulation of the proposals?
4. If so, who with?
5. If not, why not?
6. When will a decision on the implementation of the proposals be made?

The Hon. DIANA LAIDLAW: The Minister for Government Enterprises has provided the following information:

1. On 25 March 1999, the Minister for Government Enterprises made a Ministerial Statement in relation to workplace safety. In the course of the statement he said, 'I have asked Workplace Services and the WorkCover Corporation to facilitate a number of trials of industry specific approaches to occupational health and safety. I am anxious that specific industry sectors be given the opportunity to develop workplace safety arrangements, tailored to meet their particular requirements. These industry trials will include a cross-section of industries covering high and low risk sectors. Industries will be invited to work as employers and employees to identify key risks and develop strategies to address those risks. I am prepared to give these industry strategies regulatory status as codes of practice and to consider whether these arrangements should override general regulatory standards.' This statement sets the parameters for piloting industry occupational health and safety arrangements.

2. The concept of industry arrangements was broadly outlined in the Public Discussion paper released on 31 July 1998. The paper suggested that initial pilot industries could come from those already working with the two agencies, WorkCover and the Department for Administrative and Information Services (DAIS), under Safer Industries and DAIS' industry liaison programs. Interested parties were invited to comment. Industry arrangements can be defined as an agreement with an industry that motivates and achieves the management of all or specific occupational health and safety risks by the industry itself through supplementary options or arrangements, which might include—

- modifying or supplementing the existing Act, Regulations, Codes of Practice and guidelines;
- the development of information, explanatory, education or guidance material which translates the existing regulatory framework into industry terms;
- agreement with DAIS about the use of available occupational health and safety enforcement mechanisms to motivate or penalise behaviour;
- the use of mechanisms under workers' compensation arrangements to motivate or penalise behaviour; or
- the development of a "deemed to comply" concept.

The industry arrangements approach is flexible, has the ability to adapt to the culture and specific needs of the industry group and is intended to motivate or achieve improved health and safety outcomes/arrangements. The positive contribution made thereby to occupational health and safety management and outcomes would be assessed as part of the pilot programs. This concept is currently utilised by both agencies in their respective industry or hazard targeting programs.

3. Consultation commenced in October 1997 when the then Minister for Industrial Affairs, Hon. Dean Brown MP, established the review. Employer, Union and Government representatives were involved in the review, which included a survey of employers and employees in the retail and rural sector.

4. A discussion paper was sent on 31 July 1998 to all interested parties. The Occupational Health, Safety and Welfare Advisory Committee has been consulted during the development of the proposals.

5. Not applicable.

6. The Occupational Health, Safety and Welfare Advisory Committee agreed to implementation at a meeting on 16 June 1999. DAIS and WorkCover will now begin implementing the project in South Australia.

TAXIS

The Hon. SANDRA KANCK:

1. (a) How many taxi licences are currently operating in the Adelaide metropolitan area; and
   (b) How does this number compare to 1994?
2. (a) How many taxi licences are currently operating in other areas of South Australia; and
   (b) How does this number compare to 1994?
3. (a) How many chauffeured vehicle/hire car licences are currently operating in the Adelaide metropolitan area; and
   (b) How does this number compare to 1994?
4. (a) How many chauffeured vehicle/hire car licences are currently operating in other areas of South Australia; and
   (b) How does this number compare to 1994?

The Hon. DIANA LAIDLAW:

1. (a) As at 30 June 1999, there were 989 taxi licences operating in the Adelaide metropolitan area, 69 of which are General Licences with Special Conditions (wheelchair accessible). In addition, there are 58 'standby' taxi licences which only operate in the place of an existing licence which is temporarily out of service due to mechanical repairs, accident damage etc.
   (b) As at 30 June 1994, there were 932 taxi licences operating within the Adelaide metropolitan area (42 of which were wheelchair accessible). In addition, there were 23 'standby; taxi licences in operation.
2. (a) The Passenger Transport Act provides for taxis outside the metropolitan area to be licensed by Local Government. Data received from Registration and Licensing indicates that there are approximately 134 vehicles registered as country taxis.
   (b) The Passenger Transport Board has no information available on the number of country taxis in operation in 1994.
3. (a) Information received from Registration and Licensing as at 25 May 1999, indicates that there are currently 482 small passenger vehicles operating in South Australia under the four accreditation categories. The approved categories of operation are based on the type of services provided. These categories, and the number of vehicles in each, are listed below—
   - Small Passenger Vehicle Metropolitan—85 vehicles
   - Small Passenger Vehicle Non Metropolitan—50 vehicles
   - Small Passenger Vehicle Traditional—133 vehicles
   - Small Passenger Vehicle Special Purpose—214 vehicles

   The Small Passenger Vehicle Traditional and Special Purpose categories are not limited to a particular region of the State and cover a wide range of services, including classic vehicles, 4WD vehicles, motorcycles, stretched limousines etc.

   The Small Passenger Vehicle Metropolitan and Non Metropolitan reflect quick response services operating in the metropolitan and non metropolitan areas.

   (b) As at 30 June 1994, there were 284 Chauffeured Vehicles licensed by the Metropolitan Taxi Cab Board operating within the Adelaide metropolitan area. This figure does not include all vehicles with a seating capacity of 8 seats and over (previously licensed by the Office of Transport Policy and Planning), motorcycles or vehicles operating outside the metropolitan area.
4. (a) Refer to question 3.(a) above.
   (b) Prior to August 1996, blue plates were not issued to vehicles approved to operate outside the metropolitan area and as a result there are no figures available regarding the total number of these vehicles.

POLICE COMPLAINTS AUTHORITY

The PRESIDENT: I lay on the table the report of the Police Complaints Authority 1997-98.

PAPERS TABLED

The following papers were laid on the table:

By the Treasurer (Hon. R.I. Lucas)—

University of South Australia—Report 1998
Regulations under the following Acts—
Electricity Corporations (Restructuring and Disposal) Act 1999—Leigh Creek Mining
Public Corporations Act 1993—
Distribution Lessor Corporation
Generation Lessor Corporation
Technical and Further Education Act 1975—
Miscellaneous
Emergency Services Funding Act 1998—Levy Notice

By the Attorney-General (Hon. K.T. Griffin)—

Animal and Plant Control Commission—Report 1998
Regulations under the following Acts—
Animal and Plant Control (Agricultural Protection and other Purposes) Act 1986—Variation
Freedom of Information Act 1991—Exempt Agencies
Industrial and Employee Relations Act 1994—
Declared Employer
Rules of Court—District Court—
District Court Act—Criminal Assets

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

Chiropody Board of SA—Report 1998-99
Rules—Racing Act 1976—Bookmakers Licensing Fees
Transport South Australia Lease of Properties—Annual List of Approvals 1998-99.

PARLIAMENT, RIGHT OF REPLY

The PRESIDENT: I have to advise that I have received a letter from certain persons requesting a right of reply in accordance with our Sessional Standing Order passed by this Council on 11 March 1999. These persons were aggrieved by statements made in this Chamber some 10 years ago. I have laboured for some time over their request. However, I am of the opinion that to incorporate the reply of these people in *Hansard* would establish a precedent that could provoke others who have considered themselves wronged by remarks made under parliamentary privilege many, many years ago.

I am loath to create such a precedent which my successor will have to consider in the future and therefore I have not concurred with the request. In reaching this decision, I have considered, along with other matters, that the honourable members who were associated with the remarks in the Upper House are no longer members and therefore I am unable to consult with the members concerned as required by the Sessional Standing Order.

QUESTION TIME

SEXUAL HARASSMENT

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

Leave granted.

The Hon. CAROLYN PICKLES: Almost two years ago to the day, Parliament agreed to pass historic legislation which extended the coverage of sexual harassment laws to judicial officers, members of Parliament and elected members of local government. As members will know, I first introduced my Bill in 1996 to bring judges, MPs and local councillors under the Equal Opportunity Act. Subsequently, the Attorney introduced a Government Bill (the Equal

Opportunity (Sexual Harassment) Amendment Bill) which was passed with the cooperation of all members in early 1997.

In determining how such legislation and potential allegations would operate, Parliament agreed to utilise the expertise as well as the safeguards offered by the Office of the Commissioner for Equal Opportunity. Furthermore, a number of commitments and assurances were given by the Government at the time. According to *Hansard*, the Attorney said:

> I do not think it is appropriate merely to pass a law and then rely on the old principle that ignorance of the law is no defence to satisfy the obligations of the Parliament when employers in the private sector are required to establish particular policies and practices to deal with the issue. So for staff who work both within Parliament House and in electorate offices, I expect that once the legislation comes into operation. . . appropriate practices and procedures will be available.

The Attorney went on to comment in relation to an educational program, as follows:

> I would like to see the development of at least an educational program for members, their staff and the broader Public Service. That is the context in which I would like to see equal opportunity and sexual harassment issues being addressed.

The Attorney went on to give a commitment to examine the new provisions on the occasion of their second anniversary, as follows:

> It is important that members know what is happening, what has gone wrong and what is positive about this with a view to ensuring that if there are glitches in the way in which we have developed this framework they can be addressed.

I agree with the Attorney's comments entirely. My questions to the Attorney are:

1. Has the Government honoured its commitment to develop an educational program and introduce practices and procedures to enable the effective implementation of the Act?

2. Given the second anniversary of this historic legislation, has the Government set in place the mechanism for its review?

3. Did representatives of the Equal Opportunity Commission at any stage offer to provide training for members of Parliament, judges and local government representatives and, mindful of the need to maintain privacy, can the Attorney advise the total number of allegations that have been made since the proclamation of the Bill?

The Hon. K.T. GRIFFIN: I do not resile in any respect from the statements I made on the occasion when the Bill was being debated.

The Hon. Carolyn Pickles: It is just that nothing has been done about it.

The Hon. K.T. GRIFFIN: Well, that's not correct, but I will need to take it on notice. My understanding is that—

The Hon. Carolyn Pickles interjecting:

The Hon. K.T. GRIFFIN: Certainly at the courts level. One of the reasons for delaying bringing it into operation was that we wanted to ensure that there were appropriate mechanisms and procedures in place at the courts level. My recollection is that there was also communication with the President and the Speaker in relation to the way in which it would be implemented in the Parliament. If the honourable member will allow me to take the question on notice, I will make some inquiries about the various issues she has raised and bring back a reply.

The Hon. CAROLYN PICKLES: I have a supplementary question: in view of the fact that these issues affect the Parliament, will the Attorney put the response on the record?

The Hon. K.T. GRIFFIN: There is no reason why the response should not be on the record; after all, the honourable member is asking me the question. I expect that I will be answering in a public forum. I know that we will not be sitting beyond this week—or at least I hope not—but, whatever the response, if it is not here by the end of this sitting week I will make sure that it is ready by and tabled in the next session.

The Hon. Carolyn Pickles interjecting:

The Hon. K.T. GRIFFIN: It is all very well for the honourable member to say that it has been two years. I have indicated that the answer will be on the public record. If it cannot be ready in 2½ days—because that is basically what is left—it will become part of the *Hansard* record in the next session; it will be on the public record. If it is not possible to get the answer this week, I will make sure that the honourable member has a reply by correspondence. If she wants to make it available publicly before the next session resumes, I have no difficulty with that.

LYPRINOL

The Hon. P. HOLLOWAY: I seek leave to make a brief explanation before asking the Minister for Consumer Affairs a question about the Queen Elizabeth Hospital's role in the sale of Lyprinol in New Zealand.

Leave granted.

An honourable member interjecting:

The Hon. P. HOLLOWAY: Yes. It was reported this morning—

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: I would like to find some way to get the interjection into *Hansard*, but the honourable member had me there. It was reported this morning that New Zealand authorities have withdrawn from sale a mussel extract called Lyprinol after a buying frenzy which saw $2 million spent on the product on its first day of sale. An investigation has been launched into claims that the distributors of Lyprinol claimed that it was a medical product. This claim appeared to be based on information originating from the Queen Elizabeth Hospital. The QEH issued a press release stating that a clinical trial will commence soon. The report stated that a principal research scientist at the Queen Elizabeth Hospital discovered what he terms 'the potential for the remarkable anti-cancer action of Lyprinol'. The Prime Minister of New Zealand, Jenny Shipley—

An honourable member interjecting:

The Hon. P. HOLLOWAY: —yes—has also entered the debate, stating in the *New Zealand Herald* yesterday:

> I am concerned that what appears to be a breaking news story suddenly is available in New Zealand pharmacies this morning.

My questions are:

1. Is the Minister aware of reports which link the statement from the Queen Elizabeth Hospital to the sale and subsequent removal of Lyprinol from New Zealand shelves?

2. Will the Minister investigate reports that statements made by the Queen Elizabeth Hospital were used by distributors of Lyprinol in order to manipulate the New Zealand media and public into believing that the product had cancer curing powers?

3. Will the Minister confirm that there are no links, financial or otherwise, between the Queen Elizabeth Hospital and the makers and distributors of Lyprinol?

The Hon. K.T. GRIFFIN: It is curious that as the Minister for Consumer Affairs in South Australia I should be

asked about consumer affairs issues in New Zealand, but I am happy to wear the burden of that responsibility.

The Hon. R.I. Lucas interjecting:

The Hon. K.T. GRIFFIN: I will not move for the establishment—

Members interjecting:

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: —of a select committee so that other people can go to New Zealand, but if members are so anxious that I go to New Zealand to investigate the matter I may be persuaded to do so. There is a Minister for consumer affairs in New Zealand with various powers in relation to these sorts of issues. All that I have seen is what is in the newspaper reports. There is no reason at all for me to commence any inquiries either about the Queen Elizabeth Hospital or what is happening in New Zealand in relation to consumers. I guess—

The Hon. P. Holloway interjecting:

The Hon. K.T. GRIFFIN: The honourable member says that there is some sort of a scam involved. I do not know whether or not there is a scam, and I will not use parliamentary privilege to assert that there is a scam when I do not know the facts.

The Hon. P. Holloway: I am just saying that there is some evidence on the record that something odd is happening, and I am just asking whether we can investigate it.

The Hon. K.T. GRIFFIN: The honourable member says that there seems to be something odd happening. A lot of odd things happen from time to time but, fortunately, I do not have much responsibility for many of those. In respect of this particular issue, there was no reason at all for me to come to the Parliament prepared to comment on the basis of something that might have been happening in New Zealand. However, on the basis of the issues raised by the honourable member, I am happy to have a look at this matter and determine whether or not there is anything for which the South Australian authorities have a responsibility. I will bring back a reply.

RAW LOG EXPORT

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Treasurer, representing the Minister for Government Enterprises, a question about the export of raw log through Portland.

Leave granted.

The Hon. T.G. ROBERTS: In July 1998, I asked a question in relation to the export of raw log across the wharves at Portland from the South-East forests. I did that because the timber mills in the South-East, which were being supplied by Forestry SA out of the South Australian forests, were finding it hard to get quality raw log to keep their employees gainfully employed at the productivity levels they required to run continuous shifts.

I asked another question in relation to the same matter in November and, after a negative reply from the Treasurer in response to that question, I asked it again to see whether or not the information base that the Government had for inspecting the quality of raw log moved from the forest to the trucks and subsequently transported across the border to the exporters was being followed. The answer to my question from the Treasurer was that my information was not accurate, that I was getting it from the smoke filled bars of the Somerset Hotel in Millicent, that the people sitting on their front porches squinting through the fog late at night were misrepresenting the truth, and that there was no raw log of a saw log nature going through the Portland wharves to enable exporters to obtain some benefit.

I have since received a more accurate assessment from those people who are closer to the scene than either the Minister for Government Enterprises or the Treasurer himself that admits that, yes, saw log is going across the border and, yes, it is of higher quality than would be expected to be loaded for the contracts for filling the export orders for raw log, which is a small and knotty type log and which goes across the wharves destined generally for chipping.

The answer I have received indicates that, yes, a volume of log would be acceptable for saw log that is going across, but it is not in the financial interests of the State to quantify, inspect or change the export regime for inspection to intervene. The information I have been given—again from the South-East—is that a volume of log is going across that could gainfully be used in the sawmills in the South-East, and they believe the regime has changed since the privatisation of the processes of sawmills in the area. They also believe that the regime has been left to self-regulation, and they are not particularly happy with that. They would like to see the process tightened up. Will the Government change its inspection and classification regime or protocols to maximise the returns to the State from all timber felled, processed and sold from our forests in the South-East?

The Hon. R.I. LUCAS: I must say that, if the Hon. Mr Roberts can see to the Victorian border from the Somerset Hotel in Millicent, he has better eyes than I have, have had or am ever likely to have. Those who know the geography of the South-East would understand that it would be a fair feat. I am happy to refer the honourable member's question to the Minister for Government Business Enterprises and rely on his expert advice on these issues.

The Hon. T.G. Roberts: It wasn't the South-Eastern Hotel.

The Hon. R.I. LUCAS: It wasn't?

EMERGENCY SERVICES LEVY

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Emergency Services, a question about the emergency services levy.

Leave granted.

The Hon. J.F. STEFANI: I refer to the Government's brochure detailing the scale of levy charges that will apply to cars, motorcycles, trucks, boats, jet skis, houseboats, caravans and trailers. My questions are:

1. Is the Minister in a position to provide accurate details of the number of each of the above categories of mobile property and the expected revenue to be raised for each category?

2. When seeking the above information from the Registrar of Motor Vehicles, will the Minister obtain and provide details of the total amount collected for the 1998-99 financial year through the application of stamp duty on all mobile property registrations?

3. Will the Minister also obtain information on the estimated increase in stamp duty to be collected on all mobile property registrations for the financial year 1999-2000?

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

WATER QUALITY

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

Leave granted.

The Hon. M.J. ELLIOTT: We have seen ongoing changes in the Mount Lofty Ranges. If anything, they have probably accelerated over the past decade or so: the population has increased, and the intensity of agricultural activities has changed, as has the nature of farming methods. All of these changes have had significant implications on water management issues in the region. The recent months have increasingly seen members of the Hills raise concerns over water quality in relation to the impact of chemical run off from pesticides, overflows from septic tanks and the increase of nutrients which can cause algal blooms.

Increased residential and agricultural demand and storage have had significant impact on Hills ecosystems and have seen an increasing reliance on Murray River water supply—a water supply, it is worth noting, that is also under threat. Thus the growing and multiple demands of this region have placed pressure on both water quality and quantity, and water management has become an important planning and environmental issue. A recent report by the EPA entitled 'State of Health of Mount Lofty Water Catchments' found that:

> A major Sydney type outbreak has only been avoided so far due partly to well designed and operated water treatment plants and partly due to good luck.

I stress 'partly due to good luck'. The report also found that planning controls have not been as effective as they could have been in improving water quality, and that there is some confusion amongst agencies and groups that are responsible for particular problems with the management of Hills waterways. Importantly, the report recommends stricter and clearer planning controls, greater accountability and responsibility to a single agency for water management, as well as a strong focus on protecting water quality in the Mount Lofty Ranges Regional Strategy Plan. I might note that the ERD, in examining the allocations of water in the South-East, noted that water allocation and planning were happening quite separately and independently and that it was concerned by that.

Those recommendations are important in the light of strongly held beliefs in some quarters that the State development plans should be more integrated with the regional strategy plans to improve water quality and quantity across the State. They are important recommendations that also raise questions over the ability of State development plans to protect quality and quantity in different regions. These are questions that are all the more crucial given the concerns recently expressed to me by Hills residents that the current Mount Lofty Regional Development Plan is being enforced less rigorously than was originally intended. The Mount Lofty Ranges Review took place, as I recall, about seven years ago, and did seek to offer great protections for water catchment, but that does appear to have been undermined.

The Hon. Diana Laidlaw: On what basis do they say that it was undermined?

The Hon. M.J. ELLIOTT: In fact, much of it was not actually implemented; for instance, transferable development rights, as the Minister knows, were simply not used and, in fact, developments—

The Hon. Diana Laidlaw: Are you in favour of them?

The Hon. M.J. ELLIOTT: Absolutely; I have been a strong supporter of them for a long time. Suggestions have been made to me over the past couple of weeks that the Government is currently reviewing the Mount Lofty Ranges development strategy. I note also that the Government is also looking at changes to the Development Act. I note in a paper released in relation to the Development Act that it was even suggested that more planning power should be delegated to the local level, and there was even one suggestion that it could be delegated to private consultants. That seems to be contrary to what is needed in relation to water quality. My questions are as follows:

1. Does the Minister believe that the current water management processes, and I include in that planning processes, best protect Adelaide water quality and quantity?

2. Will the Minister confirm that, despite an EPA report that argues for stronger planning controls on water supply catchments, greater accountability and responsibility for waterway management by a single agency, the review of the State Development Act has recommended further delegation of planning powers to local areas, and even to private consultants?

3. Will the Minister explain how such delegation to local levels and to private consultants would ensure that water quality for Adelaide, South Australia, was being protected?

The Hon. DIANA LAIDLAW: I will look at the honourable member's questions in more detail, rather than give a reply off the top of my head, because the matters he raises are particularly important and somewhat complex between the two agencies; I understand that. But it always will be a problem, because planning could be integrated with any portfolio. It could be integrated with agriculture, for instance. It could be integrated with the housing area or with local government. It actually spans a range of very important areas. I have made this point before, but I stress again that planning controls of themselves will not address all of these issues, and that is why we have, let us say, the catchment boards, why we have the councils involved in terms of upgrading their PARs, and why there is intense interest at this time in industry, tourism, and peri-urban issues, planning and water issues, in the Adelaide Hills.

It is a sensitive area where traditionally there has been strong agricultural and horticultural history, and it has become an area that is much more popular for daily living and commuting to the city. It is an area where, with great care, we have to address water issues because of their importance to not only the future of the Hills but the water supply for this city.

The Government is highly conscious of the issues. I understand that the Minister for Environment has received the state of health report and is considering options. I will liaise with her about bringing back a reply: and this week I may be able to bring back a reply in terms of the planning issues. I must immediately clarify that any consideration with regard to private consultants and planning is only in relation to complying development and of a minor nature.

The Hon. M.J. Elliott: Which is undefined.

The Hon. DIANA LAIDLAW: But it is out there for consultation and further discussion. The honourable member has made the point that it is undefined: we will look at those sorts of issues. It is a proposal that can be refined.

PUBLIC OFFICERS

The Hon. A.J. REDFORD: I seek leave to make a brief explanation before asking the Attorney-General a question about offences relating to public officers.

Leave granted.

The Hon. A.J. REDFORD: Division 4 of the Criminal Law Consolidation Act contains a number of provisions relating to offences and people who hold public office. These provisions were dealt with when the then Attorney-General, Chris Sumner, introduced them into Parliament, and they were supported by the then Liberal Opposition.

The Criminal Law Consolidation Act creates a number of offences and establishes a range of penalties for their breach including bribery and corruption, threats and reprisals, abuse of public office or impropriety, and demanding and requiring a benefit, all of which attract a maximum period of imprisonment of seven years: an offence in relation to appointment of public office attracts a period of imprisonment for four years. Obviously, the Parliament at that time thought that the offences were very serious.

Indeed, section 251 of the Criminal Law Consolidation Act provides (and I will paraphrase it) that a public officer who improperly exercises power or influence, or refuses or fails to discharge a duty, or uses information by virtue of his office with the intention of securing a benefit for himself or someone else, or causes injury or detriment is guilty of an offence with a penalty of some seven years imprisonment.

Since that legislation, Parliament has dealt with similar provisions in relation to improper behaviour by public officers including sections 13(3) and (4) of the South Australian Housing Trust Act 1995. In that regard, sections 13(3) and (4) refer to the improper use of information and the position of directors or board members of the South Australian Housing Trust. However, in relation to that piece of legislation, the penalty is a fine of $20 000 or a period of imprisonment for four years, some three years less than that set out in the Criminal Law Consolidation Act.

There is a problem, of course, in that regard, because the wording that describes the nature and scope of the offence in each case can vary considerably from one Act to another. The variations in wording can create a problem and, in determining the nature of the offence created by the statute, a court might engage in an exercise of statutory interpretation if different words were used. Even though there might be small differences, the court must determine whether there is a reason for the difference and whether or not a different meaning should be assigned. That can add to cost, complexity and difficulty in relation to the people concerned. In the light of that, my questions are:

1. Does the Attorney agree that the Board of Management of the South Australian Housing Trust should be subject to the same penalty as other public officers in the public sector for abusing or acting improperly in their position as a Housing Trust director?

2. Will the Attorney-General look at these and other inconsistencies in relation to improper behaviour by public officers and make recommendations concerning the law with a view to making it consistent in every case?

3. What can be done to avoid this sort of inconsistency in the future—given, of course, that it is up to Parliament to draft and resolve its own legislation?

The Hon. K.T. GRIFFIN: The provisions of the Criminal Law Consolidation Act in relation to public officers have very wide application. They apply to boards of statutory authorities as much as to those in the Public Service or those who hold other offices. I must confess that I cannot remember why a specific provision was inserted in the Housing Trust Act. It may be that there was a concern that, if such a provision did not exist, it would not be immediately in the forefront of directors' minds that they had to act in this way. I think that would be a fairly uncharitable basis for including this in the Housing Trust Act.

I will endeavour to have this issue researched. It may be that there is some reason of which I am not aware or which I cannot remember for including it specifically in that Act. I suppose one could make the same sorts of observations about the Local Government Bill (which has been debated in the Council) as one could make regarding other specific legislation. We are trying to achieve a greater level of consistency in a number of areas which might warrant such an approach, whether that be in relation to penalties, administrative appeals or a whole range of other processes of government or in the public sector. For example, there is a variety of bases upon which administrative appeals can be considered, ranging from a review to an appeal to there being no new evidence.

I think it is confusing for everyone if there are differing rights of review in different pieces of legislation. It is unfair to expect these people to be aware of all the varieties of laws that might apply to them, their businesses or the public sector. I will look at the issues raised by the honourable member with a view to ensuring that there is a greater level of uniformity.

The third question involves what can be done to avoid inconsistency. Ultimately, I think it comes back to Parliamentary Counsel and the instructions which Parliamentary Counsel might be given. It may be that, when I have reviewed the areas of public offences which have been raised by the honourable member, we will end up with some direction for Parliamentary Counsel regarding an acceptable formula for dealing with these sorts of public offences. In that way, they will be embodied in legislation (if that is necessary) or there will be reference to one common piece of legislation rather than restating the offence provisions in every piece of legislation. I think this point is worth pursuing. I will have that done and bring back replies.

The Hon. T.G. ROBERTS: As a supplementary question: while the Attorney-General is reviewing that process, does he think that a person who offers a bribe to a public officer or a member of Parliament should be guilty of an offence that incurs a penalty higher than the offence of receiving a bribe?

The Hon. K.T. GRIFFIN: One would hope that that is entirely hypothetical and, if it is entirely hypothetical, I am not prepared to give a response in a vacuum. The consistency of approach is an issue that I am prepared to look at. I will take on board the question raised by the honourable member. I will not give an answer to it on the run, particularly because it is hypothetical.

GAMBLING, INTERNET

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Government Enterprises, a question about the TAB and Internet betting.

Leave granted.

The Hon. NICK XENOPHON: An article by Miles Kemp on page two of today's edition of the *Advertiser* refers

to punters being able to bet on the TAB via the Internet within two weeks following State Cabinet approval of the plan. The article further states that only those persons over the age of 18 will be allowed to use the system, that the system will use security identification and that no bets will be taken on credit cards. The article further states that punters must first pay money into their account—they then draw from their account to place a bet.

On 21 July 1998, I asked a question in the Council of the Minister in relation to the TAB's then new telephone bet credit card transfer facility which allows for a TAB customer to access money up to the limit of their credit card to place a bet. That and a related question asked on 26 May 1999 have yet to be answered. My questions to the Minister are:

1. Is it proposed that TAB customers will be able to access their credit cards along the lines of the current credit card telephone bet transfer facility to place credit card funds into an account to facilitate Internet betting and, if so, what safeguards will apply to that?

2. Does the Minister consider that the TAB's telephone bet credit card facility breaches section 62(1)(a) of the Racing Act and would any similar credit card facility for Internet betting breach that section of the Racing Act?

3. What research has the Government or the TAB carried out on the potential impact such a facility will have on levels of problem gambling in the State, and what is the projected level of gambling losses on such a facility?

4. Will the Minister indicate whether parliamentary approval will be sought for the proposed Internet betting facility?

The Hon. K.T. GRIFFIN: I will refer those questions to my colleague in another place and bring back a reply.

ROADS, CRACK SEALING

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning a question about the sealing of cracks in roads.

Leave granted.

The Hon. CAROLINE SCHAEFER: I understand that for some time it has been the practice of the Department of Road Transport simply to run a line of tar along cracks in sealed roads, particularly in city areas. I understand that this is a cheap and relatively effective method of sealing cracks in roads. However, I for one have difficulty, particularly at night and particularly in wet weather, discerning whether the areas are sealed cracks in the roads or, in fact, white lines on the road. The tar seals shine much more than an ordinary sealed road. As I say, I have difficulty with the tar seals in terms of driving but I have now received some complaints from other people.

Apparently it is particularly difficult for motorcycle riders to differentiate between the white lines and the sealed cracks which, indeed, look like a bunch of shiny black snakes on the road (particularly on O'Connell Street, North Adelaide), particularly at night and if it happens to be wet. My questions to the Minister are:

1. Has anything been done to change this method of sealing roads?

2. Is anything likely to be done to change this method of sealing roads, and is there any other feasible method of making those roads roadworthy?

The Hon. DIANA LAIDLAW: This has been a long-standing practice by Transport SA but one which Transport SA suspended about 12 months ago. Any recent work that the honourable member may have seen would have been undertaken by councils. There has been a lot of comment, particularly from motorcyclists, about the shiny surface. Before the cancellation of this sealant for the cracks in road surfaces, Transport SA had applied a grit so that it would not be so glassy and slippery. I must acknowledge that in some areas I have been surprised at the extent of the sealant that has been used—large patches—which seems to be against the original design of sealant for line cracks: it looks as though it has been used for patching purposes. As I say, Transport SA has ceased this application and is reviewing other ways in which it can more effectively address the cracks issue.

We want to extend the quality of the surface, our road assets, for as long as possible. To optimise that investment is good management, but it is clear that the material which has been used has caused particular concern for motorcyclists and cyclists. I respect the honourable member's comments that in wet weather it can be particularly slippery and difficult—

An honourable member interjecting:

The Hon. DIANA LAIDLAW: Even for motorists driving within the road limit. My concern was that it has been difficult for motorists in wet weather. So, Transport SA is looking at other options, and I would hope that within the next couple of months I could advise the honourable member and the motorcyclists that we have found a better way of maintaining our roads.

DOMICILIARY CARE

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Minister for the Ageing a question about the review of domiciliary care services in South Australia

Leave granted.

The Hon. CARMEL ZOLLO: There are five domiciliary care services in the metropolitan area, with recurrent annual funding of some $26 million. The Moving Ahead strategic plan for human services for older people includes an explicit commitment to review domiciliary care services in South Australia. The Opposition understands that it has been recommended to the Minister that the terms of reference for that review should include a comprehensive audit of activity, the identification of demand and needs, eligibility criteria and funding arrangements. Will the Minister confirm that a review of domiciliary care services will proceed, and will the Minister provide details of the terms of reference, the scope and timeliness of the review?

The Hon. R.D. LAWSON: I can confirm that a review of domiciliary care in South Australia is to be undertaken. The terms of reference for that review are being finalised at this moment, and they will be released after discussion with appropriate people in the sector within the next couple of weeks. It is worth saying that it is appropriate for a review of domiciliary care to take place now. There are a number of domiciliary care services which are established under different regimes: one, the Southern Domiciliary Care Service, is a separately incorporated organisation, although it does have close links to the Flinders Medical Centre.

The other three metropolitan domiciliary care services all grew out of established hospitals and have been very closely linked with hospitals throughout the course of their operations. In 1985, I think it was, the Home and Community

Care program was established, and since that time funding for our domiciliary care services has been channelled through the Home and Community Care program but, in addition, Home and Community Care has funded a great number of other community care and community support programs which work in with domiciliary care.

In addition, in 1995, Options Coordination was established for the purpose of providing a single point of entry to disability support services for people with disabilities. Since that time, clients of Domiciliary Care have come under the wing of Options Coordination. All of these strands (disability, ageing and community care) are coming together, and this has made it appropriate that we have this review of domiciliary care. When the terms of reference are settled, I will be pleased to announce to the Council the precise terms together with the timetable and other information about the review.

HEPATITIS B

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Minister for Transport and Urban Planning, representing the Minister for Human Services, a question about the hepatitis B school vaccination program which commenced this year.

Leave granted.

The Hon. SANDRA KANCK: This campaign is being carried out by the South Australian Health Commission in collaboration with the manufacturers of the hepatitis B vaccine, SmithKline Beecham and the Commonwealth Serum Laboratory. It is called an immunisation program, but it would be more accurate to call it a vaccination program as there is no evidence to show that all who are vaccinated will be immunised against the virus.

The information provided to the schools consists of a video and three information booklets entitled 'Hep. B? Not Me': one for the student one for the parent, and one for the principal. All information or marketing material is supplied by SmithKline Beecham, the Victorian Department of Human Services and the Commonwealth Serum Laboratories. After watching the video and reading the pamphlets I can only describe the campaign as misleading. Although I am not advocating against vaccination, I do want to make it clear that I am advocating for informed choice.

Most worrying is the absence of information about adverse side effects which can be experienced after the vaccination. In the parents' information booklet it states:

> . . . side effects are uncommon and include low grade fever, soreness, nausea, feeling unwell and joint pains.

Unfortunately, there are some far more serious side effects which the Government has failed to include in its information. These include: diabetes, rheumatoid arthritis, chronic fatigue syndrome, multiple sclerosis and Guillain Barre syndrome. It is interesting to note that full information about the vaccine is only available in the principal's information booklet.

Another concern I have involves the misuse of statistics. The pamphlet provided to students and parents states that one in 100 Australians are hepatitis B carriers. The *Australian Immunisation Handbook* generally used by GPs states that one to two in 1 000 Australian caucasians are carriers. The journal produced by the National Centre for Disease Control—Department of Health and Aged Care *Communicable Diseases Intelligence*—states in its annual report that the notification rate of hepatitis B for 1997 in Australia is 1.3 per 100 000. How this rate of infection can correlate to one in 100 Australians being carriers defies simple mathematics.

The video used in the campaign suggests that the hepatitis B virus is rampant in Australia and that the only defence against this rampant disease is vaccination. Doctors and nurses (called 'the forces in white') say they are the 'first and only line of defence for humans'. What 'the forces in white' do not mention is that not everyone who is vaccinated will become immune to hepatitis B. Indeed, SmithKline and Beecham do not know how long the vaccination will protect against the virus. In effect, this means that students vaccinated in year 8 may not be protected from the virus when they approach the high risk age group of 20 to 24 years. What is also omitted—

The Hon. L.H. Davis interjecting:

The Hon. SANDRA KANCK: Listen to what is being said, Mr Davis—

The Hon. L.H. Davis: You are talking about one particular vaccine.

The PRESIDENT: Order!

The Hon. SANDRA KANCK: —and you might understand why I am asking this question. What is also omitted is that in approximately 95 per cent of cases hepatitis B is self limiting and a full recovery is made. A further example of misleading information contained in the video is a statement from the teenage presenter. He says:

> But sometimes the betabaddies are so sneaky that they get into people without the people even knowing what they've done to put them at risk of being invaded. This means that anyone can catch the disease no matter how hard they try to avoid it.

This is a straight out lie. Informed choice implies a decision has been made, based on full information, yet this clearly has—

Members interjecting:

The PRESIDENT: Order!

The Hon. SANDRA KANCK: —not been happening in our schools with regard to hepatitis B. What is worrying is that the Government has condoned a campaign in which one of the major stakeholders, who is also the main provider of information, will benefit from its success. Opponents to the program have called it a great marketing coup for the pharmaceutical company. My questions to the Minister are:

1. How much does the program cost; how is the program funded; and who pays for the vaccine?
2. What percentage of people vaccinated develop immunity?
3. Given the conflicting statistics on hepatitis B carriers and the number of cases reported, can the Minister provide accurate figures of notified cases of hepatitis B and the number of carriers in South Australia since 1989?
4. If there has been no marked increase, why has the Government introduced the program?
5. What is the incidence of adverse side effects from the vaccine in comparison to the incidence of the hepatitis B virus?
6. Will the Minister withdraw the current information provided and supply parents and students with full information about the virus and vaccine?
7. Has this program been authorised by the Minister for Education to be implemented in our schools and, if so, when was the authorisation given?

The PRESIDENT: Order! The honourable member's explanation was in excess of six minutes and full of opinion and debate. I continually point that out to members. I will soon start sitting members down and calling on the next

question, if they continue to stray into four and five minute explanations.

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

POLICE STAFFING

In reply to **Hon. T. CROTHERS** (25 March).

The Hon. K.T. GRIFFIN: The Minister for Police, Correctional Services and Emergency Services has been advised by the Police that as a general rule SAPOL recruits in advance against predicted attrition. Recruitment in any one year does not necessarily equal attrition as intakes may be modified to take account of adjustments in staffing levels resulting from new initiatives, civilianisation and other budget imperatives.

Through SAPOL's normal ongoing assessment of staffing requirements, additional recruits have now been scheduled for this financial year. In total for 1999-2000 it is estimated that SAPOL will recruit 140 police trainees (a combination of cadets and re-enlistees).

There is no information available that indicates that police numbers impact on their capacity to deal with 'ram-raids' and 'home invasions'. Furthermore, there are no statistics kept that specifically categorise 'ram-raids' and 'home invasions'.

Hazard Identification forms are a means by which SAPOL employees alert management to potential risks in the work place. Two Hazard Identification forms were submitted by SAPOL employee's concerning staffing levels. One of the complaints has now been resolved, and the other is subject to investigation by the relevant Local Service Area Manager and the Officer in Charge of the Crime Investigation Section.

STRAIGHT TALK PROGRAM

In reply to **Hon. IAN GILFILLAN** (26 August 1998).

The Hon. K.T. GRIFFIN: In reply to your Question Without Notice dated 26 August 1998, the Minister for Police, Correctional Services and Emergency Services has been advised by the Department for Correctional Services that since the inception of this program, several chief executives of the Department for Correctional Services and predecessors of the current Minister for Police, Correctional Services and Emergency Services have been constantly required to justify the commitment of the Department and the Government as to the programs future.

Let me put this matter to rest once and for all. This program has the full support of both the Government and the Department for Correctional Services.

However, it should be clearly understood that the program is still to be thoroughly evaluated. The evaluation process is expected to commence within the next 12 months. If this evaluation is supportive then the program will continue. If the evaluation is not supportive, then the chief executive of the department will make a decision, at that stage, regarding the future of the program.

I am sure that all members would agree that no administration can afford to support programs which, when properly evaluated, are found to be of little value to those for whom they have been developed.

In answer to the honourable members specific questions:

1. I have answered this question in my initial response. Yes this Government does agree that crime prevention is much preferable to imprisonment.

2. In 1997 the University of South Australia prepared a proposal for an evaluation costing approximately $55 000. After several months of review and negotiation it was considered that the aims of the evaluation, in terms of longitudinal results measurement, would be unreliable and that the cost of the evaluation was excessive.

The Department for Correctional Services has now convened an evaluation steering group consisting of major stakeholders SAPOL, DETE, YouthSA, DCS and FAYS and an alternative evaluation project is currently being developed. It is anticipated that this will result in an evaluation design that will reflect the interests of all stakeholders, rather than a purely academic exercise. This group will develop strategies for funding of the evaluation and will manage it through to its conclusion.

3. The program will be evaluated. The alternative method of evaluation currently being developed is expected to address the needs of all agencies involved.

CRIME

In reply to **Hon CAROLYN PICKLES** (9 June).

The Hon. K.T. GRIFFIN: The Minister for Police, Correctional Services and Emergency Services has been advised by the Office of Crime Statistics that the report entitled "Ethnicity and Crime", written by Sat Mukherjee and published by the Australian Institute of Criminology, examined apprehension data for Victoria only and found that in 1996-97—

- persons born in Romania accounted for the highest proportion of persons apprehended on a per capita basis (92 per 1000 compared with 33 per 1000 Australian born) and
- eight other countries had rates which were higher than the Australian-born rate of 33.4 per 1000 population. These were:
  - Cambodia (34.8 per 1000 population)
  - Fiji (44.1 per 1000)
  - Lebanon (52.7 per 1000)
  - New Zealand (39.4)
  - Russian Federation (70.5)
  - Turkey (45.5)
  - Vietnam (57.6)
  - Former Yogoslavia (69.9)

However, this does not mean that these groups actually commit more offences than other groups within the community. As Mukherjee correctly points out, for a person to be counted in police apprehension data, the offence must first be reported to police, and then a suspect must be identified and 'caught'. It is well documented that a high proportion of offences never come to police notice and of those that are reported, many are never cleared by way of the apprehension of a suspect. In 1998, for example, the Australian clear up rate was 62.6 per cent for assault, 26.7 per cent for armed robbery, 6.1 per cent for break/enter and 9.3 per cent for vehicle theft. Hence, it is wrong to assume that those persons who are apprehended are representative of the large number who are never apprehended. It may be that certain groups are more visible and therefore easier to detect and apprehend.

Apprehension data also has other limitations. As noted by Mukherjee, only a handful of states publish data detailing the ethnicity of persons apprehended and these are of very limited use because they are based solely on the perceptions of the recording officer. In South Australia, for example, while there is a variable entitled 'ethnic appearance', it is not derived from actually asking the suspect. Instead, it simply records the apprehending officer's categorisation of the offender's physical appearance. The 'ethnicity' categories used are also unhelpful from a research perspective. This is indicated in Table 1 which details the ethnic appearance of persons involved in all offences cleared in SA in 1998 by way of an apprehension. 'Caucasian' could incorporate a wide range of ethnic groups, as well as Australian born. Similarly, it is difficult to know what is meant by 'Negroid'. The category of 'Oriental/Asian' is also unhelpful in that it fails to differentiate between, say Cambodian and Vietnamese. Thus, while these categories are useful in actually describing the physical appearance of a suspect for operational purposes, they do not provide an accurate insight into the ethnic identity of alleged offenders.

Table 1: offences cleared by way of an apprehension in 1998: ethnic appearance of alleged offender

Ethnic appearance	Number	Percent
Aboriginal	10 120	12.7
Caucasian	60 237	75.3
Islander/Maori	589	0.7
Middle East	295	0.4
Negroid	88	0.1
Oriental/Asian	1 648	2.1
Other	238	0.3
Southern European	3 040	3.8
Missing	3 736	4.7
Total	79 991	100.0

Information on a suspect's actual country of birth is also limited to a handful of jurisdictions, which accounts for Mukherjee's reliance on Victorian data only. In SA, for example, although the SAPOL data base contains a variable on the accused person's country of birth, in 1998 this information was missing for 34 385 of the 79 991 offences cleared by way of an apprehension. This equates to 43.0 per cent of the total. This high number of 'missing' cases renders the data unusable.

In summary, the report by Mukherjee does not purport to describe the actual level of involvement in crime of different ethnic groups. It relates only to those persons apprehended by police, and it relies heavily on information derived from one state only—namely

Victoria—which, as already noted, may not be representative of South Australia. Accurate date on the situation in South Australia is not currently available. The need for reliable information on ethnic involvement in crime is obviously very pressing. In terms of official crime statistics, efforts are now underway to improve the quality of Indigenous data in administrative records. In fact, I understand that the Australian Bureau of Statistics may agree to fund an audit of all administrative data relevant to Indigenous persons in South Australia as the first step in improving the quality of that data. This may lead into a similar audit of data relating to ethnicity and birthplace.

However, as indicated at the beginning, even if accurate data were available and did indicate that certain groups were being disproportionately apprehended, the reasons for this would still have to be ascertained. While it may indicate a higher level of involvement in crime, it could also mean that they were more visible and so more vulnerable to apprehension than others who offended but avoided getting caught.

PITJANTJATJARA LANDS MINING AGREEMENT

In reply to **Hon. T.G. ROBERTS** (8 June).

The Hon. K.T. GRIFFIN: I provide the following information:

The questions related to a reported agreement regarding mining in the Pitjantjatjara lands. The Pitjantjatjara Land Rights Act is committed to the Hon. Minister for Aboriginal Affairs. There is also a significant responsibility under the Act for the Minister for Primary Industries, Natural Resources and Regional Development. Both Ministers have recently been involved in this matter resulting in letters to Anangu Pitjantjatjara and coverage in the media.

My understanding is that reported agreements involving possible mining in the Pitjantjatjara lands (apart from a preliminary agreement) have not been finalised. A joint venture agreement was signed between two parties in 1997. Other proposed but not finalised agreements are needed to implement the joint venture agreement. It would not be appropriate for me to provide details of these documents.

I am not in a position to comment on Commonwealth legislation. I understand concerns have been raised about the proposed agreements in terms of the Pitjantjatjara Lands Rights Act. At this stage those concerns are being dealt with by the Minister for Aboriginal Affairs and the Minister for Primary Industries, Natural Resources and Regional Development with the assistance of the Crown Solicitor's Office.

EMERGENCY SERVICES LEVY

In reply to **Hon. CAROLYN PICKLES** (2 June).

The Hon. K.T. GRIFFIN: The Minister for Police, Correctional Services and Emergency Services has provided the following information:

The Emergency Services Levy, as it is applied to vehicles is calculated by reference to the premium class codes of vehicles published by the Motor Accident Commission and used commonly for the application of Compulsory Third Party insurance. This was the case prior to April and accords with the levy rates gazetted on 2 June 1999.

Actual amounts of levy applying to vehicle classes will always depend on the overall amount required to be collected for the Fund and the proportion of the Levy to be raised from mobile property. The current estimate of the amount to be collected from mobile property is in the order of $34.9 million for the 1999-2000 year.

EMERGENCY TELEPHONE SERVICE

In reply to **Hon. T. CROTHERS** (1 June).

The Hon. K.T. GRIFFIN: The Minister for Police, Correctional Services and Emergency Services has been advised by Police of the following response:

1. The incident to which the honourable member refers occurred on the evening of 16 May 1999. Police Communications received a call for assistance on 000 at 8:12:48. This was subsequently despatched at 8:15:41 with the first patrol on the scene at 8:23:28. The total response time from the initiating call was approximately 10 minutes, and not 25 minutes as reported by the media. The response time from despatch to on-scene time was 8 minutes and 14 seconds.

2. Telstra operators answer all 000 calls and then redirect same to the emergency service requested by the caller. In the majority of cases all calls are answered within the State of origin, however, if the 000 operators in South Australia are busy, the system has been designed for the overflow callers to automatically transfer to an alternative operator.

3. The issue of 000 emergency call taking has been the subject of ongoing discussion by the National Emergency Call-Taking Working Group at a national level. In conjunction with Telstra, a national 000 education program has been devised for media release. The first of these was scheduled to commence in Brisbane on 18 June, with the first airing of the campaign on all national news services on Sunday 20 June 1999.

4. In light of the foregoing incident, the allegation that police numbers are inadequate is not valid.

POLICE NAME TAGS

In reply to **Hon. T. CROTHERS** (26 May).

The Hon. K.T. GRIFFIN: The Minister for Police, Correctional Services and Emergency Services has been advised by the Police that in keeping with other Australian police services and many overseas departments, and to provide for an enhanced level of interaction with the community, SAPOL recently announced the replacement of police identification numbers with a name badge for uniform police offices. The introduction of name badges for all uniformed police officers was first considered and proposed by SAPOL in June 1998. Following further research and consultation it was proposed to implement the initiative on 1 July 1999.

With the exception of the Northern Territory and South Australia, all police forces in Australia have introduced the wearing of name badges by uniform police officers to replace traditional identification numbers which are considered to be impersonal and often confusing to the public. In those forces the wearing of a name badge is compulsory with the exception of New South Wales where it is optional.

The wearing of name badges in South Australia has been mandatory for commissioned officers for many years and voluntary for non-commissioned officers and other ranks. In fact, many uniformed police officers in South Australia have for quite a number of years elected to wear a name badge voluntarily.

Following representation from the Police Association of South Australia and concerns expressed by a number of police officers, the mandatory wearing of name badges by all uniformed police officers has been postponed to allow for the concerns of operational members to be addressed.

In a group message faxed to all police officers on 3 May and expanded in a *Police Gazette* notice article on 5 May 1999, police officers were advised that effective from 1 July 1999:

- All uniformed Commissioned Officers and Senior Sergeants will be issued with and required to wear name badges. Identification numbers currently worn by senior sergeants on their uniform epaulettes will be removed.
- All non-operational uniformed police officers will be required to wear a name badge.
- The wearing of name badges by operational uniform will be voluntary for a period of 6 months whilst a trial of wearing name badges by operational uniformed police is evaluated.
- Operational police are deemed to be those where their daily business includes the apprehension or handling of suspects.

Interstate police services experienced similar objections by police unions and some police members in the introduction of name badges. Those services reported that there was much misinformation and unnecessary fears held by members.

Police services in Australia have reported no incidents of members being put at risk following the introduction of name badges, and none of the fears held by members eventuated. Additionally, there have been no reported incidents of members or their families being put at risk by those members who have to-date voluntarily worn name badges in South Australia.

Further, police in South Australia are required to provide their name in the following circumstances:

- When conducting a formal record of interview
- When submitting a Declaration Statement, which contains the police officers full name and posting, a copy of which is supplied to the accused or representatives
- When issuing a Field Receipt to an offender, suspect or victim when seizing property
- When giving evidence in court
- When issuing an infringement or expiation notice

  Required by law to state their name vide the provisions of the Summary Offences Act when requested whilst apprehending or questioning a suspect

- When the offence charged relates specifically the police officer, for example, an assault police charge contains the full name of the police officer assaulted

As an aside, detectives when investigating all types of crime and criminals always introduce themselves by their name. This has been a practice in South Australia for many decades.

During debate, those opposing the introduction of name badges never mention the circumstances outlined above.

The introduction of name badges for uniformed police officers in South Australia is a logical move. However, during the trial period it will not be mandatory for operational police to wear name badges. Any further decision on this matter will depend upon the outcome of the 6 months trial and evaluation.

EMERGENCY SERVICES LEVY

In reply to **Hon. T.G. CAMERON** (26 May).

The Hon. K.T. GRIFFIN: The Minister for Police, Correctional Services and Emergency Services has been advised of the following response:

Information on the percentage of individuals that insure their home for more than the capital value is not available. Insurers do not base insured amounts on an independent factor such as Capital Value and instead rely on an individuals assessment of the value of insured buildings and contents. Under insurance is common and insurers may adjust claim payments where it is assessed that the amount insured would not cover the risk concerned.

Under-insurance has been estimated following a number of major disaster events that affected an entire area and the level of claim could be assessed. According to these results the following table has been provided by the Insurance Council of Australia:

Under-Insurance

20 per cent of Small Businesses do not carry any insurance

24 per cent of Small Businesses are under insured

31 per cent of Domestic premises have no insurance

29 per cent of Domestic premises with contents insurance are under insured

16 per cent of Domestic premises are fully insured

Source ICA 1998.

In reply to **Hon. CAROLYN PICKLES** (26 March).

The Hon. K.T. GRIFFIN: The Minister for Police, Correctional Services and Emergency Services has been advised of the following information:

The Emergency Services Levy established under the Emergency Services Funding Act 1998 requires the division of vehicles into classes by means of their Premium Class Codes and the attribution of levy amounts to these classes. The gazettal by the Governor on June 3 1999 provides that the annual amount of $32 is attributed to a number of class codes.

The rationale for the setting of these charges is based on the range and scope of services that are provided to these vehicles and demonstrated by the range of annual charges established by the Motor Accident Commission. The focus of emergency services is primarily that of life preservation. Recognition must also be made of the fact that vehicles containing hazardous substances (such as a petrol tanker) may be further charged for clean up effort under the Environment Protection Act 1993.

In relation to Buses and Taxis, the levy rates have been set at $32 per annum for taxis and fare paying buses registered in both country and metropolitan zones. Non fare paying community buses are levied at $32 in metropolitan and $12 in country areas.

PRISON VIOLENCE

In reply to **Hon. IAN GILFILLAN** (4 August 1998).

The Hon. K.T. GRIFFIN: The Minister for Police, Correctional Services and Emergency Services has been advised by the Department for Correctional Services of the following information in relation to the bashings in Port Augusta gaol.

1. Will the Minister for Justice investigate these reported bashings at Port Augusta gaol on 6 and 8 July and 1 August.

No. The matters have been investigated by the proper authorities and the necessary action has been taken.

2. Will the Minister for Justice determine exactly in which division of the gaol they occurred, which of the victims were protectees and what injures they sustained?

The four incidents all occurred in Greenbush Unit 2 at Port Augusta Prison. All of the victims and the perpetrators were protectees or, in one instance, a prisoner awaiting approval to become a protectee.

The one serious injury that required hospitalisation involved a protectee who suffered a fractured skull. Two protectees received bruising to the face, one required stitches to a small laceration above the eye. The remaining incident involved a prisoner's claim that he had been punched on the arm. Medical assistance was not required.

3. In a general context, what do the statistics reveal about the rate of violent incidents and injuries in South Australian prisons in relation to both protectees and others? If there is a discernible trend in this area over a period of years, will the minister give in his answer his opinion about whether he regards that as satisfactory?

Prisoner on prisoner assaults in the prison system have reduced over the last two years. In:

1996-97 there were 113 prisoners on prisoner assaults

1997-98 there were 105 prisoners on prisoner assaults

It might be of interest to the honourable member that these statistics compare more than favourably with published statistics from other States and I am satisfied that the Department is doing everything possible to ensure the safety of prisoners.

4. What steps will be taken to improve security in South Australian gaols, especially for protectees?

The Department for Correctional Services takes very seriously it's duty to care to all prisoners and will continue to remove predators from environments where they may do harm to other prisoners. The Department must avoid being influenced by prisoners who seek to manipulate the prison system for their own advantage.

5. When will members be appointed to the Correctional Services Advisory Council?

Members of the Correctional Services Advisory Council were appointed on 13 August 1998.

RACING, PROPRIETARY

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I seek leave to table a statement made today in the other place by the Minister for Recreation, Sport and Racing on proprietary racing.

Leave granted.

PORT STANVAC OIL SPILL

In reply to **Hon. CAROLYN PICKLES** (7 July).

The Hon. DIANA LAIDLAW:

1. There was no need for Transport SA to offer briefings to the Minister for Environment and Heritage. Two officers from the Environment Protection Agency were seconded to the command centre for the duration of the spill response, and it was their responsibility to report to their office and to the Minister.

2. Briefings from Mobil to Transport SA were continuous at the Port Stanvac command centre. In his capacity as State Spill Commander, Captain Walter Stuart had access to all pertinent records and dates. Briefings were available from the Refinery Manager, the Incident Controller, Offshore Coordinator, Command Centre Manager and others as required.

5. On 5 July, the Minister for Environment and Heritage and I announced the launch of a formal investigation of the causes of the spill. This will include a general review of procedures used.

PORT STANVAC OIL SPILL

In reply to **Hon. CAROLYN PICKLES** (6 July).

The Hon. DIANA LAIDLAW: In relation to the second of four questions, I am advised that the same provisions would have applied to the oil spill in 1996.

RURAL HEALTH WORKERS

In reply to **Hon. CARMEL ZOLLO** (10 June).

The Hon. DIANA LAIDLAW: The Minister for Human Services has provided the following information.

The Department of Human Services (DHS) has a close and ongoing liaison with the South Australian Centre for Rural and Remote Health.

This occurs in the following ways—

- the DHS has a representative on the Board of Management;

- the North and Far West Regional Health Service has entered into a contract with the Centre for establishment of a teaching practice and the provision of medical services at Roxby Downs; and
- the Whyalla Health Service has entered into an arrangement with the Centre to establish a teaching practice in close association with the Whyalla Community Health Service.

These initiatives are aimed at supporting the Centre in fulfilling its aims to provide teaching and support for health professionals to work in rural and remote areas in South Australia.

This is being done in the context of the broader aims for the recruitment and retention of health professionals into rural and remote areas. The arrangements at Roxby Downs have enabled new doctors to be recruited.

Although recruitment and retention of doctors in rural and remote areas is part of the role of the Centre, the primary agency for this is the South Australian Rural and Remote Medical Support Agency (SARRMSA).

SARRMSA has been contracted by the DHS to carry out a short-term strategy to recruit overseas trained doctors to South Australia. In the period July 1998 to June 1999, 17 doctors have been recruited from overseas.

In addition, SARRMSA has a primary role in the recruitment and retention of doctors on a long term basis and works in very close cooperation with the DHS, the South Australian Centre for Rural and Remote Health and the Commonwealth Department of Health and Aged Care, in developing long term sustainable strategies.

In 1998-99, 32 GPs in addition to the 17 overseas trained doctors have been recruited to rural and remote areas of South Australia. There has been a net increase of rural GPs from 313 to 317 during 1998-99.

The Minister for Human Services will continue to lobby the Commonwealth Minister for Health and Aged Care to increase the overall number of training positions for general practitioners and the Royal Australian College of General Practitioners to increase South Australia's allocation.

LEGISLATIVE REVIEW COMMITTEE

The Hon. A.J. REDFORD: I move:

That members of this Council appointed to the Legislative Review Committee, under the Parliamentary Committees Act 1991, have permission to meet during the sitting of the Council tomorrow.

Leave granted.

EMERGENCY SERVICES LEVY

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Police and Emergency Services, questions about the new emergency services levy and conditionally registered historic and left-hand drive motor vehicles.

Leave granted.

The Hon. T.G. CAMERON: I have received representations from the Ford Model A Club of South Australia regarding the level of emergency services levy on conditionally registered, historic and left-hand drive vehicles. These vehicles are entitled to access the roads up to a maximum of only 90 days in each registered year. Owners are required to keep a logbook to ensure that they do not exceed the maximum 90 days and are liable to a $500 fine if they are caught doing so. Under the current emergency services levy owners of conditionally registered, historic and left-hand drive vehicles pay the same $32 fee as required of motor vehicles that can access roads for 365 days of the year. The club believes the current levy placed on their vehicles to be unfair and inappropriate. While the application of the levy is not risk-weighted, the fact is that conditionally registered, historic and left-hand drive vehicles are very low risk vehicles, as evidenced by the low premiums payable for comprehensive motor vehicle insurance.

There is a widespread misconception that the owners of historic motor vehicles are all wealthy. The reality is somewhat different. Ownership of historic motor vehicles spans all strata of society and is by no means the province of the wealthy. In fact, if there is any one group that could be identified as being predominant in the movement it would be the retired, as it is they who have the time to tackle the labour of love required to restore many older vehicles. My question to the Minister is: considering that conditionally registered, historic and left-hand drive vehicles are restricted to using the roads for 90 days or less per year, will the Government consider reducing the levy to $8, the same as for trailers?

The Hon. K.T. GRIFFIN: As the honourable member will understand, the persons who have made representations to him have also made representations to the Minister. My understanding is that it has been fixed; or, if it has not been fixed, it is being fixed. So I will check it out and bring back a reply for the honourable member.

POLYCHLORINATED BIPHENYLS

The Hon. R.R. ROBERTS: I seek leave to make an explanation before asking the Minister for Transport, representing the Minister for Environment and Heritage, a question about dolphin deaths and PCBs.

Leave granted.

The Hon. R.R. ROBERTS: Recently there have been reports in the *Portside* Messenger about dolphin deaths in the Port River. The report shows clearly that there are elevated levels of PCBs. Just recently, last weekend in fact, there was another report of a dolphin death, and it was reported that that dolphin had a large tumour. I have in front of me documents from 1981 about the disposal of polychlorinated biphenyls and some background information. This was a briefing given to a working party, and it states:

They are toxic, accumulate in living organisms and in documented laboratory tests cause reproductive failure, digestive problems, skin lesions and tumours in laboratory animals.

I also understand that, in 1982, there were some 106 tonnes of these products in South Australia, and that is not taking into account the fact that there were five 205 litre drums at Adelaide Brighton Cement. At that time a proposal was being considered that these products be combusted in the cement kilns at Adelaide Brighton Cement. That might sound unusual, but I understand that it has been done overseas. These materials are generally taken by ship to the Southern Ocean, in a ship called the *Voltaire*, and disposed of.

Because these dolphin deaths have been linked to PCBs and they live in the Port River and around Torrens Island and the Barker Inlet, and it has been said in a report in the *Portside* Messenger that it is probably because they have been eating the crabs and small fish, it raises a very important question, because this is a popular recreational fishing area. Given those facts, I ask the Minister: how much PCB is stored in South Australia? Where is it stored and under what conditions? How much has been disposed of and by what methods has it been disposed of? Was any PCB disposed of by burning in the cement furnaces of Adelaide Brighton Cement?

The Hon. DIANA LAIDLAW: I will refer that question to my colleague for a reply.

CEDUNA, WATER SUPPLY

The Hon. IAN GILFILLAN: I seek leave to make a brief explanation before asking the Minister for Justice a question about water carting at Ceduna.

Leave granted.

The Hon. IAN GILFILLAN: In 1997 an existing privately-owned water pipeline west of Ceduna was upgraded. Funded partly by ATSIC and partly by the State Government, the bigger, new pipeline brought water to Denial Bay, Koonibba and a number of farms. However, the pipeline stopped about 10 kilometres short of Penong because the funding ran out.

The pipeline and access to the water is administered by the Ceduna Koonibba Water Authority (CKWA). Those west of the pipeline's end have had to continue to rely on water carting. Before the upgrading of the pipeline, carting of water was subsidised by the Government for the people of Denial Bay, Penong and the surrounding farms.

After the construction stopped in 1997, the subsidies continued although, of course, there were fewer people who needed it once the pipeline was built. Under the subsidy, West Coast residents had to pay an amount twice the rate of those on Eyre Peninsula—$1.70 per kilolitre compared to 80¢ per kilolitre. However, on 30 June the farmers of the region lost their water carting subsidy. Without the carting subsidy, the price of water in the region has now shot up to about $8 a kilolitre—10 times the price on Eyre Peninsula and about 36 times the price that Adelaide residents pay for their first 125 kilolitres per year.

In this region water is used sparingly. It was already too expensive to use for irrigation: it is used only for stock and domestic consumption. I am told that this new state of affairs applies only to farmers in the region and not to the town of Penong, although the town, too, could lose its water carting subsidy from the end of September.

In the meantime, the area is facing its worst drought in 11 years and the pipeline is still stopped and stoppered 10 kilometres or so short of Penong. It is expected that during the drought the town will need more water than can be supplied by the very limited Penong Flat. My questions to the Minister who represents the Minister for Primary Industries, Natural Resources and Regional Development are:

1. How can the Government justify a decision which, in effect, increases the price of water to a few farmers by 470 per cent—from $1.70 to $8 per kilolitre?

2. What does the Government expect will be the impact on farm viability in the region?

3. Does the Government also intend to withdraw the carting subsidy for the Penong township and, if so, why?

4. When will the Government allocate funds to extend the water pipeline the final 10 kilometres or so to Penong?

The Hon. K.T. GRIFFIN: It may be that that question ought to go to the Minister for Government Enterprises, but to whichever Minister it should be directed I will make sure that that is done and bring back a reply.

INDEPENDENT INDUSTRY REGULATOR BILL

Adjourned debate on second reading.

(Continued from 18 November. Page 214.)

The Hon. R.I. LUCAS (Treasurer): I thank the Hon. Mr Holloway and the Hon. Ms Kanck for their contributions to the second reading of this Bill, which seems to have been conducted eons ago: it was almost 12 months ago, I suspect. As members will recall, the Bills were discussed as a package, I think around this time last year.

The Hon. Sandra Kanck: On 5 August last year.

The Hon. R.I. LUCAS: On 5 August, was it? Well, today is 3 August, so—

The Hon. T. Crothers: This was the day the First World War was declared.

The Hon. R.I. LUCAS: Is that right? I am indebted—

The Hon. T. Crothers: This should be the Third World War.

The Hon. R.I. LUCAS: I am indebted to that interjection from the Hon. Mr Crothers that today was the day the First World War was declared. As members are aware, the key piece of legislation was passed just over a month ago. We now have these two related Bills, which have already passed the House of Assembly and which are to be debated in this Chamber this afternoon. The first Bill (I suppose, the general principle Bill) is the Industry Regulator Bill, which provides the authority to establish the Office of the Independent Regulator.

Both the Hon. Sandra Kanck and the Hon. Paul Holloway have indicated their support for the second reading of the Bill. Both members note that this Bill has been modelled on the Office of the Regulator-General in Victoria and that, similarly to the Office of the Regulator-General, this particular Independent Regulator can be given (by this Government or future Governments and Parliaments) responsibility for industries other than electricity.

At this stage, the Government seeks to provide the Independent Regulator only with powers relating to the electricity industry, but it will be possible for the Government to vest in the Office of the Independent Regulator powers in relation to other industries such as gas, for example, which is the most obvious example. In Victoria, the Office of the Regulator-General has some powers in relation to the Ports Corporation—or its equivalent—and also the water industry.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Holloway suggests public transport. He might be right. I would not dispute that. The two that I remember other than gas and electricity are certainly ports and water. The flexibility of the structure here and in Victoria is such that the Regulator might have very wide powers in one industry, such as electricity, because of the importance of it, but in other areas it might well just be a price monitoring role, which is the case in Victoria where the Regulator has very wide powers with respect to some industries but, with respect to others, just reports or monitors on pricing within the industry. Again, that decision is not for today: that is a decision for future Governments and future Parliaments if they choose to vest in the Independent Regulator powers relating to other industries.

So, this legislation provides an important framework. I suspect that we will have more detailed discussion in relation to the next Bill—the Electricity (Miscellaneous) Amendment Bill—because that Bill will provide the actual powers in relation to the electricity industry. I thank members for their indication of support for the second reading of the Bill.

Bill read a second time.

In Committee.

Clause 1.

The Hon. P. HOLLOWAY: In June, a majority of members of this Parliament endorsed the decision of the Government to dispose of its electricity generation, distribution and transmission assets. The Opposition opposed that decision, and now history will judge who was right and who was wrong. In debate on this Bill and the Electricity (Miscellaneous) Amendment Bill which follows, which are complementary to the electricity sale process, I do not propose to canvass the arguments for and against the sale or lease of ETSA. The Opposition has made it clear that it sees the long-term lease of ETSA as irreversible.

Now that Parliament has determined its course of action, we will not obstruct the sale or lease process with any unnecessary distractions. However, the decision to dispose of our electricity assets does place added urgency and importance on the appointment of the Independent Industry Regulator. While the electricity industry was Government owned, decisions on matters such as reliability and security of supply, future supply options, cross-subsidisation between city and country consumers or between industrial and residential consumers, electricity tariff levels, access to the supply network, environmental considerations of electricity supply and distribution, and credit and debt recovery policies were directly subject to parliamentary and public scrutiny.

Under private ownership, these issues are no less important, and the success or failure of privatisation in the electricity industry will depend largely on the quality of regulation provided by the Independent Industry Regulator under the legislation before us. During the course of debate, I will ask some questions about specific parts of this Bill that relate to those matters.

The Hon. A.J. REDFORD: During the course of the whole of the debate regarding the restructure and sale of the electricity industry, I have not said much at all other than the fact that I broadly and strenuously support the Government's position in relation to the need for the sale of our electricity assets. However, I think I would be remiss in my duty if I did not make a number of comments regarding the role of the Independent Industry Regulator, which office is created pursuant to this Bill. I do not seek to make any comments about proposed amendments.

First, I draw the attention of members to the well thought out and well researched paper on the issue of regulating energy utilities (Research Paper 98/19 issued on 2 February 1998 by the House of Commons). This paper deals generally with the regulation of utilities. In specific terms, it refers to the regulation of the gas industry and the electricity industry and what approach a Government might take (particularly the Westminster Government) having regard to the experience of the British following their decision to sell their electricity and gas assets during the Thatcher-Major regime. In this report, one of the main issues dealt with by the authors is the issue of transparency—in particular, the issue of transparency as it relates to the establishment of an appropriate charge for the provision of these important services to the community.

In relation to the establishment and sale of the electricity industry in South Australia—and I will stand corrected if I am wrong about this—it would appear that there is likely to be a level of competition in so far as the generation of electricity is concerned, and that competition will come from a number of different sources. First, the establishment of a generation plant at Pelican Point will add a competitive pressure to the generation. Secondly, in so far as the South Australian market is concerned, the interconnect from Victoria is already providing competitive price pressure. Thirdly, (and I fully endorse the Treasurer's approach throughout this whole process) the establishment of an interconnect with New South Wales will add further competitive pressure.

Finally, it is not clear at this stage, but there is a possibility, depending on how the sale process proceeds, that there could be more than one purchaser of the generation asset in so far as electricity is concerned. In that regard it would be consistent with my philosophical view and, indeed, my understanding of how markets work that those companies will be in competition with each other; they will be seeking to establish markets and, in some cases, will be seeking to generate electricity for particular niche markets. In that regard the marketplace, in my view, subject to regulation against extreme excess, will sort itself out and, in the longer term, I am confident that the major beneficiary of that competitive pressure will be the South Australian consumer.

However, the poles and wires (as it has been described in other places), or the transmission aspect of the industry, is a different animal altogether. It will be in private hands but it will be the subject of scrutiny by the Independent Industry Regulator, which is sought to be established pursuant to this Bill and which will operate pursuant to the Electricity (Miscellaneous) Amendment Bill, with which we will deal later today. This Bill contains some provisions regarding the role of the Industry Regulator and, in particular, there are provisions that establish his office as well as provisions relating to price regulation.

There are also provisions relating to industry codes; there are provisions in relation to the review by the Industry Regulator; there is provision for reports, both to the Minister and to the Parliament; and there is a requirement for the provision of an annual report. The provisions that have attracted my attention in relation to the Industry Regulator's powers are, first, those that relate to the collection and use of information; and, secondly, the availability of reviews and appeals and who may avail themselves of that opportunity.

In relation to the former, it is my view (and it may well be that I am the only member in this place who has this view) that, in so far as the regulation of prices by a privately-owned monopoly is concerned (and one cannot imagine that it would not be anything other than a privately-owned monopoly), the process must be as transparent and as open to public scrutiny and the scrutiny of this Parliament as it possibly can be. The research paper to which I referred earlier in this contribution talks about that in some detail. Page 18 of that report states:

> The Director-General of Gas Supply referred to the publication of information about the regulated company. She was concerned to secure transparency as regards the cost of companies she regulated.

The report further states:

> There could be justifiable reasons why information should not be published, for example, if it made British Gas's negotiations with their suppliers more difficult, but she thought that the benefits of having information made public outweighed the problems it would cause the company concerned.

The report then looks at the different options that might be available to an Industry Regulator in determining an appropriate price mechanism, and I propose to deal with that when we deal with the other Bill to which I have already referred. However, the recommendation at the end of the report, I understand, was supported by the Energy Minister in the United Kingdom that there be some additional monitoring system by parliamentary select committees. I well understand why that might not be appropriate in this case given that, in the longer term, the regulation of prices by the electricity

industry will not be conducted by any agency other than NEMMCO, which is a hybrid creature of the Federal Parliament.

However, it is clear when one looks at these recommendations that the issue of transparency was in the forefront of the minds of the reporters. A summary of the report's findings begins at page 38. I ask members to forgive me if I substantially repeat the findings because they are important and, I think, deserve the attention of all members, whether it be during the passage of this Bill or on some later occasion when the inevitable second round of legislation comes back to this place, as it normally seems to in my experience.

First, the report acknowledges that there was a need for reform in relation to the regulation of utilities in the United Kingdom. In that regard I would be interested to hear the Treasurer's comment about whether that second wave of reform in the British industry has been taken into account in the establishment of this regime or indeed the regime that establishes NEMMCO. Secondly, the report suggests that the framework within which the regulators in the United Kingdom have been established has also been criticised. The report states:

> Another set of sources of dissatisfaction centres on the regulatory regime—the institutional, procedural and constitutional aspects of regulation. The regime has been criticised for its lack of transparency and the complexity of its decision making procedures. The extent to which all interested parties are properly represented in the regulatory process has also been questioned. The new independent industry regulatory bodies established at privatisation have been accused of enjoying inappropriate powers, of lacking accountability for the use of their powers and of interfering in matters beyond their legitimate remit. Others accused regulators of failing to protect the interests of consumers, especially small and disadvantaged users, while tolerating manifest corporate excess. From various viewpoints the system is seen as unfair, unstable and in need of far reaching reform.

I would be most interested to hear what the Treasurer says in relation to what we have done to ensure that a similar experience and a similar set of criticism is not levelled at our Independent Industry Regulator some years down the track. In other words, I seek some assurance that we will not repeat the same mistakes that have been made in the United Kingdom and that we have had the opportunity to learn from some of the problems that the United Kingdom encountered.

Recommendation six refers to advisory boards. I know that some similar provision, although not quite the same, will be included in this raft of legislation. The report indicates that advice from advisory boards should be published and open to the scrutiny of the public. Again, I would be grateful to hear what the Treasurer has to say in relation to that issue. Recommendation eight, which is probably the most significant in relation to this contribution, states:

> Transparency and accountability should be further strengthened. The transparency of the regulatory process has increased over time. We propose a series of measures to consolidate and extend these improvements, including the clarification of duties, requirements on information disclosure, the publication of regulatory principles and reasoning in the form of an application of principles document and mechanisms for consultation, especially with those whose voices are less easily coordinated.
>
> Third parties with a direct commercial interest should be able to appeal to a body to be established for the utilities if not more generally concerned in resolving disputes about licence amendments and the enforcement of licence conditions and competition rulings.

In that regard I would be most grateful if the Treasurer could point to the adoption of those recommendations—and, if not, why not—in dealing with the various provisions before us, whether they be in this Bill or, indeed, if I can be as broad as this, in another Bill.

At the end of the day, if we are dealing with a privately-owned monopoly, the subject of a regulatory regime—and I digress by saying that I appreciate that the establishment of this Independent Industry Regulator will probably be superseded in the longer term by NEMMCO—it is vital that the public interest in that supervision be seen to be enhanced either through some form of supervision by the Parliament or, indeed, greater transparency. I know that we are not there, but in particular I would be most interested to hear what the Treasurer has to say in relation to clause 25(1)(b) in which information that is gained by the Independent Industry Regulator that is commercially sensitive for some 'other reason' is confidential.

I would be most interested to know what is meant by the term 'other reason', because it seems to me that, when one weighs up the competing principles, when one is in a monopoly situation and when one is not subject to the harsh discipline of price competitiveness, it is our duty, indeed it is incumbent upon us, to ensure that the system is as transparent as possible so that everybody can have a say in relation to the role of the Independent Industry Regulator and assure themselves that that particular office is performing to an appropriate standard. I would have thought that to be able to do that—and I do not wish to upset any apple carts—it would be appropriate that the process be as open as possible.

The Hon. T. CROTHERS: I indicate to the Committee my support for the Government in this measure now before us. It follows on, as has been said by the Hon. Mr Holloway, as a nuts and bolts issue relative to the main Bill that was debated and carried in favour of the Government's position a couple of weeks ago. I want to make some comments on the contributions that have been made thus far. In respect of the Industry Regulator—and I think in his contribution the Hon. Angus Redford alluded to what I am about to say—what is sauce for the goose in the UK in respect of industry regulation may not be fit for the gander in South Australia, and all sorts of different forms of regulatory measures may well be necessary relative to the way in which the industry was first set up or, indeed, has advanced and developed over the 100 or so years of electricity generation.

In my view it does not follow that we can take a role model that has gone before us in the UK and apply it holus-bolus here; certainly, it would act as a guide.

The Hon. A.J. Redford interjecting:

The Hon. T. CROTHERS: Yes, I acknowledge that you have said that. Indeed, in addition to that, it just seems to me that, no matter what regulatory powers we have imposed on different bodies over the 12 or 13 years I have been a member here, we have always had to revisit them, because the proof of the pudding in respect of matters regulatory is in the eating thereof of the same. It does not matter how good you are when you craft a particular proposition such as this, there will always be someone smarter, some loophole or some landslide that occurs in respect of the matter which cannot possibly have been foreseen and which will indicate that some legislative change is necessary by way of updating the powers of a regulator or, indeed, adjusting the same so as to reflect changes in industry.

For instance, the potential for change in the methods of generation may well require the regulatory powers of the Independent Regulator to be revisited in this State if, for instance, we were being supplied electricity generated from solar power, tidal power, wind power or even, perhaps up the track, hydrogen fusion power or, as I noted the Deputy Premier to say several weeks ago, the hot rock method of

generating electricity energy. So, it is for those reasons that I will support the Government's position in respect of the Independent Industry Regulator Bill and, indeed, any amendments that it may be advised to pick up.

For the algebraic purpose of the table, I indicate that my colleague from SA First, who is at another meeting in respect of another matter to come before the Parliament, has indicated that he will support this measure.

The Hon. R.I. LUCAS: I will address some of the issues that have been raised by members as we approach each of the individual clauses rather than addressing them all under clause 1. I thank members for their general comments in relation to clause 1. I acknowledge the Hon. Mr Redford's continuing interest in regulatory issues. The honourable member has previously raised with me a number of issues and I will respond to a number of the specific questions under the individual clauses.

In relation to the United Kingdom, I can indicate that the Government, in preparation for both the structure of the industry and its regulatory arrangements, did take note of what was occurring not only in the other States of Australia but in the United States and the United Kingdom as well. One of the initial criticisms of the United Kingdom industry was that sufficient competition had not been introduced to its industry, particularly in the generation side. I believe that two very big companies dominated the market and that, indeed, the regulatory authorities were critical of that.

The Hon. A.J. Redford: Is that in transmission as well?

The Hon. R.I. LUCAS: No, it was in generation. Therefore, as a result, some further changes were introduced into the industry. So, the Government has been mindful of what has occurred in the United Kingdom, the United States and the other States of Australia. Having looked at that, we felt that this regulatory environment fitted the South Australian context best. The Hon. Mr Redford acknowledged—and the Hon. Mr Crothers made the point—that we should always look across our borders and across the seas to see what occurs, not to slavishly follow but to see what works and what does not work and do our best to come up with something which particularly fits the South Australian circumstance as best we can. Certainly, the package which the Government has endorsed and for which it now seeks Parliament's support is the Government's endeavours in terms of trying to ensure that we have the most reasonable package of regulatory arrangements that we can develop.

In relation to whether you call them second waves or monitoring and improvement, I have no doubt that further down the track this Government or another one will look at the arrangements and may well seek to improve upon them in some part. Ultimately, the experience in Victoria shows that there is a considerable degree of flexibility available to the Regulator, and it really is a judgment for him to take in terms of how he interprets his operations in Victoria and how he balances the competing objectives that any Government has for its electricity industry and the regulatory environment which controls it.

The only other general point that I wish to make at this stage is to clarify an issue raised by the Hon. Mr Redford. The Independent Regulator will be a continuing body and authority. In no way will its responsibilities be taken over by NEMMCO. There will be a continuing role for NEMMCO at the national level in terms of the operations of the national market but, in relation to the State arena, the regulatory and consumer provisions will be governed largely by the Independent Regulator.

The Government will seek to implement the Electricity Ombudsman scheme through, I think, the Electricity (Miscellaneous) Amendment Bill, which is the next piece of legislation that we will debate, and there remains the opportunity for consumers or businesses to take issues up with their members of Parliament and in Parliament with the Government of the day. So, there will be a range of options and opportunities for consumers, businesses and others with an interest in electricity businesses to take up their issues in one form or another and, from the Government's viewpoint, to provide a significant degree of public accountability for the total process.

In recent discussions with potentially interested bidders I made the point regarding a number of commitments that I have given on behalf of the Government that the lease contracts for all the businesses will be tabled in this Council and be publicly accountable. The Government will not claim commercial confidentiality in respect of any provision in its lease contracts. To my knowledge, that has rarely, if at all, been done before not only by this Government but by previous Governments. It is an indication of the Government's willingness to be publicly accountable in relation to this matter. The Government has also appointed a probity auditor, and his report will be tabled in this Council, again in the interest of being publicly accountable.

The Government also supported provisions in the legislation to provide a continuing role for the Auditor-General in relation to this process. I concede that those issues relate to the processes of the lease. What we are now talking about are the processes that will continue after that. I contend that the Government's position remains the same. As I have said, to the degree that it can, the Government intends to be in a position to balance the competing objectives that any Government has in respect of its electricity business, that is, to ensure that it has an efficient and competitive electricity industry, to try to protect the interests of consumers to the degree that it can, and also to try to protect the interests of people and companies who will, we hope, invest many dollars in businesses in South Australia to ensure that they have some degree of certainty in terms of the regulatory environment that they face.

One of the key messages I have received and the point that I have made in recent discussions with some members of this Chamber is that interested businesses from around the world want to know explicitly and clearly what the regulatory framework for their future operations will be. It is the Government's intention through this package to make quite clear what that regulatory environment is. In that way, the Government believes that it can provide certainty and stability in terms of people's investment in businesses so that it can maximise the lease proceeds—something which, I am sure, all members of this Chamber would wish to see achieved.

The Hon. P. HOLLOWAY: As the Treasurer canvassed this issue during his second reading response, I will ask a question now. The Treasurer referred to the capability of the Independent Industry Regulator to regulate other industries. Gas was mentioned as well as other industries such as water and ports in Victoria which are regulated by the Victorian Regulator-General. If I understand the Treasurer correctly, he suggests that that is not envisaged now. Is this under consideration by the Government, what is the long-term intention of the Government in relation to any future role that the Industry Regulator might have, and when will the Treasurer be likely to consider whether there is a further role?

The Hon. R.I. LUCAS: There is no proposal before the Government to extend the role of the Regulator to other industries. As I have indicated fairly frankly, my personal view is that I think there is an argument to extend the role into other areas but, at this stage, there is no proposal before the Government for an extension. If and when the Government was to consider another area, I suspect that it would most likely be the gas industry or, potentially, the Ports Corporation.

I would need to discuss that with the Minister for Government Enterprises. I have not done so, and I am not sure what are his views about an ongoing regulatory role or framework for the Ports Corporation industry. Certainly, in terms of the gas industry, there is possibly an argument that, at some stage in the future, the Government might address that matter. However, at this stage there has been no formal discussion by the Government at Cabinet level of a proposal to extend it to the gas industry or to anything else at this stage.

Clause passed.

Clauses 2 to 4 passed.

Clause 5.

The Hon. P. HOLLOWAY: This important clause outlines the functions of the Industry Regulator. I refer to other Industry Regulators, such as the Director General in the United Kingdom. In my view, the functions of that position are a lot more explicit in terms of the protection provided to customers. Under the UK Electricity Act, the duties of the Director General are:

- secure all reasonable demands for electricity are met;
- secure that licence holders are able to finance their licensed activities;
- promote competition in the generation and supply of electricity;
- protect the interests of electricity customers in respect to prices charged, continuity of supply and the quality of services provided;
- promote efficiency and economy on the part of licensees in supplying and transmitting electricity.

That is a summary of the functions of the Director General. It seems to me that, under this clause, much of what the Director General has to achieve in that regard is tucked away in codes and rules. It would be useful if the Treasurer could indicate how these codes will be addressed. Clearly, if the protection of customers is to be provided for and if we are to have the transparency to which the Hon. Angus Redford referred earlier, it is important that these codes and rules should be made fairly clear because a lot of that protection will be contained in them.

The other point I wish to make about these functions where more effort could perhaps have been made is that I would have liked to have seen some reference made to matters such as ensuring the availability of power (as provided for under the UK Act) at the lowest possible price consistent with safety and environmental considerations. No mention is made of any environmental matters in the functions which the Industry Regulator has to consider or give regard to.

Has that been considered and, if so, why is no reference to the environment contained in the regulation? If this regulation is to work properly, obviously it is important that there be some benchmark of standards. I have already referred to the codes and the rules that will applied. Clearly, if customers are to receive the maximum benefit, we really need to know what standards now exist within the electricity industry. We need to know what benchmarks exist for such matters as, say, the time in which repairs are made, the extent of outages, and all those sorts of things.

Clearly, if we require new entrants to the industry to do at least as well as standards have dictated in the past, it is important that we document properly what has happened with those standards in the past. What effort has been put into determining those standards? To illustrate this point a little, I note from the information that has been provided regarding the United Kingdom's office that there are certain guaranteed standards for which performance levels are set, and penalty payments for failure to meet those standards are prescribed. By way of example, one such standard is 'Service—respond to a failure of the supplier's fuse.' The information states:

> The performance level for most companies is within three hours on a working day, four hours on any other day. If any notification during working hours is given and if a company fails to meet that, then a £20 penalty applies.

There are also standards in relation to matters such as providing a supply and meter, estimating charges, a notice of supply interruption, investigation of voltage complaints, responding to meter problems, and the like. Are we likely to have a similar approach under the system and, if so, how will that take place under this legislation, its codes or regulations?

The Hon. R.I. LUCAS: A similar set of circumstances will apply in South Australia under the codes. The member will note that the Independent Industry Regulator has the power to establish the codes and monitor, review and change those codes under a provision in the miscellaneous amendment Bill which provides that the new operators will have to at least maintain the standards that exist within the industry at present. A lot of work is being done at present. A consumer consultative committee has been set up which involves SACOSS, SACOTA, the Conservation Council and one or two other bodies such as that which have been working with the Interim Office of the Regulator to try to establish baseline data for the new Regulator, whenever he or she takes over, bearing in mind that the Independent Industry Regulator has the final decisions on reviewing and monitoring the codes and any changes to which the Regulator might agree.

Certainly, times to repair problems, turning up for appointments and repairing street lights that have gone out (which was an issue the Hon. Mr Holloway raised during our last discussion on the restructure Bill)—a number of those standards will be part of various codes and, therefore, will be governed or policed by the Independent Regulator. Certainly, from the Government's viewpoint, the Industry Regulator will be required not only to establish, monitor and review stringent provisions in relation to standards but also ultimately to report upon them. At present, the Government is looking at—and we have not announced all the detail of this yet—a performance incentive scheme. Some hold the view that, with the various regulatory frameworks that exist both in Victoria and elsewhere, business operators can work to the minimum required standard, that is, there is no incentive for improving service standards to consumers once they have met the minimum requirements that are set down in legislation.

As legislators, we are always keen to set down minimum standards, because we are always fearful that people will drop below it, and therefore we seek to put in a protection. Some argue that they can sometimes have an adverse effect, that is, having achieved them no-one ever seeks to move beyond them. However, some may argue that, without minimum standards, it may well be that standards will continue to improve. Irrespective of whichever view you take of that argument, the Government is contemplating detail on a performance incentive scheme. We are not in a position to announce all the details of that yet, as they have not been

finally concluded. However, the argument for it would be to try to see whether you could construct a scheme to encourage further improvements in performance in terms of the standard of service delivery to consumers.

At present, much work is being done on the specific area of consumers and the standards that are being required, and we must bear in mind that it will ultimately be a decision for the Independent Regulator. I will pre-empt another question on the timing of the appointment of the Independent Regulator. Certainly, the Government hopes to have appointed the Independent Regulator before the end of year. We are hopeful that we can do it sooner than that. However, there is no doubt that the Independent Regulator will be appointed by the end of the year. If it is possible, we would like to do it in the next couple of months. That deals with the consumer areas in particular. Through the codes and the various provisions under the codes and licences, the requirements on the industry are every bit as onerous and reasonable as not only those of the United Kingdom system that the Hon. Mr Holloway has talked about but a number of others as well.

The Hon. P. HOLLOWAY: Are these codes likely to be made public before the lease takes effect? I would assume that any company that wishes to lease these assets would want to know what was required of it in terms of these standards. It would be desirable that any such codes that set out the benchmarks of the industry are made public as soon as possible.

The Hon. R.I. LUCAS: The honourable member is exactly right. If you want to invest many dollars in a particular business, you want to know what the detail of the regulatory framework will be like. I can only reiterate the point I made earlier that, in our recent discussions, this is probably the most important issue for people in terms of whether or not they want to invest and, if they do, at what level, that is, they want to have clearly outlined for them what they see as being a reasonable, regulatory framework, something that is explicit so that they know what to expect. If they are going to invest their money, we do not want them to be able to complain later that the rules have been changed afterwards. Given that the first lease contract is not scheduled until the end of the year, the Government hopes—in the very near future—to be in a position to finalise some codes. Some time next week or the week after, I have a meeting with the Consumer Consultative Committee, at which we will have further discussions as to what should and should not be in those various codes.

The Hon. T. CROTHERS: In respect of whomever it is who procures the lease of ETSA, there is a matter that somewhat disturbs me and which will make the Industry Regulator's job not impossible but somewhat more difficult than it may have been had the Bill not been tampered with in another place. I refer, of course, to the fact that the lessor of the ETSA property will now be subject to a 99 year lease, whereas the Bill when it passed from here to another place had four blocks of 25 years in it. As the lessor is responsible for the maintenance and service of all equipment it just seems to me that that was just a rank piece of arrant nonsense in respect to giving the Government of the day more control over ensuring that maintenance and service of goods and equipment are much more effectively policed. If you have four 25 year blocks it stands to reason that you have the mailed fist over a period of 100 years four times, whereas, if you have a 99 year lease, perhaps the lessor can thumb his or her nose at you and say, 'Get lost, revoke the lease and see how you go.'

It just seems to me that that was done by the Opposition in another place and they managed to hoodwink the two Independents and one Country Party member, who are not really what I would call street smart in this matter. It is an old trick, of course, which Mick Young and I were adept at using at ALP conventions, where, if you are going to do a 390° turn and you do not support a motion that is before the Chair, you simply delete all words in the motion after 'The' in the first line and substitute your own proposition, thus giving it the appearance that you have not really done a 390° turn; it is really your Bill or your motion after all.

I was told at the time that the effect of these four blocks of 25 year leases would not change the price over much, if at all, in respect of what the Government may procure at the end of the day for a lease based on four 25 year blocks, as opposed to a lease based on 99 years done by some blockheads in another place. That is the problem I have. Perhaps the Treasurer might ensure that that matter is addressed somewhat more fervently in the discussion that is ongoing both now and in the future with a prospective or, indeed, a future lessor of ETSA in this arrangement. It will not make the Industry Regulator's task impossible but will simply make it more difficult in respect of the enforcement of maintenance and service provisions than what would have been the case had the Bill not been bastardised, for whatever purposes, in another place, by the Opposition in this Parliament and the two Independents and the Country Party member in the other place.

The Hon. R.I. LUCAS: I can assure the Hon. Mr Crothers that this is an issue that is applying the mind of the Government and its advisers in terms of the maintenance provisions through the lease contract. I guess at this stage the only element that I can place on the public record is that, in terms of the work that is going into the drafting of the lease contract between the Government and the new private operator, this issue of the maintenance of the assets at the end of the particular periods that we are talking about is an important part of the Government's proposed framework for the industry.

The Hon. P. HOLLOWAY: The Treasurer indicated earlier that he hoped that the codes would be drawn up with the assistance of the temporary consumer advisory council in the near future. Will those codes be made public at that stage or will we have to wait until after the lease process?

The Hon. R.I. LUCAS: Under clause 23(5)(b) the codes will have to be made available publicly for inspection and purchase by members of the public. To confirm the honourable member's question, yes, they will have to be done prior to any lease contract being concluded and they will be publicly available.

The Hon. P. HOLLOWAY: The one point I made earlier that the Treasurer had not addressed was in relation to environmental standards. To put the question simply: does the Industry Regulator have any functions in relation to environmental standards?

The Hon. R.I. LUCAS: In the copious subclauses of the distribution licence amendments, which I am to move on clause 23, subclause (x) requires the distribution business to, amongst other things, look at demand management strategies, significant and important environmental issues, and the reduction of demand for electricity from the network. So, certainly in relation to demand management that is an issue that will be part of the licence conditions and, therefore, part of the broad authority of the Independent Regulator.

Clause passed.

Clauses 6 and 7 passed.

Clause 8.

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

Page 3, line 16—Leave out paragraph (a) and insert:
(a) for a term of office of—
(i) in the case of the first appointment of a person to the office—six years;
(ii) in the case of any subsequent appointment of a person to the office—five years; and

This is a relatively simple amendment. The regulator was to be appointed for a term of five years. The Government is seeking to move for the first term to be six years and thereafter for there to be five year terms. The reason for that is relatively simple, namely, that the important task of the regulator will be when the first electricity pricing order concludes, when he or she will have to go through the process of establishing the next electricity pricing order for the following five year period.

The first electricity pricing order, because of the timing of the issuing of the first pricing order, will not conclude by June 2005, and so if we appoint somebody before the end of the year, as I have indicated, you will have the set of circumstances where someone will have started all the work on establishing the next electricity pricing order but will then potentially not continue in his or her position. We would then potentially have a new regulator being appointed and having to very quickly in the last six months make some very critical decisions about the electricity pricing order, which is the key pricing and economic instrument that the regulator uses to govern the industry.

So, from the Government's viewpoint it is critical that the first regulator is appointed for a period of six years. I readily acknowledge that a term of appointment does not guarantee that a regulator will either stay that long or live that long in the position and, indeed, in Victoria I think after the first two years the first regulator left the position and a new one has come in. I do not think that is as bad, because obviously it has occurred not just at the time of the issuing of a new five year electricity pricing order. So I think it makes very good sense that we seek to appoint a regulator for the first six years and then, after he or she has concluded the job, he or she can decide whether to seek reappointment for another five year term or, if not, a new regulator could be appointed at that time.

The Hon. P. HOLLOWAY: I indicate that the Opposition supports the amendment. It is sensible that we should go that way, for the reasons that the Treasurer has indicated. I wish to make one point in relation to the Industry Regulator's appointment. I have spoken to people in relation to the functions and the likely success or otherwise of having an Independent Industry Regulator, and I think it is widely agreed that, however good you make your legislation, getting the right person for the job is the key to making this system involving an Independent Industry Regulator work.

I have looked at the debates in the United Kingdom, which has had regulators for some time, and I think it is widely agreed that it is not an easy job: you need a person with considerable skills, a person who has the confidence and an understanding of the industry, a person who can communicate effectively with the industry as well as with the Government and the public, and a person who has a commitment to and an understanding of public service.

The Hon. A.J. Redford: Got anyone in mind, Paul?

The Hon. P. HOLLOWAY: No, I have not. It will not be an easy task and it is important that we appoint someone who has some standing.

An honourable member interjecting:

The Hon. P. HOLLOWAY: That is right. Clearly, the appointment of the right person will be crucial to the success or otherwise of the position. I note that the Treasurer indicated that he hopes to have the person appointed by the end of this year. It is desirable that the Industry Regulator should be in place prior to the lease. It is important that, if the people who lease our electricity assets are to feel comfortable with the regime into which they are going, they should have some idea how the Industry Regulator will operate. Because this legislation is modelled on the Victorian legislation, I would imagine that those lessees will be looking at what is happening in Victoria for some sort of indication as to how this office might function here. It is an important position: it is crucial to the success of the whole function. We can only hope that the Government makes the right appointment, because I believe that, if we do not get the right person for the job, this system is unlikely to work properly.

The Hon. SANDRA KANCK: I would like to follow on from what the Hon. Paul Holloway has said. I have noted the qualifications or expertise that this person must have, and they are similar qualifications and expertise to those under clause 10 for the Associate Industry Regulator. In relation to both clause 8 and clause 10, why in that group of five things—industry, commerce, economics, law or public administration—was engineering not included as a possible qualification? I consider that it would have been worthwhile, given the decisions that the Regulator might have to make. For instance, under 'Functions' clause 5(1) provides:

(c) to make, monitor the operation of, and review from time to time, codes and rules relating to the conduct or operations of a regulated industry or licensed entities;

I would have thought that engineering qualifications would assist in making those sorts of decisions. I am curious why engineering is not included in the list.

The Hon. R.I. LUCAS: I agree with the comments made by the Hon. Paul Holloway to the extent that the legislation is important but ultimately so, too, is the appointment of the person. I can assure the honourable member that we are doing the best we can to appoint an appropriate person.

To respond to the Hon. Sandra Kanck, I agree with her comment in relation to engineering but I must admit that I would have interpreted 'industry' to include engineering. All other things being equal, one of the issues that I think would be an advantage for a Regulator would be some background in engineering.

An honourable member interjecting:

The Hon. R.I. LUCAS: I will not be diverted. Clearly, you want to appoint the best person and, if that person does not happen to have an engineering background, so be it. If that person has appropriate expertise which includes engineering, I would include that within the industry category. I agree that that would be a most useful additional skills base for the Regulator.

Amendment carried; clause as amended passed.

Clause 9 passed.

Clause 10.

The Hon. P. HOLLOWAY: Under clause 10, Associate Industry Regulators are appointed; later under clause 15 there is provision for an Acting Industry Regulator to be appointed; and under clause 14 there is provision for delegation. Will the Treasurer indicate why he sees it necessary to have Associate

Industry Regulators and Acting Industry Regulators as well as delegation powers to other officers? Perhaps he could indicate exactly where he sees the role of an Associate Industry Regulator beginning and ending and the role of a delegate starting.

The Hon. R.I. LUCAS: The general structure is to try to make provision for the situation where, if at some stage in the future the Government and the Parliament agreed to having the Independent Industry Regulator being the regulatory authority for gas, water and electricity, for example, you would be able to appoint an Associate Industry Regulator Gas and an Associate Industry Regulator Water at a sufficient level to attract somebody who had the expertise and qualifications to be the senior person in that office looking after that particular industry, and in particular developing the expertise within that industry that you would need if it was to be a comprehensive regulatory environment.

The Acting Industry Regulator is a standard provision. If the Regulator goes missing, is unwell or for whatever reason is unable to undertake his or her task, there is a provision to allow the appointment of an Acting Industry Regulator, as I am sure the honourable member would know. I would assume that someone who was an Associate Industry Regulator could be appointed as the Acting Regulator during the period. It is just a standard acting provision. The delegation provisions are again standard delegation provisions which allow officers or employees of the authority to undertake various tasks as delegated.

The Hon. SANDRA KANCK: I would be interested to know, as we are talking in the plural, how many the Minister envisages there might be and at what time they will come into existence. Would it be at the same time as the Independent Industry Regulator or would the Treasurer envisage, given that he will be acting as the Regulator (according to clause 9), that he would have the Associate Industry Regulators in place earlier to assist him?

The Hon. R.I. LUCAS: No, at this stage the Government has no plans for any associate industry regulators, because at this stage it is looking at only the electricity industry being part of the independent regulatory framework. I suspect that it would only be at the stage where the Government decided to include gas that provision for this might be made. I think there is power within this framework for the Independent Regulator to appoint someone if he or she wishes.

Let us say that we appointed someone with an engineering background but who was not an accountant. If they wanted to appoint someone at a senior level within their office as Associate Industry Regulator Pricing or Accounting, for example, I suppose that option would also be available to an industry regulator. However, at this stage, the Government has no plans to appoint any associate industry regulators. The current plan is to appoint a regulator, to provide him or her with an appropriate budget for staffing, and to leave the structure of the staffing (the division between the number of staff and the number of people they employ as consultants) substantially to them.

A number of regulators believe that they cannot keep on the payroll the sort of accounting or specialist expertise which they need in some areas. Therefore, they need to hire people with that expertise on a consultancy basis. Ultimately, those sorts of decisions would substantially be left to the Independent Regulator in the management of his or her office.

Clause passed.

Clause 11.

The Hon. P. HOLLOWAY: How many staff does the Treasurer believe the Industry Regulator's office will have to appoint initially and, given that this clause provides for staff to comprise either people employed within the Public Service or people appointed from outside, are the staff of the Industry Regulator's office likely to be transferred from existing agencies or units within Government or is it more likely that those staff will be new appointments?

The Hon. R.I. LUCAS: I do not have with me the rough draft that one of the officers has put together for an Independent Regulator's staffing structure and office, so I cannot help the honourable member at this stage in that regard. Regarding the honourable member's second question, it is likely that there will be new appointments because of the specialist nature of the office. It is possible that some people might win those jobs from within existing Government departments and agencies but, if they did, it is likely that those agencies would need to backfill.

It is not the sort of authority where we can move an existing unit out of one of the Government departments and populate it in that way. However, as I said, some people may apply for positions and win them, but those agencies would need to backfill and replace the occupants of those particular jobs. I suspect that a number of people may be appointed from the private sector or from other regulatory authorities in other States or nationally who might be interested in working in the Independent Regulator's office.

Clause passed.

Clause 12.

The Hon. P. HOLLOWAY: This clause provides that the Industry Regulator can engage consultants. Does the Treasurer have any idea of what type of consultants are likely to be engaged by the Industry Regulator, is this just a general provision to provide for any contingency, or is it envisaged that the Industry Regulator would regularly use particular types of consultants to do part of his work?

The Hon. R.I. LUCAS: It is a general provision but, as I think I indicated earlier, I would imagine that the Regulator would seek to use specialist expertise on a reasonably frequent basis because he or she might not be able to have on staff the level of expertise that will be required in some areas. Those sorts of areas could range from tax, accounting and economics through to legal advice and perhaps even engineering or valuation advice.

Much of the work that the Regulator will have to do in terms of electricity pricing will relate to the valuation of the asset base and various economic and pricing questions. Some quite specialist advice will be needed in those areas. I suspect that the Regulator will try to cover that with some staff on the payroll and supplement with consultancy advice when appropriate.

Clause passed.

Clause 13.

The Hon. SANDRA KANCK: First, will members of advisory committees be provided with any remuneration? Secondly, during the time when the Minister holds the position of Regulator, will he establish any such advisory committees?

The Hon. R.I. LUCAS: I am advised that they can be paid out of the budget of the office of the Regulator if he or she determines. I have already established an interim consumer consultative committee, which includes the Conservation Council of South Australia, the Council for the Ageing, SACOSS, the Consumers Association, the Property Council and, I think, the Employers' Chamber. There are

about seven or eight organisations. I have probably missed one or two. I apologise to whichever organisation I missed. There is also the Farmers Federation—it is a good thing that I did not omit that organisation! So, it is a body comprising seven or eight organisations.

The structure of this committee will not be binding on the Independent Regulator when he or she is appointed. We have advised the members of my interim advisory committee that because they are serving on this committee it does not mean that the Independent Regulator will appoint them to serve on his or her committee. In establishing my interim committee we looked at the type of people who were on the consultative committee for the Office of the Regulator-General in Victoria.

By and large, the sorts of bodies that we appointed to our committee (with the exception, I think, of the Conservation Council—I am not sure whether the Conservation Council equivalent was on the Victorian committee) were substantially the same as those operating in Victoria. This committee has been appointed on an interim basis. It advises me at the moment. When the Regulator appoints a group of people, which will be required, that will be his or her decision.

The Hon. P. HOLLOWAY: What is the budget for such committees?

The Hon. R.I. LUCAS: Advisory committees?

The Hon. P. HOLLOWAY: Any committees that the Industry Regulator sets up?

The Hon. R.I. LUCAS: There will not be a budget.There will be an overall budget for the Office of the Independent Regulator. The division of that budget will be a decision largely for the Independent Regulator. How many committees there are and how much they are paid will ultimately be a decision for the Independent Regulator.

The Hon. A.J. REDFORD: Will advice provided by an advisory committee established by the Industry Regulator on specified aspects be public or made available to the public? If not, why not; and, if so, on what terms?

The Hon. R.I. LUCAS: I am advised that that is largely a decision for the Independent Regulator. If he or she determines that it can be made public, it could be. Having worked with an interim committee, I can see where it is appropriate for certain advice to be provided in-house—nothing super confidential but just in the nature of trying to develop positions. I suspect that, if the Regulator was looking at a code change or something such as that, without scaring the horses (if I can use a colloquial expression), he might want to float something by an advisory committee.

It may well get the thumbs down from the committee and, in those circumstances, it would probably not make too much sense for it all to be publicly aired. Ultimately my advice is that that is a decision for the Independent Regulator. The Government is prepared to trust his or her good judgment in relation to those issues. The Government's only requirement is that there must be some form of a consultative committee that works with the Regulator.

Clause passed.

Clauses 14 to 17 passed.

Clause 18.

The Hon. P. HOLLOWAY: The Treasurer has indicated that the Industry Regulator will have a budget within which he or she can perform his or her functions. Can the Treasurer indicate whether there is any interim information as to the likely budget of the office? I think that the Treasurer would be unable to say how many staff he or she is likely to have, but how much is the Office of the Industry Regulator likely to cost us?

The Hon. R.I. LUCAS: I cannot say at this stage. I am happy to obtain some advice during the dinner break and speak privately with the honourable member or those members who might be interested. My recollection of a ballpark figure is of the order of $3 million. We are trying to work out the cost of running a number of bodies: the planning council; the Regulator; and the Sustainable Energy Authority. I may well have confused any one of those budgets with the figure that is floating around in my mind. As I said, a figure of that order is jumping around in my mind. The biggest figure I have seen for one of the bodies was approximately $4 million or $5 million. My recollection is that it is about $3 million.

If the figure is any different, after the dinner break I will have a quiet word to the Hon. Mr Holloway and anyone else who is interested. I might be able to provide a rough idea of the number of staff at that stage. I am realistic enough to understand that we will establish an initial budget, but when one looks at an initial budget for an Auditor-General one can understand that the Independent Regulator could come to us and say, 'I cannot do my job within this framework', and that over a period of time we will need to supplement the provisions—

The Hon. A.J. Redford interjecting:

The Hon. R.I. LUCAS: Not to my knowledge. Ultimately I am sure that we are likely to see growth in both the number of staff that originally starts and their cost. We are looking to recoup a portion from licence fees on the industry, so there is that funding source for the operations of the Independent Regulator. The new participants in the industry will be paying not only for the lease contract but also, in an ongoing way, a licence fee that will be used to part fund the Office of the Independent Regulator.

Clause passed.

Clause 19 passed.

Clause 20.

The Hon. P. HOLLOWAY: Why does this clause make no reference to the objective of ensuring equity, that is, that persons on lower or middle incomes who spend a large proportion of their disposable income on energy are not protected by the Regulator?

The Hon. R.I. LUCAS: There are a number of different responses to that question. In part my response is that if a Government of the day, for social justice or other reasons, determines that a particular group within the community requires assistance, for example, the group to which the member refers, it can, through community service orders, make a budget contribution to the assistance of that group. Indeed, the Government's commitment to the continuation of pensioner concessions would be the perfect example, where the Government has, as part of this process, indicated that it will continue to fund concessions to the pensioner section of our community who, in many respects, would fit the profile the honourable member has outlined.

That is probably the major part of the response to the question. Another part of the response would be that, in considering the honourable member's question, it would be a very difficult issue for an Independent Regulator to take into account, in terms of his or her pricing policy that he or she is trying to establish, the spending patterns of individual South Australians on electricity as a component of their total budget. Ultimately Governments will need to determine, through their social justice or other such policies, what level

of support they are prepared to provide, either directly as an electricity subsidy or indirectly through some other form of payment or benefit, to assist those groups in society.

The Hon. P. HOLLOWAY: The Government, at the time that it announced the proposed sale of ETSA, indicated that it would limit rises in country prices to no more than 1.7 per cent of the city price. How exactly is that policy of the Government's to be enshrined into the system, either through the Independent Industry Regulator's functions or through the Electricity (Miscellaneous) Amendment Bill? I wonder what the mechanism for it is and what guarantees will be put in legislation for what really is Government policy.

The Hon. R.I. LUCAS: As the honourable member is aware, the 1.7 per cent provision was included in the Electricity Corporations (Restructuring and Disposal) Bill. Broadly speaking, the implementation process will involve the retailers, and we currently have 10 to 15 retailers that can compete in the South Australian market. Bearing in mind that this 1.7 per cent provision relates to the final tranche of contestable customers (that is, essentially households and very small low energy using businesses), that would mean that the retailers would be told that they cannot charge anything more than 1.7 per cent for customers in that category. From the consumers' viewpoint that is how it will be implemented. It will be a requirement on the retailer in terms of the pricing policy.

The Hon. P. HOLLOWAY: Will that be funded through cross-subsidisation or through a special fund? I believe that we were discussing that at one stage in the sale Bill.

The Hon. R.I. LUCAS: Up until 2003 there is no requirement for funding because households are not contestable and therefore the price paid by country consumers and small customers in the city is exactly the same. After 2003 the Government has indicated that it will put aside a small sum of money (we believe approximately $10 million) to be available to pay a subsidy over what has been estimated to be—and no-one can be absolutely certain about this—the next 10 year period that might be required under this provision. It really depends on how accurate the estimates have been.

Those who have done the figures for the Government have indicated that, by and large, they would expect the differential pricing to be within that parameter of 1.7 per cent or less and therefore no subsidy would be required. This is really an insurance, I guess, on the basis that one can never—and this is no criticism of anybody—guarantee absolutely four years down the track what might be the pricing arrangements. If they do happen to be higher than 1.7 per cent, the $10 million from the lease proceeds of the electricity businesses would be used to fund that. If that fund is ever exhausted, the Government of the day would be bound by the legislation to find budget provision to supplement and to continue the particular subsidy.

The Hon. P. HOLLOWAY: Do I take it then that the Industry Regulator is not in any way involved in this measure, that it is purely a matter of the Government providing direct to retailers any subsidy after 2003? Is the Industry Regulator involved in any way in the process, or is it just a question after 2003 of the Government providing money to subsidise the additional costs for country consumers?

The Hon. R.I. LUCAS: The honourable member is partially right in his contention: there would still be some role for the Industry Regulator. The Industry Regulator has to set some sort of benchmark price. Because all these retailers are out there competing after 2003, someone has to set this price. So, the Industry Regulator will have to set the benchmark price so that we can work out what might be the 1.7 per cent differential between city and country. To that extent, the Industry Regulator will continue to have a role. We had a discussion about that this morning: it may well be that the Government—it is likely to be Treasury and Finance—might seek to get information from the Industry Regulator in terms of the pricing policies; or, if there is a particular claim from a retailer that they have paid a certain amount, we will want to be able to crosscheck that in some way. I must admit that we are still working our way through that detail.

The Hon. A.J. REDFORD: In relation to clause 20(4)(d), could the Treasurer explain what general factors are specified in part 2?

The Hon. R.I. LUCAS: The general factors referred to are in clause 5, part 2, under which there are seven factors to which the Industry Regulator must have regard in performing the functions. To answer the honourable member's question, in relation to the need for paragraph (d), one of the issues for the Industry Regulator will be to see what is occurring, for example, in the other States such as Victoria and, if at some stage in the future there are equivalent Regulators in New South Wales and Queensland, to note the operations in those particular jurisdictions. Of course, he or she is not bound by what occurs in those other areas: they are just required to have some regard to anything which is relevant interstate in terms of benchmarks for prices, costs and return on assets.

The Hon. A.J. REDFORD: In terms of drafting, to what extent does the Treasurer anticipate that particular factor—that is, relevant interstate and international benchmarks, which one would have thought would be a very significant factor—to be obviated against other issues such as a return on assets? If we sell our asset at a very high price, which could lead to a very high price to the consumer if one looks at return on assets and comparable industries in percentage terms, to what extent would a Regulator take into account an international benchmark which perhaps might in the longer term identify that the purchaser of this asset might have paid too much? How does a Regulator balance it in the context of reading this legislation?

The Hon. R.I. LUCAS: I am not sure whether I entirely understand the honourable member's question, but my point is that if, for example, someone was to pay an exorbitant price for the industry and, say, in another State someone paid half the price for exactly the same asset, you are not guaranteed through this return on assets a guaranteed rate of return on how much you paid. There will be a calculation by the Regulator as to what is the extent of the regulated asset base of the industry, not what you might have paid for it. So, that is one issue I could offer the honourable member. If someone does pay way above what the market thinks and way above the valuation of a regulated asset basis for the particular business, that does not guarantee the same percentage return on the amount of money you have paid. It may well be that I have not entirely cottoned onto the question that the honourable member is driving at.

The Hon. A.J. REDFORD: It was an inelegantly phrased question, but the Treasurer is almost at the gist of it. How does a Regulator-General reconcile it? Where does he put the balance? How does he balance the return on capital with an international benchmark price if there is a substantial discrepancy between the two? Is there a principle which he will adopt; in other words, is the principal return on capital thereby assuring people regarding confidence in investing in

South Australia or, alternatively, will he be balanced in favour of ensuring a lowest possible price, within reason and having regard to local conditions, for both commercial and retail consumers?

The Hon. R.I. LUCAS: The Hon. Mr Redford has nailed the $64 question: there is no simple answer to that. If there was, we would not need to worry about Independent Regulators or these sorts of Bills. There are competing objectives, and the honourable member has nailed it in his question.

The Hon. T.G. Roberts: He should have voted against the second reading.

The Hon. R.I. LUCAS: No.

Members interjecting:

The Hon. R.I. LUCAS: This is the reason why the challenge of being an Independent Regulator is one where you will never satisfy everybody. There are competing interests and objectives. Someone who has invested millions or perhaps billions in a particular industry wants to get a reasonable rate of return. At the same time, the Regulator has to try to ensure that there is a reasonable level of prices for consumers, business and industry.

The Hon. T.G. Roberts: The State's interest could be lost in all that.

The Hon. R.I. LUCAS: Not if you think that the State's interests are tied up with its consumers. The Government believes that the interests of its consumers and the people of South Australia are the interests of the State of South Australia as well, and it is businesses and industries. I am not sure how the Hon. Terry Roberts interprets the State's interests.

The Hon. T.G. Roberts: Market forces generally prevail—

The Hon. R.I. LUCAS: No, this is not market forces: this is an Independent Regulator making a decision which will bind the industry. So it is not market forces operating, just ratcheting up the prices to the degree that the market will bear because, as the Hon. Mr Redford has rightly pointed out, we are talking about a monopoly or near monopoly business. So, this is an Independent Regulator who has to balance competing objectives. To answer the honourable member's question, there is no one rule or set of rules that govern that particular decision.

The Hon. L.H. Davis: We can just look at Victoria and see the decisions made there.

The Hon. R.I. LUCAS: Yes. That is why we see different decisions in different jurisdictions where a particular regulator may well make a judgment that impacts on the industry or consumers in one fashion or another. So, as with many decisions in life or business it is a balance of competing interests and objectives. That is why the Independent Regulator will be relatively well compensated: to try to get that balance right.

As I said, one of the key issues for people who want to invest in our industry is: 'Tell us what your regulatory framework will be like so that we can have some reasonable level of confidence as to some stability in the regulatory framework and what we are investing in.' I think that is a reasonable request. On the other hand, the Government does not want to see ever increasing prices over and above what might otherwise have occurred for consumers in our industry to pay for the investments within our businesses. The Government understands the competing objectives and, ultimately, that will be a decision for the Independent Regulator.

The Hon. A.J. REDFORD: I am grateful to the Treasurer for his answer. Was any consideration given in the drafting of this Bill to the establishment of some basis for the Industry Regulator to reconcile and weigh up these competing claims? It is not uncommon in legislation to say that the Regulator shall give greater consideration to this issue than that issue. I would be grateful if the Treasurer corrects me if I am wrong (that happens occasionally), but my reading of clause 20 is that, first, the Regulator-General's primary thought process and duty is set out in clause 5(2), as follows:

> to promote competitive and fair market conduct;
> to prevent misuse of monopoly or market power;
> to facilitate entry into . . . markets;
> to promote economic efficiency;
> to ensure consumers benefit from competition and efficiency. . .

From my reading of it, that would be the primary responsibility. In considering that, he can take into account all the factors in clause 20(3), which provide for fixing maximum prices and rates of increase and specifying pricing policies and, finally, in making a determination under subclause (4)(d) he will have regard to 'international benchmarks for prices . . . and return on assets'. I do not want to put words into the Treasurer's mouth, but it appears to me that, under clause 5(2), which provides a duty to promote competitive and fair markets, to facilitate entry into relevant markets, and to ensure consumers benefit, the primary responsibility is to ensure that international price benchmarks will prevail in general terms over a return on assets in comparable industries.

However, there is some scope for the Regulator-General to say, 'We are going to have higher prices than international benchmarks because we need to facilitate the maintenance of the financial viability of regulated industries', as provided under clause 5(2). Is it fair to say that, on the face of this legislation, the priority for the Regulator-General is to ensure that we are price competitive as opposed to being oriented towards a return on capital?

The Hon. R.I. LUCAS: I understand where the honourable member is coming from. I do not agree on my reading of this provision that that is the primary objective. I return to the response that I gave to the honourable member's last question: that is, there are competing important objectives, whether we call them primary or principal objectives, to which the honourable member has referred. He refers to the first five factors in clause 5(2), but there are a further two on the next page, as follows:

> to protect the interests of consumers with respect to reliability, quality and safety of services and supply in regulated industries;
> to facilitate maintenance of the financial viability of regulated industries.

In structuring the legislation, the Government has been of a mind to acknowledge that there are competing objectives. It does not want to put any particular one above the other but, basically it says, 'You're an Independent Regulator, all of these issues are important, and it's your job to try to sort them out.' That is a sitting on the fence way out of it from the Government's viewpoint, but it is the way it has set about trying to structure this Office of the Independent Regulator.

The Hon. A.J. Redford interjecting:

The Hon. R.I. LUCAS: Yes. As I said, this has probably been one of the most discussed issues in the Government's whole disaggregation, reform and sale/privatisation process. As Treasurer I was mindful of the criticism that the Government might receive that, through privatisation, it might be jettisoning the interests of consumers in the community and

its decisions in relation to the structure of the industry through one distribution business so that it could postage stamp country and city pricing.

A range of the decisions that have been taken were driven from the viewpoint of trying (where we can) to protect rural and consumer interests. Our 1.7 per cent pricing policy for country and city consumers is again a difficult policy but it is driven from a viewpoint of trying to protect and guarantee (to the degree that we can) the price and quality of services for consumers in a privatised industry.

In the hurly-burly of the political debate, criticisms can easily be made but, without any fear of contradiction from the advisory team with which I have worked, I can say absolutely that we have been driven to the degree that we have to try to protect the interests of consumers in this whole reform and privatisation process. Time will judge whether we have been successful. Members will have different views about that, but no-one can say accurately that we have not been driven by an objective of doing the best we can to ensure protection of the quality of the service provided and, to the degree that we can, the best possible price without making any commitments that we do not think we will be able to deliver.

Clause passed.

Clauses 21 to 24 passed.

Clause 25.

The Hon. A.J. REDFORD: I ask the Treasurer to keep in mind that all my questions on this clause relate to transmission and not generation. Why is there a clause which protects confidentiality of transmission operations, bearing in mind that their competitive position could not have any relevance to any competitive position in so far as South Australia is concerned? It might be competitive in the international markets in securing capital and things like that but not in terms of pricing for consumers.

The Hon. R.I. LUCAS: I refer to the poles and wires businesses, which involve both the transmission and the distribution of electricity. ElectraNet is involved in the transmission business and ETSA Utilities is involved in the distribution business. Both businesses are either monopolies or near monopolies. I will deal with both issues. Based on advice I have been given, it is possible that the new private operators would prefer that some information on the structure of financing and the internal operations of some of the lease contracts of these businesses not be part of the public record, and particularly such information from overseas countries—for example, the way they have structured their tax arrangements between Australia and another country. They would prefer those sorts of issues relating to their own business operations to remain confidential.

We always like to see the internal workings of either individuals or companies, but there is an issue as to whether there is a genuine public interest in having that sort of information on the public record. I believe that things which impact on the quality of the service being delivered to South Australians ought to be part of the public record, to the degree that that is possible. There are many areas where that can certainly be part of the Independent Regulator's deciding, 'This ought to be part of the public record in the public interest.' There are some examples—and I cannot obviously think of every possible example this afternoon—and I list that as one example of where an operator might prefer to maintain confidentiality. From my viewpoint as Treasurer, I do not have a concern about public accountability if they felt that something like that needed to be kept confidential.

The distribution business involves the poles and wires within our towns and cities, and parts of country South Australia, as well. Whilst that is a monopoly, under our national market it is possible, if a new town were to be built, say, 30 miles north of Mount Gambier for whatever reason—

The Hon. A.J. Redford: Right on Coonawarra!

The Hon. R.I. LUCAS: Right next to Coonawarra, perhaps, rather than on it. If that were to occur, distribution companies in other States can compete for the distribution network in those areas. So, whoever buys ETSA Utilities might have to compete with someone who wants to supply power to a new town or subdivision, or something like that. I hasten to say that the incumbent operator, that is, the new operator of ETSA Utilities, would have a huge competitive advantage in that all the in-built structures and staffing would be available within the State in terms of the pricing of that contract. However, I am advised that other companies can compete under the new market. On that basis, whilst I concede it is much less likely than in generation or, indeed, in retail, it is theoretically possible that, for some new areas or extensions of services, there might be competition.

Again, in those limited circumstances—and I hasten to say 'limited'; I do not wish to portray this as the start of rampant competition among distribution companies—it is an issue that has been raised by people interested in operating utilities. They have wanted to know whether we are prepared to say that it is a monopoly market in South Australia. We have said, 'No, we accept that you will have a healthy competitive advantage on a competitor.' However, we are not prepared to go to the next step, which has been asked of us, that is, are we prepared to say that whoever wins the bid for ETSA Utilities will be the monopoly distribution company free from any competition within South Australia? We have said 'No' to the people who have inquired of us along those lines.

It is an issue that is not entirely theoretical. It has been raised with us in recent weeks, and that has been the Government's response. I give those as two examples. I concede that the Government is not arguing that they are crushing examples that are likely to occur. However, they are examples of what could happen under the provision we have just drafted that allows in those circumstances for the Independent Regulator—again this is an issue where the judgment information gained under this part is commercially sensitive and for some other reason will be a determination in the first instance—to make a judgment as to whether or not the reason makes sense. I just highlight a couple of examples where the Regulator might decide, 'Look, he or she thinks that that is a reasonable reason and, therefore, it will be commercially confidential.'

The Hon. A.J. REDFORD: Clause 25(1)(b) refers to the term 'commercially sensitive'. I must say that the definition of that term can change according to the eye of the beholder. What is meant by the term 'for some other reason'? Could the Treasurer expand on some examples of what some other reasons might be?

The Hon. R.I. LUCAS: I must admit that I heard the honourable member's flagging of these questions in his introductory comments, and the response that I have just given was my endeavour to explain what 'for some other reason' might be, and it would be the sorts of examples I have just given. I apologise to the honourable member; I was preempting his question. However, it was based on the fact that he flagged it in his comments in respect of clause 1.

The Hon. A.J. REDFORD: I note that clause 25(3) refers to where the Industry Regulator may disclose confidential information, and the test is as follows:

> . . . is of the opinion that the public benefit in making the disclosure outweighs any detriment that might be suffered by a person in consequence of the disclosure.

That clause gives me a great deal of confidence and probably obviates to a quite significant extent any concern I might have in relation to the interpretation of clause 25(1), and I congratulate the Government for inserting it. Is that part of a general policy of the Government in terms of other future legislation?

The Hon. R.I. LUCAS: I was here and heard the honourable member's question in Question Time. So, good try! I will not indicate whether this is part of a general Government policy or edict. As the Attorney-General indicated, one way of achieving what the honourable member was seeking to achieve is by way of general instruction to Parliamentary Counsel.

The Hon. A.J. Redford interjecting:

The Hon. R.I. LUCAS: I'm sorry; I thought the honourable member was asking whether this was an indication of general Government policy in relation to other bodies—

The Hon. A.J. Redford: Or making disclosures.

The Hon. R.I. LUCAS: —or the making of disclosures. I have to say that I am not normally in the position of drafting legislation in relation to these sorts of areas. My advisory team is a quality team, led by Mr Grant Anderson, who is ably assisting me here. I want to place on the record my thanks to him, because he has been the driving force behind the drafting of not only this Bill but all the Bills. I want to place on the record my thanks to him for all the work that he and his team have done. It was really advice from Mr Anderson and others, and my own discussions with them in relation to, as I said earlier, the Government's objective as to the degree that we can reasonably be publicly accountable for this process in terms of balancing the competing interests.

The Hon. A.J. REDFORD: I am not sure that the Treasurer entirely understood my question. It is basically in relation to the disclosure of information, and the principle is whether the public benefit of making the disclosure outweighs any detriment. If Mr Anderson is the author of that, I indicate both from my perspective and I suspect that of the people of South Australia that he deserves congratulations, because he has managed to achieve something that many others before him were not able to achieve. At the end of the day, it is a significant advance in the Government's attitude towards openness. Again, I congratulate the Treasurer for having the foresight in allowing that to be in the Bill, because this is a major step towards more open government.

The Treasurer was probably jumping ahead of me, because my next question was in relation to clause 25(5), where a person performing a function of the Act who might use confidential information for the purpose of securing a private benefit commits an offence and there is a penalty of $10 000 or imprisonment for two years. I am happy if the Treasurer takes this on notice, particularly having regard to the Attorney's answer to my question on a similar issue during Question Time today. But I wonder whether the mind of the Attorney or indeed the Treasurer might consider whether or not we just simply rely upon the provisions of the Criminal Law Consolidation Act which, indeed, carries a penalty of seven years imprisonment, in terms of explaining and in terms of creating the criminal offence of using confidential information for securing a private benefit for either himself or someone else.

I just make that general comment, because I appreciate that the Treasurer at this stage is not equipped to give an instant answer and it may well be something that can be dealt with either between Houses or indeed, as is normally the case with significant pieces of legislation, when our inevitable round of amendments comes back to this place, in the usual six month period within which they tend to come back to this place. But I do congratulate the Treasurer and Mr Anderson for clause 25(3). I think it is a very positive sign from the Government's perspective in terms of open Government.

Clause passed.

Clauses 26 to 28 passed.

Clause 29.

The Hon. P. HOLLOWAY: I will ask my last two questions on the Bill at this stage, even though it may well be that they would be more appropriately asked in debate on the Electricity (Miscellaneous) Amendment Bill. First, what role would the regulator have in the event of any on-selling of the privatised power assets that could have an adverse impact on competition and industry structure?

The Hon. R.I. LUCAS: My advice is that that would be an issue for the ACCC. It is the national body in relation to competition principles and competition issues and if there was such a question that would be an issue that Professor Fels and his team would have to look at.

The Hon. P. HOLLOWAY: What role would the regulator have in determining issues of liability if, for example, there was a disaster such as that which happened in Auckland, where there was a major power failure or, to use an example from the gas industry, if we had a situation comparable to the Esso refinery explosion? Does the regulator have any role in relation to such liability questions?

The Hon. R.I. LUCAS: There is the power for revocation of licence, which is obviously a very significant power that the Independent Regulator has. So that is an issue that obviously the Independent Regulator would apply his or her mind to. A lot of the issues in relation to the Esso case, as the member will know, have been taken up by other bodies, authorities or courts. Where there were allegations of negligence or something like that I suspect that that would be the same situation. Clearly, there is the very significant power that the regulator has in relation to possible revocation of licence. Also, under the performance incentive scheme, if the Government does introduce or implement that scheme, at a less significant level it may well be that that impacts on their performance incentives scheme.

The Hon. P. HOLLOWAY: I guess the point I was making is that the Industry Regulator certainly has a role before the event in trying to ensure that the industry is reliable and that there is no lack of maintenance or that nothing takes place in the industry which could jeopardise supply. I think we all understand that he has that view but, inevitably, disasters can happen. The question is, I suppose: does he have any role after such an event, or is it contemplated?

The Hon. R.I. LUCAS: The answer is 'Yes.' As I said before, ultimately he could revoke the licence. There is no more significant power that a body could have. If you have paid X billion dollars for a licence and it gets revoked that is a very significant power. Clearly, at less extreme levels the regulator, I would presume, in terms of ongoing operations, may well seek to change the various codes in particular that apply to the operators within the industry. The regulator also

has a role with the Technical Regulator in the safety and management plans.

It is highly likely to be the case that the Independent Regulator, in the light of the particular incident, may well change the safety and management plan requirements. So, I think the answer to the question is yes, all the powers that the regulator has got he or she could apply having learnt the lessons of a particular disaster. If the regulatory framework prior to that and the safety management plans and the codes did not deliver the sort of level of service that was required and it did break down in some way, then I would imagine that a sensible Independent Regulator would look at that and would then potentially seek to change the safety and management plan requirements and the code requirements to try to ensure that that does not occur again. As I said, ultimately, the regulator does, in the most extreme of circumstances, have the power to revoke a licence.

Clause passed.

Clause 30

The Hon. SANDRA KANCK: I move:

Page 16, lines 7 to 19—Leave out this clause and insert:

Reference of matters for inquiry

30.(1) The Industry Regulator must conduct an inquiry into any matter referred to the Industry Regulator—

(a) by resolution of either House or Parliament; or

(b) by written notice of the Minister.

(2) The terms of reference for the inquiry will be as specified in the resolution or notice.

(3) The resolution or notice may—

(a) require that a report on the inquiry be delivered within a specified period; and

(b) require the Industry Regulator to make a draft report publicly available or available to specified persons or bodies during the inquiry; and

(c) require the Industry Regulator to consider specified matters; and

(d) give the Industry Regulator specific directions in respect of the conduct of the inquiry.

(4) The terms of reference or a requirement or direction under subsection (3) may be varied—

(a) in the case of an inquiry into a matter referred by resolution of a House of Parliament—by further resolution of that House of Parliament;

(b) in the case of an inquiry into a matter referred by written notice of the Minister—by further written notice of the Minister.

We are dealing in this section of the legislation with Part 7—Inquiries and Reports, and clause 29 provides that the Industry Regulator can conduct an inquiry if he or she considers it is necessary or desirable for the purpose of carrying out his or her functions, then clause 30 goes on to allow the Minister to refer a matter to the regulator for inquiry. I certainly have no argument with the Minister having the power to do that, but what I am attempting to do with my amendment is to allow a matter to be referred for inquiry to the Industry Regulator by either House of State Parliament.

I do not have any particular ideas of anything that ought to be inquired into, but I think that as part of representative democracy it is important that we allow ourselves that opportunity should it be necessary. Assuming, then, that either House of Parliament wanted to refer a matter for inquiry to the Industry Regulator, my amendment continues so that, if the terms of reference for that inquiry should require any variation—just as in the current clause, the Minister is allowed to have a say on that—I have the amendment worded so that the matter would come back to the relevant House of State Parliament so that it could act on any recommendation that the terms of reference should be resolved.

The Hon. R.I. LUCAS: The honourable member is moving two broad amendments, one of which the Government is quite happy to support, and the other one we want to oppose. We want to oppose this particular amendment, and I will outline the reasons why the Government is prepared to support the honourable member's further amendment in relation to a review of the Act. The regulatory framework that we are establishing here is really a framework that is placing considerable trust in an Independent Regulator free from the Government of the day, free from the Parliament and free from the industry. An Independent Regulator has to take decisions balancing the sorts of objectives that we were talking about earlier in the discussion with the Hon. Mr Redford.

The problem the Government has with this provision is that again we have the explicit opportunity for the Parliament of the day to involve itself in references to that Independent Regulator—and it is not settling at that: with the report having to come back to the Parliament for public debate, there is a possibility that confidential information might be a part of that Independent Regulator's report, which would then be part of public tabling in the Parliament and public discussion.

Without this provision it is still possible for any member of Parliament or any Party that had a problem, given that it is an Independent Regulator, to take up the issues publicly, to take up the issues with the Independent Regulator, and the Independent Regulator is not required to get the approval of the Minister or the Government of the day to institute an inquiry, as occurs at the moment with the Auditor-General.

Every second week the Leader of the Opposition seems to pen a letter of request to the Auditor-General to look at this or that, or other members of Parliament have raised issues with the Auditor-General to look at an issue and review it. All that would still be possible with the Independent Regulator: members, Parties or interest groups could raise issues with the Independent Regulator and we would leave it with the Independent Regulator to make his or her judgment, first, as to whether it is appropriate and, secondly, as to what information should be made available, if any information at all, for that matter, and how he or she would approach it.

If further down the track we can demonstrate that this is not working and there is a concern about it, I would be the first to enter into discussions with the honourable member: whether I happened to be in Government or in Opposition at the time, I would be happy to have those discussions. For us to insert this provision into the legislation—and because of the fact that everything has to then come back to the Parliament and as there might be commercially confidential information in part of the report that would not be in anybody's interest, or everybody's interest, to have on the public record—I think is moving down a path without any genuine cause, at this stage anyway, to justify it.

The Government thinks that the provisions in the legislation allow the Regulator to do whatever he or she wishes, and that means that any member of Parliament or any political Party can raise an issue with the Independent Regulator. The Government of the day cannot prevent the Independent Regulator from talking to members of Parliament or agreeing with them and taking up an issue: that would be entirely a judgment call for the Independent Regulator to take. The Independent Regulator can then absolutely determine what information, if any, he or she thinks ought to be part of the

public record, bearing in mind the other provisions which say that, if the public interest outweighs the detriment to an individual, then the Independent Regulator can make confidential information public.

The provisions we were talking about earlier with the Hon. Mr Redford put the public interest to the forefront, whereas perhaps in other pieces of legislation it has not had quite the same degree of prominence in terms of public accountability. I think there is a reasonable balance in the legislation at the moment, and that is why I would urge the Opposition, the Hon. Mr Crothers and the Hon. Mr Xenophon at this stage not to support this provision.

As I said, I am happy to support the honourable member's second series of amendments which call for a review of the Act in a very short time span. I must admit that my personal view is that it is too short a time span: I think it is only after a couple of years. If there is a view from members that we ought to have a look at this after two years, I am happy to go along with that. My view would be that it ought to be perhaps three years or four years after we have had contestability of the whole marketplace, which is at the end of 2002, but that obviously takes it out after the next election and it may be that the Hon. Sandra Kanck and others would like to see some review of the Act before the next election. I understand the politics of it, but I do not think it makes as much sense as having it—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Do you know when the next election is?

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: It does not have to be held until early 2002. The Hon. Mr Holloway must know something more than I do. I bow to his greater knowledge about the timing of the next election. If it is the view of the majority of members of the Parliament, we can review in two years' time the effectiveness of the legislation and, if it is shown to be deficient in some way, I am happy to enter into those discussions. However, I think there is a reasonable balance and I urge members at this stage not to support the provision.

The Hon. T. CROTHERS: I oppose the Democrats amendment standing in the name of the Hon. Ms Kanck. Whilst I understand and agree with what she is saying, as a believer in the sovereign right of Parliament sitting as a whole, I dips me lid fractionally to at least one of the points that I thought I had picked up in the contribution made by the Treasurer where if, for instance, any member of Parliament could highlight an anomaly or agreements with the lessor, they could then trigger an inquiry by the Independent Regulator. The problem I have with that is that that takes the arm of good governance away from the Government of the day and reposes it, say, in some ruthless non-government member, Opposition or Independent, who may, just prior to an election date being set, determine that they will get some consequential good headlines by triggering an appeal by the Industry Regulator.

Knowing the members of the present Parliament in both Chambers, I do not think that would happen, but it is a possibility and it is one that we ought, in the interests of good governance, to guard against. I see what the Treasurer is saying about the semi-sunset provision—twilight provision if you will, Treasurer, as opposed to a sunset provision—of a revisitation in two years. I see some sense in that, except that I would suggest that, rather than its being revisited in two years, it be revisited in three years so that the election of that day will have been held at that time and the present Government or the present Opposition returned to the Government benches.

Rather than the twilight provision of two years, if the Committee were to embrace that principle, I think for the reasons I have just outlined it ought to be three years. I can understand the honesty and endeavour of the member who moved the amendment, but I can also see how it could open a door or a chink from which a chink alike might emerge that could see the provision being abused and used for purposes other than that for which it was originally intended. I support the Treasurer on that position.

The Hon. P. HOLLOWAY: The Opposition supports the amendment moved by the Hon. Sandra Kanck. Under the first amendment, a resolution of either House of Parliament could require the Industry Regulator to conduct an inquiry into a matter referred to it. In my view, the closest parallel to that would be the passing of resolutions by this Parliament to require the Auditor-General to investigate matters. In my time here, I can only recall two occasions when that has been done, and I think that on both of those occasions it was appropriate. Of course, because the Auditor-General is an officer of the Parliament, the situation is slightly different, and it is possible for members to approach—

The Hon. T. Crothers interjecting:

The Hon. P. HOLLOWAY: Yes, it is possible for members to approach the Auditor-General, but I think if the fear is that—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: No, that's right. I just make the point that it is a slightly different situation. However, I think it is close enough, when looked at in the context that the reference of matters to the Auditor-General by resolution of this Parliament has not, in my view, been abused. I do not know whether the Hon. Legh Davis, by resolution, referred the flower farm for consideration when the previous Government was in office—the previous Government might not have liked it—nevertheless, I ask whether or not it was appropriate for that matter to be looked at. I will leave that for members to judge.

The point I am trying to make is that I do not think that this is the sort of question that would be abused by the Parliament. The only situation where I think it is likely to be used would be if there was some major problem within the electricity industry. Perhaps the parallel there might well be that—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: One would hope so. Perhaps I could cite the case of the Esso disaster in Victoria. It was my understanding that Premier Kennett's initial reaction to that disaster was that it was really a matter for the companies; that it was not—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: I think that was the initial reaction. Of course, later on, when the public opinion grew, he quite rightly—

The Hon. L.H. Davis interjecting:

The Hon. P. HOLLOWAY: Yes, but—

The Hon. L.H. Davis interjecting:

The Hon. P. HOLLOWAY: What happened was that Premier Kennett then, quite rightly, established a royal commission. But that was not the initial reaction. If there was a matter such as that which, for some reason, a Government might not wish to do, I think that would be the only situation where a resolution of either House of Parliament would come into play. We do not see this as something that is likely to be

abused or, indeed, used very often at all. However, it is a protection.

The Hon. T. Crothers interjecting:

The Hon. P. HOLLOWAY: After all, if Parliament abuses itself, the Parliament itself is responsible. Are we saying that we should not put it in here because Parliament might abuse it? It is, I think, a rather silly answer.

The other point I wish to make in relation to this is the question of confidentiality. The Treasurer made this point—and I think it is important. It is my understanding that proposed new subclause 4(a) which the Hon. Sandra Kanck is moving allows for the question of confidentiality. Proposed new subclause 4(a) provides that, in the case of a report, or an inquiry into a matter referred by written notice—

The Hon. T. Crothers interjecting:

The Hon. P. HOLLOWAY: That is of the Minister, yes.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: I think that that is perhaps an issue that can be looked at. I think that one can address the question of confidentiality in a similar way. The point is that the function of the Industry Regulator is independent of Government: it is specifically set up in that way under this Act. If there is to be any investigation that this Parliament would require that relates to an industry under his or her control, surely it would be appropriate to allow a provision for Parliament to request it. After all, the Minister can direct the Industry Regulator to do it, so I think the parallel of that would be to allow Parliament to do it. The Industry Regulator can, of course, decide to initiate an inquiry. If it is seen to be necessary for the Minister to require the Industry Regulator to conduct an inquiry, why not also give Parliament the provision to ask him to set up an inquiry if in very rare circumstances that is justified?

The Hon. NICK XENOPHON: I support the amendment of the Hon. Sandra Kanck. Whilst I take into account the considered response of the Treasurer in relation to this issue, I think that, on balance, the amendment ought to be supported. I believe that, with respect to the matters raised by the Hon. Paul Holloway in relation to this not being abused, Parliament does have an important role to request that an inquiry be conducted, notwithstanding the powers of the Industry Regulator. So, on that basis, I support this amendment.

I note the Treasurer's concerns in relation to commercial confidentiality, but I think those concerns can be dealt with considering the drafting in proposed new subclauses 4(a) and 4(b) of the Hon. Sandra Kanck's amendments. On balance, I support the amendment.

The Hon. T. CROTHERS: I still persist in supporting the Government in this matter. I point out to members that one of the ways (in the immortalised words of Don Chipp) to keep the bastards honest (and I think we have done it on one occasion here) is, rather than have the Regulator, like the Auditor-General, as an officer of Parliament, his or her appointment could have to come back to be confirmed or otherwise by the two Houses of this Parliament. That certainly is salt on the tail of any individual who would choose to thumb his nose at the articles that govern his or her behaviour.

I think that, in respect of a matter such as this and of such import as this, it is necessary—indeed, I believe essential—for the Government to be able to exercise proper governance over something which may well require initiative to be taken by the Government which will address the matter within the space of a day or two. If you include this extension, you may well have the Minister trying to take a particular course of action and then find that someone has raised it in the Parliament and that the Parliament has seized itself of the matter but has not, in its finality, determined the matter. So, you could have the Minister, on the one hand, wanting to take almost instant action and you could have Parliament, on the other hand, having seized itself of the matter but not having progressed it in its totality, holding up the issuance of the Government Minister of the day (whoever he or she may be) in taking the necessary action in as quick a time as possible.

Again, I come back to the fact that, whilst I have sympathy with the Kanck amendment, I cannot support it. Remember that I am dancing in shadows. The Hon. Mr Holloway said it would be a rare occasion, if indeed it ever occurred, when this provision would have to be used. I think that to have the matter on the statute books is, in fact, to crack the proverbial walnut with the proverbial 10 pound sledgehammer. I support the Government in the interests of good governance and in the interests of the Regulator being able to work as, no doubt, every member of this Council intends him or her to work. Reluctantly, I oppose the Kanck amendment and I support the Government on this matter.

The Hon. SANDRA KANCK: I find it difficult to come to terms with the suggestion from the Hon. Trevor Crothers that this provision could be abused. I know that Parliament—and this Council, in particular—has used its numbers to set up select committees, for instance, which the Opposition has used to embarrass the Government, but once you refer—

The Hon. T. Crothers interjecting:

The Hon. SANDRA KANCK: I am talking about my time here in the Parliament. I have agreed to the setting up of select committees in the past, not with the intention of embarrassing the Government but to obtain some information. Once a matter is referred to the Industry Regulator for investigation, I fail to see how it could be used in a mischievous way. There would be no further input from the Parliament. The way in which the Industry Regulator would go about investigating it would not have to involve the Parliament in any way.

I simply do not see that opportunity for abuse; nevertheless, let us assume that there is some credence to the argument. Not doing something for fear that it might be abused is a peculiar way to deal with legislation. If one were to look at legislation in terms of its potential for abuse one would never have taxation legislation because there are always accountants and business people prepared to abuse taxation laws. It is just not a sensible argument. The Treasurer commented that, as a member of Parliament, any of us would be able to contact the Industry Regulator and ask him or her to investigate something; certainly, there is nothing to prevent that from happening.

The Hon. T. Crothers interjecting:

The Hon. SANDRA KANCK: I will not enter into a debate as to whether or not it was. If Sandra Kanck, as a member of Parliament, asked the Industry Regulator to investigate a particular matter or to hold an inquiry into it, the Industry Regulator may or may not take up that request. Nothing in the legislation requires the Regulator to take up a matter that any person brings to his or her attention. On the other hand, if a matter is referred by a House of Parliament it gives it much more standing than any one of us as individuals could possibly bring to it. As I have worded it, my amendment includes the word 'must', just like the Bill—the Industry Regulator must, if the Minister refers a matter, conduct an inquiry.

My amendment also envisages that if either House of Parliament refers a matter to the Industry Regulator he or she must conduct an inquiry. If any of us as individuals raise a matter with the Independent Regulator no 'must' is involved: it will simply be a matter for the discretion of the Industry Regulator. I therefore consider it important that this provision be included, with either House of Parliament being able to make that decision and the word 'must' being an essential part of it.

The Hon. T.G. CAMERON: SA First has been persuaded by the argument of the Hon. Trevor Crothers and will support the Government's position.

The Committee divided on the clause:

AYES (10)

Cameron, T. G.	Crothers, T.
Davis, L. H.	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.	Gilfillan, I.
Holloway, P.	Kanck, S. M. (teller)
Pickles, C. A.	Roberts, T. G.
Weatherill, G.	Xenophon, N.
Zollo, C.	

PAIR(S)

Dawkins, J. S. L.	Roberts, R. R.

Majority of 1 for the Ayes.

Clause thus passed.

[Sitting suspended from 6.3 to 7.45 p.m.]

Clauses 31 and 32 passed.

Clause 33.

The Hon. SANDRA KANCK: I wish to move my amendment in an amended form. I move:

Page 17—After line 23—Insert:

(4a) If, in the case of a report to be laid before both Houses of Parliament, information is excluded from the report as being confidential information, a note to that effect must be included in the report at the place in the report from which the information is excluded.

Although I lost an earlier amendment in regard to an inquiry being conducted at the behest of either House of Parliament, this clause refers to any report to be laid before both Houses of Parliament. Clause 33(4) provides:

The Minister must cause a copy of a report—

of such an inquiry—

. . . to be laid before both Houses of Parliament within 12 sitting days after receipt of the report.

This refers specifically to a report that the Minister has effectively commissioned. In its current state, the Bill requires that the Minister lay a copy of the report before Parliament but it does allow information to be excluded. I am specifically requiring that, where the information is not included on the grounds of confidentiality, the report has to indicate at that point that the information has been deliberately withheld. It has to be printed at that point in the report.

The Hon. P. HOLLOWAY: In principle, the Opposition supports what the Hon. Sandra Kanck is trying to do, that is, to ensure that, where confidential information is left out of the report, that omission is indicated in the report. I am not sure that it would be possible on all occasions to include that at the particular place where it was excluded because, as I understand it, when the Industry Regulator makes his report, he may have that information taken out of the report anyway and put in the appendices. I am not sure how the Industry Regulator might handle these things. In principle, it is common practice that, whenever reports are laid in this Parliament, if confidential information is taken out that omission is indicated.

The Hon. R.I. LUCAS: The Government is prepared to support the amendment but my legal advisers suggest that the honourable member or we (I am not fussed who does it) move it under a different clause in a slightly different form, although that makes it hard for the table staff. It has been suggested that there be a new subclause (7). Therefore, after line 28, we could insert the following words:

(7) If information is excluded from a report as being confidential information, a note to that effect must be included in the report at the place in the report from which the information is excluded.

It is almost the same amendment; I am trying to work out the distinction. I am told that, technically, if we put it after subclause (6), it makes it clear that both the report that is tabled in the House and the one that is made available publicly in subclause (6) will be the report that has the confidential information excluded and with the reference saying that confidential information has been excluded. If we insert it in the middle where the honourable member has suggested, it is ambiguous as to whether it applies to the report which is made publicly available. The intention would always be clear, but the honourable member might like to withdraw her amendment and move a new amendment.

The Hon. SANDRA KANCK: That sounds quite reasonable to me. Accordingly, I seek leave to withdraw my amendment.

Leave granted; amendment withdrawn.

The Hon. SANDRA KANCK: I move:

Page 17—

Line 25—After 'report' insert the following:

(excluding any information identified under subsection (3) as confidential information)

Line 28—After 'copies' insert:

(excluding any information identified under subsection (3) as confidential information)

After line 28—Insert new subclause (7):

(7) If information is excluded from a report as being confidential information, a note to that effect must be included in the report at the place in the report from which the information is excluded.

The amendments are consequential.

The Hon. R.I. LUCAS: I indicate the Government's support for the honourable member's amendments. We think they are wonderful amendments, and we are very happy to support them.

Amendments carried; clause as amended passed.

Clauses 34 to 43 passed.

New clause 44.

The Hon. SANDRA KANCK: I move:

After clause 43—Insert:

Review of Act

44.(1) The Minister is to review this Act to determine the effectiveness of the work of the Independent Regulator and the attainment of the objects of this Act.

(2) The review is to be undertaken as soon as possible after the period of two years from the date of assent to this Act and a report on the outcome of the review is to be completed within six months after that period of two years.

(3) The Minister must cause a copy of the report on the outcome of the review to be tabled in each House of Parliament within 12 sitting days after its completion.

This is an important aspect of accountability. The Independent Industry Regulator is probably one of the key positions

in ensuring that the electricity reform process in which the South Australian Government has been involved for a number of years is able to work effectively. As a consequence, it is very important that there be a review. As I have worded this new clause, the review has to be undertaken as soon as possible after the period of two years from the date of assent to this legislation and a report has to come out as a response to that review within six months after that.

The Hon. R.I. LUCAS: The Hon. Trevor Crothers addressed this issue just prior to the dinner break, and he did make an important point. The Government is sympathetic to the principle behind this amendment, and we are prepared to support something along these lines. Prior to the dinner break, the Hon. Mr Crothers indicated that a period of two years from assent of the Act is likely to be close to the next State election and that this may well be not the most opportune time for sensible and rational debate about the shape and structure—

The Hon. Sandra Kanck: We have sensible and rational debate the rest of the time.

The Hon. R.I. LUCAS: We do, but sometimes at election times our standards drop a bit, collectively as a species, and it is not the best time for sensible and rational debate. The Hon. Mr Crothers' point—and it might make sense—is that a newly re-elected Liberal Government or a Labor Government elected at the end of 2001 and the start of 2002—

The Hon. Sandra Kanck: What about a Democrat Government?

The Hon. R.I. LUCAS: That is highly unlikely. We would all leave the State if that were the case. The Hon. Mr Holloway and I would be on the same bus! On a more serious note, it would make sense for this review to be conducted in the first 12 months of a new Government, whichever flavour or shape it might happen to be as a Government. As I indicated also prior to the dinner break, I think it would make more sense; it would be much closer to the end of the transition period as we move to full contestability at the end of 2002 for the national electricity market. So we would be conducting a review three years down the track, which is a reasonable period, at the end of the transition period leading up to the fully fledged contestability under the national electricity market at the end of 2002. It would seem to make more sense to have a period of three years.

My good friend and colleague the Hon. Mr Crothers is unavoidably detained at the moment and is absent from the Chamber so, not on his behalf but instead of him, I will move an amendment, in the full knowledge that his spirit is with us and that it has his support. Therefore, I move to amend the Hon. Sandra Kanck's new clause as follows:

In subsection (2) leave out 'two years' twice occurring and insert in lieu thereof 'three years'.

The Hon. P. HOLLOWAY: I wish to indicate the Opposition's position on this. First, I think the Treasurer is a little sensitive in relation to an election date. As I read the Hon. Sandra Kanck's original amendment it suggests that this review begin after two years from the date of assent to this Act and that the review is to be completed within six months, so that puts any report out to 2½ years. Even if this Act is assented to next week, by my calculation that would put the likely date for any report to February 2002.

The Hon. R.I. Lucas: Might be right in the middle of a campaign.

The Hon. P. HOLLOWAY: Yes, but proposed new subclause (3) provides:

The Minister must cause a copy of the report on the outcome of the review to be tabled in each House of Parliament within 12 sitting days after its completion.

So, it is most unlikely that it would feature in an election campaign. Nevertheless, I think it is probably wise to put off a review for a longer period for one other reason, and that is because this review is to be taken up two years after the date of assent but in many ways the real work of the Independent Industry Regulator will begin after the leases of the electricity assets are taken up. I suspect that a lot of the work in the two years is not really going to teach many lessons; it will be when the new players come on to the scene, after the final lease process is completed.

I suspect that it is likely to be at least 12 months from now, anyway, before that final process is completed. So there would not be much time on which the Independent Industry Regulator would be basing his or her review in terms of any actual practice with industry in its new form. It probably makes sense, therefore, to have that review after the new private sector has been operating for some time. So there may actually be some sense in putting that report off a little further, for that reason rather than the spurious issue of an election.

The Hon. SANDRA KANCK: I have had a private conversation with the Hon. Terry Cameron and he has indicated that he will also be supporting the Government's amendment to my amendment, thus making it a three year period of time. So I recognise that that is going to be the outcome and obviously we will have to accept that. But I do make the point that I chose two years because I believed that, given the amount of change that is occurring in the electricity industry, a review after two years was necessary. I certainly had no thought at all about timing with elections when I made the choice of the two year period. I simply thought it was a very good time. I think three years may in fact be too long, but I accept the fact that a review after three years is better than no review at all.

Amendment to new clause carried; new clause as amended inserted.

Schedule and title passed.

Bill read a third time and passed.

ELECTRICITY (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 18 November. Page 217.)

The Hon. P. HOLLOWAY: Unlike the other electricity Bills this is one that I have not spoken on yet. I have certainly made a number of speeches on electricity in the past 14 or 15 months, but I have yet to make one on this particular Bill. Given the hour I will keep it as brief as I can. Under the privatised electricity industry, this Bill, the Electricity (Miscellaneous) Bill, and the Independent Industry Regulator Bill, which we have just passed, will provide the regulation and the Government oversight and planning such as there will be for the electricity industry. Privatisation will pass many key decisions to the private operators of the system, but it will not absolve the Government of responsibilities, no matter how much the Government may wish that to be the case.

We support the Bill in principle, because there is really little option to do otherwise. I want to speak to the key provisions of this Bill and I shall put them in 10 categories. The first provision relates to the Industry Regulator. We have

just passed legislation which establishes an Independent Industry Regulator. This Bill determines that the electricity industry should come under the Independent Industry Regulator's jurisdiction, so the matters we have just discussed for the last few hours will apply in relation to the electricity industry.

The second key provision of the Bill is the establishment of an Electricity Supply Industry Planning Council. It is interesting that this is not part of the Victorian scheme. In Victoria, market forces are assumed to provide regulation or planning in relation to the electricity industry; in other words, the 'invisible hand' of Adam Smith will guide the Victorian industry. It was stated during the House of Assembly debate that the cost of this Planning Council is estimated at something like $1.5 million and that it will require 10 staff. In some ways, it is a curious animal.

It is proposed that there be five members of this council, two of which under the amendments that the Minister has foreshadowed will be independent. That suggests that three members of this new Planning Council would be industry representatives. In many ways, I think that the establishment of this Planning Industry Council is really a vote of no confidence in the national electricity market. The market is supposed to bring forth a supply, and the 'invisible hand' is supposed to guide us to our solutions. Nevertheless, the Opposition will support the establishment of the council, because experience with the national electricity market indicates that the 'invisible hand', as its name suggests, might be more invisible than is desirable.

In fact, there are defects in the national electricity market, and this State is in perhaps a different situation from that of Victoria, because we are facing a shortage of electricity supply compared to the over-supply in Victoria. So, whilst we support the establishment of this new body, we will ask some questions during the Committee stage about its role. The third key provision of this Bill relates to the Technical Regulator. The Technical Regulator for the electricity industry was established in the 1996 amendments to the Electricity Bill. The Technical Regulator has the responsibility for technical standards, and this Bill now makes adjustments to the role of the Technical Regulator to take account of the establishment of the Independent Industry Regulator, which we established in the Bill we have just dealt with.

The fourth key provision of the Bill is the establishment of advisory committees. Under this Bill, a consumer advisory committee is to be established. The Treasurer has already indicated that he has set up an interim committee and he already indicated the tasks on which that interim committee has been working. In the United Kingdom it is interesting that there are something like 14 different consumer committees and, under the UK model, the members of those consumer committees are not representatives of groups such as the model that has been used in the interim committee but are individuals chosen as individuals. Anyone who has read *The Times* from time to time would know that those various committees that have been set up in the UK, not just for electricity but also for water, have done a very important job in keeping those industries honest.

Whilst we support the consumer advisory committee, we will also be seeking that there should be a technical advisory committee to advise the Technical Regulator. In the discussions that I have had with the unions responsible for this area, they believe that if there were some formal consultation process, such as a technical advisory committee, that would assist the resolution of many problems that happen at that technical level within the industry. One classic example of that is the lopping of trees where there are overhead powerlines. In the past this Chamber has dealt at length with changes to the Electricity Act to deal with the clearing of vegetation around powerlines. Under the Act, the Technical Regulator has been given the role of adjudicating many of those decisions.

It is the belief of those involved in the industry that, if there were a technical committee, many of the problems could be resolved. At present, contractors do much of that work and there are questions about the training and technical competence of some of the people involved in it. The unions I have spoken to were concerned about questions of safety in that matter and believed that, if there were some technical body advising the Technical Regulator, those issues could be dealt with there and then, and that would be the best way to do it.

The fifth key area of this Bill relates to licensing. Clearly, there will be complex licensing provisions under the new regime. The Independent Industry Regulator has the responsibility of issuing licences for the generators, the transmission and distribution networks and the retailers in our electricity system. Under the licensing system, the costs are to recover the reasonable costs associated with the Electricity Supply Industry Planning Council, the Office of the Independent Industry Regulator and the costs of administering these Acts. During the Committee stage I will be asking some questions of the Treasurer in relation to what proportion that might be. I will also be asking some questions in relation to the transfer and variation of those licences. The question of licensing is an important part of this Bill.

The sixth key area is price regulation, which we dealt with to some extent in the Independent Industry Regulator Bill. Price regulation is perhaps the most important provision of this Bill: there are expectations about what price regulation will determine. Clearly, those expectations that the industry has about the impact of price regulation will determine the price ultimately paid to lease our main assets, the ETSA transmission and distribution network. I should point out at this stage that, whereas the Independent Industry Regulator obviously has a necessary function in relation to regulating those monopoly assets (the distribution and transmission networks), it is my understanding that the Industry Regulator will not be involved in the regulation of the generation side of the industry, which is assumed to be competitive, and that any regulation there is left to NEMMCO.

The seventh key area is what might be described as emergency powers. This Bill provides the powers of entry, the supervision of licences or the cancellation of licences, and other powers that might be necessary to take over the operations of private electricity operators should some calamity occur. The eighth key provision relates to the undergrounding of powerlines. During the Electricity (Sale and Disposal) Bill I raised some questions about the undergrounding of powerlines. The Treasurer indicated during that debate that the lease contracts will require the new private operators of our electricity assets to undertake a certain amount of undergrounding. I would like some more details about that and will raise that during the relevant part of the Committee debate.

The ninth key area of this Bill relates to reviews and appeals. Under these provisions, any review sought by the new private industry will be directed in the first instance to the relevant regulator, either the Independent Industry Regulator or the Technical Regulator, then provision is made

to the District Court. We support that provision. The last key provision, schedule 1, relates to the cross-ownership rules. Clearly, that is a very important part of the Bill, and during the Committee stage I will raise some questions in relation to it. Those 10 points are the main parts of the Bill. The Opposition agrees with the necessity for having each of those measures within the Bill. We do have some issues that I will raise, as I said, at the relevant stage during Committee. We support the second reading of the Bill.

The Hon. R.I. LUCAS (Treasurer): I thank the Hon. Mr Holloway and the Hon. Sandra Kanck, who addressed this Bill many months ago, for their indications of support for the second reading.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4.

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

Page 1, after line 19—Insert new paragraph as follows:
(a1) by striking out the definition of 'access';

Essentially, this is a technical amendment. It is necessary because the word 'access' is used in some subsequent provisions of the Bill. It does not mean access to a network for the purposes of contributing electricity to or taking electricity from the network (see, for example, proposed new section 23(1)(i), (1)(ii) and (m)(ii)).

Amendment carried.

The Hon. SANDRA KANCK: I move:

Page 2, after line 2—Insert:
(ba) by inserting after the definition of 'electricity officer' the following definition:
'Electricity Ombudsman' means the person holding or acting in the office of Electricity Supply Industry Ombudsman established under Part 3A;

What I am doing here is putting into effect what the Government says it will do. We have had this Bill before us for two days short of a year. The Minister's second reading explanation makes reference to an Electricity Supply Industry Ombudsman as, by the way, did the second reading explanation of the Independent Industry Regulator Bill. Yet, 12 months on, there is no sign of the Government introducing any specific legislation to give us this sort of protection. I will look at what the Government said in the second reading explanation, because I think these are laudable aims. With regard to the Electricity Supply Industry Ombudsman the Government said:

> . . . the Government is strongly committed to consumer protection. As a result, each transmission, distribution and retail licence will be required to include a condition that requires the licensee to participate in an Electricity Supply Industry Ombudsman scheme. While this scheme will be established and operated by industry, its terms and conditions must be approved by the Independent Industry Regulator. The Government expects that the ombudsman will provide a strong and independent voice for customers and that it will oversee the resolution of electricity consumer complaints in relation to, for example, the provision of electricity services, the administration of credit payment services and the disconnection of electricity supply.
>
> The Bill requires the Independent Industry Regulator to liaise with the Electricity Supply Industry Ombudsman in performing its licensing functions.

That was the contention in the second reading explanation, but the only requirement that I can find in the Bill (page 3) is new section 6A, which provides:

> (2) In performing licensing functions under this Act, the Industry Regulator must liaise with the ombudsman appointed under the Electricity Supply Industry Ombudsman scheme in which electricity entities are required by licence condition to participate.

That to me barely touches the sides of what was promised. A short time ago we dispensed with the Independent Industry Regulator Bill, and the second reading explanation to that Bill also referred to the Electricity Industry Ombudsman, as follows:

> The Independent Regulator will monitor and enforce compliance with minimum standards of service. This function will involve liaising with the Electricity Industry Ombudsman. The ombudsman scheme is itself an important feature of the restructured electricity industry.

I stress that it is the Government saying that it is an important feature. It continues:

> It will be established and operated by industry, but in a form approved by the Independent Regulator. The first ombudsman will be appointed on the recommendation of the Minister. The ombudsman's functions could include investigating and facilitating the resolution of complaints and dealing with disconnection and security of deposit claims.

The Government, in relation to the Bill we are dealing with and also the Independent Industry Regulator Bill, has said clearly that such a scheme is very important, but we have waited 12 months for it to come up with such a scheme and it is not there.

As I said, the one very tiny reference to the ombudsman scheme in this Bill is very inadequate. It truly does not compare with what the Government itself promised. As I read both the Independent Industry Regulator Bill, which we have just passed, and this Bill, we will face a situation, if we do not take the bull by the horns now, of having no say in what finally gets up as an ombudsman scheme.

I placed these amendments on file in March to redress this situation because I did not want to leave it entirely up to the Independent Industry Regulator to set up. I have used the Tasmanian system as a model and, in keeping with the accountability which the Democrats believe should be part of a privatised electricity industry, the ombudsman would be reporting directly to Parliament.

If we do not take this opportunity now, unless the Government gives some indication that it will introduce legislation to set this up, we will pass by the opportunity and leave it in the hands of the Independent Industry Regulator—and I for one would not be happy with that.

The Hon. R.I. LUCAS: The Government strongly opposes this provision. It is useful that we have this debate early, because it will be a test vote on pages and pages of amendments from the Hon. Sandra Kanck and we can resolve it, I guess, one way or another. It is a nonsense for the Hon. Sandra Kanck to in any way indicate that the Government has dallied in relation to the establishment of the Electricity Industry Ombudsman.

It is a part of the new privatised industry. We do not yet have a privatised industry: we have not had it for the past 15 months. It was something the Government promised as part of its package of reforms upon the successful passage of the restructuring Bill, which went through the Parliament last month. So this sort of nonsense from the honourable member that the Government has been dallying and that she had to take action to implement this scheme is misleading in the extreme.

The Hon. Sandra Kanck interjecting:

The Hon. R.I. LUCAS: The Government has a proposal, and it was a proposal for a privatised electricity industry. The Government will have a scheme, as part of its overall regulatory framework, for a privatised electricity industry here in South Australia.

The Hon. Sandra Kanck: When will we see it?

The Hon. R.I. LUCAS: We will discuss it now. I want to refer to the practical experience of what the Government is suggesting, and that is the model in Victoria. The honourable member knows that, because I had discussions with her last year and I indicated that, if she wanted to have a look at the model of what the Government was suggesting, she should go to Victoria and talk to the Electricity Ombudsman and her staff and look at the operation of that model. I am told that the scheme the Government is suggesting is also operating in New South Wales. So, we are talking about an industry ombudsman scheme.

I want to refer to some examples of the Victorian scheme to indicate what we are recommending for South Australia. In doing so, I want to place on the record, as I said, the fact that in all the discussions I had with the Hon. Sandra Kanck last year (and I am not sure whether we had any this year but certainly we did last year) I made quite clear to the honourable member the nature of the scheme that the Government was going to introduce here in South Australia. As we have just finished dealing with the Industry Regulator Bill, I think it is appropriate, because what the Government is suggesting here is an appropriate balance of consumer protection. Certainly, the Government rejects—and rejects most strongly—the honourable member's suggestion that the only way for consumers to be protected is her onerous statutory ombudsman scheme.

We have a most powerful office in the Independent Industry Regulator. We believe that we should have an Electricity Ombudsman working with consumers and with the industry in the interests of trying to conciliate and resolve many of these issues. Just as the Electricity Ombudsman in Victoria works very closely with the Office of the Regulator-General, we would similarly see the Electricity Ombudsman working very closely with the Independent Regulator here in South Australia. So, you will have an Independent Regulator, you will have an Electricity Ombudsman and you will obviously have the ACCC at higher levels of complaint in terms of competition principles and policy. You will have broad oversight by NEMMCO and NECA as national authorities and, of course, you will have members of Parliament and the Parliament to which consumers and industry can complain. So, I do not think anyone can argue that this will not be a most thoroughly regulated and protected industry, with all the layers of regulation and protection that the Government is recommending.

I want to highlight, from the 1997-98 annual report of the Electricity Industry Ombudsman Scheme in Victoria, the success of that scheme. This is the model that the Government is recommending, that is, a scheme in which, by licence requirement, all the industry operatives would have to be participants. They would have to make contributions to the cost of running the scheme as part of an industry ombudsman arrangement. In 1997-98, the Ombudsman in Victoria received 8 012 telephone contacts, resulting in 3 636 cases, 2 562 inquiries, 417 consultations, 412 complaints and 245 disputes. A total of 65 per cent of the closed consultations were conciliated by the Ombudsman, 54 per cent of closed complaints were conciliated and 96 per cent of closed disputes were conciliated.

Of all the resolved consultations, complaints and disputes, 56.44 per cent were settled substantially in favour of the complainant, and a further 9.14 per cent were settled partly in favour of the complainant. So, if one assumes that the majority of the complainants were consumers (which I think is a reasonable assumption), some 66 per cent of all the consultations, complaints and disputes were settled in favour of the complainants, or the consumers, by the Electricity Industry Ombudsman scheme in Victoria. Some 10 binding decisions were made on cases which failed to settle by discussion and agreement between the parties. The average dollar claim on supply cases was $2 172 and the average dollar settlement was some $682.21. They are not insignificant sums of money for individual consumers, assuming that we are talking about individual householders in the vast majority of cases. The number of cases has increased by 4 per cent, and 20 per cent of the cases were referred by electricity companies. A total of 10 binding decisions were made in favour of complainants and 10 decisions were made not to further investigate customer complaints.

I will not go through the whole of the report from the Electricity Ombudsman, but it makes very interesting reading in terms of the success of the industry ombudsman scheme in Victoria. That scheme was established in virtually exactly the same way as the Government is recommending with this scheme. Victoria did not have provision for it in its legislation, and it just established the scheme as part of its licensing arrangements. The Government's advice here was that we needed only a brief reference in our legislation, and it is the intention of the Government, the industry and the Industry Regulator, obviously, to see the implementation of a scheme modelled along the lines of the Victorian scheme in particular.

The scheme in Victoria has been shown to be successful. The Hon. Sandra Kanck has not endeavoured this afternoon to indicate that the scheme in Victoria has not been successful, and the Government sees some significant problems with the statutory scheme that the honourable member seeks to implement through the 10 or 15 pages of amendments that she has placed on file.

In terms of trying to encourage people to invest in our industry here in South Australia, we think that a reasonable level of regulation is what is appropriate if we want to achieve the appropriate balance between the protection of consumers (which the Government is committed to) and maximising interest in our electricity businesses and maximising the lease proceeds from our electricity businesses here in South Australia. That is why the Government has looked in the first instance to a regulatory framework modelled on the Victorian scheme, because many of the potential investors are either operating in Victoria or they have made a study of the Victorian circumstances, as they may well have been unsuccessful bidders for the Victorian assets when they went on the market some two to three years ago.

So, most of the bidders are very familiar with the Victorian regulatory framework. They are familiar with how the Office of the Regulator-General operates and they are familiar with how the Electricity Ombudsman scheme operates. What these bidders are looking for when they are looking to invest thousands of millions of dollars in our industry is knowledge of what they are letting themselves in for and some sort of viewpoint that they will have a reasonable degree of stability in their regulatory framework and regulatory environment. So, we want to be able to say to these potential investors, 'Do not be concerned by what is being applied here in South Australia: it is very similar, perhaps with some improvements here and there, to what you would have seen in Victoria and also in New South Wales, if you have had a look at New South Wales. You should feel comfortable that there is certainly a good degree of consumer

protection. You can be aware that this will be applied reasonably and appropriately in protecting consumer interests and also in ensuring that you are treated fairly as private sector operators of some of our major businesses here in South Australia.'

The functions of the statutory ombudsman scheme that the honourable member has moved are extremely broad and extend beyond the investigation and resolution of consumer complaints—for example, the ombudsman could investigate complaints by electricity entities against each other. I am advised that, under the scheme the honourable member has devised, one of the big electricity businesses could institute a complaint against another of the big electricity businesses, and the resources and the time of the ombudsman, as modelled by the honourable member, would need to be devoted to a long and drawn out affair between the electricity businesses. It is an extremely competitive market. In this world, one competitor could place a stranglehold on the operations of another competitor through the lodging of a complaint. A business could tie up a competitor's business with a long and involved investigation and inquiry by a statutory ombudsman who, I am told, has very significant powers—to require the production of information and documents and to examine witnesses under oath, not being bound by the rules of evidence.

There is no limit on the size of awards that can be made by the ombudsman. An ombudsman is precluded from awarding costs against a complainant, so that if it is a vexatious complaint no costs can be awarded against a complainant. There is no appeal against an award except on a question of law. There would be tremendous incentive for either malicious individuals or organisations, or one business operating against the business interests of another, to institute complaint after complaint through the statutory ombudsman scheme as recommended by the honourable member.

The fact that the Democrats scheme contains no cap on the size of awards will be of particular concern to potential bidders and investors in South Australia's electricity businesses. Unlimited liability in relation to a number of these issues where a statutory ombudsman can make an award of any size to a successful complainant would be a significant disincentive for someone who was contemplating making a significant investment in South Australia's electricity businesses. It would certainly impose considerable costs on our electricity industry participants, particularly retailers and distributors, who obviously must work with up to 733 000 customers in South Australia.

The award, under the Democrats scheme that the honourable member proposes, is again very broad; it includes payment of compensation, provision of goods or services, waiver of a charge for service and undertaking corrective work. Because in all these areas the ombudsman is precluded from awarding costs against the vexatious complainant, for example, because the entity cannot appeal against an award except on a question of law, because the ombudsman is not bound by rules of evidence and because there is no limit on the size of awards, my very strong legal and commercial advice is that there will be considerable concern from bidders and investors in our industry in South Australia should this statutory ombudsman scheme as proposed by the Democrats be successful.

The Government's very strong view is that this package ought to be rejected on the grounds that we believe we have more than adequately catered for the interests of consumers in South Australia through the very strong powers of the Independent Regulator, with the codes and the standards that will be required for service, and through the very successful model of the Victorian Industry Ombudsman scheme, which is operated by the industry and under the oversight of the Independent Regulator. The industry cannot put together a tame cat set of rules for the operations of the Industry Ombudsman because the Independent Regulator must approve the set of rules.

The Independent Regulator is there to protect consumers in our market, as we discussed under the Bill this afternoon. Under clause 5(2), a number of key objectives for the Independent Regulator are the protection of consumers and ensuring that good quality electricity services are being provided to consumers in South Australia at as reasonable a price as we can offer through our competitive industry structure. The Government is driven by a notion of wanting to see more than adequate protection for our consumers in South Australia. Equally, the Government wants to see a framework that is fair to the investors and the people we intend to try to encourage to operate in our industry in South Australia in that they will be treated fairly and there will not be a one-sided set of provisions in relation to the regulatory framework in South Australia.

This is a test clause. I do not intend to speak on all the other provisions to the same extent, obviously, but I do urge members in the Chamber not to accept this unlimited, very broad, very comprehensive and, we believe, much too onerous set of provisions that the Hon. Sandra Kanck has moved in a package of amendments.

The Hon. P. HOLLOWAY: This is a test clause for the establishment of an Electricity Ombudsman. The test is whether, if we support the Hon. Sandra Kanck's amendment, the position of Electricity Ombudsman will be a statutory position. If we reject the amendment, we will take the Government on faith to establish a position without statutory provisions. The Opposition gives in-principle support to making the Electricity Ombudsman a statutory position. If there are defects in other parts of the Hon. Sandra Kanck's provision, we can address them as we come to them.

It seems to me, as my colleague the Hon. Ron Roberts pointed out, that what the Hon. Sandra Kanck wants is a real Electricity Ombudsman: what the Treasurer appears to be arguing is that, if we give the ombudsman too many powers, that might frighten away some of the electricity companies as they might be worried about this. During his speech the Treasurer pointed out that the Victorian scheme appears to have been successful. It may well be successful in its early years. I think we all expect that regulations for newly privatised industries are set up in a new environment: all the new players are keen to be seen to be doing the right thing to quell any fears there might be. Of course, the new bodies that are set up to regulate likewise want to be seen to be doing the right thing.

One need look only at the UK, where there has been privatisation of some industries—for example, water—for a number of years, to see that there is now a need for much tougher measures in relation to consumer protection. Indeed, in the United Kingdom at this very moment some quite strong changes are being made to the regulation of the water industry after 10 or 15 years' experience. The real point about this amendment is that after privatisation of the industry we lose the capacity to raise, in a public forum such as this, issues of any abuse of power or unfair treatment of consumers.

I am sure that all members would be aware of occasions over the past few years where, from time to time, a member will raise an issue on behalf of a constituent in relation to a problem in the electricity industry. That is a fundamental protection under the system now. Once the industry passes into private hands, we lose that capacity. We need a strong, independent Electricity Ombudsman to take over that role so that, if there are consumer complaints, such as a person's having their power cut off for trivial reasons or for reasons that are not satisfactory, that person can seek readdress to their grievance through an independent Electricity Ombudsman.

We believe that, if that position is given statutory backing, it is far more likely that that strong independent's view will prevail. Without the existence of statutory backing there is always the risk that the office can be subject to pressures. Whereas the Victorian scheme might be working reasonably well now, I can think of other industry ombudsman schemes such as those in the banking and insurance industries. I am not so sure that those schemes are as successful in addressing complaints against the banking and insurance industries as we would find when using a strong and independent statutory appointed Ombudsman.

The point is that, with a statutory scheme, the ombudsman is appointed under the Act and has the backing of Parliament, and the ombudsman's position cannot be interfered with. The scheme could be based on industry funding, as some of these other schemes are. I am not suggesting that that is what the Government will do, but as we do not have any plans it is a possibility. Without that firm backing there is always a risk that pressure will be provided. The Treasurer has said that an Electricity Ombudsman scheme would cost consumers, the Government or the industry. At the end of the day any protection provided to customers will cost money, but that is the price we have to pay to ensure that we have that protection. If we have an ineffective ombudsman it might cost less but it will not resolve the grievances.

A balance has to be reached between the satisfactory addressing of grievances that customers might have with keeping the cost reasonable. That balance will have to be found under any scheme. The test before us now is whether this position of Electricity Ombudsman should have statutory backing or whether we just rely on the good faith of the Government in coming up with an acceptable scheme. The Opposition believes that we should go down the statutory path. If there are other problems with parts of the Hon. Sandra Kanck's proposal—and, given that there are 15 pages of them, there may well be—we will deal with them later.

The Hon. NICK XENOPHON: I indicate my support for the Hon. Sandra Kanck's amendment. An important principle is at stake. The Electricity Ombudsman ought to have statutory teeth. As the Hon. Paul Holloway has indicated, it is important that we understand that, once this industry is in private hands, in many respects we will be very much in the hands of the industry and its goodwill in funding the scheme. If it is funded by the industry, it will be analogous to the Gamblers' Rehabilitation Fund, but that in itself raises all sorts of issues of independence and the ability of the GRF to act fearlessly on a number of issues.

Without statutory teeth I am concerned that this will not benefit consumers as it ought to. I understand the Treasurer's view that he wants to maximise returns and for the industry to have a good investment environment, but the fact is that this should be about consumers having adequate protection, about a framework that delivers benefits to consumers, which is the very reason why we got involved in the electricity market in the first place. I would have thought that those concerns were paramount—the concerns of consumers—and that the regime recommended by the Hon. Sandra Kanck through a statutory ombudsman scheme is the best way of achieving that.

The Hon. R.I. LUCAS: I want to reaffirm one or two comments in response to the comments of the Hon. Mr Holloway on this provision and the Hon. Mr Xenophon. I repeat: the Government is absolutely committed to ensuring a fair regulatory environment for consumers in South Australia. The Government indicates that, through its commitment to the Electricity Ombudsman scheme, it is not something the Government is saying it is thinking about, as I think was the inference of the Hon. Mr Holloway. Through the provision in this Bill and through the licensing provisions with the new operators of our businesses the Government will be quite explicit. There will be an ombudsman scheme; and it will be funded by the industry so that we the taxpayers do not have to pay for it, as we are likely to have to do with the statutory ombudsman.

The Hon. Sandra Kanck: When will we see the paper work?

The Hon. R.I. LUCAS: When the Independent Industry Regulator approves it. The industry participants will have to put together a scheme which will be very similar to the Victorian scheme. It has to be approved by the Independent Industry Regulator and, having approved it, it will then be publicly available for all of us to see. As I said, it is the Government's intention to see a scheme modelled on the Victorian scheme. If in the review in three years—and we are now to have a review of the operations of the Independent Industry Regulator—when we look at how all of this has been operating there are demonstrable problems in relation to any aspect of the overall industry oversight, at least then there will be some justification for the onerous 15 pages of amendments that the Hon. Sandra Kanck seeks to impose through her statutory ombudsman scheme.

The Government is saying that, with the onerous provisions that we already have with the Independent Industry Regulator and with the other regulatory authorities that relate to the electricity industry anyway, and with an Electricity Ombudsman scheme modelled on the Victorian scheme, we have a package of measures that will adequately protect South Australian consumers. That is one of the Government's intentions in terms of its reform and privatisation process. As we discussed this afternoon, the Independent Industry Regulator has significant powers in relation to the various codes.

The Hon. Mr Holloway talked about the standard of service and other similar comments in his contribution; the inference being that the only way of protecting those standards of service is in some way through an Electricity Ombudsman. It is not through the industry ombudsman that those standards and codes will be protected—it will be through the office of the Independent Regulator.

The office of the Independent Regulator will establish all those codes and will review and monitor them. Whilst the Hon. Mr Holloway might want to talk about the UK experience, that is not the issue of the ombudsman but the issue of the regulatory authority which, in our case, is the Independent Industry Regulator. It is he or she who will establish the standards of service, how quickly someone should arrive to fix a problem in the distribution system.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: For an individual complaint, if a person complains about being disconnected, they will do pretty much what they do now, that is, approach the business first. At the moment we do not have an ombudsman or a regulator so, if you are disconnected, you go first to the business. We will be encouraging them to go to the business first to try to resolve it and, if they still have a complaint, they will have an additional avenue for resolution. They will be able to approach the ombudsman. In 66 per cent of cases in Victoria complaints are resolved in favour of the complainant or the consumer. However, they still have the provisions that they currently have.

The honourable member says that people involved with the Government owned industry can complain to a member of Parliament. They can still do that. With due respect to the Hon. Mr Holloway, if someone has been disconnected and comes to speak to the Hon. Mr Holloway there is not much that he can do. He can write a letter to the Minister or contact someone in ETSA directly and seek to achieve change. If he does not achieve that, if he is adept enough, he might be able to get publicity in the local newspaper—

The Hon. T. Crothers interjecting:

The Hon. R.I. LUCAS: Yes, he could do all of that. He could get some publicity and embarrass the company or the Government into doing it. Under the new arrangements, if a consumer has a complaint, he or she will have an additional body to approach. First, they can go to the company and then to the ombudsman and, if they are still unhappy having gone to both of those—I understand that in Victoria some go to the office of the Regulator General—they can come to the Hon. Mr Holloway.

The Hon. Mr Holloway can stand up in Parliament and do as he probably does at present if he has a particular complaint: he can write to the Minister in charge of the broad regulatory industry framework and complain, or he can seek to get publicity for it and place in the media some information that is embarrassing for the operators of the business. So, ultimately, when the ombudsman and the Regulator report, they will report unfavourably against the operators of the businesses in South Australia.

So, those options remain. The only option that does not remain is this notion that in some way the Hon. Mr Holloway can speak to me as the Minister and that I will direct ETSA to reconnect somebody. I have been the Minister for 12 months, and I can assure the honourable member that the way I operate as a Minister is that I am not telling ETSA to reconnect one of the Hon. Mr Holloway's constituents if he has a complaint. I do not see it as my role—and I do not think most Ministers would—when running what is meant to be a competitive business, to tell it to either reconnect a constituent or reduce their bill by a certain amount, or whatever. The practical reality is—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: And that check can still remain. As a member of the Parliament, as the Hon. Mr Holloway is, he can raise these issues. He can continue to probe, and he can talk to the ombudsman himself, the media or the Industry Regulator. Indeed, if it became so bad, he could form a parliamentary select committee to look into the industry if he wanted to.

The Hon. P. Holloway: It is whether the office of ombudsman is a statutory office or a non-statutory office; that's the issue.

The Hon. R.I. LUCAS: That is right. But I am addressing the issue whereby the honourable member, in his contribution, was indicating that, in some way, this statutory ombudsman would provide a level of protection that was missing in the Government's regulatory framework. I strongly believe that that is not the case. The honourable member referred to the fact that people could complain to the Hon. Mr Holloway or to a member of Parliament, the inference being that they could not do so under a privatised industry. I am saying that they can complain to the Hon. Mr Holloway and can continue to complain to him and they can have the issues raised, if they need to, through a number of mechanisms. They will have an additional element.

With due respect to the Hon. Mr Holloway, Victoria has a more useful and powerful element, that is, an Electricity Ombudsman, who has successfully resolved 66 per cent of complaints in favour of the consumer and who took 8 000 telephone inquiries last year on a whole variety of issues. The Victorian scheme is not being pooh-poohed by consumers on the basis that it has not been proved to be useful. I do not have direct experience with the Banking Ombudsman or the Insurance Ombudsman. I am aware a little of the Telecommunications Ombudsman because of the role that Warwick Smith played in that position for a while. Certainly, my knowledge of that ombudsman is that some useful and successful work was undertaken by him.

The Hon. T. Crothers interjecting:

The Hon. R.I. LUCAS: He certainly was at one stage. I am not sure what he is these days. He is working for a merchant bank now, so I am not sure whether you can be wet and work for a merchant bank at the same time. I am certainly aware of some of the successful aspects of that industry scheme. There is this notion that in some way an industry scheme is polluted by the fact that it is being funded by the industry. However, as I said, we need to bear in mind that ultimately the industry cannot determine the nature of the scheme: it has to be approved by the Independent Industry Regulator. So, if sections of the industry got together and appointed Paul Holloway as their ombudsman and said, 'Paul, we know you're on our side; you can be the ombudsman' and put together a tame cat scheme, then the Independent Regulator would immediately reject that. It has to pass the muster of the Independent Regulator in terms of its being a valid and useful independent ombudsman scheme, not a tame cat scheme just to quieten people in relation to complaints against the electricity industry.

If all that the Government was coming to and that this Parliament was saying was, 'All we are offering you is an Electricity Ombudsman scheme along the model we have', I could understand some of the complaints. However, it is only one element of a total package. It is a very powerful statutory Independent Regulator. The ACCC will control all the consumer competition issues at the macro level. NEMMCO and NECA will operate in various specific areas, and I do not overplay their significance in relation to individual complaints. People such as the Hon. Mr Xenophon and others are able to have discussions with various regulatory authorities such as NEMMCO and NECA, or their representatives, when they have complaints about the shape and the structure of the industry.

As I said, you then have the parliamentary level, where you have members of Parliament and political Parties, maybe eventually parliamentary committees, if it is sufficiently serious, and the Minister of the day having to be held accountable.

The Hon. T. Crothers: Elections.

The Hon. R.I. LUCAS: Obviously, if thousands of people are complaining about the level of consumer protection, it is not in the interests of any political Party or Government to have that set of circumstances. We are not consciously setting ourselves up to fail by leading the consumers of South Australia to the greedy grasp of new private sector operators: we are genuinely trying to provide a reasonable balance.

In relation to the Hon. Mr Xenophon's comments, the Government is not just being directed by one objective of maximising investor interest. All along I have said that we need a viable industry where people are prepared to invest and get a reasonable return for their investment, and we need reasonable levels of protection for our consumers in South Australia, and certainly no less than we would hope—maybe some improvement—regarding the levels of protection in the industry.

For the first time under this Government we will have, through the Industry Regulator scheme, requirements on standards of performance—something we have not had in South Australia under the monopoly Government operators and under the existing schemes in South Australia. We will have standards of service delivery in terms of outages in a year; the time required to fix the street lights, for example; and punctuality and times of meeting appointments. A range of those service delivery aspects which we discussed under the Industry Regulator Bill will, for the first time, be set down as standards of service delivery that the Independent Regulator will be seeking to see delivered by the individual electricity businesses.

The Hon. T. CROTHERS: I just say to the Minister that Gough Whitlam's son Nicholas was a merchant banker. Having disposed of that matter, I indicate that we will be supporting the Treasurer's amendment. The Treasurer did refer to the fact that the Hon. Ms Kanck has 15 pages of amendments; he has 20 pages. Having said that, I will support my colleague from SA First, the Hon. Mr Cameron, who is somewhat unwell at present. I also indicate that he will be supporting the Treasurer's five amendments. I simply do that from the outset so that you, Mr Chairman, and the other two officers of the Parliament, when the votes are taken on the voices, have in front of you a condensed algebraic equation, upon which, irrespective of the cacophony of noise, you will understand that my colleague from SA First and I will be supporting the Government's amendments on file.

I indicate that I do that simply because it is in for a penny, in for a pound for me. When I supported the lease—the major Bills to which these are component parts, or nuts and bolts parts or whatever you like to call them—I believed that, in the interests of good governance and the maximisation—irrespective of what the Treasurer says—of price, these matters have to be disposed of reasonably quickly. They have to be disposed of reasonably quickly so that, whoever the interested parties are with respect to the lease, they know the totality of the picture regarding that former Government instrumentality and the totality of the picture as to what they are up for as a pending or potential lessor. I can see all sorts of problems. Already I hear some rumblings from another place with respect to the Local Government Bill and I foresee a similar fanfare of trumpets. Treasurer, did you say it had been dealt with in the other place?

The Hon. R.I. Lucas: Yes, but any amendments would have to go down there.

The Hon. T. CROTHERS: Exactly; so I can see another fanfare of trumpets, which would do nothing else but delay this matter or at least keep this House sitting until next week or the week after, as the Government seeks to struggle to deal with the matter to ensure that there is a total package available for impending lessors to look at, rather than a higgledy-piggledy 'might be', 'could be' and 'perhaps'. I often say when I am on my feet in this House that one would have to be a seer with a crystal ball to know how a particular set of legislation is going to work. How can one determine what is a good thing and what is a bad thing? It is for that purpose and in the interests of good governance that I indicate that both myself and my colleague from SA First—who is absent from the Chamber through illness, but who is in the building, should he be summoned) will be supporting the list of amendments standing in the name of the Treasurer.

Governments are generally not silly. Sometimes they are, as with the Federal Government at the moment with its Reithian adventurism. It will get them into awful trouble at the next Federal electoral fiesta—or I will go hopping from China. I could have even supported the Federal Treasurer's GST, but as I see it now with the yuppie amendments that have been moved, where there is no tax on yoghurt and sour milk and wholegrain bread, and all that Burnside magic that we see, that has created a number of loopholes in that Act, which I think you could drive an even bigger cart through than is currently the case in the present taxation Act we have. I realise that is straying a bit from the germane core of what we are discussing, but the analogy is there.

If you have a Government of the day being forced into accepting amendments from Opposition Parties—and some amendments are germane and they are necessary—and where one can see that it is a question of shimmying around as to how the matter should progress, then I for one indicate that I, and my colleague from SA First, will support the Treasurer's amendments on this Bill. I may have more to say because there may be other contributors, but I will keep those shots in my locker, if you like. I understand that the Treasurer has said that this vote will be a test case.

The Hon. R.R. ROBERTS: I rise to make a contribution in this debate about the privatisation of a Government asset and the need for an Ombudsman. We have witnessed through Parliaments in the last few years a propensity to move away from Government owned facilities and to go for a privatised system. We have already had those arguments in this Council a few weeks ago and that decision has been taken, but what we did not do was to say that consumers in South Australia ought to be less well served than they have been served in the past. I personally am concerned that we are continually setting up these authorities and setting up independent regulators and setting up Ombudsmen to take over the role which I believe ought to be taken by the Parliament itself.

On many occasions legislation is introduced and members, including members in the Opposition—we are guilty of it—have moved amendments to put all these things at arm's length from the Government. If we keep doing it we will get to the stage where the only thing we will be talking about in the Parliament is parliamentary superannuation. We will not have anything else to talk about because it will all be at arm's length. The Hon. Treasurer in his contribution in support of his argument for an industry funded Independent Ombudsman, similar to that in Victoria, relied on the report of the Independent Ombudsman in Victoria last year. There are not too many people who write reports about themselves and say, 'I have done a rotten job, I am really not all that good and you ought to get rid of me.' Generally, they will come out with a fairly glowing report.

What I ask the Hon. Treasurer and those opposing this motion to do is to look at the system now, the system as we know it in ETSA. There has been a structure whereby the public were protected. We did not have an independent regulator to say how the industry ought to be run. We had the ETSA board who basically made the rules and came to the Parliament and said, 'We think these are goods rules,' and, where necessary, we legislated to ensure that that—

The Hon. R.I. Lucas interjecting:

The Hon. R.R. ROBERTS: I will get to that. What we had was an independent regulatory authority which worked with Government to say with the standards were within the industry and to say what we ought to be doing. So that process was there. Because it was a statutory authority, if someone went to ETSA but could not get the relief that the Treasurer talked about when he was responding to the Hon. Paul Holloway, a person could go to his or her member of Parliament, who may have been able to go to ETSA and get the thing fixed up. But as with a statutory authority, similar to WorkCover which is a statutory authority, if a consumer felt that he was hard done by he could actually go to the Ombudsman and say, 'I have been disadvantaged by a statutory authority and I want you to step in.'

We had a debate here some 12 months ago when we privatised case management, and one of the failings of the privatisation of case management, self-funded insurers, was that consumers or injured workers who felt that they were hard done by were not able, under the new scheme, to access their records through the Ombudsman. The Legislative Review Committee had an inquiry and the Ombudsman came forward, people from WorkCover came forward, and we all agreed that there was a failing and a Bill passed this place to say that, in that case, the Ombudsman, that is the Eugene Biganovsky type Ombudsman that we know, can access those records. I might add that the legislation has not been proclaimed yet, although it was over 12 months ago. But it was a clear indication that, whilst we were changing the Government scheme to privatise different sections of it, it was the clear view of the Parliament that there needed to be an oversight of some person with the authority of an Ombudsman.

We also had the same principle when we did the industrial legislation a few years ago, and the Government said there ought to be an Ombudsman that can look after workers. Well, I would suggest that their motive was more to get rid of the trade unions, but they wanted to put up some token Ombudsman. On behalf of the Labor Opposition I moved amendments at that time on the basis that, if we were going to have an Ombudsman, he ought to be clearly identifiable and he ought not to be interfered with my either political Party. The only way you can shift an Ombudsman is by a vote of both Houses of Parliament. So, we implemented those amendments, with the support of the Democrats, and we set up the industry ombudsman, the Employee Ombudsman. I think any fair view of the operations of the Ombudsman in that industry is that he has done a exceptionally good job. But he does have those Ombudsman's powers as we would normally perceive an Ombudsman.

Now having moved to the privatised system in this scheme, with electricity, we are now saying that it has been taken out of these realms and, the consumer, because it is no longer a statutory authority, cannot go to Eugene Biganovsky and seek relief. What the Treasurer and the Hon. Sandra Kanck suggest is that there ought to be an Ombudsman there. However, one is a toothless tiger and one has the statutory powers of an Ombudsman as we know him. We come to the principle that I referred to earlier, on which we now have a decision, although not everyone has necessarily agreed, that we are going to go into a privatised system of electricity, but no-one has ever said that consumers ought to expect less than they had under the old scheme.

I submit that the best way to provide those protections with an independent oversight is to have an ombudsman who is a statutory person, and I take the point that the Treasurer made, that he wants the industry to fund it. We actually have fishing committees and all sorts of statutory authorities in this State that are self-funded, therefore we just levy those people who participate in them and the funding is met. So, who funds it is not really a problem. Having an Industry Ombudsman who has statutory powers does not mean to say that the industry cannot contribute to the cost of running the ombudsman to provide protection for consumers and, indeed, protection for the industry. The ombudsman is not there only for the consumer; he is there to provide a just oversight of the situations that may arise from time to time with this industry.

If we are fair dinkum about all this and agree that consumers in South Australia ought to have at least the same level of protection under the new scheme as they did under the old, we would support the proposition put by the Hon. Sandra Kanck. I would ask members of the Committee to take that into consideration and vote in support of the Hon. Sandra Kanck's amendment.

The Hon. SANDRA KANCK: I am disappointed in both the Government and SA First and the Hon. Trevor Crothers for the position they are taking on this. The Treasurer is correct that this is an ombudsman scheme that has a statutory basis: that is exactly why I put it in there, so that we have something with a statutory basis. What the Treasurer is offering as an alternative is something which will appear six months down the track and in which we have no say.

The Hon. Ron Roberts spent some time comparing the current system to what we might have put in place, answering the assertions of the Treasurer that we really do not have much in the way of protection at the present time. Apart from recourse to the ombudsman currently—that is, the South Australian Ombudsman—there have been other ways that people could obtain action. For instance, people could come to their member of Parliament and a matter could be raised in Parliament if they found that things were really difficult. But the reality is that we had an electricity industry that was there to provide the best that it could for the people of South Australia.

We will not have that any more. We will have an electricity industry that is there for the benefit of its shareholders, and that always puts the consumer in a compromised and less powerful position. As I noted when I moved my amendment, this is based largely on the Tasmanian Act. I understand that a delegation of Tasmania MPs went across to Victoria to look at the Victorian scheme, decided that it was not applicable for them and went back and introduced their own Electricity Ombudsman Bill 1998.

The Treasurer was claiming that the system he wants to see in place will be a more balanced one than this. I find it difficult to see that a situation in which individual consumers are up against multinationals can ever be a balanced one. The multinationals will always start with more power than any ordinary householder, for instance. That alone is a good argument for having a statutory based Electricity Ombudsman scheme. As I interpreted what the Treasurer had to say, he was wanting to ensure that there would be no impediment

to these companies. I find it difficult to see why one has to make it easier for them to come in and take us over. They are going to do it anyhow, it seems, and I certainly do not want to bend over backwards for them.

When I asked the Treasurer when we would see the paperwork, he said that it would be coming out when the Independent Industry Regulator had consulted with industry. So, we are talking about at least six months down the track. I think that we are talking about six months before we have an Independent Industry Regulator, and then he will consult with industry. Nowhere in that is there consultation with consumers. We are going to get an Electricity Ombudsman scheme that reflects what industry thinks we should have. Where does the consumer come in that? What I am offering with this amendment is a statutory based ombudsman scheme.

It is all set out, it is very clear and it gives real certainty to industry. They know exactly what they are entering into. Instead of that, the Treasurer offers us something which we do not yet have and which we do not know anything about, and I do not understand why he wants us to accept second best.

The Hon. R.I. LUCAS: I do not intend to prolong this, because I think everyone has stated their position. The Hon. Ron Roberts said that what the Government was offering was a toothless tiger, but I do not think that he fully understands the Government's proposition. The Victorian scheme actually gives powers to the Independent Industry Ombudsman to make binding decisions against the wishes or intentions of particular industries or business. It is not something that is resolved to the mutual satisfaction of everyone. In most cases it is, but the Industry Ombudsman has the power to make awards against companies up to—and I am getting specific advice on this—something like $10 000 to $20 000 for individual complainants.

The Hon. Sandra Kanck: Then you have to go to court if it is above that.

The Hon. R.I. LUCAS: No, in certain limited circumstances, of which I can obtain details, I understand that the award can go as high as $50 000. I am not sure what the honourable member is talking about in relation to court, given that the Industry Ombudsman report says that the average dollar claim on supply cases was $2 172. These are generally significant sums of money to the individual consumer, but we are not talking about tens or hundreds of thousands of dollars in terms of claims. The average dollar claim out of the 8 000 telephone inquiries they had was of the order of $2 000. So, the Industry Ombudsman in Victoria has the power and the capacity to make awards against the position and submissions of individual businesses in Victoria and, indeed, has done so and will continue to do so.

I understand that, in terms of the process, a draft provision based on the Victorian model is in progress, and it may well be that within the next month or two the Government will have a draft ombudsman scheme based on the Victorian model, about which we will probably consult with the consumer consultative committee so that there will be some consultation in relation to the shape and structure of the ombudsman scheme that the Government is seeking to implement here in South Australia.

The Committee divided on the amendment:

AYES (9)

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

NOES (10)

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

PAIR(S)

Roberts, T. G.	Dawkins, J. S. L.

Majority of 1 for the Noes.

Amendment thus negatived.

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

Page 2, after line 2—Insert new paragraph as follows:
(ba) by striking out from the definition of "electricity supply industry" "and sale of electricity" and substituting "or sale of electricity or other operations of a kind prescribed by regulation";

This is a technical amendment. It expands the definition of 'electricity supply industry' to include such operations as may be prescribed by regulation. This is necessary because the electricity pricing order, for example, will regulate certain charges associated with the provision of public lighting.

The Hon. P. HOLLOWAY: I assume that when this definition says 'or other operations of a kind prescribed by regulation' that lighting is the only operation that is envisaged.

The Hon. R.I. LUCAS: At this stage, yes.

Amendment carried.

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

Page 2, after line 13—Insert new paragraph as follows:
(fa) by striking out from the definition of 'retailing' 'and supply';

This is another technical amendment. Together with certain of the amendments to section 36 and new clause 48A it makes the legislation conform to accepted industry terminology, that retailers sell electricity and distributors supply electricity. The distinction is important because of the proposed contractual structure of the restructured electricity supply industry.

Amendment carried.

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

Page 2, after line 18—Insert new paragraph as follows:
(i) by inserting after its present contents (now to be designated as subsection (1)) the following subsection:
(2) A reference in this Act to a powerline, a network, infrastructure or other property of an entity includes a reference to a powerline, a network, infrastructure or other property that is not owned by the entity but is operated by the entity.

This is another technical amendment. It makes it clear that the provisions of the Act that relate to the electricity infrastructure of an electricity entity relate not just to the electricity infrastructure owned by the entity but also to the electricity infrastructure operated by the entity, that is, where that infrastructure is leased but not owned by the entity.

Amendment carried; clause as amended passed.

Clauses 5 and 6 passed.

Clause 7.

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

Page 2, after line 36—Insert:
(ab) if the Industry Regulator is appointed under the National Electricity Code as the body to perform or exercise certain functions and powers—those functions and powers; and

The National Electricity Code contemplates that the State regulator will be appointed to perform or exercise certain functions and powers, that is, to regulate distribution network tariffs. This amendment enables the Industry Regulator to act as the State's regulator for this purpose.

Amendment carried.

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

Page 3, lines 2 to 4—Leave out proposed subsection (2) and insert:

(2) If electricity entities are required by licence condition to participate in an ombudsman scheme, the Industry Regulator must, in performing licensing functions under this Act, liaise with the ombudsman appointed under the scheme.

This amendment inserts a revised section 6A(2) into the Electricity Act to address the fact that at the time the Bill comes into operation the existing licences, which will continue in force under the Electricity Act as amended by the Bill, will not provide for the establishment of an ombudsman scheme. In addition, the ombudsman scheme is no longer referred to as an electricity supply industry ombudsman scheme because it may be that, if other industries become subject to regulation by the Industry Regulator, the ombudsman scheme will be extended to apply to them. In Victoria, for example, the ombudsman scheme applies to the gas supply industry.

Amendment carried.

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

Page 3, after line 18—Insert:

'independent director' means a director appointed under section 6G(3a);

The board of the Electricity Supply Industry Planning Council will comprise five members appointed by the Governor. As a consequence of consultations with the Australian Competition and Consumer Commission, three of these directors will be appointed after consultations with generation transmission and distribution licensees respectively. The remaining two directors, one of whom will be the Chair, must be persons who are, in the opinion of the Governor, independent of generation transmission and distribution licensees. This amendment inserts a definition of 'independent director' for these purposes.

The Hon. P. HOLLOWAY: I do not wish to oppose the amendment, but this is probably an appropriate time for me to ask a question. Under this amendment, because there will be two independent directors on the Electricity Supply Industry Planning Council, it means that, with a total of five, there will be three non-independent directors on ESIPC: in other words, a majority of members on this council will be industry participants. Does the Treasurer believe that there could be a conflict of interest on the part of those members of the Electricity Supply Industry Planning Council advising on the performance or the reliability of the system? And given that this planning council under its terms of reference will be advising on extensions to the system and on tendering procedures, how does the Government propose to avoid conflicts of interest on the part of members of the planning council? Will they, in effect, be reviewing their own tenders?

The Hon. R.I. LUCAS: I think I previously had a brief discussion with Kevin Foley and the Hon. Mr Holloway with respect to this issue. I think the notion of calling them independent directors perhaps—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: The honourable member indicated that he missed that briefing: it might have just been with Mr Foley. In some respects it is a bit of a misnomer in that I suppose it does raise expectations about independence in the purest sense of the word. It is really intended to be independent of the generation, transmission and distribution industries. While I understand the point that the Hon. Mr Holloway is making—that is, that three of the five therefore are not independent in that they do have an interest—my 12 months' experience in the industry (and I must concede that it is only 12 months) has demonstrated that, when one is talking to those in generation and transmission, in particular, one is likely to get a healthy divergence of views (I suppose that is the best way of putting it). It is an unusual set of circumstances where generators, transmission people and distribution people all speak with the one voice. The Government, for example, was contemplating early last year two solutions to South Australia's capacity problem. The generators were very strongly of the view that we needed a further generation option, which involved a repowering of Torrens Island. The transmission people believed very strongly that we needed a transmission solution, and that involved a further interconnector between New South Wales and South Australia.

The Hon. Sandra Kanck interjecting:

The Hon. R.I. LUCAS: No, that is not true. The Hon. Sandra Kanck says that when they were one body they did not have those arguments. That is not true, because within the one body they did have those arguments. It might well not have been apparent to the wider world that there were these different views but, when they were the one body, the generation people had a view and the transmission people had a view. Ultimately, someone at the top had to arbitrate, and that would have had to be the board or the Chief Executive. The only difference now is that the decision is taken at a different level: it is taken by the Minister and by the Government under the current arrangements. So, under the old arrangements all these different views would have come up through the Chief Executive and to the board: under the new arrangements they still come up but they come up through two CEOs and two boards, and the decision is ultimately taken by the Minister and the Government.

The Hon. L.H. Davis: There were a lot of power struggles under the old ETSA, don't worry.

The Hon. R.I. LUCAS: Yes. So, the generation people and the transmission people all had healthy views that were different: it is not something that has eventuated just because the businesses have been separated. I am advised that this is not uncommon in other States in terms of the generation people and the transmission people having strongly divergent views.

So, it is certainly my experience, and I think it is the Government's view, that the notion of having a representative of each of the three sectors represented on the planning council will not mean that you are likely to have three industry people outvoting two non-industry people rather than independent (perhaps that is a better way of putting it). You are likely to have a healthy divergence of views among those industry people as well. The second question that the honourable member raised was—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: It was about conflicts. It is important to bear in mind, with respect to the functions on the next page, when we are looking at it, that they will be preparing and reviewing proposals for significant projects relating to transmission, for example. So, it is possible that the transmission representative will be there expressing an advisory view on a transmission related project. However, as

I said before, it is likely, given past experience, that the generation person will have a different view, and who knows what the distribution representative's view will be? And then you have two non-industry people who will be there to express their views also. So, in some cases, they will be commenting on proposals of their own. They do not make final decisions: they are providing advice to the Government.

I want to return to the second reading contribution of the honourable member: while I understand the concerns that have been expressed by Mr Foley and others about this planning council, it is my very strong view, having been the Minister for only 12 months, that any Minister will require a body such as this to provide independent—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Holloway indicates that the Opposition is not opposed to it. I therefore extend it to say that I think that it also ought to include people who know what they are talking about. Clearly, the non-industry people ought to have a lot to contribute, but on that body you ought to have people who know about generation, distribution and transmission. One of them might have to comment on a particular transmission option and, therefore, you will have to take it as read that they are likely to support it. However, the Minister of the day and the Government of the day will at least have the views of the other four people who are not transmission people and, if they do agree with it, you will have a reasonable view that all the sectors of industry support it and two non-industry people support it and, as the Minister of the day, you would think that you have a fair cross-section of views being expressed in terms of support. If, however, you come up with a split view on it, where the transmission person and the distribution person support something and the other three oppose it, as a Minister I think you would want to have a good, hard look at the particular proposition and perhaps take even further advice on that issue. There is no perfect model, but I think that this is an appropriate one.

I indicate at this stage that the Government therefore has a very strong view (whenever the honourable member comes to his amendment) about placing a United Trades and Labor Council representative on this body. The Government's view is that, in some other areas, it may well be appropriate to have either an employee representative or a UTLC representative, whatever your particular preferences are. But in this case this really is meant to be a body of expert advice on a range of issues at the macro level to the Government, as outlined in the functions, and I certainly do not think it is an appropriate view where the UTLC would trot out a UTLC representative to sit on the particular council.

The Hon. P. HOLLOWAY: While accepting what the Treasurer says about the nature of this board, I point out that clause 6(e) provides that the functions of the council are to review, conduct or control tendering processes. I believe that, in that context, to control tendering—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: In that case, as the Treasurer indicates that the Government is deleting it, that removes my concern.

Amendment carried.

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

Page 3, line 31—Leave out 'exceptions' and insert:
'exclusions or modifications'

The purpose of this amendment is to enable regulations to be made which modify rather than simply exclude certain provisions of the Public Corporations Act in relation to their application to the Electricity Supply Industry Planning Council. For example, because some of the members of the council will be appointed after consulting with electricity industry licensees who may well be employed in the industry, it will be necessary to modify appropriately the application to the council of the conflict of interest provisions in section 19 of the Public Corporations Act.

Amendment carried.

The Hon. SANDRA KANCK: I move:

Page 3, after line 31 (proposed new section 6D)—Insert:
(2) The regulations may not exclude or vary the operation of the provisions of the Public Corporations Act 1993 relating to—
(a) conflict of interest of directors of a public corporation;
(b) annual reports of a public corporation.

The Electricity Supply Industry Planning Council will be a very important body in the brave new world of electricity restructuring that we now have. One could expect that the Public Corporations Act might apply to that body, but it is important to understand the clause. New section 6D (Division 2) provides:

The Planning Council is a statutory corporation to which the provisions of the Public Corporations Act 1993 apply—

and then there is this very significant rider—

subject to any exceptions prescribed by regulation.

I am very concerned about what some of the exceptions might be. As a consequence I have moved this amendment so that it specifically prevents the Government's exempting the Electricity Supply Industry Planning Council's having to comply with the Public Corporations Act in regard to the provision of annual reports and conflict of interest provisions. This, again, is an essential issue of accountability and we must not allow the possibility (and it may not be in the Government's mind at the moment) that either the annual report or the conflict of interest provisions are made exempt.

The Hon. P. HOLLOWAY: I indicate that the Opposition supports the amendment. The Public Corporations Act was passed through Parliament in 1993 and, in many ways, it was one of the antidotes to the State Bank. As a member of the other place, I remember that, for some time after I entered Parliament, I argued strongly that we should have a Public Corporations Act to make our public corporations, such as statutory authorities (including banks), responsible to the Minister and to the Parliament. I believe that a rather dangerous trend has developed under our legislation whereby every time we have a Bill we start to make exemptions from the Public Corporations Act by regulation.

Given that the Public Corporations Act was introduced to try to unify the measures that govern statutory corporations, I think it is a most undesirable trend that we seem to be moving away from it by putting in these exemption clauses. As a protest against that I am happy to support the amendment of the Hon. Sandra Kanck.

The Hon. R.I. LUCAS: Partially for the reasons that I have outlined, the Government will need to oppose strongly this amendment. We need to bear in mind that this is not a decision making body. It is not taking decisions in the interest of its companies: it is providing advice to the Government of the day about its industry. The Government needs to have the advice of the two non-industry people as well as the people with experience in transmission, generation and distribution.

My adviser tells me that the rough drafting of the regulations we are looking at in this area say that nothing in the section is to be taken to prevent the Director from representing the interests of licensees of that class and participating in

meetings or discussions and voting accordingly. We have had to address this issue because the Government wants a body that is able to give it advice on the broad range of decisions. We do not want a body where people are having to exclude themselves, on a whole range of decisions all the time, from providing us with advice. It will otherwise be pointless appointing people who are active participants in the industry if the conflict of interest provisions of the Public Corporations Act are applied and they must exclude themselves from providing advice to me through this body.

I hasten to say that the conflict of interest provisions are all about ensuring that you make decisions that will in some way benefit either you or the company that you represent. This body is providing advice to the Government or to the Minister (in this case it will be me) on these options within the industry. If this amendment is successful, a range of these directors at various times will have to exclude themselves from the discussions and it really defeats the purpose of the establishment of this body.

The Hon. P. HOLLOWAY: Why then does the Treasurer seek to enable the Government to exempt by regulation any part of the Public Corporations Act rather than just that specific part that applies to a very special case?

The Hon. R.I. LUCAS: There is also a number of other provisions. Under the Public Corporations Act, public corporations are required to formulate an annual performance statement, which is generally a financial statement in terms of the financial objectives of a public corporation during a particular financial year; and, as Treasurer, I must approve those performance statements. This is not a body that will be operating and producing performance statements: it is an advisory body that will provide advice to me as the Minister. I am told that there are other provisions. Under the Public Corporations Act, the Treasurer's observers are not allowed to participate in the operations of a public corporations board.

Under this proposal we seek to have a Treasurer's representative who will be able to participate with the agreement of the chair. In certain circumstances the Treasurer's representative will be able to participate with the approval of the chair. That arrangement is not possible under the Public Corporations Act. There are three or four examples where we believe the provisions under the Public Corporations Act are inappropriate in relation to possible application to this body. It is a peculiar beast. It is most essential—and I think the Hon. Mr Holloway has agreed that the Labor Party acknowledges that the body ought to exist—but because it is a peculiar beast a number of the provisions of the Public Corporations Act do not apply, not because we want to see any less accountability for it but bearing in mind, as I said, that it is not a body that is making final decisions: it is a body that is advising and recommending to me, as Treasurer, and to the Government of the day.

The Hon. T. CROTHERS: We want to compare lemons with lemons and, if I heard correctly, where we are falling down at the moment is that we are comparing lemons with apples. I think the correct analogy is that the Government is seeking to try to include in the Public Corporations Act a similar provision that would enable the directors of a private company to employ a technical adviser. The difference is that the technical adviser, with the guidance of the chair of that body, will be able to participate in debate and, I suppose, the technical adviser in a private company, by route of the board of that company, may also be able to participate in debate. Is that not surely the closer analogy that, if you are looking for guidance in respect of this matter, it would be akin or a cousin of, if you like, a private company appointing a technical adviser who, by leave of the board of directors, can participate in the debate? Is that not really the analogy? Is that not really the orange with the orange, or am I missing something?

The Hon. SANDRA KANCK: I note the reasons the Treasurer has given to oppose my amendment. To repeat back to him what he said: he does not want a body the members of which have to keep excluding themselves from providing advice because they may have a conflict of interest. Quite clearly in that answer the Treasurer indicated that he does envisage that some of the members of the council are likely to have a conflict of interest on occasions. If I am not successful with my amendment, and based on the voting record of the Hon. Trevor Crothers and the Hon. Terry Cameron over the past 2½ Bills, it would appear, if I am reading it correctly, that they will vote again with the Government and that we have probably lost the amendment, but at least we have flushed out into the open exactly what it was the Government was going to exempt.

Members interjecting:

The Hon. SANDRA KANCK: He is the one talking about flushing.

Members interjecting:

The Hon. SANDRA KANCK: I indicate my disappointment in the Government. I acknowledge that some of the comments that the Hon. Paul Holloway was making made a great deal of sense, particularly as he said, in the light of what happened with the State Bank and learning from our mistakes. Clearly what is going to happen here is that exemptions are going to be provided and we are not going to learn from our mistakes. Given the hour and the fact that we have made our positions clear I will not call for a division, but I indicate my disappointment at the position taken by the Government.

Amendment negatived.

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

Page 4, lines 5 to 10—Leave our proposed paragraphs (d) and (e) and insert:

(d) to prepare or review proposals for significant projects relating to the transmission network in South Australia (taking into account possible alternatives to those projects such as the augmentation or extension of a distribution network, the construction or augmentation of the capacity of a generating plant and measures for reducing demand for electricity from the transmission network) and to make reports and recommendations to the Minister and the Industry Regulator in relation to such proposals.

The purpose of the amendment is twofold. First, it is more accurately to define the proposed functions of the Electricity Supply Industry Planning Council in relation to the preparation and review of proposals with respect to the South Australian transmission network. Secondly, it is to remove a previously proposed function of the Electricity Supply Industry Planning Council, namely, the function of reviewing, conducting and controlling tendering processes for extensions or augmentations to the South Australian transmission network. This function is being deleted following consultation with the Australian Competition and Consumer Commission. We have already addressed this matter, albeit briefly, in the previous debate.

Whilst the Government was looking at the appropriate shape and structure of this body and determining that it should be an advisory and recommending body, clearly this function was incompatible with that particular role and, if we therefore wanted an advisory body, this function would need to be deleted. There are other reasons as well but, for all those

reasons, the Government has determined that this amendment is essential.

Amendment carried.

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

Page 4, lines 14 and 15—Leave out proposed paragraph (g) and insert:

(g) to submit to the Minister and the Industry Regulator, and publish, an annual review of the performance, future capacity and reliability of the South Australian power system;

(ga) if the Planning Council is appointed under the National Electricity Code as the body to carry out certain functions—to carry out those functions;

(gb) to publish from time to time such information relating to the matters referred to above as the Planning Council considers appropriate;

The purpose of this amendment is to clarify the matters which must be addressed in the annual review to be published by the Electricity Supply Industry Planning Council and to confer on the Electricity Supply Industry Planning Council two further functions, namely, to carry out such functions as may be imposed on it under the National Electricity Code and to publish from time to time such information as it thinks appropriate.

Amendment carried.

The Hon. P. HOLLOWAY: I move:

Page 5, line 4—Leave out 'five' and insert 'six'.

I move this amendment as a test for the next two amendments. We are seeking to include a member on the Electricity Supply Industry Planning Council chosen from a panel of not less than three persons nominated by the United Trades and Labor Council. The amendment simply seeks to increase the size of the council from five to six members to accommodate the additional member. The Treasurer talked about the need for expertise on the council and he mentioned that throughout the whole debate on the electricity industry, but I suggest that there is a large amount of expertise within the work force of ETSA and the industrial organisations that represent workers in that industry. It is appropriate that those industrial organisations representing those workers should also have the opportunity to contribute and be consulted about the future of the industry. One of the sad things we have seen throughout this debate is that the unions to a large extent have been left out of considerations as to the future of the industry. I am not sure how many workers are left in the industry: I think it is about 1 500—

The Hon. R.R. Roberts: It's 2 500.

The Hon. P. HOLLOWAY: It is now 2 500, but there were certainly many more thousands a few years ago. As to the 2 500 workers who are left and the unions which represent them—

The Hon. L.H. Davis: Do you want to tell us how many were shed under the Labor Government?

The Hon. P. HOLLOWAY: There has been a decline in the work force. I do not think that anyone is suggesting that there has not been a decline in the work force in the electricity industry as in other industries such as the railway and water industries and many other industries over the past three or four decades and beyond due to technological change as well as to downsizing, and I am not criticising that. I only make the point that those 2 500 workers who are left are really the main value in our electricity assets. Certainly, the poles, wires and transformers are valuable but, without the people and their skills to operate them, those assets are not worth much at all. I will use this amendment as a test so that a member of the Trades and Labor Council, representing the appropriate organisations, will be appointed to the board of the planning council.

The Hon. R.I. LUCAS: As I indicated earlier, the Government opposes this amendment. It is appropriate on a number of boards and committees that employee interests be represented. As I said, whether that be as elected members of employees or as nominated members of unions or union associations, we have different views on that but, nevertheless, employee interests ought to be represented. In relation to the technical advisory committee and the amendment that the Hon. Mr Holloway will move later, the Government is prepared to support the honourable member's amendment but, as I indicated to Mr Foley and the Hon. Mr Holloway, the Government does not see this body as one on which the UTLC ought to be represented. It is not because we decry the capacity of the people to contribute: we just think there are appropriate bodies, organisations and forums for employee representatives to represent the views of their fellow workers. This is not intended to be such a body. It is a body intended to provide expert advice on high level macro issues in terms of the planning of the electricity industry to the Minister and the Government of the day.

The Hon. R.R. Roberts interjecting:

The Hon. R.I. LUCAS: If a Labor Minister wants to have the UTLC advise him or her on whether we should be repowering Torrens Island for $150 million or building a Riverlink interconnector for $50 million, that is a judgment call for a Minister of the future. All I can say very strongly is that this is a specialist body, and it is not a body on which the Government believes there ought to be a UTLC representative.

The Hon. SANDRA KANCK: I indicate Democrat support for the amendment. Looking at the functions of the Electricity Supply Industry Planning Council, I can see that a UTLC representative—obviously someone who works or has worked in that industry—would have a fair amount to say on that, because these people are in touch with the workers who are on the ground—quite literally. I refer to some of the functions in clause 6E(1), as follows:

(b) to review and report to the Minister and the Industry Regulator on the performance of the South Australian power system;

(c) to advise the Minister and the Industry Regulator on matters relating to the future capacity and reliability of the South Australian power system.

The people who work in that industry—those people who are on the ground—could provide some very valuable advice on those things. In fact, they are largely being ignored at present. I believe that having someone from the UTLC could be very useful to that council. The council is more likely to be comprised of persons from the top echelons of industry rather than those at the bottom who also have a lot to contribute.

The Hon. NICK XENOPHON: I support this amendment for a number of reasons. I commend the Government for establishing a planning industry body. It has an important role to play. I also support the concept that there ought to be a UTLC representative on it, because it is important that a different perspective be put in relation to this very important issue. A UTLC representative could play an important role in representing or at least reflecting the concerns and interests of consumers, because that is something that may be forgotten in the overall scheme of things.

I understand that the Treasurer has addressed a number of issues that go towards that. However, I would have thought that, having a UTLC representative would, on balance, be of benefit to the whole issue of planning and would also give

consumers ultimately a conduit and a say on these issues of planning, including structural issues, that will ultimately impact on the competitive framework and on the role of the industry in representing the interests of consumers in terms of delivering a service to them.

The Committee divide the amendment:

AYES (9)

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

NOES (10)

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

PAIR

Roberts, T. G.	Dawkins, J. S. L.

Majority of 1 for the Noes.

Amendment thus negatived.

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

Page 5, lines 4 to 6—Leave out 'after consultation with the holders of licences authorising the generation of electricity and the holders of licences authorising the operation of transmission or distribution networks'.

This amendment is consequential on a later amendment which deals with the composition of the board of the Electricity Supply Industry Planning Council. The proposed composition of the board has already been described in relation to a previous amendment.

Amendment carried.

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

Page 5, lines 9 and 10—Leave out proposed paragraphs (a) and (b) and insert:

(a) power system planning, design, development or operation;

This amendment results in a more concise and accurate description of the qualifications or expertise which members of the board of the Electricity Supply Industry Planning Council are required to have.

Amendment carried.

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

Page 5, after line 12—Insert:

(3a) Two of the members must be persons who are, in the opinion of the Governor, independent of the holders of licences authorising the generation of electricity or the operation of transmission or distribution networks.

(3b) The Treasurer will consult with—

(a) the holders of licences authorising the generation of electricity in respect of the selection of a person for appointment as one of the remaining three members;

(b) the holders of licences authorising the operation of transmission networks in respect of the selection of a person for appointment as another of the remaining three members;

(c) the holders of licences authorising the operation of distribution networks in respect of the selection of a person for appointment as the other of the remaining three members.

This amendment sets out the composition of the board of the Electricity Supply Industry Planning Council. The proposed composition of the board has already been described in relation to a previous amendment.

Amendment carried.

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

Page 5, lines 15 to 18—Leave out proposed subsections (5) and (6) and insert:

(5) One of the independent directors will be appointed by the Governor to chair meetings of the board.

This amendment requires one of the independent directors to be appointed by the Governor as the chair of the Electricity Supply Industry Planning Council.

Amendment carried.

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

Page 5, after line 20—Insert:

(8) The Governor may appoint deputies of directors, and the provisions of subsections (3), (3a) and (3b) apply in relation to the appointment of deputies in the same way as to directors.

(9) A deputy of a director is, in the absence of that director, to be taken to have the powers, functions and duties of a director in the same way as if the deputy had been appointed to be a director.

This amendment allows the Government to appoint deputies of the directors of the Electricity Supply Industry Planning Council who may act in place of the relevant directors when those directors are absent.

Amendment carried.

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

Page 5, after line 32—Insert:

(d) in the case of an independent director—if the director has, in the opinion of the Governor, ceased to be so independent.

This amendment is a consequence of the requirement for two members of the board of the Electricity Supply Industry Planning Council to be independent of generation, transmission and distribution licensees.

Amendment carried.

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

Page 6, lines 14 and 15—Leave out 'one-half of the total number of members of the board (ignoring any fraction resulting from the division) plus one' and insert:

three directors at least one of whom must be an independent director or a deputy of an independent director

Because there are to be five members of the board of the Electricity Supply Industry Planning Council, the quorum for a meeting can be more simply stated as three directors, and this is the effect of this amendment.

Amendment carried.

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

Page 6, lines 18 to 23—Leave out proposed subsection (3) and insert:

(3) If the director appointed to chair meetings of the board is absent from a meeting of the board, the following provisions apply:

(a) if the deputy of that director is present at the meeting—the deputy will preside at the meeting;

(b) if the deputy of that director is not present at the meeting—the other independent director will preside at the meeting;

(c) if that other independent director is not present at the meeting—the deputy of that other independent director will preside at the meeting.

This amendment provides that, in the absence of the Chair of the Electricity Supply Industry Planning Council, a meeting of the board will be chaired by the deputy of the Chair, failing which it will be chaired by the other independent director, failing which it will be chaired by the deputy of that other independent director.

Amendment carried; clause as amended passed.

Clauses 8 to 14 passed.

Clause 15.

The Hon. P. HOLLOWAY: I move:

Page 8, after line 32—Insert:

14AB. The Technical Regulator must establish an advisory committee (the technical advisory committee) including representatives of—
(a) electricity entities; and
(b) contractor and employee associations involved in the electricity supply industry; and
(c) local government,
to provide advice to the Technical Regulator, either on its own initiative or at the request of the Technical Regulator, on any matter relating to the functions of the Technical Regulator.

I indicated the reasons for this in my second reading speech, and I thank the Treasurer for his indicated support for the amendment.

The Hon. T. CROTHERS: I also support this amendment. I think this is a very appropriate place to have employee representation. I can well recall as a member of the UTLC when in fact it was the then Secretary that used to sit when unions did have representation on the boards of Government instrumentalities. It was the then Secretary of the Trades and Labor Council, Mr John Lesses, who represented the trade union movement on the board, and likewise was it so with the Housing Trust. From all the reports that I get John Lesses did a good job but he still did not have the technical expertise that board members may be called on from time to time to inject into the discussions of such a body.

This amendment of the Hon. Paul Holloway is appropriate because it provides for representatives of a technical nature. This will ensure that the UTLC has to elect representatives who have members working in the industry and who in all probability have come from the shopfloor themselves in the industry. So I find it most appropriate to be able to support this amendment. I am pleased that the Government has indicated that it is supporting this amendment. I think it is much more appropriate. The only fault is that the Hon. Mr Holloway has described the unions as associations. I am mindful that the AMA is an association, the Australian Medical Association.

I am well aware, of course, that the blue collar work force really are the men and women who do the driving of the day to day operations of ETSA and, as such, some of them through their many years of service there have acquired technical expertise to the extent that, as I understand it, they will not be released under that arrangement and agreement that I effected with the Government over the major component of this Bill when we visited it some several weeks ago.

That was the reason why I supported the Government in defeating that last amendment, because there was no guarantee that the UTLC representative would have the technical expertise necessary in this day and age. I find this a much more credible proposition, where representatives of the workers on the factory floor can gain representation on the board. Thus the Trades and Labor Council will have been forced to elect them, because of the way in which the Holloway proposition is worded when it refers to 'associations'. I am mindful that some of the associations are white collar associations and some of the associations are in-house unions. That is the only note of caution I would inject into my support for this amendment. With those minor observations, I am very pleased to be able to support the Hon. Mr Holloway's amendment.

The Hon. R.I. LUCAS: In discussing this issue, the Government had discussions with the Hon. Mr Cameron and the Hon. Mr Crothers, and it was their advice, particularly in relation to this provision, that the Government should look favourably on this amendment. The Hon. Mr Crothers indicated that they were going to support the amendment. The Government started from a position of being sympathetic to this position. Having listened to the argument of the Hon. Mr Crothers, we have been convinced that this technical advisory committee is an appropriate body on which the specific technical expertise of employee representatives can be brought to bear appropriately.

This is the body that will provide advice to the Technical Regulator, the person who will be the driving force behind safety and management plans for the electricity businesses and critical issues for employee representatives in these businesses, and it is appropriate that representatives of the workers be on this advisory committee. The Government congratulates the Hon. Mr Holloway for his original suggestion and thanks the Hon. Mr Cameron and the Hon. Mr Crothers for their advice. On the basis of that, we are sympathetic to the amendment and prepared to support it.

Amendment carried; clause as amended passed.

Clauses 16 to 18 passed.

Clause 19.

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

Page 10, lines 5 to 7—Leave out proposed paragraph (a).

It is considered more appropriate that any requirements that may be imposed in relation to bodies corporate incorporated outside South Australia should be imposed in licence conditions. Accordingly, this amendment removes the jurisdiction of incorporation of the applicant for a licence as a matter that is relevant to the consideration of whether or not to grant a licence.

Amendment carried; clause as amended passed.

Clause 20 passed.

Clause 21.

The Hon. P. HOLLOWAY: Clause 21 provides that the licence may be issued for an indefinite period or for a term specified in the licence. In discussing this with interested parties it was put to me that the notion of issuing a licence for an indefinite period is somewhat unusual. For most other areas where we have licences there is a set period: it is either annual or for 10 years or five years, or whatever. I would have thought that it is most unusual to issue licences indefinitely, so will the Treasurer expand on that?

The Hon. R.I. LUCAS: This is a pretty important part of the legislation. In terms of this lease contract that we are about to negotiate, if people are going to put X thousand million dollars into a particular business they do so on the basis that they are going to have a licence to operate the business, not something that might every five years be removed from them. There will be provisions if, for example, they become insolvent. There are quite extreme but nevertheless explicit provisions as to where they could lose their licence, and the lease can be terminated in certain circumstances. But if we are saying to someone that they can sign a lease contract for up to 97 years, or whatever it might be, but we will only give them a licence for five years, and every five years they will have to go along and argue to have their licence renewed or it can be given to someone else, investors will not invest on that basis.

They want to invest on the basis that they will have a licence and a lease contract and, as long as they abide by the standards and conditions and whatever we require of them in terms of appropriate behaviour, they continue to have that licence. In certain extreme circumstances they can lose their licence, but the circumstances under which they could lose that licence are explicit and clear to their legal advisers.

Clause passed.

Clause 22.

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

Page 11, lines 13 to 18—Leave out paragraphs (d) and (e) and insert new paragraph as follows:

(d) by striking out subsection (3) and substituting the following subsection:

(3) The annual licence fee for a licence is the fee fixed, from time to time, by the Minister in respect of that licence as an amount that the Minister considers to be a reasonable contribution towards administrative costs.;

This amendment provides for annual licence fees to be fixed at an amount that the Minister considers to be a reasonable contribution towards administrative costs as defined in section 20(7). It also makes clear that the annual licence fee may be varied during the term of the licence.

Amendment carried; clause as amended passed.

Clause 23.

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

Page 11, line 33 to page 16 line 37—Leave out proposed sections 21, 22, 23, 24 and 24A and insert:

Licence conditions

21.(1) The Industry Regulator must, on the issue of a licence, make the licence subject to conditions determined by the Industry Regulator—

(a) requiring compliance with applicable codes or rules made under the *Independent Industry Regulator Act 1999* as in force from time to time; and
(b) requiring compliance with specified technical or safety requirements or standards; and
(c) relating to the electricity entity's financial or other capacity to continue operations under the licence; and
(d) if the cross-ownership rules apply to the electricity entity—
 (i) requiring the electricity entity to comply with the cross-ownership rules; and
 (ii) requiring the constitution of the electricity entity to contain provisions for the divestiture of shares for the purposes of rectifying a breach of the cross-ownership rules; and
 (iii) requiring the electricity entity to notify the Industry Regulator about any matters relevant to the enforcement of the cross-ownership rules; and
(e) requiring the electricity entity to have all or part of the operations authorised by the licence audited and to report the results of the audit to the Industry Regulator; and
(f) requiring the electricity entity to notify the Industry Regulator about changes to officers and, if applicable, major shareholders of the entity; and
(g) requiring the electricity entity to provide, in the manner and form determined by the Industry Regulator, such other information as the Industry Regulator may from time to time require; and
(h) requiring the electricity entity to comply with the requirements of any scheme approved and funded by the Minister for the provision by the State of customer concessions or the performance of community service obligations by electricity entities.

(2) The Industry Regulator must, on the issue of a licence, make the licence subject to further conditions that the Industry Regulator is required by regulation to impose on the issue of such a licence.

(3) The Industry Regulator may, on the issue of a licence, make the licence subject to further conditions considered appropriate by the Industry Regulator.

(4) The Industry Regulator must provide to the Minister any information that the Minister requires for the purposes of the administration of a scheme for the provision by the State of customer concessions, or the performance of community service obligations, relating to the sale or supply of electricity.

Licences authorising generation of electricity

22.(1) The Industry Regulator must, on the issue of a licence authorising the generation of electricity, make the licence subject to conditions determined by the Industry Regulator—

(a) requiring compliance with directions of the system controller; and
(b) requiring the electricity entity not to do anything affecting the compatibility of the entity's electricity generating plant with any transmission or distribution network so as to prejudice public safety or the security of the power system of which the generating plant forms a part; and
(c) requiring the electricity entity—
 (i) to prepare and periodically revise a safety and technical management plan dealing with matters prescribed by regulation; and
 (ii) to obtain the approval of the Industry Regulator (which may only be given by the Industry Regulator on the recommendation of the Technical Regulator) to the plan and any revision; and
 (iii) to comply with the plan as approved from time to time; and
 (iv) to audit from time to time the entity's compliance with the plan and report the results of those audits to the Technical Regulator; and
(d) requiring the electricity entity to provide to the Electricity Supply Industry Planning Council such information as it may reasonably require for the performance of its functions; and
(e) requiring the electricity entity—
 (i) to grant to each electricity entity holding a licence authorising the operation of a transmission or distribution network rights to use or have access to the entity's electricity generating plant that are necessary for the purpose of ensuring the proper integrated operation of the State's power system and the proper carrying on of the operations authorised by the entity's licence; and
 (ii) in the absence of agreement as to the terms on which such rights are to be granted, to comply with any determination of the Industry Regulator as to those terms; and
 (iii) to comply with any code provisions in force from time to time under the *Independent Industry Regulator Act 1999* establishing a scheme for the resolution of disputes in relation to such rights; and
(f) requiring the electricity entity to maintain insurance against any liability for causing a bushfire and to provide the Industry Regulator with a certificate of the insurer or the insurance broker by whom the insurance was arranged certifying (in a manner approved by the Industry Regulator) that the insurance is adequate and appropriate given the nature of the operations carried on under the entity's licence and the risks entailed in those operations.

(2) This section does not limit the matters that may be dealt with by terms or conditions of a licence authorising the generation of electricity.

Licences authorising operation of transmission or distribution network

23.(1) The Industry Regulator must, on the issue of a licence authorising the operation of a transmission or distribution network, make the licence subject to conditions determined by the Industry Regulator—

(a) requiring compliance with directions of the system controller; and
(b) requiring the electricity entity not to do anything affecting the compatibility of the entity's transmission or distribution network with any electricity generating plant or transmission or distribution network so as to prejudice public safety or the security of the power system of which the transmission or distribution network forms a part; and
(c) requiring the electricity entity—
 (i) to prepare and periodically revise a safety and technical management plan dealing with matters prescribed by regulation; and
 (ii) to obtain the approval of the Industry Regulator (which may only be given by the Industry Regulator on the recommendation of the

Technical Regulator) to the plan and any revision; and

(iii) to comply with the plan as approved from time to time; and

(iv) to audit from time to time the entity's compliance with the plan and report the results of those audits to the Technical Regulator; and

(d) requiring the electricity entity to provide to the Electricity Supply Industry Planning Council such information as it may reasonably require for the performance of its functions; and

(e) requiring the electricity entity to maintain specified accounting records and to prepare accounts according to specified principles; and

(f) requiring the electricity entity to inform persons seeking or in receipt of network services of the terms on which the services are provided (including the charges for the services) and of any changes in those terms; and

(g) requiring the electricity entity to carry out work to locate powerlines underground in accordance with a program established under Part 5A; and

(h) requiring the electricity entity to comply with—

(i) specified provisions for or relating to the granting to other electricity entities of rights to use or have access to the entity's transmission or distribution network (on non-discriminatory terms) for the transmission or distribution of electricity by the other entities; and

(ii) any scheme that the Industry Regulator may establish by a code made under the *Independent Industry Regulator Act 1999* for the resolution of disputes in relation to such rights; and

(i) requiring the electricity entity to comply with—

(i) specified provisions for or relating to the granting to all electricity entities and customers of a class specified in the condition of rights to use or have access to the entity's transmission or distribution network (on non-discriminatory terms) to obtain electricity from the network; and

(ii) any scheme that the Industry Regulator may establish by a code made under the *Independent Industry Regulator Act 1999* for the resolution of disputes in relation to such rights; and

(j) requiring the electricity entity to comply with code provisions as in force from time to time (which the Industry Regulator must make under the *Independent Industry Regulator Act 1999*) establishing a scheme—

(i) for other bodies to use or have access to the entity's transmission or distribution network for telecommunications purposes (subject to requirements as to technical feasibility and preservation of visual amenity); and

(ii) for the resolution of disputes in relation to such use or access by a person other than the Industry Regulator who is appointed by the Industry Regulator; and

(k) requiring the electricity entity to participate in an ombudsman scheme the terms and conditions of which are approved by the Industry Regulator; and

(l) requiring the electricity entity to maintain insurance against any liability for causing a bushfire and to provide the Industry Regulator with a certificate of the insurer or the insurance broker by whom the insurance was arranged certifying (in a manner approved by the Industry Regulator) that the insurance is adequate and appropriate given the nature of the operations carried out under the entity's licence and the risks entailed in those operations; and

(m) in the case of a licence authorising the operation of a transmission network—

(i) requiring the business of the operation of the transmission network authorised by the licence to be kept separate from any other business of the electricity entity or any other person in the manner and to the extent specified in the conditions; and

(ii) requiring the electricity entity—

(A) to grant to each electricity entity holding a licence authorising the generation of electricity or the operation of a distribution network rights to use or have access to the entity's transmission network that are necessary for the purpose of ensuring the proper integrated operation of the State's power system and the proper carrying on of the operations authorised by the entity's licence; and

(B) in the absence of agreement as to the terms on which such rights are to be granted, to comply with any determination of the Industry Regulator as to those terms; and

(C) to comply with any code provisions in force from time to time under the *Independent Industry Regulator Act 1999* establishing a scheme for the resolution of disputes in relation to such rights; and

(n) in the case of a licence authorising the operation of a distribution network—

(i) requiring the business of the operation of the distribution network authorised by the licence to be kept separate from any other business of the electricity entity or any other person in the manner and to the extent specified in the conditions; and

(ii) requiring the electricity entity—

(A) to grant to each electricity entity holding a licence authorising the generation of electricity or the operation of a transmission network rights to use or have access to the entity's distribution network that are necessary for the purpose of ensuring the proper integrated operation of the State's power system and the proper carrying on of the operations authorised by the entity's licence; and

(B) in the absence of agreement as to the terms on which such rights are to be granted, to comply with any determination of the Industry Regulator as to those terms; and

(C) to comply with any code provisions in force from time to time under the *Independent Industry Regulator Act 1999* establishing a scheme for the resolution of disputes in relation to such rights; and

(iii) requiring the electricity entity to establish customer consultation processes of a specified kind; and

(iv) requiring or relating to standard contractual terms and conditions to apply to the supply of electricity to non-contestable customers or customers of a prescribed class; and

(v) requiring the electricity entity to comply with code provisions as in force from time to time (which the Industry Regulator must make under the *Independent Industry Regulator Act 1999*) imposing minimum standards of service for customers that are at least equivalent to the actual levels of service for such customers prevailing during the year prior to the commencement of this section and take into account relevant national benchmarks developed from time to time, and requiring the entity to monitor and report on levels of compliance with those minimum standards; and

(vi) requiring the electricity entity to comply with code provisions as in force from time to time (which the Industry Regulator must make under the *Independent Industry Regulator Act 1999*) limiting the grounds on which the supply of electricity to customers may be disconnected and prescribing the process to be followed before the supply of electricity is disconnected; and

(vii) requiring a specified process to be followed to resolve disputes between the electricity entity and customers as to the supply of electricity; and

(viii) requiring the electricity entity to enter into and comply with an agreement (on terms approved from time to time by the Industry Regulator) with each person holding a licence authorising the retailing of electricity who provides services to the same customers as the entity as to the co-ordination of the provision of services to those customers; and

(ix) requiring the electricity entity to sell and supply electricity (on terms and conditions approved by the Industry Regulator) to customers of another electricity entity whose licence under this Act to carry on retailing of electricity is suspended or cancelled or whose right to acquire electricity from the market for wholesale trading in electricity is suspended or terminated or who has ceased to retail electricity in the State (a retailer of last resort requirement); and

(x) requiring the electricity entity—

(A) to investigate, before it makes any significant expansion of the distribution network or the capacity of the distribution network, whether it would be cost effective to avoid or postpone such expansion by implementing measures for the reduction of demand for electricity from the network; and

(B) to prepare and publish reports relating to such demand management investigations and measures.

(2) A condition of an electricity entity's licence imposed under subsection (1)*(h)* is not to be taken to require the granting to other electricity entities of rights to use or have access to the entity's transmission or distribution network for the support or use of electricity infrastructure of the other entities.

(3) A retailer of last resort requirement operates only until 1 January 2005.

(4) The obligation to sell and supply electricity to a customer imposed by a retailer of last resort requirement continues only until the end of three months from the event giving rise to the obligation or until the customer advises the electricity entity that the sale and supply is no longer required, whichever first occurs.

(5) A licence that is subject to a retailer of last resort requirement is to be taken to authorise the sale and supply of electricity in accordance with the requirement.

(6) This section does not limit the matters that may be dealt with by terms or conditions of a licence authorising the operation of a transmission or distribution network.

Licences authorising retailing

24.(1) A licence authorising the retailing of electricity must, if the Minister so determines and despite section 7 of the *Independent Industry Regulator Act 1999*, confer on the entity an exclusive right to sell electricity to non-contestable customers within a specified area.

(2) The Industry Regulator must, on the issue of a licence authorising the retailing of electricity, make the licence subject to conditions determined by the Industry Regulator—

(a) requiring, if the holder of the licence is a related body corporate (within the meaning of the *Corporations Law*) in relation to the holder of a licence authorising the operation of a distribution network, the business of the retailing of electricity authorised by the licence to be kept separate from the business of the operation of the distribution network in the manner and to the extent specified in the conditions; and

(b) if the electricity entity sells electricity to non-contestable customers, requiring the electricity entity to maintain specified accounting records and to prepare accounts according to specified principles; and

(c) requiring the electricity entity to establish customer consultation processes of a specified kind; and

(d) requiring the electricity entity, until 31 December 2002, to—

(i) request its contestable customers to give written consent to the electricity entity providing their names, addresses and other contact details from time to time to the Industry Regulator and the Industry Regulator providing that information to other electricity entities holding licences authorising the retailing of electricity; and

(ii) provide copies of such consents and the information relating to the consenting customers to the Industry Regulator; and

(e) if the electricity entity sells electricity to non-contestable customers—

(i) requiring the electricity entity to take reasonable steps to identify when its non-contestable customers will or could become contestable customers and to give such customers at least 20 clear business days notice of that fact, together with notice of the tariffs and charges for electricity currently applicable to the customers and the names of other electricity entities that hold licences authorising the retailing of electricity; and

(ii) specifying the manner in which such notice must be given; and

(f) if the electricity entity sells electricity to non-contestable customers and under the standard terms and conditions governing the sale of electricity by the electricity entity at least the same level of the tariffs and charges applicable to customers as non-contestable customers will apply to the customers for a specified period after they become contestable customers—

(i) requiring the electricity entity to take reasonable steps to give the customers at least 20 clear business days notice of the date on which the specified period will expire; and

(ii) specifying the manner in which such notice must be given; and

(g) requiring or relating to standard contractual terms and conditions to apply to the sale of electricity to non-contestable customers or customers of a prescribed class; and

(h) requiring the electricity entity to enter into and comply with an agreement (on terms approved from time to time by the Industry Regulator) with each person holding a licence authorising the operation of a distribution network who provides services to the same customers as the entity as to the co-ordination of the provision of services to those customers; and

(i) requiring the electricity entity to comply with code provisions as in force from time to time (which the Industry Regulator must make under the *Independent Industry Regulator Act 1999*) imposing minimum standards of service for customers that are at least equivalent to the actual levels of service for such customers prevailing during the year prior to the commencement of this section and take into account relevant national benchmarks developed from time to time, and requiring the entity to monitor and report on levels of compliance with those minimum standards; and

(j) requiring the electricity entity to comply with code provisions as in force from time to time (which the Industry Regulator must make under the *Independent Industry Regulator Act 1999*) limiting the grounds on which the supply of electricity to customers may be discontinued or disconnected and prescribing the process to be followed before the supply of electricity is discontinued or disconnected; and

(k) requiring a specified process to be followed to resolve disputes between the electricity entity and customers as to the sale of electricity; and

(l) requiring the electricity entity to participate in an ombudsman scheme the terms and conditions of which are approved by the Industry Regulator; and
(m) requiring the electricity entity—
(i) to investigate strategies for achieving a reduction of greenhouse gas emissions to such targets as may be set by the Environment Protection Authority from time to time or such levels as may be binding on the entity from time to time, including strategies for promoting the efficient use of electricity and the sale, as far as is commercially and technically feasible, of electricity produced through cogeneration or from sustainable sources; and
(ii) to prepare and publish annual reports on the implementation of such strategies.

(3) The Industry Regulator must, before issuing a licence conferring an exclusive right to sell electricity to non-contestable customers within a specified area, agreeing to the transfer of such a licence or determining or varying conditions of such a licence, consult with and have regard to the advice of—
(a) the Commissioner for Consumer Affairs; and
(b) the consumer advisory committee established under Part 2.

(4) This section does not limit the matters that may be dealt with by terms or conditions of a licence authorising the retailing of electricity.

Licences authorising system control

24A.(1) The Industry Regulator must, on the issue of a licence authorising system control over a power system, make the licence subject to conditions determined by the Industry Regulator requiring the business of system control authorised by the licence to be kept separate from any other business of the electricity entity or any other person in the manner and to the extent specified in the conditions.

(2) This section does not limit the matters that may be dealt with by terms or conditions of a licence authorising system control over a power system.

We hope to make significant progress on this. This amendment substitutes proposed new sections 21 to 24A for those sections 21 to 24A currently contained in the Bill. These sections deal with the conditions that must be imposed on licences issued under the Electricity Act. Section 21 sets out the licence conditions that must be imposed on all licences. Section 22 sets out the licence conditions that must be imposed on generation licences; section 23, distribution and transmission licences; section 24, retail licences; and section 24A, system control licences. A number of these conditions are the same as those currently referred to in the Bill.

However, some of the previous conditions have been deleted, for example, the condition relating to the ring fencing of electricity generation businesses from other businesses; some of the previous conditions have been amended, for example, the conditions relating to access to transmission and distribution networks; and some new conditions have been added, for example, conditions relating to the preparation of and compliance with approved safety and technical management plans, power system compatibility, the proper integrated operation of the power system, the provision of information to the Electricity Supply Industry Planning Council, the maintenance of bushfire liability insurance and the coordinated provision of distribution retail services to customers.

Amendment carried; clause as amended passed.

Clauses 24 to 28 passed.

Clause 29.

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

Strike out this clause and insert:

Amendment of s. 30—Register of licences

29. Section 30 of the principal Act is amended—
(a) by striking out from subsection (1) 'Technical Regulator' and substituting 'Industry Regulator';
(b) by striking out from subsection (3) 'on payment of a fee fixed by the Technical Regulator and substituting 'without payment of a fee'.

The principal purpose of this amendment is to allow any person to inspect the register of licences kept by the Industry Regulator without being required to pay a fee.

Amendment carried; new clause inserted.

Clauses 30, 31 and 32.

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

Strike out clauses 30, 31 and 32 and insert:

Substitution of ss. 31, 32 and 33

30. Sections 31, 32 and 33 of the principal Act are repealed and the following section is substituted:

Functions and powers of system controller

31. (1) Subject to the regulations, a system controller for a power system has the function of monitoring and controlling the operation of the power system with a view to ensuring that the system operates safely and reliably.

(2) A system controller for a power system has, in carrying out the system controller's functions under this Act—
(a) power to issue directions to electricity entities that are engaged in the operation of the power system, or contribute electricity to, or take electricity from, the power system; and
(b) the other powers conferred by regulation.

(3) Without limiting subsection (2)(a), the directions may include directions—
(a) to switch off or reroute a generator;
(b) to call equipment into service;
(c) to take equipment out of service;
(d) to commence operation or maintain, increase or reduce active or reactive power output;
(e) to shut down or vary operation;
(f) to shed or restore customer loads.

(4) If an electricity entity refuses or fails to comply with a direction of a system controller, the system controller may—
(a) authorise a person to take the action required by the direction or to cause the action to be taken; and
(b) give the electricity entity any directions the system controller considers necessary to facilitate the taking of the action.

(5) Costs and expenses incurred in taking action or causing action to be taken under subsection (4) are recoverable from the electricity entity by the system controller as a debt in a court of competent jurisdiction.

(6) The functions and powers of a system controller for a power system operated in the National Electricity Market (ie, the market regulated by the National Electricity Law) may only be performed or exercised in a manner that is consistent with the National Electricity (South Australia) Law and the National Electricity Code.

The principal purpose of this amendment is to set out the general functions of a system controller for a power system—that is, to monitor and control the operation of the power system with a view to ensuring that the system operates safely and reliably. However, these functions may be varied by regulation.

For example, given that system control functions are progressively being transferred from transmission network system providers such as the ETSA Transmission Corporation to NEMMCO, it is proposed that the system control functions of the ETSA Transmission Corporation will be set out in regulations. Moreover, the amendment provides that the functions and powers for a system controller for the power system that is operated in the National Electricity Market may only be performed or exercised in a manner that is consistent with the National Electricity Code.

Amendment carried.

Clause 33.

The Hon. R.I. LUCAS: This clause is opposed because, first, the immunity afforded to the system controller under proposed new section 35A must now be removed as a result of the inclusion in the National Electricity Law of provisions

relating to the immunity of network service providers in the performance and exercise of system control functions and powers. Secondly, proposed new section 35B is redundant as proposed new section 31(1) now confers on the Governor the power, by regulation, to remove or otherwise vary the functions and powers of a system controller.

Clause negatived.

Clause 34.

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

Page 20, line 7—After 'charged' insert 'to small customers'.

The purpose of this amendment is to make clear that it is the network tariffs charged to small customers that are postage stamped.

The Hon. P. HOLLOWAY: The Opposition supports the amendment. This clause refers to price regulation, and one of the most important issues regarding price regulation is what rate of return will be permitted on the monopoly assets, that is, the poles and wires distribution system. The Victorian Industry Regulator has set a rate of return and I understand that it has been appealed: I am not sure of the final outcome. If an Industry Regulator in one State sets a rate of return, at the very least that will influence expectations about what will happen in other States, although I am not sure to what extent it will reflect the outcome.

Does the Treasurer see the rate of return that is set on the poles and wires being different between States and, if so, why? Given that the Treasurer is the interim Industry Regulator, will he be setting the rate of return or will that be set after the appointment of the Industry Regulator?

The Hon. R.I. LUCAS: The initial electricity pricing order will be issued by me as the interim Industry Regulator and, therefore, will govern the industry for the initial period: from then on it will be the role of the Independent Industry Regulator to issue the new electricity pricing orders. The first amendment we looked at under the Independent Industry Regulator Bill as to why we extended the initial term of appointment to six years related to the fact that we hope that the first Industry Regulator whom we appoint will be responsible for setting the next electricity pricing order.

We will have to issue the electricity pricing order some time before we conclude lease contracts with the successful bidders, because they will need to know the framework of the electricity pricing order for our industry. In terms of whether there will be differences between the States, I suspect that there will be. We have seen it already between Victoria and New South Wales. We see differences of opinion between the ACCC and the States in terms of transmission networks.

I suspect that, with the passage of time, as our national electricity market settles down and as regulators start talking to each other, and as they start having national regulators conferences at salubrious locations around Australia, we will probably see some coming together of their views, but inevitably they are independent people and there will probably be slightly different legislation in each of the States, and also the shape and structure of the industry will be different. One of the lessons that I have been learning over the past few weeks as we have talked about the initial decisions in terms of the electricity pricing order is that different factors apply in South Australia and that one can validly argue for a different rate of return on the regulated asset base in this State compared to other States because of different variables that do apply. So, the frank answer to the question is that I suspect there will be some differences. Over a period of time I suspect they might become less so, but that will take a little time.

The Hon. P. HOLLOWAY: Will the differences be higher or lower than the rate of returns in other States?

The Hon. R.I. LUCAS: I am not talking about how South Australians will be compared to the other States. I think the honourable member's question is whether there will be differences, and I think the answer is that there will be differences between the States, as there already is: some are higher and some are lower. As to where ultimately South Australia's situation will settle, only time will tell in terms of rates of return on the industry.

I think the other important issue to bear in mind is that there are literally dozens of other factors which go into the electricity pricing order which determine the profitability of the industry as well as the rate of return on the assets. So, as to where South Australia ends up, only time will tell.

Amendment carried.

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

Page 21, after line 13—Insert:

(5a) An electricity pricing order may require an electricity entity to provide information to other electricity entities, customers or others, or generally publish information, relating to prices, conditions relating to prices or price-fixing factors.

This amendment enables an electricity pricing order to require an electricity entity to provide price-related information to other electricity entities and customers and to generally publish price-related information.

Amendment carried; clause as amended passed.

Clause 35 passed.

Clause 36.

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

Page 22, line 11—Leave out paragraph (a) and insert new paragraph as follows:

(a) by striking out from subsection (1) 'governing the supply of electricity' and substituting 'governing the sale or supply of electricity (including the service of making connections to a transmission or distribution network)';

This amendment makes it clear that standard terms and conditions can be fixed for the service of making connections to a transmission or distribution network.

Amendment carried.

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

After line 12—Insert new paragraph as follows:

(c) by inserting after paragraph (c) of subsection (3) the following paragraph:

(d) will, if they vary or exclude the operation of section 78(1) of the National Electricity Law, form an agreement between the electricity entity and each of the customers to which they are expressed to apply for the purposes of that section.

This amendment deems standard terms and conditions governing the sale and supply of electricity which are gazetted by an electricity entity to be agreements for the purposes of section 78(1) of the National Electricity Law. Accordingly, such standard terms and conditions may provide for the scope of the immunity conferred on the electricity entity by that section to be expanded or restricted.

Amendment carried; clause as amended passed.

Clause 37.

The Hon. P. HOLLOWAY: I have a question in relation to clause 36B(2). Clause 36B provides that electricity infrastructure owned or operated by an electricity entity cannot be dismantled in execution of a judgment. I think we can all understand why that would be required. However, 36B(2) provides:

This section does not prevent the sale of an electricity generating plant or a transmission or distribution network as a going concern in execution of a judgment.

Can the Treasurer indicate why that provision has been included?

The Hon. R.I. LUCAS: I am advised that, in the current set of circumstances, this provision will not have any operation because of the restrictions under the restructure Bill which prevent the sale of electricity generating plant. If, however, at some stage in the future Parliament was to allow the sale of electricity plant, I am told that this provision is there to ensure that if you had electricity generating plant you could not dismantle the plant and dispose of bits and pieces. What we want is an operating system, so the disposal or sale or lease, or whatever, of the whole plant to enable the continuation of a system in execution of a judgment would be something which is acceptable. Tearing it apart so that we do not have an electricity system is not something that we would be prepared to allow. But in the current set of circumstances that the Parliament allows this provision will not have any operation because of the use of the word 'sale' in that provision.

The Hon. P. HOLLOWAY: To take a hypothetical case, if there was a judgment that required, for some reason, the sale, that sale, or disposal, would be subject to the other provisions of the Bill—for example, it would require the Industry Regulator to consider and report and issue a new licence for the new owner. Is that correct?

The Hon. R.I. LUCAS: If our laws allowed a sale, the person to whom it was sold would have to have a licence to operate a generation business or a transmission or distribution business. So, the Industry Regulator is the body that issues the licence.

Clause passed.

Clauses 38 to 45 passed.

Clause 46.

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

Amendment of s.47—Power to carry out work on public land

46. Section 47 of the principal Act is amended—

(a) by inserting after subsection (2) the following subsection:

(2a) This section does not apply to work of a kind that may be carried out under the statutory easement under Schedule 1 of the Electricity Corporations (Restructuring and Disposal) Act 1999.;

(b) by striking out subsections (11) and (12).

This amendment is primarily intended to remove the potential overlap between a statutory easement granted over public land under clause 2 of schedule 1 of the Electricity Corporations (Restructuring and Disposal) Act 1999 and the statutory rights that an electricity entity has to enter and carry out work on public land under section 47 of an Electricity Act. In such a case a statutory easement operates to the exclusion of the statutory rights.

Amendment carried; clause as amended passed.

Clauses 47 and 48 passed.

New clause 48A.

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

After clause 48—Insert new clause as follows:

Amendment of s.50—Entry to read meters, etc.

48A. Section 50 of the principal Act is amended by inserting 'sold or' before 'supplied'.

This amendment is of a technical nature and compliments one of the amendments made earlier to clause 4.

Amendment carried; new clause inserted.

Clause 49 passed.

Clause 50.

The Hon. P. HOLLOWAY: Clause 50 amends section 58 of the principal Act by striking out reference to the 'Minister for the Environment and Natural Resources' and substituting 'the Minister responsible for the administration of the Environment Protection Act 1993'. I just wonder why that change was made. One might well understand why the Government does not have much faith in the current Minister, but I wonder what the reason was for that change in the Bill.

The Hon. R.I. LUCAS: The reason is that we do not have a Minister for Environment and Natural Resources. What happens with Governments is that they come along and change the titles, and legislation can never keep up with it. So, we have now a Minister for the Environment and Heritage and Minister for Aboriginal Affairs—DEHAA is the acronym.

One dilemma in including a title in a piece of legislation is that it changes with each Government or, maybe, with each Premier, whereas the legislation is explicit. The Environment Minister, under whatever name, has responsibility for the EPA. No other Minister is likely to have responsibility for the Environment Protection Act other than the Minister for Environment, under whatever title, and that would seem to be a more sensible way of describing the Minister for Environment.

Clause passed.

Clause 51.

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

Page 25, lines 20 to 24—Leave out proposed subsections (1) and (2) and insert:

(1) The Minister may prepare periodic programs for work to be carried out by an electricity entity for the undergrounding of powerlines forming part of a transmission or distribution network operated by the entity.

(2) Undergrounding work may not be included in a program unless—

(a) the council of each area concerned agrees to contribute to the cost of the work in its area on the basis determined by the Minister; or

(b) the Minister determines, in relation to particular work, that the council need not contribute to the cost of the work.

(2a) In preparing programs, the Minister must ensure that the total cost of the work to be carried out at the expense of electricity entities in each financial year (as estimated by the Minister) is not less than an amount fixed or determined under the regulations for that financial year.

(2b) The Minister must consult with the Local government Association of South Australia before a regulation is made for the purposes of subsection (2a).

This amendment makes it clear that undergrounding works are to be undertaken by the electricity entity which operates the relevant distribution or transmission network and that the Minister cannot require a council to contribute to the cost of undergrounding work, although a failure to do so may result in the program not being implemented. It also provides that, in preparing undergrounding programs, the Minister must ensure that the total cost of the work to be carried out at the expense of the relevant electricity entities in each financial year as estimated by the Minister is not less than an amount prescribed by regulation. The Minister must consult with the Local Government Association before any such regulation is made.

I thank the Local Government Association and its officers for the consultation we have had over some time but more particularly in recent times in relation to this provision. The Local Government Association can speak for itself but my understanding is that agreement has been reached between the Government and the Local Government Association in

relation to the shape and structure of the amendments that the Government is moving on the undergrounding provisions. I indicate that, under this amendment, the Government will be issuing a regulation that will prescribe an amount of not less than $4.2 million, which will contribute towards undergrounding.

There is then, of course, the provision from local councils, which is another $2 million ballpark. So assuming the continued operation of the arrangements, the continued scheme would amount to $6 million. That is broadly consistent with the policy provisions which I think I outlined to the Council a month ago. I must admit that at the time the commitment I gave was that we would continue the scheme as it existed, whatever that level was. There has been some debate as to whether the Government should continue the scheme at $3.2 million or $4.2 million.

It is the Government's intention, I indicate tonight, to issue a regulation of $4.2 million. There is a variety of reasons as to why the figure will be $4.2 million, some of which may or may not be explored during further discussion on this and other amendments.

The Hon. P. HOLLOWAY: The question of undergrounding of powerlines was a matter that we raised in some detail during the Electricity Corporations (Restructuring and Disposal) Bill, and it is a matter about which I wish to ask a few questions now. The Treasurer indicated that $4.2 million is the sum to be provided. I understood that, when we were debating the previous Bill, that was to be a requirement under the contract; in other words, this money would be provided by the new owners. Am I correct in that assumption?

The Hon. R.I. LUCAS: It is correct that I indicated that under the contract, but possibly later, based on better advice than my memory, I think I indicated that it was actually a licence condition as opposed to a provision in the contract. It will be a licence condition requirement on the electricity entities that they must expend.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Yes.

The Hon. P. HOLLOWAY: The Opposition will support the Treasurer's amendments in relation to this matter. I understand that the Local Government Association also supports them. I am pleased to see that, after some lengthy negotiations, this matter has been satisfactorily resolved. However, there is another issue. It is my understanding that the Local Government Association has sought information at an officer level in relation to the funds that are received by ETSA from Optus in exchange for Optus using ETSA poles for overhead cables. It is my understanding that very little information has been provided by the State Government. I suspect that this is partly because it is struggling to discover what has happened to the money.

I have some copies of extracts of correspondence from the State Government that was signed by John Olsen, MP—I think that, at the time, he was the Minister for Industry. The correspondence is dated June and July 1996 and I will seek leave to table it in a moment. The important points from this correspondence are, first, that funds received from Optus were to be allocated to councils for the undergrounding or insulating of powerlines based on the rental received by the State in each particular council area. Secondly, funds were to be held and managed by ETSA with administration by the Powerline Environment Committee (PLEC). Again, I understand that that committee is not aware of receiving any such funds.

The other points are that the councils were to be notified of their entitlement every six months and that the net amount for allocation to councils is approximately $1 million per annum. I understand that no council has received any advice of its entitlement or indeed any funds. It is possible that the funds have been used by the State Government to complement works funded under the Powerline Environment Committee scheme through, for example, Transport SA for roadworks and realigning intersections. Alternatively, the funds might have been spent to supplement or replace State budget funding that was previously provided to the Powerline Environment Committee, although I note that there does not appear to have been any increase in the Powerline Environment Committee funding of this magnitude.

I am not aware of any information to support either of those possibilities. It raises the question: what has happened to the promise of this money from Optus? Has ETSA received the rental from Optus for use by it of ETSA stobie poles?

The Hon. R.I. LUCAS: I was advised that these questions might be asked and I can share broadly what information I have in relation to this issue. The answer is that some funding has been received by ETSA, and ETSA's estimate is that the amount that was paid in 1998-99 from ETSA to the Government was about $900 000.

The Hon. P. Holloway: That year or in total?

The Hon. R.I. LUCAS: That was just for that year. In the previous year the figure was $338 000. It has been for only two years. It is evidently paid in the year subsequent to the particular year. If one refers to the debate in June, one can see that it was left a little ambiguous as to whether we were talking about $3.2 million or $4.2 million. I admit that one factor that has brought me to the conclusion that I should issue a regulation at $4.2 million has been the view expressed to me that there is, at the moment any way, approximately $900 000 net coming to the electricity businesses in relation to the hiring out of these poles.

There seems to be a bit of a question mark as to how long the rental stream for these poles is to continue. Some people have been telling me that some of these cables are not being used by some of the companies. I do not know whether that is true. Nevertheless, one issue which caused me, on behalf of the Government, to make the decision that we would continue at $4.2 million was the understanding that there was some money coming in, at least at the moment any way, that can be used to help sustain a program of $4.2 million.

As to the Stobie pole rental scheme, as I understand it there are a variety of views about the business within departments, agencies and the businesses. Some of the advice I have been given is that the offers that were made to local government some two years ago were on the basis that they would take over the responsibilities of the vegetation clearance scheme, that this was part of a discussion. Certainly there are documents within the various Government departments and agencies from which I have seen extracts which indicate that the scheme was never taken up by the Local Government Association—indeed, it actively opposed taking over vegetation clearance.

Some Government departments and agencies took the view that, whilst the offer had been made, it was contingent on a trade-off and, as the Local Government Association did not accept responsibility for vegetation clearance, it could be argued that the total deal was null and void. Perhaps that is too strong a phrase, but in essence it became inoperative or never actioned. I do not know whether there is much

productive purpose in dragging over the coals of what has occurred over the past three years. I have not been involved in this. It is something that has been raised with me over the past few months as a potential issue to be resolved.

If one looks at where we are heading, it is down a path where there is agreement between the LGA, the Government and the Opposition in terms of the shape and structure of the amendments. The Government has given a commitment that we will ensure at least $4.2 million continues to go into undergrounding, and with the councils contributing $2 million this should ensure that at least $6 million is provided. When we first started this discussion late last year there was concern from local government that in some way the whole PLEC scheme and the funding of it would disappear. It is a healthy result to have eventuated from a long period of discussion and negotiation.

The Hon. P. HOLLOWAY: I thank the Treasurer for his answer, but there are just a few matters that should be pursued. First, is this the full payment by Optus for the rental of the poles?

The Hon. R.I. LUCAS: Does the honourable member mean the $900 000?

The Hon. P. Holloway: Yes.

The Hon. R.I. LUCAS: No. As I said, that is the payment net of costs incurred by ETSA. ETSA netted off the costs for the project administration and maintenance, I am told, and then paid to the Government a dividend of $338 000 in 1997-98 and a dividend of $900 000 in 1998-99. One of the issues that is a bit hard to track down is that at the end of the year it is possible that ETSA could pay its dividends in a lump and then say, 'A component of this is this element and another component is some other element.' It is not as black and white as might otherwise be contemplated, where you get a separate cheque for this and a separate cheque for that. As I understand it, it is likely that it was a lump that was provided and it may have attributed various portions to various other elements.

The Hon. P. HOLLOWAY: I take it that the funds provided from this Optus rental money did not go to the Powerline Environment Committee. Did any money end up there or did it all go as dividends, as the Treasurer suggested?

The Hon. R.I. LUCAS: No. When we are talking about dividends, that is how ETSA pays the money to the Government, and the Government then pays money to PLEC. Under the current arrangements, undergrounding is a community service obligation. It will be different under the new arrangements because it will be a licence condition on the industry. The current arrangements are that there is a round robin of money chasing around between ETSA, the Government, community service obligations and PLEC.

The new system will be a bit simpler and it will be a licensing condition on industry operators. I am not in a position to give specific detail as to where exactly a lump of money went. One can certainly argue that the increase from $3.2 million to $4.2 million occurs in exactly the same year that there was a $900 000 supposed increase in the dividend from ETSA to the Government on the basis of moneys it received from Optus.

As I said, I refer the honourable member's attention to my last comment, that is, if having seen that it is not in relation to Stobie pole funds but in relation to everything else from ETSA, if you are getting a lump sum of $100 million from ETSA at the end of the financial year which is going up and down depending on a whole variety of issues between budget discussions and between Treasury and ETSA as to the size of the dividend it pays the Government, the dividend and also the tax equivalent payments it pays, if it is all coming in as one lump, as I understand it does, then you have ETSA saying that part of this is attributed to moneys it got net of cost from Optus, etc.

I am advised that it is not as black and white as, 'Here is a separate cheque for the Optus money net of costs and here is the money we have earned from our business operations in a separate cheque or payment.' It is lumped together. As I said, at the time we roughly increased the sum from $3.2 million to $4.2 million, and at about the same time we were supposedly getting an extra $900 000 from ETSA by way of dividend attributed to Optus. Some people have argued, 'Well, it is hard to see from the size of the dividend that we got from ETSA that we got an increase of $900 000, even though ETSA said, "Here is $900 000, which is attributed to the Stobie pole rental money."'

I cannot offer too much more detail than that. Suffice to say, in the end what we are talking about is a jump from $3.2 million to $4.2 million, which is a commitment from me to issue a regulation at $4.2 million, which means it will be not less than that. The Government's plan is that that be increased by CPI at the very least from year to year so that it does not decrease in value over time.

The Hon. P. HOLLOWAY: I will not further pursue the question of what happened in the past, but to complete the line of questioning I would like the Treasurer to tell me what are the future payments from Optus as rental on those ETSA poles. When are they expected to be received? This way we can make some comparison between before and after.

The Hon. R.I. LUCAS: I cannot help the honourable member in respect of that. In the next year or so it is likely to be at this level net of costs of about $900 000. As I said, there has been a suggestion to me that legally it might not be guaranteed that these sorts of payments will continue. That has not come from the electricity businesses but from the advisers who have said, 'If these people are not using some of the cables strung from poles, are they going to continue paying rentals for them?' That depends on what sorts of legal agreements they have struck with the businesses.

In the future, under the sorts of arrangements we have structured, the businesses will have to meet at least this $4.2 million and they will get whatever income comes from the rental of their poles. We had this debate about transmission and distribution ducts and poles. They will get the income stream coming in, whatever it is, net of their costs, and they are going to have to pay at least $4.2 million.

The Hon. P. HOLLOWAY: Will the Treasurer give an undertaking that the future money he is talking about—the $4.2 million—will be promptly forwarded to PLEC to enable the distribution to councils to undertake this work?

The Hon. R.I. LUCAS: My recollection of the briefing I received sometime last week was that there will have to be slightly different arrangements in relation to PLEC; for example, for its undergrounding program for 2000-1, PLEC will need to have its recommendations concluded by December this year, six months prior to the start of the financial year. It will then have to give the businesses their recommended program so that the businesses can factor that into their budget planning for 2000-1. Being a Government operated business, the PLEC arrangements and the differing sums of money that have been applied sometimes means the PLEC plans have not been delivered until well into the financial year. That has been a problem in terms of planning the undergrounding programs. The moneys will not have to

be paid to PLEC or to the Government. Businesses will just have to apply $4.2 million.

PLEC will recommend by December the preceding year how the $4.2 million, plus CPI, will have to be expended. Once the businesses have agreed to that or whatever the program will be, the councils will then have to spend that sum of money. The monitoring of that will be by PLEC. It will be a PLEC monitor in terms of ensuring that the businesses undertake that work, which is as I understand the situation at present: PLEC monitors the operations of ETSA.

The Hon. P. HOLLOWAY: I mentioned some documents before; I seek leave to table them.

Leave granted.

Amendment carried.

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

Page 25—

Lines 29 and 30—Leave out proposed subsection (4).

After line 36—Insert:

(7) Before varying a program, the Minister must consult with councils, electricity entities, bodies (other than councils) responsible for the care, control or management of roads and other persons as the Minister considers appropriate.

(8) The Minister must give due consideration to matters arising from any submissions and consultations under this section.

These amendments further vary the provisions relating to programs for the undergrounding of powerlines to require the Minister to consult with interested parties, including councils, before the Minister varies an undergrounding program.

Amendments carried; clause as amended passed.

Clauses 52 and 53 passed.

New clause 53A.

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

After clause 53—Insert new clause as follows:

Amendment of section 61—Electrical installation work

53A. Section 61 of the principal Act is amended—

(a) by inserting in subsection (1) 'to whom this section applies' after 'A person';

(b) by striking out subsections (2) and (3) and substituting the following subsection:

(2) This section applies—

(a) if a licensed electrical contractor or licensed building work contractor has employed or engaged a registered electrical worker to personally carry out work on an electrical installation or proposed electrical installation—to the licensed electrical contractor or licensed building work contractor; or

(b) if a registered electrical worker who personally carries out work on an electrical installation or proposed electrical installation has not been employed or engaged to do so by a licensed electrical contractor or licensed building work contractor—to the registered electrical worker.

The purpose of this amendment is to require a licensed electrical contractor or a licensed building work contractor who employs or engages a registered electrical worker to carry out work on an electrical installation to ensure that the work and any examinations and tests are carried out as required under the regulations and that the requirements of the regulations as to notification and certificates of compliance are complied with. Conversely, where a registered electrical worker who carries out that work is not employed or engaged to carry it out by a licensed electrical contractor or a licensed building work contractor, the registered electrical worker will be responsible for these matters.

Amendment carried; new clause inserted.

Clause 54.

The Hon. R.I. LUCAS:

Page 26, line 7—After 'amended' insert new paragraph as follows:

(a) by striking out from subsection (2)(a) 'in charge of' and substituting 'that operates';

This is consequential on earlier amendments.

Amendment carried; clause as amended passed.

Clause 55.

The Hon. P. HOLLOWAY: Clause 55 provides for the appointment of authorised officers. What is envisaged by that provision? In other words, what would be the role and duties of these authorised officers?

The Hon. R.I. LUCAS: I am advised that they could be the staff of the Industry Regulator or the Technical Regulator.

Clause passed.

Clauses 56 to 60 passed.

Clause 61.

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

Page 27, line 10—After 'amended' insert new paragraph as follows:

(a) by striking out from subsection (2)(a) 'in charge of' and substituting 'that operates'.

This is consequential on earlier amendments.

Amendment carried; clause as amended passed.

Clauses 62 and 63 passed.

Clause 64.

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

Page 29—

After line 34—Insert:

(2a) Except as otherwise provided in the exemption, an exemption under subsection (1) may be varied or revoked by the Industry Regulator by notice in writing.

After line 37—Insert:

(4) Except as otherwise provided in the exemption, an exemption under subsection (3) may be varied or revoked by the Technical Regulator by notice in writing.

These amendments provide that the Industry Regulator or the Technical Regulator may vary or revoke exemptions granted by them except to the extent that the terms of the exemption provide otherwise.

Amendments carried.

The Hon. P. HOLLOWAY: I move:

Page 29, after line 37—Insert:

Publication of exemptions in Gazette

80A. If the Industry Regulator or the Technical Regulator grants an exemption under this Act, or varies or revokes such an exemption, the Industry Regulator or Technical Regulator (as the case requires) must forthwith cause notice of the exemption, variation or revocation to be published in the Gazette.

The purpose of the amendment is simply to provide some accountability to this provision. Section 80 of the principal Act allows for the Industry Regulator, with the approval of the Minister, to grant exemptions from various parts of the electricity Bill. One of those includes schedule 1 of the Bill, which deals with cross-ownership rules.

It is the view of the Opposition that, if the Industry Regulator were to grant a power of exemption to something as important as the cross-ownership rules, there should at least be some reporting of that fact. I could well understand why one might need that rule if there was at some stage a change in ownership of a company that operated one of the electricity assets. It might well be in contravention of the cross-ownership rules on a temporary basis and there might be a need to dispose of shares. We have seen such things happen with the ownership rules in the media sector. One can understand why an exemption might be needed on a temporary basis to allow the situation to be brought to order but, if

there was to be some long-term exemption, that might be a cause of greater concern. We are asking that there be some disclosure of that fact by having it reported in the *Gazette*.

The Hon. R.I. LUCAS: As I indicated to the Hon. Mr Holloway privately, the Government is sympathetic to the intention of this amendment, but I would like to suggest an alternative amendment which the honourable member might be prepared to move. We have been advised through the Technical Regulator that he has issued and will have to continue to issue in his judgment a significant number of exemptions, and they are not all short-term exemptions. Some of them are just better mouse traps. It might be that a piece of equipment does not strictly comply but, as Technical Regulator, he has made a judgment that it does the job as well or better than the standard piece of equipment. That is the way he has operated for many years and it is his intention to continue to operate like that.

There is certainly a view that the requirement in the honourable member's suggested amendment for gazettal of what might be relatively small and insignificant exemptions, not the major ones that the honourable member might seek, would be an onerous provision on the mechanics of Government. Given my experience in Government, I sometimes wonder why we at Executive Council and through the *Gazette* have to do a whole range of things, because some of them are relatively small and I would have thought they could be handled in alternative ways. Nevertheless, the notion of some sort of public accountability or record is something that the Government is sympathetic to. My legal advisers and Parliamentary Counsel have suggested an amendment that goes under the heading of 'Register of exemptions' and states:

The Industry Regulator and the Technical Regulator must each keep a register of exemptions granted by him or her under this Act. A register kept under this section must include the terms and conditions of each exemption recorded in it and a person may, without payment of a fee, inspect the register kept under this section.

Anyone, including the Hon. Mr Holloway if he had time to while away on an afternoon, could inspect the register kept by either the Industry or the Technical Regulator to see the exemptions, or more particularly those people who are actively involved in the industry could have a look at the exemptions. That meets the essence of what the Hon. Mr Holloway is after, that is, public accountability so that people who are interested can find out what exemptions have been given and for what reasons, but it meets the suggestion of the Technical Regulator, in particular, that we do not provide a cumbersome, onerous level of gazettal every time he issues what are evidently a significant number of exemptions.

The Hon. P. HOLLOWAY: I accept the Treasurer's suggestion, Mr Chairman, so I seek leave to withdraw my amendment and replace it with the following amendment:

Page 29, after line 3—Insert:

Register of exemptions

80A. (1) The Industry Regulator and the Technical Regulator must each keep a register of exemptions granted by him or her under this Act.

(2) A register kept under this section must include the terms and conditions of each exemption recorded in it.

(3) A person may, without payment of a fee, inspect a register kept under this section.

Leave granted.

The Hon. R.I. LUCAS: I think it is a wonderful amendment being moved by the Hon. Mr Holloway and I indicate that the Government supports it.

Amendment carried; clause as amended passed.

Clause 65 passed.

Clause 66.

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

Page 30, line 8—Leave out 'a function or power' and insert:
any of his or her functions or powers

This amendment emphasises that the Minister may only delegate the Minister's own functions or powers under the Act.

Amendment carried; clause as amended passed.

Clauses 67 to 73 passed.

Clause 74.

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

Page 32, after line 10—Insert:

'Pelican Point generation licence' means a licence under this Act authorising the generation of electricity by means of an electricity generating plant situated on the Pelican Point land (whether the plant is contained within that land or extends to adjacent land);

'the Pelican Point land' means the land comprised in Certificate of Title Register Book Volume 5660 Folio 245 and Volume 5660 Folio 246;

This amendment inserts definitions of 'Pelican Point generation licence' and 'the Pelican Point land'. These definitions are used subsequently in the revised cross-ownership rules.

Amendment carried.

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

Page 32, lines 12 to 25—Leave out all words on these lines and insert:

'specially issued distribution licence' means a licence issued in accordance with an order of the Minister under Part 5 of the Electricity Corporations (Restructuring and Disposal) Act 1999 authorising the operation of a distribution network or some other licence authorising the operation of all or part of that distribution network;

'specially issued generation licence' means a licence issued in accordance with an order of the Minister under Part 5 of the Electricity Corporations (Restructuring and Disposal) Act 1999 authorising the generation of electricity or some other licence authorising the generation of electricity by means of an electricity generating plant previously operated pursuant to the licence issued in accordance with the order of the Minister;

'specially issued retailing licence' means a licence issued in accordance with an order of the Minister under Part 5 of the Electricity Corporations (Restructuring and Disposal) Act 1999 authorising the retailing of electricity or some other licence authorising the retailing of electricity to non-contestable customers;

'specially issued transmission licence' means a licence issued in accordance with an order of the Minister under Part 5 of the Electricity Corporations (Restructuring and Disposal) Act 1999 authorising the operation of a transmission network or some other licence authorising the operation of all or part of that transmission network;

'State-owned company' has the same meaning as in the Electricity Corporations (Restructuring and Disposal) Act 1999.

The principal purpose of these amendments is to extend the definitions of 'specially issued distribution licence', 'specially issued generation licence', 'specially issued retailing licence' and 'specially issued transmission licence' to include licences issued in replacement of those licences.

Amendment carried.

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

Page 33, line 11—After '20%' insert:
, or, if a lesser percentage is prescribed by regulation, that lesser percentage,

One of the circumstances in which two persons will be associates of each other is where one of them has a 'substantial shareholding' in the other. The effect of this amendment is that a shareholding will be a 'substantial shareholding' where one of those persons is entitled to not less than 20 per

cent (or such lesser percentage as may be prescribed by regulation) of the shares and the other of them.

Amendment carried.

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

Page 33, line 18 to page 35 line 8—Leave out clause 2 and insert:

Application and expiry of Schedule

2.(1) This Schedule—

(a) does not apply in relation to an instrumentality of the Crown in right of this State; and

(b) does not prevent an electricity entity from acquiring an interest in, or rights in respect of, electricity infrastructure as contemplated by conditions of a licence under this Act or as a necessary or incidental part of the operations authorised by the licence held by the entity; and

(c) has effect subject to any other exceptions prescribed by regulation.

(2) This Schedule expires on 31 December 2002.

Cross-ownership rules

2A.(1) The holder of a specially issued generation licence or an associate of the holder must not—

(a) hold another specially issued generation licence; or

(b) be entitled to any shares in, or be an associate of, the holder of another specially issued generation licence; or

(c) acquire an interest in, or rights in respect of, the electricity infrastructure of the holder of another specially issued generation licence.

(2) The holder of a specially issued generation licence in respect of Torrens Island Power Station A or Torrens Island Power Station B or Northern Power Station at or near Port Augusta or Playford Power Station at or near Port Augusta or an associate of the holder must not—

(a) hold a Pelican Point generation licence; or

(b) be entitled to any shares in, or be an associate of, the holder of a Pelican Point generation licence; or

(c) acquire an interest in, or rights in respect of, the electricity infrastructure of the holder of a Pelican Point generation licence.

(3) The holder of a Pelican Point generation licence or an associate of the holder must not—

(a) hold a specially issued generation licence in respect of Torrens Island Power Station A or Torrens Island Power Station B or Northern Power Station at or near Port Augusta or Playford Power Station at or near Port Augusta; or

(b) be entitled to any shares in, or be an associate of, the holder of a licence referred to in paragraph (a); or

(c) acquire an interest in, or rights in respect of, the electricity infrastructure of the holder of a licence referred to in paragraph (a).

(4) The holder of a specially issued generation licence or a Pelican Point generation licence or an associate of the holder must not—

(a) hold a specially issued transmission licence, a specially issued distribution licence or a specially issued retailing licence; or

(b) be entitled to any shares in, or be an associate of, the holder of a licence referred to in paragraph (a); or

(c) acquire an interest in, or rights in respect of, the assets of the holder of a specially issued retailing licence or the electricity infrastructure of the holder of any other licence referred to in paragraph (a); or

(d) operate an electricity transmission network in another State or a Territory of the Commonwealth; or

(e) be entitled to any shares in, or be an associate of, the operator of an electricity transmission network in another State or a Territory of the Commonwealth; or

(f) acquire an interest in, or rights in respect of, an electricity transmission network in another State or a Territory of the Commonwealth; or

(g) be entitled to any shares in, or be an associate of, a gas trading company; or

(h) acquire an interest in, or rights in respect of, assets of a gas trading company; or

(i) hold a gas pipeline licence; or

(j) be entitled to any shares in, or be an associate of, a person who holds a gas pipeline licence; or

(k) acquire an interest in, or rights in respect of, assets of a person who holds a gas pipeline licence.

(5) The holder of a specially issued transmission licence or an associate of the holder must not—

(a) hold a specially issued generation licence, a Pelican Point generation licence, a specially issued distribution licence or a specially issued retailing licence; or

(b) be entitled to any shares in, or be an associate of, the holder of a licence referred to in paragraph (a); or

(c) acquire an interest in, or rights in respect of, the assets of the holder of a specially issued retailing licence or the electricity infrastructure of the holder of any other licence referred to in paragraph (a).

(6) The holder of a specially issued distribution licence or specially issued retailing licence or an associate of the holder must not—

(a) hold a specially issued generation licence, a Pelican Point generation licence or a specially issued transmission licence; or

(b) be entitled to any shares in, or be an associate of, the holder of a licence referred to in paragraph (a); or

(c) acquire an interest in, or rights in respect of, the electricity infrastructure of the holder of a licence referred to in paragraph (a).

(7) The operator of an electricity transmission network in another State or a Territory of the Commonwealth or an associate of such an operator must not—

(a) hold a specially issued generation licence or a Pelican Point generation licence; or

(b) be entitled to any shares in, or be an associate of, the holder of a licence referred to in paragraph (a); or

(c) acquire an interest in, or rights in respect of, the electricity infrastructure of the holder of a licence referred to in paragraph (a).

(8) A gas trading company or an associate of a gas trading company must not—

(a) hold a specially issued generation licence or a Pelican Point generation licence; or

(b) be entitled to any shares in, or be an associate of, the holder of a licence referred to in paragraph (a); or

(c) acquire an interest in, or rights in respect of, the electricity infrastructure of the holder of a licence referred to in paragraph (a).

(9) A person who holds a gas pipeline licence or an associate of such a person must not—

(a) hold a specially issued generation licence or a Pelican Point generation licence; or

(b) be entitled to any shares in, or be an associate of, the holder of a licence referred to in paragraph (a); or

(c) acquire an interest in, or rights in respect of, the electricity infrastructure of the holder of a licence referred to in paragraph (a).

New clause 2 of schedule 1 deals with the application and expiry of the cross-ownership regime that is set out in schedule 1. In particular: (a) it provides that the regime does not apply in relation to any State instrumentality (whether an electricity corporation, a State-owned company or some other instrumentality of the Crown); and (b) it provides that the regime expires on 31 December 2002.

New clause 2A of schedule 1 contains cross-ownership rules. These are largely the same as those contained in clauses 2(3) to (8) of schedule 1 to the Bill except that, in addition, they prohibit the holder of the licence authorising the generation of electricity at Pelican Point from holding a licence for or acquiring certain kinds of interest in the businesses of: (a) the generation of electricity at the Torrens Island Power Stations, the Northern Power Station or the Playford Power Station; (b) the operation of a transmission network pursuant to a 'specially issued transmission licence'; (c) the operation of a distribution network pursuant to a 'specially issued distribution licence'; (d) the retailing of electricity pursuant to a 'specially issued retailing licence'; (e) the operation of an interstate transmission network; (f) a

gas trading company (Terra Gas trader Pty Ltd will be proclaimed to be such a company); or (g) the operation of the Moomba-Adelaide pipeline.

Amendments of a more minor nature have also been made to the cross-ownership restrictions which are imposed in relation to the business the subject of a 'specially issued transmission licence' (see clauses 2A(4)(a), 5(a),(c),(6)). Broadly what the Government is doing is treating the new owners and operators of Pelican Point Power Station (that is National Power), in much the same way as anyone who would purchase one of our existing generation companies. That is, if someone purchases one of our generation companies, they will not be entitled to own another one of the generation companies or the distribution asset or the transmission asset. National Power is being treated in the same fashion, so that it has no advantage over someone who will be leasing one of the existing Government generation businesses.

The Hon. P. HOLLOWAY: I have a quick question in relation to this amendment which the Opposition supports. I note that the schedule expires on 31 December 2002. In other words, that is when the cross-ownership rules expire. Am I correct in assuming that after that date the ACCC will come into play and that the Trade Practices Act will apply to any mergers or other corporate activity that might infringe on cross-ownership rules?

The Hon. R.I. LUCAS: The honourable member is exactly correct that after that period it will be up to the ACCC to provide oversight of competition issues. If a particular merger or acquisition was to be applied for and if the ACCC had concerns on competition issues, as we have seen demonstrated only too clearly in recent times, the ACCC may well step in and prevent such a merger or acquisition.

Amendment carried; clause as amended passed.

Clause 75.

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

Leave out the clause and substitute new clause as follows:

Amendment of Schedule 2—Transitional provisions

75. Schedule 2 of the principal Act is amended by striking out clause 2.

In order to avoid any inconsistency with national electricity law, clause 2 of schedule 2 of the Electricity Act, which grants immunity to the electricity corporation in certain circumstances for failure to supply electricity or variation of electricity supply, needs to be deleted. This is the effect of the amendment.

Amendment carried; new clause inserted.

Schedule and title passed.

Bill read a third time and passed.

AUSTRALASIA RAILWAY (THIRD PARTY ACCESS) BILL

Returned from the House of Assembly without amendment.

MOTOR VEHICLES (MISCELLANEOUS) AMENDMENT BILL

Returned from the House of Assembly with amendments.

FEDERAL COURTS (STATE JURISDICTION) BILL

Returned from the House of Assembly without amendment.

STATUTES AMENDMENT (TRUSTS) BILL

Returned from the House of Assembly without amendment.

GEOGRAPHICAL NAMES (ASSIGNMENT OF NAMES) AMENDMENT BILL

Returned from the House of Assembly without amendment.

SUPERANNUATION (VOLUNTARY SEPARATION PACKAGES) AMENDMENT BILL

Returned from the House of Assembly without amendment.

POLICE SUPERANNUATION (INCREMENTS IN SALARY) AMENDMENT BILL

Returned from the House of Assembly without amendment.

WATER RESOURCES (WATER ALLOCATION PLANS) AMENDMENT BILL

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

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

That this Bill be now read a second time.

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

Leave granted.

The Select Committee on Water Allocations in the South East was established in the House of Assembly on 10 December 1998.

The Committee has handed down its findings and recommendations in a draft report.

A number of recommendations have been made—the majority of which are supported and addressed in a separate Government response.

One of the recommendations (recommendation 9) found that Schedule 3 of the *Water Resources Act 1997* should be amended.

Schedule 3—Repeal and Transitional Provisions of the *Water Resources Act 1997* is being amended to allow the Minister responsible for this Act to vary a water allocation plan (referred to in subclause 2(15)) by a notice in the *Gazette*.

Water allocation plans are an integral tool in water resources management in this State. Each water allocation plan provides the policy framework for the management of the prescribed water resource to which the plan refers. Once adopted by the Minister, a water allocation plan becomes a statutory document, and decisions by the relevant authority, for example, on the granting or transfer of water licences, must be consistent with the relevant water allocation plan. Where the prescribed resource in question lies within the catchment area of a catchment water management board, the water allocation plan becomes part of the board's catchment water management plan.

As a transitional measure this amendment will allow the Minister to vary a water allocation plan that started life as a management policy under the previous Act. Such a plan remains in force until it is superseded by a water allocation plan prepared and adopted under the 1997 Act.

I commend this Bill to honourable members.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Amendment of Schedule 3—Repeal and Transitional Provisions

Clause 2 amends Schedule 3 of the principal Act.

New subclause (15a) enables the Minister to vary a water allocation plan that has been preserved under subclause (15). Subclauses (15b) and (15c) ensure that applications made after

3 August 1999 in the South East wells area will be dealt with under the relevant plan as varied by the Minister under subclause (15a).

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

ADJOURNMENT

At 12.5 a.m. the Council adjourned until Wednesday 4 August at 11 a.m.