LEGISLATIVE COUNCIL

Thursday 10 June 1999

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

LISTENING DEVICES (MISCELLANEOUS) AMENDMENT BILL

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

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

Motion carried.

SITTINGS AND BUSINESS

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

That Standing Orders be so far suspended as to enable petitions, the tabling of papers, Question Time and statements on Matters of Interest to be postponed and taken into consideration after Order of the Day: Government Business No. 3 has been dealt with.

Motion carried.

ELECTRICITY CORPORATIONS (RESTRUCTURING AND DISPOSAL) BILL

In Committee.

(Continued from 9 June. Page 1450.)

New Clause 15A.

The Hon. SANDRA KANCK: I move:

New clause 15A—After subclause (12) insert:

(13) An employee transfer order cannot take effect until—

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

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

This amendment is the fourth of a raft of amendments of this nature. In this case, it deals with an employee transfer order. I propose that, if there is one, it cannot take effect until a copy of that order has been laid before both Houses of Parliament and that both Houses of Parliament have agreed to it. From discussions last night it is fairly clear that there is a lot of emotion about this whole issue. No doubt, the Treasurer will again use the standard argument that this is designed to thwart the lease or to put delays in place, but I believe, as I have with the other three amendments, that it is about accountability, transparency and openness. It seems to me that, whenever we have an accountability, transparency and openness provision, this Government runs with its tail between its legs as fast as it can to the nearest corner. But in this instance it involves not just those issues but also the issue of justice for the employees. This amendment is very important.

The Hon. R.I. LUCAS: In the interests of not prolonging the debate any longer today than we must, I will not bore the honourable member with the Government's reasons for opposing this amendment. The reasons for opposition to the series of amendments that the honourable member has moved in the debate over the last two or three days on these issues remain the same. The Government remains firmly opposed.

The Hon. P. HOLLOWAY: We will support the amendment.

Amendment negatived.

The Hon. R.I. LUCAS: Again, in the interests of not prolonging and repeating the debate that we had last evening, I shall highlight a couple of matters. The Government believes that there have been useful discussions with the unions this morning. As I indicated last night, I am very happy for those negotiations or discussions to continue. The Government's position obviously remains that we want to see this provision in the Bill and that we will continue to vote on it. We understand the position of the Hon. Mr Roberts and the Labor Party.

I flag one issue which was raised privately with me yesterday by the Hon. Terry Cameron; he may well have also raised it publicly. I think the Hon. Mr Roberts may have raised the issue as well. I refer to the issue of relocation. I think that the Hon. Mr Cameron raised the issue of Andamooka and the Hon. Mr Roberts may have talked about a similar town somewhere in the far north as well. It is the Government's intention to have this clause passed now and within the next couple of hours, if we get through the Bill completely, to submit a further amendment to the provision which talks about relocation and which has been discussed with the unions this morning. In effect, the amendment will try to place in the legislation what we are advised by ETSA utilities is its practice at the moment—it is not in legislation. That is, that relocation will be broadly within a 45 kilometre radius or distance—I have not seen the exact wording of the amendment yet. We will have an opportunity to debate that when we recommit this clause to insert that particular amendment.

I do not pretend to speak on behalf of the unions, but I understand, whilst they have overall concerns, that they would see that as being something which was at least more favourable to the position they have adopted in relation to this issue than the words that exist. Again, I have not spoken directly to the unions. I do not seek to put words into their mouth; I am sure they can relay their views to the Hon. Mr Roberts. We think that the issues raised by the Hon. Mr Cameron with me privately—and I think the Hon. Mr Roberts might have raised them publicly—are reasonable ones. We are not trying to be unreasonable in relation to all this.

It is the Government's intention to vote on this issue now. We would hope, therefore, to see it remain within the Bill. At the end of the Committee stage, we will recommit this clause to debate the amendment, which, again on our understanding, will be acceptable to the unions and the employees. Even though, obviously, the unions do not like the whole clause being in the Bill, this particular amendment, as we understand it, is likely to be potentially acceptable to them.

A number of other issues have been raised in terms of further clarification of issues, and I am taking further advice on that. We think that in a number of areas we may well be able to accommodate the various concerns of the union representatives and, where we can, we genuinely will seek to do so. But, nevertheless, the fundamental position which we debated for three hours last night remains: the Government wants to see the particular provision remain in the Bill. As we now move to that vote, I understand that the Hon. Mr Roberts may well want to make a concluding statement as well. The Government's position remains to leave the provision in the Bill.

The Hon. R.R. ROBERTS: Since we last met I am thankful that the Government accepted the suggestion I made on behalf of the unions last night. Given the clear indications that we were going to abandon the normal negotiating procedures in respect of these matters, when I began my contribution my suggestion was that we put aside new clauses

15A and 15B. That was not because I am against the intent of the clause—in fact, I am very much in favour of the clause and played some small part in ensuring that, through the Hon. Mr Crothers, it would eventually finish up in the Bill. I noted the time frames involved. I noted the constraints that that put on the system of normal negotiations and suggested that these clauses ought to be defeated. I do not resile from that position and I would still urge the Committee to reject new clauses 15A and 15B.

As proof of the wisdom of the advice that was proffered by me on behalf of the unions, that we would be better off to workshop this away from here rather than try to do it here, I am pleased with the report that we have received back from the Treasurer today and to see that some of the issues are to be addressed at a future date. The provisions he would be talking about would be new clause 15(4) and (11) which talk about transferred employees being given the offer of a VSP or a Public Service job, whereby the rules would provide that they had to make a decision within one month as to whether they went into the Public Service or whether they took the VSP. We were concerned at that time. We were looking for a relocation within the electricity industry and that would have been brought out in the discussion. I do not want to labour that point any further.

However, the concluding subclauses actually say that, if you have not made a decision to take the VSP or relocation into the Public Service within one month, you are deemed, for the purpose of this agreement, to have accepted a VSP. In those circumstances, it does not become a VSP: it actually changes to a forced redundancy package. The subclause dealing with relocation deals with the fact that after two years you could be relocated into the Public Service but, if the Public Service job in which you are involved then becomes surplus to requirements or you become surplus to requirements in that position, you can then be relocated somewhere else. The result of not accepting that relocation, which could have been hundreds of miles away, was that you lost your job and you received no VSP. Therefore, the commitments made by the Treasurer in his public statements and press release are not true.

As a result of the suggestion I made last night, there have been productive discussions this morning between the CEPU and representatives of the Government, and I am pleased to see that that matter is being addressed. Nonetheless, I will be voting against these new clauses, but I do note that progress has been made. I also reiterate that this Bill was capable of progressing without these new clauses, that is, with a workshop, as in the case of the WorkCover legislation, and then coming back and going through this Parliament like water down a funnel. I thank the negotiators for the work they have done this morning, and I understand that those discussions will be continuing.

The unfortunate part about the proposition involves these negotiations. Once we pass the Bill, we are then faced with exactly the same situation that the Hon. Mr Lucas decried last night when he said it was impossible to do that and then bring it back in. He is doing it by recommittal, but in the expectation that negotiations between the Government's team and the unions will be ongoing. If there are properly identified problems within the structure of the new agreement, we then have the problem of how we put that back in the legislation. The answer to that is quite clear: either we will have to recommit the Bill as a whole or we move an amendment to the Bill as a whole, which would involve an amendment Bill, the very thing the Treasurer last night said was an impossibility and would hold up the whole process.

Having pointed out that hypocrisy, it is not my intention to make any further contributions on new clauses 15A and 15B. I urge members of the Committee to abandon these two new clauses and workshop them in a proper manner. I think the Hon. Paul Holloway has an amendment on file in relation to inserting new clause 15AB. Where would that fit into this? It is the no involuntary retrenchment clause.

The CHAIRMAN: The retrenchment clause is the next one that we have on our file.

The Hon. R.R. ROBERTS: Are we dealing with 15A first?

The CHAIRMAN: Yes.

The Hon. R.R. ROBERTS: I will oppose new clause 15A on the basis that I want it knocked out—although I understand the numbers—and then I will move the amendment to insert new clause 15AB afterwards. Thank you for your advice.

New clause inserted.

New clause 15AB.

The Hon. R.R. ROBERTS: I move:

After proposed new clause 15A insert:

No involuntary retrenchment clause

15AB. (1) Any sale/lease agreement made under this Act must include a condition binding on the purchaser under which the purchaser must do everything within the purchaser's power to ensure that an agreement remains in force under the industrial law of the State or the Commonwealth under which a transferred employee may not be the subject of involuntary retrenchment during the period of the employee's continuing employment as a transferred employee.

(2) In this section—

'transferred employee', in relation to a purchaser under a sale/lease agreement, means—

(a) an employee transferred by an employee transfer order to the employment of the purchaser; or

(b) an employee in the employment of a company that was an electricity corporation or a State-owned company when the shares in the company were transferred to the purchaser.

This clause seeks to bind the purchaser to an industrial agreement. I think most of this will happen. It would normally be part of the contract, I would assume, but, with respect to the conditions covering staff movements, I feel that it warrants inclusion in the Bill so that it has the force of the legislation and there is a clear understanding in the legislation as to the requirements first of the contract and secondly and most importantly the responsibilities of the new lessee with respect to these matters of involuntary retrenchment.

The Hon. R.I. LUCAS: We had this debate in large part last evening and again this morning. It cuts across the new clauses that we have just instituted, so the Government obviously opposes this provision. I talked earlier about recommittal. The recommittal process will be that, if we conclude this debate in the next two hours or early this afternoon or whenever it is, at that stage we will recommit the Committee stage and this clause, and then debate this amendment and put it in. It is not a recommittal later on: it is a recommittal now. In relation to other issues further down the track, it is always possible that the Government or any private member could, having looked at it, decide that some issues need to be resolved.

From the Government's point of view, the fundamental issues in clause 15A are now there. Clearly, the Government would not be intent on reversing the key issues but, if particular issues or problems have to be resolved or refined, there is always that possible flexibility further down the track. What we have in this Bill now that we have passed that clause

are the fundamental principles regarding our bidding process, negotiations and/or discussions with various people.

New clause negatived.

New clause 15B.

The Hon. R.I. LUCAS: I move to insert the following new clause:

Separation packages and offers of alternative public sector employment

15B. (1) Subject to this section, any action that a private sector employer takes from time to time as a consequence of a transferred employee's position being identified as surplus to the employer's requirements must consist of or include an offer of a separation package that complies with this section.

(2) If a private sector employer makes an offer to a transferred employee under subsection (1) after the end of the employee's first two years after becoming a transferred employee, an offer must also be made to the employee of public sector employment with a rate of pay that is at least equivalent to the rate of pay of the employee's position immediately before the employee's relocation to public sector employment.

(3) A transferred employee who is made an offer of a separation package under subsection (1) must be allowed—

(a) if an offer of public sector employment is also made under subsection (2)—at least one month from the date of the offer of public sector employment to accept either of the offers;

(b) in any other case—at least one month to accept the offer.

(4) If a transferred employee has been offered both a separation package and public sector employment under this section and has failed to accept either offer within the period allowed, the employee is taken to have accepted the offer of a separation package.

(5) The employment of a transferred employee may not be terminated as a consequence of the employee's position being identified, within the employee's first two years after becoming a transferred employee, as surplus to a private sector employer's requirements unless the employee has accepted (or is taken to have accepted) an offer under this section or otherwise agreed to the termination.

(6) A separation package offered to a transferred employee under this section must include an offer of a payment of an amount not less than the lesser of the following:

(a) (8 + 3CYS)WP;

(b) 104WP,

where—

CYS is the number of the employee's continuous years of service in relevant employment determined in the manner fixed by the Minister by order in writing; and

WP is the employee's weekly rate of pay determined in the manner fixed by the Minister by order in writing.

(7) An order of the Minister—

(a) may make different provision in relation to the determination of an employee's continuous years of service or weekly rate of pay according to whether the relevant employment was full-time or part-time, included periods of leave without pay or was affected by other factors; and

(b) may be varied by the Minister by further order in writing made before any employee becomes a transferred employee; and

(c) must be published in the *Gazette*.

(8) A person who relocates to public sector employment as a result of acceptance of an offer under this section is taken to have accrued as an employee in public sector employment an entitlement to annual leave, sick leave and long service leave that is equivalent to the entitlements that the person had accrued, immediately before the relocation, as an employee of the private sector employer.

(9) It is a condition of an offer of a separation package or public sector employment under this section that the employee waives any right to compensation or any payment arising from the cessation or change of employment, other than the right to superannuation payments or other payments to which the employee would be entitled on resignation assuming that the employee were not surplus to the employer's requirements.

(10) If an employee is relocated to public sector employment as a result of acceptance of an offer under this section—

(a) the employee may not be retrenched from public sector employment; and

(b) the employee's rate of pay in public sector employment may not be reduced except for proper cause associated with the employee's conduct or physical or mental capacity.

(11) Subsection (1) does not apply if the action that a private sector employer takes as a consequence of an employee's position being identified as surplus to the employer's requirements consists only of steps to relocate the employee to another position in the employment of that employer or a related employer with—

(a) functions that are in their general nature the same as, or similar to, the functions of the surplus position; and

(b) a rate of pay that is at least equivalent to the rate of pay of the surplus position.

(12) For the purposes of subsection (5), the employment of a transferred employee is taken not to have been terminated by reason only of the fact that the employee has been relocated to another position in the employment of the same employer or a related employer if the rate of pay of that position is at least equivalent to the rate of pay of the employee's previous position.

(13) In this section—

'award or agreement' means award or agreement under the Industrial and Employee Relations Act 1994 or the Workplace Relations Act 1996 of the Commonwealth as amended from time to time;

'private sector employer' means—

(a) a purchaser under a sale/lease agreement or a company that was an electricity corporation or State-owned company before the shares in the company were transferred to a purchaser under a sale/lease agreement; or

(b) an employer who is related to a purchaser or company referred to in paragraph (a);

'public sector employment' means employment in the Public Service of the State, or by an instrumentality of the Crown or a statutory corporation;

'rate of pay' includes an amount paid to an employee to maintain the employee's rate of pay in a position at the same level as the rate of pay of a position previously occupied by the employee;

'relevant employment' means—

(a) employment by The Electricity Trust of South Australia, an electricity corporation or a State-owned company; or

(b) employment by a private sector employer;

'transferred employee' means an employee—

(a) who—

(i) was transferred by an employee transfer order to the employment of a purchaser under a sale/lease agreement; or

(ii) was in the employment of a company that was an electricity corporation or a State-owned company when the shares in the company were transferred to a purchaser under a sale/lease agreement; and

(b) who has remained continuously in the employment of that purchaser or company or in the employment of an employer related to that purchaser or company since the making of the relevant sale/lease agreement; and

(c) whose employment is subject to an award or agreement.

(14) Employers are related for the purposes of this section if—

(a) one takes over or otherwise acquires the business or part of the business of the other; or

(b) they are related bodies corporate within the meaning of the Corporations Law; or

(c) a series of relationships can be traced between them under paragraph (a) or (b).

In our wide ranging debate earlier we ranged across new clauses 15A and 15B, so we have already had the debate on these clauses.

The Hon. R.R. ROBERTS: I intend to make no further substantive contributions on this matter, but I intend to use this to give a clear indication of the will of the Parliament on

whether to put this aside. So, I will divide on the outcome, and I make no further contributions at this stage.

The Committee divided on the new clause:

AYES (10)

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

NOES (9)

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

PAIR(S)

Davis, L. H.	Elliott, M. J.

Majority of 1 for the Ayes.

New clause thus inserted.

New clause 15C.

The Hon. R.I. LUCAS: I move to insert the following new clause:

PART 3B
LICENCES UNDER ELECTRICITY ACT

Licences under Electricity Act

15C. (1) The Minister may, by order in writing, require that a licence under the Electricity Act 1996 authorising specified operations be issued to a State-owned company, or to the purchaser under a sale/lease agreement, in accordance with specified requirements as to the term and conditions of the licence and rights conferred by the licence.

(2) The requirements of the Minister as to the conditions of a licence must be consistent with the provisions of the Electricity Act 1996 as to such conditions.

(3) The Minister may, by order in writing, require that a licence issued to a State-owned company in accordance with an order under subsection (1) be transferred to a purchaser under a sale/lease agreement.

(4) The Minister may, by order in writing, require that a licence issued to a purchaser in accordance with an order under subsection (1), or transferred to a purchaser in accordance with an order under subsection (3), be transferred to the transferee under a special order.

(5) An order under this section must be given effect to without the need for the State-owned company, or the purchaser, to apply for the licence or agreement to the transfer of the licence and despite the provisions of the Electricity Act 1996 and section 7 of the Independent Industry Regulator Act 1998.

(6) An order may not be made more than once under this section for the issue of a licence in respect of the same electricity generating plant.

(7) An order may not be made more than once under this section for the issue of a licence in respect of the same electricity retailing business.

(8) A licence issued to a State-owned company in accordance with an order under this section may not be suspended or cancelled under the Electricity Act 1996 on the ground of any change that has occurred in the officers or shareholders of the company associated with the company's ceasing to be a State-owned company.

New clause 15C empowers the Minister, by order in writing, to require that a licence be granted under the Electricity Act to a State-owned company or to a purchaser under a sale/lease agreement. Although the terms and conditions of the licence may be specified by the Minister, the conditions of such a licence must be consistent with the provisions of the Electricity Act as to such conditions. In addition, the Minister may, by order in writing, require the transfer of such a licence from a State-owned company to a purchaser.

The purpose of this clause is to ensure that a successful bidder for one of the State's electricity businesses is granted the benefit of a licence under the Electricity Act. This power would be able to be exercised only once in respect of the issue of a licence for the State's electricity generation businesses and once in respect of the issue of a licence for the State's electricity retailing business. Provision is also made for the Minister, by order in writing, to require a licence held by a purchaser to be transferred to a transferee under a special order.

The Hon. P. HOLLOWAY: As we are opposing this Bill outright, we are opposed to the amendment.

New clause inserted.

New clause 15D.

The Hon. P. HOLLOWAY: I move:

In Part 4 before clause 16—Insert:

15D. (1) The prescribed land may not be transferred under this Act or otherwise except to the Minister responsible for the administration of the Harbors and Navigation Act 1993 or the Corporation of the City of Port Lincoln (or part to that Minister and part to that Corporation).

(2) In this section—

'prescribed land' means the land that—

(a) is comprised in Certificate of Title Register Book Volume 2450 Folio 4; and

(b) consists of the walkway on the foreshore or land to the seaward side of the walkway.

Port Lincoln is one of the most attractive cities in this State, indeed Australia.

An honourable member: Next to Port Pirie!

The Hon. P. HOLLOWAY: Next to Port Pirie, yes. Coming from Adelaide, I do not have to be biased. At Port Lincoln, near the bulk loading terminal, is a disused power station. This old coal fired power station has not been used for many years, but there is an ETSA depot on it. Because it was a coal fired power station, the land attached to this site includes land out to the low water mark so that the pipes for the old cooling system could be included. So, it is unusual in that respect.

Some years ago, I think it might have been when the Labor Government was in office, the Government provided money to the council to construct a walking trail along the coastline on the ETSA land at Kirton Point. That walking trail is very widely used and is appreciated by the people of Port Lincoln. If the ETSA land at Port Lincoln, which encompasses this old disused power station, were to be sold, it would also involve the sale of land out to the low water mark.

It is a fact that within this State the foreshore and land in most instances is not alienated from the Crown. That is a principle to which we in the Labor Party would adhere strongly. We believe that the public should have access to coastal areas of this State, perhaps with a few exceptions where there might be a power station inlet or industrial developments such as ports.

In the case of Port Lincoln, where the power station is disused, for some 10 years the public of Port Lincoln has been using this attractive foreshore area. We are suggesting that this land should be transferred to the Minister for Transport, who normally has possession of coastal land in this State, or the corporation or part to each—that is up to the Government to determine. We are saying that as part of any lease of ETSA we should not transfer this coastal strip of land out to the low water mark at Kirton Point.

I believe that the situation at Kirton Point is special. I know of no other case in this State where a disused power station would be on land that goes out to the low water mark. The only other land I could think of that would include sea and be associated with a power asset would be at currently

operating power stations. I do not believe this would be necessarily setting any precedent. It is a very valuable block of land and we have no objection to its ultimate disposal. If the Government wants to sell it before any lease takes place, that is the Government's decision. That can be done commercially. However, we want to ensure that the coastal strip of land in a key strategic area of Port Lincoln is not alienated forever.

This may have some cost implications. I suppose that, if you were to sell land at Port Lincoln for residential or other purposes that included access down to the low water mark, I guess it might be more valuable. I am suggesting that that would set an unfortunate precedent. It is the standard in this State that we do not, except in exceptional circumstances, alienate coastal land, particularly when it is such an important, attractive and strategic area such as Kirton Point at Port Lincoln. It would be a tragedy if this strip of land were sold or leased as part of any deal and the public were to be denied access to this area, to which they have had access now for at least a decade. I ask honourable members to support the amendment.

The Hon. R.I. LUCAS: This is a reasonable issue. The Government's position is that it will not support the amendment, but I indicate that I understand from where the honourable member is coming and the particular view that the supporters of this amendment would have on the issue. The member is correct: it will have an implication on the value of that particular asset. In the greater scheme of things, it is but one asset of a whole variety of assets that the electricity businesses have. I acknowledge that. It would be highly unusual for us to have in this Bill a provision which relates to just one public use of one of the hundreds or thousands of properties that the electricity businesses in South Australia have.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: I am not as confident as the Hon. Mr Holloway; I do not know what other examples there might be.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: As I said, I do not know what other examples there might be but, from the Government's viewpoint, ETSA Utilities has been having these discussions with the local community for some time. I have indicated publicly—and I will say so again today—that we would like to see some sort of reasonable resolution of the total issue. This issue will obviously be resolved prior to the lease process. I hope that the issue can be sensibly or reasonably resolved in one way or another. If there is a value implication, there is a question of who will pay ETSA Utilities for this land. Does the corporation, in effect, make a payment for the land if it is going to take it over as one of the options that the honourable member has canvassed? I do not know what the corporation's view—

The Hon. P. Holloway: You wouldn't normally sell coastal strips, would you?

The Hon. R.I. LUCAS: I understand the point that the honourable member is making, but I am saying that it is one of a number of valuable assets that the electricity businesses have at the moment. All I can say in opposing this amendment is that we do not do so on the basis that we are going to take our bat and ball and not try to resolve the issue. We understand the concerns of the local community, and I would hope that we might reach a reasonable resolution to satisfy those concerns without significantly impacting on the value of the asset that the business has.

That is the best that I can indicate to the honourable member. This has been an issue of some local publicity in the local media. I understand that is one the reasons why it has been raised in the debate on this Bill, but I can assure the honourable member that a range of other issues in relation to public use of electricity assets have been raised by a number of different community groups, not just the issue of a trail on the foreshore.

The Hon. T.G. Roberts interjecting:

The Hon. R.I. LUCAS: There is a range of issues. The Hon. Mr Roberts, as the shadow Minister for the Environment, will be aware that a number of groups say, 'We have used this property or asset for 20 or 30 years. What will happen in the future?' All those issues are not being canvassed by way of amendment in the Bill. Frankly, I do not think we will be able to handle all those issues by way of amendment to the legislation. I do not want to drag out this debate because there are other issues to be debated today. For those reasons, the Government opposes the amendment but acknowledges in this Council, as we have publicly, that we will see what we can do to seek a reasonable resolution to the issue.

The Hon. P. HOLLOWAY: Will the Treasurer give a commitment that the land will not be alienated from public access?

The Hon. R.I. LUCAS: I cannot give any commitment other than what I have given publicly—and I have done so again today. I am not aware of what the opportunities and options will be. All I can say is that we understand the concerns and I can give a commitment to try to seek a reasonable resolution of it. A balance must be reached: the business is saying, 'If we do certain things, there will be this sort of impact on the value of our asset.' The community is saying that it wants to have continued access. In the end, we can only hope that we can work out some sort of reasonable resolution for it.

The Hon. NICK XENOPHON: I support the amendment moved by the Hon. Paul Holloway for the reasons set out by him. Notwithstanding the endeavours of the Treasurer, I think it is important that an exception be made here. It is a special case and the people of Port Lincoln ought to thank the Hon. Paul Holloway for his initiative in this regard. I urge my colleagues, the Hons Terry Cameron and Trevor Crothers, given the very minor impact on the sale price and also the impact of this strip of land for the people of Port Lincoln, to support the amendment.

The Hon. A.J. REDFORD: Members may recall that earlier in the Committee stage I raised similar sorts of issues following the nasty experience that we all suffered prior to the last election when we unfortunately inadvertently sold a bowling green when the SAMCOR deal was done.

I understand where the Treasurer is coming from and I support what he is saying. I hope that the Treasurer will come up with a process where we can identify all land that falls within this category of community land that is technically in the name of ETSA or its successors in title, and the Government can then ensure that we are not transferring land which is of no value to a purchaser of a generation or transmission business but which is of important value to the community. I urge the Treasurer to come up with such a process.

This is a classic example of why we should not have supported, and fortunately did not support, some of the arguments put by the Opposition regarding advertising. It seems to me that an advertising process directing the public's attention to this might flush out other examples. Given what

the Treasurer has said, unless it is shown to be something specifically required by either a generation or transmission business—

The Hon. P. Holloway interjecting:

The Hon. A.J. REDFORD: But there may well be others, too.

The Hon. P. Holloway interjecting:

The Hon. A.J. REDFORD: Unlike the honourable member I would not pretend to make that judgment at this stage. I do not think that this Parliament ought to pretend to make those sorts of judgment. I understand what the petitioners are saying and I have a lot of sympathy for it, and I understand the Treasurer does, too, judging by what he has said. The important thing is that we get on record the Treasurer's process of how he will deal with the issue and the parameters within which he will deal with it and accept his undertaking rather than select one small example and legislatively prescribe it. If you do it that way you may then get to a position where the Treasurer says that as it was not prescribed in the legislation he will not bother about it.

The honourable member has raised an important issue and I understand the issue: it is almost a step in the right direction for the Opposition, and I am pleased to see it. I think the Treasurer ought to accept the integrity of that and develop the process and a series of public information campaigns as outlined earlier in his contribution.

The Hon. T.G. CAMERON: I have a number of questions that I would like to put to the Treasurer. I am not fully across this issue and his answers will influence how I vote on it. Will the Treasurer describe this land as best he can, in particular what length of foreshore it commands? I have heard different views expressed as to what is the likely value of this land. On the one hand it has been described as valuable; and on the other hand we have been told that it is not valuable.

The Hon. P. HOLLOWAY: I think that eight acres is the entire area of the site. I believe that the coastal strip, although it is an irregular shape, would probably be 200 or 300 metres.

Members interjecting:

The Hon. R.I. LUCAS: I am afraid I cannot help the Hon. Mr Cameron. The amendment moved by the Hon. Mr Holloway prescribes an area. I think his description of the foreshore is the closest we will get. The Government has adopted the principle that it does not support the amendment for the reasons that I have given (and I will not go over them again). The Hon. Mr Holloway has prescribed this area, and I guess his answer to the honourable member's question is about the best at this stage that the Committee can provide to the Hon. Mr Cameron. I am afraid that neither of my advisers has been closely involved with this issue. I am not in a position to provide any more information on that matter.

In relation to value, the view has been put to me by the management of ETSA Utilities that it believes that this is a valuable piece of property. The view is that it is a back-up at this stage and will be required to be a back-up for a little longer. I do not think it is absolutely disused.

The Hon. P. Holloway: The rest of the site is a depot. That's not part of this, though.

The Hon. R.I. LUCAS: No. As I understand it, it will get to the stage where it is not being used for anything in the not too distant future. ETSA management believes that it is a valuable piece of real estate because of its location within the Port Lincoln area. I am not sure whether the Hon. Mr Cameron is aware of the site, but it is a very attractive site and therefore potentially is a very valuable site for residential development. However, the community has raised other options about using it for school or training facilities, and a variety of other options for its use have been canvassed. Some of these options for use would allow continued access and some might not.

The Hon. T.G. Cameron: Who would decide that?

The Hon. R.I. LUCAS: At the moment it is being decided by the management of ETSA Utilities. Because this issue has been a public issue, I am sure that they would make certain that, as their Minister and Treasurer, I am aware of any decisions they are likely to take on the issue. It is an asset of ETSA Utilities and is therefore being managed by Basil Scarcella, the Chief Executive Officer, and other management within ETSA Utilities, as are hundreds of other assets they have in terms of trying to manage it. But because it has had a public profile it would be an issue that obviously would be canvassed and raised with me.

The undertaking I am giving is to see how we might be able sensibly to resolve it. A number of uses have been flagged for it. When I was Minister for Education I was aware that the education community wanted to use it for education facilities, and I am not sure how far that has gone.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: If parts of it were required to be used for education facilities you would not be building residential developments, or whatever else it may be, in that area. It is highly likely under that use that you would still be able to have continued access.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Well, it might not be, but ultimately there are a variety of options where it might be. We have to find out. I cannot answer the Hon. Mr Cameron's question and say that the impact is, say, $100 000 or what the quantum is. I do not have information on the valuation of the land, the valuation of the bit you want to excise or the impact on various development proposals. What I am saying is that it does not appear to make too much sense to craft this into the legislation when there are a dozen other issues, and not necessarily of a foreshore nature, where there might be public debate about ongoing access to a particular asset that the electricity businesses have.

The Hon. T.G. CAMERON: That does not help me very much because I am still no wiser as to what the value of this land might be. I do not know whether it is worth $1 or $100 million.

The Hon. R.I. Lucas: Not $100 million.

The Hon. T.G. CAMERON: Will it be worth $50 million or $20 million?

The Hon. R.I. Lucas interjecting:

The Hon. T.G. CAMERON: So it could be worth anywhere between nothing and $20 million?

The Hon. P. HOLLOWAY: The figure that has been tossed around is about $3 million for the site, but I assume that that would apply without the foreshore part of it, anyway.

The Hon. T.G. CAMERON: That clarifies the situation a little for me. I am confused as I understand that it involves 8¾ acres of land and that about 10 chains of it has foreshore frontage on to Boston Bay. If we are leasing these assets, how is it that this land could end up in the hands of a private developer? I am confused.

The Hon. R.I. LUCAS: There are two ways: ETSA Utilities may well take a decision prior to the leasing of assets, and the leasing of assets is the leasing of assets as governed by—

The Hon. T.G. Cameron: Will ownership remain with the Government?

The Hon. R.I. LUCAS: Not if there was a sale. ETSA has land and property at the moment that it is selling. It sells and people buy it. ETSA sold some land at Clare which is now being developed. As part of its ongoing business ETSA has property that it sells to private developers because it no longer needs a property or depot, and ETSA has been selling property or land for decades.

The other thing to bear in mind is that, when we talk about leasing the business, we are talking about the electricity businesses. There are various assets that our electricity businesses may sell through the process, such as computers and a variety of other assets that are not electricity assets in terms of generation or power. There is no restriction on the sale of assets other than generators, transmission and distribution assets and anything to do with the electricity industry. ETSA has always been able to sell other assets, such as properties, office buildings, shops or a variety of things, and has done so for decades. There are both those options in relation to the sale of properties or land. That is the simplest explanation under either of those options.

The Hon. T.G. CAMERON: I am at a slight disadvantage, because none of the individuals concerned, including the Curtin Ward Progressive Association and a number of other individuals, have contacted SA First and I am trying to come across this issue at the last moment. It would appear that they have written to the Australian Labor Party and the Australian Democrats.

The Hon. P. Holloway interjecting:

The Hon. T.G. CAMERON: I have just come across it; no-one from the Labor Party had addressed this question with me until the honourable member raised it with me this morning, and I thank him for doing that. It is one of those things that has slipped through. However, I am concerned about the implications in respect of precedent, and I am concerned about making a decision to just hand over an asset that may be worth up to $3 million to anyone, whether the Port Lincoln Council, a group of individuals or a corporation, without adequate information.

I am also concerned about the possibility that we could wake up the morning after the passage of the Bill and find that the land has been sold off. In the event that I support the Government on this issue and this amendment is defeated, I would like the Treasurer to outline to me what consultative process will take place between the Government, the lessees, local government and the local community prior to any decision being made—

The Hon. A.J. Redford: And the Parliament.

The Hon. T.G. CAMERON: And the Parliament—I assume he would do that, anyway. He talks to you, doesn't he?

The Hon. A.J. Redford: And you?

The Hon. T.G. CAMERON: Yes, and me these days. Will he outline to the Parliament what that consultative process might be? In the absence of a convincing argument to support the amendment, I may be left with nowhere else to go but to do nothing and have the matter resolved subsequently by the Government.

The Hon. R.I. LUCAS: I am happy to give an undertaking that I will appoint someone from my advisory team in the Electricity Reform and Sales Unit to work with Basil Scarsella as the Chief Executive, or his nominated senior officer, to try to bring to a conclusion those discussions involving the local community and ETSA Utilities to resolve this matter. I am at a disadvantage also because I am not aware of how advanced the various discussions might be in relation to the various alternative uses for the site.

Some of the uses of the site would mean that there is no problem with continued access, but with some others it might be a problem. I am not aware of the detail of those discussions and how they have gone, so I am unable to inform properly the Hon. Mr Cameron and members. I am happy to indicate that I will appoint someone from within the unit to work with ETSA Utilities management to try to seek a resolution to this before we get down to the leasing agreements for ETSA Utilities in particular.

The Hon. T.G. CAMERON: I thank the Treasurer for that explanation and undertaking. I will sit down and listen to the rest of the debate before coming to a conclusion.

The Hon. P. HOLLOWAY: I will make a couple of quick points and not delay the Committee for too long with this issue. The total value of the site was about $3 million, but that is mainly the value of the land where the old power station and current ETSA depot is. The foreshore section, if you could not build on it, one could argue is not worth anything, but if it is attached to some other land it may contribute to the value of that land.

The latest information I have from the council (and I got my office to check it yesterday) is that the council received a letter from the Government last week which vaguely said that when the Government decided to dispose of the land the matter would be settled then. The council has moved to request that the Government deal with the disposal of the reserve now and have the reserve taken off the title to create a reserve under the control of the council for a walking trail. The council was seeking some amendment or undertaking by the Treasurer that he would do that—in other words, take the reserve off the title and ultimately transfer it to the council. I understand that it may not want to transfer it to the council at this stage, but at least if the amendment goes through it means that the Government cannot get rid of the land without coming back to the Parliament.

New clause negatived.

Clauses 16 and 17 passed.

Clause 18.

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

Page 12, lines 18 to 20—Leave out 'within six months from the end of the designated period, pay to the Treasurer, for the credit of the Consolidated Account' and insert:

at such time as the Treasurer stipulates, pay to the Treasurer, for the credit of the Consolidated Account,

The purpose of this amendment is to enable the Treasurer to stipulate when a State-owned company must pay to the Treasurer a sum equal to the amount of its presumptive liability for income tax.

Amendment carried.

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

Page 12, line 23—Leave out 'Crown's ownership or control' and insert:

company's relationship to the Crown

The purpose of this amendment is to refer to the fact that the exemption of a State-owned company from tax may be the result of the company's relationship to the Crown rather than just the Crown's ownership or control of that company.

Amendment carried.

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

Page 13, lines 9 and 10—Leave out 'of the Commonwealth' and insert:

, or the Income Tax Assessment Act 1997, of the Commonwealth (as amended from time to time)

This amendment to the definition of 'presumptive liability to income tax' is intended to take into account the Income Tax Assessment Act 1997 as well as the Income Tax Assessment Act 1936.

Amendment carried; clause as amended passed.

Clause 19.

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

Leave out this clause and insert:

Relationship of electricity corporation or State-owned company and a Crown

19.(1) An electricity corporation is an instrumentality of the Crown but ceases to be such an instrumentality when it ceases to be an electricity corporation.

(2) A company that is a State-owned company is an instrumentality of the Crown but ceases to be such an instrumentality when it ceases to be a State-owned company.

This new clause 19, which is to replace the existing clause 19, is intended to make it clear that whilst a company is an electricity corporation or a State-owned company it is an instrumentality of the Crown and is therefore entitled to the privileges and immunities of the Crown. However, once a company ceases to be an electricity corporation or a State-owned company—for example, because shares in it are sold by the State to a purchaser—that company then ceases to be an instrumentality of the Crown and so ceases to have the privileges and immunities of the Crown.

Amendment carried; new clause inserted.

New clause 19A.

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

After clause 19 insert:

Electricity infrastructure severed from land

19A. Electricity infrastructure or public lighting infrastructure the subject of a transfer order, vesting order, sale/lease agreement or special order is to be taken to be transferred, vested or leased (as the case may be) by the order or agreement as if the infrastructure were personal property severed from any land to which it is affixed or annexed and owned separately from the land.

New clause 19A provides that electricity infrastructure or public lighting infrastructure that is transferred, vested or leased under the Act is to be treated as if it were personal property severed from any land to which it may be affixed.

New clause inserted.

Clause 20 passed.

Clause 21.

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

Page 13, line 26—Leave out 'or re-transfer order'.

This amendment is consequential on an earlier amendment to delete the concept of a re-transfer order.

Amendment carried; clause as amended passed.

Clause 22.

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

Page 14, lines 8 to 10—Leave out subclause (3) and insert:

(3) An application under section 223*l*d of the Real Property Act 1886 for the division of land or an application under section 14 of the Community Titles Act 1996 for the division of land by a plan of community division, that is certified in writing by the Minister as being for the purposes of a transaction under this Act need not be accompanied by a certificate under part 4 of the Development Act 1994.

The purpose of this amendment is to provide that an application under section 14 of the Community Titles Act 1996 for the division of land by a plan of community division need not be accompanied by a certificate under the Development Act 1993 with the application certified in writing by the Minister as being for the purposes of a transaction under this Bill. Similarly, an application under section 223*l*d of the Real Property Act 1886 for the division of land that is certified in writing by the Minister as being for the purposes of a transaction under this Bill also need not be accompanied by such a certificate.

The Hon. SANDRA KANCK: The Democrats oppose the amendment and if carried it will also oppose the clause. We will call for a division on this if necessary. In its current form, this clause is bad enough. Before this amendment we see that the Land and Business (Sale and Conveyancing) Act, the Retail and Commercial Leases Act, and part 4 of the Development Act are walked over. The amendment then adds insult to injury by including the Community Titles Act and the Real Property Act.

The Democrats have particular concerns about part 4 of the Development Act being treated in this way. The sorts of matters which are covered by part 4 of the Development Act and to which we refer include: community consultation, limited rights of appeal, the use of development plans as guides for local planning authorities, community access to information regarding proposed developments, and the preparation of an EIS, a PER or a DR for major developments or projects. As we see it, this amounts to a further incursion into the damage that has been done by this Government over a number of years to the Development Act.

The Hon. A.J. Redford interjecting:

The Hon. SANDRA KANCK: The honourable member is exactly right, because it gets worse with a further three clauses in the schedules. I am concerned about the direction in which this Government is going with respect to the environment. We do not need this watering down of these Acts.

The Hon. P. HOLLOWAY: The Opposition opposes the Electricity Corporation (Restructuring and Disposal) Bill *in toto*.

The Hon. T.G. CAMERON: I was nearly persuaded to support this amendment following the eloquent and convincing argument outlined to the Committee by the Hon. Paul Holloway. He has only just failed to convince me. SA First will support the Government.

Amendment carried.

The CHAIRMAN: I put the question that clause 22 as amended stand part of the Bill. Those for the question say 'Aye', against 'No.' I think the Ayes have it.

The Hon. SANDRA KANCK: Divide!

The CHAIRMAN: There must be two voices, so I cannot accept the call for a division.

Clause as amended passed.

New clause 22A.

The Hon. R.I. LUCAS:

After clause 22—Insert:

Correction of statutory references to ETSA, etc.

22A.(1) The Governor may, by regulation, amend an Act or statutory instrument containing a reference to the Electricity Trust of SA, ETSA, SAGC or electricity authorities as the Governor considers necessary in consequence of action under this Act.

(2) This section expires two years after its commencement.

New clause 22A empowers the Governor by regulation to amend an Act or statutory instrument containing a reference to the Electricity Trust of SA, ETSA, Optima or any electricity authorities as the Governor considers necessary in consequence of any action under the Bill. This power will expire after two years. The reason for this amendment is to

enable consequential amendments to be made to Acts and other statutory instruments by regulation where this is necessary as a result of the transfer of assets and liabilities of Optima and ETSA or any of their subsidiaries. Where a third party's interests would be affected by such an amendment—for example, where the instrument is a contract between a third party and the State which is given the force of law by statute—it is contemplated that the consent of that party would first be requested to any such amendment.

The Hon. A.J. REDFORD: In my capacity as Presiding Member of the Legislative Review Committee, as this matter will come before that committee by way of regulation, I assume that this amendment is limited to just changing names and things of that nature, or will it be broader than that?

The Hon. R.I. LUCAS: I am advised that it will be broader than just the changing of names.

The Hon. A.J. REDFORD: To assist the Legislative Review Committee and to avoid problems down the track, will the Treasurer give the committee some guidance as to what the extent of that regulation making power might be?

The Hon. R.I. LUCAS: I am advised that it is not considered to be very extensive; it is merely meant to be a provision to pick up anything that might have slipped through the net. There is nothing specific in mind other than to ensure—

The Hon. A.J. REDFORD: It would be very helpful and it would avoid a lot of problems to know what the limits are.

The Hon. R.I. LUCAS: The limits are that it has to be as a consequence of actions taken under the Act, but within that broad parameter it is relatively broad in terms of the possibility. Ultimately, we can only institute or implement a regulation which is consistent with the provisions of this Act. It therefore has to be consequential on actions taken within the Act. Obviously, it will then go to the honourable member's committee. There is nothing which says that it must be restricted to this or that particular area, other than being necessary or consequential to actions already taken.

The Hon. A.J. REDFORD: I am very uncomfortable with the breadth of the clause, but Parliament ultimately retains supervision of it, and I have no doubt that Parliament will exercise that. I suggest that in future the Government be a bit more circumspect.

The Hon. K.T. Griffin interjecting:

The Hon. A.J. REDFORD: I must say that that did not come to my attention. To delegate to the Executive the capacity to amend acts of Parliament is unusual, and even the Attorney would agree.

New clause inserted.

New clause 22B.

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

After clause 22—Insert:

Exclusion of Crown liability as owner, etc., of leased assets.

22B. If a lease is granted in respect of assets by a sale/lease agreement, the lessor and the Crown will, despite any other Act or law, be immune from civil or criminal liability (other than a liability under the lease to the lessee) to the extent specified by the Governor by proclamation made on or before the date of the sale/lease arrangement.

New clause 22B provides for both the lessor of assets under a sale/lease agreement and the Crown to be immune from civil or criminal liability (other than a liability under the lease to the lessee) to the extent provided by proclamation made on or before the date of the sale/lease agreement. This provision enables any potential liability of the lessor or the Crown as a result of the leasing arrangement, for example, due to the use of the lease assets by the lessee, to be restricted.

New clause inserted.

Clause 23.

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

Page 14, lines 12 and 13—Leave out 're-transfer order, sale/lease agreement' and insert:

vesting order, sale/lease agreement, special order

This amendment is consequential on the deletion of the concept of re-transfer order and the introduction of the concepts of a special order and a vesting order.

Amendment carried; clause as amended passed.

New clause 23A.

The Hon. NICK XENOPHON: I move:

After clause 23—Insert new clause as follows:

Certain contracts to be submitted to ACCC

23A. (1) A contract to which this section applies is unenforceable unless an application is made within the period allowed under this section to the ACCC for an authorisation under Part VII of the Trade Practices Act in relation to the contract and is not withdrawn.

(2) This section applies to a contract (whether entered into before or after the commencement of this section) between an electricity generator and an electricity retailer that makes provision relating to the payment of amounts between the parties to the contract based on or determined by reference to the difference between prices specified under the contract and the pool prices in the national electricity market.

(3) The period within which an application to the ACCC must be made for the purposes of this section is—

(a) in the case of a contract entered into before the commencement of this section—one month after that commencement;

(b) in any other case—one month after the date of the contract.

(4) In this section—

'ACCC' means the Australian Competition and Consumer Commission;

'contract' includes an agreement or understanding;

'electricity generator' means the holder of a licence under the Electricity Act 1996 authorising the generation of electricity;

'electricity retailer' means the holder of a licence under the Electricity Act 1996 authorising the retailing of electricity;

'national electricity market' means the market regulated by the National Electricity Law;

'Trade Practices Act' means the Trade Practices Act 1974 of the Commonwealth, as amended from time to time.

I will be brief, unless of course the Treasurer wants a prolonged debate on the role of the ACCC, but I take it that at this stage he does not. This new clause is about contracts between electricity generators and electricity retailers being provided as a matter of course to the ACCC for authorisation and it provides that if a contract is not authorised by the ACCC it is to be unenforceable. Given the Government's position that electricity reform was required because of the competitive framework, this ensures that these contracts, at the very nub of the competitive arrangements between parties with respect to the market generally, are submitted to the ACCC. My concern is that, for instance, if the Government sought to seek an exemption under section 51 of the Act, consumers would not have the benefit of the ACCC's authorising or vetting these contracts. If members want to ensure that we have as competitive a framework as possible in the context of the electricity market, I suggest that they support this new clause.

The Hon. P. HOLLOWAY: The Labor Party strongly supports the new clause.

The Hon. R.I. LUCAS: The Government opposes the new clause, and I am surprised that the honourable member

is proceeding with it. When we first started this debate the Government indicated that it would submit the vesting contracts to the ACCC for authorisation. I believe that I also indicated to the Hon. Mr Xenophon that the Government had provided a draft of the vesting contracts at the end of last year to the ACCC. Of course, there have been some changes in relation to that, and I indicated, I think on Tuesday this week, that the Government intended to submit the contracts to the ACCC for authorisation. The Government sees no need for this new clause. We have given the undertaking, and therefore we will oppose it.

The Hon. NICK XENOPHON: With respect to the Treasurer's remarks, I understand that draft contracts have been provided to the ACCC but not for authorisation: that is the key difference.

The Hon. K.T. Griffin: Why give them to a Federal body?

The Hon. NICK XENOPHON: Because with Queensland and New South Wales retailers and generators all the vesting contracts were provided to the ACCC for authorisation. It is extraordinary that these contracts have not been provided. If the Government is about competition and a competitive framework and if, as the Treasurer has indicated, these contracts will be provided in due course, I would think that the Government would embrace this new clause.

The Hon. R.I. LUCAS: The Government has already indicated that it will submit the contracts to the ACCC for authorisation. The honourable member's new clause, so my legal advisers tell me, goes further: it states that it would actually render them unenforceable until the application has been made for authorisation under the Trade Practices Act. The honourable member is obviously trying to do more with this new clause than what he clearly explained in his contribution. In earlier months the honourable member talked about the need for these contracts to go to the ACCC, the inference being that New South Wales and Victoria had done it but that we were not doing it. On Tuesday I indicated that we had already shown a draft of the contracts at the end of last year, prior to the honourable member becoming interested in this and raising the issue publicly.

So, the issues have been raised by the Government. We are not trying to hide the contracts from the ACCC. I explained to the honourable member that, whilst these businesses remain within Government hands, there was evidently no requirement for us to do so but, nevertheless, we were proceeding along that course. My understanding is that, as soon as there is a possibility of sale or lease of the assets, there are then more stringent requirements. The Government is undergoing the processes required of it. Thus far, the ACCC has not rung any alarm bells in this respect, and we intend to proceed with that process. I am not sure why the honourable member seeks to render these contracts unenforceable before applications have been made and various processes followed through—unless he is trying to assist the Transgrid proposal or a variety of other options as well. I am not sure what is driving the honourable member in relation to this provision. I have given undertakings. I have indicated that we have already started the process, prior even to the honourable member's raising this issue, and that we will follow those processes through.

The Hon. NICK XENOPHON: It is mischievous for the Treasurer to say that I am being driven by TransGrid or whatever. That is simply ridiculous. I am being driven by the wording of the Trade Practices Act. The word 'authorisation' is mirrored in the legislation in terms of sections 45 and 45A with respect to price fixing arrangements. What is driving me is to ensure that consumers in this State obtain the best possible deal from a competitive market to ensure that the ACCC, the appropriate consumer watchdog, has a look at these contracts and, if for some reason the contract is in breach of the Trade Practices Act and there is not an authorisation, that contract will not be enforceable. That is simply what the amendment is about. The fact is that no formal application has been made by the Government in terms of the contracts that have been provided to it. That is a fundamental issue.

The ACCC cannot raise any alarm bells for the simple reason that no application has been made. Unless an application has been made, the alarm bells simply cannot be raised. My further understanding is that representations have been made by the Government, but there are jurisdictional issues and threshold issues in terms of the Government seeking immunity or saying that the provisions of the Act do not apply.

Members interjecting:

The CHAIRMAN: Order!

The Hon. NICK XENOPHON: My understanding is that there were some jurisdictional issues. Obviously, we can agree to disagree. We will have this debate down the track. I hope I am wrong in relation to this, but I still maintain that this clause gives a measure of accountability by making sure that consumers get the best possible deal by having the discipline of ensuring that these contracts are authorised by the ACCC. I cannot put it any further than that.

The Hon. SANDRA KANCK: I will be supporting the Hon. Mr Xenophon's amendment. I certainly heard the undertakings that the Treasurer gave the other day, but I do not have much faith in this Government's verbal undertakings any more—after all, it did go to an election saying it was not going to sell ETSA, and we saw its word broken recently on shop trading hours. I am afraid the guarantees are worth nothing.

The Hon. T.G. CAMERON: I would like to direct some questions to the Hon. Nick Xenophon in relation to his amendment. Why is the honourable member insisting in this amendment that the contracts are unenforceable until the ACCC has granted authorisation?

The Hon. NICK XENOPHON: Because in the amendment I have attempted to mirror what I understand has occurred in the Queensland and New South Wales markets where the contracts were submitted for authorisation. Interim authorisation can be obtained relatively quickly, if the alarm bells are not ringing with the initial contracts, and that is what I understand has occurred with the Queensland and New South Wales industries prior to their entry into the national market. The question of unenforceability is mirrored in the legislation, in that the legislation talks about an arrangement being unenforceable.

The Hon. T.G. Cameron interjecting:

The Hon. NICK XENOPHON: But the implication—

The Hon. T.G. Cameron interjecting:

The Hon. NICK XENOPHON: Yes.

The Hon. T.G. CAMERON: I can understand what the honourable member is saying in relation to Queensland and New South Wales. He is talking about certain contracts in relation to their operating in a NEMMCO market. However, what we are talking about is an additional clause, another clause being layered on top of the contracting process. I have some concerns about why we will render all the contracts unenforceable until we reach a point where the ACCC has

given approval. I am just wondering whether the honourable member could take me through the process required of the Government in respect of the contracts and whether he would care to comment on what the probability of delays might be. Could he also say what the costs might be for the Government, and does he have any concerns about the security revolving around these contracts?

One has only to look at what happened with the SA Water contract. I have always believed in politics that, if you have to make a choice between a conspiracy and a stuff up, go for the stuff up, and I suspect that is what happened in the case of SA Water. We are talking about contracts which could be worth billions of dollars. I am under no illusions that people will be running around everywhere trying to access these documents, trying to gain a competitive advantage and perhaps even sabotage the contracts that may have been entered into. This is part and parcel of a commercial world: I am afraid they do it to each other. Would the honourable member care to comment on some of those issues?

The Hon. NICK XENOPHON: I thank the Hon. Terry Cameron for his questions which deal maybe not quite sequentially with the issues. The proposed amendment intends to mirror the process that has already taken place in Queensland and New South Wales. Under the national market we have vesting arrangements—

The Hon. T.G. Cameron interjecting:

The Hon. NICK XENOPHON: No. The question of whether or not the assets have been privatised in Queensland and New South Wales is not to the point because, under the rules of the national electricity market, there are vesting contracts and transitional arrangements. Simply, this clause seeks to ensure that the ACCC looks at those contracts to ensure that they are not in breach of relevant clauses of the Trade Practices Act, but it begs the question as to whether those contracts will be shown and at what time they will be shown.

My concern is that a different approach appears to have been taken by the Government—and this is something that will be debated in relation to the ACCC motion in weeks to come—and that there is not the same level of accountability or scrutiny of those contracts with respect to the South Australian contracts as there has been with Queensland and New South Wales.

In terms of the issues of security raised by the Hon. Terry Cameron, I can understand his concerns. There is a process of protocol with the ACCC. I do not think there has ever been any suggestion whatsoever that the ACCC has leaked documents or not dealt with documents properly. As I understand it, it is a strictly apolitical process. It involves examining those contracts on a strictly confidential basis. There is not any issue of material leaking out into the marketplace. I am simply trying to ensure that what I hope will be the inevitable occurs and that it is mandated in the legislation.

The Hon. T.G. CAMERON: I come back to this question of security. I think one of the biggest security operations I have ever seen surrounding any contracting process by a State Government in this State occurred with the SA Water contract. The honourable member is probably aware that I sat as a member of the Legislative Council select committee that inquired into that contract. During the course of those hearings, a whole range of allegations were made to me about conduct which occurred in relation to the letting of that water contract. Some of those allegations were quite bizarre and almost unbelievable; and these were allegations that were being put to me by fellow bidders, lobbyists of fellow bidders and members of my former Party.

I subsequently did not proceed with many of the allegations. In one sense, I thought it was best that the members of this Chamber were not sullied by some of the ongoings that were supposed to have taken place. Anyway, the best efforts I made showed that most of the allegations were subsequently unfounded, but it did make me very aware of the fact that security is something about which Governments have to be very careful in relation to this contracting process because the competitors will get up to anything that they can to try to get hold of this information.

One matter about which I am still not certain—and I will also get the Treasurer to comment on this—is what happens once these contracts go into the ACCC; and I am mindful of the SA Water contract which mysteriously turned up for the Australian Labor Party at the time. I am not sure what has happened to it; I think it has subsequently disappeared, but I guess I will have more to say at some later date about the disappearance of that contract. If my memory serves me correctly, the last time I saw it, it was about that thick.

The Hon. R.I. Lucas interjecting:

The Hon. T.G. CAMERON: I can remember very clearly where I last saw that contract, which comprised some 1 300 pages.

The Hon. A.J. Redford interjecting:

The Hon. T.G. CAMERON: You are not good enough at cross examination to drag that answer out of me; I will wait to see whether I get interrogated by a QC. That was a 1 300 page contract. I am under no illusions that, once you legal eagles get hold of this contracting process, we will end up with some pretty extensive documents, which will have to go to the ACCC. I can recall that we asked the Government for only a summary of the water contract, and it took it about six to nine months to get only a summary. I am sure the ACCC can act a little more expeditiously than can the Government but, when these contracts hit the ACCC (as I understand the honourable member's clause), until such time as the ACCC has completely finished with them, that is where they will stay. The contracting process will not be able to proceed, because the contracts will not be enforceable. Will the honourable member clarify that for me?

The Hon. NICK XENOPHON: First, in relation to the issue of security and the distinction with respect to the SA Water contract, I see a substantial difference. My limited knowledge of the SA Water matter is that that involved—

The Hon. T.G. Cameron interjecting:

The Hon. NICK XENOPHON: Yes; I don't question the Hon. Terry Cameron's expertise in that.

The Hon. T.G. Cameron interjecting:

The CHAIRMAN: Order!

The Hon. NICK XENOPHON: I don't question the honourable member's depth of knowledge in relation to the SA Water matter, but in this case the process is quite different. This is not about the bidding process but is simply about the ACCC looking at the vesting contract arrangements—the arrangements between the generators and the retailers and the interrelationship between those contracts—to ensure that an authorisation is appropriate. An interim authorisation can be given, as was the case in Queensland and New South Wales, within a matter of several weeks—I understand it was within a month or earlier.

An honourable member interjecting:

The Hon. NICK XENOPHON: Then it gives the discipline to ensure that the parties—

The Hon. T.G. Cameron: Can you ensure that this will not delay the process?

The Hon. NICK XENOPHON: It has not delayed it in Queensland and New South Wales. Having the discipline of the ACCC viewing these contracts, which appears to be entirely appropriate in the context of competition law, given the nature of the market, is something to which the Queensland and New South Wales operators have subjected themselves. I understand the distinction: one is not privatised and one is about to be privatised. However, I would have thought that, if we were looking at ensuring that there is a competitive framework, the competition watchdog ought to look at these contracts. After all, this ought to be about consumers getting the best possible deal. Not to allow this due process to take place, or to fetter it in any way, goes against the very grain and spirit of why we entered into a national market in the first place. I would have thought it was an absolutely fundamental first principle.

The Hon. R.I. LUCAS: The honourable member has a number of other motions on the table which will allow us to have an extensive debate about this but, if we are interested in getting on with the business of leasing our assets in South Australia, the last thing we would want to do is involve the ACCC in the legislative process. The Government indicated, as I do again today, that we have shown it drafts of our vesting contracts, and we will submit them—

The Hon. Nick Xenophon: Not for authorisation. They can't do anything with them, because you have to ask for authorisation.

The Hon. R.I. LUCAS: I have indicated that we will be submitting them for authorisation. So, for all the reasons the honourable member has raised, that is fine; but if you are interested in getting on with the leasing of these assets, getting maximum value for them and getting them to the market quickly, do not involve the ACCC in this—with all respect to the ACCC and its processes. There is no way that the Hon. Mr Xenophon can guarantee anything in relation to the ACCC or those related matters. It must look at significant issues—it will look at not just our issue—and its time frames are different from our time frames. If we want to get this asset onto the market quickly, we should not put this provision into the legislation. The honourable member will be able to canvass the issues he has raised in his motions, and the Government already has in place a process where in the very near future we will be submitting finalised contracts for authorisation. So, the sort of negotiations that the honourable member is talking about, with respect to being interested in the competitive nature of the market, will all be able to be tested by the ACCC when it goes through its process.

The Hon. NICK XENOPHON: Further to what the Treasurer has just indicated, will he give us as precise a time frame as possible as to when the vesting contracts will be submitted for authorisation?

The Hon. R.I. LUCAS: I understand that it will be within the month; it might even be shorter than that. We are in the very final stages of resolving them.

The Hon. NICK XENOPHON: Further to that, will that include the contractual arrangements between National Power and ETSA Utilities?

The Hon. R.I. LUCAS: We will be submitting all the vesting contracts. I understand that the contract between ETSA Power and National Power is not a vesting contract and therefore does not come within the definition of what will be required to be authorised by the ACCC. Obviously we will work with the ACCC as to what it requires by way of vesting contracts. I am told that this contract is not a vesting contract.

The Hon. T.G. CAMERON: As I understand it, the Treasurer has not so much given an undertaking but has relayed to the Council what processes the Government will be following; that is, all these vesting contracts in relation to the leasing, etc., will be forwarded to the ACCC within a month. If the Government follows that process, would it mean that it was then following a similar process as that to which the Hon. Nick Xenophon is referring and which the Queensland and New South Wales Governments followed when they entered the new market?

The Hon. R.I. LUCAS: They are not identical, but similar. The difference here and why we oppose this amendment is that we are also trying to conduct a lease/sale process, and New South Wales and Queensland do not have that time impediment.

The Hon. T.G. CAMERON: I do not want to see this leasing process delayed. As the Hon. Trevor Crothers has pointed out, we are incurring significant interest costs here, and the sooner we can get this process under way, lease the assets and have the money paid into Treasury, the sooner we will avoid that $1.6 million to $2 million a day interest burden. In view of the undertakings that have been given and the processes that have been outlined, it seems to me that everything that the Hon. Nick Xenophon is looking for will be achieved here, except this question of unenforceability or enforceability. When legal elephants get into the bull ring and start arguing about these matters, I tend to be a spectator.

The Hon. A.J. Redford: Not every time.

The Hon. T.G. CAMERON: No, not every time. It appears that I become a participant only as a witness in defamation cases. I am satisfied at this time. I will accept the Treasurer's undertakings. I am not quite as eloquent as the Hon. Trevor Crothers in my support of the Treasurer in terms of trust; that is probably because he has never given me any undertakings in the past that he could break. So, I will accept this undertaking on its face value and watch the process with interest. I do accept the concerns that this may delay the process. In view of the undertakings and a clear understanding of the process, SA First will be opposing this amendment.

The Committee divided on the new clause:

AYES (9)

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

NOES (10)

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

PAIR(S)

Elliott, M. J.	Davis, L. H.

Majority of 1 for the Noes.

New clause thus negatived.

The CHAIRMAN: Order! While members are returning to their seats, could I just ask those members who want a Caucus or to lobby in the gallery that they go either into the gallery or outside to a perfectly good lobby behind us or to another room. It is distracting for members in the Chamber.

Clause 24 passed.

Schedule 1.

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

Clauses 1, 2 and 3—Leave out these clauses and insert:

Electricity infrastructure taken not to have merged with land

1. (1) This clause applies to electricity infrastructure that is or was owned or operated by an electricity corporation or State-owned company and is situated on, above or under land that does not or did not belong to the electricity corporation or State-owned company.

(2) Subject to any agreement in writing to the contrary, the ownership of electricity infrastructure to which this clause applies will be taken never to have been affected by its affixation or annexation to the land.

Statutory easement relating to infrastructure

2. (1) A body specified by proclamation for the purposes of this clause will have an easement over land where—

(a) electricity infrastructure owned or operated by the body is on, above or under the land and the land does not belong to the body; and

(b) that infrastructure was, before a date specified in the proclamation, owned or operated by an electricity corporation or State-owned company and the land did not belong to the electricity corporation or State-owned company.

(2) The easement entitles the specified body—

(a) to maintain the relevant electricity infrastructure on, above or under the land affected by the easement;

(b) to enter the land, by its agents or employees, at any reasonable time, for the purpose of operating, examining, maintaining, repairing, modifying or replacing the relevant electricity infrastructure;

(c) to bring on to the land any vehicles or equipment that may be reasonably necessary for any of the above purposes.

(3) The powers conferred by the easement must be exercised so as to minimise, as far as reasonably practicable, interference with the enjoyment of the land by persons lawfully occupying the land.

(4) Section 47(3) to (10) of the Electricity Act 1996 (and any regulations made for the purposes of any of those provisions) apply to the carrying out of work under this clause on public land (within the meaning of that section) in the same way as to the carrying out of work on public land under that section.

(5) The specified body must make good any damage caused by the exercise of powers under this clause as soon as practicable or pay reasonable compensation for the damage.

(6) If the specified body has an easement relating to electricity infrastructure over another person's land otherwise than by virtue of this clause, the application of the easement under this clause to the land is excluded to the extent necessary to avoid the same part of the land being subject to both easements.

(7) The specified body may, by instrument in writing, limit rights or impose conditions on the exercise of rights arising under the easement under this clause (and such an instrument has effect according to its terms).

(8) An easement under this clause need not be registered.

(9) However, the Registrar-General must, on application by the specified body, note an easement under this clause on each certificate of title, or Crown lease, affected by the easement.

(10) An application under this clause—

(a) need not include a plan of the easement;

(b) must include a schedule of all certificates of title and Crown leases affected by the easement.

(11) The Registrar-General is entitled to act on the basis of information included in the application and is not obliged to do anything to verify the accuracy of that information.

The new clause 1 provides that subject to any agreement in writing to the contrary the ownership of any electricity infrastructure which was owned or operated by Optima, ETSA or a State-owned company and which is situated on land that did not belong to that body is taken never to have been affected by its affixation or annexation to the land. The purpose of this clause is to make it clear that the ownership of such electricity infrastructure, if it is a fixture, can nonetheless be transferred to a State-owned company or to the extent committed to a purchaser.

Amendment carried.

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

Suggested amendment: Schedule 1, clause 4—Leave out this clause and insert:

Liability of certain bodies to council rates or amounts in lieu of rates

4. (1) The following provisions apply in relation to the liability of a State-owned company to pay rates under the Local Government Act 1934, despite the provisions of that Act:

(a) a State-owned company is liable to pay rates;

(b) land and buildings of a State-owned company are rateable property within the meaning of that Act;

(c) the following are not rateable property within the meaning of that Act:

(i) plant or equipment used by a State-owned company in connection with the generation, transmission or distribution of electricity (whether or not the plant or equipment is situated on land owned by the corporation);

(ii) easements, rights of way or other similar rights (including such rights arising by virtue of a licence) that have been granted or operate in connection with the generation, transmission or distribution of electricity.

(2) Despite the Local Government Act 1934, the following are not rateable property within the meaning of that Act:

(a) plant or equipment (other than electricity generating plant and substations for converting, transforming or controlling electricity) used by a body specified by proclamation for the purposes of this clause in connection with the generation, transmission or distribution of electricity (whether or not the plant or equipment is situated on land owned by the body);

(b) easements, rights of way or other similar rights (including such rights arising by virtue of a licence) that have been granted or operate in connection with the generation, transmission or distribution of electricity.

(3) Despite the Local Government Act 1934, the Governor may, by proclamation, declare that the rates payable under that Act in respect of land on which is situated any electricity generating plant, or substation for converting, transforming or controlling electricity, used by a body specified in the proclamation are reduced to a specified amount or an amount determined in a specified manner.

(4) The holder of a licence authorising the generation of electricity at Torrens Island must, as required by proclamation, make payments to the Treasurer for the credit of the Consolidated Account of amounts determined in accordance with the provisions of the proclamation (being provisions framed having regard to rates imposed under the Local Government Act 1934 in the adjoining council areas).

(5) A proclamation made for the purposes of this clause may not be revoked and may be varied only if the variation reduces the future liabilities of the body to which the proclamation relates.

The existing clause 2 will be replaced by the new clause which will confer on a body specified by proclamation an easement over land where (a) electricity infrastructure owned or operated by the body is on the land and the land does not belong to the body; and (b) that infrastructure is owned or operated by any electricity corporation or State-owned company and the land did not belong to the electricity corporation or State-owned company. The major respects in which the proposed new clause differs from the current version of the Bill are as follows:

(a) The easement is granted in relation to electricity infrastructure rather than a transmission or distribution system. Electricity infrastructure includes transmission or distribution system, but also includes electricity generating plant.

(b) The easement is granted in relation to electricity infrastructure that is in existence not just as at 1 November 1988 but which has since come into existence.

(c) The easement does not apply in respect of land

which is the subject of another easement relating to electricity infrastructure in favour of the specified body, for example, where that specified body already has a contractual easement over that land.

(d) The easement may exist over public land subject to such requirements, prior notice, prior agreement and resolution of disputes as are contained in the Electricity Act in relation to the undertaking of work by electricity entities on public land.

(e) The Registrar-General is required on application made at any time by the specified body to note the statutory easement on a certificate of title or Crown lease affected by the easement. An application made for this purpose need not include a plan of the statutory easement but must include a schedule of the certificates of title or Crown lease affected by the easement and in respect of which the application is being made.

(f) The specified body may by instrument in writing limit rights or impose conditions on the exercise of rights arising out of the easement.

The Hon. P. HOLLOWAY: I move to amend the Hon. R.I. Lucas's amendment:

Leave out from subclause (3) 'reduced to a specified amount or an amount determined in a specified manner' and insert:

to be calculated so that the amount payable is equivalent to the amount that would be payable if the land were used for any other industrial purpose.

Under subclause (3) of the Treasurer's proposed amendment, the Governor by proclamation would be able to reduce the rates payable by a private electricity operator to local government. My amendment seeks to modify that in such a way as to ensure that any new private owner or private lessee of a power station or major power utility would be liable to pay council rates in the same way and in the same manner as applies to other large industrial bodies.

The Hon. SANDRA KANCK: The Democrats support this. As it currently stands the wording in subclause (3) looks like it provides that the new owners could effectively pay no rates at all.

The Hon. T. CROTHERS: I support the Treasurer's amendment.

The Hon. P. Holloway's amendment negatived.

The Hon. P. HOLLOWAY: I move:

Amendment to the suggested amendment substituting clause 4 of Schedule 1—After 'must' in subclause (4) insert:

, while Torrens Island remains outside of any council area

Amendment to the suggested amendment substituting clause 4 of Schedule 1—After subclause (4) insert:

(4a) If Torrens Island is incorporated in a council area, rates become payable by the holder of the licence to the council of the area under the Local Government Act 1934.

These amendments deal with Torrens Island. At present the Torrens Island Power Station is not within an incorporated area: it is outside council boundaries. The amendments allow for a future situation that may arise when Torrens Island is incorporated into a council area. Should that happen, the new lessee of that station would have to pay council rates.

The Hon. R.I. LUCAS: I did refer to it earlier this week but given that we are debating this provision I will restate the Government's position. I will outline what the Government is seeking to do in relation to this by using as an example Flinders Power at Port Augusta, which is paying about $120 000 to the local council. It is the Government's intention when this Bill is passed to continue that existing arrangement. As has been suggested by the LGA, the Government does not intend to reduce it to $1 so that it does not pay anything or next to nothing.

What we are seeking to do when we lease these businesses to a new operator is to specify the level of rates so that they are not left in a position where they are paying $120 000 and the next year the council strikes a new rate or does it in a particular way that ratchets up the price to $1 million. In other words, we do not want someone coming in to run a business thinking that the rate is $120 000 or whatever and then the council says, 'You beauty, we've now got someone within our boundaries; we'll whack up the price to $1 million.'

We believe that these businesses should pay a reasonable rate. We will give an undertaking to replicate that. We will look at whether or not it will be possible to have a regulation making power at some stage in the process. We have to issue the proclamation in the first instance but, after that, we will look at whether there might be some regulation making power.

We want to do two things: first, we want to protect from unreasonable ratcheting up; and, secondly, in respect of interstate competitors and generators, we want to have the option for them to gain a range of incentives and benefits which might reduce their rates. We understand that there may be some concerns from councils, so for that subsequent process we are looking at perhaps moving an amendment in the other place. It would provide that, after the initial proclamation, it would be at the level it is at the moment. So, if we can organise it—and we are still trying to see whether we can—it would prevent ratcheting up, but if it is to be reduced at all there would be a regulation making power and the Parliament would therefore have some opportunity to disallow it.

We are quite genuine in this. We are not trying to dud councils by charging a $1 rate. We really want to see competitive businesses here, but also businesses that have a reasonable expectation in respect of their cost structure. We will oppose the amendments and, should they be defeated as would appear to be the case, we will look at this other refinement (if it is possible in terms of drafting) during the transmission of the Bill to the other House.

The Hon. P. Holloway's amendment negatived; the Hon. R.I. Lucas's suggested amendment carried.

[Sitting suspended from 12.57 to 2.15 p.m.]

New clause 5A.

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

Schedule 1, new clause 5A, after clause 5—Insert:

Agreement between Minister and licensee about environmental compliance

5A. (1) Subject to this clause, an agreement may be made between the Minister and the holder of a specially issued licence requiring the licensee to undertake programs directed towards reducing the adverse effects on the environment of the operations authorised by the licence and containing provisions dealing with and limiting the licensee's environmental protection obligations in relation to those operations.

(2) The Minister may not make an agreement with a licensee under this clause—

(a) if the licence was issued or transferred to the purchaser under a sale/lease agreement—more than one month after the issue or transfer of the licence to the purchaser; or

(b) if paragraph (a) does not apply and the licence was issued to a State-owned company—more than one month after the company ceases to be a State-owned company.

(3) It is a precondition to the making of an agreement under this clause that the Environment Protection Authority approves the terms of the agreement.

(4) An agreement under this clause has effect as a contract for the period specified in the agreement and is binding on, and operates for the benefit of, the licensee who entered into the agreement, successive holders of the licence and a person who holds some subsequently granted licence under the Electricity Act 1996 authorising operations to which the agreement relates.

(5) The Environment Protection Act 1993 and any statutory instruments under that Act are to be construed subject to an agreement under this clause and, to the extent of any inconsistency between that Act or statutory instrument and the agreement, the agreement prevails.

(6) Any adverse effects on the environment specifically permitted by an agreement under this clause are to be taken—

(a) not to constitute a contravention of the Environment Protection Act 1993 or any statutory instrument under that Act; and

(b) not to give rise to any liability under any Act or at law.

(7) An agreement under this clause may be varied by further agreement between the Environment Protection Authority and the licensee for the time being bound by the agreement.

(8) An agreement or variation of an agreement under this clause must be published in the *Gazette*.

(9) In this clause—

'Minister' means the Minister to whom the administration of the Environment Protection Act 1993 is committed.

This is an important and, I acknowledge, a complicated amendment, given the current circumstances. Clause 5A empowers the relevant Minister to make a written agreement with the holder of a licence issued in respect of one of the State's existing electricity businesses that requires the licensee to undertake agreed programs for the purpose of reducing any adverse effect on the environment as a result of operations authorised by the licence and that contains provisions dealing with and limiting the licensee's environmental protection obligations in relation to those operations.

Such an agreement may only be entered into if its terms have been approved by the Environment Protection Authority (EPA) and if it is entered into prior to the expiry of one month after the privatisation of the relevant business. Moreover, the agreement may only be varied by further agreement between the EPA and the licensee or a person who holds a subsequently granted licence that authorises operations to which the agreement relates. Such an agreement will prevail over the Environment Protection Act to the extent of any inconsistency between the agreement and that Act. Any adverse effects on the environment permitted by the agreement will not give rise to a contravention of the Environment Protection Act or to any other liability.

The purposes of these provisions are that, by entering into an agreement with the Minister, the lessees of generating assets will have certainty, but the terms currently included in their EPA licences are valid through such terms being included in an agreement under clause 5A, and they will not be subject to increased compliance costs in the future due to changes in environmental regulation which threaten the viability of their operations.

It is anticipated that the provisions will principally address air emission issues and thermal discharges as these are areas in which the power stations cannot comply with the existing regulatory requirements and the EPA has limits on its power to grant exemptions. They could also be used to commit new lessees to other environmental performance improvements or to address other environmental liability issues.

In speaking to this series of amendments, I make quite clear that they are in relation to, in effect, grandparented generation assets of long standing in South Australia. All new generation assets such as Pelican Point, Boral in the South-East or Western Mining at Whyalla will be new assets and have to be built in accordance with the requirements that relate to them. It is important to distinguish between what has occurred and been built in the past (in some cases some are decades old, in terms of the existing assets) and new plant and new generation capacity which will be built either now or in the future. This seeks to ensure the continued operation of our existing plant under these forms of agreements, which would have to be approved by the EPA (the Environment Protection Authority), so particular processes would have to be followed for existing plant and capacity, but new plant and capacity would not be covered by these provisions.

The Hon. SANDRA KANCK: I am pleased that we sought to report progress before lunch so that we could put some time into debating some of what the Government is planning to do on environmental issues with this Bill. This is an appalling clause; that is the only way to describe it. The Minister has said what it does, but I am not sure that many people actually heard what he said it does. New clause 5A(1) talks about the agreement under which that the Minister and holder of the licence will operate. That agreement will be held above the Environment Protection Act.

Proposed new clause 5A(1) provides that this agreement, amongst other things, will contain provisions dealing with and limiting the licensee's environmental protection obligations—limiting! It does not have to have the same sort of obligations that anyone else has. It actually says that we in South Australia may be forced, if a licensee so chooses, to accept second best. It goes on in subclause (5) to say that where there is any inconsistency between the Environment Protection Act and any statutory instrument and that agreement, the agreement will prevail. Subclause (6) provides:

Any adverse effects on the environment specifically permitted by an agreement under this clause are taken—

(a) not to constitute a contravention of the Environment Protection Act or any statutory instrument under that Act; and

(b) not to give rise to any liability under any Act or law.

Quite clearly this envisages that adverse effects on the environment will occur and that they will be specifically permitted. This is just absolutely appalling. It means that the EPA will be sidelined and replaced by an agreement that is made between the Minister and a licence holder.

The Hon. R.I. Lucas: Does the EPA have to approve it?

The Hon. SANDRA KANCK: The EPA has to approve it, certainly, but no parameters are set in place about what sort of guidelines should be there in putting that agreement together. I have a letter from the Environmental Defenders Office which says that effectively subclauses (5) and (6) mean that it will remove and replace the environmental controls and protection contained within the Environment Protection Act 1993 and all other South Australian environmental management and protection legislation, for example, the Native Vegetation Act 1991, Aboriginal Heritage Acts 1979 and 1998, Heritage Act 1993, and the Water Resources Act 1997. That is not a bad list.

This amendment will allow the overriding of current environmental laws. It will mean that the public will be able to be excluded from accessing information about the activities of licensees. I want to read into *Hansard* some of the observations of the Environmental Defenders Office, as follows:

The provisions within the Environment Protection Act which ensure public accountability and community rights to comment upon and access to information about prescribed activities of environmental significance and activities producing listed wastes will not apply. The provisions within the Environment Protection Act which require the licensing of such activities and ensure community consultation (including the public notification of licence applications) in relation

to licence applications will not apply. The provisions within the Environment Protection Act which require information about licences (for example, applications and grants, conditions attaching to licences, breaches of those licences and conditions, monitoring data gathered as a licence condition) to be placed on a publicly accessible register will not apply.

The general environmental duty not to undertake an activity that pollutes or might pollute unless the person takes all reasonable and practicable measures to prevent or minimise the harm will not apply. The broad enforcement powers of the EPA and the community under the Environment Protection Act will not apply. The activities of licensees will fall outside the jurisdiction of the Environment, Resources and Development Court. The powers of the EPA include powers to prosecute polluters and to order and enforce clean-ups, protection orders and environment improvement programs.

The activities of these licensees will fall outside that. The document states further:

The only environment protection measures which will apply to the licensees are those measures contained within the contractual agreement with the Minister.

And we do not know what that agreement will say. The document continues:

The only remedies available to the Minister to enforce those measures will be contractual. No criminal sanctions will apply. Under clause 5A(4) the agreement 'operates for the benefit of the licensee'. It is questionable whether any environment protection measures contained within the agreement could be enforced contractually by the Minister if they were not for the 'benefit of the licensee'.

As I have said, this is an appalling amendment, and the Democrats strenuously oppose it.

The Hon. R.I. LUCAS: The attitude of the Australian Democrats does not surprise me. To be fair, they have consistently—

The Hon. Sandra Kanck: Yours doesn't surprise me, either.

The Hon. R.I. LUCAS: I haven't expressed it yet. The Democrats have consistently opposed the Government's proposals in relation to the sale or lease of our assets. A number of the statements made by the honourable member are factually incorrect. For example, to say that the EPA will be sidelined in relation to this ignores the drafting of the legislation. The EPA—

Members interjecting:

The CHAIRMAN: Order! The Treasurer is on his feet. He does not need any help.

The Hon. R.I. LUCAS: The EPA must approve the environmental agreement.

The Hon. Sandra Kanck: And they'll do what they're told.

The Hon. R.I. LUCAS: I think that is an outrageous accusation about Mr Rob Thomas and the staff of the EPA, that they will do what they are told.

The Hon. Sandra Kanck interjecting:

The Hon. R.I. LUCAS: The issue of resources is one thing, as the Hon. Mr Holloway might say, but to actually say, as does the Hon. Sandra Kanck, that he and his officers would do what they are told is an outrageous accusation.

The Hon. Sandra Kanck: They did over Wingfield.

The Hon. R.I. LUCAS: It demeans the honourable member to make that sort of an accusation. It is not correct to say that the EPA will be silent: it must approve or not approve of a particular agreement. When the honourable member says that there is no indication of what the EPA's guidelines will be, in terms of its approval or disapproval of the agreement it must operate in accordance with the objects of its Act. So, there is protection contained in these provisions. This is a difficult issue. I understand the honourable member's position. If these provisions were not successful, we would probably not have anyone interested in purchasing or leasing a number of our plants. That is the simple—

The Hon. Sandra Kanck: We may be better off without them.

The Hon. R.I. LUCAS: That's fair enough. The honourable member puts the position that we may be better off in those circumstances. The reality is that, in a number of cases, we have decades old plant and generating equipment employing South Australians which, in some areas and instances, does not comply with every provision of the Environment Protection Act. However, in the EPA's judgment in terms of its current licensing regime, they do not cause any harm to the environment. That is a judgment under the current arrangement of Government ownership that evidently the EPA has already made. The EPA makes a judgment about whether or not these plants should continue, and it must operate within the objects of its Act. These plants have been generating electricity for South Australians for a considerable period.

If we are trying to lease these assets to private operators, what private operator would expend a significant amount of money to purchase a lease of an asset if they could not be guaranteed that the existing plant would be able to continue to generate? It is a simple matter of business and economics: no-one will bid to purchase the lease of an asset if, at some stage, they might not be able to continue under some appropriate regime for the generation of electricity which is outlined in this Bill.

As I have said, to be fair to the honourable member, this is consistent with her position. This is another way of potentially either significantly reducing the value of our assets or in some cases not having any interest at all—

The Hon. Sandra Kanck: Do you people actually care about the environment?

The Hon. R.I. LUCAS: I think we all care about the environment, but we also care about having the lights on for the people of South Australia. There are a number of objectives which I hope the Hon. Sandra Kanck will at least acknowledge in terms of our electricity industry in South Australia. These plants have been generating for decades. They have employed, and still employ, South Australians. The whole notion of in some way potentially jeopardising that clearly makes no sense to the Government, and it makes no sense if you are about to embark on a leasing arrangement for these assets. So, we must bite the bullet in respect of these issues.

As I said, it is not fair to say that the EPA will be sidelined. It must look at the agreement and, in accordance with the objects of its Act, either approve or not approve of a particular agreement. It is not as though these issues do not exist at the moment—clearly, they do already in terms of the operation of the generating plants—and all we seek to do is ensure that in any leasing arrangement the lessee can continue to operate their generating plant. These agreements can include provisions for improvement in performance so that it exceeds the current requirements under environmental legislation.

As I have said, the agreements will be subject to the ultimate approval of the Environment Protection Authority, the body which, in accordance with the objects of this Act, is charged with the responsibility of doing what it can to help protect the environment. The Government thinks this is a reasonable compromise in this extraordinarily complicated area.

The Hon. M.J. ELLIOTT: I think it is a little too easy by half for the Treasurer to say that because the Democrats are opposed to a sale or a lease—which, effectively, is a sale—everything that we say is linked only to that position. I think there is reason for legitimate concern about this matter. I was a member of the Council when the EPA Act was enacted, and it was recognised that many industrial activities that were occurring within South Australia would not comply with that Act.

For that reason, we have allowed quite significant phase-in times for many industries to comply. That has been particularly true of big industries. For instance, the plant at Port Pirie discharges into the sea, even today, levels of heavy metals which one would not accept for a new plant, but we have realised that it has difficulties and that it takes time to address those; in fact, the plant has made significant progress. But, at the end of the day, there is an aim that they will reach a standard that everybody else would be expected to reach.

It is also true that the electricity plants in South Australia have significant environmental problems. Certainly, the plant at Port Augusta creates significant thermal pollution. Members might not think of heat as pollution, but it is. If you change the temperature of the marine environment, you change what will survive there. In a body of water such as the top end of the gulf, where there is very little movement, thermal pollution is a real problem. We accepted that as a price that we had to pay, but it is also something that we hope in the longer term might be addressed.

In the past, the Port Augusta plant has also been responsible for putting very large amounts of heavy metals into the top end of Spencer Gulf. In fact, Spencer Gulf cops it three ways: from Port Pirie, Port Augusta and Whyalla. No-one has suggested that any of those operations in any of those three cities should close down, but there is an expectation—and this is important—that over time they will comply with standards that will give us genuine environmental safety. I note that the Treasurer is not taking much note of this, but then I suppose he was not going to take much note anyway.

No-one objects to industries being given time to respond. On the face of it, this amendment appears to do that; but I believe that it does much more. Whatever rules we adopt now in the agreement will be frozen and cannot be changed without a further agreement. Whereas every other industry in South Australia is being granted some exemptions and there is a general expectation that they eventually will comply with the standards, these people are being told, 'We are going to set a particular standard now by way of an agreement, and that will be it.' Quite plainly, as we can see under clause 5A(8), if there is to be a variation it will be published in the *Gazette*. Under clause 5A(7) we see that the variation will be by agreement between the EPA and the licensee. If the licensee does not agree to a change, it does not change. That is the important point that the honourable member missed. Nobody minds their having the exemption, as they effectively have at this time, as long as there is a goal that they will eventually comply with the standard. Effectively, for the life of this legislation, which the Government hopes is 97 years, whatever agreement is struck now will be binding.

It is very hard to anticipate what the future holds. For a long time, PCBs were used in the electrical industry in transformers. Nobody knew for a long time that they were deadly toxic and that they would be a major problem in the environment; we simply did not anticipate it. If we had agreed to something like this 20 years ago, the effect of PCBs would have been exempted, because they would not have been anticipated within the agreement. I give that scenario by way of example. What about the future? What happens if in the future the Environment Protection Act starts taking into account things like greenhouse gases. There is a reasonable possibility that it might; it would be the obvious instrument to use. But, effectively under the licence agreement to which we are referring, they would not have to comply with whatever standards the EPA is being asked to enforce on every other industry.

We are not just talking about generators: we are also talking about any other part of the industry. Another part of the industry that might face something in the future is that concerned with transmission. Significant scientific research is taking place right now in relation to electromagnetic radiation and its potential effects. It is a matter that has been the subject of discussion in this place previously. It appears to me that, if that was a matter for which the EPA might have had some responsibility, whatever agreement is struck at this time is the agreement to which they have to comply. I think that is an absolute nonsense. I note that the Hon. Trevor Crothers does not think that this is too much of a problem and that the Hon. Terry Cameron is not here.

I make the point again that I find it deeply disturbing that every amendment being put, or, perhaps in this case Government amendments that are being opposed, is being portrayed as simply being part of the opposition to the sale or lease of ETSA. That is not the case, and that is not the case in relation to this clause. I repeat: I have no problem with a clause which shows some form of leniency, phase-in times and so forth, but the form of this amendment means that whatever agreement is struck now applies until the licensee agrees to something different. That is the effect of the current drafting, and that is what I am objecting to.

At this point in time, whatever standards are now being applied will be applied ever onward. At no time will the EPA ever be able to require whatever standards are then in force to be applied to the licensee. That is what we are objecting to. We are not objecting to what might be the legitimate concerns of the Government where it wants some sort of certainty, but you cannot give certainty for 97 years. You should not sign agreements which go so far off into the future—

The Hon. R.I. Lucas interjecting:

The Hon. M.J. ELLIOTT: It is not just generation—

The Hon. R.I. Lucas interjecting:

The Hon. M.J. ELLIOTT: If you had been listening, I also spoke about transmission and about how electromagnetic radiation may become a matter which is considered a factor within the Environment Protection Act. You can debate whether or not you consider it to be a problem now, but nobody anticipated the problem that PCBs and CFCs became, and no-one anticipated carbon dioxide becoming the problem it is now becoming. Some of these matters could emerge and become a significant problem within a decade; it does happen. That is why I am saying that the Government should not sign an agreement which requires the licensee to agree later on to cater for something which may be of significant concern.

I presume that the only way the State would then get around it, if it were a problem, would be by paying for whatever changes were then expected, even though any other new company such as a Pelican Point or anyone else who starts in the business will be required to comply with the law. Because of the form of this amendment, the State will be required to pay for the changes for these organisations, as that is the only way we will be able to effect them. That is what

we object to. The Treasurer should look at that, because some future Treasurer may curse him for it. We do not know whether it will be five, 10 or 20 years, but it will be within the life of these generation companies.

The Hon. A.J. REDFORD: I am grateful to the Hon. Sandra Kanck for showing me a copy of the advice she received from the Environmental Defenders Office. If I were in her shoes and I took that advice on face value, I would be very concerned, too. I must say that I question the advice given by the Environmental Defenders Office. Having read it, it is alarmist in the extreme; in fact, it is over the top. I declare an interest: I am a member of the environmental defenders organisation. However, the opinion does that organisation no credit at all. As the Treasurer said, new clause 5A(3) provides (and it is pretty clear):

> It is a precondition to the making of an agreement under this clause that the Environment Protection Authority approves the terms of the agreement.

The EPA is not constrained in any way, shape or form in relation to giving its approval. If, as the Hon. Paul Holloway interjects, it lacks resources, it can withhold that approval until it gets sufficient resources to deal with it. I have to say that I respect the integrity of the people involved and I would understand that, if they felt they needed more resources to be able to approve such an agreement, they would seek those resources and get them in normal circumstances.

I would also imagine, in terms of dealing with the criticisms that the Hon. Michael Elliott makes—and they are valid criticisms—that environmental standards change (hopefully for the better as we enter the twenty-first century) and that it will build those clauses into an agreement and, if those clauses are not built into an agreement, it will withhold its approval. In all seriousness, I think the Environmental Defenders Office, with the greatest respect to that body (and I will acknowledge that it has not had a lot of time to consider it) has gone way over the top and undermined its own integrity by doing so and exposed the Hon. Sandra Kanck, for whom I do not often express sympathy, to the potential for criticism.

In that report it says that it removes all our South Australian legislation, including the Native Vegetation Act, the Aboriginal Heritage Act, the Heritage Act, the Water Resources Act and other Acts.

The Hon. Sandra Kanck interjecting:

The Hon. A.J. REDFORD: In part, subclause (5) provides:

> The Environment Protection Act [1993] and any statutory instruments under that Act. . .

That is basic statutory interpretation. If I gave the answer that the Environmental Defenders Office has given in a first year law exam, I would be failed. Quite clearly, when members look at the provision it says:

> . . . statutory instruments under that Act—

That is, the Environment Protection Act. I cannot see how it can come to that quite alarmist interpretation, and that is why I am so disappointed in the advice that it gave the honourable member. I acknowledge and understand that, if the honourable member accepts its advice, she is quite entitled to be as alarmed as she has been, but she has been misled by poor advice.

The second thing that it says is that there are no community rights to comment. One would assume, as a matter of good political practice, that the Minister for Environment and the Environment Protection Authority will ensure that there is a reasonable amount of community comment. One assumes that they will go through a process in that regard. I have no doubt that the Treasurer will probably give such an undertaking.

I then see that there is advice to the effect that there are no criminal sanctions. That is absolute poppycock. There is nothing in this new clause that would remove a criminal sanction on the part of a licensee who breached an agreement. In fact, it imposes those sanctions for a breach of the Act.

At the end of the day, the honourable member ought to think that the Environment Protection Authority will operate in accordance with the Act under which it is given its powers and that it will operate consistently within the objects of the Act. Indeed, section 13 of the Environment Protection Act says that the authority has a number of functions, including the promotion and pursuit of the objects of the Act. Those objects are set out in section 10 and are quite detailed in relation to the demands of the Environment Protection Act in ensuring an appropriate environmental standard.

For the life of me, I cannot imagine a situation where the Environment Protection Authority would walk away from its statutory duty in the way and in the manner suggested by the honourable member and the Hon. Michael Elliott; nor do I for a minute think that it would walk away from its statutory obligations under section 10 of the Environment Protection Act to sign an agreement. Indeed, if it did so (and I am sure the Environmental Defenders Office will correct me if I am wrong, given that I have been fairly clear in my criticism of it), it would give the advice that a third party, or someone interested, would be able to provide, seek or secure injunctive relief against the Environment Protection Authority to prevent it from acting in a manner inconsistent with its obligations under the Act.

It is disappointing that the Environmental Defenders Office, a partially publicly funded body, has given the honourable member such misleading advice—disappointing in the extreme—and I make no criticism of the honourable member in that regard. Indeed, it goes on and says that the delegation power is too vague. Quite frankly, the delegation power in subclause (4) says that it can be delegated to successive holders of the licence and to a person who holds some subsequently granted licence. I should have thought that a first year law student would be able to explain in simple and clear terms (albeit just by repeating the clause) to any person what that means. What it means is a subsequent licensee. I must say that I was very concerned when I listened to the honourable member's contribution and, on any analysis, the Environmental Defenders Office, a partially publicly funded office, should provide better advice, and the honourable member and this place deserve better advice than that which has come forward. I am grossly disappointed in that body of which I am a member.

The Hon. SANDRA KANCK: I return to the actual wording in the new clause and I will repeat it. In part, proposed new clause 5A(1) provides:

> ..the operations authorised by the licence and containing provisions dealing with and limiting the licensee's environmental protection obligations—

The Hon. A.J. Redford interjecting:

The Hon. SANDRA KANCK: Subclause (6) also provides:

> Any adverse effects on the environment specifically permitted by an agreement under this clause...

The message to the EPA is that this is what the Government wants. Members have only to see what the EPA did with Wingfield to know that it is a very tame pussy cat.

The Hon. A.J. REDFORD: It does not obviate against its obligations under the Environment Protection Act. There is nothing in this provision that says to the EPA, 'You can ignore your obligations, responsibilities and duties under the Environment Protection Act.' Indeed, the EPA, as I said, has a duty to uphold those principles and, if it fails to do so, it runs the risk of being injuncted by third parties. With all due respect, the honourable member is jumping to imaginary mutterings from a fairly indecently put together opinion.

The Hon. P. HOLLOWAY: I indicate that the Opposition opposes this clause for two reasons. First, we oppose the Bill *in toto*, but, secondly, I believe it is bad law that any agreement should be able to override the Environment Protection Act. We believe this is bad law in principle and therefore we will oppose the clause.

The Hon. T.G. CAMERON: SA First will also be opposing this amendment for two reasons. First, we will be supporting the Bill; and, secondly, we consider the amendment, as the Hon. Paul Holloway suggested, to be bad law.

The Hon. M.J. ELLIOTT: I am uncertain where the numbers will fall on this amendment at this stage, so I want to get a clear understanding from the Minister, who, I believe, will be involved in the development of the licences in some ways. I guess a great deal will happen between the EPA and the licensee. However, a decision about the issue that I raised previously will have to be made at some point; that is, we take a snapshot now when we have a particular set of rules in place. It is fair to say that some industries are struggling to comply with that. Within the EPA Act we have ways of granting exemptions, and a lot of private companies and public utilities are operating with those, but there is a general expectation that they will come into line within some sort of time frame.

Does the Treasurer envisage that, if an agreement is struck, there will be an expectation that within a certain time frame they would come into line with whatever the standards happened be? Standards change over time. I recognise that new people will be coming into generation, and they will not have the good fortune of such a licence agreement. They will certainly be put in a quite different competitive position from those people who do not enjoy this agreement. So, I would be interested to hear the Treasurer's response as to what he contemplates being within the agreement. The agreement could be relatively short and simply grant an exemption from standards, or it could contain requirements about coming into compliance within time frames and whatever else.

The Hon. R.I. LUCAS: As I indicated before, it is possible for these agreements to encompass exactly what the honourable member is talking about. I indicated earlier in my explanation that these agreements can require improvement in environmental performance. One of the difficult issues is that it may well be simply not financially viable ever to get some of our generating plant to a certain emission standard, for example. It may well be that over the long term, if the Government continued to own them or if a new licensee from the private sector leases them, they will have to look to the long term for replacing plant with new plant that does comply. It will be a case of shutting down old plant and replacing it with new plant that complies.

From the estimates I have seen for some of our generating plant (if I can put it that way, because we are about to begin the process of trying to get into the marketplace), the costs of compliance with the strict implementation of some of the standards would possibly be greater than the potential purchase or lease price. If the Government continues to own these assets or someone else owns or leases them, one of the difficult issues will be determining what is sensible. Do you spend many millions of dollars or, in some cases, tens of millions of dollars, on trying to upgrade and effect improvement; or, for the viability of your business, do you plan to replace the plant with new plant and equipment which does comply?

Both options are possible. The honourable member's question is reasonable, and I am trying to respond as reasonably as possible. Some of these agreements will involve agreement on and approval for improvement in standards. The Environment Protection Authority has great flexibility in relation to this. We are relying on it to do what it can in accordance with the objects of the Act to maintain appropriate levels of environmental performance by the operators of these businesses, as they are seeking to do at the moment, bearing in mind that some of these plants might be generating for only 30, 40 or 50 days in a year. Some of our peaking plants, for example, do not generate day in, day out, 24 hours a day. They are cranked up at certain times of the year when we need peak capacity.

The issue is whether the current owners—the Government or the new owners and operators or lessees—will, for the benefit of 40 or 50 days generating in a year, spend what might be millions or tens of millions of dollars on the existing plant to meet particular requirements. For some of them, the answer is clearly 'No'; it would not be financially viable, and they would have to close and build new replacement plant. We can go around in circles on this one. I cannot provide much more detail to the honourable member than that. In large part we will rely on the environmental advice of the EPA. We have some confidence in the integrity of the organisation and its officers to do the very best they can to pursue the objects of the Act.

The Hon. M.J. ELLIOTT: I still do not know what the numbers will be. Will these licence agreements be public documents? For instance, for some time the EPA has been withholding some documents I have been trying to get from it, claiming that they are commercially confidential. I do not know whether the EPA would try that in this case, saying, 'We've done it with a business, so it is commercially confidential', but I am disappointed that this amendment does not at least clarify that they would be public documents. We should recognise that eventually there will be competitors—such as Pelican Point, which will not be covered by this—and others, and they will be asked to comply with the EPA Act. Anybody who buys a business under this measure will not be required to do so, but will be required to comply with an agreement, and at this stage we do not know whether or not that will be a public agreement. I ask the Treasurer to give us an undertaking that this agreement would be a public document so that we know what standards have been set and so that other people in the business will also know what standards are being set.

The Hon. R.I. LUCAS: In the spirit of openness with which we are trying to approach this legislation it is the Government's and my intention to make the documents publicly available, as we are doing with the lease contracts which we made available publicly in this Council, and as we are doing with the probity auditor report and the Auditor-General's involvement. It is the Government's intention to make these licence agreements publicly available as well.

The Committee divided on the new clause:

AYES (9)

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

NOES (8)

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

PAIR(S)

Davis, L. H.	Gilfillan, I.
Lawson, R. D.	Roberts, T. G.

Majority of 1 for the Ayes.

New clause thus inserted.

Clause 6.

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

Page 17, line 18—Leave out 'The Governor' and insert:
Except as otherwise provided in this Schedule, the Governor

This amendment recognises the proclamations made for the purposes of clause 4 about liabilities for council rates or amounts calculated, having regard to the fact that council rates may not be revoked and may only be varied so as to reduce the amounts payable under them. We did debate this earlier and I indicated that we are looking at this issue in terms of the Bill's passage between this place and the other place.

Amendment carried; clause as amended passed; schedule as amended passed.

New Schedule 1A.

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

After Schedule 1—Insert:

SCHEDULE 1A

Conversion of Electricity Corporation to State-owned Company

Steps before conversion of electricity corporation to company

1. (1) As from a date specified by proclamation, the electricity corporation is to have a share capital.

(2) The proclamation may contain requirements for the issuing of shares by the electricity corporation to specified Ministers of the Crown, including (without limitation) requirements as to the number of shares to be issued, the rights to be attached to the shares, the issue price of the shares and the consideration to be given for the shares.

(3) The Ministers to whom shares in the electricity corporation are issued are not members of the electricity corporation at any time before its conversion to a company limited by shares merely because the Ministers hold those shares.

(4) The electricity corporation is authorised (with the approval of the Minister) to take such action as is necessary or desirable to be taken for the purpose of its being registered as a proprietary or public company limited by shares under Part 5B.1 of the Corporations Law (Registering a body corporate as a company), including (without limitation) action to adopt a constitution approved by the Minister.

(5) The electricity corporation must take such action of a kind referred to in subclause (4) as is required by the proclamation.

Membership of the electricity corporation following conversion

2. (1) The Ministers, as holders of shares in the electricity corporation at the time of its conversion to a company limited by shares, become (by force of this subclause) members of the electricity corporation at the time of that conversion.

(2) The Ministers are, in relation to membership of the electricity corporation following its conversion, entitled to the same rights, privileges and benefits, and are subject to the same duties, liabilities and obligations, as if they had become members of the electricity corporation immediately prior to its conversion.

Continuity of electricity corporation and construction of references to electricity corporation.

3. (1) Without limiting any provision of the Corporations Law, the electricity corporation as converted into a company limited by shares is a continuation of, and the same legal entity as, the electricity corporation as it existed before the conversion.

(2) After the conversion, a reference in any instrument to the electricity corporation is to be read as a reference to the electricity corporation as converted into a company limited by shares.

Proclamations

4. The Governor may make proclamations for the purposes of this Schedule.

As previously explained in relation to clause 10A, the provisions of schedule 1A are designed to facilitate the conversion of electricity corporations specified in a proclamation, corporation or company.

New schedule inserted.

New Schedule 1B.

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

Suggested amendment: After Schedule 1A—Insert:

SCHEDULE 1B

Amendments relating to Superannuation

PART 1

PRELIMINARY

Commencement

1. (1) Parts 2, 3 and 4 of this Schedule come into operation in accordance with a notice or notices by the Treasurer published in the *Gazette*.

(2) A notice may—

(a) fix the same day or different days for different provisions of Parts 2, 3 and 4 to come into operation;

(b) suspend the operation of specified provisions of Part 2, 3 or 4 until a day or days to be fixed by subsequent notice or notices.

(3) In this clause—

'provision' means—

(a) a clause, or a paragraph of a clause, of this Schedule; or

(b) a clause of a schedule (including a clause of the Trust Deed) inserted or substituted by this Schedule; or

(c) a clause of Schedule 1 of the Electricity Corporations Act 1994 (including a clause of the Trust Deed) inserted by clause 4 of this Schedule; or

(d) a subclause or a paragraph or subparagraph of a clause referred to in paragraph (b) or (c) or a paragraph or subparagraph of such a subclause.

PART 2

SUBSTITUTION OF SCHEDULE 1 OF ELECTRICITY CORPORATIONS ACT 1994

Substitution of Schedule 1

2. Schedule 1 of the Electricity Corporations Act 1994 is repealed and the following Schedule is substituted:

SCHEDULE 1

Superannuation

PART A—PRELIMINARY

Interpretation

1. (1) In this Schedule, unless the contrary intention appears—

'actuary' means—

(a) a Fellow or Accredited Member of the Institute of Actuaries of Australia; or

(b) a partnership at least one member of which must be a Fellow or Accredited Member of the Institute of Actuaries of Australia; or

(c) a body corporate that employs or engages a Fellow or Accredited Member of the Institute of Actuaries of Australia for the purpose of providing actuarial advice;

'the Board' means the Electricity Industry Superannuation Board—see Part B;

'electricity supply industry' means the industry involved in the generation, transmission, distribution, supply and sale of electricity;

'employer' means—

(a) a person or body who employs a pre-privatisation member of the Scheme in the electricity supply industry;
(b) a person or body who employs any other member of the Scheme in the electricity supply industry;
(c) a public sector employer who employs a pre-privatisation member of the Scheme who accepted an offer made under section 15B of the Electricity Corporations (Restructuring and Disposal) Act 1998;

'member' of the Scheme has the same meaning as in the Trust Deed;

'pre-privatisation member' means a person who was a member of Division 2, 3 or 4 of the Electricity Industry Superannuation Scheme immediately before the commencement of clause 10 but does not include a person who, after the commencement of that clause, ceased to be a member of the Scheme but is subsequently re-admitted to membership of the Scheme;

'private sector employer' means an employer that is not the Crown, an electricity corporation or a State-owned company or any instrumentality of the Crown or statutory corporation;

'public sector employer' means an employer that is the Crown, an electricity corporation or a State-owned company or any instrumentality of the Crown or statutory corporation;

'the Rules' means the Rules referred to in the Trust Deed;

'the Scheme' means the Electricity Industry Superannuation Scheme—see clause 3 of the Trust Deed;

'the Scheme assets' has the same meaning as in the Trust Deed;

'State-owned company' has the same meaning as in the Electricity Corporations (Restructuring and Disposal) Act 1998;

'the Trust Deed' means the trust deed appearing at the end, and forming part, of this Schedule.

(2) In this Schedule, a reference to a Commonwealth Act is a reference to that Act as amended from time to time or an Act enacted in substitution for that Act.

PART B—THE ELECTRICITY INDUSTRY SUPERANNUATION BOARD

The Electricity Industry Superannuation Board

2. (1) The ETSA Superannuation Board continues in existence under the name Electricity Industry Superannuation Board.

(2) The Board—
(a) is a body corporate; and
(b) has perpetual succession and a common seal; and
(c) is capable of suing and being sued in its corporate name; and
(d) is a constitutional corporation for the purposes of section 19 of the Superannuation Industry (Supervision) Act 1993 of the Commonwealth; and
(e) has the functions and powers assigned or conferred by this Schedule, the Trust Deed and the Rules; and
(f) is not an agency or instrumentality of the Crown.

(3) Where a document appears to bear the common seal of the Board, it will be presumed, in the absence of proof to the contrary, that the document was duly executed by the Board.

Function of Board

3. (1) Subject to subclause (2), the Board is the trustee of the Scheme and is responsible for all aspects of the administration of the Scheme pursuant to this Schedule, the Trust Deed and the Rules.

(2) Subject to subclause (3), the Board ceases to be the trustee of the Scheme at the end of the financial year in which, for the first time, all members of the Scheme who are employed in the electricity supply industry are employed by private sector employers.

(3) The private sector employers may, by a majority decision, extend the Board's office as trustee of the Scheme.

(4) If the Board ceases to be the trustee of the Scheme, the Treasurer may, by notice in the Gazette, dissolve the Board and in that event any assets of the Board in addition to the Scheme assets will vest in the new trustee of the Scheme and any liabilities of the Board will attach to the new trustee.

Board's membership

4. (1) The Board consists of the following members:
(a) four members elected by the members of the Scheme in accordance with the Rules; and
(b) three members appointed by the employers pursuant to the Rules; and
(c) one member appointed by the Treasurer; and
(d) an independent member appointed by the other members of the Board.

(2) A member of the Board may, with the approval of the Board, appoint a deputy to the member and the deputy may, in the absence or during a temporary vacancy in the office of that member, act as a member of the Board.

(3) Subject to subclause (4), a member of the Board will be elected or appointed for a term not exceeding three years determined in accordance with the Rules.

(4) A member of the Board elected or appointed to fill a casual vacancy will be elected or appointed for the balance of the term of his or her predecessor.

(5) The office of a member of the Board becomes vacant if the member—
(a) dies; or
(b) completes a term of office and is not re-elected or re-appointed; or
(c) resigns by written notice to the Board; or
(d) is removed from office by the Treasurer on the ground—
(i) of mental or physical incapacity to carry out official duties satisfactorily; or
(ii) of neglect of duty; or
(iii) of misconduct; or
(iv) that the member is a disqualified person within the meaning of the Superannuation Industry (Supervision) Act 1993 of the Commonwealth.

Procedure at meetings of Board

5. (1) A meeting of the Board will be chaired by the independent member but, if he or she is absent, the meeting will be chaired by a member of the Board chosen by those present.

(2) Subject to subclause (3), the Board may act despite vacancies in its membership.

(3) Six members of the Board constitute a quorum for a meeting of the Board.

(4) Each member present at a meeting of the Board is entitled to one vote on a matter arising for determination at the meeting.

(5) A decision of the Board requires the vote of six members of the Board in favour of the decision.

(6) Subject to this Schedule, the Trust Deed and the Rules, the Board may determine its own procedures.

(7) The Board must keep minutes of its proceedings.

PART C—OWNERSHIP OF SCHEME ASSETS

Ownership of Scheme assets

6. The Scheme assets (excluding assets comprising, or arising from, contributions paid to the Board by private sector employers or amounts paid to the Scheme pursuant to clause 14(2)) belong (both in law and in equity) to the Crown.

PART D—REPORTS

Reports

7. (1) The Board must, on or before 31 October in each year, submit a report to the Treasurer on the operation of this Schedule, the Trust Deed and the Rules and on the management and investment of the Scheme assets during the financial year ending on 30 June in that year.

(2) The report under subclause (1) must include the audited financial statements of the Scheme for the relevant financial year.

(3) An actuary appointed by the Board must, in relation to the triennium ending on 30 June 1999 and thereafter in relation to each succeeding triennium, report to the employers, the Board and the Treasurer—
(a) on the employer costs of the Scheme at the time of making the report and during the foreseeable future; and
(b) on the ability of the Scheme assets to meet the Scheme's current and future liabilities,

(each report must be submitted within 12 months after the end of the relevant triennium).

(4) The Treasurer must, within six sitting days after receiving a report under this clause, have copies of the report laid before both Houses of Parliament.

(5) Where, under the Rules, the Board determines a rate of return that is at variance with the net rate of return achieved by investment of the Scheme assets, the Board must include its reasons for the determination in its report for the relevant financial year.

PART E—TRANSFER OF MEMBERS OF THE NON-CONTRIBUTORY SCHEME

Transfer of members of the non-contributory scheme

8. (1) The Treasurer may, by notice in writing to the Electricity Industry Superannuation Board and the South Australian Superannuation Board before the relevant day, transfer a member of the non-contributory scheme who is no longer employed by an employer within the meaning of this Schedule but who is entitled to preserved benefits in the non-contributory scheme to a superannuation scheme (to be specified in the notice) established by an Act of Parliament.

(2) The trustee of a scheme to whom a person is transferred under subclause (1) must open an employer contribution account in the name of the person and must credit to the account the balance credited in favour of the person in the non-contributory scheme immediately before the transfer.

(3) The Governor may, by regulation, make provisions of a transitional nature in relation to the transfer of a person under this clause.

(4) A regulation under subclause (3) may—

(a) modify the provisions of the Act establishing the scheme to which the person has been transferred in their application to that person;

(b) operate prospectively or retrospectively from a date specified in the regulation.

(5) A notice under subclause (1) must identify the person or persons to whom it applies.

(6) On receipt of the notice, the Electricity Industry Superannuation Board must give notice to each person transferred advising him or her of the transfer.

(7) On the transfer of a person under this clause, his or her entitlements under the non-contributory scheme cease.

(8) The South Australian Superannuation Board may, from time to time, require the Electricity Industry Superannuation Board to provide it with information that is in its possession relating to persons transferred under this clause.

(9) Despite any other Act or law to the contrary, the Electricity Industry Superannuation Board must comply with a requirement under subclause (8).

(10) In this clause—

'the non-contributory scheme' means the non-contributory superannuation scheme maintained under Part H of Schedule 1 of this Act repealed by the Electricity Corporations (Restructuring and Disposal) Act 1998;

'the relevant day' means the day on which the approval of the Treasurer ceases to be required for the variation or replacement of the Rules.

PART F—MISCELLANEOUS

Exclusion of awards, etc., relating to superannuation

9. An employer cannot be required by an award or agreement under the Industrial and Employee Relations Act 1994 to make a payment—

(a) in the nature of superannuation; or

(b) to a superannuation fund,

for the benefit of a member or of a person to whom benefits accrue under the Scheme.

Closure of Division 2 of the Scheme

10. (1) Subject to subclause (2), a person cannot apply for membership of Division 2 of the Scheme after the commencement of this clause.

(2) Subclause (1) does not apply to a person who is a member of Division 3 or 4 of the Scheme when he or she applies for membership of Division 2.

Treasurer may vary Rules in relation to Taxation

11. (1) The Treasurer may, after consultation with the trustee of the Scheme, insert into the Rules a rule or rules relating to changes in benefits for members and employer costs in relation to those benefits, following the Scheme's loss of constitutional protection.

(2) A rule inserted by the Treasurer may—

(a) prescribe a decrease in the level of gross benefits; or

(b) require benefits to be paid on an untaxed basis or partly on an untaxed basis; or

(c) make provisions of the kind referred to in both subparagraphs (a) and (b),

in order to avoid or reduce an increase in employer costs caused by changes in the incidence of taxation as a result of the Scheme's loss of constitutional protection.

(3) Subject to subclause (4), the change in benefits effected by a rule made under this clause must not result in the level of net benefits to which a member, or a person in respect of a member, is entitled being less than the level of net benefits to which he or she would have been entitled if the Scheme had not lost constitutional protection.

(4) The level of net benefits to which a member, or a person in respect of a member, is entitled may be reduced below the level permitted by subclause (3) to avoid or reduce an increase in employer costs attributable to tax under the Superannuation Contributions Tax (Assessment and Collection) Act 1997 of the Commonwealth in relation to the member.

(5) A rule made under this clause may operate differently in relation to—

(a) different classes of members;

(b) different classes of benefits;

(c) different classes of components of benefits.

(6) A rule made under this clause—

(a) must be made by notice in writing given to the trustee of the Scheme before the relevant day;

(b) may be varied or revoked by the Treasurer by notice in writing to the trustee before that day;

(c) is not subject to the Subordinate Legislation Act 1978.

(7) The trustee of the Scheme may vary or replace a rule inserted in the Rules under this clause in the same manner as it can vary or replace any of the other rules of the Scheme.

(8) In this clause—

'level of gross benefits' in relation to a member means the amount of the benefits to which the member, or another person in respect of the member, is entitled under the Scheme before tax attributable to those benefits has been paid or allowed for;

'level of net benefits' in relation to a member means the amount of the benefits to which the member, or another person in respect of the member, is entitled after tax attributable to those benefits has been paid or allowed for using the tax rates applicable on the day on which the Scheme loses constitutional protection and based on the assumption that the member has reached the age of 55 years;

'the relevant day' means the day on which the approval of the Treasurer ceases to be required for the variation or replacement of the Rules.

(9) For the purposes of this clause—

(a) benefits are paid on an untaxed basis where the trustee of the Scheme has made an election under the Income Tax Assessment Act 1936 of the Commonwealth as a result of which the person receiving the benefits is liable for a higher rate of tax in relation to them;

(b) the Scheme loses constitutional protection when it ceases to be a constitutionally protected fund for the purposes of the Income Tax Assessment Act 1936 of the Commonwealth.

Appeal to trustee against rule under clause 11

12. (1) A member of the Scheme, or if the member has died, a person who is entitled to receive a benefit in respect of the member, may appeal to the trustee of the Scheme on the ground that a rule made under clause 11 has the effect in relation to the member of reducing the level of net benefits to which the member or other person is entitled below the level permitted by clause 11.

(2) An appeal—

(a) must be made in the manner and form determined by the trustee;

(b) may be made at any time before the expiration of six months after benefits have become payable to the member or other person and the member or other person has received a written statement from the trustee as to the amount of the benefits.

(3) If the trustee (after giving the appellant and the employer of the member, or former member, a reasonable opportunity to appear and be heard, either personally or by representative) is satisfied that the appeal should be allowed, it must—

(a) vary the effect of the rule as it applies to, or in respect of, the member; and

(b) determine the amount of the benefits to which the member or other person is entitled following the variation under paragraph (a); and

(c) make any ancillary determination or order that in its opinion is necessary or desirable.

(4) No proceedings for judicial review or for a declaration, injunction, writ, order or other remedy (other than an appeal under this clause) may be brought before a court, tribunal, or

other person or body to challenge or question the validity or operation of a rule made under clause 11.

(5) In this clause—

'level of net benefits' has the same meaning as in clause 11.

Separation of Trust Deed from Schedule

13. (1) The Trust Deed ceases to form part of this Schedule on a day to be fixed by the Treasurer for that purpose by notice published in the *Gazette*.

(2) The Trust Deed remains in full force and effect after separation from this Schedule under subclause (1).

Obligations of employers

14. (1) An employer who employs a pre-privatisation member of the Scheme (whether before or after separation of the Trust Deed from this Schedule under clause 13) is bound by the Trust Deed as an employer under the Deed whether that person or body has agreed to be bound or not.

(2) Subject to subclause (4), where the employment of a member is transferred by an employee transfer order under the Electricity Corporations (Restructuring and Disposal) Act 1998 from an electricity corporation or a State-owned company to a purchaser under a sale/lease agreement within the meaning of that Act, the purchaser is liable (unless the Trust Deed or the Rules expressly provide otherwise) to pay to the Scheme within the period of five years immediately following the transfer of the employment of the member an amount (to be determined by an actuary appointed by the Treasurer) sufficient to meet the unfunded liability of the Scheme in respect of the member's entitlement to benefits that accrued before the transfer of the member's employment to the purchaser.

(3) The Treasurer is liable to pay to the Scheme the amount required to fully satisfy the whole or that part (if any) of the liability of a purchaser under subclause (2) that has not been satisfied by the purchaser within the period of five years immediately following the transfer of the employment of the member to whom the liability relates and, on payment of that amount by the Treasurer, the purchaser is liable to pay the same amount to the Treasurer.

(4) The Treasurer may, by notice in writing to the purchaser, release the purchaser from the whole or part of its liability under subclause (2) and, in that event, the Treasurer must pay to the Scheme the equivalent of the amount by which the purchaser's liability has been reduced.

THE ELECTRICITY INDUSTRY SUPERANNUATION SCHEME

TRUST DEED

Operation of Deed

1. (1) This Deed forms part of Schedule 1 of the Electricity Corporations Act 1994 as substituted by the Electricity Corporations (Restructuring and Disposal) Act 1998 until the Schedule and this Deed are separated under clause 13 of the Schedule.

(2) This Deed comes into operation at the same time as the Schedule.

Interpretation

2. (1) In this Trust Deed, unless the contrary intention appears—

'actuary' means—

(a) a Fellow or Accredited Member of the Institute of Actuaries of Australia; or

(b) a partnership at least one member of which must be a Fellow or Accredited Member of the Institute of Actuaries of Australia; or

(c) a body corporate that employs or engages a Fellow or Accredited Member of the Institute of Actuaries of Australia for the purpose of providing actuarial advice;

'the Board' means the Electricity Industry Superannuation Board continued in existence by Schedule 1 of the Electricity Corporations Act 1994;

'commencement of this Deed'—see clause 1;

'electricity supply industry' means the industry involved in the generation, transmission, distribution, supply and sale of electricity;

'employer' means—

(a) a person or body who employs a pre-privatisation member of the Scheme in the electricity supply industry;

(b) a person or body who employs any other member of the Scheme in the electricity supply industry;

(c) a public sector employer who employs a pre-privatisation member of the Scheme who accepted an offer made under section 15B of the Electricity Corporations (Restructuring and Disposal) Act 1998;

'member' of the Scheme means a person who is a member of the Scheme pursuant to this Deed;

'pre-privatisation member' means a person who was a member of Division 2, 3 or 4 of the Electricity Industry Superannuation Scheme immediately before the commencement of clause 10 of the Schedule but does not include a person who, after the commencement of that clause, ceased to be a member of the Scheme but is subsequently re-admitted to membership of the Scheme;

'private sector employer' means an employer that is not the Crown, an electricity corporation or a State-owned company or any instrumentality of the Crown or statutory corporation;

'public sector employer' means an employer that is the Crown, an electricity corporation or a State-owned company or any instrumentality of the Crown or statutory corporation;

'repealed schedule' means Schedule 1 of the Electricity Corporations Act 1994 repealed by the Electricity Corporations (Restructuring and Disposal) Act 1998;

'the Rules' means the Rules of the Electricity Industry Superannuation Scheme (being the Rules of the ETSA Contributory Superannuation Scheme and the ETSA Non-Contributory Superannuation Scheme at the commencement of this Deed) as varied or replaced from time to time;

'the Schedule' means Schedule 1 of the Electricity Corporations Act 1994 as substituted by the Electricity Corporations (Restructuring and Disposal) Act 1998;

'the Scheme' means the Electricity Industry Superannuation Scheme—see clause 3;

'the Scheme assets'—see clause 9;

'special deposit account' means a special deposit account established under section 8 of the Public Finance and Audit Act 1987;

'State-owned company' has the same meaning as in the Electricity Corporations (Restructuring and Disposal) Act 1998.

(2) In this Schedule, a reference to a Commonwealth Act is a reference to that Act as amended from time to time or an Act enacted in substitution for that Act.

(3) The Rules form part of this Deed and accordingly a reference to the Deed includes a reference to the Rules.

(4) Although the Rules form part of the Deed, a provision of the Deed applies to the exclusion of a provision of the Rules to the extent of any inconsistency between them.

(5) In this Deed—

(a) every word of the masculine gender will be construed as including the feminine gender;

(b) every word of the feminine gender will be construed as including the masculine gender;

(c) every word in the singular number will be construed as including the plural number;

(d) every word in the plural number will be construed as including the singular number;

(e) every word in either of those genders or numbers will be construed as including a body corporate as well as an individual.

(6) A reference in this Deed to an Act, regulation, rule or other legislative instrument includes a reference to—

(a) that instrument as amended from time to time; and

(b) an instrument that replaces or supersedes it; and

(c) a regulation, rule or other instrument, and a written determination or ruling, made under or in connection with that instrument.

(7) The transfer of employment of a member from one employer to another employer under the Scheme (however effected) will not be taken to involve the termination of the previous employment and does not give rise to an immediate or delayed entitlement to benefits under the Scheme.

(8) The reference to 'employer' in subclause (7) includes a person or body who was not an employer for the purposes of this Deed until the employment of the member referred to in that subclause was transferred to the person or body.

Continuation of Scheme

3. (1) The ETSA Contributory Superannuation Scheme continues in existence under the name Electricity Industry Superannuation Scheme.

(2) The ETSA Non-Contributory Superannuation Scheme continues in existence as a division of the Electricity Industry Superannuation Scheme.

(3) Subject to subclause (2), the Scheme will be treated as made up of the divisions specified in the Rules.

(4) The Board may divide the Scheme assets into divisions according to the different investments that may be made of those assets.

(5) The Scheme assets will be allocated to the divisions of the Scheme in accordance with the Rules.

Rules of the Scheme

4. (1) The Board may, by instrument in writing, vary or replace the Rules with the approval of the Treasurer.

(2) The Subordinate Legislation Act 1978 does not apply to, or in relation to, rules made under this clause.

(3) The Rules must conform with the provisions of the Schedule and this Trust Deed.

(4) Where the variation or replacement of a rule would result in an increase in the contribution to be made by an employer or increase the liability of the employer under the Scheme in any other way, the rule cannot be varied or replaced without the approval of the employer.

(5) A variation or replacement of the Rules will be taken to come into operation on the date specified in the instrument varying or replacing the Rules whether being a date before or after the date on which the instrument was made or the date on which the Treasurer gave his or her approval.

(6) The Rules may confer discretionary powers.

Reduction in benefits on changes in taxation

5. (1) Subject to subclause (3), where the cost to employers of maintaining the existing level of benefits is increased by a change in the incidence of taxation occurring after the Scheme loses its status as a constitutionally protected fund under the Income Tax Assessment Act 1936 of the Commonwealth, the level of benefits is reduced to the extent necessary to avoid an increase in that cost.

(2) The extent of the reduction in the level of benefits under subclause (1) must be determined by the Board on the advice of an actuary.

(3) If the Board and all the employers agree that subclause (1) will operate to reduce the level of benefits to a lesser extent than is provided by that subclause, the subclause will operate in accordance with the agreement.

Membership of the Scheme

6. (1) The following persons are members of the Scheme:

(a) subject to subclause (2), a person who was a contributor under the repealed schedule immediately before the commencement of this Deed; and

(b) a person who was a member of the non-contributory scheme under the repealed schedule immediately before the commencement of this Deed; and

(c) all other persons who are accepted as members of the Scheme pursuant to the Rules.

(2) A contributor who died before the commencement of this Deed is a former member of the Scheme for the purposes of this Deed.

(3) A person ceases to be a member of the Scheme on death or when his or her rights in relation to superannuation under the Scheme have been exhausted.

Payment of contributions

7. (1) Contributions payable pursuant to the Rules by members of the Scheme and public sector employers must be paid to the Treasurer.

(2) Contributions payable pursuant to the Rules by private sector employers must be paid to the Board.

(3) Contributions paid to the Board under subclause (2) vest in the Board.

Payment of benefits

8. (1) Subject to subclause (4), any payment to be made under the Rules to, or in respect of, a member, or former member, must be made out of the Consolidated Account (which is appropriated to the necessary extent) or out of a special deposit account established by the Treasurer for that purpose.

(2) The Treasurer may reimburse the Consolidated Account or special deposit account by charging the relevant division or divisions of the Scheme in accordance with the Rules.

(3) Where a division of the Scheme is exhausted, the amount that would otherwise be charged against it under subclause (2) will be charged against the employers in proportions determined by an actuary appointed by the Board.

(4) Part of the benefits payable to, or in respect of, a member or former member who was employed by a private sector employer must be paid in accordance with the Rules from the Scheme assets.

Scheme assets

9. (1) The Scheme assets are subject to the management and control of the Board.

(2) The Scheme assets comprise—

(a) the assets comprising the ETSA Superannuation Fund at the commencement of this Deed; and

(b) contributions paid to the Scheme by the Treasurer under subclause (3); and

(c) contributions paid to the Board by private sector employers; and

(d) amounts paid to the Scheme pursuant to clause 14 of the Schedule; and

(e) interest and other income and other accretions arising from investment of the Scheme assets; and

(f) any other income or assets transferred to the Scheme as part of the Scheme assets; and

(g) such other assets as are required by the Rules to be included in the Scheme assets.

(3) The Treasurer must pay to the Scheme periodic contributions reflecting the contributions paid to the Treasurer by contributors and public sector employers with respect to the relevant period.

(4) The following amounts will be paid from the Scheme assets:

(a) any reimbursement of the Consolidated Account or a special deposit account that the Treasurer charges against the Scheme in pursuance of this Deed; and

(b) amounts paid pursuant to clause 8(4); and

(c) the costs and other expenses of administering the Scheme; and

(d) such other amounts as are provided for by the Rules.

Investment of Scheme assets

10. (1) The Board may invest money comprising the Scheme assets that is not immediately required in any manner in which it could invest that money—

(a) if acting as a trustee; or

(b) if acting on its own behalf and not as a trustee.

(2) Without limiting subclause (1), the Board may—

(a) participate in any financial arrangement (usually called a synthetic or derivative investment) for the purpose of risk management or hedging;

(b) pool Scheme assets with other persons' assets for investment purposes.

Accounts and audit

11. (1) The Board must keep proper accounts of receipts and payments in relation to the Scheme and must, in respect of each financial year, prepare financial statements in relation to the Scheme in a form approved by the Treasurer.

(2) The accounts and financial statements must distinguish between the divisions of the Scheme and the investments in which money from each of those divisions has been invested.

(3) The Auditor-General may at any time, and must at least once in each year, audit the accounts of the Scheme and the financial statements.

Insurance

12. The Board may purchase and renew insurance of any kind for the purposes of the Scheme and may pay all insurance premiums from the Scheme assets.

Exclusion of liability and indemnity

13. (1) The Board and the members and former members and the employees and former employees of the Board are not liable in relation to any act or omission in connection with the administration of the Scheme or the Scheme assets in compliance, or purported compliance, with the Schedule, this Deed or the Rules except to the extent that the person—

(a) fails to act honestly; or

(b) intentionally or recklessly fails to exercise proper care and diligence.

(2) If, despite subclause (1), a person referred to in that subclause incurs a liability which the subclause purportedly protects him or her from, the person will be indemnified in respect of that liability from the Scheme assets.

Benefits cannot be assigned

14. A right to a benefit under the Scheme cannot be assigned.

Governing law

15. This Deed is governed by the law of South Australia.

Severance of invalid provision

16. Any provision of this Deed that is—

(a) invalid in whole or in part; or

(b) required to be limited or read down in order to be valid,

is severed or limited or read down to the extent of the invalidity, but the remainder of the provision continues in full force and effect.

Withdrawal of employers and winding up of the Scheme

17. (1) Subject to subclause (2), an employer may withdraw from the Scheme in accordance with the Rules.

(2) An employer who employs one or more pre-privatisation members of the Scheme in the electricity supply industry cannot withdraw from the Scheme without the consent in writing of the member or members concerned.

(3) If all the employers have withdrawn from the Scheme the Board must wind the Scheme up in accordance with the Rules.

PART 3

AMENDMENT OF SUPERANNUATION ACT 1988

Amendment of Act

3. The Superannuation Act 1988 is amended—

(a) by striking out from subsections (14), (17) and (18) of section 22 'or the ETSA superannuation scheme' wherever occurring;

(b) by striking out the definition of 'ETSA superannuation scheme' from subsection (19) of section 22;

(c) by inserting the following Schedule after Schedule 1A:

SCHEDULE 1B

Transfer of Certain Members of the Electricity Industry Superannuation Scheme to the State Scheme

PART 1

PRELIMINARY

Interpretation

1. In this Schedule, unless the contrary intention appears—

'the contributory lump sum schemes' means Divisions 2 and 4 of the Electricity Industry Superannuation Scheme providing for contributions by members and lump sum benefits for members;

'Division 4' of the Electricity Industry Superannuation Scheme means the division of the Scheme formerly known as the 'R.G. Scheme';

'the Electricity Industry pension scheme' means Division 3 of the Electricity Industry Superannuation Scheme providing for pension benefits;

'the Electricity Industry Superannuation Board' includes a subsequent trustee of the Electricity Industry Superannuation Scheme;

'the Electricity Industry Superannuation Scheme' means the ETSA Contributory and Non-Contributory Superannuation Schemes continued in existence as the Electricity Industry Superannuation Scheme by clause 3 of the Electricity Industry Superannuation Scheme Trust Deed appearing at the end of Schedule 1 of the Electricity Corporations Act 1994;

'the relevant day' means the day on which the approval of the Treasurer ceases to be required for the variation or replacement of the Rules of the Electricity Industry Superannuation Scheme;

'the State Scheme' means the scheme of superannuation established by this Act;

'Trustee' means the Electricity Industry Superannuation Board and includes subsequent trustees of the Electricity Industry Superannuation Scheme.

PART 2

TRANSFER OF MEMBERS

Transfer of existing pensioners before the relevant day

2. (1) The Treasurer may, by notice to the Electricity Industry Superannuation Board and the South Australian Superannuation Board under clause 7 before the relevant day, transfer a person who is in receipt of a pension under the Electricity Industry Superannuation Scheme from that scheme to the State Scheme.

(2) A person transferred under subclause (1)—

(a) is entitled to a pension under this Act which, at the time of transfer, is of equivalent value to the pension he or she was receiving immediately before the transfer; and

(b) except in the case of a person entitled to a derivative benefit, will be taken to be an old scheme contributor; and

(c) in the case of a person who is entitled to a derivative benefit, will be taken to derive the benefit from an old scheme contributor.

(3) If—

(a) an old scheme contributor referred to in subclause (2) dies before the expiration of three years after he or she first became entitled to a pension under the Electricity Industry Superannuation Scheme; or

(b) a person—

(i) referred to in subclause (2) who is entitled to a derivative benefit; or

(ii) who is entitled to a derivative benefit from an old scheme contributor referred to in paragraph (a),

dies before the expiration of three years after the contributor from whom the benefit was derived—

(iii) first became entitled to a pension under the Electricity Industry Superannuation Scheme; or

(iv) died while still in employment without ever becoming entitled to such a pension,

and—

(c) in the case referred to in paragraph (a), no one is entitled to a derivative benefit under this Act in respect of the contributor; or

(d) in the case referred to in paragraph (b), all derivative entitlements have ceased before the expiration of that period, the contributor's estate is entitled to a lump sum equivalent to—

(e) where paragraph (c) applies—the aggregate of the pension payments that the contributor would have received between the date of death and the third anniversary of the commencement of the pension if he or she had survived; or

(f) where paragraph (d) applies—the aggregate of the pension payments that the contributor from whom the benefit was derived would have received between the date when the derivative entitlement, or the last of the derivative entitlements, ceased and the third anniversary of the commencement of the pension (or the date of the contributor's death) if the contributor had survived during that period,

(the lump sum will be determined on the assumption that the pension will not be adjusted under section 47 during that period).

(4) Where a person who is transferred under this clause was, immediately before the transfer, entitled to commute a part, or the whole, of his or her pension under the Electricity Industry Superannuation Scheme, he or she is entitled to commute the whole or a part of the pension in accordance with this Act within a period that terminates—

(a) when the period for commutation under the Electricity Industry Superannuation Scheme would have terminated; or

(b) at the expiration of three months after the transfer,

whichever is the later.

(5) An amount equivalent in value to that part of the Scheme assets of the Electricity Industry Superannuation Scheme that is attributable to the membership of the Scheme of a person transferred to the State Scheme under this clause, or of the contributor from whom a person transferred to the State Scheme under this clause derives benefits, (to be determined by an actuary appointed by the Treasurer) must be paid by the Trustee from the Scheme assets to the Treasurer.

(6) The Treasurer must pay into the South Australian Superannuation Fund a contribution reflecting the amount paid to the Treasurer under subclause (5).

Transfer of existing and future pensioners after the relevant day

3. (1) After the relevant day, the Treasurer may, at the request of the Trustee, enter into an agreement with the Trustee under which a person or persons referred to in subclause (2) may be transferred from the Electricity Industry Superannuation Scheme to the State Scheme.

(2) The following persons may be transferred pursuant to an agreement under subclause (1):

(a) a person who is in receipt of a pension under the Electricity Industry Superannuation Scheme;
(b) a person who is a member of the Electricity Industry pension scheme and who is presently entitled to receive, but is not yet in receipt of, a pension following the termination of his or her employment;
(c) a person who is entitled to a pension as a derivative benefit under the Electricity Industry Superannuation Scheme but who is not yet in receipt of the pension.

(3) The Treasurer may, by notice to the Electricity Industry Superannuation Board and the South Australian Superannuation Board under clause 7, transfer a person from the Electricity Industry Superannuation Scheme to the State Scheme in pursuance of an agreement referred to in subclause (1).

(4) A person transferred under subclause (3)—
(a) is, in the case of a person who was in receipt of a pension at the time of transfer, entitled to a pension under this Act which, at the time of transfer, is of equivalent value to the pension he or she was receiving immediately before the transfer; and
(b) is, in the case of a person referred to in subclause (2)(b) or (c), entitled to a pension under this Act which, at the time of transfer, is of equivalent value to the initial pension that he or she would have received if he or she had not been transferred; and
(c) except in the case of a person entitled to a derivative benefit, will be taken to be an old scheme contributor; and
(d) in the case of a person who is entitled to a derivative benefit, will be taken to derive the benefit from an old scheme contributor.

(5) If—
(a) an old scheme contributor referred to in subclause (4) who was in receipt of, or was entitled to, a pension at the time of transfer, dies before the expiration of three years after he or she first became entitled to a pension under the Electricity Industry Superannuation Scheme; or
(b) a person—
(i) referred to in subclause (4) who was in receipt of, or was entitled to, a derivative pension at the time of transfer; or
(ii) who is entitled to a derivative benefit from an old scheme contributor referred to in paragraph (a),
dies before the expiration of three years after the contributor from whom the benefit was derived—
(iii) first became entitled to a pension under the Electricity Industry Superannuation Scheme; or
(iv) died while still in employment without ever becoming entitled to such a pension,
and—
(c) in the case referred to in paragraph (a), no one is entitled to a derivative benefit under this Act in respect of the contributor; or
(d) in a case referred to in paragraph (b), all derivative entitlements have ceased before the expiration of that period,
the contributor's estate is entitled to a lump sum equivalent to—
(e) where paragraph (c) applies—the aggregate of the pension payments that the contributor would have received between the date of death and the third anniversary of the commencement of the pension if he or she had survived; or
(f) where paragraph (d) applies—the aggregate of the pension payments that the contributor from whom the benefit was derived would have received between the date when the derivative entitlement, or the last of the derivative entitlements, ceased and the third anniversary of the commencement of the pension (or the date of the contributor's death) if the contributor had survived during that period,
(the lump sum will be determined on the assumption that the pension will not be adjusted under section 47 during that period).

(6) Where a person who is transferred under this clause was, immediately before the transfer, entitled to commute a part, or the whole, of his or her pension under the Electricity Industry Superannuation Scheme, he or she is entitled to commute the whole or a part of the pension in accordance with this Act within a period that terminates—
(a) when the period for commutation under the Electricity Industry Superannuation Scheme would have terminated; or
(b) at the expiration of three months after the transfer,
whichever is the later.

(7) An amount equivalent in value to that part of the Scheme assets of the Electricity Industry Superannuation Scheme that is attributable to the contributions (and the interest and other income and other accretions arising from investment of those contributions) to the Scheme of a person transferred to the State Scheme under this clause who was in receipt of, or entitled to, a pension at the time of transfer, or of the contributor from whom a person transferred to the State Scheme under this clause derives benefits, (to be determined by an actuary appointed by the Treasurer) must be paid by the Trustee from the Scheme assets to the Treasurer.

(8) The Treasurer must pay into the South Australian Superannuation Fund a contribution reflecting the amount paid to the Treasurer under subclause (7).

(9) An amount equivalent in value to the aggregate value of the employer components of benefits payable under this Act to, or in respect of, persons transferred under this clause (to be determined by an actuary appointed by the Treasurer) must be paid by the Trustee from the Scheme assets of the Electricity Industry Superannuation Scheme to the Treasurer.

Transfer of persons entitled to preserved benefits

4. (1) The Treasurer may, by notice to the Electricity Industry Superannuation Board and the South Australian Superannuation Board under clause 7 before the relevant day, transfer a person referred to in subclause (2) from the Electricity Industry Superannuation Scheme to the State Scheme.

(2) A person who—
(a) is a member of the Electricity Industry pension scheme or either of the contributory lump sum schemes; and
(b) is entitled to preserved benefits in the relevant scheme; and
(c) is not accruing benefits under any other division of the Electricity Industry Superannuation Scheme,
may be transferred under this clause.

(3) After the transfer—
(a) a person who had been a member of the Electricity Industry pension scheme will be taken to be an old scheme contributor under this Act; and
(b) a person who had been a member of either of the contributory lump sum schemes will be taken to be a new scheme contributor under this Act.

(4) The South Australian Superannuation Board must open a contribution account in the name of each person transferred under this clause and must credit to the account an amount equivalent to the amount standing to the credit of the person's contribution account in the Electricity Industry Superannuation Scheme immediately before the transfer.

(5) An amount equivalent to the aggregate of the amounts credited to contribution accounts under subclause (4) must be paid by the Trustee from the Scheme assets of the Electricity Industry Superannuation Scheme to the Treasurer.

(6) The Treasurer must pay into the South Australian Superannuation Fund a contribution reflecting the amount paid to the Treasurer under subclause (5).

(7) The Minister must attribute to each person transferred under this clause a number of contribution points that is sufficient to provide the person with an accrued entitlement under this Act at the time of transfer that is equivalent to his or her accrued entitlement under the Electricity Industry Superannuation Scheme immediately before the transfer.

Transfer of certain other persons

5. (1) The Treasurer may, by notice to the Electricity Industry Superannuation Board and the South Australian Superannuation Board under clause 7, transfer a person who is a member of the Electricity Industry Superannuation Scheme and who also falls within the definition of 'employee' in section 4 from that scheme to the State Scheme.

(2) After the transfer—
(a) a person who had been a member of the Electricity Industry pension scheme will be taken to be an old scheme contributor under this Act; and
(b) a person who had been a member of either of the contributory lump sum schemes will be taken to be a new scheme contributor under this Act.

(3) The South Australian Superannuation Board must open a contribution account in the name of each person transferred under this clause and must credit to the account an amount equivalent to the amount standing to the credit of the person's contribution account in the Electricity Industry Superannuation Scheme immediately before the transfer.

(4) An amount equivalent to the aggregate of the amounts credited to contribution accounts under subclause (3) must be paid by the Trustee from the Scheme assets of the Electricity Industry Superannuation Scheme to the Treasurer.

(5) The Treasurer must pay into the South Australian Superannuation Fund a contribution reflecting the amount paid to the Treasurer under subclause (4).

(6) An amount equivalent in value to the aggregate value of the employer components of those parts of benefits payable under this Act to, or in respect of, persons transferred under this clause that are attributable to contributors' employment up to the time of transfer (to be determined by an actuary appointed by the Treasurer) must be paid by the Trustee from the Scheme assets of the Electricity Industry Superannuation Scheme to the Treasurer.

(7) The Minister must attribute to each person transferred under this clause (other than a person who was immediately before the transfer a member of Division 4 of the Electricity Industry Superannuation Scheme) a number of contribution points that is sufficient—

(a) to provide the person with an accrued entitlement under this Act at the time of transfer that is not less than his or her accrued entitlement under the Electricity Industry Superannuation Scheme immediately before the transfer; and

(b) in the case of a person who was entitled to defined benefits under the Electricity Industry Superannuation Scheme, to ensure that the level of benefits on retirement at age 60 that the person was to be entitled to under that Scheme are maintained.

(8) The Treasurer must pay into the South Australian Superannuation Fund a contribution reflecting the amount paid to the Treasurer under subclause (6) in respect of persons who were immediately before the transfer members of Division 4 of the Electricity Industry Superannuation Scheme, and the South Australian Superannuation Board must open an account under section 47B in the name of each person transferred from Division 4 and credit to each account that part of the contribution paid by the Treasurer that is attributable to the person in whose name the account has been opened.

(9) In the application of Part 4 in relation to a person transferred under this clause who was, immediately before the transfer, a member of Division 4 of the Electricity Industry Superannuation Scheme—

(a) the number '4.5' wherever appearing in a formula in that Part will be changed to '4.9'; and

(b) the number '3.86' wherever appearing in such a formula will be changed to '4.2'; and

(c) the number '420' wherever appearing in such a formula will be changed to '360'.

(10) Subject to an election under subclause (11), a person transferred under this clause is required to contribute at the rate of 6 per cent of salary until he or she makes an election under section 23 to contribute at some other rate.

(11) A person may, within 14 days after service of a notice under clause 7(3), elect, in a manner approved by the Board, to contribute at any of the rates set out in section 23.

(12) The Board may, in a particular case, extend the period of 14 days referred to in subclause (11).

PART 3
GENERAL

Employer contributions

6. (1) Money standing to the credit of the fund or funds referred to in clause 18A of Schedule 1 of the Electricity Corporations Act 1994 (before its repeal by the Electricity Corporations (Restructuring and Disposal) Act 1998) must be paid to the Treasurer.

(2) The employer of a person who has been transferred to the State Scheme under clause 5 will be taken to have entered into an arrangement with the Board under section 5.

(3) The terms of the arrangement will be determined by the Treasurer after consultation with the employer.

Notices

7. (1) The Treasurer may serve notice on the Electricity Industry Superannuation Board and the South Australian Superannuation Board transferring a member or members of the Electricity Industry Superannuation Scheme to the State Scheme under this Schedule.

(2) The notice must—

(a) be in writing; and

(b) identify the member or members to whom it applies; and

(c) identify the clause of this Schedule in relation to which it will operate.

(3) On receipt of a notice under subclause (1), the Electricity Industry Superannuation Board must give notice to each member transferred advising him or her of the transfer.

Cessation of entitlements under the Electricity Industry Superannuation Scheme

8. On the transfer of a person to the State Scheme under this Schedule, his or her entitlements under the Electricity Industry Superannuation Scheme cease.

Power to obtain information

9. (1) The South Australian Superannuation Board may, from time to time, require the Electricity Industry Superannuation Board to provide it with information in its possession relating to persons transferred to the State Scheme under this Schedule.

(2) Despite any other Act or law to the contrary, the Electricity Industry Superannuation Board must comply with a requirement under subclause (1).

Transfer effective despite Electricity Corporations Act 1994

10. Transfers under this Schedule have effect despite provisions of Schedule 1 of the Electricity Corporations Act 1994 as to membership of the Electricity Industry Superannuation Scheme.

Regulations may be made for transitional purposes

11. (1) The Governor may, by regulation, make provisions of a transitional nature in relation to the transfer of persons under this Schedule to the State Scheme.

(2) A regulation made under this clause may—

(a) modify the provisions of this Act in their application to a person transferred under this Schedule;

(b) operate prospectively or retrospectively from a date specified in the regulation.

PART 4
AMENDMENT OF SCHEDULE 1 OF THE ELECTRICITY CORPORATIONS ACT 1994

Amendment of Schedule

4. Schedule 1 of the Electricity Corporations Act 1994 as substituted by Part 2 of this Schedule is amended—

(a) by striking out the definition of 'actuary' from clause 1;

(b) by striking out the definition of 'the Trust Deed' from clause 1 and substituting the following definition:

'the Trust Deed' means the Electricity Industry Superannuation Scheme Trust Deed;;

(c) by striking out 'three' from paragraph (b) of subclause (1) of clause 4 and substituting 'four';

(d) by striking out paragraph (c) of subclause (1) of clause 4;

(e) by striking out 'Treasurer' from paragraph (d) of subclause (5) of clause 4 and substituting 'Board';

(f) by striking out subparagraphs (ii) and (iii) of paragraph (d) of subclause (5) of clause 4;

(g) by striking out clause 6 and substituting the following clause:

Ownership of Scheme assets

6. (1) The Scheme assets are vested in the Board and if the Board ceases to be the trustee of the Scheme, the Scheme assets are vested in the trustee for the time being of the Scheme.

(2) No stamp duty, financial institutions duty or debits tax is payable under the law of the State in respect of the vesting of Scheme assets in the Board or any other trustee of the Scheme by subclause (1).

(3) No person has an obligation under the Stamp Duties Act 1923, the Financial Institutions Duty Act 1983 or the Debits Tax Act 1990—

(a) to lodge a statement or return relating to a matter referred to in subclause (2); or

(b) to include in a statement or return a record or information relating to such a matter.;

(h) by striking out Part D;

(i) by striking out clause 9 and substituting the following clause:

Exclusion of s. 35B of Trustee Act 1936

9. Section 35B of the Trustee Act 1936 does not apply to, or in relation to, the Scheme.;

(j) by renumbering the clauses of the Trust Deed in numerical order following the amendments to be made by the following paragraphs of this clause and by making consequential changes to cross references;

Note: New clauses inserted by subsequent paragraphs of this clause are given the number they will have after the renumbering.;

(k) by striking out clause 1 of the Trust Deed and substituting the following clause:

Operation of Deed

1. This Deed came into operation at the same time as Schedule 1 of the Electricity Corporations Act 1994 as substituted by the Electricity Corporations (Restructuring and Disposal) Act 1998.;

(l) by inserting the following definition after the definition of 'commencement of this Deed' in subclause (1) of clause 2 of the Trust Deed:

'electricity corporation' has the same meaning as in the Electricity Corporations Act 1994;;

(m) by inserting the following definition after the definition of 'public sector employer' in subclause (1) of clause 2 of the Trust Deed:

'relevant law' means the law for the time being set out in—

(a) the Superannuation Industry (Supervision) Act 1993 of the Commonwealth; and

(b) the Income Tax Assessment Act 1936 of the Commonwealth; and

(c) the Superannuation (Resolution of Complaints) Act 1993 of the Commonwealth; and

(d) such other Act, regulation, rule or other legislative instrument as the Trustee determines should be included in this definition;;

(n) by striking out the definition of 'special deposit account' from subclause (1) of clause 2 of the Trust Deed;

(o) by inserting the following definition after the definition of 'State-owned company' in subclause (1) of clause 2 of the Trust Deed:

'Trustee' means the Board or any body for the time being appointed to the office of trustee of the Scheme;;

(p) by inserting after subclause (1) of clause 2 of the Trust Deed the following subclause:

(1a) A term defined in the relevant law has the same meaning in this Deed.;

(q) by striking out 'The Board' from subclause (4) of clause 3 of the Trust Deed and substituting 'The Trustee';

(r) by inserting the following clause after clause 3 of the Trust Deed:

Amendment of Deed

4. (1) Subject to the relevant law, the Trustee may, by instrument in writing, amend or replace this Deed.

(2) Where the amendment or replacement of this Deed would result in an increase in the contribution to be made by an employer or increase the liability of the employer under the Scheme in any other way, the Deed cannot be amended or replaced without the approval of the employer.

(3) An amendment or replacement of this Deed will be taken to come into operation on the date specified in the instrument amending or replacing the Deed whether being a date before or after the date on which the instrument was made.;

(s) by striking out subclause (1) of clause 4 of the Trust Deed and substituting the following subclause:

(1) Subject to the relevant law, the Trustee may, by instrument in writing, vary or replace the Rules.;

(t) by striking out 'or the date on which the Treasurer gave his or her approval' from subclause (5) of clause 4 of the Trust Deed;

(u) by striking out 'Subject to subclause (3)' from subclause (1) of clause 5 of the Trust Deed and substituting 'Subject to the relevant law and to subclause (3)';

(v) by striking out 'Board' from subclauses (2) and (3) of clause 5 of the Trust Deed and substituting, in each case, 'Trustee';

(w) by striking out clauses 7, 8 and 9 of the Trust Deed and substituting the following clauses:

Payment of benefits

8. Benefits are payable from the Scheme assets in accordance with the Rules.

Scheme assets

9. (1) The Scheme assets are subject to the management and control of the Trustee.

(2) The Scheme assets comprise—

(a) contributions made by the contributors and the employers to the Scheme pursuant to the Rules; and

(b) interest and other income and other accretions arising from investment of the Scheme assets; and

(c) amounts paid to the Scheme pursuant to clause 14 of the Schedule; and

(d) any other income or assets transferred to the Scheme as part of the Scheme assets; and

(e) such other assets as are required by the Rules to be included in the Scheme assets.

(3) The following amounts will be paid from the Scheme assets:

(a) benefits that are payable to, or in respect of, members or former members pursuant to the Rules; and

(b) the costs and other expenses of administering the Scheme; and

(c) such other amounts as are provided for by the Rules.;

(x) by striking out 'Board' wherever occurring in subclauses (1) and (2) of clause 10 of the Trust Deed and substituting, in each case, 'Trustee';

(y) by inserting the following clauses after clause 10 of the Trust Deed:

Application of Superannuation Industry (Supervision) Act 1993

11. (1) The Trustee must give notice to the Australian Prudential Regulation Authority electing that the Superannuation Industry (Supervision) Act 1993 of the Commonwealth is to apply to the Scheme.

(2) The Trustee must, after the election referred to in subclause (1), comply with all relevant provisions of the relevant law unless exempted from compliance with a specified provision or provisions by the authority administering the law concerned.

Application of relevant law in certain circumstances

12. (1) A person who has a discretion under this Deed or the Rules must not exercise that discretion without the consent of the Trustee if the relevant law so requires.

(2) A person must not give a direction to the Trustee pursuant to this Deed or the Rules in contravention of the relevant law.

(3) A covenant that is required by the relevant law to be included in this Deed will be taken to be included and will be binding on the Trustee and each member, or each member of the governing body, of the Trustee.

Resolution of inconsistency

13. A provision of clause 11 or 12 that is inconsistent with any other provision of this Deed or the Rules will prevail to the extent of the inconsistency.

Term of office of Trustee

14. (1) The Trustee, holds office until—

(a) it retires from office by written notice to the employers; or

(b) a person is appointed as a receiver, receiver and manager or liquidator of the Trustee or a court approves a scheme of management providing for its dissolution; or

(c) it is disqualified from holding office as Trustee of the Scheme.

(2) Subclause (1) does not apply to the Board.

Appointment of new Trustee

15. (1) When the office of Trustee becomes vacant the employers must, by a majority decision, appoint another Trustee.

(2) Only a body that is a constitutional corporation for the purposes of section 19 of the Superannuation Industry (Supervision) Act 1993 of the Commonwealth may be appointed as Trustee of the Scheme.

(3) An act of the Trustee is not invalid by reason only of a defect in its appointment.

Powers of Trustee

16. (1) The Trustee may delegate any of its functions, powers or duties under this Deed or the Rules to any person.

(2) The delegation—

(a) must be by instrument in writing;

(b) may be absolute or conditional;

(c) does not derogate from the power of the Trustee to act in any matter;

(d) is revocable at will by the Trustee.

(3) The Trustee has all other powers that are necessary or desirable for the proper administration of the Scheme in accordance with the relevant law.

Conflict of interest

17. A member, or a member of the governing body, of the Trustee will not be taken to have a conflict of interest in relation to any matter being considered by the Trustee by reason only of the fact that he or she is entitled, or potentially entitled, to benefits under the Scheme.;

(z) by striking out clause 11 of the Trust Deed and substituting the following clause:

Accounts

18. (1) The Trustee must keep proper accounts of receipts and payments in relation to the Scheme and must, in respect of each financial year, prepare financial statements in relation to the Scheme.

(2) The Trustee must, in accordance with the relevant law, appoint an auditor to audit the accounts and financial statements of the Scheme in accordance with that law.

(3) The Trustee must, in accordance with the relevant law, appoint an actuary to prepare reports in relation to the Scheme in accordance with that law.;

(za) by striking out 'The Board' from clause 12 of the Trust Deed and substituting 'The Trustee';

(zb) by striking out 'The Board and the members and former members and the employees and former employees of the Board' from subclause (1) of clause 13 of the Trust Deed and substituting 'The Trustee and the members and former members, or members or former members of the governing body, of the Trustee and employees and former employees of the Trustee';

(zc) by inserting in clause 13 of the Trust Deed after paragraph (b) of subclause (1) of that clause ', or the exclusion of liability is prohibited by the relevant law.';

(zd) by striking out 'Board' from subclause (3) of clause 17 of the Trust Deed and substituting 'Trustee'.

This is a suggested amendment and it relates to the total package of superannuation amendments to which I will speak in greater detail in relation to schedule 2. I further move:

Amendment to the suggested amendment inserting Schedule 1B:

Clause 2 (Substitution of Schedule 1)—Leave out the definition of 'electricity supply industry' from subclause (1) of clause 1 (Interpretation) and insert:

'electricity supply industry' has the same meaning as in the Electricity Act 1996;

Clause 2 (Substitution of Schedule 1)—Leave out the definition of 'electricity supply industry' from subclause (1) of clause 2 (Interpretation) under the heading 'THE ELECTRICITY INDUSTRY SUPERANNUATION SCHEME TRUST DEED' and insert:

'electricity supply industry' has the same meaning as in the Electricity Act 1996;

I am advised that this is a late pick-up, if I can put it that way. Evidently some inconsistent wording was used in the drafting, and this tidies up that issue.

Amendment carried.

The Hon. R.R. ROBERTS: I have the following amendments on file:

Amendment to the suggested amendment inserting new Schedule 1B

Clause 2 (Substitution of Schedule 1)—Leave out paragraph (a) of subclause (1) of proposed new clause 4 (Board's membership) and insert:

(a) four members appointed by the United Trades and Labor Council; and

Clause 2 (Substitution of Schedule 1)—Leave out from subclause (3) of proposed new clause 4 (Board's membership) 'elected or'.

Clause 2 (Substitution of Schedule 1)—Leave out from subclause (4) of proposed new clause 4 (Board's membership) 'elected or', twice occurring.

Clause 2 (Substitution of Schedule 1)—Leave out from subclause (5)(b) of proposed new clause 4 (Board's membership) 're-elected or'.

I will make some general remarks about superannuation when dealing with this amendment. The superannuation conditions within this Bill are just as important to the participants in the industry, to both the wages and salaried staff of the present ETSA family. There has been a long history of discussion between the representatives of the single bargaining unit and the nominees of the Government and, indeed, as I understand, from time to time the Government itself, in the new arrangements or the changed arrangements for superannuation.

In my contribution last night, I suggested that it would be possible to put this aside and have a look at it. The problems that the trade unions have identified with the superannuation arrangements are, I am advised, of an administrative nature generally. They have one specific problem, that is, the structure of the new board—and I will get to that in a moment. I am led to understand that negotiations ceased prior to Christmas last year when the Hon. Nick Xenophon indicated his refusal to proceed with the sale and/or lease of the ETSA assets.

It is my understanding that there had been general agreement in respect of the majority of the arrangements. I am led to understand that it was agreed that there would be a 'roadshow', which I think is the terminology generally used between the groups, consisting of John Fleetwood, Bob Donnelly, Tom Adams, Dean Prior and Alan Archer from Mercers who, I understand, are something to do with the insurance companies involved. That was the arrangement. There was agreement by those participants to explain to members all the alterations to the superannuation conditions.

When I have been on some of these roadshows from time to time I have found that if you are going to talk to workers, and one of the things you are going to talk about is superannuation, the rest of the meeting is gone. It was a good proposition because people are vitally concerned with superannuation and what it will mean in the future. The trade unions officials will now talk to their members in the next week without the benefit of going through all this and present them with a *fait accompli*. It is for those reasons that, generally, I have concerns.

I pointed out last night the problems with the negotiation process or the mandatory nature of this process as opposed to its being done by negotiation and developed right through. We have been through those arguments. It is clear where the numbers are, and I will not pursue that; but, again, I put that on the record. I hope that the Government will take one more piece of advice from me on behalf of the trade unions and agree to the process that had been developed to occur as soon as possible if this legislation is successful in the next couple of days. Voices coming from the Lower House suggest that it may not be completed in the next couple of days but, if it is, I would ask them to pursue that notion to ensure that all those members of the superannuation funds are fully informed and are given the opportunity to question the detail of the new operations.

The amendment concerning the board is a simple one. The unions are suggesting that four members be appointed by the

United Trades and Labor Council—that is the drafting that has been used—but that is not what is generally accepted within the trade union movement. This is coming from the single bargaining unit, and there are seven unions who participate in this industry. This is somewhat of a strange proposition coming from the trade union movement, which wants these people appointed rather than elected. I have argued on its behalf that most people should be elected: that is the *modus operandi* of trade unions, and it is something that I have abided by all my life.

However, we live in changing times. Privatisation, new organisations, different technologies and the new world of superannuation funds are strange beasts to average working people. It has been suggested that four people be appointed, with two coming from the wages group and two from the salaried group. I understand that other amendments on file contain something different. I point out to members that the Government's team and the Treasurer's nominee are appointees. The only ones who would be elected would be the trade union representatives. I have had further discussions with my colleagues from the trade union movement, and I understand that the Hon. Terry Cameron has on file an amendment which contains a different formula of one person being appointed and three being elected.

I have had discussions with members who are present from the single bargaining unit. If that is to be the general consensus, namely, that it ought to be a mixture of appointed and elected members, their preference would be that it be two appointees, one from the wages group of employees and one from the salaried group, with two being elected from the same two groups of people.

I understand that there is general consensus on the matter. I hope that when the Hon. Terry Cameron moves his amendment we can consider changing it from one to be appointed and three elected to two to be appointed and two elected. If that was the case, we would not pursue the amendment that I have moved but would defer to that preferred principle.

The Hon. R.I. LUCAS: In the discussions that were conducted this morning with the unions, I understand that the Government repeated its position that it would, as soon as the passage of this legislation was assured through both Houses of Parliament, set in place a process for a road show, akin to the road show referred to by the honourable member that was flagged late last year, to visit work sites to provide information to employees about their superannuation entitlements and answer any questions that they might have. I am pleased to place that position on the public record, it having been given this morning to the unions in the meeting that was conducted about this matter and related issues.

The Government opposes the amendment moved by the Hon. Mr Roberts. Given the time, I do not intend to engage in a long debate with the honourable member about the whys and wherefores of it. The Government is comfortable with the Hon. Terry Cameron's amendment, which I presume will be moved in a moment. It might be worthwhile for me to hear from the Hon. Mr Cameron because he may well move his amendment in an amended form.

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

Amendment to the suggested amendment inserting new Schedule 1B—

Clause 2 (Substitution of Schedule 1)—Leave out from subclause (1)(a) of clause 4 (Board's membership) "four" and insert "two".

Clause 2 (Substitution of Schedule 1)—After paragraph (c) of subclause (1) of clause 4 (Board's membership) insert:

(ca) two members appointed by the United Trades and Labor Council; and

Clause 2 (Substitution of Schedule 1)—After subclause (1) of clause 4 (Board's membership) insert:

(1a) In the case of the members elected under subclause (1)(a), and in the case of the members appointed under subclause (1)(b), at least one must be a woman and at least one must be a man.

The original Bill provided that four people be elected from the membership of the superannuation scheme (as I understand it, that is what is set out in the trust deed of the superannuation scheme) and that three people be appointed to the board. The effect of my amendment is to provide that one of the these people must be a man and one must be a woman. My other amendment would provide for two members to be elected from the superannuation scheme's membership. As I understand it, a ballot will be conducted, and members of the scheme will cast a vote and elect their representative. I support that system.

Whilst I was originally disposed to support the proposition that four people should be elected from amongst the scheme's membership, I then moved an amendment to provide for a representative to be appointed by the United Trades and Labor Council. Following submissions that were put to me by the principal unions that have the majority membership at ETSA—there are two such unions—I was asked to consider amending my amendment to allow for the UTLC to appoint two persons and, provided that it goes well, that should see the two principal unions represented on the board. I support that because they cover the majority of the membership.

I think it is important, however, to ensure that the rank and file membership of all the seven unions that represent workers at ETSA have a direct say in who their representatives will be. So, I guess we have cobbled together the best of both worlds. My amendment will allow the rank and file membership to directly elect their representatives to sit on the board, and in addition to that it will allow the United Trades and Labor Council to appoint two members. I urge the United Trades and Labor Council, considering that I have varied my amendment to allow the two principal unions to be represented, to ensure that that takes place. If it does not do so, then so be it. But the very reason I have changed my amendment is to allow both principal unions to be represented.

The Hon. NICK XENOPHON: On balance, I support the Hon. Terry Cameron's amendment, which he moved in an amended form and which allows for two UTLC delegates and two elected representatives. I think it is an equitable balance. I understand the position put by the Hon. Ron Roberts that from his point of view it is preferable that there be four members from the UTLC, but I think it is important that the rank and file can choose their representatives. For that reason, on balance I support the Hon. Terry Cameron's amendment.

The Hon. R.I. LUCAS: The Government's preferred position obviously was its original one. It opposes the amendment moved by the Hon. Ron Roberts, but in the spirit of reasonableness, for which we have become legendary, the Government will agree with the amendment moved by the Hon. Terry Cameron.

The Hon. R.R. ROBERTS: Being fully aware of the legend, I will add two things. I agree with the proposition put by the Hon. Terry Cameron and will give some explanation as to why the trade union movement has changed its usual stand. It has found that this fund has not been performing as well as some other funds and it was thought that, by selecting the best people with the best expertise, they could get a better

result for their members. So they are not abandoning their principles but trying to get the best result for their members.

To make one further qualification, the proposition put by the Hon. Terry Cameron talks about two members being elected and two being appointed. As I understand the view put to me by the UTLC, whilst it is not in the legislation, the general assumption would be that, of the two people being elected and the two being appointed, one would come from the wages personnel and one from the salaried personnel in each instance. I put that qualification or expectation into the record of the Committee's deliberations. I am aware that it does not show up there, but it is clearly the intention of the union, which was the other part of the bargain developed between the Hon. Terry Cameron and the unions. We will support the amendment on that basis.

Amendment carried.

The Hon. R.R. ROBERTS: I have other amendments on file that are consequential on my first amendment, with which we did not proceed, so I will not proceed with the further amendments, either.

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

Clause 2 (Substitution of Schedule 1)—after paragraph (c) of subclause (1) of clause 4 (Board's membership) insert:

(ca) two members appointed by the United Trades and Labor Council; and

Amendment carried.

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

Clause 2 (Substitution of Schedule 1)—after subclause (1) of clause 4 (Board's membership) insert:

(1a) In the case of the members elected under subclause (1)(a), and in the case of the members appointed under subclause (1)(b), at least one must be a woman and at least one must be a man.

Amendment carried.

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

Clause 2 (Substitution of Schedule 1)—Leave out the definition of 'electricity supply industry' from subclause (1) of clause 2 (Interpretation) under the heading 'THE ELECTRICITY INDUSTRY SUPERANNUATION SCHEME TRUST DEED' and insert:

'electricity supply industry' has the same meaning as in the Electricity Act 1996;

This is a consequential amendment on an earlier amendment.

Amendment carried.

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

Clause 3 (Amendment of Act)—after 'The Treasurer may,' in subclause (1) of clause 5 (Transfer of certain other persons) insert:

with the consent of the person,

This amendment is consequential on a package of earlier amendments included in the provisions we have been debating on superannuation. As I understand it, with the exception of the board, there appears to be general agreement with not only the unions and their representatives but members in this Chamber. I do not intend, unless somebody has a question, to go into a lengthy explanation of this provision.

Amendment carried.

The Hon. R.R. ROBERTS: It is not the intention of the Opposition to go through any of these matters. The Opposition's position is that these matters I understand have been generally agreed between the parties. I simply ask for the undertaking that these matters will be pursued along the same lines as those covered by new clauses 15A and 15B and that the same accommodation for negotiations over the next few days will take place. We can move through it reasonably quickly, unless other people have amendments on file, which we are happy to consider. We will not tackle anyone.

The Hon. R.I. LUCAS: As to the possibility of further discussions about any matters of detail in relation to these issues, we are happy through our officers, for example, to provide opportunities for issues to be clarified. The substantive principles have been agreed as I understand it and the Government would not see any further negotiation in relation to the substantive principles of the scheme. There may be particular issues of clarification through the upcoming discussions and, not knowing what they might be, we cannot prejudge the Government's position other than to say that we will enter into those discussions with an open mind.

The Hon. R.R. ROBERTS: I refer to those people who may choose to leave the industry when privatised and who roll over their superannuation benefits at that time, having received a pay-out for roll-over purposes to go into another fund. That matter has been the subject of some discussions. I understand that no agreement has been reached yet and I do not think the negotiations are pushing for it, but I put on the public record that the unions were seeking a provision for those people who, for philosophical or other reasons, may not wish to take further part in the privatised fund but may want to go off to the Public Service or somewhere else, have a pay-out from this scheme and, when they go to the next employment, roll it over into another fund. That is an aim and desire of the unions. Obviously they have the capacity to negotiate that with the negotiators. Given that the Treasurer has undertaken that those meetings will take place, I need say no more about it and certainly will not debate it.

Suggested amendment as amended carried.

Schedule 2.

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

Leave out this schedule and insert:

SCHEDULE 2

Related Amendments

PART 1

AMENDMENT OF DEVELOPMENT ACT 1993

Interpretation

1. The Development Act 1993 is referred to in this Part as 'the principal Act'.

Amendment of s. 48—Governor to give decision on development

2. Section 48 of the principal Act is amended by inserting in subsection (1)(b) 'or 49A(19)' after 'section 49(16a)'.

Insertion of Part 4 Division 3A

3. The following Division is inserted after section 49 of the principal Act:

DIVISION 3A

DEVELOPMENT INVOLVING ELECTRICITY INFRASTRUCTURE

Development involving electricity infrastructure

49A. (1) Subject to this section, if a prescribed person proposes to undertake development for the purposes of the provision of electricity infrastructure (within the meaning of the Electricity Act 1996), not being development of a kind referred to in section 49(2) or (3), the person must—

(a) lodge an application for approval containing prescribed particulars with the Development Assessment Commission for assessment by the Development Assessment Commission; and

(b) if the land in relation to which the development is proposed is within the area of a council—give notice containing prescribed particulars of the proposal to that council in accordance with the regulations.

(2) No application for approval is required (either under this section or any other provision of this Act), and no notice to a council is required under subsection (1), if the development is of a kind excluded from the provisions of this section by regulation.

(3) The Development Assessment Commission may request the proponent to provide additional documents or information (including calculations and technical details) in relation to the application.

(4) A council may report to the Development Assessment Commission on any matters contained in a notice under subsection (1).

(5) Where a notice is given to a council under subsection (1), and a report from the council is not received by the Development Assessment Commission within two months of the date of the notice, it will be conclusively presumed that the council does not intend to report on the matter.

(6) The Development Assessment Commission must assess an application lodged with it under this section and then prepare a report to the Minister on the matter.

(7) If it appears to the Development Assessment Commission that the proposal is seriously at variance with—

(a) the provisions of the appropriate Development Plan (so far as they are relevant); or

(b) any code or standard prescribed by the regulations for the purposes of this provision,

specific reference to that fact must be included in the report.

(8) If a council has, in relation to any matters referred to the council under subsection (1), expressed opposition to the proposed development in its report under subsection (4), a copy of the report must be attached to the Development Assessment Commission's report (unless the council has, since providing its report, withdrawn its opposition).

(9) The Development Assessment Commission must, unless the Minister grants an extension of time, furnish its report within three months of its receipt of the relevant application.

(10) Where a request is made under subsection (3), any period between the date of request and the date of compliance is not to be included in the calculation of the three-month period under subsection (9).

(11) The Minister may, after receipt of the report of the Development Assessment Commission under this section (and after taking such action (if any) as the Minister thinks fit)—

(a) approve the development; or

(b) refuse to approve the development.

(12) An approval may be given—

(a) for the whole or part of a proposed development;

(b) subject to such conditions as the Minister thinks fit.

(13) An approval under this section will be taken to be given subject to the condition that, before any building work is undertaken, the building work be certified by a private certifier, or by some person determined by the Minister for the purposes of this provision, as complying with the provisions of the Building Rules to the extent that is appropriate in the circumstances.

(14) A person acting under subsection (13) must—

(a) seek and consider the advice of the Building Rules Assessment Commission before giving a certificate in respect of building work that would be at variance with the performance requirements of the Building Code; and

(b) take into account the criteria, and comply with any requirement, prescribed by the regulations before giving a certificate in respect of building work that would otherwise involve a variance with the Building Rules,

and if the person gives a certificate that involves building work that is at variance with the Building Rules then the person must, subject to the regulations, specify the variance in the certificate.

(15) A person engaged to perform building work for a development approved under this section must—

(a) ensure that the building work is performed in accordance with technical details, particulars, plans, drawings and specifications certified for the purposes of subsection (13); and

(b) comply with the Building Rules (subject to any certificate under subsection (13) that provides for a variance with the Building Rules), and any other requirements imposed under this section.

Penalty: Division 4 fine.

Default penalty: $200.

(16) A person must not contravene, or fail to comply with, a condition of an approval under this section.

Penalty: Division 3 fine.

Additional penalty.

Default penalty: $500.

(17) If—

(a) a council has, in a report under this section, expressed opposition to a development that is approved by the Minister (and the council has not, since providing its report, withdrawn its opposition); or

(b) the Minister approves a development that is, according to the report of the Development Assessment Commission, seriously at variance with a Development Plan, or a prescribed code or standard,

the Minister must, as soon as practicable, prepare a report on the matter and cause copies of that report to be laid before both Houses of Parliament.

(18) If the Minister approves a development under this section, no other procedure or requirement relating to the assessment of the development under this Act applies and no other development authorisation (including a certificate or approval under Part 6) is required under this Act, although the Minister may, if necessary for the purposes of any other Act, issue any other development authorisation under this Act (which will then be taken, for the purposes of that other Act, to have been issued by a relevant authority under this Act).

(19) Despite a preceding subsection, if the Minister directs that an EIS, PER or DR be prepared with respect to a development otherwise within the ambit of this section then—

(a) this section ceases to apply to the development; and

(b) the proponent must not undertake the development without the approval of the Governor under section 48; and

(c) unless section 48(2)(a) applies, the development becomes, according to a determination of the Major Developments Panel, subject to the processes and procedures prescribed by Division 2 with respect to the preparation and consideration of an EIS, a PER or a DR.

(20) No appeal lies against a decision of the Minister under this section.

PART 2
AMENDMENT OF ELECTRICITY CORPORATIONS ACT 1994

Interpretation

4. The Electricity Corporations Act 1994 is referred to in this Part as 'the principal Act'.

Amendment of long title

5. The long title of the principal Act is amended by striking out 'to provide for the assets of electricity corporations to remain in public ownership;'.

Repeal of s. 3

6. Section 3 of the principal Act is repealed.

Insertion of s. 7A

7. The following section is inserted after section 7 of the principal Act:

Power of Minister to vary functions

7A. The Minister may, by direction to an electricity corporation, relieve it of functions, add to its functions or otherwise vary its functions as the Minister considers necessary or expedient in consequence of—

(a) action taken under the Electricity Corporations (Restructuring and Disposal) Act 1998; or

(b) the operation of the National Electricity (South Australia) Law and the National Electricity Code (as defined in that Law).

Amendment of s. 14—Establishment of board

8. Section 14 of the principal Act is amended—

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

(2) The board consists of not less than four nor more than six members appointed by the Governor, of whom one may be the chief executive officer.;

(b) by striking out subsection (4) and substituting the following subsection:

(4) At least one member of the board must be a woman and one a man.;

(c) by striking out from subsection (7) 'an appointed director' and substituting 'a director'.

Amendment of s. 15—Conditions of membership

9. Section 15 of the principal Act is amended—

(a) by striking out from subsection (2) 'an appointed director' and substituting 'a director';

(b) by striking out from subsection (3) 'an appointed director' and substituting 'a director';

(c) by striking out from subsection (4) 'an appointed director' and substituting 'a director'.

Amendment of s. 17—Remuneration

10. Section 17 of the principal Act is amended by striking out 'An appointed director' and substituting 'A director'.

Amendment of s. 18—Board proceedings

11. Section 18 of the principal Act is amended by striking out subsection (1) and substituting the following subsection:

(1) A quorum of the board consists of one-half of the total number of members of the board (ignoring any fraction resulting from the division) plus one.

Amendment of s. 28—Establishment of board

12. Section 28 of the principal Act is amended—

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

(2) The board consists of not less than four nor more than six members appointed by the Governor, of whom one may be the chief executive officer.;

(b) by striking out subsection (4) and substituting the following subsection:

(4) At least one member of the board must be a woman and one a man.;

(c) by striking out from subsection (7) 'an appointed director' and substituting 'a director'.

Amendment of s. 29—Conditions of membership

13. Section 29 of the principal Act is amended—

(a) by striking out from subsection (2) 'an appointed director' and substituting 'a director';

(b) by striking out from subsection (3) 'an appointed director' and substituting 'a director';

(c) by striking out from subsection (4) 'an appointed director' and substituting 'a director'.

Amendment of s. 31—Remuneration

14. Section 31 of the principal Act is amended by striking out 'An appointed director' and substituting 'A director'.

Amendment of s. 32—Board proceedings

15. Section 32 of the principal Act is amended by striking out subsection (1) and substituting the following subsection:

(1) A quorum of the board consists of one-half of the total number of members of the board (ignoring any fraction resulting from the division) plus one.

Repeal of s. 47A

16. Section 47A of the principal Act is repealed.

Amendment of s. 48—Mining at Leigh Creek

17. Section 48 of the principal Act is amended by striking out from subsection (1) 'under an Act specifically authorising that sale, lease, contract or right' and substituting 'as authorised by or under regulations made under the Electricity Corporations (Restructuring and Disposal) Act 1998'.

PART 3

AMENDMENT OF ENVIRONMENT PROTECTION ACT 1993

Interpretation

18. The Environment Protection Act 1993 is referred to in this Part as 'the principal Act'.

Amendment of s. 7—Interaction with other Acts

19. Section 7 of the principal Act is amended by inserting before paragraph (a) of subsection (3) the following paragraph:

(a1) the Electricity Corporations (Restructuring and Disposal) Act 1998; and.

PART 4

AMENDMENT OF MINING ACT 1971

Interpretation

20. The Mining Act 1971 is referred to in this Part as 'the principal Act'.

Amendment of s. 17—Royalty

21. Section 17 of the principal Act is amended by inserting in subsection (8) 'or some other basis' after 'recovered'.

Proposed new schedule 2 contains consequential amendments to the Development Act 1993, the Electricity Corporations Act 1994, the Environment Protection Act 1993 and the Mining Act 1971 and differs from the current schedule 2 in a few respects. First, it amends the Development Act 1993 so as to enable privatised electricity entities that wish to develop infrastructure used in or in connection with the supply of electricity to have the benefit of an expedited development approval process, which is substantially the same as that available to State agencies in relation to the development of public infrastructure.

Broadly speaking, this process requires the entity to apply to the Development Assessment Commission for approval of the proposed development. The commission is then required to report on the proposed development to the Minister who, in turn, may approve or refuse to approve the development. The Minister may also require the preparation of an environmental impact statement, a public environmental report or a development report. If the Minister does so, the development will be treated as a major development. No appeal lies against the decision of the Minister. Certain developments prescribed by regulation (which are generally of a more minor nature) are exempt from even this process.

Secondly, it inserts a revised section 7A into the Electricity Corporations Act. This section empowers the Minister, by direction to an electricity corporation, to relieve the electricity corporation of functions, add to its functions, or otherwise vary its functions as the Minister considers necessary or expedient in consequence of action taken under the Electricity Corporations (Restructuring and Disposal) Act or in consequence of the operation of the National Electricity (South Australia) Law and the National Electricity Code. The purpose of this provision is to enable the functions of electricity corporations to be modified as the nature of this business changes because of the transfer of assets and liabilities out of them, the leasing of their assets and as a result of the implementation of the national electricity market.

Thirdly, it amends the Electricity Corporations Act to provide that there need only be between four and six (rather than seven) members of the Optima and ETSA boards, that at least one (rather than two) board members must be a woman, and that a quorum for board meetings is one half of the total number of board members plus one (rather than four board members).

Fourthly, the amendment to section 48 of the Electricity Corporations Act is adjusted so as to enable coal at Leigh Creek (which is vested in the Crown) to be sold, leased or mined as authorised by or under regulations made under the restructuring legislation. Fifthly, it makes a consequential amendment to the Environment Protection Act as a result of the introduction of new clause 5A in schedule 1 (which relates to an agreement between the Minister and the licence holder about environmental compliance). Finally, it amends the Mining Act to enable royalties to be calculated on a basis agreed with the Minister.

The Hon. P. HOLLOWAY: I oppose clause 3 of schedule 2. This proposed new schedule creates an entirely new development assessment process for private electricity entities. Currently, ETSA would make an application under section 49 of the Development Act which deals with Crown development by State agencies. Some development as prescribed by regulation does not require approval. This includes the construction, reconstruction or alteration of an electricity powerline other than a transmission line of 33 000 volts or more.

The Development Assessment Commission receives a report from the relevant council (the time frame for this is two months) and reports to the Minister (the time frame for this is three months) and the Minister makes a decision. There is no right of appeal and no legislative requirement to allow concerned persons to be heard. If the council has opposed the application or the Development Assessment Commission reports that it is seriously at variance with the development plan and the Minister approves the application, a report on the matter must be laid before both Houses of Parliament. That is the current process.

Proposed new section 49A of the Development Act establishes a new development assessment process involving electricity infrastructure. The process is similar to that which exists in respect of Crown development. The fundamental difference is that, if this Bill passes, the applicant will no longer be a public body but a private entity motivated by profit. We do not know what the proposed content of the required regulations will be—

The Hon. R.I. Lucas: Don't you think ETSA is motivated by profit?

The Hon. P. HOLLOWAY: If they mirror the regulations for Crown development, then the private entities would not require any development approval at all for powerlines other than for a transmission line of 33 000 volts or more, and they could erect them where they see fit, which presumably will be dictated by cost implications.

By way of interjection, the Treasurer asked me whether ETSA is not motivated by profit now. Yes, it is, but as it is a publicly owned body I think it has a greater sense of its public obligations to this State. ETSA is a public entity based in this State, so inevitably I would have thought that it would be concerned about the State.

The real issue here is that as we change from a publicly owned system to a privately owned system should that privately owned system have its development proposals assessed in exactly the same way as a Government owned body? The Opposition does not believe that it should.

My amendment provides one means of putting the two on an equal footing. If we were to reject this clause, the private developer would have its proposal subject to the Development Act. Under that Act in respect of major projects and so on, any major development such as a power station could be considered and assessed. We believe that there is room within the existing Act for the problems that would be associated with such major developments to be dealt with.

However, if we are to bring in proposed new section 49A, which would give a private electricity industry the same development advantages as a State-owned system, we believe that to give all bodies truly equal treatment we should at least put those proposals for major developments before a committee of the Parliament, namely, the Public Works Committee—because that is what happens now.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: The Treasurer puts his head in his hand. We will go from a Government owned electricity network where major projects must go before the Public Works Committee if they cost more than $4 million. That is an issue of accountability that exists now in respect of a Government owned power station. If this new clause proposed by the Treasurer is approved, we would do away with that: there would be no assessment by the Public Works Committee. However, the new private owners of the electricity system would have all the advantages that the Government developers had previously.

So, for the sake of consistency, we should do at least one of the two: we should either reject section 49A, which is our preferred position, but if we do not do that I will move an amendment later which at least would put new private developers on the same footing as the existing Government owned electricity entity. At this stage, I indicate that the Opposition opposes clause 3 of the schedule. If that clause is successful, I will not move my amendment regarding reference to the Public Works Committee.

The Hon. R.I. LUCAS: I will speak broadly about the honourable member's proposed actions. Obviously, the Government supports this clause and opposes the proposed action of the Hon. Mr Holloway. The honourable member's suggestion that, in some way, the Public Works Committee of the Parliament ought to control the future development of our electricity industry in South Australia is a—

The Hon. P. Holloway: Not control.

The Hon. R.I. LUCAS: Well, this proposal fills me with horror. We are talking about major companies that propose to spend tens of millions of dollars of their own money trying to provide electricity which we need within a time frame that, first, meets our requirements, and, secondly, meets the viability requirements of their industry. The Hon. Mr Holloway is saying, and at some stage—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: No, you are saying that every project greater than $4 million ought to go before the Public Works Committee.

The Hon. P. Holloway: My preference is that they be treated as major projects.

The Hon. R.I. LUCAS: I understand your preference, but the Government opposes that. Given that is not the honourable member's preference, his next course of action is to suggest that every proposal for major capital works by a private company, in terms either of building extra generating plant or capacity, or replacing or building a new transmission or distribution line, greater in value than $4 million should go before the Public Works Committee. As I understand the honourable member's proposal, they would not be entitled to proceed with it until they had a report of the Public Works Committee to the Parliament. Currently, we are still involved in a process with the Public Works Committee where a company is trying to spend $400 million. The part of the proposal that is currently before the Public Works Committee involves expenditure—

The Hon. P. Holloway: Wasn't that done as a major project under the existing Development Act?

The Hon. R.I. LUCAS: No. I have not seen this, but I understand that the Labor Party might raise this issue again in another place. There are some significant issues in relation to timeliness of the major projects legislation. If you want to get, as we had to with National Power, this development up by the end of next year, there are a series of time blocks or delays in the major project status in terms of environmental impact statements, consultation periods and requirements, which would have meant that we—

The Hon. P. Holloway: You can do that as a Crown project.

The Hon. R.I. LUCAS: But the Crown project that ETSA has—and that ability—caters for these special circumstances where we need extra power or a major power project such as this on stream and up and going pretty quickly. In the circumstances of needing Pelican Point built by the end of next year, our advice was—and the timing will be pretty tight, anyway—that the only way we could do it would be the way which has been proposed and which we are currently implementing. If we were to go down any alternative path, major project or otherwise, our advice was that we would be highly unlikely to be able to meet the required deadline.

Let us put that argument to the side. I want to argue this issue about the Public Works Committee. At some stage, should the Hon. Mr Holloway and/or his Party be in government again, and the whole notion that critical decisions about generating plant, transmission lines and distribution lines could be subject to the control of a parliamentary committee so that it could prevent much needed implementation of

power, it would really be most alarming. Let me cite an example for the honourable member.

In relation to a proposal to spend some money at the Leigh Creek coal mine on a crusher bridge, the interest that a member of the Public Works Committee had in shale and associated issues—which had nothing to do with the crusher bridge—held up the approval process. This was because the committee was not going to report for a period whilst it pursued various reports which had been refused to various people over a period of time and which were commercially in confidence. Critical decisions were potentially threatened in terms of their time line because of the interest of particular members of Parliament in what in my humble judgment were unrelated issues.

The proposal currently before the Public Works Committee for a transmission line connection is being held up, too, because of the interest that a particular member or members associated with the committee have in proposals for ship breaking works. A particular member has a very strong view that a certain ship breaking proposal ought to proceed.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: It does not matter whose colleague it is. What you are suggesting—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: At this stage I am not making a judgment about whether or not they are legitimate; I will argue that case separately at another time. I am saying that issues which are not directly related to a proposed, important expenditure can be held up by the process to which the honourable member refers. They might be quite tangential to the key issue for which the funding approval is being sought. I understand that the honourable member is proceeding with his amendment, and I would not expect him to withdraw it from the floor of the Chamber. However, I urge the honourable member, in discussions with Mr Foley and others as we see the passage of this Bill, to ensure that, on reflection, this provision about the Public Works Committee does not see the further light of day, because I will fight this provision till the cows come home—

The Hon. T. Crothers interjecting:

The Hon. R.I. LUCAS: And I suspect that I might have some support from the Hon. Mr Crothers, the Hon. Mr Cameron and others in relation to this issue, because potentially it could result in some very significant delays. I will not canvass all that detail again. So, the Government opposes the honourable member's position and his amendment.

Amendment carried; new schedule inserted.

Long title.

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

Line 8—Leave out 'the Electricity Corporations Act 1994' and insert:

the Development Act 1993, the Electricity Corporations Act 1994, the Environment Protection Act 1993, the Mining Act 1971 and the Superannuation Act 1988

The purpose of this amendment is self-evident.

Amendment carried; long title as amended passed.

Bill recommitted.

Clause 15A.

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

Leave out from subclause (1) 'a nominee of the purchaser' and insert:

a company related to the purchaser

Leave out from subclause (2)(c) 'a nominee of the purchaser' and insert:

a company related to the purchaser

Leave out from subclause (2)(d) 'a nominee of the purchaser' and insert:

a company related to the purchaser

After subclause (12) insert:

(13) A company and a purchaser are related for the purposes of this section if they are related bodies corporate within the meaning of the Corporations Law.

At the outset I will speak to these amendments with the agreement of the Hon. Mr Holloway and others. I indicate that Parliamentary Counsel is just about to circulate to those who are interested a further suggested amendment to schedule 1, which relates to the local council rates issue we discussed earlier. It is along the lines that I suggested and I will speak to it in a moment, but I apologise for the fact that it is not yet circulated. I discussed it with the Hon. Mr Holloway and I think it is in our best interests that we put it altogether now and we can then send it to our friends and colleagues in another place and, if there are any concerns, we can sort it out at that stage. I think it will be acceptable, but I will speak to that in a moment.

In relation to the amendments to clauses 15A and 15B, last evening the Hon. Ron Roberts suggested a process (for which I thank him) whereby the union representatives and the Government negotiators meet this morning, and that meeting occurred. A number of issues were raised, and obviously not all could be resolved straight away, but a couple of important ones could be. Last evening, the Hon. Ron Roberts asked what a nominee of the purchaser meant. In discussions with the unions this morning, it was explained that we were happy to amend this provision to make it clear that it would be a company related to the purchaser; and that seemed to be acceptable, as I understand it, to the unions. It was clearer to the unions and it met some of the concerns that they had as to what a nominee of the purchaser might be. Four or five amendments are solely related to that issue. They are all consequential on it and it actually meets some of the concerns—

The Hon. T. Crothers interjecting:

The Hon. R.I. LUCAS: Yes, exactly. The other amendment further down of substance was again the one I flagged this morning, that is, relocation, which I think the Hon. Mr Cameron and the Hon. Mr Ron Roberts raised yesterday evening. We are advised that the existing practice within ETSA is that it uses some notion of commonsense and reasonableness in terms of relocation to the extent that it can. There was some concern about what might happen under private sector operation. We have sought to include some degree of reasonableness in relation to this issue by using a provision of 45 kilometres in terms of relocation. As the former Minister for Education, I indicate that a similar provision exists in the teachers' awards and I think also in the awards relating to school service officers. It is a longstanding provision which those in the education community—the unions and management—have negotiated in terms of managing these processes within both the metropolitan and country areas.

As I understand it, the unions' position, to be fair, is that they did not want the whole provisions of clauses 15A and 15B in the Bill, which was the Hon. Ron Roberts' position. Again, my understanding is that the unions, whilst bearing that major position in mind, nevertheless were comforted by this particular provision which does place some restriction on the ability for relocation. I therefore thank the Hon. Mr Cameron, the Hon. Mr Roberts and representatives for their suggestion. We have sought in the time available to

provide some degree of comfort via this particular amendment to clause 15B.

The Hon. R.R. ROBERTS: This proposition makes clearer the intentions of the Government's amendments (now part of the Bill). I also reiterate the preferred position, namely, that this ought to be discussed properly, but do not wish to delay the Committee any longer. I assume the Government has the numbers as it has had for every other clause it has moved.

Amendments carried; clause as further amended passed.

Clause 15B.

The Hon. R.I. LUCAS: I have spoken to these already. Again, I intend to move them *en bloc* with the permission of the Committee. I have already explained the reasons for them and I will not add to those comments. I move:

After 'related employer' in subclause (11) insert:
in the electricity supply industry
After paragraph (a) of subclause (11) insert:
(ab) a principal workplace or principal work depot not more than 45 kilometres distant by the shortest practicable route by road from the principal workplace or principal work depot of the surplus position; and
After 'related employer' in subclause (12) insert:
in the electricity supply industry
After the definition of 'award or agreement' in subclause (13) insert:
'electricity supply industry' has the same meaning as in the Electricity Act 1996;

The Hon. R.R. ROBERTS: The amendment to insert paragraph (ab) talks about '45 kilometre distant by the shortest practicable route by road': that is better than the existing system, which has no measurement. I do not know whether the 45 kilometres is the best distance that we could have. I would accept that having a figure gives an employee at least a target, but I would hope that this is not the end of any discussions around that point for the life of the leases. However, on that basis, it does give those employees that may become involved in a relocation a target at this stage and they might have some idea of what is ahead of them.

Amendments carried; clause as further amended passed.

Schedule 1.

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

Clause 4—
Before 'land' in subclause (3) insert
'specified'.
After 'only' in subclause (5) insert:
by regulation and

I thank the Hon. Mr Holloway for agreeing to at least considering this matter at this stage. It was an issue we discussed earlier and Parliamentary Counsel and private counsel have been trying to draft something. It is a relatively simple amendment, as it has turned out. In reality what it means is that—and as I indicated earlier—the Government or I would issue a proclamation in the first instance as to the appropriate level of rates for these generators.

I give a public undertaking that I will not issue a rate of $1 to the Port Augusta Council for Flinders Power: it will be approximately the level that exists at the moment, which is about $120 000. It will be at an appropriate level. The Government could not increase the rate but, if it wanted to reduce the rate in the future, it would have to issue a regulation that would be subject to disallowance by the Parliament. So, if at some stage in the future the Government wanted to reduce it to $1, it would have to convince the Parliament through the normal procedures relating to regulations as to why it should be reduced to $1. In that way it meets some of the concerns raised by the LGA and other members who have flagged some concerns about the issue.

The Hon. P. HOLLOWAY: In my brief perusal of this clause it appears to substantially improve the situation. I will agree to the Treasurer's suggested course of action and we can look at it as it progresses to another place.

Amendments carried; schedule as further amended passed.

The Hon. R.I. LUCAS (Treasurer): I move:
That this Bill be now read a third time.

The Hon. P. HOLLOWAY: I will briefly sum up for the Opposition on this important Bill. It has certainly been a most unusual passage of legislation through this Parliament, given that this Bill was first introduced into this Chamber as an 18 page document some 12 months ago. If it succeeds in a few moments—we hope it does not, of course—it will be a 60 or 70 page document quite different in nature from that which we received over 12 months ago. If passed, this Bill will permit this Government to enter into a 97 year lease for the electricity assets of this State with a payment for that lease up front. That is something that we in the Labor Party have consistently opposed. We opposed it before the 1997 election, as our policy requires, and we have opposed it consistently since. We will divide on this vote when it is held in a few moments, to continue that opposition,

It is a sad day for us in the Labor Party when such essential community infrastructure as our electricity assets are leased. It appears that, sadly, if this third reading vote is carried, that will be the case. It is bad enough that we dispose of those assets. What makes it even worse for us is that the structure of the lease—the nature of this beast, which I referred to during the debate as a mongrel lease—in our view denies the State the optimum return for the assets. It is bad enough that we should get rid of them; it is even worse that we get less than the return of those assets. Worse still is that the Bill as it comes out of Committee provides for a slush fund, which we believe will dissipate part of the sale proceeds.

We will certainly be dividing on the third reading. We must have had at least 20 divisions on this legislation during the past 12 or 13 months. Sadly, this division will be the last chance that this Council will have to prevent the lease of our assets. Once it passes this Chamber and leaves here in this form the Bill provides for the lease of our electricity assets and there will be little we can do to stop it. We could go over all the debate again, but I will not. This Bill has been debated more perhaps than any other Bill in the history of this Council.

Our opposition to this Bill is based on the fact that this Government has no mandate to do what it is trying to do here. We also believe that the economic case is strongly against the sale of electricity assets. In other words, we do not believe that the benefits that this Government claims it will get from the lease of our assets will outweigh the loss of the amenity and income stream that will come from these essential assets. I make one last appeal to the Council: that we keep our electricity assets in public hands. They have been in the hands of this State for 50 years or more, and I believe the Electricity Trust has served this State very well indeed. It will be a sad day if we lose those assets.

The Hon. R.R. ROBERTS: I rise to make a contribution with great sorrow. We are about to witness the most shameful event that has ever been perpetrated on the people of South

Australia. It will bring shame on this Parliament. Shame will be put on this Parliament, not just on those people who have declared their intention to walk across their heritage and dash the hopes and aspirations of every trade unionist and member of the Labor Party for the past 100 years, but especially the shame must be laid at the feet of these people opposite. Through the passage of this Bill we have seen the most shameful operation of all time. First, they came into this place after promising the people of South Australia that under no circumstances would their silverware be sold. They came back before the ink was dried on the writs and said to the people of South Australia, 'We've changed our mind and we're going to sell it.'

Then came the most shameful horse trading we have ever seen. They went to the Hon. Nick Xenophon and tried to do a deal with him. To his eternal credit, Nick Xenophon resisted all their attempts and said, 'You've promised the people of South Australia you will not dispossess them of their assets. I ask you to do only one thing: go back and get a mandate.' So, then they started another round of bargaining. We saw this process which had to be thrashed out immediately held up while they looked around for other defectors.

History has shown who was the first person to break ranks, to step on his heritage and step on the aspirations of every worker and every person who has been part of the Labour Movement and the Labor Party for the past 100 years. He was prepared to crush that. He was prepared to crush his family heritage for a few pieces of silver. He is prepared to make friends with his eternal enemies: these people who have crushed workers and reduced their working conditions and their aspirations in life; he goes over to them. We see him today in bed with the Government advisers, the one person that he himself nicknamed 'Pol Pot'. He ought to have kept that title for himself, because Pol Pot inflicted great pain and misery on his own, and that is what this man is about to do when he takes those 14 shameful steps across the Chamber.

So, he then came back and we then saw the Government back off because it still could not buy Nick Xenophon. They therefore had to go and find another defector, so they put off this very important crucial piece of legislation for months and engaged in secret, covert negotiations with the Hon. Trevor Crothers for a fortnight. This man came before the Leader of the Australian Labor Party, when we heard what we thought was a scurrilous rumour, and promised him faithfully, 'You may hear this, but it is not true; I will never do it.' There were people who believed that the Hon. Trevor Crothers was solid and that he would never break his pledge.

Let me give this Chamber a little history. In 1974 there was a situation before the Australian Labor Party on the convention floor. They were going to take back someone who had broken his pledge and stood against our candidate and who was expelled for that action. He was to come back into the Party on the basis that it was believed to be essential to keep a Labor Party in power for the benefit of the workers and the people of South Australia. So, the proposition was put up that he come back. I resisted that greatly on the basis that I believe a pledge is sacred. What happened? Who seconded the motion for him to come back? I will tell you who it was: it was the Hon. Trevor Crothers. I remember his words: 'There are big principles and there are little principles, and breaking your pledge is only a little principle. It is important that we keep Don Dunstan and Labor Governments in power to ensure the rights of the workers and the people whom we represent because those bastards over there (referring to the Liberals) will never do it.'

Whilst I was sad, I must admit that I was not surprised. We have seen the most shameful event in the history of the trade union movement. These two men, when they take those 14 steps, are about to fly in the face of the records of their honourable unions, the Liquor Trades Union and the Australian Workers Union. These two men, I understand, are still members of their respective trade unions; they are still members of the trade union movement. One expects that when you become a member of a trade union or any organisation you are prepared to abide by the rules, the conventions and the principles of that trade union. I ask them to reflect: what is the principle of the trade union movement in these matters? What are the principles when you have a vote, when you make a decision collectively, and then someone decides not to do it? I ask them to contemplate what the term for that is.

The Hon. Trevor Crothers in a contribution the other day said very strongly that he did not want people to call him a scab: he wanted people to call him a statesman—

The Hon. T. Crothers: They can call—

The Hon. R.R. ROBERTS: Well, I do not intend ever to call him anything—

The Hon. T. CROTHERS: I rise on a point of order, Mr President. I want the truth put on record, not substantive rhetoric without substance. That is an utter lie.

The PRESIDENT: Order! There is no point of order.

The Hon. T. Crothers interjecting:

The PRESIDENT: Order! The Hon. Trevor Crothers will resume his seat.

The Hon. T. Crothers interjecting:

The PRESIDENT: Order! The Hon. Trevor Crothers will resume his seat.

The Hon. R.R. ROBERTS: What we have is the worst exhibition. I will not be—

The Hon. T. Crothers interjecting:

The Hon. R.R. ROBERTS: He will not have to worry about me.

Members interjecting:

The PRESIDENT: Order! The Hon. Ron Roberts will resume his seat. Is the Hon. Mr Crothers raising a point of order?

The Hon. T. CROTHERS: Yes, I am, Sir.

The PRESIDENT: Well, what is it?

The Hon. T. CROTHERS: I am referring to the statement he made about me, purporting to say that I had made a particular statement in this Chamber, when I had not. I want him to withdraw that. If he refuses to do so, I ask you to get your staff, right here and now, to check the *Hansard*.

The PRESIDENT: Order! I ask the Hon. Ron Roberts to withdraw the comment that is offending the Hon. Mr Crothers.

The Hon. R.R. ROBERTS: I do not know what comment it is, Sir, because every comment I am making is designed to offend him.

The PRESIDENT: Order! I am asking the honourable member to withdraw.

The Hon. R.R. ROBERTS: Which comment does he want me to withdraw, Sir?

Members interjecting:

The PRESIDENT: Order! The Hon. Ron Roberts will please resume his seat. The Hon. Trevor Crothers, what words do you want withdrawn?

The Hon. T. CROTHERS: The comment I am referring to is the untruth that is on the *Hansard* record now for all to see, made in the name of the speaker, the Hon. Ron Roberts.

The PRESIDENT: Order! There is nothing there to withdraw.

The Hon. T. CROTHERS: The *Hansard* record will prove differently.

The PRESIDENT: Order! We cannot get the record down. Would you say what it is that offends you?

The Hon. T. CROTHERS: There were so many of them that I can't—

The PRESIDENT: Was it about the 'statesman'?

The Hon. T. CROTHERS: He inferred something I had said, which was absolutely untrue.

Members interjecting:

The PRESIDENT: Order!

The Hon. T. CROTHERS: It was that I asked people to call me a statesman. I never said that, Sir.

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order! There is no need for the Hon. Angus Redford to add to it. The Hon. Ron Roberts, they are the words that the Hon. Mr Crothers wants withdrawn.

The Hon. R.R. ROBERTS: Mr President, I am happy to admit that he is not a statesman.

The PRESIDENT: No, that is not appropriate.

Members interjecting:

The PRESIDENT: Order! I am asking the Hon. Ron Roberts to withdraw the statement he made about the fact that—

The Hon. R.R. ROBERTS: I am happy to withdraw that, Sir, because I have plenty more to say. These people have crushed all the trade union principles. They believe that they are doing the statesmanlike thing. Let us have a look at what the statesmen have to say about this. The Hon. Trevor Crothers said in 1974 that it was important for this State that we keep Don Dunstan and a Labor Government in power because that was the only hope for the trade union movement and the Australian Labor Party. And what happened? Don Dunstan was put into power.

Now, the treacherous actions of these two men are aimed at trying to enshrine this disgraceful Government, which has betrayed the people's trust and sold their assets, on top of the people. Let us look at whether or not this is a statesmanlike act? The two greatest statesmen that this State has probably ever seen would be Tom Playford and Don Dunstan. People would like us to believe that there are a couple of statesmen here. The two greatest statesmen this State has produced wanted to keep ETSA assets in the hands of the people of South Australia for the people of South Australia, and now these people, who would compare themselves with giants, want to rip it away. They want to rip away their heritage. They are prepared to throw away all their heritage; they are prepared to disgrace the trade unions; and they are prepared to disgrace the Australian Labor Party, which has given them most of what they have. When they step across that divide, they will step on and crush the hopes and ambitions of everyone who voted for them—everyone who gave them the honour of representing them in this august Chamber. As they put each foot down, they will crush at least a thousand.

When they walk across to the other side of the Chamber, they will walk over the graves of Don Dunstan and Tom Playford. They know better than all of them. They will crush all the hopes and ambitions to join whom? They are going over to the friends of the mortal enemy of the working class people of South Australia. A total of 80 per cent of the people in South Australia in the last couple of polls have, despite the fact that these people have tried to bludgeon them, bribe them and actually tax them silly with this stupid tax they came up with, have shown courage and said, 'No.' They would not be bought and they would not be bludgeoned: they had the courage. And who lets them down? The very people whom they asked to represent them in a participatory democracy in this State—their two leaders.

When they walk over there they will reinforce the treachery concerning which they have declared themselves, and they will reinforce it for every trade unionist and every South Australian. The Hon. Trevor Crothers will not have a big problem because only 35 people voted for him, but the Hon. Terry Cameron was on the ticket.

The Hon. A.J. Redford interjecting:

The Hon. R.R. ROBERTS: You only had 523 votes. You have to worry about getting enough votes to get you in at No. 4, and you will not be here much longer, because the people know exactly what you are like. They know what all these people are like. Let us get on with the shame. This proposition has no legs; it is a mongrel lease in every sense of the word. The only people who are showing a determination to resist these dirty deals, side deals and bribes are those coming from the conservative side of politics in the other place. The Hon. Trevor Crothers and Terry Cameron will not save them. These conservatives will say to the Government, 'No, we won't give you a slush fund before the next election. We won't be duped like the Hon. Trevor Crothers and the Hon. Terry Cameron. We'll keep you honest. You do what you promised and use all the money from the sale/lease.' That is what is in every document—purchase by lease, as any fair observation of the situation reveals.

What will it mean if the three Independents follow through with the commitment that they have given to their electorates? It will be sent back here. We have heard from the Hon. Trevor Crothers that he is prepared to stare down Mitch Williams, I think, and see who blinks first. I look forward to that confrontation because I do not believe that Mitch Williams will blink. The Hon. Trevor Crothers said that he would not blink either and he is prepared to throw out the Bill. I will not continue on any further, because I want to get this Bill to the other House and back here.

However, let me make a prediction before I conclude: if Rory McEwen, Karlene Maywald and Mitch Williams do what they say they are going to do we will find—and the general pattern has been—that this matter will not be progressed any further, it will be put off for a couple of weeks—and look out Rory, look out Karlene and look out Mitch, because the deal makers will be around to try and do another deal.

I challenge the Government to conclude this in the next couple of days. We will see who blinks. We will see whether it is Rory, Karlene or Mitch, or whether it is these people here. Given the record, I think I know who will blink. But let us get it concluded. Let us get the treachery over and let us watch these people as they walk across the Chamber. While he is doing it, I would ask the Hon. Terry Cameron to remember the words that Clyde Cameron said on radio the other day: 'Tom Playford will be rolling over in his grave. Don Dunstan will be rolling over in his grave.' Mr President, when the Hon. Mr Cameron dies he will be rolling over in his grave. They will all be rolling over in their graves.

Rolled over is a very good term to describe what they have done. They have rolled right over. They have rolled away and into the arms of the mortal enemy. You can pick your friends and, indeed, you have a new friend. We have a saying in the Labor Party: never cuddle mugs, they'll die in your arms. I am guilty of that because I could say, without fear of too

much contradiction, that since I have been a member of this place I have offered sustenance and support to the Hon. Trevor Crothers over eight or nine years. When no-one else would talk to the Hon. Terry Cameron, I talked to him. I had a lot of discussions, which at the time were quite enjoyable.

The Hon. T.G. CAMERON: I rise on a point of order, Mr President. The Hon. Ron Roberts has just misled the Council. He has not spoken to me since the day I crossed the floor, so what is he talking about?

The PRESIDENT: Order! There is no point of order.

The Hon. R.R. ROBERTS: If that's a sin I'll be guilty of it for a lot longer yet. I have been guilty of breaking one of the principles of the Labor Party—never cuddle mugs, they'll die in your arms. These people are now cuddling them. It will not be for long—the next couple of weeks—before the novelty wears off. The Hon. Diana Laidlaw will no longer laugh at the Hon. Trevor Crothers' jokes. The Government will get what it wants. It will use these people like a condom—screw the people of South Australia and then throw it away until the next time. That is what these people are looking forward to doing. I could go on for hours, but why would we want to highlight the shame that these people have brought on the Labor movement? This morning we had the most constructive Caucus meeting that we have ever had. There is a determination—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.R. ROBERTS: There is a determination now in the Caucus that we will do what we have done for 100 years: we will overcome the worst adversity. There is a new-found confidence, a new easement within the Labor Party. It was one of the most constructive meetings. We have been constricted; we have been constipated by the operations and actions of some members. But, like constipation, a great easement comes when you take away the source of the aggravation. That is typical of what we have experienced today. I suggest that we get on with the vote, get the shame over and get on with the show.

The Hon. SANDRA KANCK: The Democrats oppose the third reading of the Bill. It appears that within a short space of time the majority of members in this Chamber are about to sell out South Australians by privatising our largest asset. It is worth while reminding those members that ETSA belongs—or did belong—to the people of South Australia. It did not belong to Rob Lucas, Trevor Crothers or Terry Cameron. The lease that this Chamber has agreed to is a long-term lease. Industry says that it regards a long-term lease as being freehold. It is a sale by another name. The only way it differs from sale is in its price. On a crucial score, it will result in a 10 per cent to 30 per cent reduction in its price. So, yes, the Hon. Trevor Crothers was correct: there is a difference between a lease and a sale, and that is you will get less on a lease.

On top of that, the Government has committed itself to splashing around $150 million of the sale's proceeds at the behest of the Hon. Trevor Crothers. The debate yesterday showed that the Government had not factored in the value of future alternative telecommunication uses in the monopoly of poles and wires. I believe that we will find many other weaknesses as we go along. Today it was revealed in the amendments to schedules that environmental values will be sacrificed in the process of trying to make things easier for the new owners of these assets. For instance, we will see the overriding of the Development Act and the Environmental Protection Act, and the true cost of that is yet to be revealed. The Democrats believe that this is the beginning of a very dangerous decent into debt without an asset base to prop it up.

The Hon. R.I. Lucas: Into debt?

The Hon. SANDRA KANCK: Into debt from day one. This will be a bad deal for South Australia, and history will reveal in time that this has been a disastrous decision for South Australia.

The Hon. CARMEL ZOLLO: Given the importance of this occasion, I again rise to oppose the legislation. The Hon. Trevor Crothers spoke after I did last week in a very long contribution, and I will pick up on a couple of issues he mentioned. 'Mongrel lease' was the term used by my colleague, the Hon. Paul Holloway, to describe this lease. If the legislation passes, the Parliament will be asked at the end of 25 years whether the State wants the return of the ETSA utility at a cost of probably $2 billion, and having lost its income stream for 25 years. Such conditions of lease are an insult to the people of South Australia, and the Hon. Trevor Crothers has sold us short.

The Hon. Trevor Crothers talked about new technology, mentioning it several times in his contribution last week. I put it to him that a State-owned utility can be every bit as progressive as private enterprise and, more importantly, it is more community spirited because it is run with the local community's interest at heart and not perhaps some ruthless overseas multinational looking for a smart deal. I do not believe that a Government owned or operated power utility lacks the will to keep up with technological changes in the industry. It would be fair to say that the only way it would lack that will is if it is so directed.

Up until February last year all reporting to this Parliament and all public documents led us to believe that ETSA had readied itself for the NEM market. It had a captive market and extensive refurbishment of Torrens Island was planned, as was increased competition from the eastern States to add to its importation from that source. The Treasurer has told us several times in this debate that our electricity assets are worth between $4 billion and $6 billion. Our interconnection with Victoria is still in place, as it has been for many years. Should we go ahead with the SANI connection, as expected, South Australians would also benefit enormously because of the excess capacity available in New South Wales, which will result in lower prices for consumers.

Much has been said by the Hon. Trevor Crothers about his concern for the poor in our community and his long life commitment to the Labor Party. However, he does not have a monopoly on those two commitments. I put to him that low income families and those families on fixed incomes who already have problems meeting accounts will have even greater problems with the advent of a private provider. I have spent most of my working life assisting people disadvantaged by the system and many an hour over the years negotiating with the accounts section of ETSA to resolve an impasse in relation to the payment of accounts. I am not talking about people disputing the amount they had to pay—I am talking about trying to obtain a compromise in paying their account in instalments, to try to demonstrate some good faith that they would pay, along with all their other commitments.

There was a great deal of negotiation before an amount would be reached and a receipt number delay to demonstrate that the consumer had made the effort to at least start making payments. Negotiations also occurred regularly to waive disconnection and reconnection fees. I put to the Hon. Trevor

Crothers that many more people will go without power in future because private enterprise is about making profit and not about a social conscience. The belief of such providers is that people need to be responsible for themselves, never mind the consequences. Disconnection may well be to the detriment of the wider family, particularly children in our society.

As we have just heard, we have seen many a twist and turn in this debate for over a year now. We have had threats, a sweetener and the blackmail of a poll tax. The Hon. Trevor Crothers first told us he had a commitment from this Government to use the return on a long-term lease solely for the reduction of debt, and he read that commitment into *Hansard*. Earlier as part of the sweetener we had this Government wanting to use part of any possible proceeds on capital works, much of which I would have thought was recurrent expenditure, and some of it previously announced. The Opposition has responsibly pointed out that financing projects which do not earn money for the taxpayer through the proceeds of an income earning asset is grossly irresponsible. Imagine my surprise when I heard about clause 15 and its subsequent debate in the Chamber yesterday.

Does the Hon. Trevor Crothers not have any faith in this Government being able to budget for such schemes? After all, it will be saving a lot of interest every day, as the Hon. Trevor Crothers constantly reminds us. I am sorry that in the short time since the Hon. Trevor Crothers announced his intentions he has already changed his mind about the Government's key commitment to him. It has delivered to this Liberal Government for the next election a wonderful slush fund.

On two occasions when speaking earlier to this Bill I also made the point to the Treasurer that competition for ordinary consumers was difficult to envisage. We were told that this will happen several years down the track. I remain to be convinced. It is also important to place on record that we on the Labor side are voting in the manner in which we were elected to vote; and the people of South Australia also have every reason to believe that they had eight Labor members in this Chamber. Despite some politicians over inflated opinions of themselves, the truth is that most people in the community do not know the name of their local member or even the name of most Ministers. In this place the recognition factor would be even lower, given that more than 90 per cent of people vote above the line to elect members to this place, that is, they vote for Parties or groups rather than individuals.

The Hon. T.G. Cameron: I will bet that Trevor Crothers has a pretty good recognition rating out there at the moment.

The Hon. CARMEL ZOLLO: What a way to get it! Occasionally a contrived stunt involving a computer assisted image of a fireman may raise someone's profile for a day or two. Voters do know what they are doing when they vote differently between the two Chambers. They clearly gave the balance of power at the last State election outside the two major Parties. It might pain me to say it, but it is the truth and I guess that is democracy at work. There are times when it does advantage the ruling Government of the day and times when it does not.

I again place on record that I believe our utility can compete quite competently on the NEM market and that any reduction of debt by reducing our income earning asset base is not the same as an improvement in our long-term financial position. The people of South Australia should have been given the opportunity of being better informed. All they have had up until now is taxpayer funded advertisements and letters in their letter boxes. The last piece of information we received at our house the weekend before last was stuck in between junk mail. I oppose this legislation.

The Hon. NICK XENOPHON: I cannot support the third reading of the Bill for the reasons I have put on a number of occasions both in the second reading and Committee stages. The Government stands condemned for breaking its absolute and unequivocal promise made at the last election not to sell or privatise the State's largest remaining community assets. A referendum is the only honourable way out, the only way to treat the electorate with the respect that it deserves, rather than the scorn heaped upon it by the Government's approach.

The Treasurer is right to talk of this Bill in terms of being a momentous piece of legislation, but it is momentous for all the wrong reasons. It sends a message that such a key election promise can be broken with impunity and it plunges us into a privatised electricity industry without the framework that will maximise benefits for consumers—the very reason for entering into the national electricity market in the first place. I vote against this Bill because this debate should be about the three Cs—competence, credibility and competition. The Government has failed on all three grounds.

I have said previously in this debate that, because this Bill has come before this Chamber again and again, it resembles the film *Ground Hog Day*. My fear is that as a result of this Bill being passed the ground hog will finally emerge, and its message will be that our democratic institutions and principles are in for a long and miserable winter.

The Council divided on the third reading:

AYES (9)

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

NOES (8)

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

PAIR(S)

Davis, L. H.	Elliott, M. J.
Lawson, R. D.	Roberts, T. G.

Majority of 1 for the Ayes.

Third reading thus carried.

Bill passed.

NATIVE TITLE

A petition signed by 150 residents of South Australia concerning native title rights for indigenous South Australians, and praying that this Council not proceed with legislation that, first, undermines or impairs the native title rights of indigenous South Australians and, secondly, makes changes to native title unless there has been a genuine consultation process with all stakeholders, especially South Australia's indigenous communities, was presented by the Hon. Sandra Kanck.

SAFE CITY INITIATIVE

The Hon. R.I. LUCAS (Treasurer): I seek leave to table a copy of a ministerial statement made earlier today in another place by the Premier on the subject of Adelaide as a safe city.

Leave granted.

QUESTION TIME

EMERGENCY SERVICES LEVY

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Police, Correctional Services and Emergency Services, a question about the emergency services tax.

Leave granted.

The Hon. CAROLYN PICKLES: This morning my office received an inquiry from a constituent who had just received her car registration account which included the emergency services levy (as the Attorney-General calls it). Once she has sent me a copy of it, I will be happy to furnish the Minister with a copy. The 12 month account is itemised as follows: registration, $35; administration, $6; insurance premium, $257; stamp duty, nil; and emergency services levy, $32.

The account, which is calculated at the concession rate, is due on 30 June 1999. However, as I understand it, the levy which is included will not be implemented until 1 July 1999. Will the Attorney clarify the status of the account given that my constituent has been levied a fee which is not to be implemented until 1 July and say whether any consideration was given to a situation such as this?

The Hon. K.T. GRIFFIN: The honourable member persists in misdescribing the emergency services levy. When that occurs, I will continue to correct that error. The emergency services levy in respect of this particular matter is something upon which I will have to take advice. I do not have the answers at my finger tips, but if the honourable member gives me the details I will undertake to follow up the matter and bring back a reply.

POVERTY

The Hon. G. WEATHERILL: I seek leave to make a brief explanation before asking the Treasurer, representing the Premier, a question about poverty in South Australia.

Leave granted.

The Hon. G. WEATHERILL: A report released on Tuesday by St Vincent de Paul purportedly attributed rural community breakdown largely to poverty. It asserts that the Commonwealth Government is not giving enough support to the symptoms of poverty and to poverty. My questions are:

1. Does the Government believe that poverty exists in South Australia?

2. Are people who experience poverty currently offered enough assistance?

3. Does the Government believe that people are largely responsible for their own circumstances?

The Hon. R.I. LUCAS: I will refer the honourable member's questions to the Premier and bring back a reply.

AQUACULTURE

The Hon. P. HOLLOWAY: My questions are directed to the Minister for Transport and Urban Planning. Has the review into aquaculture application procedures, which the Minister referred to late last year, been completed; who undertook this review; what are the major recommendations of the person who conducted the review, and does the Government intend to implement them; and, finally, who was consulted in relation to this review?

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

HINDMARSH SOCCER STADIUM

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

Leave granted.

The Hon. J.F. STEFANI: I refer to the funding deed signed on 14 October 1996 by the South Australian Government and the South Australian Soccer Federation, particularly clause 40.6 which relates to the establishment of a management committee to manage and administer the operation of the Hindmarsh Stadium as a separate and independent profit centre. My questions are:

1. Did the Minister meet with the South Australian Soccer Federation to consult and discuss any matters relevant to the establishment and operation of the management committee as required by the funding deed and, if so, on what date did the meeting take place?

2. Will the Minister advise who is the chairperson of the management committee and the names of all members of the committee? On what dates has the management committee met?

3. Is the Minister satisfied that the conditions set out under clause 40.7(1) to 40.7(11) of the funding deed have been fully complied with by the South Australian Soccer Federation?

4. Will the Minister advise the Council of the name of the person who has been acting as his nominee to attend all meetings of the management committee, and on what meeting dates did the nominee attend?

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

GENETICALLY MODIFIED FOOD

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning, representing the Minister for Human Services, a question about genetically modified food.

Leave granted.

The Hon. CARMEL ZOLLO: A few weeks ago I read an article in the *Land Journal* expressing concern over some 20 modified foods that have received conditional approval for sale in Australia. The concern is that, despite strong opposition, the Australia New Zealand Food Authority will allow the entry of these genetically modified foods, pending the results of safety assessments. I understand that genetically modified crops are most likely to be found in food imported from overseas. I place on record that I do not necessarily disagree with genetically modified foods. There certainly can be some enormous benefits from such technology. However, I believe that consumers need to be consulted along the way and that all research should be undertaken before the end product is introduced.

The article in question of 13 May expressed concern that this has not occurred and that the 20 GM foods that have received approval may be subject to a legal challenge. I ask whether there has been any South Australian input into this

decision and, if not, whether South Australia will appeal against the decision?

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

CUTTLEFISH

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Primary Industries, a question about giant cuttlefish.

Leave granted.

The Hon. M.J. ELLIOTT: Last year I asked a question of the Minister in relation to the giant cuttlefish (Sepia apama) which each year gather for three months from about April to the end of June on the rocky reefs at Point Lowly near Whyalla to mate and lay their eggs. The cuttlefish catches from this small area of rocky reef have risen unchecked from a negligible level to more than 240 tonnes in 1997 but then down to 145 tonnes in 1998. A report by the South Australian Research and Development Institute of November 1998 found that the decline in catch was considered to result from a combination of reduced population size and restricted fishing access in the 1998 season. The giant cuttlefish is the largest cuttlefish in the world, growing up to one metre, and is found only in southern Australian waters. They are short-lived, with females potentially living for only two or three years; males may live a little longer.

Females come to rocky areas to mate and lay hundreds of large eggs for one season. The low numbers of eggs laid make this species highly vulnerable to exploitation and incapable of recovering rapidly. I say that hundreds is low because other species may in fact lay hundreds of thousands. Point Lowly is an ideal breeding ground for the cuttlefish. The loss of this breeding stock may have serious impacts over a much larger area, potentially affecting both valuable finfish stocks which prey on cuttlefish as well as other marine life such as dolphins and seabirds.

The report recommended that, in the event of the fishery remaining open in the region during the 1999 spawning season, a management strategy be adopted to allow for at least 70 per cent escapement in 1999 to facilitate stock rebuilding. It also asked that consideration be given to complete protection should pre-fishing biomass estimates in 1999 show evidence of further population decline. My questions to the Minister are:

1. Did the Government fund further studies of the fishery for the 1999 season?

2. If so, what were the results, including the estimated spawning biomass?

3. What future action does the Government intend to take for the protection and proper management of this cuttlefish population?

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

COUNTRY DRIVING

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning a question about a guide for safe travel in country areas.

Leave granted.

The Hon. J.S.L. DAWKINS: Recently I received in the mail a pamphlet called *Country Driving Hints: Your Guide to Safe Travel*, issued by Transport SA and sent to me along with the most recent edition of *The Paperbark*, the newsletter of the South Australian Rural Network. This excellent pamphlet covers a number of areas of advice for people who plan to travel in country areas. It is most appropriate, given the widespread concern that all of us in this place would have about the level of the road toll in country areas. This pamphlet covers a number of aspects, including planning the route to be travelled, the travel time, preparation of the vehicle, the manner in which the vehicle is loaded and advice about particular safety measures for children who are travelling in the vehicle. In addition, the pamphlet covers safe driving techniques and has a considerable section about combating fatigue. Will the Minister indicate the manner in which this excellent document has been distributed throughout South Australia?

The Hon. DIANA LAIDLAW: I note from the explanation of the honourable member's question that he received this publication through *The Paperbark*, a publication supported by Primary Industries South Australia and the Government for improving advice and communications to women living in country areas. When first released, this pamphlet was also made available through the RAA and through petrol stations in country areas. I know that there was feedback from the Motor Trades Association and requests from it also to be involved in the distribution of this pamphlet. I think that was undertaken, but I will get that matter checked for the honourable member. I am also keen to see further promotion and circulation of this pamphlet because, as the honourable member noted, the focus of road safety effort this year will be country areas.

I recall in a question the honourable member asked about the Riverland and road safety recently that I announced that we had started at the end of last month a major road safety campaign in the Riverland related to the wearing of seat belts. The same campaign started in the South-East this week. In the meantime, Transport SA is doing more and more work with more communities that are asking for the establishment of community road safety groups. I am really excited about that sense of community and local responsibility for road safety, because it is just impossible to expect the Government to be responsible for driver behaviour, the condition of motor vehicles, fatigue and distractions in the vehicle. The Government cannot take responsibility for all those matters.

Those matters are highlighted in this pamphlet as things that one can do for oneself in terms of road safety. Certainly, the Government will continue on a broad level, and particularly this year, to focus on country areas in terms of speed, drink driving, fatigue and seat belts. We will continue with the black spot road funding program supported strongly by the Federal Government. We will continue with our accelerated project of road audits and upgrades (as appropriate), and safety devices and messages will be installed on the roads, along with passing lanes and rest areas.

We will provide those engineering works and a public relations campaign, but we cannot do everything to protect people on the roads if they are not also prepared to take responsibility in terms of the servicing of their vehicles, the nature of their tyres, when they start their journey and fatigue issues generally. I am very keen to see much wider publication, circulation and regard for the pamphlet to which the honourable member has made reference today.

DAYLIGHT SAVING

The Hon. P. HOLLOWAY: My question is directed to the Treasurer in his role as Leader of the Government. Has the Government made any decision in relation to the early start for daylight saving to coincide with the Sydney Olympics and, if so, what is that decision?

The Hon. R.I. LUCAS: On my understanding—and I look to my colleague—the answer is 'No.' Some statements have been publicly reported but I understand that they may not have been a fair reflection of what the Minister has said. My understanding of the process is that, in the very near future, the Government will be considering its position in relation to the issue and, as soon as possible after that, will announce publicly its decision on this matter.

RURAL HEALTH WORKERS

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning, representing the Minister for Human Services, a question about health workers in country South Australia.

Leave granted.

The Hon. CARMEL ZOLLO: A recent study by the South Australian Centre for Rural and Remote Health, a centre based in Whyalla and established last year with Federal Government funds, has shown what we all probably know; that is, some country areas of South Australia are chronically lacking in GPs compared with the relatively well served metropolitan area of Adelaide. The study was reported in the *Adelaidian* of 17 May 1999. It has published the results of the study in its first work force discussion paper.

In today's *Advertiser* we have a similar story. Not surprisingly, the study found that Adelaide is over endowed with GPs, with Yorke Peninsula, the Lower North, Murraylands and the northern areas most poorly served. Apparently 85 per cent of South Australia's 2 188 GPs work in Adelaide, and in contrast only 73 per cent of the population lives in Adelaide, even though residents of Adelaide tend to be healthier than people living in the country.

The Director of the centre, Professor David Wilkinson, said that 253 (11 per cent) GPs would have to move to establish a fairer distribution of GPs across South Australia. I am pleased that the *Adelaidian* reported that the centre has already made an impact in a number of areas, including vastly expanding rural placements for students in a range of medical courses and post graduate education awards to the value of $50 000. The article went on to list a number of services in which the centre has been involved and pointed out that health workers and services other than GPs were also needed to ensure a healthy community; it also stated that the centre is studying the distribution of these groups. What liaison has there been with the South Australian Centre for Rural and Remote Health in relation to finding some long-term solution to the shortage of health workers, in particular GPs, in country South Australia?

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

EYRE PENINSULA WATER PIPELINE

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Attorney-General, representing the Minister for Government Enterprises, a question about the maintenance of the Eyre Peninsula water pipeline system.

Leave granted.

The Hon. SANDRA KANCK: On a recent trip to Eyre Peninsula, I was concerned to see the state of the pipeline that provides all the water to that area. First, in relation to trees, in the past they have been cut back and kept well clear of the pipes, but there are now examples of trees that are rubbing against the pipeline to the extent where they have bared the metal below the protective paint and, in some places, the trees have been allowed to grow for such a time that they are now pushing the pipe from the concrete saddles on which it sits. As I travelled along I was also very concerned to see that parts of it were badly degraded by rust. In fact, you could travel kilometre after kilometre in the car and quite easily observe the rust as you drove along. I am told that the pipeline needs to be painted with an iron oxidising stabilising agent. The rust that is occurring is called cyclic chloride corrosion.

A person on Eyre Peninsula wrote to me about this and explained that the cyclic chloride corrosion occurs in situations where atmospheric salt is present as a catalyst. Of course, much of Eyre Peninsula is subject to that sort of condition. This person says that the time will come in the not too far distant future when the cyclic chloride corrosion that is under way in the above ground parts of the water main system of Eyre Peninsula on the West Coast will start to be noticed with increased main bursts. If several happened in a short space of time during hot weather, it is not hard to do some calculation using the published figures for tank storage along the system and work out the amount of water required by the livestock reliant on the system as the sole supply of their drinking water. If that were the case, the situation could easily arise where hundreds and thousands of head of stock could be at risk from the failure of the water distribution system.

I am reliably informed that the reason that the pipeline is in such disrepair is that SA Water has slashed to the bone its maintenance staffing levels on Eyre Peninsula. Apparently, the maintenance crew at Port Lincoln in the past few years has fallen from 60 to 12. My questions to the Minister are:

1. How many maintenance staff does SA Water currently employ on Eyre Peninsula, and what were the comparative figures for the financial year 1985-86 and 1994-95?

2. How many maintenance staff does SA Water currently employ in each of its operational zones on Eyre Peninsula and, for comparison, what were those numbers in 1985-86 and 1994-95?

3. What does the Minister propose to do about the degradation of the pipes on Eyre Peninsula?

The Hon. K.T. GRIFFIN: I will have to take the questions on notice, refer them to my ministerial colleague in another place and bring back a reply.

CRAMOND REPORT

In reply to **Hon. P. HOLLOWAY** (9 February).

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

The Government has implemented a number of strategies to ensure that the events that led to the Cramond report are not repeated. These are:

In the restructuring of the Public Service in 1997 the Senior Management Council was established. This group, which meets weekly, ensures that there is effective communication in planning processes and decisions that take into account the whole of Government.

The Government has established the Prudential Management Group which is comprised of the Chief Executives of the Departments of the Premier and Cabinet, Justice and the Under Treasurer. This Group is directly responsible to Cabinet for the provision of advice and assistance to agencies for the integrity of processes used to deliver projects and arrangements with the private sector.

The Government has also established the Acquittals Committee which is designed to ensure that any matter brought before the Public Works Committee has followed due process under section 12c of the Parliamentary Committees Act. This includes legal, financial and probity issues and has special regard for the public benefits of projects.

Further, on 11 February 1999 the Hon. J.W. Olsen announced in the House of Assembly that the Government has asked the Prudential Management Group to provide a report on what, if any, policy and management issues need to be addressed further to improve the processes of Government.

WATERSHEDS

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister for Transport and Urban planning a question about developments in respect of watersheds.

Leave granted.

The Hon. M.J. ELLIOTT: Adelaide is the only capital city in Australia where the majority of water supply catchments are extensively developed for farming, residential, tourism, mining and industrial activities. This means that the potential for water contamination problems is high. Some people ask the question: just how much chlorine and copper sulphate will we have to add to our water to counteract ever increasing pollution loads from the additional development of watersheds?

The problem of burgeoning development in the water catchment areas was considered in the Mount Lofty Ranges Regional Strategy Plan in 1990, and the recommendation was made that development be contained in the area by implementation of what was called a dwelling application transfer scheme (DAT). This scheme was aimed at transferring building development in sensitive locations such as the watersheds to less sensitive locations, such as rural living areas. Similar DAT schemes have been operating with some success in the United States and on a limited basis elsewhere in Australia. The DAT scheme has never got off the ground. In fact, I understand that part of the problem was that a couple of senior bureaucrats in the department personally did not favour it and that that was the major reason.

The Hon. Diana Laidlaw interjecting:

The Hon. M.J. ELLIOTT: In the department, including Planning. Meanwhile, plans are on the drawing board to open up watershed areas for small scale industry and tourist development, and the Adelaide Hills Council is seeking to take out further land from the watersheds for public purpose zoning. There is a growing community concern that, unless these issues are tackled head on, the pollution problems and therefore health risks from our water sources will only increase. I was at a conference only today, where one of the speakers noted that the biggest single resource issue that the whole world is facing is water, and that is becoming increasingly the case. My questions to the Minister are:

1. Will the Government seek expert advice to identify how the planned dwelling application transfer scheme can be modified to make it workable for South Australia, in particular, perhaps seeking advice beyond the department, recognising that there is internal resistance to it?

2. Will the Minister implement a DAT scheme in South Australia?

3. Will the Minister ensure that current planning controls are not weakened in watersheds in order to retain the integrity of our water catchments?

4. What other actions will the Minister take to tackle major pollution sources in watersheds?

The Hon. DIANA LAIDLAW: I think it is an error to believe that Planning alone and the development of plan assessment reports can address the wide range of issues that are related to pollution.

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: No, but I think there is an expectation, and I am responding to that expectation in the context of the honourable member's question, because I suspect that even across Government there is an expectation that the PAR that has been out for public consultation will be everybody's salvation in these issues of the watershed and pollution. We do know that current development is causing these concerns, and we have to be very focused in addressing that matter.

I am aware of the Adelaide Hills Council's broad concerns about the current PAR. The period for consultation has closed. I know that, in addition to public meetings, a lot of feedback has been provided to Planning SA and the Development Policy Assessment Committee (DEPAC). They will advise me accordingly, having assessed all the material during the consultation process.

I cannot comment on the honourable member's reference to internal resistance to the land transfer scheme that he outlined. It has certainly never been raised with me. I recall that earlier there was intense debate and a lot of anger when the proposals were presented for both the Mount Lofty Ranges area and the Barossa Valley, but I am happy to look at that. I know that one advocate has been to see me about this issue in the Adelaide Hills, and I recall that at the time I was not prepared to advance the issue while there were still some outstanding legal issues from the last time that this transfer arrangement had been proposed, when two or three people took the opportunity to transfer their titles and then the scheme was dropped. I have always felt that those outstanding legal issues should be resolved before there was any further discussion of land transfer issues generally, but I am happy to keep an open mind about it. In answer to one of the specific questions, I certainly cannot say that I would be advancing it. I think it is best at this stage to keep an open mind.

COUNTRY SCHOOL STUDENTS

In reply to **Hon. R.R. ROBERTS** (11 March).

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

In relation to the individual constituent who approached the honourable member, the District Superintendent for the Pirie district has advised that the school does offer subjects through the Open Access College and the family would have been advised that Economics was available through this method.

SAS Information Technology is currently offered face to face at the school. The Open Access College does not offer PES Information Technology Studies. This issue of the provision of particular subject offerings to country schools has been raised during the Country Consultation process conducted by the Department of Education, Training and Employment.

The Assistance for Isolated Children (AIC) guidelines aim to ensure isolated students are assisted in accessing educational services not available locally. Mr Hardaker's son is ineligible for the AIC support because there is provision of secondary education in the local area which is appropriate for tertiary entrance requirements relating to his son's future aspirations.

Mr Hardaker has argued that his son's preparation for university would be assisted if he could study subjects at senior secondary level which are more aligned to those offered at university. However, this needs to be balanced against the fact that the university course to which his son aspires does not contain any pre-requisites.

Mr Hardaker's concerns will form part of the range of issues raised through the Country Consultation process. Following the consultation process, proposals will be developed to address the issue of enhancing choices for rural communities.

LOW SKILL LABOUR MARKET

In reply to **Hon. G. WEATHERILL** (10 March).

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

The State Government is keen to see that all South Australians who want to work have the opportunity to work. There are obviously different barriers facing various sections of our community. The ability of people to find work is affected by a range of factors, including skill levels, educational background, location and type of employment desired. Indeed, there are so many factors influencing the distribution of work that it is very difficult to provide a simple answer to the question asked by the honourable member.

Young people and mature women have experienced a shift in their types of employment over the past 20-25 years in South Australia and Australia. Both groups, given their tendency to work part-time and casual jobs, are more affected by short-term recessionary conditions. There is evidence to suggest that the two groups are affected differently by fluctuations in the fortunes of specific industries given a slightly different industry distribution of workers. Young people are highly concentrated in retail, hospitality and manufacturing, whereas mature age women tend to be distributed in significant numbers across the services, health and education sectors.

There is research in both Australia and internationally, including that presented by Anne Junor in the Australian Journal of Labour and Industry in April 1998, that suggests that mature age women and young people are by and large fulfilling different roles in the country's workforce. Junor found that mature age women, many of whom are returning to the workforce after an extended absence for family reasons, dominate permanent part-time positions in Australia (in August 1997, 87 per cent of permanent part-time workers were women). The next most common type of female employment was found to be casual part-time, however, the proportion of these jobs being filled by women had slipped from 76.4 per cent in August 1987 to 66.7 per cent in August 1997.

These characteristics of employment for mature age women are quite distinct from the casually-focused entry-level positions predominantly filled by first-time labour market entrants aged 15-19 years.

The typical employment of young people is now in retail, such as large department stores, and the food industry, such as cafes and fast food outlets. Although these positions tend to be used by young people as an opportunity to prove themselves in the workplace and develop work skills, they are also truly entry-level positions that can offer vertical mobility.

State Government activity in the employment assistance field for mature age unemployed women and young job seekers reflects both the similarity and difference of the groups' employment trends. General employment assistance, such as pre-employment training for specific vacancies, the development of generic work skills and business start-up skills is provided to both groups. Acknowledgment of the differences of the two cohorts is also reflected in State Government assistance. The *Ready, Set, Go* strategy, Government traineeships and other school-to-work transition activities recognise that young South Australians require vocational skills assistance and general work-relevant skills training such as entrepreneurialism and time management, while training and re-training funding is available to women returning to the workforce who require modernisation of their existing skills and development of new skills.

In conclusion, the issues of the interrelationship between youth and mature age female employment is a complicated one and one that must not be over-simplified. The State Government recognises the complexity of the issue and therefore targets general employment assistance to both groups, in recognition of their similar employment profiles and specific vocational and skills development assistance and of the unique aspects of each cohort.

WOAKWINE WIND FARM

In reply to **Hon. T.G. ROBERTS** (18 November).

The Hon. R.I. LUCAS:

1. Potential developers of the power station were offered the opportunity to bid on all or a part of the package, which included:

- a maximum 7 year retail contract with ETSA Power Pty Ltd;
- a site with the benefit of the Government's development application.

Through a competitive tender process National Power won the right to build South Australia's first private sector power station including the purchase of the power plant site at Pelican Point.

In its winning bid, National Power agreed to:

- take only the first 20 months of the maximum 7 year retail contract for 200 MW of its 500 MW capacity against a facility life of 25 years;
- purchase the power plant site on Pelican Point from the Government;
- provide a $2.7 million economic development package;
- put forward an environmental package in keeping with the company's international status and awards in this area.

No Government financial incentives were offered to the proponents of the power station. Connection of this new generator to the electricity transmission system has been provided in accordance with the National Electricity Code. That is, the same rules apply to all new generators in all jurisdictions. It is not a decision of the State Government.

2. I am advised that the sponsors of the Lake Bonney wind farm project approached the Government in June 1998 seeking assistance for a feasibility study. In July 1998 the sponsors were asked to put a specific proposal to the Department of Industry and Trade in relation to the proposed funding for the project.

More recently, the developer has written asking that the Government make a long term commitment to the purchasing of electricity generated by the Lake Bonney wind farm on the same terms as those offered to tenderers for the Pelican Point power station.

In February 1999, following the Government's announcement of National Power as the successful tenderer, I responded to the developer's request and advised of the details of the RFP and National Power's winning bid, namely that it had agreed to take only the first 20 months of the maximum 7 year retail contract with ETSA Power for 200 MW of its 500 MW capacity, against a facility life of 25 years.

It is not general Government policy to facilitate further generation capacity through additional packages unless circumstances warrant such packages. The possibility of an electricity purchase contract being established with ETSA Power requires an assessment of the financial viability of such an arrangement. The developer of the wind farm has been encouraged to approach ETSA Power to further discuss the issue.

I understand the developer of the Lake Bonney Wind Farm project had previously held initial informal discussions with ETSA Power in relation to its proposal although I am not aware of any further developments to date since February.

The Government's sale legislation package, included the Sustainable Energy Bill 1998 which provided for the establishment of the South Australian Sustainable Energy Authority (SASEA). The aim of this organisation is to assist in the reduction of energy demand and greenhouse gas emissions, so as to encourage better environmental outcomes. This proposed legislation also addressed the regulatory requirements for the establishment of developers of alternative energy. Without the passage of this legislation, the future of these developments is uncertain.

SEXUAL HARASSMENT

In reply to **Hon. T.G. CAMERON** (25 March).

The Hon. R.I. LUCAS: The Attorney-General has been advised by the Commissioner for Equal Opportunity of the following information:

The Commissioner for Equal Opportunity administers the South Australian Equal Opportunity Act which includes sexual harassment as a ground on which a complaint can be made. She also acts as the delegate in SA for the Federal Sex Discrimination Commissioner in administering the Federal Sex Discrimination Act.

There are several training courses currently made available for small businesses by the Office of the Commissioner for Equal Opportunity which address the issue of sexual harassment. The current training schedule indicates that in the period March—June

1999 there are 9 training courses being offered which deal with the issue of sexual harassment. The courses, which are offered in this way, are generic courses that offer a choice of detailed or more general coverage of sexual harassment issues. Such courses are available on a regular basis throughout the year.

In addition to these generic courses, the Office of the Commissioner for Equal Opportunity also offers training courses regarding sexual harassment issues that are tailored to the individual needs of a particular business, on request. This is often a more effective way in which to inform workplaces about sexual harassment issues, on both a costs basis and in terms of relevance.

The costs of such training varies from $95—$675 depending upon whether the training is provided to suit the particular needs of an individual business, and the length of the training session.

The Commissioner for Equal Opportunity is continuing in her attempts along with various business organisations to determine how the Office of the Commissioner for Equal Opportunity can best work with the small business community to minimise the exposure of small businesses to complaints of unlawful discrimination, harassment and victimisation.

RAW LOG EXPORT

In reply to **Hon. T.G. ROBERTS** (19 November).

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

1. Export specification sawlog from trees with visible defects is produced as a recovery cut from clearfelling and late thinning operations. It is acknowledged that a small percentage of log that could reasonably meet the accepted local industry standard slips through the log selection process and is delivered to Portland as part of the Radiata Export log allocation.

This is a contract supervision issue which is currently being addressed by ForestrySA. Logging Contractors involved in producing this log are being regularly checked to ensure that the inclusion of higher specification log is minimised.

2. Log selection and grading is carried out by the Logging Contractor's operators. The contractor endeavours to fill a volume quota which is set weekly on the basis of the estimated log grades that can be produced at each logging site. This includes estimates of recovery log from low quality trees. In some instances it is possible to produce a sawlog by docking out defects, but in doing so the log length is shorter than major customer requirements. These shorter logs are acceptable for export sale. For the small volume of higher value log which is allocated for export sale by this process, it is not practical or cost effective to inspect all logs delivered to Portland. The extent that this occurs is reduced by onsite supervision and contractor and operator training.

3. It is not possible to quantify revenue loss through the sale of a small quantity of sawlog that meets local industry standards but which has been included in the export quota.

It is expected that the costs of identifying and reassigning these logs would exceed the potential revenue gained. It should also be recognised that a small percentage of logs sold for export are outside the specification but accepted by the customer. These should be considered as offsetting, in part at least, the perceived loss of revenue at the quality end of the scale.

The current practice of thorough contractor supervision and operator training will be continued to improve log selection by contractors and their employees.

It should also be recognised that the sale of log to Radiata Exports realised approximately $400 000 in revenue per annum for log which is considered by local industry as low value, and for which currently supply exceeds demand.

SHOP TRADING HOURS

In reply to **Hon. M.J. ELLIOTT** (10 February).

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

In June 1995 the Government stated in a letter to the Small Retailers Association that its position was to give industry reasonable notice of any future trading hours changes of not less than 12 months, and that the extent of reasonable notice in any particular case would be referred to the Ministerial Advisory Committee for advice.

The Premier announced the review of the *Shop Trading Hours Act 1977* in Parliament on 17 March 1998. The industry has, therefore, been aware of impending changes in the area of trading hours for over 12 months.

The Minister for Government Enterprises held a meeting of the Retail Trade Advisory Committee on 18 February 1999 at which the subject of the date of implementation of the legislative changes was discussed. Opinions on this matter varied, with most supporting either 17 March 1999 (which is 12 months after the date of the Premier's announcement of the Review) or 8 June 1999 (which is 12 months after the ending of the three year moratorium agreed in 1995).

The Government announced on 23 March 1998 that the date of implementation of the changes would be 8 June 1999. In any case, the Government has abided by its agreement to give at least 12 months notice of changes.

TOURISM

In reply to **Hon. G. WEATHERILL** (5 August 1998).

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

1. It is important to note that economic and world issues have a significant effect on tourism performance, and consequently targets need to be constantly reviewed and revised to reflect the current situation.

The South Australian Tourism Commission's (SATC) Corporate and Marketing Plans state that the current targets for visitor nights to the year 2003 are as follows:

- 8 per cent growth from the international market.
- 2 per cent growth from the interstate market.
- 1 per cent growth from the intrastate market.

These South Australian targets are above the national Tourism Forecasting Council's forecast growth for these markets for Australia as a whole.

These targets were set in 1996/97 after a comprehensive 'Tourism Forecasting and Economic Impact Study' was undertaken by the South Australian Centre for Economic Studies, Griffith University Centre for Hotel Management and Coopers Lybrand.

Based on the most recently released data from the Bureau of Tourism Research, the following growth in visitor nights in South Australia has been achieved over the period June 1995 to June 1998 (International) and March 1998 (Domestic):

- Average 12 per cent growth from the international market.
- Average 6 per cent growth from the interstate market.
- Average 2 per cent growth from the intrastate market.

All results are greater than the national average for this period and demonstrate that South Australia performed better than anticipated over this period.

Should these positive growth trends continue, we will exceed the Corporate Plan's targets of an additional 700 000 visitors, an additional $560 million to GSP and 10 300 new jobs over ten years.

Accordingly, the Government stands by the growth targets as outlined in the South Australian Tourism Commission's Corporate and Marketing Plans, which were referred to by the former Minister in the Estimates Committee discussions.

2. There are no current figures available that provide a reasonable comparison of State tourism budgets. This is mainly due to the different ways in which the States deliver tourism, infrastructure and major events services, the different priorities given to tourism service components and different reporting procedures that are used.

The SATC's Domestic Marketing Campaign, which was launched on 8 September 1998, aims to increase the awareness of South Australia as a tourism destination and subsequently increase the number of visitors to the State. The distribution of *The Book of Best Kept Secrets* to 1.46 million households, cinema advertising and print and magazine advertising will provide a year-round presence in South Australia's key markets of New South Wales, Victoria and the ACT.

This campaign has been enormously successful in meeting its objectives. An example of this is the fact that brand awareness increased from 4 per cent to 19 per cent in Melbourne and 6 per cent to 23 per cent in Sydney in our target markets. Qualitative research undertaken by Roy Morgan research concluded that:

The *Book* was very successful in giving people a new view of South Australia and Adelaide… there were very few (people) who did not indicate they had changed their opinions in some way about South Australia as a tourism destination.

South Australia's tourism product does not generally enjoy the recognition level of major icons such as Sydney Harbour, Great

Barrier Reef and Ayers Rock. Accordingly, our tourism marketing activities now adopt a different strategic focus from other States:

- Firstly, raising awareness in our target markets (as outlined above); and
- Secondly, promoting specific reasons, such as major events, for the 'more aware' consumer to visit.

3. The 'Tourism Forecasting and Economic Impact Study' found that the return on marketing expenditure by the State Government is in order of 10:1, which is consistent with other studies conducted in Australia.

MOUNT SCHANK ABATTOIR

In reply to **Hon. T.G. ROBERTS** (8 December 1998).

The Hon. R.I. LUCAS: The Minister for Industry and Trade has provided the following information:

1. The amount of funding is Commercial in Confidence.
2. (a) The Government has no equity in the business
   (b) The assistance was provided in the form of an interest free loan.

DOCTORS, McLAREN VALE

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning, representing the Minister for Human Services, questions regarding the shortage of GPs in the McLaren Vale area.

Leave granted.

The Hon. T.G. CAMERON: A few years ago, 27 doctors worked in the McLaren Vale region, and that number has now dwindled to only 17. Of these, 12 are working full-time and eight are women with family responsibilities. Currently, only three doctors in the McLaren Vale region are available after hours, for a population of 36 000 people. These three doctors are obviously working very hard—in fact, too hard for the safety of both doctor and patient.

This problem was reflected in the Coroner's Court last month, which highlighted a case when a patient died because the out of hours locum took three hours to respond to the case and made a misdiagnosis after a 10 minute visit, which turned out to be his twenty-fifth visit that night.

As a result of the shortage of GPs to work after hours, the McLaren Vale Southern Districts War Memorial Hospital will close its after hours services as of 1 July this year. The hospital CEO claims that it will place pressure on an already overloaded Noarlunga Health Service and Flinders Medical Centre. As a result of GPs not being replaced in the Southern Vales region, Noarlunga's 24 hour service has risen by over 15 per cent, or 5 000 patients, in the past two years.

I add that I have a number of questions on notice dating back to February of this year in relation to the shortage of country doctors. It is now June and my office has not yet received a response. It would appear that this situation is not getting any better. I should also note that the southern suburbs are one of our fastest growing areas in Adelaide, with many young families. Does the Minister consider three GPs on call after hours for a population of 36 000 to be either safe or acceptable? Given that one patient has already died as a result of an overburdened and understaffed out of hours service, will the Minister undertake to immediately investigate the shortage of GPs in the McLaren Vale area, as well as the current level of funding for the staff at the Southern Districts War Memorial Hospital?

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

PUBLIC ASSETS

The Hon. P. HOLLOWAY: I ask the Treasurer: what is the current status of plans which were announced by the Olsen Government last year to conduct scoping studies into the possible sale of such bodies as the Motor Accident Commission and the Lotteries Commission? We already know about the Ports Corporation, but a number of other bodies were listed. Will the Treasurer indicate the current status of those studies?

The Hon. R.I. LUCAS: In relation to the TAB, Lotteries Commission and the Motor Accident Commission, my understanding of the position is that scoping studies have been conducted and that reports have been received, and they are currently being considered by Ministers and/or their advisers. No decisions, of course, have yet been taken in relation to any of those bodies. In terms of time frame, I really cannot help the honourable member. I would imagine that it would be as soon as possible, but I know in the case of the Motor Accident Commission that a fair degree of work still has to be done before the Government will be taking a final decision in relation to that matter. In relation to the TAB and Lotteries, there has been some public discussion but it will still be a little time before the Government will be in a position to indicate its position.

ATKINSON, Mr K.

The Hon. T.G. CAMERON: It is a pleasure to get the nod twice in the one question period.

The Hon. Carmel Zollo: Better not get used to it, I suspect.

The Hon. T.G. CAMERON: I am not sure whether it is because I am jumping up more quickly than usual or because there is a lack of questions here today that the President just happened to notice me twice on this occasion. I had better get on with my question, otherwise the President will sit me down. I seek leave to make a brief explanation before asking the Attorney-General questions about speed camera fines and treatment of members of the public by the police.

Leave granted.

The Hon. T.G. CAMERON: I seek the Council's indulgence because it will take me a couple of minutes to outline the details here. My office has recently been contacted by Mr Kevin Atkinson of Brahma Lodge regarding his recent ill treatment by the police. On Monday 5 April Mr Atkinson was pulled over by a police random breath testing unit. The test was found to be clear, but the officer decided to inspect Mr Atkinson's car and see his driver's licence. I applaud these actions by the police.

The officer checked the licence with the police car computer and informed Mr Atkinson that there was a warrant for his arrest and that, had it not been for the fact that Mr Atkinson's children were in the car, he would have been arrested on the spot. Mr Atkinson asked the officer what the warrant was for and was told that it was for a speeding offence committed in 1994 on Main South Road at Tonsley Park when he was caught by a speed camera. Mr Atkinson informed the officer that he had received no such notice to which the police officer replied that that was not his concern; that Mr Atkinson should report to a police station as soon as possible and that, if he did not, the police would come to his home and arrest him.

Mr Atkinson did as he was told and reported to a police station. Whilst there, he asked for details of the offence to

which he received no response or assistance. Mr Atkinson was told that he would have to go to the Magistrates Court in Angas Street and it would be sorted out there. Mr Atkinson took the following day off work at personal cost and went to the court as suggested. He was not given any further information other than what he already knew and that a warrant had been issued for his arrest. A court date was set for the charge to be heard. When Mr Atkinson attended the court hearing, the magistrate asked him his name and whether he had resided at an address in New South Wales. Mr Atkinson told the magistrate that he had lived at his current address since 1984 and that he had never set foot in New South Wales.

The magistrate then asked the prosecuting police officer, 'What should be done?' to which the prosecutor replied that the warrant would have to remain as they still needed to apprehend an 'Atkinson from New South Wales'. The magistrate then set another hearing date and told Mr Atkinson to sort it with the prosecutor. After his case had been heard, Mr Atkinson went to the offices in Wright Street, to which he had been directed by the Clerk of the Court, and was told to call back and talk to the officer in charge of the case, which Mr Atkinson did.

He was informed by Sergeant Peter Semple that he should forget about the matter and that he would hear no more about it. Mr Atkinson was obviously concerned on hearing this and asked that it be put in writing—which it was. I have a copy of that letter if the Attorney-General is interested. Mr Atkinson has received no apologies from the police over this incident; he has had to take time off work to sort the matter out; and he has informed our office that his children are now frightened at the sight of police officers. I have heard of cases similar to this before and it really is an absolute disgrace that a law-abiding citizen can be placed in this position and treated in such a manner. My questions are:

1. Is it standard operating procedure for police to treat people in such a cavalier manner, and does the Attorney-General consider it acceptable?

2. Why did the police not bother to check Mr Atkinson's registration or his address; why was he not given any information whatsoever at any time?

3. Will Mr Atkinson now receive an apology from the police?

4. Will the Attorney-General undertake to have this matter fully investigated to prevent similar incidents happening to other innocent members of the public in future?

The Hon. K.T. GRIFFIN: I do not believe it is the normal practice of police to treat citizens in a cavalier fashion, and I know that the Police Commissioner would be concerned to hear about incidents where that was, at least, the perception. I can undertake that I will follow up the matter raised by the honourable member. He knows that when these issues are raised with Government Ministers they will be followed up. I will undertake to follow it up, but if we need further information I presume the honourable member would be pleased to make that available. I will bring back a reply when the matter has been followed up.

EYESIGHT TESTING

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

The Hon. DIANA LAIDLAW:

1. The information provided to the honourable member, indicating that South Australia is the only State not to conduct mandatory eye sight tests at initial issue and renewal, is incomplete. In South Australia, an applicant for the issue of, or the holder of, a learner's permit or driver's licence, is required to have his or her eye sight tested in the following circumstances—

- if an applicant for the first issue of a learner's permit declares that he or she wears glasses or contact lenses, has undergone an eye operation, or lost sight in one eye;
- if the holder of a learner's permit or driver's licence subsequently loses the sight in one eye;
- on the initial application for Driver Accreditation (for driving passenger carrying vehicles for hire and reward), and every five years thereafter;
- where the licence holder is subject to periodic medical review (periods ranging from 1 to 5 years, depending on medical condition); and
- each year from age 70 years.

In other States and Territories, only New South Wales, Queensland and the Northern Territory conduct eye sight tests at initial issue and renewal.

In Victoria, Tasmania, Western Australia and the Australian Capital Territory, eye sight tests are only conducted at initial issue. They are not conducted at renewal, unless the licence holder is subject to periodic medical review. However, eye sight tests are required in the ACT at ages 50, 60, 65 and annually thereafter, in Tasmania annually from age 70 and in Western Australia annually from age 75.

2. and 3. As the honourable member is seeking information relating to the conduct of motor vehicle accident investigations by the South Australia Police, I have therefore referred these questions to the Minister for Police, Correctional Services and Emergency Services for consideration.

4. Although there has been little research in recent years into the effectiveness of vision testing for driver licensing, it has been known for a number of years that there is no substantial evidence of any relationship between vision defects and crashes, partly because current testing requirements preclude those applicants with unquestionably poor vision in the first place.

However, recent research suggests that some particular visual abilities, for example, night vision, may be related to crash risk, but these require specialised forms of testing, rather than a standard eye sight test. It has been suggested that defects in vision may be more effectively detected, not so much through stricter testing standards and requirements, but through clinical assessments where the medical practitioner or optometrist can select the most appropriate tests/assessments suited to the individual driver.

I am advised that a study conducted in 1991 by Lawrence Decina and Loren Staplin, concluded that 'Neither the visual acuity nor horizontal field measures in isolation were significantly related to crash involvement.'

Furthermore, research by Jacques Gresset and Francios Meyer in 1993 concluded that 'Drivers with a minimal visual acuity alone had the same risk of road accidents as other drivers'.

I am also advised that in New Zealand during 1995 there were eight reported crashes where defective vision was identified as a contributing factor. This amounted to 0.05 per cent of all crashes. This suggests that there is a relatively low incidence of crashes due to eye sight defects.

As the honourable member would be aware, the Motor Vehicles Act places a clear duty on qualified medical practitioners and registered optometrists to notify the Registrar if a person is unfit to drive. Therefore, if the Registrar is advised that a person does not meet the minimum eye sight standards, even if corrective lenses are worn, the Registrar will suspend the person's driver's licence.

It is considered that the system currently operating in South Australia is equal to, if not more successful in identifying risk, than the conventional 'one-size fits all' type of tests conducted by interstate counterparts.

Given the monitoring regimes in place for not only eye sight, but the general health of drivers that currently exists in South Australia, I do not consider that the introduction of mandatory eye sight tests for all drivers will contribute further to road safety.

MATTERS OF INTEREST

TUNA FACTORY DISCHARGE

The Hon. CAROLINE SCHAEFER: Last week, by way of her contribution to matters of interest, the Hon. Sandra Kanck raised the matter of a discharge of water coming from Tony's Tuna in Port Lincoln. I would like to quote from part of her speech, as follows:

I was particularly interested in discharge from a factory known as Tony's Tuna, with that discharge passing across another property and ultimately into Proper Bay. While I was at the site, over a period of about 20 minutes, there was a continuous discharge of water, which had a light film of oil on it on occasion.

She then went on at some length and, as I do not want to use my five minutes repeating her speech, I will continue with another part of her speech. She said:

I was given two jars with samples of water that were taken over the previous week. One was black and one was red—not normal colours of water. The black one smells vile. It smells like someone attempted to empty bilge pumps. The red one is, quite clearly, watered-down blood with some fish fragments in it. This is on council land, so the people using that land had contacted the health inspector at Port Lincoln Council, who was less than interested in the matter. It appears, at least up until the time I was there last week, that the council has failed to do anything about it.

She went on at some length. The inference from her speech is that, clearly, the samples of water referred to came from Tony's Tuna. I have been contacted by Tony's Tuna who are most upset by Ms Kanck's totally false and misleading statements under parliamentary privilege. Tony's Tuna exports over 2 000 tonnes of frozen tuna per year and is an important business to the economy of Port Lincoln. It employs 90 people in an area which is desperate for regional development.

At the time of Ms Kanck's accusations and at the time they were published in the local press, a Japanese trade delegation of tuna buyers was in the town—and you can imagine the effect of such a misleading statement on those traders, three of whom immediately complained to the proprietors of Tony's Tuna. Unlike Ms Kanck, I have checked my facts and Tony's Tuna complies with the Australian quarantine service requirements, one of which is that all process water goes to the sewer. The waste water plumbing was overhauled as recently as last year and the system has been inspected by both SA Water and the EPA. No processing water from Tony's Tuna flows into the sea or onto the next property: it all goes into the sewer.

The EPA is in frequent contact with Tony's Tuna as a result of the fact that the company has requested its advice to increase its degree of compliance since its major expansion last year. It is not under any suspicion whatsoever and, in fact, the EPA tells me that it has found the company to be most helpful. I find the fact that Ms Kanck has attacked this processor by implication, with no shred of evidence and under parliamentary privilege, to be reprehensible. I refer to an article in the Port Lincoln Times of 8 June where the Town Clerk, Mr Fred Pedler, states:

It is very disappointing that a senior member of Parliament would make a statement that is so factually wrong. . . Of our factories, this [Tony's Tuna] is the only one that is connected to the sewer. The Proper Bay factories are part of a partnership between the Port Lincoln City Council and SA Water to adhere to the 2001 deadline. . . No factory discharges into the stormwater and every factory has EPA approval.

The paper goes on to report the Tuna Boat Owners Association President, Brian Jeffriess, as follows:

We request that Ms Kanck repeat her allegations about Tony's Tuna outside Parliament so it can be tested.

The Hon. Ms Kanck should publicly apologise to Tony's Tuna. She should withdraw her remarks and/or take up Mr Brian Jeffriess' suggestion and make her accusations outside this place where she can be tested by law. I am sick and tired of people making allegations under parliamentary privilege that impinge on regional development and on development generally with not a shred of evidence to support their statements.

KURDISH COMMUNITY

The Hon. CARMEL ZOLLO: I rise to speak on behalf of the Kurdish community in South Australia. The struggle of the Kurdish people recently gained the attention of the world spotlight with the arrest and trial of Kurdish leader Abdullah Ocalan. Regrettably, much of the attention on the issue was on the irresponsible violent, destructive and spontaneous international protests that accompanied the abduction, arrest and detention of Mr Ocalan.

In Australia we also experience such isolated incidents—acts which are inconsistent with the attitudes and beliefs of most Australians. The Kurdish-Australian community, to its credit, did express its regret over what it called the 'excesses of a small minority', but for some the media images may linger. In contrast to that action in Sydney, the South Australian Kurdish community conducted peaceful protests without incident. They were joined in their protest by a wide cross-section of the community which included members of the Greek and Cypriot communities. As Australians, they justly voiced their beliefs and spoke against the ongoing violation of human rights and acts of injustice committed against the Kurdish people.

I recently met with a delegation from the Greco-Kurdish Friendship Group, which I understand also met with some of my colleagues. This meeting with Mr Rashid, Mr Naqishbandi and Dr Paul Toumazos gave me a better understanding of the struggle of the Kurdish people. They presented me with the resolutions of a meeting held on 24 February this year of over 100 Australian citizens of Greek and Kurdish origin. This meeting called on the Australian Government and the international community to promote discussion in the appropriate world forums and to ensure that international law, conventions and human rights are protected. It is a measure of the success of multiculturalism and democracy in this nation to see the Australian-Greek, Australian-Kurdish and Australian-Cypriot communities able to join peacefully in expressing their condemnation of the violation of human rights that is part of daily life for the border-divided Kurdish people.

There are some 32 million Kurds throughout the world who share a similar language, culture and religion. They have lived in the area that is now part of the modern states of Turkey, Iraq, Iran, Syria and the former USSR for countless centuries. After the fall of the Ottoman Empire the desire to create a Kurd state failed to materialise after the First World War. Instead, 15 million Kurds live within the borders of Turkey and make up about 25 per cent of the population. Many Kurd uprisings have been quashed. In 1984 the PKK (Kurdistan Workers Party) led the most recent uprising of the Kurds during which Turkey bombed or destroyed some 3 000 villages. This war produced some 2 million Kurdish refugees. Kurdish TV and radio are illegal in Turkey, Syria and Iran. The Kurdish language may not be taught in schools or used by retailers on signage or in advertising. In Turkey, Kurds may not use Kurdish names or practice Kurdish customs. The only Kurdish language European-based satellite broadcaster, MET TV, recently had its licence revoked.

The Kurds have been victims of chemical bombings with the systematic destruction of over 4 000 villages and violence by Saddam Hussein's Iraqi army. This has caused over

180 000 people to be killed and over 100 000 to disappear. Large numbers of Kurds are imprisoned in Turkey, Iran, Syria and Iraq where they are subjected to torture and abuse which has been documented by groups such as Amnesty International.

There are many figures in the struggle such as Nobel Prize nominee, Leyla Zana. In October 1991 she was the first Kurdish woman to be elected to the Kurdish Parliament. In defending the rights of the Kurds, she was arrested and convicted of treason by Turkish authorities. As a member of the Amnesty International parliamentary group I advise that this month Amnesty International has adopted Akin Birdal, President of the Turkish Human Rights Association, as prisoner of conscience to strongly condemn his imprisonment. Our own State parliamentary Amnesty group is happy to support the well-being of Kurds in Turkey.

Amnesty International has repeatedly denounced the practice of the oppression and suppression of the Kurdish people. I also raise Amnesty's denouncement of violent action employed against civilians by the PKK. All forms of violence must always be condemned. I urge members to consider the plight confronting the Kurdish people. They have been described as stateless, friendless and a persecuted people. It is time that the alienation and abuse of the Kurds ceased if we want to call ourselves a civilised world.

BELAIR NATIONAL PARK

The Hon. M.J. ELLIOTT: I rise today to speak about the State Flora Nursery in the Belair National Park. I was involved in an interview on radio, I think yesterday or the day before, during which the Minister for Primary Industries confirmed that not only is it on the sale block but that there are a number of interested buyers negotiating to buy right now. I am very concerned about this because it needs to be understood that the State Flora Nursery in Belair is no ordinary nursery. I know that pressure is coming from private nurseries which are complaining about competition, but it is in a different league.

It supplies plants that you cannot get anywhere else. Most nurseries concentrate on plants that are showy with bright flowers that are attractive because of their floral displays. Even when you go to those nurseries and buy Australian natives you are more likely to get colourful banksias from Western Australia or grevilleas with showy flowers and you are not likely to get many other plants that grow throughout South Australia and are not showy.

Most of the plants in my garden are native plants. As far as practicable I have endeavoured to plant not only Australian or South Australian natives but plants that have a seed source from the Adelaide Hills, close to where I live. I can go to that nursery and find out not only the species—and it has an incredible range—but in many cases the seed source and whether or not it is local. For instance, hardenbergia, which grows in the Adelaide Hills, also grows in the Flinders Ranges. It is important for some people trying to maintain biological integrity to get plants that are genetically from the same area.

It is important that people are endeavouring to do this sort of thing in their own gardens. If we take the Adelaide Plains as an example, where is its vegetation? The whole of the Adelaide Plains is now largely built upon. The only place that we can possibly try to restore some of the pre-existing vegetation is within the parks and gardens run by the Government and local government or in people's own yards. State Flora provides an important source of those sorts of plants.

I have visited native nurseries and I can assure members that they simply do not carry anything like the variety of this nursery. What I see the Belair nursery doing is providing a public service which is important for the environment of South Australia. I have no doubt that if it gets into private hands—and this is no criticism but an obvious fact—a private operator will want to maximise the profit; and, clearly, there is no profit or little profit in many of the plants that are currently carried. A private operator will immediately reduce the species range quite significantly and, I expect, will also start to carry non-endemic species such as proteas that some Australians think are Australian plants but are not.

The Hon. T.G. Cameron: Do they sell that wild orchid that was in the paper?

The Hon. M.J. ELLIOTT: I have never got orchids there, no.

The Hon. T.G. Cameron interjecting:

The Hon. M.J. ELLIOTT: Lucky you. Perhaps the Minister for Primary Industries does not have to wear an environmental hat and does not appreciate the important environmental role that the nursery plays. If the Minister for Primary Industries sees no value in the nursery, I would hope that he hands it over to the control of the Minister for the Environment, who should see the important role that is being carried out by the nursery. Selling off this park is an act of vandalism and I only hope that it is still not too late for the decision to be reversed.

ORGAN DONATION

The Hon. J.F. STEFANI: Today I wish to speak about organ donation and the work of the South Australian Organ Donation Agency and Australians Donate. In April this year I represented the Minister for Human Services, the Hon. Dean Brown, and attended the inaugural national forum on organ and tissue donation in Canberra, organised by Australians Donate. The forum was officially opened and chaired by His Excellency, the Governor of South Australia, Sir Eric Neal, who is also Chairman of the National Council of Australians Donate.

In attendance were invited speakers and delegates from around Australia and overseas, representing many highly skilled professionals working in the field of organ transplantation. Speakers from South Australia included Professor Geoffrey Dahlenburg, Director of the South Australian Organ Donation Agency; Mr Warwick Prime, CEO of the Australian Kidney Foundation; Ms Karen Herbertt, Operations Manager of the South Australian Organ Donation Agency; Associate Professor Timothy Mathew, Director of the Renal Unit, Queen Elizabeth Hospital; Dr Rob Young, Consultant of the Intensive Care Unit, Royal Adelaide Hospital and Director of the Critical Care Unit, St Andrews Hospital; and, Associate Professor Alnis Vedig, Director of the Critical Care Units at the Flinders Medical Centre, Repatriation General Hospital, Flinders Private Hospital and Ashford Community Hospital.

The Australian Health Ministers conference held in June 1995 supported the proposal advanced by the Hon. Dean Brown that South Australia should establish a pilot program for a national organ donation system in Australia. Following the conference, the South Australian Organ Donation Agency was established in July 1996. Prior to this date South

Australia already had the highest donor numbers in Australia, and since 1996 the South Australian performance has increased from a relatively high rate to an internationally comparable rate.

As a comparison, all other States have a much lower organ donor rate. In South Australia organ donations are on the increase compared to the rest of Australia. South Australia can be very proud of its high level of achievements in all areas of organ transplantation. The fact that we have the highest rate of organ donation in Australia is due to the excellent work undertaken by the intensive care and critical care units, as well as the highly skilled transplant teams working in our hospitals.

In South Australia the organ donation rate has risen from 14 donors per million of population in 1994 to 23 donors per million of population in 1998. It is particularly pleasing to underline the increase in renal transplantation, where the kidney waiting list has decreased by more than 15 per cent over the past 12 months. The waiting list is now the lowest it has been for 10 years. In South Australia, the Organ Donation Agency also provides a number of care and support programs for donor families. This is made possible by the provision of adequate staff and funding through the Department of Human Services. However, there is still room for improvement, and we need to keep looking at ways to increase the organ donation rate. Approximately 20 per cent of people waiting for a heart, liver or lung transplant die while waiting to receive an organ donation. The average waiting time for a renal transplant is one to three years.

Finally, I feel very privileged to have had the opportunity to attend the forum, which I found extremely interesting and most inspiring. My participation has given me a much greater appreciation of the aims, objectives and work undertaken by the Australians Donate organisation and the South Australian Organ Donation Agency, as well as the highly skilled organ transplant teams throughout Australia.

SOUTH AUSTRALIA FIRST

The Hon. T.G. CAMERON: SA First, South Australia's newest political Party, has completed its first 100 days, and I know that honourable members are keen to hear of its progress. The emergence of a new political Party in South Australia is a rare event indeed. SA First has risen out of the ashes of the internecine conflict that has paralysed politics in this State. These past three months have been eventful, to say the least, and today I intend to briefly report on the progress of SA First. SA First has 175 members and is growing by the day, especially over the past few days.

As a Party for all South Australians, the membership of SA First is as diverse as this State, with 40 per cent being women, 20 per cent from the country and 33 per cent under the age of 25 years. SA First branches are now operating in the north-eastern suburbs electorate of Wright, the southern suburbs seat of Bright, the central area of Adelaide, the western suburbs electorate of Spence, the northern suburbs seat of Napier and the South-East country electorate of MacKillop, and more branch openings are planned.

The second important occurrence over the past 100 days has been the establishment of our policy teams and the beginning of our policy process. Our policies will be drafted from the ground up, with SA First members involved in each step of the process. SA First held its inaugural policy forum on 12 May, and it was attended by more than 40 people. At that inaugural meeting members organised themselves into working groups, which will aim at producing core ideas for each policy area. SA First aims to have these policies fully drafted and available for review by the membership within 12 months. These policies will then be submitted to the Party State conference in August 2000.

I have stated many times before that there are a number of challenges that face SA First. We need to continue to expand our membership in order to be able to conduct a high quality campaign at the next State election in order to get SA First candidates elected to the Legislative Council and House of Assembly seats. We also need to draft policies that reflect the interests of the majority of the ordinary South Australians who now occupy the disfranchised middle ground of politics. Such policies will become the clearly articulated voice of SA First to the people of South Australia. These policies will tell the people of the State what SA First stands for and what they might reasonably expect from us.

However, there is also an important challenge that awaits the people of South Australia. To make the political process work for the people of South Australia, this State requires a legitimate democratic voice through which people can become involved. SA First clearly provides such a voice for the men, women and families who want to be heard above the din created by the squabbling cocks and hens in this and that other place. If people do not like what is happening here in South Australia, do not just complain—get involved. They need to make the political process work for them.

This is what SA First is all about: new ideas, new processes and new opportunities for people to be involved in developing policies that directly affect them. The time has passed for hackneyed ideas from the old Parties, wearied as they are from their years of internal division. I include the Democrats in that category now as well. It is time to face and implement the changes that need to occur in order to salvage this State from its parlous economic condition. It is time all members of our society were included in the debates on the issues that affect their daily lives. As Camus once said, 'Perhaps we cannot prevent this world from being a world in which children are tortured, but we can reduce the number of tortured children.'

SA First is well prepared to meet these challenges as it draws more and more South Australians into its fold and provides them with a strong voice through its robust policy process. Remember that the definition of 'democracy' is derived from the Greek words '*demos*', meaning 'the people' and '*kratos*' meaning 'strength'. SA First is just that—strength through the people. Change will occur only if South Australians work towards it. As we approach the next election, the people of South Australia will have to ask themselves this: do they have the courage to keep an open mind and judge SA First on its policies and candidates, or are they resigned to accepting more of the same?

PENSIONER CONCESSIONS

The Hon. R.D. LAWSON (Minister for Disability Services): I seek leave to make a brief ministerial statement on the subject of pensioner concessions.

Leave granted.

The Hon. R.D. LAWSON: On 9 February 1999, in answer to a question without notice from the Hon. Ian

Gilfillan, I provided details of the then current concessions offered to eligible pensioners. I stated that the concession on motor vehicle registration for a new four cylinder car was $47 per annum. The Minister for Transport and Urban Planning has advised me that my answer understates this concession and that a fairer description of it would be as set out in a table of a purely statistical nature which I seek leave to have inserted in *Hansard*.

Leave granted.

Holders of a Pensioner Concession Card	
$94 per year	4 cylinder motor car
$128 per year	6 cylinder motor car
$160 per year	8 cylinder motor car
$20 per year	trailer
$20 per year	caravan
Totally Permanently Incapacitated (TPI) pension recipients	
$105 per year	4 cylinder motor car
$151 per year	6 cylinder motor car
$193 per year	8 cylinder motor car
$20 per year	trailer
$20 per year	caravan

The Hon. R.D. LAWSON: In addition, the Minister for Transport and Urban Planning advised that holders of a pensioner concession card and TPI pensioners were entitled to a discount of $52.50 on the cost of a five year driver's licence.

It has also been drawn to my attention that my previous answer, which stated that persons holding a gold card or a pensioner concession card issued by the Department of Veterans Affairs are eligible for all concessions provided by the State Government, could be misleading. My statement should have indicated that the holder of a DVA gold card must also hold a pensioner concession card to access State concessions: I should have used the conjunctive 'and' and not the disjunctive 'or'. I apologise to the Council for this error, and I am pleased to take this opportunity to correct the record.

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

A quorum having been formed:

ELECTRICITY CORPORATIONS (RESTRUCTURE AND DISPOSAL) BILL

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

That the Clerk deliver a message on the Bill to the House of Assembly when the Council is not sitting.

Motion carried.

MUTUAL RECOGNITION (SOUTH AUSTRALIA) (CONTINUATION) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 2 June. Page 1298.)

The Hon. M.J. ELLIOTT: This is another of those Bills concerning which the Government has given us very short notice about wanting it processed. I make the same protest that I made regarding the financial institutions Bills that were dealt with a short while ago. From the brief consultations I have been able to carry out up to this point, I have found no groups who are expressing opposition to the Bill, but I will make a few observations about the whole concept of mutual recognition before this Bill passes.

I note that there was a review report on the operation of the Australian MRA. That report recommended that further reviews occur every five years, with the next review to take place in the year 2003 in conjunction with the first review of the Trans-Tasman Mutual Recognition Scheme. That is another matter on which legislation was passed in this place during the last session.

So, at a national level there is the intention to review the workings of mutual recognition every five years, but as a result of the amendments that we are making today in this Bill this Parliament will play no further role. What that means is that if it is perceived that there are problems with mutual recognition and if we want to do something about that in this State Parliament, we will have to get the approval of all other State Parliaments before we can. I think that is one of the unfortunate outcomes of the direction in which we are heading.

It seems to me that it might take some time before problems with mutual recognition finally start to flow through the system. Some exemptions have been granted in relation to mutual recognition: for instance, the right of some States to have Acts which control CFCs which affect the ozone layer, and South Australia's own container deposit legislation has been exempted under mutual recognition. However, the very existence of such exemptions reveals an underlying problem. It is true that from time to time a State may do something which other States have not yet done. It appears to me that, if we did not have container deposit legislation and wished to introduce it, mutual recognition would make that extraordinarily difficult.

We then have two conflicting arguments. First, there is the advantage that exists with all States operating under the same rules. I have no problems with an argument that says that, as far as is practicable, we should endeavour to do this, but whether or not you take that to the nth degree and not allow yourself any discretion to be different at all is quite another matter.

It is my view that much change has taken place in Australia because one State has done it and other States have progressively followed. If I move outside of the matters which, strictly speaking, are under the mutual recognition legislation, it was South Australia which granted women the right to vote. Then one other State followed, and then, because women had been granted the vote in South Australia, when Federation occurred women were granted the vote everywhere. But the point is that it occurred in one place first and others followed. We can see that, when I introduced the first CFC legislation in Australia, Tasmania introduced a Bill and, once they did it, South Australia followed and then, progressively, others followed. If we waited for action at a national level, in many cases we would still be waiting. It appears to me that there is a certain inertia and a certain conservatism and resistance to change at a national level.

People in perhaps the more conservative States like Queensland are desperate for things to be done nationally, because they feel that some things will never change. I think that they are wrong. The only way things will ever change in Queensland is if other States change first. I am concerned that in seeking to get uniformity around Australia, which is a good thing, we have almost conceded the right to be different in any way whatsoever. I gave examples such as the container deposit legislation, which would have been almost impossible to introduce if we were the first State and other States had to follow; and the CFC legislation is another area which has exemptions. There are a range of exemptions which different States currently have.

If you went back through history, you would find many pieces of legislation which one State had but which others

eventually adopted. Once they all adopt them, it no longer becomes a problem. We have entrenched an anti-change mindset into Australia by seeking mutual recognition in an exact form. Again, I am not opposed to the basic, underlying principles of it, but it is casting something of a suffocating blanket over the prospect of change. It will take another decade or so before we look back and say, 'Perhaps we should have allowed one more degree of freedom to the States than we did in mutual recognition.'

The Hon. T.G. CAMERON: SA First supports the extension of the sunset clause to the Bill. We would have welcomed more notice to consider it, but at the end of the day I suspect that everyone will support it anyway.

The Hon. K.T. GRIFFIN (Attorney-General): I thank members for their indication of support for the Bill, which essentially removes the sunset clause. I note the Hon. Mr Elliott's remarks. Mutual recognition is something of a vexed issue. I can remember raising similar sorts of issues before we got into Government in 1993 when the Bill was first before the Parliament. It was one of the reasons why we wanted to put the sunset clause into the Bill, and it did ultimately get into the principal Act.

As I pointed out then, a number of technical issues had to be addressed in relation to the principal Act. Some issues still need to be addressed in relation to the Act but, overall, it does not seem to have been that stifling blanket for change to which the Hon. Mr Elliott has referred. It may be that it is too short a period since it came into operation, and perhaps we will look back in 10 years and question some aspects of it. But, so far, it does not appear to have had the sorts of consequences which have been predicted for it. That does not mean that we should not continue to review it. That was one of the important aspects of the sunset clause: that in fact we did have to apply our minds to review its operation.

I do notice in my own area, particularly in relation to occupational licensing, that it does have some generally beneficial impact, although there are stillconstraints, particularly where a jurisdiction does not have a licensing or regulatory regime, and tradespersons coming from another jurisdiction where there is regulation do have some difficulty from time to time—and vice versa.

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

STAMP DUTIES (CONVEYANCE RATES) AMENDMENT BILL

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

STATUTES AMENDMENT (FINANCIAL INSTITUTIONS) BILL

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

ROAD TRAFFIC (DRIVING HOURS) AMENDMENT BILL

Returned from the House of Assembly without amendment.

[Sitting suspended from 6.15 to 8.30 p.m.]

STAMP DUTIES (CONVEYANCE RATES) AMENDMENT BILL

Second reading.

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

To assist the Government to meet its budgetary objectives, stamp duty rates on high valued property are to be increased. Stamp duty rates on high valued conveyances were last increased in 1992-93 when a marginal rate of 4.5 per cent was introduced for that part of property value in excess of $1 million.

As part of the 1999-2000 Budget, the marginal rate of duty that applies to property value between $500 000 and $1 million will increase from 4 per cent to 4.5 per cent; that part of property value in excess of $1 million will attract a marginal rate of 5 per cent instead of 4.5 per cent.

The new rates will apply to documents lodged for stamping on or after the date of assent of the amended legislation, except for documents relating to written agreements entered into prior to the Budget announcement on 27 May 1999; these documents will continue to be taxed at the old rates. The revised rate structure is estimated to raise $7.5 million in 1999-2000 and $8.1 million in a full year.

The increased rates of duty will impact predominantly on commercial property transfers; very few residential contracts will be affected given that the increases apply to dutiable value in excess of $500 000.

Stamp duty payable on $1 million properties will continue to be lower in South Australia relative to Victoria, Western Australia and the Northern Territory. For property values of $5 million and above, stamp duty payable will continue to be lower in South Australia relative to New South Wales, Victoria, and the two Territories.

The measure will also effectively be time limited. As part of National Tax Reform, stamp duty on non-residential conveyances is to be abolished. The date of abolition will depend on the speed with which the new funding arrangements generate additional funds to provide the State with the financial capacity to repeal stamp duty on non-residential conveyances. On current estimates, a likely repeal date is 2005-06.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Amendment of schedule 2

This clause revises the rates of duty chargeable on conveyances with a value exceeding $500 000.

Clause 3: Application of amendments

The amendments will apply to instruments first lodged for stamping on or after the commencement of this measure. However, the amendments will not apply to an instrument if the Commissioner is satisfied that the instrument gives effect to a written agreement entered into before 27 May 1999.

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

STATUTES AMENDMENT (FINANCIAL INSTITUTIONS) BILL

Second reading.

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

The *Statutes Amendment (Financial Institutions) Bill 1999* amends the *Stamp Duties Act 1923* the *Debits Tax Act 1994* and the *Financial Institutions Duty Act 1983* to ensure that cheque duty,

debits tax and financial institutions duty continue to be collected in accordance with the current revenue base.

The amendments arise as a result of changes to the Commonwealth provisions relating to the issue of cheques. The *Cheques and Payment Orders Amendment Act 1998* (Cth) amends the *Cheques and Payment Orders Act 1986* (Cth) to encourage competition of financial services to the community by allowing credit unions and building societies and their industry Special Service Providers ("SSP's") to issue cheques in their own name. Customers of credit unions and building societies will be able to draw cheques on their own financial institution, or on their institution's SSP, instead of drawing cheques on a bank through agency arrangements, as is currently the case. The Commonwealth amending Act came into operation on 1 December 1998.

The Commonwealth reforms are designed, *inter alia*, to remove the ambiguity in respect of agency cheques which have two institutions represented on a cheque, and thereby making it clear to customers which financial institution stands behind the cheque. These measures provide customers with a greater freedom of choice in choosing a financial institution, in that the products to be offered by building societies and credit unions will now be more comparable with those offered by banks. As such, the reforms reflect the Commonwealth Government's commitment to encouraging competition in the provision of financial services to the community.

As these State Acts are to be 'opened up' to enable amendments to be made as a result of the Commonwealth initiatives, it is also proposed that the opportunity be taken to clarify exemptions currently provided in the *Debits Tax Act 1994* and the *Financial Institution Duty Act 1983* for reversing entries made to correct an error or to effect the dishonouring of a cheque. These proposed measures do not expand the current exemptions but provide clarification of the operation of the existing exemptions and ensure that duty is not payable on these types of transactions.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Interpretation

This clause explains the meaning of references to "the principal Act" in later clauses.

Clause 4: Amendment of s. 3—Definitions

This clause amends section 3 of the *Debits Tax Act 1994*. These amendments are consequential on amendment of the *Cheques and Payment Orders Act 1986* of the Commonwealth (now renamed the *Cheques Act 1986*). In the future the principal Act will not distinguish between banks and other financial institutions. Accordingly the definition of "bank" and references to "bank" are removed. Because of the Commonwealth amendments provisions relating to payment orders are no longer required and the definition of "payment order" and references to payment orders are also removed. Paragraph *(g)* clarifies the meaning of "reversing a credit" referred to in existing paragraph *(a)* of the definition of "exempt debit".

Clause 5: Amendment of s. 8—Imposition of tax

This clause amends section 8 of the *Debits Tax Act 1994*. These amendments are made for the same consequential purposes as the amendments made by clause 4.

Clause 6: Amendment of s. 3—Interpretation

This clause replaces the definition of "bank" in the *Financial Institutions Duty Act 1983* with a definition of "ADI"—an authorised deposit-taking institution within the meaning of the Commonwealth *Banking Act*. The definition of "financial institution" is amended to make it clear that it does not cover the Reserve Bank.

Clause 7: Amendment of s. 7—Definition of dutiable and non-dutiable receipts

This clause amends section 7 of the *Financial Institutions Duty Act 1983*. The amendments—

- make alterations flowing from the fact that there will be no distinction in the future between banks, building societies and credit unions in relation to the processing of cheques; and
- add a new paragraph to section 7(2) dealing with receipts of money in respect of a cheque that is subsequently dishonoured or on which payment is stopped; and
- convert references to banks, building societies and credit unions to references to ADIs.

Clause 8: Amendment of s. 8—Short-term dealings

Clause 9: Amendment of s. 31—Special bank accounts of non-ADI financial institutions

Clause 10: Amendment of s. 32—Short-term dealing account of registered short-term money market operator

Clause 11: Amendment of s. 33—Sweeping accounts

Clause 12: Amendment of s. 34—Other special accounts

Clause 13: Amendment of s. 35—Government Department Account

Clause 14: Amendment of s. 63—Applications by financial institutions to pay receipts to the credit of non-exempt ADI accounts

These clauses make technical amendments to the *Financial Institutions Duty Act 1983* converting references to banks or to banks, building societies and credit unions to references to ADIs.

Clause 15: Insertion of Schedule

This clause inserts a transitional schedule that provides for the retrospective operation of regulations that are consequential on amendments made by this Bill or by the Commonwealth amending Act.

Clause 16: Amendment of s. 2—Interpretation

This clause contains a technical amendment to section 2 of the *Stamp Duties Act 1923*. The definition of savings bank is removed because that expression is no longer used in the Act.

Clause 17: Amendment of s. 7—Distribution of stamps, commission, etc.

Clause 18: Amendment of s. 43—Interpretation

These clauses make consequential changes to sections 7 and 43 of the *Stamp Duties Act 1923*.

Clause 19: Amendment of s. 44—Duty on cheques and cheque forms

Clause 20: Amendment of s. 45—Duty not to be chargeable after certain date

Clause 21: Amendment of s. 46—Power to make regulations

These clauses make consequential amendments to sections 44, 45 and 46 of the *Stamp Duties Act 1923*.

Clause 22: Amendment of Schedule 2

This clause inserts a transitional schedule that provides for the retrospective operation of regulations that are consequential on amendments made by this Bill or by the Commonwealth amending Act.

Clause 23: Insertion of schedule

This clause makes consequential changes to Schedule 2 of the *Stamp Duties Act 1923*.

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

SITTINGS AND BUSINESS

The Hon. R.I. LUCAS (Treasurer): As I understand it, our learned Lower House colleagues are currently engaged in vigorous debate on the electricity legislation. I am informed by my colleagues of an alternative persuasion, that is, of the alternative Government variety, that they anticipate concluding the debate before 11 o'clock or 12 o'clock this evening, although originally they did tell me 10 o'clock but I did not believe that. On that basis, it is the Government's intention to suspend the sitting of the Council until the House of Assembly concludes its work and then, hopefully, we can undertake the next stage of processing the amendments, if any are returned to the Council.

[Sitting suspended from 8.34 p.m. to 1.59 a.m.]

ELECTRICITY CORPORATIONS (RESTRUCTURING AND DISPOSAL) BILL

The House of Assembly agreed to amendments Nos 1 to 30, 32 to 43, 45 and 47 to 56 made by the Legislative Council without any amendment; agreed to the suggested amendments; and agreed to amendments Nos 31, 44, 46 and 57 with the following amendments:

No. 31. Page 8—After line 30 insert new clauses 11A. to 11E. as follow:

Disposal of electricity assets and limitations on disposal

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

(a) sell or transfer prescribed electricity assets; or

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

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

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

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

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

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

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

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

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

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

(e) grant to the purchaser a lease, easement or other rights in respect of assets of or available to a State-owned company;

(f) transfer to the purchaser assets or liabilities (or both) that have been acquired by a Minister, any instrumentality of the Crown or a statutory corporation under this Act;

(g) grant to the purchaser a lease, easement or other rights in respect of assets that have been acquired by a Minister, any instrumentality of the Crown or a statutory corporation under this Act.

(4) A lease is an unauthorised lease for the purposes of this section only if—

(a) it confers a right to the use or possession of prescribed electricity assets for a term extending to a time, or commencing, more than 25 years after the making of the lease; and

(b) the exercise of the right is not expressed in the lease to be conditional on approval of the right by a resolution passed by each House of Parliament in accordance with this section.

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

(6) Subsections (1) and (2) do not apply to—

(a) the sale or transfer of prescribed electricity assets, or interests or rights under a lease in respect of prescribed electricity assets, to the Crown, an instrumentality of the Crown or a statutory corporation;

(b) the granting of a lease in respect of prescribed electricity assets to the Crown, an instrumentality of the Crown or a statutory corporation;

(c) the issuing, sale or transfer of shares to an instrumentality of the Crown or a statutory corporation;

(d) the sale or disposal of prescribed electricity assets in the ordinary course of the maintenance, repair, replacement or upgrading of equipment;

(e) the exercise by a person other than the Crown, an instrumentality of the Crown or a statutory corporation of a right under an instrument executed before 17 November 1998;

(f) the performance by the Crown, an instrumentality of the Crown or a statutory corporation of an obligation under an instrument executed before 17 November 1998.

(7) Subject to subsection (8), the following provisions must be complied with in relation to the approval of a right of a kind referred to in subsection (4)(a) by a resolution of each House of Parliament:

(a) the resolution may relate to rights of that kind conferred by more than one lease; and

(b) no more than one resolution approving rights of that kind may be passed; and

(c) if a motion of a Minister for a resolution approving rights of that kind has been defeated, no further motion may be moved for such a resolution; and

(d) the resolution must be passed—

(i) after the return of the writs for the first general election of the members of the House of Assembly that occurs after the commencement of this section; and

(ii) not later than five years after the first lease conferring a right of that kind was made; and

(e) each lease to which the resolution relates, and a prescribed report relating to that lease, must have been laid before each House of Parliament—

(i) not later than 14 sitting days after the end of two years from the date on which the first lease conferring a right of that kind was made; or

(ii) if, before the end of the period referred to in subparagraph (i), sale/lease agreements have been made providing for the disposal of all prescribed electricity assets of or available to an electricity corporation, State-owned company, Minister or any instrumentality of the Crown or statutory corporation (whether by the granting of a lease or the disposal of shares)—not later than 14 sitting days after the date on which the last such sale/lease agreement was made.

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

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

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

(11) In this section—

'prescribed company' means a company any of the shares in which are owned by an instrumentality of the Crown or a statutory corporation other than as a passive investment only;

'prescribed electricity assets' means any of the following situated in South Australia:

(a) electricity generating plant (other than plant with a generating capacity of less than 10 MW);

(b) powerlines (within the meaning of the Electricity Act 1996);

(c) substations for converting, transforming or controlling electricity;

(d) land on or under which infrastructure of a kind referred to in paragraph (a), (b) or (c) is situated,

but does not include anything excluded from the ambit of the definition by resolution passed by each House of Parliament;

'prescribed report', in relation to a lease, means a report prepared at the request of the Minister—

(a) giving a true and fair assessment, in present value terms, of both of the following:

(i) the total amount paid or to be paid to the State under or in connection with the lease and any related transactions;

(ii) the total amount that would be repaid or foregone by the State if a resolution were not passed approving any right of

a kind referred to in subsection (4)(a) conferred by the lease; and

(b) setting out the information and assumptions on which the assessments are based;

'right' includes a contingent or future right.

Provisions relating to sale/lease agreements

11B. (1) If—

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

(b) the Minister, by a sale/lease agreement, transfers part of the infrastructure, or grants a lease or other rights in respect of part of the infrastructure, to a purchaser,

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

(2) A sale/lease agreement may transfer assets or liabilities (or both) to a State-owned company, Minister, electricity corporation or any instrumentality of the Crown or statutory corporation, or the Crown, with effect at the end of the term of a lease (whether granted by the agreement, a transfer order or otherwise) or in specified circumstances.

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

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

(5) The transfer of a liability by a sale/lease agreement operates to discharge the transferor and the Crown from the liability.

(6) Unless the sale/lease agreement otherwise provides—

(a) the transfer of an asset by a sale/lease agreement operates to discharge the asset from any trust in favour of the Crown;

(b) the transfer of the shares in an electricity corporation or State-owned company by a sale/lease agreement operates to discharge the assets of the company from any trust in favour of the Crown.

(7) If a sale/lease agreement so provides—

(a) a security to which a transferred asset is subject ceases to apply to the asset on its transfer by the sale/lease agreement;

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

(8) A sale/lease agreement may provide that instruments identified in the agreement, or to be identified as provided in the agreement, are to be transferred instruments.

(9) If an instrument is identified in, or under, a sale/lease agreement as a transferred instrument, the instrument operates, as from a date specified in the agreement, subject to any modifications specified in the agreement.

Subcontracting performance of obligations to purchasers

11C. Despite any other law or instrument, an electricity corporation or State-owned company may, if authorised to do so by the Minister, subcontract to a purchaser under a sale/lease agreement the performance of all or part of the electricity corporation's or State-owned company's obligations under a contract.

Special orders

11D. (1) The Minister may, by order in writing (a special order), transfer assets or liabilities (or both) of the purchaser under a sale/lease agreement to another body or bodies.

(2) A special order may only be made at the request of the purchaser made within 12 months of the date of the sale/lease agreement and with the consent of the other body or bodies.

(3) Only one special order may be made at the request of the same purchaser.

(4) In exercising powers under this section in relation to assets or liabilities of the purchaser, the Minister is to be taken to be acting as the agent of the purchaser.

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

(6) A special order effects the transfer and vesting of an asset or liability in accordance with its terms by force of this Act and despite the provisions of any other law or instrument.

(7) A special order may provide that instruments identified in the order, or to be identified as provided in the order, are to be transferred instruments.

(8) If an instrument is identified in, or under, a special order as a transferred instrument, the instrument operates, as from a date specified in the order, subject to any modifications specified in the order.

Terms of leases and related instruments

11E. (1) The Minister is to endeavour to ensure that a prescribed long term lease in respect of prescribed electricity assets or a related instrument contains terms under which—

(a) the lessee's right or option to renew or extend the lease must be exercised not less than five years before the commencement of the term of that renewal or extension; and

(b) the risk of non-payment of rent (including amounts to be paid on the exercise of a right or option to renew or extend the lease) is addressed at the commencement of the lease by the provision of adequate security or other means; and

(c) the lessee must provide adequate security in respect of compliance with requirements as to the condition of the leased assets at the expiration or earlier termination of the lease; and

(d) the lessor accepts no liability for, and provides no warranty or indemnity as to, a consequence arising from—

(i) the lessee's use of the leased assets in trade or business; or

(ii) pool prices in the National Electricity Market or a similar or derivative market relating to the supply of electricity; or

(iii) competition between participants in the National Electricity Market or a similar or derivative market relating to the supply of electricity; or

(iv) regulatory change in the electricity supply industry; and

(e) the lessee must indemnify the lessor for any liability of the lessor to a third party arising from the lessee's use or possession of the leased assets; and

(f) the lessee must have adequate insurance against risks arising from the use or possession of the leased assets; and

(g) the lessee must ensure compliance with all regulatory requirements applicable to the use or possession of the leased assets; and

(h) the lessor is entitled to terminate the lease if a breach of the lessee's obligations of any of the following kinds, or any other serious breach, remains unremedied after reasonable notice:

(i) failure to obtain or retain—

(A) a licence or registration required for the use of the leased assets for their intended purpose in the electricity supply industry under the Electricity Act 1996 or the National Electricity (South Australia) Law; or

(B) a similar licence, registration or other authority required under subsequent legislation;

(ii) non-payment of rent;

(iii) substantial cessation of use of the leased assets for their intended purpose in the electricity supply industry; and

(i) the lessor has a right or option, at the expiration or earlier termination of the lease, to acquire assets that form part of the business involved in the use of the leased assets for their intended purpose in the electricity supply industry.

(2) If a prescribed long term lease is granted in respect of prescribed electricity assets and the lease and prescribed report relating to the lease are laid before a House of Parliament in accordance with section 11A, a report stating the extent to which

the lease complies with the requirements set out in subsection (1) and giving reasons for any non-compliance must be laid before that House of Parliament at the same time.

(3) Non-compliance with this section does not affect the validity of a prescribed long term lease.

(4) A provision included in a prescribed lease or related instrument that deals with—

(a) the circumstances or conditions under which the lease may be terminated by the lessor or lessee; or

(b) the application of a security provided in relation to the lease; or

(c) the pre-payment of amounts payable by way of rent under the lease and the retention of such amounts by the lessor; or

(d) the continuance of the lease despite the occurrence of unintended or unforeseen circumstances; or

(e) the continuance of the obligation to pay rent despite the occurrence of unintended or unforeseen circumstances; or

(f) the amount payable in consequence of a breach of the lease; or

(g) the liability of the lessor in relation to the leased assets,

will have effect according to its terms and despite any law or rule to the contrary.

(5) In this section—

'electricity supply industry' means the industry involved in the generation, transmission, distribution, supply or sale of electricity;

'National Electricity Market' means the market regulated by the National Electricity Law;

'prescribed company' has the same meaning as in section 11A;

'prescribed electricity assets' has the same meaning as in section 11A;

'prescribed lease' means—

(a) a lease granted by a sale/lease agreement; or

(b) a lease granted by a transfer order the lessee under which is, or was when the lease was granted, a prescribed company or subsidiary of a prescribed company or any instrumentality of the Crown or a statutory corporation;

'prescribed long term lease' means a prescribed lease that confers a right to the use or possession of the assets for a term extending to a time, or commencing, more than 25 years after the making of the lease;

'right' has the same meaning as in section 11A.

House of Assembly's amendments thereto;

In new Clause 11A—

Leave out subclauses (1) and (2) and insert:

(1) The Crown, an instrumentality of the Crown or a statutory corporation must not sell or transfer prescribed electricity assets.

(2) If a prescribed company or a subsidiary of a prescribed company owns prescribed electricity assets, shares in the prescribed company—

(a) must not be issued; or

(b) if owned by an instrumentality of the Crown or a statutory corporation—must not be sold or transferred.

Leave out subclauses (4) and (5).

Leave out from paragraph (a) of subclause (6) ', or interests or rights under a lease in respect of prescribed electricity assets,'.

Leave out paragraph (b) of subclause (6).

Leave out subclauses (7), (8), (9) and (10) and insert:

(7) The Minister must cause a copy of each relevant long term lease, and a prescribed report relating to the lease, to be laid before each House of Parliament—

(a) not later than 14 sitting days after the end of two years from the date on which the first relevant long term lease was made; or

(b) if, before the end of the period referred to in paragraph (a), sale/lease agreements have been made providing for the disposal of all prescribed electricity assets of or available to an electricity corporation, State-owned company, Minister or any instrumentality of the Crown or statutory corporation (whether by the granting of a lease or the disposal of shares)—not later than 14 sitting days after the date on which the last such sale/lease agreement was made.

Leave out the definition of 'prescribed report' from subclause (11) and insert:

'prescribed report', in relation to a relevant long term lease, means a report prepared at the request of the Minister—

(a) summarising the principal features of the lease and any related sale/lease agreement or other transaction; and

(b) stating, in present value terms, the total amount paid or to be paid to the State under or in connection with the lease and any related sale/lease agreement or other transaction;

'relevant lease' means—

(a) a lease granted by a sale/lease agreement; or

(b) a lease granted by a transfer order the lessee under which is a company that has been acquired by a purchaser under a sale/lease agreement;

'relevant long term lease' means a relevant lease that confers a right to the use or possession of the assets for a term extending to a time, or commencing, more than 25 years after the making of the lease;

Legislative Council's amendment:

No. 44. Page 10 (clause 15)—After line 29 insert the following:

(e) in payment to an account at the Treasury to be used—

(i) to the extent of an amount not exceeding $150 million for the purposes of—

(A) contributing to the costs of employment training programs and programs to assist the establishment, restructuring or expansion of industry in the State;

(B) contributing to infrastructure costs associated with a railway link from the State to Darwin; and

(ii) for the purpose of retiring State debt.

(1aa) Subparagraph (i) of subsection (1)(e) expires 12 months after sale/lease agreements have been made providing for the disposal of all prescribed electricity assets of or available to an electricity corporation, State-owned company, Minister or any instrumentality of the Crown or statutory corporation (whether by the granting of a lease or the disposal of shares).

House of Assembly's amendments thereto;

Leave out subparagraph (i) of paragraph (e).

Leave out subclause (1aa).

Legislative Council's amendment:

No. 46. Page 11—After line 16 insert new clauses as follow:

Auditor-General's report on relevant long term leases

15AA. (1) The Auditor-General must be provided with a copy of each relevant long term lease within the period of seven days after the prescribed date.

(2) The Auditor-General must, within the period of six months after the prescribed date, examine each relevant long term lease that has been provided under subsection (1) and any related transactions and prepare a report on—

(a) the proportion of the proceeds of the leases used to retire State debt; and

(b) the amount of interest on State debt saved as a result of the application of those proceeds.

(3) Section 34 of the Public Finance and Audit Act 1987 applies to the examination of a lease and any related transactions by the Auditor-General under this section.

(4) The Auditor-General must deliver copies of a report prepared under this section to the President of the Legislative Council and the Speaker of the House of Assembly.

(5) The President of the Legislative Council and the Speaker of the House of Assembly must not later than the first sitting day after receiving a report under this section, lay copies of the report before their respective Houses of Parliament.

(6) If a report has been prepared under this section but copies have not been laid before both Houses of Parliament when a writ for a general election of the members of the House of Assembly is issued, the Auditor-General must cause the report to be published.

(7) In this section—

'prescribed date' means the earlier of the following:

(a) if sale/lease agreements have been made providing for the disposal of all prescribed electricity assets of or available to an electricity corporation, State-owned company, Minister or any instrumentality of the Crown or statutory corporation (whether by the granting of a lease or the disposal of shares)—the date on which the last such sale/lease agreement was made; or

(b) the second anniversary of the date on which the first relevant long term lease was granted;

'prescribed electricity assets' has the same meaning as in section 11A;

'relevant lease' means—

(a) a lease granted by a sale/lease agreement; or

(b) a lease granted by a transfer order the lessee under which is a company that has been acquired by a purchaser under a sale/lease agreement;

'relevant long term lease' means a relevant lease in respect of prescribed electricity assets that confers a right to the use or possession of the assets for a term extending to a time, or commencing, more than 25 years after the making of the lease;

'right' has the same meaning as in section 11A.

PART 3A
STAFF

Transfer of staff

15A. (1) Action must be taken to ensure that all employees engaged in a business to which a sale/lease agreement relates are taken over as employees of the purchaser, a company related to the purchaser or the company acquired by the purchaser under the sale/lease agreement.

(2) For the purposes of this section, the Minister may, by order in writing (an employee transfer order)—

(a) transfer employees of an electricity corporation to positions in the employment of a State-owned company;

(b) transfer back to an electricity corporation an employee transferred to the employment of a State-owned company;

(c) transfer employees of an electricity corporation to positions in the employment of a purchaser under a sale/lease agreement or a company related to the purchaser;

(d) transfer employees of a State-owned company to positions in the employment of a purchaser under a sale/lease agreement or a company related to the purchaser.

(3) An employee transfer order takes effect on the date of the order or on a later date specified in the order.

(4) An employee transfer order may be varied or revoked by the Minister by further order in writing made before the order takes effect.

(5) An employee transfer order has effect by force of this Act and despite the provisions of any other law or instrument.

(6) A transfer under this section does not—

(a) affect the employee's remuneration; or

(b) interrupt continuity of service; or

(c) constitute a retrenchment or redundancy.

(7) Except with the employee's consent, a transfer under this section must not involve—

(a) any reduction in the employee's status; or

(b) any change in the employee's duties that would be unreasonable having regard to the employee's skills, ability and experience.

(8) However, an employee's status is not reduced by—

(a) a reduction of the scope of the business operations for which the employee is responsible; or

(b) a reduction in the number of employees under the employee's supervision or management,

if the employee's functions in their general nature remain the same as, or similar to, the employee's functions before the transfer.

(9) An employee's terms and conditions of employment are subject to variation after the transfer in the same way as before the transfer.

(10) A person whose employment is transferred from one body (the former employer) to another (the new employer) under this section is taken to have accrued as an employee of the new employer an entitlement to annual leave, sick leave and long service leave that is equivalent to the entitlements that the person had accrued, immediately before the transfer took effect, as an employee of the former employer.

(11) A transfer under this section does not give rise to any remedy or entitlement arising from the cessation or change of employment.

(12) For the purposes of construing a contract applicable to a person whose employment is transferred under this section, a reference to the former employer is to be construed as a reference to the new employer.

(13) A company and a purchaser are related for the purposes of this section if they are related bodies corporate within the meaning of the Corporations Law.

Separation packages and offers of alternative public sector employment

15B. (1) Subject to this section, any action that a private sector employer takes from time to time as a consequence of a transferred employee's position being identified as surplus to the employer's requirements must consist of or include an offer of a separation package that complies with this section.

(2) If a private sector employer makes an offer to a transferred employee under subsection (1) after the end of the employee's first two years after becoming a transferred employee, an offer must also be made to the employee of public sector employment with a rate of pay that is at least equivalent to the rate of pay of the employee's position immediately before the employee's relocation to public sector employment.

(3) A transferred employee who is made an offer of a separation package under subsection (1) must be allowed—

(a) if an offer of public sector employment is also made under subsection (2)—at least one month from the date of the offer of public sector employment to accept either of the offers;

(b) in any other case—at least one month to accept the offer.

(4) If a transferred employee has been offered both a separation package and public sector employment under this section and has failed to accept either offer within the period allowed, the employee is taken to have accepted the offer of a separation package.

(5) The employment of a transferred employee may not be terminated as a consequence of the employee's position being identified, within the employee's first two years after becoming a transferred employee, as surplus to a private sector employer's requirements unless the employee has accepted (or is taken to have accepted) an offer under this section or otherwise agreed to the termination.

(6) A separation package offered to a transferred employee under this section must include an offer of a payment of an amount not less than the lesser of the following:

(a) (8 + 3CYS)WP;

(b) 104WP,

where—

CYS is the number of the employee's continuous years of service in relevant employment determined in the manner fixed by the Minister by order in writing; and

WP is the employee's weekly rate of pay determined in the manner fixed by the Minister by order in writing.

(7) An order of the Minister—

(a) may make different provision in relation to the determination of an employee's continuous years of service or weekly rate of pay according to whether the relevant employment was full-time or part-time, included periods of leave without pay or was affected by other factors; and

(b) may be varied by the Minister by further order in writing made before any employee becomes a transferred employee; and

(c) must be published in the Gazette.

(8) A person who relocates to public sector employment as a result of acceptance of an offer under this section is taken to have accrued as an employee in public sector employment an entitlement to annual leave, sick leave and long service leave that is equivalent to the entitlements that the person had accrued, immediately before the relocation, as an employee of the private sector employer.

(9) It is a condition of an offer of a separation package or public sector employment under this section that the employee waives any right to compensation or any payment arising from the cessation or change of employment, other than the right to superannuation payments or other payments to which the employee would be entitled on resignation assuming that the employee were not surplus to the employer's requirements.

(10) If an employee is relocated to public sector employment as a result of acceptance of an offer under this section—

(a) the employee may not be retrenched from public sector employment; and

(b) the employee's rate of pay in public sector employment may not be reduced except for proper cause associated with the employee's conduct or physical or mental capacity.

(11) Subsection (1) does not apply if the action that a private sector employer takes as a consequence of an employee's position being identified as surplus to the employer's require-

ments consists only of steps to relocate the employee to another position in the employment of that employer or a related employer in the electricity supply industry with—

(a) functions that are in their general nature the same as, or similar to, the functions of the surplus position; and

(ab) a principal workplace or principal work depot not more than 45 kilometres distant by the shortest practicable route by road from the principal workplace or principal work depot of the surplus position; and

(b) a rate of pay that is at least equivalent to the rate of pay of the surplus position.

(12) For the purposes of subsection (5), the employment of a transferred employee is taken not to have been terminated by reason only of the fact that the employee has been relocated to another position in the employment of the same employer or a related employer in the electricity supply industry if the rate of pay of that position is at least equivalent to the rate of pay of the employee's previous position.

(13) In this section—

'award or agreement' means award or agreement under the Industrial and Employee Relations Act 1994 or the Workplace Relations Act 1996 of the Commonwealth as amended from time to time;

'electricity supply industry' has the same meaning as in the Electricity Act 1996;

'private sector employer' means—

(a) a purchaser under a sale/lease agreement or a company that was an electricity corporation or State-owned company before the shares in the company were transferred to a purchaser under a sale/lease agreement; or

(b) an employer who is related to a purchaser or company referred to in paragraph (a);

'public sector employment' means employment in the Public Service of the State, or by an instrumentality of the Crown or a statutory corporation;

'rate of pay' includes an amount paid to an employee to maintain the employee's rate of pay in a position at the same level as the rate of pay of a position previously occupied by the employee;

'relevant employment' means—

(a) employment by The Electricity Trust of South Australia, an electricity corporation or a State-owned company; or

(b) employment by a private sector employer;

'transferred employee' means an employee—

(a) who—

(i) was transferred by an employee transfer order to the employment of a purchaser under a sale/lease agreement; or

(ii) was in the employment of a company that was an electricity corporation or a State-owned company when the shares in the company were transferred to a purchaser under a sale/lease agreement; and

(b) who has remained continuously in the employment of that purchaser or company or in the employment of an employer related to that purchaser or company since the making of the relevant sale/lease agreement; and

(c) whose employment is subject to an award or agreement.

(14) Employers are related for the purposes of this section if—

(a) one takes over or otherwise acquires the business or part of the business of the other; or

(b) they are related bodies corporate within the meaning of the Corporations Law; or

(c) a series of relationships can be traced between them under paragraph (a) or (b).

PART 3B
LICENCES UNDER ELECTRICITY ACT

Licences under Electricity Act

15C. (1) The Minister may, by order in writing, require that a licence under the Electricity Act 1996 authorising specified operations be issued to a State-owned company, or to the purchaser under a sale/lease agreement, in accordance with specified requirements as to the term and conditions of the licence and rights conferred by the licence.

(2) The requirements of the Minister as to the conditions of a licence must be consistent with the provisions of the Electricity Act 1996 as to such conditions.

(3) The Minister may, by order in writing, require that a licence issued to a State-owned company in accordance with an order under subsection (1) be transferred to a purchaser under a sale/lease agreement.

(4) The Minister may, by order in writing, require that a licence issued to a purchaser in accordance with an order under subsection (1), or transferred to a purchaser in accordance with an order under subsection (3), be transferred to the transferee under a special order.

(5) An order under this section must be given effect to without the need for the State-owned company, or the purchaser, to apply for the licence or agreement to the transfer of the licence and despite the provisions of the Electricity Act 1996 and section 7 of the Independent Industry Regulator Act 1998.

(6) An order may not be made more than once under this section for the issue of a licence in respect of the same electricity generating plant.

(7) An order may not be made more than once under this section for the issue of a licence in respect of the same electricity retailing business.

(8) A licence issued to a State-owned company in accordance with an order under this section may not be suspended or cancelled under the Electricity Act 1996 on the ground of any change that has occurred in the officers or shareholders of the company associated with the company's ceasing to be a State-owned company.

House of Assembly's amendment thereto:

After subclause (2) in new clause 15AA insert:

(2a) The Auditor-General—

(a) must incorporate in the report under subsection (2) a report on the probity of the processes leading up to the making of each relevant long term lease; and

(b) for that purpose may, before, during and after the completion of those processes, require reports from the person appointed by the Treasurer (or otherwise on behalf of the Crown) to be the probity auditor in relation to the making of that lease.

Legislative Council's amendment:

No. 57. Page 18, lines 1 to 21 (Schedule 2)—Leave out Schedule 2 and insert new Schedule 2 as follows:

SCHEDULE 2
Related Amendments
PART 1
AMENDMENT OF DEVELOPMENT ACT 1993

Interpretation

1. The Development Act 1993 is referred to in this Part as 'the principal Act'.

Amendment of s. 48—Governor to give decision on development

2. Section 48 of the principal Act is amended by inserting in subsection (1)(b) 'or 49A(19) ' after 'section 49(16a) '.

Insertion of Part 4 Division 3A

3. The following Division is inserted after section 49 of the principal Act:

DIVISION 3A
DEVELOPMENT INVOLVING ELECTRICITY INFRASTRUCTURE

Development involving electricity infrastructure

49A. (1) Subject to this section, if a prescribed person proposes to undertake development for the purposes of the provision of electricity infrastructure (within the meaning of the Electricity Act 1996), not being development of a kind referred to in section 49(2) or (3), the person must—

(a) lodge an application for approval containing prescribed particulars with the Development Assessment Commission for assessment by the Development Assessment Commission; and

(b) if the land in relation to which the development is proposed is within the area of a council—give notice containing prescribed particulars of the proposal to that council in accordance with the regulations.

(2) No application for approval is required (either under this section or any other provision of this Act), and no notice to a council is required under subsection (1), if the development is of a kind excluded from the provisions of this section by regulation.

(3) The Development Assessment Commission may request the proponent to provide additional documents or information

(including calculations and technical details) in relation to the application.

(4) A council may report to the Development Assessment Commission on any matters contained in a notice under subsection (1).

(5) Where a notice is given to a council under subsection (1), and a report from the council is not received by the Development Assessment Commission within two months of the date of the notice, it will be conclusively presumed that the council does not intend to report on the matter.

(6) The Development Assessment Commission must assess an application lodged with it under this section and then prepare a report to the Minister on the matter.

(7) If it appears to the Development Assessment Commission that the proposal is seriously at variance with—

(a) the provisions of the appropriate Development Plan (so far as they are relevant); or

(b) any code or standard prescribed by the regulations for the purposes of this provision,

specific reference to that fact must be included in the report.

(8) If a council has, in relation to any matters referred to the council under subsection (1), expressed opposition to the proposed development in its report under subsection (4), a copy of the report must be attached to the Development Assessment Commission's report (unless the council has, since providing its report, withdrawn its opposition).

(9) The Development Assessment Commission must, unless the Minister grants an extension of time, furnish its report within three months of its receipt of the relevant application.

(10) Where a request is made under subsection (3), any period between the date of request and the date of compliance is not to be included in the calculation of the three-month period under subsection (9).

(11) The Minister may, after receipt of the report of the Development Assessment Commission under this section (and after taking such action (if any) as the Minister thinks fit)—

(a) approve the development; or

(b) refuse to approve the development.

(12) An approval may be given—

(a) for the whole or part of a proposed development;

(b) subject to such conditions as the Minister thinks fit.

(13) An approval under this section will be taken to be given subject to the condition that, before any building work is undertaken, the building work be certified by a private certifier, or by some person determined by the Minister for the purposes of this provision, as complying with the provisions of the Building Rules to the extent that is appropriate in the circumstances.

(14) A person acting under subsection (13) must—

(a) seek and consider the advice of the Building Rules Assessment Commission before giving a certificate in respect of building work that would be at variance with the performance requirements of the Building Code; and

(b) take into account the criteria, and comply with any requirement, prescribed by the regulations before giving a certificate in respect of building work that would otherwise involve a variance with the Building Rules,

and if the person gives a certificate that involves building work that is at variance with the Building Rules then the person must, subject to the regulations, specify the variance in the certificate.

(15) A person engaged to perform building work for a development approved under this section must—

(a) ensure that the building work is performed in accordance with technical details, particulars, plans, drawings and specifications certified for the purposes of subsection (13); and

(b) comply with the Building Rules (subject to any certificate under subsection (13) that provides for a variance with the Building Rules), and any other requirements imposed under this section.

Penalty: Division 4 fine.

Default penalty: $200.

(16) A person must not contravene, or fail to comply with, a condition of an approval under this section.

Penalty: Division 3 fine.

Additional penalty.

Default penalty: $500.

(17) If—

(a) a council has, in a report under this section, expressed opposition to a development that is approved by the Minister (and the council has not, since providing its report, withdrawn its opposition); or

(b) the Minister approves a development that is, according to the report of the Development Assessment Commission, seriously at variance with a Development Plan, or a prescribed code or standard,

the Minister must, as soon as practicable, prepare a report on the matter and cause copies of that report to be laid before both Houses of Parliament.

(18) If the Minister approves a development under this section, no other procedure or requirement relating to the assessment of the development under this Act applies and no other development authorisation (including a certificate or approval under Part 6) is required under this Act, although the Minister may, if necessary for the purposes of any other Act, issue any other development authorisation under this Act (which will then be taken, for the purposes of that other Act, to have been issued by a relevant authority under this Act).

(19) Despite a preceding subsection, if the Minister directs that an EIS, PER or DR be prepared with respect to a development otherwise within the ambit of this section then—

(a) this section ceases to apply to the development; and

(b) the proponent must not undertake the development without the approval of the Governor under section 48; and

(c) unless section 48(2)(a) applies, the development becomes, according to a determination of the Major Developments Panel, subject to the processes and procedures prescribed by Division 2 with respect to the preparation and consideration of an EIS, a PER or a DR.

(20) No appeal lies against a decision of the Minister under this section.

PART 2
AMENDMENT OF ELECTRICITY CORPORATIONS ACT 1994

Interpretation

4. The Electricity Corporations Act 1994 is referred to in this Part as 'the principal Act'.

Amendment of long title

5. The long title of the principal Act is amended by striking out 'to provide for the assets of electricity corporations to remain in public ownership;'.

Repeal of s. 3

6. Section 3 of the principal Act is repealed.

Insertion of s. 7A

7. The following section is inserted after section 7 of the principal Act:

Power of Minister to vary functions

7A. The Minister may, by direction to an electricity corporation, relieve it of functions, add to its functions or otherwise vary its functions as the Minister considers necessary or expedient in consequence of—

(a) action taken under the Electricity Corporations (Restructuring and Disposal) Act 1998; or

(b) the operation of the National Electricity (South Australia) Law and the National Electricity Code (as defined in that Law).

Amendment of s. 14—Establishment of board

8. Section 14 of the principal Act is amended—

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

(2) The board consists of not less than four nor more than six members appointed by the Governor, of whom one may be the chief executive officer.;

(b) by striking out subsection (4) and substituting the following subsection:

(4) At least one member of the board must be a woman and one a man.;

(c) by striking out from subsection (7) 'an appointed director' and substituting 'a director'.

Amendment of s. 15—Conditions of membership

9. Section 15 of the principal Act is amended—

(a) by striking out from subsection (2) 'an appointed director' and substituting 'a director';

(b) by striking out from subsection (3) 'an appointed director' and substituting 'a director';

(c) by striking out from subsection (4) 'an appointed director' and substituting 'a director'.

Amendment of s. 17—Remuneration

10. Section 17 of the principal Act is amended by striking out 'An appointed director' and substituting 'A director'.

Amendment of s. 18—Board proceedings

11. Section 18 of the principal Act is amended by striking out subsection (1) and substituting the following subsection:

(1) A quorum of the board consists of one-half of the total number of members of the board (ignoring any fraction resulting from the division) plus one.

Amendment of s. 28—Establishment of board

12. Section 28 of the principal Act is amended—

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

(2) The board consists of not less than four nor more than six members appointed by the Governor, of whom one may be the chief executive officer.;

(b) by striking out subsection (4) and substituting the following subsection:

(4) At least one member of the board must be a woman and one a man.;

(c) by striking out from subsection (7) 'an appointed director' and substituting 'a director'.

Amendment of s. 29—Conditions of membership

13. Section 29 of the principal Act is amended—

(a) by striking out from subsection (2) 'an appointed director' and substituting 'a director';

(b) by striking out from subsection (3) 'an appointed director' and substituting 'a director';

(c) by striking out from subsection (4) 'an appointed director' and substituting 'a director'.

Amendment of s. 31—Remuneration

14. Section 31 of the principal Act is amended by striking out 'An appointed director' and substituting 'A director'.

Amendment of s. 32—Board proceedings

15. Section 32 of the principal Act is amended by striking out subsection (1) and substituting the following subsection:

(1) A quorum of the board consists of one-half of the total number of members of the board (ignoring any fraction resulting from the division) plus one.

Repeal of s. 47A

16. Section 47A of the principal Act is repealed.

Amendment of s. 48—Mining at Leigh Creek

17. Section 48 of the principal Act is amended by striking out from subsection (1) 'under an Act specifically authorising that sale, lease, contract or right' and substituting 'as authorised by or under regulations made under the Electricity Corporations (Restructuring and Disposal) Act 1998'.

PART 3

AMENDMENT OF ENVIRONMENT PROTECTION ACT 1993

Interpretation

18. The Environment Protection Act 1993 is referred to in this Part as 'the principal Act'.

Amendment of s. 7—Interaction with other Acts

19. Section 7 of the principal Act is amended by inserting before paragraph (a) of subsection (3) the following paragraph:

(a1) the Electricity Corporations (Restructuring and Disposal) Act 1998; and.

PART 4

AMENDMENT OF MINING ACT 1971

Interpretation

20. The Mining Act 1971 is referred to in this Part as 'the principal Act'.

Amendment of s. 17—Royalty

21. Section 17 of the principal Act is amended by inserting in subsection (8) 'or some other basis' after 'recovered'.

House of Assembly's amendment thereto;

After section 49A(1) inserted by clause 3 of Schedule 2 insert:

(1a) This section does not apply to development for the purposes of the provision of—

(a) electricity generating plant with a generating capacity of more than 30 MW; or

(b) a section of powerlines (within the meaning of the Electricity Act 1996) designed to convey electricity at more than 66 kV extending over a distance of more than five kilometres.

Consideration in Committee.

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

That the amendment to the Legislative Council's amendment No. 31 be agreed to.

In speaking to this further amendment, I understand that in another place all members agreed to a further amendment in relation to the leasing structure for the electricity assets. As members would be aware, the Government's preferred position from 17 February last year had always been for a trade sale of our assets. The Government was unable to secure a majority of members to support that. The Government's next preferred position would have been for a straight long-term lease of our assets. Again the Government was unable to secure support for that, and the Government's next alternative was a staged long-term lease of our assets. Of course, that is how this recent debate has transpired. For whatever reasons, the Australian Labor Party in another place has changed its position in relation to the leasing of assets.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Holloway can explain the Labor Party's backflips in relation to the leasing of assets. I want to correct some comments that have been made by a number of members in another place and some comments that have been reported in the early edition of the *Advertiser* this morning. The article claims that Treasury sources said the backflip by Labor would increase the value of the assets by up to $600 million. I note where that comment has come from, because Mr Foley has been using that figure in the House of Assembly. I can assure members that that claim has not been made by Treasury sources.

There are two Treasury officers in this building at the moment, and I was asked this question yesterday or the day before in relation to the Government's commercial advice on this. As I said, the commercial advice—not from Treasury but from Morgan Stanley to the Government—had been that Morgan Stanley believed that the Government's staged long-term lease would be able to achieve approximately the same value as a straight long-term lease. I did acknowledge that there were other commercial views on this that believed there might be some slight increment in relation to a straight long-term lease as opposed to a staged long-term lease.

Nevertheless, that was not the considered view of the Government's own commercial advisers, Morgan Stanley, and the advice to the Government. Certainly, claims by Mr Foley and others that in some way this change of heart adds $600 million to the asset value is unsupported by any fact. I deny absolutely that any Treasury officer has indicated that it adds $600 million to the asset value.

The Hon. P. Holloway: How much?

The Hon. R.I. LUCAS: I just indicated: you were not listening, obviously. I know it is the early hours of the morning, but I do not intend to repeat it.

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: Exactly. The Hon. Mr Cameron and I discussed this—

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: Exactly.

The Hon. T. Crothers interjecting:

The Hon. R.I. LUCAS: The Labor Party has had so many backflips.

Members interjecting:

The CHAIRMAN: Order!

The Hon. R.I. LUCAS: I understand that the member for Price, Mr De Laine, and the member for Torrens,

Mrs Geraghty, are quoted in this morning's newspaper indicating—

Members interjecting:

The Hon. R.I. LUCAS: At least another 10; is that right?

The Hon. P. Holloway interjecting:

The Hon. T.G. Cameron: You are a fool if you believe that, Paul.

The CHAIRMAN: Order! The Hon. Mr Cameron!

The Hon. R.I. LUCAS: I noted that the Hon. Mr Crothers did refer to over half the Opposition Leader's frontbench opposing the position that the Leader of the Opposition, Mr Rann, had been adopting in relation to this total process. It is not just the Hon. Mr Cameron who has made comments of that nature. Members will know that from early last year I was indicating that at least half the members of Mr Rann's frontbench did not support his position on the sale or lease of ETSA. I was, of course, at that stage a lone voice in the Government commenting on the internal machinations of the Labor Party.

Of course, in subsequent times we have now had statements by the Hon. Mr Crothers and the Hon. Mr Cameron revealing the real views of the shadow frontbench in relation to Mr Rann's position on this issue.

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: I think you are one of the few who support him. The honourable member is isolated in many areas and, again, that is another area in which she is very isolated. There is not much support for her up here. Ask the Hon. Ron Roberts what he thinks of the Leader of the Opposition in this Chamber—but I will not be diverted by provocative interjections.

Let me nail this untruth being parroted by Kevin Foley that in some way this change of heart by the Labor Party is adding $600 million to the value of the assets. Let me nail as an untruth that in any way Treasury sources or Treasury representatives have supported a view that these assets will be increased by some $600 million as a result of this change of heart by the Labor Party.

As I said, in another place earlier this evening this amendment was supported by all members, as I understand it. I indicate that from the Government's viewpoint, consistent with a view that we have put all along, we are prepared to support this amendment. Whilst we do not believe it will add significantly to the value, it does significantly reduce the degree of complication, and possibly the legal costs, in terms of drafting the lease contracts.

Members interjecting:

The Hon. R.I. LUCAS: Well, certainly, but it is a lot less than $600 million.

The Hon. A.J. Redford interjecting:

The Hon. R.I. LUCAS: Exactly. For those reasons, in terms of the complexity of the legal contracts, the lease contracts, the Government indicated in another place its support for the amendment and we do so again in this Chamber.

The Hon. P. HOLLOWAY: The Opposition will support these amendments but, first, let me nail this garbage of the Treasurer when he talks about a backflip. The fact is—

Members interjecting:

The Hon. P. HOLLOWAY: Yes, we will come on because this Opposition has quite consistently—

Members interjecting:

The CHAIRMAN: Order!

The Hon. P. HOLLOWAY: —opposed a sale or lease of ETSA. We have been consistent in that through this whole episode going back to before the last election in 1997. We have consistently opposed it. However, we have made it clear also that, if a lease or sale were to go ahead, we would ensure that we got the best benefits from it, that this State would not suffer as a result of it. Indeed, this clause—

Members interjecting:

The Hon. P. HOLLOWAY: They say it is pathetic. They are the people who are pathetic because they would sell us out. They were the ones who would have got a lease—

Members interjecting:

The Hon. P. HOLLOWAY: They were quite prepared to negotiate a deal—

Members interjecting:

The CHAIRMAN: Order!

The Hon. P. HOLLOWAY: They were prepared to sign a deal that would have short-changed this State. Whether it is $600 million or $6 million, I would have thought that in the interests of the State it was worth getting. It will be a lot more than that. Earlier, the Hon. Terry Cameron, who I will say is pretty good on financial matters because he knows the value of things, suggested 2 per cent. If the price of it is $6 billion, by my calculation, 2 per cent is $120 million. I would have thought it was worth passing this amendment for $120 million, but I suspect it is much more than that. We know it is much more than that because—

The Hon. T.G. Cameron interjecting:

The CHAIRMAN: Order! I remind the Hon. Mr Cameron that there is already one member on his feet.

The Hon. P. HOLLOWAY: If we have a lease that is structured to straddle an election, and the people who are bidding for that lease have to work it out, what will their accountants say? The auditor will point out that it is subject to an election, that it is likely to get up, but there is a little risk and that risk has to be factored in. That is the way it works and anybody who knows anything about finances knows that is the case. There must be a discount. This amendment removes that discount.

That is the position that I argued on behalf of the Opposition in November last year. It is the position that I have argued throughout this debate and, thanks to the work that has been done by my colleagues and the Independents in another place, we have achieved this result. What has been negotiated tonight is not the best outcome as far as the Labor Party is concerned. We did not wish to lease or sell our assets but, if we had to do it, we had a duty to the people of this State to ensure that they got the best return and, through the negotiations in another place, that has been achieved. I strongly support the House of Assembly's amendments.

The Hon. SANDRA KANCK: The Democrats find that a 97 year lease is no more acceptable than a 25 year lease. I know that there is an argument that at the end of 25 years our generation assets will be non-existent anyhow, but the other 85 per cent of the electricity assets, the poles and wires, will still be in existence—

The Hon. T. Crothers interjecting:

The CHAIRMAN: Order!

The Hon. SANDRA KANCK: —will still be used and will still be very profitable. A 97 year lease takes that out of our range. We will never be able to get it back after that. I have heard the Hon. Paul Holloway's arguments that it will get us more value but I am not particularly convinced. Obviously, it is their choice and it might suit the large minority of people in the Labor Party Caucus who—

The Hon. T. Crothers interjecting:

The Hon. SANDRA KANCK: Mr Chairman, I seek your protection. I am having difficulty hearing myself with the volume of the comments being made by the Hon. Trevor Crothers.

The CHAIRMAN: Order! The Hon. Sandra Kanck has the floor.

The Hon. SANDRA KANCK: The choice between a 97 year lease and a 25 year lease is probably akin, to use a somewhat different example to what I used the other night, to someone saying that they will chop your leg off and offering to do it at the ankle or at the knee. It really does not matter which of the two you choose: you will still haemorrhage.

The Hon. NICK XENOPHON: I oppose the amendment because this clause removes the last vestige of choice, however difficult that choice may be, for the electorate to extend the lease at the next election. While the amendment has been supported by the Opposition for the reasons articulated by the Hon. Paul Holloway, it must be said again and again that this Government has done irreparable damage to the public faith in our democratic processes because of its brazen breach of trust with the electorate. It has often been said that politics is the art of compromise; if this is art, I regret that I cannot be one of its framers.

The Hon. R.R. ROBERTS: I make a clear statement in respect of this matter.

The Hon. A.J. Redford: It will be a first.

The CHAIRMAN: Order!

The Hon. R.R. ROBERTS: The Government's proposition is in no way embraced by the Labor Party. We are opposed emphatically to a sale or a lease cum sale. What we have here is the best of the worst deal possible. Let us make clear that these people opposite are struggling for some credibility. We have seen this dirty deal falling down around their ears. All the component parts inserted by the Hon. Trevor Crothers have all been stripped away and we are about to complete that process. Let us be clear on the Labor Party's position. We do not want any sale or any lease, but we are realistic. We can actually see what is in front of us. We have a situation where the numbers are not here in this Chamber to stop the process of a lease. The numbers are not in the other House to stop the process of a lease.

We have taken the responsible position of securing the best position we can get on the day to ensure that the assets of the people of South Australia, if taken off them, are used in a way that gives the maximum benefit to the people of South Australia. It was against that background of reality and the best possible efforts for the people of South Australia (you ought to take a leaf out of this book) that we have come to the position where we would support this package because it is the least worst possible option we can have. It is as simple as that.

The Treasurer was quoting from the *Advertiser*, which is a dangerous proposition because some of us have had a look at the *Advertiser*. I actually got my *Advertiser* prior to everything that was supposed to happen having occurred. It was like Nostradamus. There is a lovely photo of the Hons Mr Lucas and Mr Crothers having a cuddle or doing the tango—I am not sure which—in the middle of the floor, but there is not too much accuracy in the article. There is another article on page 9 which refers to a defamation, and there may well be more in respect of that. Some people will ask some questions about, first, the accuracy and, secondly, what sort of conspiracies have been taking place between you lot of charlatans and the press.

Let us get it very clear: the package has fallen down and you are disgraced. You were disgraced the day you got the deal to get the numbers. The only sadness I have is that we do not have another couple of days to put on this because the lot would be gone and justice may be done.

The Hon. A.J. REDFORD: What I do not understand about the position of the Labor Party is that, if it were serious about maximising this, why did it not agree to a sale? If you are going to be principled about this, either oppose it or, if you are going to maximise the benefit for the State, approve a sale, but you have sat in the middle. You think you are going to fool the public and you are not.

It will be an extraordinary time next week, when the member for Elder goes back to some of the people he has to answer to—people like John Gazzola—to be preselected next time in whatever seat. How will he explain to John Gazzola that he walked in, in conjunction with other Independents, and approved a 97 year lease?

The hypocrisy of the Labor Party in relation to this is just stunning. If you wanted to do a backflip, why did you not do a proper one and agree to a sale? On the 2 per cent figure mentioned by the Hon. Terry Cameron, we would get something in the order of $120 million—a long way towards the sorts of things the Hon. Trevor Crothers on behalf of the South Australian people asked for last week, but you would not do it. You have to be difficult every inch of the way and please no-one on any occasion. You stand condemned, the lot of you, by your hypocrisy.

The Hon. T.G. CAMERON: I think it is time that a few facts were put on the table in relation to the debate about this lease. First, the 25 year lease with the three extensions was not a creation that I would attribute to the Government. The Government's position was always very clear: it preferred a trade sale, despite a lot of the hot air that has floated around about what you would get for a trade sale, a 97 year lease or a 25 year lease, or the combination that was referred to the other place, that is, a 25 year lease with three extensions.

At some stage or another I have been involved in discussions about all of the various options that have been discussed at various times during the passage of this legislation. However, from my point of view, the preferred position of members of the Government—and I do not think they ever stopped saying it right up until we concluded the debate on this piece of legislation—was a trade sale. You would need to examine some of the reasons why they preferred a trade sale, and I will indicate that there are a whole host of reasons why I initially indicated that I was prepared to support a trade sale and not a lease, and they were principally about money and about the simplicity of doing the deal.

Quite clearly, a trade sale would end up with a result that would deliver the biggest benefit to the taxpayers of South Australia. The reason for that is we would have got the highest price for it and it would have enabled us to extinguish a bigger portion of the debt, the majority of which is still a hangover, as I am sure everyone in this room would appreciate, particularly those who were around during the last John Bannon Labor Government. The majority of the $7.5 billion debt, at least $5 billion of it, can be attributed to the State Bank, SGIC, scrimber—I will not go on—plus accumulated interest.

Whilst I agreed with the Government and indicated that I was prepared to support a trade sale, it was done with the motivation that it would deliver the best result for South Australians. However, the Government had a problem. My support for a trade sale left it one vote short. A number of

options were then looked at, and I would have to say that in any discussion I have had with the Government—and members opposite probably will not appreciate my saying this—its least preferred option at all times was the one it was prepared to support which went to the other place, and I think the reasons for that ought to be teased out, too.

The three propositions that we have looked at include a trade sale, a 97 year lease (which is the one we are now looking at), and what I would refer to as the Nick Xenophon option—that is, the 25 year lease with the three extensions, which evolved out of discussions between Nick Xenophon and the Government, both of whom were involved in the development of that proposal. From my observations it was not just the creation of the Hon. Nick Xenophon but an attempt to try to search for a solution to the impasse, an impasse that was costing South Australians dearly.

Quite clearly, the Government compromised its preferred position in an attempt to achieve a result. The negotiations with Nick Xenophon broke down. If I am to be fair in this debate, I must say that the only four people who have maintained an absolutely consistent position all the way through the debate are the Hon. Nick Xenophon and the three Australian Democrats. I will leave it to their conscience whether all three at all times were agreed on their positions. But they are the only four people who have maintained an absolutely pure and consistent opinion all the way through. I have not, the Government has not, the Labor Party has not: but those four members did so.

Clearly, the Government's preparedness to enter into a 25 year lease with three extensions was on the basis that it might be able to get a piece of legislation through the Council. I believe that a trade sale would net a slightly higher price than a 97 year lease—the Government could well be looking at about $100 million—and I believe that a 97 year lease will achieve a higher sale price for the leases than the proposal that was initially carried by this Council.

Again, I am not sure whether the Government appreciates my comments, but from where I sit I think the Government would be quietly pleased if a 97 year lease was passed by this Council. The reason for that is that not only would it achieve a higher financial outcome but also the process would be simpler, as alluded to by the Hon. Paul Holloway: $500 000 or more in legal fees could be saved. If I were the Treasurer or the Premier, I would be quite delighted if a 97 year lease went through. I would quietly go back to my house if this Bill passed, crack open a bottle of champagne and toast the Labor Party and the Independents, because a 97 year lease would achieve a higher result.

Not for one moment do I suggest that the Australian Labor Party was motivated by the intention of securing a better outcome. It was motivated by the intention to do a deal with the Independents and the National Party in another place to try to break the resolve of the Hon. Trevor Crothers. That is what this is all about. The Labor Party's proposition to accept the 97 year lease which, as I understand it, just scrambled through—

The Hon. R.R. Roberts: Give it away while you're behind.

The Hon. T.G. CAMERON: The Hon. Ron Roberts interjects. I have already stated that he was pure. He fought very hard to oppose this 97 year lease in the Caucus, and I respect him for that, but he lost. He maintained the faith. All those other members who supported it were motivated by an intention to try to break Trevor Crothers' resolve on the two key components of the Bill: a 25 year lease with three extensions and his proposition for $150 million to go into a fund to assist in the economic reconstruction of South Australia.

To suggest, as did Kevin Foley in another place, that the Labor Party would now support a 97 year lease and that this would result in an additional $600 million is a load of poppycock. I believe that Kevin Foley, as one of only two people in the Labor Caucus who knows anything about financial matters, would fully appreciate that. The only advice that I give Kevin Foley is that he will need to be a little better with his arithmetic if he becomes Treasurer.

Unfortunately, perhaps Kevin Foley will never become Treasurer, unless, of course, he is prepared to do a John Bannon and hold two portfolios at the same time, but be that as it may. Let me just dwell for a moment. Quite simply, I believe the *Advertiser* editorial got it right when it said that this was a commercial decision about the risks associated with the possibility of rising interest rates and the creation of a competitive electricity market. Everyone knows how that was created: by a Federal Labor Government in conjunction with State Labor and Liberal Premiers. They all knew what they were doing at the time. I would have loved to be in on the discussions when they talked about this. But, quite simply, this should not have been a debate about ideology: it should have been a debate about the commercial pros and cons and what was in the best interests of this State.

I have already alluded to the risks associated with the possibility of rising interest rates. Alan Greenspan, head of the Federal Reserve Bank in America, has already stated that the next interest rate variation will be an increase. I know that the Hon. Paul Holloway and Kevin Foley appreciate that, if interest rates lift in America, interest rates will lift all around the world, particularly in the westernised countries. Anyway, this should have been a commercial decision. People should have been prepared to remove their ideological blinkers and look at what were the commercial risks associated with retaining ETSA and what were the commercial risks to this State if we allowed that $7.5 billion debt to remain.

If there is a State debt of $7.5 billion, you do not have to be too bright—and I know that Paul Holloway and Kevin Foley could do this calculation—to work out that a 1 per cent increase in interest rates could result in a $75 million per annum increase in terms of trying to service the State debt. Where has everyone been hiding? How long ago was it that people were paying 15, 16 and 17 per cent on their home loan interest rates? If you wanted a personal loan to buy a motor car, the financial institutions wanted 18 to 22 per cent from you. If you wanted development finance to proceed with a project, the banks or the finance companies wanted 18 to 25 per cent from you. Anyone who believes that interest rates will stay at the historical levels of present, which are the lowest they have been in 35 years, is kidding themselves. There is a 90 per cent probability that the next movement in interest rates will be up—and they will probably continue to go up.

In the past 10 years the 10 year bond rate in this country has hit double figures plenty of times. I know that many members of the Labor Party do not look at some of these things, but I am sure that the Hon. Paul Holloway and Kevin Foley are aware that interest rates fluctuate. We are not dealing with a stagnant figure. If anyone believes that the banks are going to offer home loans at 5 per cent next year and the year after, I wonder where they have been for the past 10, 15 or 20 years. This should have been about what was in the best interests of this State. It gives me no pleasure to stand

up in this place and say that the only Party prepared to take a commercial interest based on what was in the best interests of this State was the Liberal Party, a Party which I have spent all my life opposing.

I have said before that, if I were Premier, I doubt that I would have had the guts to do what the Hon. John Olsen did and go ahead and announce that he was prepared to have a trade sale to get the debt monkey off our back. It was a calculated risk. I doubt that it is one that I would have taken. I do not think there would be a member in this Council or in the visitors' gallery who would have been so politically stupid that they would not have realised, knowing the parochial nature of this State and the history of Tom Playford and ETSA, and so on, that this would be an unpopular decision—not only an unpopular decision in the electorate but an unpopular decision in the Liberal Party's heartland, particularly its heartland in the country. The Labor Party, I am afraid, at no time was ever prepared to look at what were the real commercial risks that faced all South Australians. In the absence of any other plan—

The Hon. Carolyn Pickles interjecting:

The Hon. T.G. CAMERON: The Hon. Carolyn Pickles interjects that I never made a speech at the convention. It would have been great, would it not, going along to a Labor Party convention knowing that the machine, that is, Labor Unity and the Socialist Left, had already cobbled together a deal in the back rooms. I happened to be aware of this, because Ron Williams, the Secretary of SA First, was a convenor of the platform committee. So, a grubby deal was done to secure a unanimous decision on the floor of the convention. Any person who would have got up at that convention and opposed—

The Hon. G. Weatherill interjecting:

The CHAIRMAN: Order! The Hon. George Weatherill will come to order.

The Hon. T.G. CAMERON: —the resolution put forward by the machine would have been howled down as a traitor to the Labor cause. So, a grubby little deal was done to protect ETSA, and I will not go into the details of why the deal was done but the deal was done. It would have been pointless for anyone to stand up. You would have been accused of destabilising the Labor Party; you would have been accused of speaking against Party policy; and you would have been accused of every sin imaginable. I want to spend a few minutes discussing all the alternatives that were placed on the table by me, the Australian Labor Party—

The Hon. G. Weatherill interjecting:

The Hon. T.G. CAMERON: Mr Chairman, I object to the Hon. George Weatherill's using profane language and swearing at me in this Chamber and, if he does it again, I will take a point of order against him. Do not use your foul language against me in this Chamber, okay?

Members interjecting:

The CHAIRMAN: Order! The Hon. George Weatherill will come to order.

The Hon. T.G. CAMERON: I was examining what alternative plans we had to consider. Quite frankly, there were none. There was a policy vacuum. The only plan was that which the Premier had put on the table. Members have waxed eloquently about how long this matter has dragged on. What has it been; eight months or 12 months? It has dragged on for 16 months and, in all that time, no-one has come forward with an alternative plan to deal with the question of debt to minimise the exposure of risk that every South Australian faces in the event that interest rates rise; and, believe you me, I have been caught with interest rate fluctuations in the past myself. They can rise, and they can rise quickly.

Where, during the 16 months, were all the other plans to do something about our debt and to eliminate the risk of the debt, and where were the plans to eliminate the risk from South Australian Government-owned enterprises competing in a market with private enterprise? Have we not learned anything from history? That is what the State Bank was doing. It was in the market competing with the private banks and it incurred a loss of $3.19 billion. One economist described it as the greatest single loss by any Government-owned instrumentality on a *per capita* basis anywhere in the western world.

I do not know whether that is right. I refer to the contributions made by the Hon. Trevor Crothers, because I know he will now listen. In his contribution, the Hon. Trevor Crothers asked the Labor Party over and over—and he was able to do so because it was a lengthy contribution—about its plan to deal with the debt and about its plan to minimise risk with Government owned enterprises competing in a competitive market against private enterprise operators.

An honourable member interjecting:

The Hon. T.G. CAMERON: There was no plan; there wasn't any.

The Hon. Sandra Kanck: And there is no plan.

The Hon. T.G. CAMERON: And there still is no plan. If ETSA is not sold or leased, a plan will not be cobbled together between now and the next election; that will not happen. It will be glossed over. We will probably see some audited plan that has been certified by some accountant to show the debt decreasing over a 10 or 20 year period. I ask this generation of people: why should that State Bank be left there like a stinking, rotten albatross around our necks for our children, their children and possibly their children to have to pay off? What kind of a legacy is that to leave the future generations of this State when we have an opportunity, with all the strict price controls, and so on—and I will not go into them because time does not permit it—contained in the legislation? Here we have an opportunity to get that debt monkey off our back. We have the opportunity to extinguish about $6.5 billion worth of debt, and that includes liabilities that ETSA has, some of which occurred under previous Labor Administrations.

In the absence of any other plan to resolve the financial dilemma in which South Australia now finds itself, I was prepared to support the trade sale. I will let the Hon. Trevor Crothers put forward his own reasons and speak for himself. I would still be prepared to support a trade sale, and I will place it on the record, because I still honestly believe that it would have delivered the biggest financial outcome for the taxpayers of this State. However, as we all know, politics is the art of the possible and in politics, if you expect to get your own way all the time, you will go down the gurgler. Compromise is an art in the profession that we have all chosen. In the interests of this State and the future generations of this State, I will support this amendment for the reasons I have outlined.

The Hon. T. CROTHERS: I will also be supporting the Government's position so that it does not have to rely on any vote that has been cobbled together elsewhere with a view to trying to embarrass me, apart from anything else. My presence on the Government's benches will ensure that the matter is carried. Even if we do not at this stage get any defectors, the fact that we may get defectors from another stage will be a matter with which I will deal at another time

when the next debate in respect of these amendments takes place. I support the Government.

Motion carried.

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

That the House of Assembly's amendments to amendment No. 44 of the Legislative Council be agreed to.

In speaking to this amendment, I want to trace briefly the background before doing so. As members will know, what seems like months ago but it was only last week when this debate first started, the Hon. Mr Crothers on Tuesday of last week put to the Government three conditions. He did add an additional condition in further discussions conducted with me. The two pre-eminent conditions, and I will not go through all the detail, were in essence in a package that has become known as the Crothers package. The rolled gold employment package that the Hon. Mr Crothers has negotiated and, as the Hon. Ron Roberts said, bludgeoned out of me as the Treasurer on behalf of the employees—

The Hon. T. Crothers: It was a very small bludgeon.

The Hon. R.I. LUCAS: You would need only a very small bludgeon for me. In its letter of agreement to the honourable member the Government indicated its willingness to agree to the key demands that he made on behalf of the workers and employees of our electricity businesses here in South Australia.

The Hon. R.R. Roberts: Without even asking!

The Hon. R.I. LUCAS: Having been involved in almost 20 years in this Parliament—

Members interjecting:

The CHAIRMAN: The Hon. Mr Redford and the Hon. Ron Roberts will come to order. Order!

The Hon. R.I. LUCAS: The Hon. Ron Roberts is showing solidarity today with the union representatives he worked with in relation to clause 15. Without repeating the debate of earlier today, the Hon. Mr Crothers did successfully negotiate a rolled gold package for the employees of the electricity businesses and the Government agreed with the key provisions and requirements of the Hon. Mr Crothers in that key area.

The second key area that the Hon. Mr Crothers made in his submission to the Government last week related to the use of the proceeds from the lease and I will quote directly from the letter signed by the Premier and myself to the Hon. Mr Crothers, I think last Wednesday. Point two was the second request from the Hon. Mr Crothers to the Government, and the letter states:

The Government agrees to your second request that all lease proceeds (net of transaction costs and possible costs for termination of existing finance leases) will be used to repay State debt. The Government will consider your possible amendment if you proceed to move it.

At that stage the Hon. Mr Crothers indicated on the Tuesday that he might be looking at a possible amendment in relation to a small proportion of the total lease proceeds and, as of the Tuesday and the Wednesday, he had not indicated to the Chamber during the debate the exact nature of that possible amendment. The Government in its response and agreement indicated that it was prepared to consider the possible amendment. The other two requests were that there be a letter signed by the Premier and myself and that was clearly met. There was then the further request which is the Hon. Ron Roberts' suggestion to the Hon. Mr Crothers—

The Hon. T. Crothers: In his usual modest way.

The Hon. R.I. LUCAS: He is rather denying having been involved in that suggestion.

The Hon. T.G. Cameron: It was the key to the deal.

The Hon. R.I. LUCAS: It actually cemented the deal because the Hon. Mr Roberts suggested that the letter of agreement from the Premier and myself actually be in the legislation. As the Hon. Mr Cameron indicated, that was the clincher to the agreement. It was the difference, I suspect, in part, in terms of the agreement from the Hon. Mr Crothers with the Government in relation to these provisions.

The Hon. T. Crothers interjecting:

The Hon. R.I. LUCAS: Exactly. Therefore, it was with some embarrassment that, last evening, the Hon. Ron Roberts, on behalf of the unions, sought to remove the provisions from the legislation. Having suggested it to the Hon. Mr Crothers and demanding that it be put in the legislation, he had to stand up shamefaced, representing the unions, and say that they did not want it in the legislation; they wanted it removed. They wanted to go off and negotiate with the Government. One is not surprised why the honourable member is no longer the Deputy Leader of the Labor Party or, indeed, on the front bench.

The Hon. T. Crothers: He must be awfully game.

The Hon. R.I. LUCAS: He is game; there is no doubt about that. He keeps sticking the jaw out and, indeed, people line up to deliver the knockout blows to the Hon. Mr Ron Roberts. The Government indicated its willingness to meet those three or four key demands from the honourable member and, indeed, as I said, with the Ron Roberts suggestion, to encapsulate them in the legislation. Then the Hon. Mr Crothers, at a subsequent stage—I think it might have been either at the end of the last week or the early stages of this week—indicated the nature of the possible amendment that he was to move. Having listened to the passion with which the Hon. Mr Crothers put that amendment—

The Hon. T. Crothers interjecting:

The Hon. R.I. LUCAS: Exactly—in the interests of working-class South Australians, who may well be exposed to significant personal issues involving unemployment and the pressures that that places on families as a result of significant industry restructure within particular industries or companies, the Government supported the Hon. Mr Crothers in that amendment. The Government and I (representing the Government) were, indeed, proud to support the Hon. Mr Crothers' amendment. When we talked in this Chamber about expending money out of the lease proceeds, the Hon. Mr Holloway said that he was prepared to put money out of the lease proceeds into undergrounding of powerlines but he was not prepared to put money out of the lease proceeds into helping working-class South Australians who might have lost their jobs. That was the priority of the Hon. Mr Holloway, Mr Foley, Mike Rann and the Labor Party: they were prepared to put money out of the lease proceeds not into debt but into undergrounding powerlines. That was a greater priority to the Labor Party than it was to support an amendment to support working-class South Australians who might have been thrown on the unemployment scrap heap because of industry restructure and the sort of amendment that was being moved by the Hon. Mr Crothers. They are the sorts of priorities of a Labor Party that is out of touch with working-class South Australians and out of touch with members such as the Hon. Mr Crothers who speak on behalf of working-class South Australians.

As admirable as undergrounding of powerlines might be, as a Government, given the choice of putting money out of leased proceeds into undergrounding powerlines or helping working class South Australians on the unemployed scrap

heap, this Government was prepared to support the amendment of the Hon. Mr Crothers rather than undergrounding powerlines, as supported by Mike Rann and Kevin Foley and the Hon. Mr Holloway.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Do not distort; look at the *Hansard* record. The honourable member has an amendment on the file which is supported by the Hon. Sandra Kanck and which supports the lease proceeds going into the undergrounding of powerlines. That was the honourable member's amendment, endorsed by Mike Rann and supported and endorsed by Kevin Foley—because the honourable member does not do anything unless he has the support of the imprimatur of Mr Foley in another place. As I indicated—

Members interjecting:

The CHAIRMAN: Order!

The Hon. R.R. Roberts interjecting:

The CHAIRMAN: Order, the Hon. Ron Roberts!

The Hon. R.I. LUCAS: We are prepared to put money into supporting the sort of provisions about which the Hon. Mr Crothers was talking. We supported that provision when last we debated it. The Government supported the provision when it was debated again earlier this evening in another place, and it would be the Government's preferred position to continue to support a provision such as that which the Hon. Mr Crothers has supported. Nevertheless, the Government is not prepared to see the total Bill fail as a result of this amendment. I express my disappointment that members in this Chamber and in another Chamber have combined to defeat this amendment.

What I will say to the Hon. Mr Crothers in this public forum on the record is that this Government, if this amendment is not going to be successful (and clearly that would appear to be the case), still shares the concerns that the Hon. Mr Crothers put on the record about the possible problems of significant industry restructure in a number of areas. The Hon. Mr Crothers was very careful in terms of his contributions in this place on this issue. We cannot and should not speculate publicly in this Chamber about particular industries or companies.

We hope that we do not have to confront these problems over the next two to three years. However, if we do, this evening I indicate on behalf of the Government that we share the concerns of the Hon. Mr Crothers. Whether we have to find the money through revenue measures, expenditure reductions, or through loan raising, if there is a need to support and help working-class unemployed South Australians who might be in difficulty as a result of a significant industry restructure of the type and the nature that the Hon. Mr Crothers has raised both publicly and privately in his discussions with me, then this Government will not resile from that fact and, in some way, we will seek to find the money to provide the assistance to these South Australian families who need the assistance. As I said, that is an undertaking that I give—

Members interjecting:

The CHAIRMAN: Order!

Members interjecting:

The CHAIRMAN: Order! The Hon. Mr Cameron will come to order.

The Hon. R.I. LUCAS: The Hon. Mr Cameron rightly points out where the suffering might be, that is, in those Labor heartland areas of the south and the north. This Government will not resile—

Members interjecting:

The CHAIRMAN: Order!

The Hon. R.R. Roberts interjecting:

The CHAIRMAN: Order, the Hon. Ron Roberts!

The Hon. R.I. LUCAS: This evening I will not put a sum of money on it, but what I will do, speaking on behalf of this Government and the Premier, is give that commitment again to members, and in particular to the Hon. Mr Crothers. We will not, as the Labor Party would, leave those unemployed South Australians without some sort of positive program funded in some way by the Government, if the sort of circumstances were to eventuate in relation to a particular industry or company. There is more than one way to skin a cat if you believe in a particular policy. This Government believes in the policy position put by the Hon. Mr Crothers, and it will do what it can to ensure that, if the need is there, it will deliver on the policy programs in the interests of working-class people in South Australia.

The Hon. T. CROTHERS: I propose to be as brief as I possibly can in talking to the failure of my amendment in another place this night. I preface all my comments against a backdrop of the latest release as of today of this State's unemployment figures. They were previously, through no fault of the Government, because it is a cash strapped Government—

An honourable member interjecting:

The Hon. T. CROTHERS: Please let me finish. Previous to today the latest statistics stood at 8.3 per cent.

The Hon. R.R. Roberts interjecting:

The Hon. T. CROTHERS: Listen to this, you affluent wretch; you're not one of the unemployed.

The Hon. CAROLYN PICKLES: I rise on a point of order, Sir. The honourable member has insulted my colleague, and I ask him to withdraw that comment.

The CHAIRMAN: I would ask the Hon. Trevor Crothers to withdraw.

The Hon. T. CROTHERS: I will substitute in its place 'you fully employed person'.

The Hon. Carmel Zollo: Just like you, Trevor.

The Hon. T. CROTHERS: Exactly; but one with a heart in a different place and the courage to vote accordingly. Unlike you.

Members interjecting:

The CHAIRMAN: Order!

The Hon. T. CROTHERS: They do not want to listen, and that has been their problem all along. Today's unemployment figures rose from 8.3 per cent to 8.9 per cent, in spite of the best efforts of this Government and in spite of the courageous decision it took in reversing its stand by trying to do something about that in the best interests of this State and its people, both those currently residing here and generations yet unborn.

In addition to that, one must also consider the interregnum, which was the period between entering into a lease agreement and entering into the interest rate savings that would have accrued and flowed into consolidated revenue. My best guess is that there would be at least an interregnum vacuum there, with the Government remaining cash strapped, of at least 10 but probably 12 months. It was for that purpose that I specifically moved my amendment. The opportunity to maximise our advantage was at the flood tide, which was yesterday, not tomorrow. After hearing of my decision people's shoulders were lifting. It was almost like looking at people with a great weight lifted off their mind. There is an opportunity here because of the change in the psyche of our people to start delivering as much as possible to alleviate their

plight, as my colleague correctly said, in the northern and southern suburbs of this State.

That was one of the reasons why I moved the amendment. I also took the position where, on a $5 billion sale of the asset, I insisted that the bulk of the moneys be paid off the principal. That figure was to kick start the new ray of hope here as expeditiously as possible so as to maximise the decision this Chamber took to support the Olsen Government, which should now have started to maximise the new hope and the new faith of some investors, and perhaps a better way in which we would be looked at by European investors who seek to establish sunrise industries in this nation by servicing the burgeoning so-called 'tiger economies' when next they come fully on stream, which I think is not far away.

In addition to that, after the decision of the Parliament in this Council, the Government's position may now be 'bastardised' somewhat (and I will come to that in a minute) by amendments moved in another place on this day. I have come to the rationale that I think underpins that, and it really is rabid. I will say this: even if, as promised by Mr Lucas, the Government does have to borrow money—and that might be the only avenue a cash strapped Government has over the next 12 months—the people in this State will have imposed on them the further interest rates that are so necessary when one goes into the money market.

As my colleague has said, Mr Greenspan—the guru of all the futures of the money markets in the States and probably the most successful man they have ever had at the helm—has indicated that the next move for interest rates will be up. Again, I believe it is correctly forecast. Over the next 12 months they might go up more than once. And again, the cost of borrowing as opposed to supporting my amendment will impact over the next 12 months on the unemployed and the working poor mainly, as my colleague said, in States that were traditionally—and still are—Labor strongholds. They may be marginalised now, but I guess the next election will tell what the people think about this matter.

Certainly, after I had got over the first three days of orchestrated hate and vilification phone calls and anonymous letters, and people began to understand fully the implications of what the Parliament had done, the thing I have had to surrender most is my anonymity, which I have treasured above all else. This is one of the prices I have had to pay. No longer am I in a position of being able to accidentally trip over some poor devil in the street who does not know me from Joe Soap, Ron Roberts or George Weatherill—and many another member.

The Hon. R.R. Roberts: I think I shall sue!

The Hon. T. CROTHERS: You can. I am making a statement: it is not meant to be defamatory. I have included myself in that. I had better sue myself if you do.

The Hon. T.G. Cameron: But you won't get $35 000.

The Hon. T. CROTHERS: You can't take the breeks off a hielan man! I have now had to surrender that anonymity, and I am amazed at the body language of the people I cross paths with. It is one of silent support. As a consequence of that—

The Hon. Carmel Zollo interjecting:

The Hon. T. CROTHERS: I wish I could avoid you, Carmel: it might help me deliver this speech. It might help me if I could get people who will listen to sound, logical commonsense, not interjectory nutters who from time to time decide that that is the only and best contribution they can make unless the matter is written. I have said that the position I have developed was defeated by what one would have to say is an unholy alliance cobbled together by negotiators in the senior ranks of the Labor shadow Cabinet and three Independents—and later I will touch on the definition of an Independent and what makes them independent. I do not want in my contribution to dignify it or sully it by referring to individuals and not by advancing substance and logic from my argument; that would demean the debate.

Unfortunately, I listened to speakers in this Chamber earlier today and over the tannoy to a lot of the speakers (not all of them) in opposition in another place. I found that, whilst their deliveries and contributions were well crafted in many instances, were emotional, deliberately so, in others, and were designed to protect vested interests in others, they all lacked one thing, and that was substance. I guess they vilified me and the leader of SA First, which I will deal with in a moment, by way of whipping up the emotions of the faithful. I am reminded of a Latin motto here, *semper fidelis*—always faithful.

I heard a lot of that, but I shall not sully my contribution unless I have some specific references to make by way of individuals of whom I am critical—I shall, of course, name them. I have no doubt that my contribution and others will be mailed by some interested parties to every letterbox in their electorates. I did challenge one of the members to a public debate in any open forum of his choice down in the seat of MacKillop—I just cannot remember who the member is, but I will come to that later. I made that challenge in the *Advertiser* last night, but the *Advertiser* has informed me that they did not report that. For people who are always looking for news, it defeats me, but they will confirm it, although they say their memory is vague—this coming from a fellow who would have a better memory than most people I know. Be that as it may, that was the challenge. It was not delivered, so I cannot be critical of the member for MacKillop in another place about that matter.

But that is how convinced I was of the rational logic of my position, and I might now proceed to clad some flesh on its bone. Let history, posterity and the electors at the next electoral fiesta in this State pass judgment on it. Their judgment in the short term is final, but the judgment of posterity and history is important provided it is honestly and accurately written. It was my idea alone, in spite of all these clandestine interjectory mutterings and contributions; it was my idea alone. I had decided that it would be $200 million without informing anyone. I then informed the Treasurer, because of additional costs relative to a whole host of necessities in advancing the sale of the lease of ETSA to secure maximum benefit for the State, that I would reduce that quantum to $150 million. So, in fact, the same amount of moneys would be paid off the principal. That, unfortunately, has been rejected utterly in the other place.

But some of the reasons why I put it up have already been advanced by other speakers. Basically, it was to help a cash-strapped Government by a provision of $150 million to ensure that it could assist industries, either existing or new. If it happened to be the Adelaide to Darwin rail link, that was fine. That was an example I gave, just as Mitsubishi's leaving the State was only an example—and it was duly reported by the use of journalistic licence that I said it would be so. It is one of our few big companies that has linked into operations globally.

I did have some discussions last night with the member for MacKillop. I advanced three or four pillars of rationale and logic which seemed to me—and my colleague the Hon. Terry Cameron, who was also at the meeting—sufficient to

convince even the most disorderly minds of the rectitudinality of our amendment. I listened very carefully to the member for MacKillop in his attempt at some form of logic relative to saying why he would oppose the amendment. At that stage I could stick it no longer; I left the meeting and said, 'We will see who blinks first.' I have never been a person who has lacked the courage or has been too stubborn not to blink if I think I am doing something that benefits the blue collar people, the people of my class who are the most depressed people in this State because of the cash-strappedness of the present Government. I will come to that later for the benefit of the member for MacKillop and his electorate.

After I left the meeting, that led me to consider my position because I had heard of a deal. The member for Gordon in his erratic way, I suppose, had let loose to the media that a deal was being cooked up between the ALP and the Independents—surely not acting as true Independents if they act together as a Caucus; but I will come to that later. The honourable member blew the whistle, which is why I have kept so tight as to what I intended to do, and I will come to that later, to the chagrin of some of the barristers in our Party. He let loose that this deal was afoot.

The unholy cobbling together of that peculiar alliance took place in another place tonight in respect of supporting some amendments, all of which I am prepared to support, to blink, in the interests of ensuring the welfare of the people in this State, putting their interests first and supporting the Government. However, in respect of this amendment, I will not vote for this Bill as amended here and the Independents, the Leader of the Opposition and his Caucus will have to bear responsibility for that at the next electoral fiesta. I will be more specific later on as I get into my hopefully abbreviated and precied contribution.

Let me look at the Independents. I want to refer as the Hon. Mr Rann did to the Parliament of 1938 in this State when, because of the turmoil that this State was in relative to unemployment, much the same as we currently are and perhaps worse up the track, 17 Independents were elected to this Parliament. The last two survivors were Mr Stott and Mr Quirke.

The Hon. A.J. Redford: No relation to John?

The Hon. T. CROTHERS: I should hope not. The only connection that I know of is that the name begins with 'Qu'. As I said, I queried what constitutes an Independent and to do that, I may be wrong—

The Hon. Carmel Zollo: You have to be elected first, Trevor.

The Hon. T. CROTHERS: The honourable member can leave. Does she know when to leave and when to stay? Does she stay when she should leave or does she leave when she should stay? I do not know, but carry on. According to my definition, the three Independents form a troika, as the Russians call it, and we all used to shy away from that. I asked what constitutes an Independent, and I turned my mind to the time when in this place, in 1938, the 17 Independents were the biggest single unit in the Parliament. Do members know the first move that those Independent made?

The Hon. R.R. Roberts: They had a Caucus meeting.

The Hon. T. CROTHERS: They had a Caucus meeting to decide whether they could form a Government. There is a parallel with the member for MacKillop, the member for Chaffey and the member for Gordon in another place: in a much more minuscule and less significant way they have done the very same thing. That puts under question their tag of attaching to themselves the word 'Independent'. It used to be said that unlawful assembly was more than two people and we have three here. That brings into question the independent integrity of these people who were elected as Independents to another place.

The Hon. R.R. Roberts: One is actually a National Party member.

The Hon. T. CROTHERS: I am aware of that but thank you for your first accurate interjection.

The Hon. R.R. Roberts: Prompted by your inaccurate assertions, no doubt.

The Hon. T. CROTHERS: I learnt well from you if they are inaccurate. Mr Chairman, if you were on the TV you would charge for this fun, would you not? I looked at the three members in question. I first of all looked at the honourable member for MacKillop, Mr Mitch Williams, and I will leave what I thought of him to the last. I then looked at the other two Independents. In relation to Ms Maywald, the Country Party member for Chaffey, I thought that at least she has been consistent all the way through in her opposition to this Bill. In my view she has been consistently wrong but she has been consistent.

I then looked at Mr McEwen, the honourable member for Gordon in another place, and it was much more difficult for me to get to grips with how I would describe that gentleman. Perhaps I would say erratic. I heard in his contribution in another place tonight his opening with a comment to the effect, 'It is now bloody half past one in the morning, this is ridiculous.' Well, he was one of the cabal that made it so that the House was sitting there at 1.30 in the morning and why we are still here on this very important issue at 3.20, and likely to be here until Sunday.

My colleague from the SA First movement and I are prepared for any and all eventualities, in the interests of the people of this State. So the only thing I can think about Mr McEwen, the member for Gordon in another place, and to be really kind to him, was that he was so erratic I could not really define just what he stood for, when he stood for it, how long he stood for it, or how chameleon like he may be in respect of holding any particular opinion at any given time, for any considerable length of time.

An honourable member interjecting:

The Hon. T. CROTHERS: I don't know. I am sure your Party will find time to deal with that matter at the next fiesta. I want to turn to the man of some integrity in a previous life, Mr Mitch Williams. Well now, a man with a Celtic name; it makes me nearly want to cry. Mitch Williams in my view has advanced support for this unholy alliance, cobbled together between the members of the Opposition in another place and the troika—a Russian term—of Independents in another place. And I came to this conclusion: that his lack of logic was a thing that could not persuade me. I listened to his contribution in another place tonight and again for me there was an absolute lack of logic in his contribution.

I took my hat off to him, even though I did not agree with him, when he voted, as his conscience directed, in the best interests of the people of this State for the sale of ETSA. I did not support that, but at least he was standing up for what he believed was right. So I then thought, why should he wheel away with the others in respect of the support of my amendment? Was it stubborness, because even the most logical of arguments were not causing him to blink? Perhaps. Was it some other reason? Was it perhaps the choler and the chagrin that I have detected recently in the state of the Independents and, to a lesser extent, the Democrats in this place? Because of the position now occupied by the Leader of SA First, Terry

Cameron, and myself, they may no longer exercise the same balance in respect of being power brokers in their respective Houses.

I am really looking for logic, and I am thinking all sorts of things. I suspect that there is some substance to those reasons I advanced. No doubt the opponents of these three people will certainly ensure that this speech of mine, and other matters that are most logical and germane to their electorate, will be circulated. I looked at the role of the ALP in this unholy cobbling together of this deal, a most sinister deal being the kindest way I can describe it, with the Independents.

No thought whatsoever was given, as I can divine, having listened to the contributions and rationalised the matter in my own mind, to what was in the best interests of the people of this State over that next 10 to 12 months gap with a cash-strapped Government which must borrow money if something arises to try to ensure that it is acting in the best interests of South Australia's employed and unemployed, with an interest rate level which will go up and up over the next two or three years and of which the people of this State again must bear the burden.

I remind members that I had a sunset provision included in my amendment which was very tightly tied so that the Government could not wriggle and squirm relative to how the money was spent. For the information of those who may not have read it (and I had some wonder about that when I heard the cobbled together amendment emanating out of another place by the unholy alliance), I wondered whether they knew that the sunset provision set out the fact that any portion of the money, or all the money, if not spent at the expiration of the end of 12 months, would revert to paying off what part of the principal it took of the debt. Maybe they did; I do not know.

The Hon. T.G. Cameron: They weren't interested in that.

The Hon. T. CROTHERS: I am led to believe that, in my view, they certainly have not acted in the best interests of this State and its people. No doubt that will come back to haunt them at the next electoral fiesta. I am certain that people will make sure that the truth is known.

I think the member for MacKillop said that he has had wonderful support. I must be living in either Victoria or Tasmania, or we are not on the same wavelength. That is not the message I am getting. I am getting the message that the majority of people are so relieved by the lifting of the imposition of the huge tax burden that was about to be imposed on them, a burden that any Government—whether it be a Rann led Government, an Elliott led Government or an Olsen led Government—would have had to deal with, and maybe carry into the budget law impositions of tax of that level in order to try to struggle to keep up with the payment of our debt, without a terrible deal of worry about paying off the principal.

In the meantime, as interest rates rise, so does our daily payment of the interest, which currently stands at $1.6 million a day. This is based on a principal of $5 billion, and on my calculation, which could be wrong, that interest rate will be reduced by $1.2 million a day, which you can see further up the track will give the Government more flexibility as it eases its cash-strapped position considerably.

I want to turn again to the rationale that underpinned the ALP in opposing what to me was a simple, logical thing to do. I came to the following conclusion. The ALP had determined, I believe, to vote with the Government, which had no other option in this place, because of the numbers needed in the Lower House, but to support what I think is a very bad second-rate proposition, relative to mine, to defeat my proposition.

But why did the Labor Party send two of its most senior Ministers, one a barrister and the other I will not name because members know him (as I have said, I will try not to mention names unless I have to be substance specific), to do the negotiation, when they had not done their homework in here about having a working knowledge of the rules and Standing Orders of this Chamber? As Mr Roberts led today, he can count, and so can I. I will further elaborate in that direction.

The Hon. K.T. Griffin interjecting:

The Hon. T. CROTHERS: Only you, Attorney, because at times you are pretty cheap and nasty. I withdraw that. The Attorney is a marvellous Christian gentleman. I am sorry, Mr Chairman, one does get carried away with the truth: it almost blinds you to the light that surrounds you and you get carried away.

This sinister deed, which was first initiated by ALP members in another place, I believe was done for three reasons. Other vilification campaigns never got off the ground in the past because of my honesty and because of the Manchurian candidate I had telling me what was afoot—that a stalking-horse was being promoted. I shall not name that person, otherwise it could be a dead give-away as to who was giving the orders, but I am prepared for that further up the track, perhaps at election time, because the position of the ALP has changed utterly.

I am committed to previous statements that I have made in this Council, except that I will never support the Government on the sale of any other asset, and I will also never support the Government when it tries to demean the strength of the unions which I am so proud to have represented. I believe that is consistent with advice that I have already tendered previously in this Parliament. However, in other matters, look out!

As I said, I think there were three reasons. First, symbiotically, if they could connect me with the failure of my amendments, they could demean the position I took, sully it to some extent, in the same way as the stalking-horse was intended. I will not go into the two things that occurred there, but I can if I have to. I advise everyone to be very careful, as I have my real Manchurian candidate. Is it not marvellous how members have a public political face and a private political face? Some members who have ravaged me unmercifully with their public political face have come to me in private and said, 'For God's sake, cross the floor. We'd sell the thing.' About seven shadow Cabinet Ministers out of 13 came to see me about that—and seven out of 13 is a majority.

An honourable member: He's telling the truth.

The Hon. T. CROTHERS: I am telling the truth. I further understand from my Manchurian candidate that there were at least two others who felt the same way, but because of political correctness and the systems within the Labor Party they lacked the courage to tell me privately, even though not one skerrick of that shall pass my lips.

In addition, I have received notes from backbenchers. One backbencher—and I will not name him because I have a lot of respect for him—said, 'How can we help, Trevor?' when I first announced my misgivings to the Caucus. He made a rather illogical mistake, I thought, when he said that he would carry me across the Chamber to the Government benches if he thought that was how I would vote. This showed some

care for the other ugly rumour that there was something wrong with my health, but I put it to that young gentleman that, in my view, this was a question of perhaps an irresistible force meeting an immoveable object and that it might be better if I crawled or was carried over on the back of my good friend, the Lieutenant Colonel from the SAS, whom I admire very much for something he did when the debate took place last Thursday. What I said to him is very private, and I know that because he is a modest, capable and efficient man and he would want it to stay that way.

If they could symbiotically connect me with the failure of this amendment, they could use the psychology of that approach to demean my standing, to portray me as some sort of rabid, raving lunatic. That was the reason why I crossed the floor. Let me assure members that, even though I know that some members are ready for Glenside, I am not nearly ready for that particular State-owned instrumentality.

Are there any other reasons? Yes, there are. It was a Hydra-headed approach by the ALP. They wanted to ingratiate themselves with the Independents for future use. Of course, the Independents, lacking street-smart political skills—not lacking intelligence—appear, for whatever reason, to have fallen for that, given that the present Government is a minority Government dependent on the support of at least one of the Independents for its survival on critical issues in another place. That started to make a lot of sense to me as part of the Hydra-headed, evil rationale that they would ingratiate themselves with the Independents against a minority Government and, moreover, that they would try to bolster their own credibility which now must be at least dinted, if not shattered, by their capacity for political enhancement of doing a 379 degree—and members know that there are only 360 degrees in a circle—back flip in respect of the position about the lease and, indeed, in respect of other positions that have since developed.

I understand that the Hon. Ron Roberts, the honest man that he is, suffered very rough justice at the hands of some of his parliamentary colleagues. His integrity will always be intact with me, however wrong I think he is. At least you can depend on him holding firm to the faith. It is not without some significance to me that we Catholics, even though I am lapsed, always have as our favourite song *Faith of our Fathers*.

The Hon. R.I. Lucas: Don't sing it.

The Hon. T. CROTHERS: Well, I would have to go to Mount Lofty to get the air, and I do not think the importance of this debate will permit that. They sought to bolster their own credibility in respect of their backflips with the electoral public. Again, it was a politically correct situation. When I think of the popularity of Joh Bjelke-Petersen and Jeff Kennett, I come to the conclusion that they are perceived by the people in their State as honest members with the best interest—whether it is right or wrong—of the people of their State at heart. We know that Joh Bjelke-Petersen escaped imprisonment only because of one biased juror, but escape it he did—and by a gerrymander. Kennett is the same. He will take on the Prime Minister, Labor or Liberal. He will take on anyone to advance his strategy of the State having the perception that he is a man who really cares. That is the perception he has got. As long as Jeff Kennett, with his perception of no political correctness but of honesty, is in charge of Victoria, our Party will never, ever win an election (even though he will lose a good Treasurer in Stockdale shortly) in that State.

The first person in my view to observe a lack of political correctness in this State, a lack of being driven by opinion polls, a lack of conscious awareness in respect of acting in the best interests of South Australia and the citizens of this State, has already made the first tentative step in that direction, that is, Premier Olsen and his Cabinet. Long may he continue to do that. I would not have made this statement tonight, because I will be wounding Labor in any election, State or Federal, from now on (whatever my one vote is worth), but it was the rabid nature of the scurrilous attacks made in debate by a lot of people on the characters of Terry Cameron and me that caused me to rethink statements I have previously made in this Chamber. I may have a necessity to go even deeper into thought if those were to continue.

At the end of the day, the Independents, the Democrats and the Labor Party Opposition in both places will still have to come to Terry Cameron and me and convince us of the rectitudinality of their position. I appeal to them not ever to jaundice that again as they have done tonight, or they might get short shrift.

We might become as illogical and intemperate as some of the contents of the speeches that were delivered tonight in another place. I said, however, there were three reasons in respect of the matter. I have already touched on the third matter and I will touch on it again. Certain members want to do themselves some political and electoral good irrespective of what is the only way to go in the interests of the people of this State and the State itself, and I refer to their backflip on the lease of ETSA—not to other backflips they have made tonight which are not in the best interests of the people of this State. I am alarmed for the future, honestly I am, because of matters that I have touched upon briefly tonight.

I am alarmed that we have an Opposition so desolate of substance and creativity that many speakers (not all of them) must resort to endeavouring to demean myself and my colleague, the Leader of SA First, by including no substance in their rhetoric but only silly and demeaning opinion. I return to a position that I had touched on earlier. Why have I referred to those two senior emissaries cobbling together what they believed to be a numerical position relevant to the voting patterns of this Council? Did they believe they could take me out? Well, they certainly have taken me out in respect of voting for this proposition.

Let me explain because, like the Hon. Ron Roberts, I can count, too. I did not just go to second grade in primary school for nothing. Here is the position: this Council has 22 members. The President or Chairman has merely a deliberative vote, which he exercises in view of a tied vote. A pair is in place at the moment, which involves one of the Democrats and the Hon. Legh Davis. That leaves 19 members of the 22. It is my intention to abstain from voting on this measure. I do so because it is the only channel left open to me and they had not worked it out. They thought that, because the Bill would come up here and that the Government would have to support it, it would either lock me in or lock me out.

I believe that I have found a third way. I will abstain from this vote and then return to vote with the Government on every other measure or amended measure no matter how unpalatable it is to me because, in all situations, including this one, three quarters of a loaf is better than no bread at all. In respect of pairs, I put a small caveat on my abstention. I believe that tonight the Hon. Mr Gilfillan is paired with the Hon. Mr Davis. The Hon. Mr Gilfillan, in my estimation, is an intellectual giant among the disparate parts of his political clan.

An honourable member: Head and shoulders.

The Hon. T. CROTHERS: Head and shoulders, yes. In my view the Hon. Mr Gilfillan is a man of good probity, of great thought and, indeed, he is a man I believe I can trust. But should that tradition be broken—the custom and practice enshrined in the blood of Cromwell soldiers in the Westminster system—I shall, Government Whip, be waiting just adjacent to that door and, should you notice that as the bar is drawn, so anxious am I to act in the best interests of the people of this State—and I want the member for MacKillop to listen to this—I shall blink and come back in. Do you understand that?

Mr Chairman, thank you for your tolerance. It is my way, and I am amazed that such senior Ministers would not know the Standing Orders and rules of debate in this place. They think that we have been so imbued with their drive and numerical superiority that they do not know that we do not need them, because the Hon. Terry Cameron will vote with the eight members of the Government. There will be nine on this side and that is nine all.

The good Chairman has a casting vote. I cannot possibly foresee how he will vote. He is a good Chairman, a fair Chairman, a man who will vote as he sees fit, with principle and honesty. That is why it has been my pleasure to be appointed from time to time as his unofficial deputy. So that is my position. I will absent myself. I will not cast a vote. I will abstain with respect to this matter, and I am so worried that the alternative Government—this Opposition, including a senior barrister—fails to understand that, if there was a third way for me to make my protest without jeopardising the passage of this Bill, I would take it.

In conclusion—and I thank you for the grace you have shown me, Mr Chairman—I will quote that great American President Abraham Lincoln, master of the always very appropriate turn of phrase. I have two quotes, but the one that is most germane to the position of my former Party and maybe the Democrats and the Independents in this place is as follows:

> The dogmas of the quiet past are inadequate to the stormy present.

I conclude by wishing the Government well in this vote, taken in my absence. I trust my numerical assessment has been correct, and I trust my understanding of the rules is much more correct than that of my legally trained former colleague. I do not know whether there are any other speakers but, when the vote is taken, I will abstain from the vote by placing myself just outside the Chamber, return after the vote is taken on the understanding that the Whip will feel free to come *a la* winged Mercury to fetch me, should any lack of probity be observed relative to past practice.

The Hon. P. HOLLOWAY: The Opposition supports this motion, as we did when the Bill came before this Chamber last evening. We opposed the slush fund that had been put forward, and we will be supporting this motion now. I would just like to repeat something I said last evening. I said to Mitch Williams that I hoped he and the other Independents would stick to their guns so that this fund would be dead in the water and, indeed, it is. The Treasurer's speech we heard earlier this evening—about 20 minutes worth of it—was really nothing more than a cute way of explaining why the Government is reversing its position on this matter. The Treasurer also described this deal as the cement that kept the deal together. The cement is not holding. At this stage of the morning, there is no point in prolonging the debate. We still have the two items to go. All I can say is that, the sooner we get this matter resolved, the better.

The Hon. R.R. ROBERTS: We heard strong words from the Hon. Trevor Crothers with respect to this amendment in his contribution last night, in which he said that he would vote against the passage of this Bill if it did not get through. He issued the challenge to Mitch Williams that he would not vote for the Bill—

Members interjecting:

The CHAIRMAN: Order!

The Hon. R.R. ROBERTS: —and it could go down as far as he was concerned.

Members interjecting:

The CHAIRMAN: Order!

The Hon. R.R. ROBERTS: As I remember it, he challenged Mitch Williams, but I see Mitch Williams in the gallery and he is still starry eyed. This is something sad. The last three contributions prior to the Hon. Mr Holloway were designed to do one thing. The proposition put up by the Hon. Trevor Crothers has been defeated, which has caused him, understandably, some hurt and he has lost face. That is not all that he has lost in this exercise. People have cajoled him into the position he has taken. He has gone through a situation of trauma and he made a number of principal claims. First, he said that all the proceeds had to come off the debt and there was to be no sale. I remind him that a 99 year lease is near as 'damn' is to swearing. So, he has not fulfilled those two aspirations.

Now the slush fund goes. The only thing that the Hon. Trevor Crothers will have at the end of the day out of all his demands will be the clause in the agreement in respect of workers' conditions. As part of this shame, there had to be a commitment by the Treasurer to try to protect the situation. The Treasurer talked about the Roberts' clause and it is true that it was my suggestion to the Hon. Trevor Crothers, if he was naive enough to believe that a letter of intent would protect the conditions of workers—and I believe he was trying to protect the position of workers—and I advised him that if he thought the letter was to have any credibility or serve any purpose he was deluding himself. The only way his aspirations could have done anything for the workers would be if the letter was in the legislation. He then rushed off to see the Treasurer who said, 'Yes, Trev, we will put it in there.'

Why would he not? He would do anything to get the Hon. Trevor Crothers' vote. The Treasurer said, 'Yes, we will put it in.' Flushed with enthusiasm they sat down to work out a list of conditions for the workers. The only thing they did not do was consult the work force which had spent 12 months negotiating the package and they were very close and almost had an agreement. The only people they did not consult with were the workers themselves and, when they were encouraged to continue the consultation and see whether this 'You beaut' package that they had dreamed up was any good, they refused. I handed the letter to the Hon. Trevor Crothers myself. As reported in *Hansard*, we begged him to talk to the work force—he refused.

When it came in the legislation I did suggest last night that we ought to park that clause aside, get it right so that it did some good for the workers in this State about whom the Treasurer has now found some new dedication towards. If they wanted to do that, they could have gone and consulted with the workers, done the deal and put the provision back in. It would have served the purpose. What can the Hon. Trevor Crothers salvage? He can have the Treasurer make pretty speeches and try to flatter him, but the Hon. Trevor Crothers

ought to listen to the muses who are saying what they mean. The flatterers are telling him what he wants to hear because they want something.

Beware of flatterers! I believe that, unfortunately, the Hon. Trevor Crothers thought that he was doing the right thing. However, he has been taken for a mug, because, at the end of the day, he will get nothing. He has done the deed for these people, and all his aspirations have been lost. They will crash into oblivion: none of them will be effective. Even the clause about the work force does not do the job; it does not satisfy the workers. There is still a cloud over it, and those negotiations will have to take place. At the end of the day, what we have, effectively, is a sale. Let me convince members again: we are still of the opinion that there should be no lease. We recognise that we cannot get that. We are convinced that we have to get the best.

The Treasurer, in his contribution, flattering the Hon. Trevor Crothers, said that if a situation, a group of people or a cause was to arise he would raise the money for it: he would find a lazy $200 million to meet the aspirations of the Hon. Trevor Crothers. There are a few people around who I happen to think are worthy of some consideration and where $200 million could do a great deal of good. I refer, for example, to education, hospitals and aged care. But no, it is $150 million, and the big disgrace is that they are going to spend another $50 million to work out how they will spend it. If we have a lazy $200 million, it should be trotted out, because plenty of people out there want it. The Government should not make hollow, unmeaning promises in this place. If it has a $200 million hobby horse locked away, there are plenty of deserving people out there waiting and which need help.

These three contributions have been the longest pleas of 'not guilty' to acts of treachery that have ever been witnessed. But they are doomed to die on the gallows of contempt. What has been done cannot be undone. At the end of the day, the Government can talk about all the high principles; it can flatter the Hon. Trevor Crothers as much as it likes. Its record shows, in a critical analysis, that it has used this man: it has treated him as a mug; it has taken his good intentions and it has bashed him around the head about it. And still Government members sit there, villains with smiling faces, still putting on the flattery.

One thing about which I was really intrigued in the Hon. Trevor Crothers' contribution was his criticism of the Independents. He was really suggesting that Karlene Maywald, who is the National Party representative, the member for MacKillop and Mr Rory McEwen should not confer; they should not act in concert. I actually agree with his principle. If he is saying that he will not in the future collude with the Hon. Terry Cameron, I think that is a good thing and I support him 100 per cent.

Let us just put it away: this fiasco needs to be put to bed. These people have lost, and they have lost badly. One thing that they will not avoid is the scrutiny of the people of South Australia. They have done their best, they will lose, and lose badly, when they have to face the people—the one thing that they have successfully avoided doing in this whole shabby exercise. I support the amendment.

The Hon. T.G. CAMERON: I have listened to the contribution made by the Hon. Ron Roberts. I do not think I have heard a contribution that the Hon. Ron Roberts has made with any substance in it since Warren Smith left his staff. But be that as it may. One can always be assured, when one hears a speech from the Hon. Ron Roberts, that they will hear plenty of what they have previously heard, because they all sound a bit the same to me—they are on different topics each time but they all sound a bit the same. I would just like to give the Hon. Ron Roberts some advice: if he is going to sit there and call the Hon. Trevor Crothers a mug, then I would be willing to bet him any time that he can spot him 50 IQ points and still beat him.

Members interjecting:

The Hon. T.G. CAMERON: Unfortunately, as high as my IQ is, Ron, it does not get anywhere near Trevor's.

The Hon. R.R. Roberts: Your IQ is about as high as a snake's guts when it is on the ground.

The Hon. T.G. CAMERON: I will recognise that interjection just so that it can be recorded in *Hansard*. It is a pity that I was not quick enough to ensure that the Hon. George Weatherill's profane interjection was recorded in *Hansard*. The Hon. Trevor Crothers put his proposal forward for a fund—and it has been described as a slush fund or a fund which would enable the Liberal Government to have a packet of money to spend at the next election. Whilst he did not consult with me about his proposal, it was more a question of advising me of what his proposal was and, if anyone knows the Hon. Trevor Crothers as well as I do, they would recognise that as being true to form. I think what motivated the Hon. Trevor Crothers when he put this proposal for $150 million to go into this fund was more a recognition of the financial straitjackets in which both Labor and Liberal Governments have had to operate ever since we piddled $5 billion down the drain over the State Bank, SGIC, Scrimber and so on.

I have some appreciation of how much the Hon. Legh Davis must be missing this debate. I am sure there would have been many colourful interjections about the financial ineptitude that was displayed by the previous Labor Government. Anyone who can read a balance sheet—and it is obvious that a lot of members in this and the other Chamber cannot—would recognise that whatever Government is in power after the next election(whether it be Labor, Liberal, or, heaven's above, SA First), if this proposition does not go through South Australia will continue to struggle when it tries to construct its budgets. Quite simply, we are in a financial straitjacket. We are constrained. There is no money available for health, education and transport. I have been up on my feet attacking the Government over and over on some of these issues.

So, where does that leave the Government if all this money goes straight into paying off the debt as it would appear that it will do now? It still leaves the Government in a financial straitjacket. I do not profess to be any Einstein when it comes to financial matters but, unless the Government has a couple of breaks during the year, I would anticipate that, on the budget that it has drawn up, there will be a deficit. How is the Government to engage in what I would describe as the economic reconstruction of our State? I guess I am showing my age a little, but I can still remember when Tom Playford was a politician. We probably have not had a decent Premier in this State since Tom Playford. He looked after the State and concentrated on its economic development and reconstruction and recognised the difficult geographical constraints under which South Australia operates. He recognised how necessary it was for us to build our own industrial manufacturing base if we wanted to provide jobs for the future.

The last Premier to do that was the one that the Hon. Ron Roberts has been lauding over and over again in his speeches,

and that was Sir Thomas Playford. Whilst I am a great admirer of Don Dunstan and I believe he changed this State in a fundamental way for the good, very little was done in the way of continuing to work to build South Australia's economy. Whether you like it or not, the world has changed over the past 10 years. Victoria has had to cope with the difficulties that its manufacturing industry has faced. We had a strong dollar and South-East Asian economies started booming; and, quite simply, living in a first world country producing manufactured goods that could be produced in South-East Asian countries where labour costs are one-tenth and in some cases one-twentieth of those in this country, you did not have to be bright to see that the writing was on the wall.

Kennett has recognised that, if they want to fix Victoria Inc., they will have to take some pretty drastic action because Victoria, like South Australia, has what has now become a rust bucket manufacturing industry that is continuing to find it increasingly difficult to cope with imports. And, of course, there is a tariff debate as well; tariff protection has been lowered. If we are not careful here in South Australia, in the years 2010 or 2020 we will not be talking about unemployment rates of 8.9 per cent, which was the figure that was released today. We had a short blip last month when it dropped to 8.3 per cent, the lowest figure we have had since 1990. The national average is 7.5 per cent. South Australia has consistently had the highest adult unemployment rate on the mainland for a number of years now. Only Tasmania's is higher. If you go to Tasmania, you will find that about the only thing propping up that economy is the tourism industry.

In my opinion, we have had nine years of bloody awful budgets delivered by both Labor and Liberal Governments; they both fiddled at the edges. There was never any attempt to really deal with the question of debt until the last budget that was handed down by the Treasurer. I have seen no attempt to really break the back of debt in this State until the proposal was put forward that we sell ETSA in the current economic climate. We must remember that, when interest rates are low and, with the exchange rate, the Australian dollar is 60¢ to $US1, overseas operators price in their cost—whether it be in marks, francs, English pounds or US dollars—in their own local currency. The timing was absolutely perfect when the Government chose to sell off ETSA. Had ETSA been sold off at that stage it is my view that we would probably have got $300 million or $400 million—or maybe even $500 million—more than we will get with the current proposal that will pass in this Chamber.

I can recall the initial discussions I had with the Treasurer. If I recall correctly, I said to him at the time, 'I'll be publicly stating that I believe we'll get $5.5 billion for the sale of ETSA.' I said, 'But deep in my heart I think we'll get more than that; if we were to sell it now, I believe we would get a price somewhere in the vicinity of $6.5 billion or so.'

The Hon. T. Crothers: Speculation.

The Hon. T.G. CAMERON: Yes, it was only speculation on my part. I want to make some reference to some of the budgets that have been handed down in the earlier years of the Liberal Government. In my opinion, they were pathetic budgets. When Stephen Baker was Treasurer he lied to the people of this State when he told them that we were in the home straight and had broken the back of State debt. Stephen Baker is too smart a man not to have known that that had not been achieved at all. So, we had an election and John Olsen scrambled back into office. I do not know what crossed his mind or what his thinking was, but I would guess it went something like this. With a recognition of how difficult it is to govern when you are financially constrained and you have to cut back health, education and so on, it cannot be too much joy for Cabinet Ministers to have to sit down and go through the budget. Stephen Baker is now in Manila working for the World Bank. I have some idea about his financial credentials. I believe that when Stephen Baker said that he did not believe it himself.

The only real attempt that anyone has made to get us out of this debt cycle that we are in was when John Olsen bobbed up and said, 'I am going to sell ETSA.' I do not want to canvass the debate again about broken promises, etc., because I have not seen a Government elected in this country at the State or Federal level that has not broken promises. I am not suggesting—

The Hon. T. Crothers: It was a courageous step to reverse that decision.

The Hon. T.G. CAMERON: It was a courageous step considering the unpopularity that he must have known he would run into. I am not prone to publicly praising the Premier too much, and one other myth that I would like to dispel to all the comrades is that John Olsen and I have become real pally over the last 12 months or so, that we are great mates and that I pop into his office every now and then for a coffee and a chat. From memory, I have been into the Premier's office twice and, apart from the last occasion when I had to discuss the ETSA debate with him, I think that I had spoken to him once. I would like to scotch that rumour immediately.

What were some of the issues that were weighing on Trevor Crothers' mind when he proposed this $150 million to be used as a catalyst or fillip to be injected into the South Australian economy to get under way some kind of a plan, the first one that we have seen in a decade, to start the economic reconstruction of the State of South Australia? Let me tell you, ladies and gentlemen, no-one has bothered to have a real good look at it since Tom Playford was in office. I know what some of the issues were that were weighing on Trevor Crothers' mind. One was the consistently high unemployment figures that we have in this State, and that is not a new thing. High unemployment is not something that was created under the current Government. South Australia has always had a problem with unemployment because of its geographic locality, particularly over the last decade or two, given that we were too heavily reliant on our manufacturing sector.

Adult unemployment is at 8.9 per cent and youth unemployment is worse. Some people have made references to the fact that the Hon. Trevor Crothers and I are mates. I make no apology for that. I am proud to place on the public record that he is a mate of mine. He has been a mate of mine for well over 20 years and I spend more time in his office talking to him than probably all the other members on that floor put together, and I hope that I can continue to have more conversations with him. From the dozens of conversations that we have had about the financial position of this State, and I hope he will not mind my saying this, I know that he is concerned about the horrible blight on the South Australian community of youth unemployment.

When our office started to look very closely at youth unemployment, we came across figures like 50 per cent in the postcode areas of Salisbury and Elizabeth and in the seats of Napier, Wright, etc. In the western suburbs, the highest youth and adult unemployment rates are in the suburb of Semaphore and the electorate of Spence. The same pattern emerged in the

south, and members would be getting the picture now. The highest levels of unemployment and the real areas of poverty in this State, and it has been so for the last 20 years, 14 or 15 of which Labor was in office, can be found down south, out west and up north.

What sort of society are we living in when our children, when they reach maturity, face a situation where in vast tracts of Adelaide one in two or one in three of them cannot get a job? I know that the Hon. Trevor Crothers is a loving father and a doting grandfather to all of his grandchildren. I know from the conversations we have had, that he has contemplated what kind of future they might have in this State. Unemployment is a significant problem in this State—it has been for a long time and it will continue to be the main problem in this State that we have to fix up.

My view is that the Hon. Trevor Crothers was motivated by the best of intentions and that his proposal to put forward $150 million was so that the Government would be in a position to spend some, or all if deemed necessary, of those proceeds to attract industry to this State, to support existing industries that were in trouble and to expand South Australian industry. He mentioned as well the Adelaide to Darwin rail link, something which every member of this Council would recognise would be a marvellous fillip for the South Australian economy.

Those intentions that Trevor Crothers had have been destroyed. If he will indulge me, I would like to canvass the process of how his proposal was destroyed. His proposal was destroyed because two Independent Liberal members of Parliament and a National Party member sat down in the cabal with Pat Conlon, the leader of the Socialist Left, and with Kevin Foley to work out how they could frustrate the passage of this Bill. I am not suggesting for one moment that it was Mitch Williams' intention to destroy the passage of this Bill. At the end of the day he would have supported a proposition that would have allowed this issue to go forward, but this issue was far too important to create a situation where the Bill might be lost because someone would or would not blink.

I say to Mitch Williams that I do not know him as well as most, but I have always respected him, liked him and enjoyed the conversations I have had with him but, if Mr Williams wants to ring me up and come and discuss a matter with me and wants to negotiate an outcome or try to reach a compromise, he should not ring me up all day long seeking a meeting and then, when we finally get together, let me find that he has rushed off to the press and told them his position, that it is unequivocal and that he will not be budging. Why? It puzzles me. I cannot understand why Mitch Williams—

The Hon. T. Crothers interjecting:

The Hon. T.G. CAMERON: Well, you stormed out of the meeting, but why did this happen with Mitch Williams, an Independent Liberal who comes from one of the most conservative areas of the State? I know—I campaigned down there just prior to the last election. The only three seats in which I campaigned were MacKillop, Gordon and Chaffey and my task was to try to push the Labor vote down and encourage people to vote for the Independents to knock off the sitting Liberal members. I believe he has now become aware of that. What motivated Mitch Williams, who comes from one of the most conservative areas of the State, an area where Labor gets only about 20 per cent of the vote? I could speculate about what his motives are, but I place on the record that I do not appreciate sitting down to try to work out a compromise for a problem when the position you have already declared is unequivocal and you have been running around and ringing up the press and telling them that. It is hardly the basis for any kind of future relationship between myself, the Hon. Trevor Crothers or Mitch Williams.

I have not spoken to Rory McEwen or Karlene Maywald. The only person to whom I have spoken on this is Mitch Williams. I say to Mr Williams: I am mightily puzzled why you are sitting down negotiating with the socialist left of the Labor Party who are out to destroy this Bill. Their primary, single objective in their negotiations with the Independents, with the two Independent Liberals and the National Party, was to destroy this Bill. It was to get you involved in an agreement to try to stop this man from supporting it.

Well, the passage of this Bill was too important and the Hon. Trevor Crothers devised a third way. I am not sure whether that is similar to Tony Blair's Third Way in England. However, I know that the Hon. Trevor Crothers can get a bit stubborn and I was wondering for a while who was going to blink first, although I can tell you that it would not have been the Hon. Trevor Crothers. But he found a third way and I think that is an indication of the sincerity that he brought to the way that he handled this Bill and the commitment that he made to ensure that this Bill passed this Council, so that there was some hope in terms of an economic reconstruction of this State.

Mitch Williams, Rory McEwen and Karlene Maywald, if I can interpret from their debates in another place, all came at this position of ETSA from a slightly different position. I have some difficulty in understanding this in relation to a member representing the National Party, probably the most conservative Party in this country, outside of One Nation, and if one was to be fair I think they are even more conservative than One Nation but they just do not have the same views about a couple of other issues. But I honestly believe that the National Party is a more conservative organisation.

I respect Karlene Maywald's views and the fact that she was not prepared to support a sale or a lease, or whatever, but she was prepared to be part of an agreement that may well have seen this Bill fail. I am not sure whether that was a view that we would find out there in the seat of Chaffey. So, here we have the sole representative of the most conservative Party we have here in South Australia sitting down around the table doing deals with the Australian Labor Party, and the deals were being negotiated by the socialist left faction whose primary objective was to destroy this Bill. I respect Karlene Maywald's opinion. I have always found her to be a very genuine, straightforward and intelligent member, and that is why I am so surprised. For the life of me I cannot fathom what her motives were. I just cannot understand why a Party that is in coalition with the Liberal Party at a Federal level would take such risks to see that a Bill might fail, and in an environment which may well have triggered the collapse of this Liberal Government.

I will now turn to the other Independent Liberal, Rory McEwen. I am afraid to say that I just do not think Rory knew any better. I am not quite sure whether he knew what he was getting into, and I am not sure that Rory McEwen would not agree to anything with the Australian Labor Party if it would embarrass his old enemies in the Liberal Party. I place that on the record because we will be having an election in a couple of years and those people who live in the electorates of MacKillop, Gordon and Chaffey will have to consider whether they will support an Independent or the National Party at the next election.

They may well ponder at the next election the attitude of Mitch Williams, Rory McEwen and Karlene Maywald on what has probably been the most critical piece of legislation ever to go through this Parliament. I look forward to having further discussions and meetings with Mitch Williams. Despite what has happened, it has not changed my personal view of him.

I am a little disappointed with the process. I secretly believe, however, that the Government will probably be delighted to have ended up saving this $150 million. The Government can now lease off ETSA under a proposition that will minimise the process, and it will probably end up with a cheaper process and a marginally higher sale value on the lease than it was currently looking at.

I now refer to the vilification and some of the remarks that have been hurled around this Chamber tonight. I am disappointed to have been the subject of vulgar statements by the Hon. George Weatherill; I hope he conducts himself with more decorum and dignity the next time his opinion differs from mine in this Chamber.

I have got off the track a little. I look forward to having further discussions with Mitch Williams. Who knows, one day we may be able to agree on a particular matter. We seem to be on the same train in respect of native vegetation issues but he got off a couple of stops before I got on regarding the ETSA issue.

I will not go into chapter and verse on the vilification and what has happened to me over the past 16 months or what certain members of my family have been subjected to, and I certainly do not intend to get down in the gutter and exchange filthy insults and get involved in name calling, etc. The State is in too much trouble to waste time doing that. I suggest that our time would be better served trying to work productively towards the economic reconstruction of our State. We owe it to our children and to future generations of our State to do just that.

In no way do I resile from anything I have said in this debate. I am as convinced as I ever was—even more so—that the decision that will be taken by this Chamber this morning when this Bill passes and goes into law is the best decision for the future welfare of South Australians.

There is an old saying: if you don't know what to do, make a decision, because any decision is better than making no decision at all. And that is where we were: drifting along like a piece of flotsam in the ocean with no direction, going nowhere, and being swept along by whatever economic current that picked us up and dumped us. In 10 or 15 years, we would have been dumped and sitting economically in the middle of the Sahara Desert.

I am sure that members of the Labor Party and all political Parties who have been around politics for a long time know that, if this Bill passes and we get a good price for ETSA and reduce our debt, that will not be the end of the story. The crippling economic damage that was done to the State in the latter part of the 1980s will take a long time to fix. I do not know whether anybody has any idea of just how much money $5 billion is. I know how much $5 million is, and $5 billion is a thousand times more than that. It will take a long time. However, leasing off ETSA, paying off our debt, is the first giant step that we can take towards rebuilding our State.

I am afraid to say, Treasurer, that it will not be the first painful decision. I am under no illusions that, when ETSA is leased, that will be the panacea for fixing all South Australia's economic ills. This is just the first step. I do not believe, whoever is in Government—whether it is Labor or Liberal—that this State will get over the State Bank legacy for another five to 10 years. But this is the first giant step that we can take to try to fix the problem and to get rid of our financial straitjacket. Our economy needs a stimulus. That is why I was prepared to support the proposition put forward by Trevor Crothers. I say to the Government: have a look at unemployment, particularly youth unemployment. We owe it to our children. I have some idea of the pain that young people go through, the sense of hopelessness, and their feeling of alienation when they cannot become a meaningful, productive part of our society.

This will be the first step. I urge the Government not to let it be the last and to continue working hard at rebuilding our State. I also call upon the Labor Party, instead of adopting its Mike Rann maximum mayhem position on every piece of legislation that comes through this place, to consider the legislation on its merits. If it deserves supporting, if you believe it is in the interests of this State, if you believe it will be for the well-being of this State and it will somehow make a bit of difference to our future generations, act in a bipartisan manner and support it, because you will get more kudos at the next election if you are seen to be assisting and helping where and when you can in the economic reconstruction of this State—not by adopting negative positions, trying to tear everything down and to keep us where we are until the next election so you slip into office. We all have a responsibility and a part to play to put the State Bank behind us. If we do not do it, in 10 or 20 years we will still be saying, 'How are we going to fix up the mess?' Now is the time to start.

The Hon. T. CROTHERS: I raise a point of clarification, Mr Chairman. Will you ensure that the tellers know that as a measure of my protest I will be leaving the Chamber and abstaining from the vote?

Motion carried.

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

That the House of Assembly's amendment to amendment No. 46 of the Legislative Council be agreed to.

This is a relatively small amendment that the Government is pleased to support. Members will recall that in this Chamber an amendment was moved in relation to the role of the Auditor-General in this process. I gave an undertaking that the report of the probity auditor would be tabled in the Parliament at the end of the total lease process. This further amendment just indicates that the Auditor-General may also report on the probity of processes in the report that has already been agreed that he should make on the leasing process. In the interests of accountability, the Government is pleased to support the amendment.

The Hon. P. HOLLOWAY: The ALP supports the amendment—and I suspect after tonight time limits on speeches in the Legislative Council.

The Hon. NICK XENOPHON: I support the amendment and I am pleased that, following the initial amendment to new clause 15AA, the suggestions to make the whole process more accountable and transparent have been picked up.

Motion carried.

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

That the House of Assembly's amendment to amendment No. 57 of the Legislative Council be agreed to.

Some concern has been expressed in another place about the Development Act provisions as they relate to electricity businesses. In a series of discussions with members and Government advisers in another place, an amendment was moved in another place which the Government is prepared to

support. I will briefly summarise the amendment. Very simply, a major generating plant of more than 30 megawatts, or long sections of transmission lines of more than 66 kilovolts that extend over a distance of more than five kilometres, will be catered for broadly under the major development provisions of the Development Act.

The whole series of electricity business actions of a smaller nature which are currently catered for under regulations will continue to be provided for under those regulations, and the Government will need to issue similar regulations as operated in the past. We understand that both Independent and Labor members will support a continuation of the existing level of those actions being covered by this provision of the Development Act. Then, in between both of those, there are the middle-sized developments, if I can put it that way. That is, between the major and smaller developmentsare the middle-sized developments and they will be subject to section 49A of the Act. With that brief explanation, the Government is pleased to support the amendment.

The Hon. P. HOLLOWAY: The Opposition supports the amendment.

Motion carried.

ADJOURNMENT

At 4.45 a.m. the Council adjourned until Tuesday 6 July at 2.15 p.m.