ECONOMIC REGULATION AUTHORITY BILL 2002

Consideration in Detail

Resumed from 12 March.

Clause 32: References -

Debate was interrupted after the clause had been partly considered.

Mr B.J. GRYLLS: Clause 32 states -

> The minister may, by written notice, refer to the Authority for an inquiry any matter relating to a regulated industry other than a matter governed by the operation of the Gas Pipelines Access (Western Australia) Law . . .

Can the Treasurer give an example of what those matters may be?

Mr E.S. RIPPER: Four examples are given in subclause (2); namely, prices and pricing policy in respect of goods and services, quality and reliability of goods and services, investment and business practices in the industry, and cost of compliance with written laws.

Clause put and passed.

Clauses 33 to 37 put and passed.

Clause 38: References -

Mr B.J. GRYLLS: The National Party seeks some clarification about the non-regulated industries to which the Government envisages this clause will apply. Does this mean the Government can interfere in the marketplace of any industry, therefore creating uncertainty for industry participants? We are concerned about the broad-reaching ramifications of this clause.

Mr E.S. RIPPER: This does not mean that the Government will interfere. It means that the Government may ask the authority to conduct an inquiry. An inquiry does not need to be acted upon, but it may provide useful information that will improve government policies towards or the economic outcomes for a particular industry. This function is not dissimilar from that of the Commonwealth's Productivity Commission or the Independent Pricing and Regulatory Tribunal of New South Wales. On some occasions, for example, the Government may benefit from the expertise that the Economic Regulation Authority may provide either informally through a report or more formally through an inquiry. To give an example - I am not saying this is something the Government intends to do - everyone knows that the high cost of taxi licence plates is both restricting entry to the industry and driving up fares and driving down returns to drivers. That situation is not very satisfactory, yet to move from that situation raises the prospect that the investment that people have made in taxi licence plates will be put under some threat. That is a difficult economic conundrum. The Government is dealing with that conundrum. If we were to have a similar circumstance in the future, one way in which it could be handled would be to commission the Economic Regulation Authority to prepare a report, which is the more informal mechanism, or conduct an inquiry.

Mr D.F. BARRON-SULLIVAN: It strikes me that although the authority will have a degree of independence, this clause will give the Government, presumably through the Treasurer, the power to request the authority to conduct an inquiry or commission a report, whether it be into the cost of taxi licence plates, potatoes, or whatever. That may reduce the independence of the authority by making it in essence almost an arm of Treasury. Can the Treasurer respond to our concern that ultimately Treasury may be directing a lot of the work that the authority will be carrying out?

Mr E.S. RIPPER: The authority will be independent in the conduct of its functions with regard to access regimes for monopoly infrastructure and the application of licensing schemes in gas, presumably electricity in the future, water, and rail. The transparency and independence of the authority's important access regulation and licensing functions will be enshrined in the statute. Yes, the Government may ask the authority to conduct an inquiry, but the Government cannot interfere with the way in which the authority conducts its important access and licensing functions. In any case, in conducting an inquiry, the authority will be independent with regard to any recommendations it may make, and the Government will have the capacity to either implement or reject those recommendations.

Mr B.J. GRYLLS: Will any cost burden fall on the industries that are referred to in an inquiry? Will any of these inquiries involve a compliance cost?

Mr E.S. RIPPER: Consolidated fund money is required for inquiries and reports. The only industry-funded sections are for access regulation in the gas industry.

Mr B.J. GRYLLS: Perhaps I did not make myself clear. If an industry other than those listed is to be inquired into, what costs would that industry incur in attempting to comply with it? If the regulator goes outside to look at another industry, that industry will obviously incur costs in complying with that inquiry.

Mr E.S. RIPPER: If the Government, tomorrow, established a royal commission into a particular industry, that industry would incur some costs in responding to that inquiry. If the Government establishes a consultation process for the consideration of a particular initiative, industry faces costs in preparing submissions and responding to that process. What is proposed here is no different to what happens already. There is a limit to the number of inquiries and reports the authority can be asked for, and that limit is set by budgetary circumstances. These inquiries and reports must be funded from consolidated funding provided to the agency, and, as Treasurer, I can tell the member that funds are tight, and there are many priorities. There might not be a huge willingness in the Government to fund a plethora of inquiries and reports, when important services such as health, education and community services also need funding.

Clause put and passed.

The ACTING SPEAKER (Mr A.J. Dean): Members, I think the next clause for consideration is clause 42.

Mr C.J. Barnett: Can we consider the Bill clause by clause?

Points of Order

Mr E.S. RIPPER: Would it not be better if the Leader of the Opposition told the House which clauses he wants to debate? If he wants to debate every one, well and good, but surely he is prepared for the debate and knows which clauses he wants to debate, so we can get on and move forward a bit more quickly.

Mr C.J. BARNETT: This is a Parliament, not an extension of the Executive, and if this Parliament wishes to go clause by clause - we are up to clause 40 now, and there are only about 55 clauses - I suggest the Treasurer just continue, and if I do not make comment, they can simply be put, and we will progress.

Mr J.C. Kobelke: I was told yesterday by the Opposition's manager of business that the whole of the consideration in detail of this Bill would take about an hour. It has gone well beyond that. You are just conducting a filibuster.

Mr C.J. BARNETT: It may take some time more, because there are issues arising out of this debate -

Mr J.C. Kobelke: They are not issues; this is a filibuster.

Mr C.J. BARNETT: Listen, sunshine, if you actually sat in this Parliament and listened, you would have an idea of what is going on.

Mr R.C. KUCERA: The Speaker made it quite clear yesterday that members are to be called either by the name of their seats or by their ministerial title, and it is quite clear that that needs to be adhered to. The Leader of the Opposition was in the House when that ruling was made.

Mr E.S. Ripper interjected.

The ACTING SPEAKER: I have given the Leader of the Opposition the option, and he has suggested that he does not want to do that. I am happy to abide by whatever suits. As the Speaker said yesterday, the calling of the Leader of the House by a particular name should not enter into the debate. The Leader of the Opposition should use seat names or ministerial titles.

Debate Resumed

Clause 39 put and passed.

Clause 40: Notice of reference, amendment or withdrawal -

Mr C.J. BARNETT: Clause 40 relates to the withdrawal of a reference, and it allows for it to be made public. I assume that would be through the Executive, but will there be any public explanation of the reasons for the withdrawal of a reference? Sometimes, references for inquiries simply get too hard, and that is why we need to know.

Mr E.S. RIPPER: This part of the legislation is quite clear in stating that the minister may, but is not required to, cause notice of any reference, or the amendment to or withdrawal of a reference, to be published in the *Government Gazette* or in some other manner. The usual course of action would be for these matters to be dealt with publicly.

Clause put and passed.

Clause 41 put and passed.

Clause 42: Reports -

Mr B.J. GRYLLS: I move -

Page 23, lines 6 to 8 - To delete the lines and substitute the following -

(4) The Minister must cause a copy of the report (excluding any information identified under subsection (3)) to be laid before each House of Parliament, or dealt with under section 60, within 28 days after the Minister receives the report.

The minister, under this legislation, has the ability to ask the Economic Regulation Authority to investigate other industries outside of the five regulated industries specified in the Bill. The Bill states that the ERA must present a copy of its findings in a report to the minister, but the Bill does not force the minister to make that report public. This amendment would require the minister to table the report in the Parliament within 28 days of receiving it from the ERA. This Government continually claims to be open and accountable, and this amendment would ensure this.

Mr E.S. RIPPER: When the authority conducts a formal inquiry, that report is required to be made public. The provision for the authority to prepare a report, rather than conduct a formal inquiry, is to enable the Government to obtain quick advice from the authority on a less formal basis. The Government may then choose whether to act on that advice. There is no necessity for that advice to be made public. It is not too dissimilar from advice provided by all sorts of other government agencies. If people really want to know what advice the authority has provided to the Government, there are provisions under the Freedom of Information Act to enable them to obtain that advice.

Mr B.J. GRYLLS: I understand what the Treasurer is saying, but the whole of this debate has been about the regulator being independent. If the Government is taking advice from the authority, upon which it intends to act, it seems only right that that advice should be brought back to the Parliament so that we know what that advice is.

Mr E.S. RIPPER: The functions for which the authority's independence is vital are all open and transparent. There are defined processes within the national gas access code, and processes applying to rail access. There are rules governing gas and water licensing and there will be similar sets of rules for electricity. It will all be independent, open and transparent - that is absolutely vital for the independent functioning of the authority. The only threats to the authority's independence come from those who think that a nudge-nudge, wink-wink approach to the relationship between the Government and the regulator is the way in which the world does, or should, work. I reject any suggestion that that is the way it does or should work. I will not get myself into the situation that the Leader of the Opposition did when he was the Minister for Energy when a major company bought an asset from the Government and made allegations that it had an "understanding" with the Government. I do not believe the company did have an understanding. We must ensure that there is no suggestion of there being any nudge-nudge, wink-wink relationship between the Government and the regulator. The legislation is quite specific; that is why I was very clear in responding to the Leader of the Opposition's questions yesterday about the independence of the regulator.

With regard to the authority providing a report to the Government, such a report will be made public after it has used its formal inquiry processes and the associated powers. That is because of the use of such powers and the formal nature of an inquiry. If the Government requests a quick report - for example, on the restructuring of public transport fares - to be funded from the resources allocated to the authority by the consolidated fund, and, if it does not like the report and will not implement the recommendations, I see no need for the Government to table a report upon which it will not act. If people want to get involved in the internal policy deliberations of the Government, even on matters when recommendations are not implemented, the Freedom of Information Act provides sufficient remedy.

Mr B.J. GRYLLS: It seems from the Treasurer's comments on this amendment that he almost appears to support it. He wants to keep things open and accountable and for the public to know what the authority is investigating and reporting on. It would not be too much of an ask for the Treasurer to support the amendment and have it incorporated in this legislation so that any reports prepared by the authority will be available to the public for open scrutiny. That should be the case even if it is a quick, off-the-cuff report that the Government does not accept. Those reports should still be available to the Parliament so we understand exactly what the authority is doing.

Mr C.J. BARNETT: I support the thrust of the member for Merredin's argument. If this body is to be independent it needs to report or have its activities reported to this Parliament. There is no independence in reporting to the minister. The minister, by definition, is partisan. He is a member of a political party and in place to achieve political objectives. One of the bases of our system of government is, by having executives

drawn from the Parliament, we separate the partisan political role of Cabinet - which has no status in reality - from the function and operating role of government agencies. A regulator should report. If I were the minister I would have the regulator report to me; I would not shy away from that. I would also have a very strict requirement for accountability and openness so that any references, reports, or termination of references are notified in this Parliament. As I said during the second reading debate, next to the Premier, the regulator will be the most important and influential person in Western Australia. He will have a level of importance and prominence in this State beyond that in other States simply because of the nature of our industrial structure. We have a heavy reliance on large capital-intensive projects. If the regulator does what he is supposed to - that is, look at standards, access codes and the like - it is really quite bland work. However, it should be made public through this Parliament.

Mr E.S. RIPPER: With regard to the matters that make the regulator - in the view of the Leader of the Opposition - so powerful, such matters are conducted fully in the public view. Submissions are published on web sites, as are draft decisions. Everything is conducted in the open. That is the way the gas access regulator works and that is the way the authority will work with regard to the matters that lead the Leader of the Opposition to make his statements about the powers of the regulator. I do not agree that the regulator will be second only to the Premier as a power in the State. These powers already exist; we already have a gas access regulator and a rail access regulator. We already have people making decisions about access to the electricity network. It is proposed that the collection of powers be exercised by one authority, not just one person. Three people will be appointed to the authority: one chair and two others. I am not as adamant as the Leader of the Opposition about the huge level of power the regulator will have. Leaving that aside, the regulator will have power over certain matters. With those matters, the regulator has to operate in an open, transparent and independent fashion. All we are talking about is if the Government does not want the regulator to conduct a formal inquiry into a matter because it wants an informal report. Should an informal report always have to be tabled in the Parliament by the Government or should the Government have discretion of its tabling and leave it to freedom of information provisions if people want to access the report? When the regulator uses its formal powers of inquiry the reference and processes for the conduct of inquiry should be public, as should the report.

Mr B.J. Grylls: Why not with all inquiries?

Mr E.S. RIPPER: No. That is the difference between an inquiry and a report. There are two processes. The first is a formal inquiry that results in a report. When a formal inquiry is conducted with terms of reference by the Government and it uses information gathering powers, I agree that the outcome should be made available to the Parliament. When an informal inquiry is held information gathering powers cannot be used. That is because only a formal inquiry can use those powers. Given that the authority's powers are not invoked for an informal report it is best to leave the legislation as it is. Naturally, in most cases, the Government would release the report, just as it does now with most of the reports it gets. Sometimes, the Government receives a report that might alarm the community and upon which the Government does not intend to act.

Mr B.J. Grylls: It is supposed to be open and accountable.

Mr E.S. RIPPER: Yes, but it ends up being held to account for something it is not doing.

Amendment put and negatived.

Clause put and passed.

Clause 43: Preparation of reports for purposes of section 42(2) -

Mr C.J. BARNETT: Clauses 42 and 43 relate to each other; they deal with non-regulated matters. The suggestion was made that the issue of bus fares might arise. Elements arising in the two clauses concern me. I do not mind Governments initiating inquiries into matters, whatever they might be. Taxi plates is the current issue attracting attention. That is the sort of thing the regulator might look at. However, once the regulator performs that role it is, by definition, no longer independent or impartial. As soon as the regulator is given a policy research role to investigate an industry and to make recommendations, by definition that regulatory authority is no longer independent simply because it has an opinion. Once it reports and recommends, it has an opinion and it can no longer be independent. For example, the Treasury opinion at the time of privatising the Dampier to Bunbury natural gas pipeline was that it should be privatised but that there should also be a second pipeline. It was the most foolish piece of advice I had ever heard. It would have cost the State $1 billion alone, but Treasury was of the view that a second pipeline was needed. The technical argument was that it could carry a different quality gas, which is something that historically goes back to the North West Shelf agreements. In that case Treasury was seen as the impartial honest broker promoting a policy decision. How could a body promoting a policy decision such as that also play a regulatory role? It is quite contradictory. That is a major failing of this legislation. On the one hand the regulator must take a hands-off approach - no nods and winks

from the Treasurer - and be totally impartial, but at the same time it must be able to run an inquiry and provide recommendations and then pretend to be impartial again. It cannot be done. The regulator must be totally independent. It should not have a policy research advisory role if it is to be a true regulator and only a regulator.

Mr E.S. RIPPER: With respect, I disagree. The Productivity Commission conducts inquiries. Do people say the Productivity Commission is not independent? I will provide a better example than that. A judge conducts a royal commission and makes recommendations. Does anyone say that that judge, because he has been involved in the royal commission and made recommendations on policy issues, is no longer independent and cannot conduct his judicial functions? No, of course they do not. The Leader of the Opposition's argument is wrong. No-one is suggesting that the authority will become an advocate for particular policy positions. It is asked to conduct an inquiry, it makes recommendations and that is it. It is then up to others to decide whether those recommendations should be acted upon, argued for in the community and so on, which is what happens in a royal commission. If a judge can conduct a royal commission and present recommendations on a policy matter and still be thought of as independent when it comes to his or her judicial functions, an economic regulator can do the same.

Mr C.J. BARNETT: I would have thought that the average judge has a higher level of training and experience in distinguishing between issues. However, this is about economic matters so I will refer to the example given by the Treasurer in which the Productivity Commission gives advice and makes recommendations and reports. What industry does the Productivity Commission regulate? Does it regulate any industry?

Mr E.S. Ripper: Does anyone say that the Productivity Commission is not independent?

Mr C.J. BARNETT: That is not my point. The Productivity Commission provides reports and recommendations to the Commonwealth Government and occasionally to State Governments. However, the Productivity Commission has no regulatory role. It does not regulate so the Treasurer's example falls flat on its face.

Mr E.S. Ripper: It does not fall flat on its face at all.

Mr C.J. BARNETT: It does. The Treasurer could not have picked a better example to suit my argument. The Productivity Commission provides a policy advice recommendation industry analysis for government. The regulatory role falls with bodies such as the Australian Competition and Consumer Commission or the Department of Transport under different legislation. Therefore, regulation, policy and research are separated at a commonwealth level. In this instance, the Treasurer is putting them together, which is the failing of this Bill.

Mr E.S. RIPPER: The Independent Pricing and Regulatory Tribunal of New South Wales has both these functions. I did not say that the Productivity Commission is exactly like the Economic Regulation Authority, but that it can conduct inquiries and make recommendations on policy matters and no-one accuses it of lacking independence. Judges can conduct inquiries on behalf of the Government and make recommendations and no-one accuses them of lacking independence. The question is: can an inquiry be conducted and a recommendation made on a policy matter without sacrificing independence? Yes, of course it can, and there are plenty of examples in the community where that happens.

Mr C.J. BARNETT: There are not too many examples at all. Certainly not when one is dealing with stakes this high. We are talking about access regimes, licences to build pipelines and whatever else there may be. The roll of the dice is high. That is why I commented about the importance of this position and this person. Believe it or not, I want this authority to work. I do not want it to become so powerful that this State grinds to a halt under the weight of regulation. I agree with the broad principle of having one regulatory body rather than a dozen. I am actually trying to be constructive. However, when these other roles are introduced, the odds are stacked towards it failing rather than succeeding. I have always supported the basic principle of having one regulatory authority that takes a hands-off approach. However, that notion has been complicated by the duplicity of ministerial roles and by giving it a research and policy role in addition to its regulatory role. The Treasurer has compromised - not intentionally - the Government's own objective and this body will struggle to succeed.

Mr E.S. RIPPER: Can the Leader of the Opposition explain the mechanism by which he thinks the independence of the authority will be compromised? The legislation states in black and white that with regard to access and licensing matters, the authority is independent. The policy of the Government is that it is independent, and the approach that the Government takes is consistent with the policy in the legislation. How does providing its independent and publicly available advice to the Government compromise its independence?

Mr C.J. BARNETT: I will not pursue the matter. One of the members of the authority may pen a report and recommend that such and such should happen as a result of a reference being made to it. A case then comes up before the authority in which everyone appearing presents submissions. Given that the authority has already publicly reported to the Government of the day and made a recommendation, impartiality has immediately been

lost in terms of the way proponents present themselves and the way the organisation will run. I am not arguing against having reports commissioned. I do not mind having mini-industries or a productivity commission body in this State, but they should function separately. I would not even mind if someone were seconded from this authority to work on an independent inquiry. Once those two tasks have been melded together under one body, I bet London to a brick that conflict of interest accusations will be made.

Clause put and passed.

Clauses 44 and 45 put and passed.

Clause 46: Conduct of inquiry -

Mr C.J. BARNETT: This provision is a nice sentiment. It essentially requires that the authority conduct its inquiries informally. I would like to think that could happen. From my experience, it can. However, I suspect that as the authority continues to operate and the stakes get higher and money and legal issues impinge upon it, it will become difficult to keep that informality. The gas regulator certainly started with a spirit of informality that came out of the national access code. People could come in and shoot the breeze with the regulator or his staff. It is generally desirable that when regulatory issues arise that participants can seek informal advice from the regulator. For example, a person might want to know what the regulator thinks about a proposal to put a lateral extension onto a pipeline where there might be gas quality issues. It is far better that such issues can be sorted out. I hope the legislation succeeds in that way but I suspect, particularly after the Epic Energy case ended up in the Supreme Court, that it will be difficult to maintain that informality as the stakes ride higher. However, it will depend very much on the personality of the members of the authority and of the staff. They will need to be welcoming and forthcoming and I hope they show a preparedness to discuss issues quite openly and frankly with all participants. That will minimise conflicts and, hopefully, minimise the workload of the regulatory authority. It is a good sentiment; I support it. However, it would be difficult, over time, to actually achieve.

Mr E.S. RIPPER: These clauses relate to the inquiry functions of the authority. They are access regulation functions that are governed by procedures in the codes. When dealing with access regimes and when large amounts of money are at stake, there is always the possibility that the sort of development that the Leader of the Opposition has indicated might occur - people might go to court over the process being followed by the regulator. However, we are talking about the inquiry function. This is not a decision-making function but a recommending function. It will be up to the Government of the day to determine whether to proceed. I will give an example of the sorts of inquiries and reports that have been conducted. This has been raised in debate on previous clauses. These clauses on inquiries and reports are modelled on those relating to the Essential Services Commission in Victoria. The Essential Services Commission has conducted reviews on the effectiveness of full retail contestability for electricity, on the costs and benefits of installing integral meters for customers, on natural gas prices for regional producers and on the performance of utility firms. The Independent Pricing and Regulatory Tribunal of New South Wales has conducted a review of Sydney Water Corporation's stormwater charges and expenditure, and a review of the taxicab and hire car industry. There have also been inquiries into demand side management - that was presumably an electricity-related inquiry - an inquiry into gaming in New South Wales, and questions on various industries.

Mr C.J. Barnett: I do not doubt that a body such as this would have the capacity to do that. That is not my point. The sort of people who will work within the authority will have the competence to do those sorts of inquiries within the same sort of time and into the same type of matter.

Mr E.S. RIPPER: The main work of the authority will be in access regulation and licensing. That will be its core business. The Government of the day should ensure that it does not overload the authority with references and requests for reports that will distract from its core business. The legislation contains a provision that requires the minister to consult with the authority before references are issued. In any case, we are really talking about the way in which the authority should conduct those inquiries. The Leader of the Opposition's argument is not as strong as he has made out, because in these matters the authority will be recommending rather than deciding.

Clause put and passed.

Clause 47: Powers relating to inquiry -

Mr C.J. BARNETT: A few of the clauses that are now coming before us relate to inquiries, confidentiality and the ability to summons people and the like. This body has quite extensive powers in that regard. I hope that it will be conservative and cautious in the use of those powers. If the authority started to summons people from all over the place, whether they be competitors, regulators, members of Parliament, ministers, former ministers or whatever, it would soon gain a reputation of being intrusive. The issue of summonses and demands for information should be kept to an absolute minimum. There should be some test or requirement that the regulator

or authority must be able to prove the need to summons someone or demand information. These demands can place enormous cost burdens on third parties to inquiries. I would be interested in the Treasurer's comments on what sort of criteria would apply to drawing in third party evidence and on summonses and the like.

Mr E.S. RIPPER: I expect those powers to be used sparingly. This could become a controversial matter if those powers were misapplied. I suppose that is the ultimate accountability: the authority could find itself drawn into public debate and argument if it were seen to misuse those powers. The number of inquiries and reports that the Government would seek is an important issue. The Government would want to use the expertise available in the authority on important matters. It would be a waste not to use that expertise from time to time. However, it would also be counterproductive if the Government were to distract the authority from its core business. I intend that, certainly in the early stages of the operation of the authority, the Government will be sparing in its requests for inquiries or report activities. I also expect the authority to be judicious in the way in which it handles those powers.

Mr B.J. GRYLLS: I refer the Treasurer to my earlier amendments to require all reports to be tabled in Parliament. Can the Treasurer explain where clause 47 differentiates between an inquiry and the so-called quick, off-the-cuff report that would not need to be tabled?

Mr E.S. RIPPER: Inquiry and report are distinguished in the legislative scheme. When a clause refers to inquiry, it relates to the formal inquiry mechanism, which provides powers to the authority and requires that the report be made public. When the legislation refers to report, it is referring to the informal mechanism. These clauses relate to inquiry, which is the formal mechanism. Anything that refers to report relates to the informal mechanism.

Clause put and passed.

Clauses 48 to 50 put and passed.

Clause 51: Power to obtain information and documents -

Mr C.J. BARNETT: I will not be repetitive, but the point I will make is similar to the point I made under the summons clause. The clause states that the authority may request information or documents that would assist in the performance of its functions. There is a tendency within government bureaucracies to overuse clauses of this type and to seek all sorts of documentation. I am not saying that private industry does not do that as well, but I know from my time as minister that some of the requests for information from companies were right over the top. I do not know how one can guard against that. Someone working on a case may decide that it would be nice to know something and may issue a demand for the supply of that information. The minister of the day should discuss those sorts of principles with the authority. Huge burdens should not be placed on people through summonses or demands for information without strong justification. It could cost tens of thousands of dollars to comply with a legal requirement for information, particularly when dealing with multinational businesses for which information may not be held locally. There can be enormous, perhaps unintended, costs and disruption. That sort of activity would quickly mean that the authority would attain a bad name with industry. For this authority to work well, it requires a level of informality. Industry needs to have confidence in the regulator. The regulator's staff need to be able to discuss issues and reach agreement. That should not compromise the decision-making process. However, a degree of informality and discussion must occur. If the authority gets to the stage of summonsing and demanding information, it will be well on the way to creating a slow, costly regulatory process. Again, I hope that those powers will be used in a limited and circumspect way.

Mr E.S. RIPPER: These powers apply to the inquiry function of the authority, not to its access regulation function. The powers governing its access regulation function are contained in the national gas access code, and changes to those powers must be negotiated nationally.

With regard to the operation of the inquiry powers under clause 51 and other clauses, it is worthwhile going back to clause 38(4). When the minister gives a reference to the inquiry, the minister must specify the terms of reference for the inquiry, and may specify the nature and degree of public consultation that is to be undertaken and so on. It will be important for the minister to specify clearly what the authority is to inquire into. If the minister specifies clearly what the inquiry is to be about and the authority acts carefully in the use of its powers, we will avoid the problems about which the Leader of the Opposition has spoken.

Mr C.J. BARNETT: Can the Treasurer add any comments about how the confidentiality of that information, once requested, will be protected?

Mr E.S. RIPPER: Restrictions on the disclosure of confidential information are covered under clause 55, so perhaps we can debate that issue when we get to clause 55.

Clause put and passed.

Clauses 52 to 54 put and passed.

Clause 55: Restriction on disclosure of confidential information -

Mr B.J. GRYLLS: In relation to the Leader of the Opposition's question about the confidentiality of the information given, can the Treasurer more fully explain that provision?

Mr E.S. RIPPER: Clause 55 is modelled on clause 42 of schedule 1 of the Gas Pipelines Access (Western Australia) Act 1998. We are simply applying the same provisions of that Act. Essentially, this clause provides that if a person states that a matter is confidential or of a commercially sensitive nature at the time he or she hands the information to the authority, the authority must not disclose the information unless it is of the opinion that the disclosure would not cause detriment to the person who provided the information or, even if it would cause detriment, the public benefit of disclosing the information outweighs the detriment. That is similar to clause 42 in schedule 1 of the Gas Pipelines Access (Western Australia) Act.

Mr B.J. GRYLLS: What recourse would industry have if confidential information were made public? What process would it then go through?

Mr E.S. RIPPER: I am not a lawyer, but I think that if a regulator or any other public official does not act in accordance with the governing legislation, people can go to the Supreme Court and seek a court order requiring the regulator to act in accordance with that legislation. That is the remedy here. Of course, the real remedy is in the quality of the people appointed to the authority and the way in which they conduct their duties. Very senior and responsible roles are being created by this legislation, and people of great substance and integrity will have to be appointed to fulfil those roles. One would expect such people to abide by the terms of the legislation. If they do not, or if somebody thinks they have not, I think the only remedy is through the courts.

Mr B.J. GRYLLS: That raises the issue to which the National Party has referred previously in debate on this Bill; that is, should industry wish to pursue a court case against the regulator for the disclosure of sensitive information, industry will actually end up paying for the court case because it funds the regulator.

Mr E.S. RIPPER: The gas industry funds the access-related functions of the regulator with regard to pipelines. There is no cost recovery apart from in the gas industry. The provisions that we are talking about in this clause relate to the other functions of the authority. The gas access functions are governed by the national gas access code. We are not altering that, and if we were, we would have to seek the agreement of every other jurisdiction in the country.

Clause put and passed.

Clauses 56 to 60 put and passed.

Clause 61: Regulations -

Mr B.J. GRYLLS: I move -

> Page 33, lines 10 to 24 - To delete the lines.

This amendment is consistent with the National Party's amendment to clause 21. The National Party does not believe that industry should bear the cost burden of regulation. The national competition policy payments are made to the State for enacting the reforms that this legislation will enact, and we believe that the cost of regulation should be funded by those payments.

Mr E.S. RIPPER: I do not support this amendment. As I have pointed out to the member for Merredin, his constituents do not benefit from gas access regulation, because the last time I looked, there was no gas pipeline running through Merredin. The member is arguing that his constituents fund gas access regulation through their taxes, which benefits people in other parts of the State. Perhaps the industry and those people in the other parts of the State who benefit should fund the cost of regulation rather than the member's farming constituents who do not have access to gas.

Mr B.J. GRYLLS: The Treasurer and I disagree on this matter. The Treasurer believes that forcing people in my electorate to pay the cost of regulation, which would be spread over the State and would probably work out to only a few cents per taxpayer, would make them worse off. However, the point my constituents make is that the regulator is screwing down on the industry and is forcing it out of areas it wants to expand into by decreasing the amount of money the industry can make. We would be far better off with a very competitive sector that allowed the expansion of the gas pipeline. If that were the case, Epic Energy Pty Ltd would be interested in expanding its operations. I am sure the Treasurer has seen the maps Epic has drawn up that show the gas being

brought down a pipeline through the wheatbelt areas. That would provide huge benefits to my electorate. Currently, however, those expansion plans are on hold because the regulator has its foot on Epic's throat.

Mr E.S. RIPPER: Now we see the National Party's agenda. The National Party would like consumers in the metropolitan area and in the south west of the State to pay more for gas so that the gas pipelines can be extended uneconomically to service areas in which the National Party has an interest. That is the fundamental difference of opinion between us. If that approach were to become a part of access regulation, it would create a risk for investors in this State because the regulator would have to make a judgment about the political views on where a pipeline should be built and at what cost. After the pipeline had been established, I am sure it could be argued politically that consumers who use the services of that pipeline should not pay any more than consumers who use a pipeline in another part of the State. The owners of the infrastructure would then be asked to operate that infrastructure not only in areas where it was not commercially viable, but also at rates that did not reflect the uncommerciality of the operation. Regulators cannot make decisions that must be made by politicians. If the member believes that a particular area or region should be subsidised as a matter of public policy, that is a matter for politicians to decide. Politicians are elected and are accountable to the electorate for the allocation of resources. It is a matter for politicians to decide whether it is a good idea to impose higher prices on one area in order to provide subsidised prices in another. However, that process should not be imported into regulation. Regulation is about replicating what a market would do but for the existence of natural monopolistic elements that prevent a real market from operating properly. Regulation should be open, transparent and non-political. It should not involve one area subsidising another; they are political issues. That is why I am very concerned about efforts to allow regulators to decide economic development and regional development considerations. Let us not get the operations of regulators mixed up with the operations of politicians.

Mr B.J. GRYLLS: How much will it cost to run the Economic Regulation Authority per year? That would allow me to work out how much it would cost every individual in my electorate. I would like the minister also to expand on his belief that it would be uneconomic to run a gas pipeline through the wheatbelt.

Mr E.S. RIPPER: We are amalgamating the various functions that are already performed in government; that is, gas and rail access regulation and licensing functions in the areas of the Coordinator of Water Services and the Coordinator of Energy. I do not have before me the figures of the estimated budget for the amalgamated functions. However, yesterday I said it would employ about 17 or 18 full-time equivalents. That gives the member an idea of the size of the operation.

I do not invest money in pipelines, so I will not make decisions about whether it is economic. However, I note that a pipeline has not been built through the wheatbelt yet; therefore, presumably it is considered uneconomic. I have noted also an absence of discussion in the financial pages of the newspaper about the prospects of a pipeline being built through the wheatbelt. That is not to say that someone might not come up with an economic proposal. It would be terrific if a proposal were before us to pipe gas to more places in the State.

A process exists to determine whether a pipeline should be covered by these arrangements. For example, the Parmelia pipeline was covered by these arrangements but now it is not. There is a process whereby the National Competition Council makes recommendations about whether a pipeline should be covered. Jurisdictions then have to sign off on that matter. It is not as important to make decisions through the regulatory process on individual matters as it is to have a set of rules up-front. I am interested in the possibilities of different arrangements for new pipelines that are constructed for the benefit of particular customers who have made contractual arrangements with the proponents of the pipeline. In other words, if a pipeline proponent and a foundation customer reach an agreement and that agreement applies, the pipeline will be built. However, if it were to be covered by the access arrangements, it would not be built. I would prefer our national gas access arrangements to provide consideration for those types of cases. There are a number of examples whereby if pipelines were to be covered by the access arrangements, they would not be built, whereas if they were not covered by the arrangements, they might be built. It is important to have a standard set of rules to govern these matters. Hopefully, these matters will be considered in the review of the gas access code. It is important to have a standard set of rules rather than make decisions on a case-by-case, favourite-by-favourite basis.

Amendment put and negatived.

Clause put and passed.

Clause 62: Amendments to other Acts -

Mr C.J. BARNETT: This clause looks innocuous. It simply states -

> Schedule 2 has effect.

The Bill contains a number of schedules. I want some guidance from the Chair about how the Treasurer wants to handle this. I will ask some general questions about the schedules of this Bill. Many of the schedules amend, by repealing, large sections of other legislation. I do not want to prolong this debate, but we could in theory discuss a large number of those amendments. I want to seek clarification about the respective roles of the regulator for electricity, gas, water and rail. I could do that as we go through the schedules. I do not suggest it will take a long time. That would probably be the easiest way; however, I do not want to get to the schedules and find that I am constrained in what we can discuss. I can ask my questions either now, which would be awkward, or, with a bit of cooperation, when we get to the schedules. I want only to ask general questions about who is responsible for what.

Mr E.S. Ripper: The schedules are part of the Bill. This is an unusual clause.

The ACTING SPEAKER (Mr A.P. O'Gorman): Clause 62 provides that schedule 2 will have effect. The schedules can be debated after all the clauses have been decided upon, and their contents can be amended or deleted.

Mr C.J. BARNETT: I am happy to do that. I did not want to be limited in asking questions about the responsibility of different ministers and agencies as provided by the amendments.

Mr E.S. Ripper: I will not call any points of order.

Mr C.J. BARNETT: I just want clarification. We will deal with those matters in schedule 2.

Clause put and passed.

Clause 63 put and passed.

Clause 64: Review of Act -

Mr B.J. GRYLLS: I move -

> Page 34, after line 25 - To insert the following -
>
> (1) The Public Accounts Committee of the Legislative Assembly is to carry out an annual review of the operations and expenditure of the Economic Regulation Authority in each of the first 5 years of its operation.

This continues the trend of the National Party's involvement in this Bill, which is to make it more open and accountable, ensure that the work of the Economic Regulation Authority achieves the goals that are set before it, and scrutinise the cost of running the Economic Regulation Authority and how those charges will be passed on to industry. We think that this is a simple amendment that once again requires the Parliament to investigate the ERA and make sure it is performing its task effectively. I am sure the member for Avon would like to add his weight to this argument.

Mr M.W. TRENORDEN: This is a very standard procedure within the Parliament of Western Australia. It has happened on numerous occasions. I served on the Public Accounts and Expenditure Review Committee between 1989 and 1992, and I know how many times this Chamber made referrals to it. The most prominent and relevant of those referrals resulted from the arguments of the late 1980s about whether SGIO was keeping enough prudential assets to cover claims. The Public Accounts and Expenditure Review Committee was given the task of looking at the prudential assets of SGIO, which was still a government agency, on an annual basis. The Public Accounts and Expenditure Review Committee did that for a number of years. It reported to this House on an annual basis until SGIO was privatised and set on its way to becoming what it is today. On numerous other occasions the Public Accounts Committee has been instructed by this Chamber to carry out functions. If you, Mr Acting Speaker, look at the standing orders - which you read all the time - you will see that the Public Accounts Committee has been established for the purpose of serving this Chamber. It also generates its own inquiries. I am a major fan of the Public Accounts Committee, and I think it has served this Parliament very well. Our amendment will set in place a standard process that is clearly understood by the Public Accounts Committee and the Parliament.

The purpose of the amendment is to give comfort to those of us who sit in this Chamber. A five-member committee of this Chamber would look at the processes of the Economic Regulation Authority in its early years. The committee would annually report to the House on the work of the Economic Regulation Authority. The regulator, or the Economic Regulation Authority, would know that every year it must face the Parliament about the conduct of its affairs. The Public Accounts Committee has all the powers of this Chamber, and to face the committee is to face this Parliament. The committee is a small reflection of this Chamber. The benefit to us will be accountability in the early days of the operation of the Economic Regulation Authority. There will be an accountability process for not just the minister of the day but also all of us who sit in this Chamber. The public

will also be able to utilise that accountability process. It will know that the Public Accounts Committee has the capacity to hold meetings with the Economic Regulation Authority and that it can make submissions to the committee. When I say "the public" I mean both private individuals and commercial entities. They can make applications to the Public Accounts Committee and ask questions about the functions, operations and duties of the regulator. That will mean that any decisions made by the Economic Regulation Authority can be queried by people at both ends of the spectrum.

This should not need to be debated. I expect this amendment to be passed because there is no reason for it not to be. It is a perfectly legitimate and sensible function of this House. In the last Parliament I was a big fan of this place having two new standing committees. We now have four standing committees to carry out this function of accountability. We will be well served by those committees as they get their teeth into delivering information to busy members of Parliament on key issues of public function. The role of the regulator will be a key issue for the people of Western Australia. I do not expect any opposition to this amendment, because there are no arguments about why it should not be accepted.

Mr E.S. RIPPER: I hate to disappoint the Leader of the National Party, but there are some arguments about this amendment. The Leader of the National Party and I served on the Public Accounts and Expenditure Review Committee, as it was then called, and we had some interesting debates inside that committee and in the House when the committee's recommendations were tabled. We had a productive working relationship at that time. I value the role of the Public Accounts Committee. However, we need to think about what we will do to that committee if we say that every year it shall conduct a review of the Economic Regulation Authority. From the point of view of the Government, it might be good if every year the Public Accounts Committee had to conduct a review of an authority about which we know there will be no problems, because that might distract it from working on more productive areas of potential disadvantage to the Government. However, I believe the Public Accounts Committee would rather have the flexibility to investigate issues that there is a reason to investigate and on which there is a greater chance that the committee will have an impact than be tied up with a legislated obligation to conduct an inquiry every year into this authority. That is point one. Point two is that if the Public Accounts Committee believes that an issue with the Economic Regulation Authority requires investigation, it has the capacity to conduct an inquiry in any case. Point three is that the Public Accounts Committee may not be the most relevant committee of this House to examine the ERA. The Economics and Industry Standing Committee deals with economic matters and may want to conduct an inquiry into the Economic Regulation Authority. Point four relates to the independence of the Economic Regulation Authority. Earlier either the Leader of the National Party or the member for Merredin referred to the issue of private commercial interests raising with the Public Accounts Committee some concerns and the Public Accounts Committee taking up those concerns with the regulator. I do not want a position in which the regulator is regularly grilled or pressured by a group of politicians on a parliamentary committee who have a particular axe to grind about the nature of the decisions made by the regulator. A number of the speeches in this debate have clearly been influenced by discussions between members of the Opposition and Epic Energy, which is currently engaged in a regulatory issue. If a person who was not happy with the decision of the regulator about an access regime were to seek to wind up the Public Accounts Committee to get it to conduct a nasty inquiry into the work of the regulator, it would have the potential to compromise the independence of the economic regulator under this legislation.

The basis of this legislation is the need to keep politics out of economic decisions about access to monopoly infrastructure. If those decisions are reached independently on the basis of a transparent and open process, and according to publicly-known rules and processes, investors will have greater confidence to invest in this State and the State will get a better economic outcome. If we compromise the independence of the authority by importing into the process political considerations or pressure, or policy preferences that are not in the published rules, we will jeopardise the willingness of investors to invest in this State and thus the overall economic development of the State. I am not opposed to parliamentary scrutiny and accountability. However, that scrutiny and accountability is available under the existing rules and can be done by either the Public Accounts Committee or the Economics and Industry Standing Committee if that is what it wants to do.

Dr J.M. WOOLLARD: With regard to clause 34, in the past certain issues might have been taken to the Ombudsman. However, because the authority must now publish notice of any reference in the *Gazette*, will that still be the case?

The ACTING SPEAKER (Mr A.P. O'Gorman): We are on clause 64. Is the member talking about clause 64?

Dr J.M. WOOLLARD: I am obviously too late -

The ACTING SPEAKER: Clause 34 has already been passed. We are on clause 64. The member will need to address her comments to that clause.

Dr J.M. WOOLLARD: I believe that previously if people had concerns about some of the industries that the Bill will cover, such as electricity, gas and rail, they might have taken those concerns to the Ombudsman. Does the Treasurer envisage that some of the concerns that would previously have gone to the Ombudsman will now go to this regulatory authority?

The ACTING SPEAKER: Clause 64 deals with review of the Act. Is the member's question about a review of the Act?

Dr J.M. WOOLLARD: Yes.

Mr E.S. RIPPER: This is yet another argument for keeping politicians out of economic regulation! To deal with the substantive issue, the Economic Regulation Authority will not deal with complaints from individuals against service providers. That is a matter for other agencies. The gas retail deregulation project proposes the creation of a gas Ombudsman who will deal with consumers' complaints against gas suppliers, and I think the electricity reform program will lead to the development of a customer service code and a proposal for an Ombudsman. Those will be harmonised so that we will end up with an energy Ombudsman who can deal with customer complaints and whose role will be backed up by a customer service charter that licensed participants in the industry will have to accept. It is a bit difficult under the standing orders for us to continue this debate, but I thought the member was at least owed that information.

Mr B.J. GRYLLS: This amendment proposes to insert a checks and balances mechanism into the legislation so that every year, for the first five years of its operation, the ERA can be examined by the Public Accounts Committee. The National Party has been consistent throughout this debate in registering its concerns about the cost of regulation being passed to industry. This amendment will allow the Public Accounts Committee to examine those costs to ensure that they are fair and reasonable. Although our proposed amendments to not charge fees to industry have not been accepted, this amendment will allow some questioning of the activities and expenditure of the ERA. The Treasurer was not able to provide us with information about the proposed budget of the ERA. He could tell us only how many full-time equivalents it will need to function effectively. This amendment allows the Public Accounts Committee to look at the overall expenditure and operations of the ERA and report back to the Parliament on whether it is working effectively. It is a simple amendment, and the Treasurer should be supporting it.

Mr R.F. JOHNSON: I support the amendment moved by the member for Merredin, because it proposes accountability to this Parliament. A concern members on this side of the House have had with this Bill is what could be perceived as a lack of accountability and direction from the minister, as I said in my contribution to the second reading debate. I was concerned that no direction was possible from the minister at any stage, once the Bill is proclaimed. There are pluses in having an industry regulator with a great deal of autonomy, to do the necessary job, but if there is a clear case where the decisions of that regulator are not in the interest of the State, the minister and the Parliament should be actively involved. The Public Accounts Committee is an extremely well-run committee, and has done a very good job over many years, no matter which side of politics has been in government. In the two years since the last election, motions have been moved on this side of the House either to refer Bills to a standing committee of this House, or to set up a select committee, where the standing committee has a heavy workload. Those motions have been rejected in every case. It is ironic that two members in this House at the moment, the Treasurer and the Leader of the House, who were both on committees of this House, were great proponents of the committee system that is now in place. I had some reservations, but the system is only good if it works for the benefit of the House, and not just the benefit of the Labor Party. That is the problem - if the Government wishes to send something off to that committee, it can do so. If the committee itself, which, because of the numbers, is predominantly Government-run, wants to examine a matter, it can do so. Some of the committees are probably looking at things that are not of great importance to this Parliament or to the people of Western Australia. Some of the things are not as urgent as some other things. This is a case that should go to a committee.

The Leader of the Opposition, in his second reading contribution, said that this Bill should have been referred to the Economics and Industry Standing Committee, because of its economic ramifications, but I would lay London to a brick that the Government and the Treasurer would not agree to it being referred to any committee. The Government has its own chairman on that committee, and its members are predominantly government members. The Bill should have been referred to that committee, because wider consultation should have taken place, through the committee system. The Western Australian Council of Social Service and the union movement are two sectors that believe that there was not enough consultation. The Bill could have gone through the Economics and Industry Standing Committee, and consultation could then have taken place, so that people are more aware of what is going on in this House, and with this Bill.

There is nothing wrong with having more accountability than there is at the moment. We should take the step of allowing the Public Accounts Committee to review this Bill every year for the next five years in the interests of accountability. We will lose that accountability by not agreeing to this amendment. Not only the Government, but also the Parliament will lose that accountability, because the Public Accounts Committee has done an extremely worthwhile job over many years, and has come back to this House with recommendations that have been implemented. That is not to be allowed to happen in this case, where we are talking about a huge economic benefit for this State. I ask the Treasurer to reconsider agreeing to the amendment moved by the member for Merredin.

Mr M.W. TRENORDEN: As I have said, the minister will have no good reason for refusing to allow this Bill to go to a committee. If the minister's own arguments are followed, there will be no parliamentary oversight committee of the new Corruption and Crime Commission, as there is for the Anti-Corruption Commission at present. If there were ever to be a conflict, it would be between the present Anti-Corruption Commission and its oversight committee. Is the minister saying that there will be no oversight committee for the new CCC? That is clearly what was said a few minutes ago - that if there were such a committee, there would be a clash. There can be no greater clash than that between the corruption watchdog and the Parliament. That part of the minister's argument was unbelievable nonsense.

The other thing the Treasurer said, interestingly, was that he cannot trust his own members. He would not give oversight of the legislation to the Public Accounts Committee because the Labor Party members on that committee cannot be trusted. I do not believe that for a moment. For 31 years the Public Accounts Committee has given an even distribution of effort to this House. Not one of the committees during that time has been accused of being malicious in its actions. Great credit should be given for the whole of that period, not only to that committee, but also to the other committees of this House. There will always be disputes within committees, but there is no question at all that, when members go into those committees, they wear their hats as elected members for their areas, and they do an even and consistent job. To say that the process might be politicised implies that that must be done by the majority of the committee, which for the next two years at least, will be Labor Party members. That argument also has no credence.

The minister knows what happens in public accounts committees right across Australia. They generally carry out three levels of inquiry - high-level, medium-level and very simplistic. The Public Accounts Committee in Western Australia has been meeting with the Auditor General regularly for as long as it has been in place, to discuss the Auditor General's reports. That is not an onerous task for the Public Accounts Committee, and it happens on an ongoing basis. When the budget is brought down, the Public Accounts Committee will once again be involved in the process, as it is meant to be, because that is one of its roles. Looking at this new Economic Regulation Authority will be a process. The committee staff will know what is to occur, and so will the regulator. It would take less than a day, perhaps only a morning, to go through the process. The time factor, therefore, is also not a problem for the minister.

The only factor stopping the Treasurer from agreeing to this amendment is that he does not want to do it. Why would he not seek the standard accountability process of this House over a brand new entity, the ERA? We all know the actions of the State will be regulated, particularly in the four key areas under this Bill. Why should it not be open and accountable to the people of Western Australia? That is what the Public Accounts Committee is about. It will report back to this place, and each of the 57 members of this House must then be accountable to the people of Western Australia. We have the capacity to pass questions on to the Public Accounts Committee to ask of the ERA. The member for Merredin went straight to the reasons for that. There is the whole question of the costs of the regulator. Somebody needs to have the capacity to say that the regulator understands that role. To have an oversight over the first five years of this new body's operation is sensible. There is no argument why it should not happen, even though the Treasurer tried to raise one a few minutes ago. The logic is that it must happen.

Mr E.S. RIPPER: I love the Public Accounts Committee. It was the first committee that I sought election to when I became a member of Parliament. I wanted to be the chair of that committee. I won the vote in Caucus by one vote. I think it was the vote of the current member for Pilbara. I have a great deal of respect and affection for the Public Accounts Committee. This House has another committee that might also be interested in the work of the Economic Regulation Authority and that is the Economics and Industry Standing Committee, chaired by my good friend and colleague, the member for Riverton. I have no objection if the PAC or the Economics and Industry Standing Committee want to conduct a review of the work of the economic regulator. We should not put it into the legislation as an annual requirement; it should be left up to the discretion of those two committees.

There are already various accountability mechanisms. Clause 23 provides for the application of the Financial Administration and Audit Act to the ERA. The financial administration, audit and reporting of statutory

authority provisions of the FAAA will apply to the ERA's operations. The authority will be subject to Treasurer's instructions and will have to prepare performance indicators, which will be subject to examination by the Auditor General, just as the Auditor General is currently considering examining the gas access regulator's performance. Consolidated funding is required for all but the gas access functions. That means the authority will be examinable before the budget estimates committee of this House. The ERA is not accountable to the minister in its decision-making processes because of its independence, but it is subject to appeal provisions that currently exist, for example, under the national gas access code, and are not changed by this Bill. The Governor can remove any member of the ERA on the basis of misconduct or incompetence. That reminds me of the debate I had with the member for Merredin about what happens if the authority does not obey its own Act. As well as an aggrieved person going to the Supreme Court, the Governor may remove a member on the basis of misconduct. An inquiry or a report on a regulated industry has to be tabled in Parliament. An inquiry on an unregulated industry has to be tabled in Parliament. Only an informal report on an unregulated industry is not required to be tabled but I imagine, in most cases, it would be. It is not the case that there is only one member of the authority just as it is not the case that there is only one gas access regulator. The authority will have three members, which will help to limit and balance the power of any one person. Under the clause we are debating, the ERA Act will be reviewed after five years. The industry-specific Acts are also subject to review after five years. I have run through a list of accountability provisions to deal with the question in the minds of some members that somehow or other the ERA will be a very powerful and unaccountable body. Appropriate accountability mechanisms are established in this legislation. In addition, I welcome the parliamentary inquiry by either of the two parliamentary committees I believe are most relevant. It is wrong to put it into the legislation as an annual requirement. It is wrong from the point of view of the parliamentary committees and the operation of the regulator.

Mr A.D. McRAE: I have listened to the debate about the role of committees and the appropriate mechanisms for the Parliament to review the operation of the new regulator. I certainly do not claim to have the same level of first-hand knowledge that both the Treasurer and the Leader of the National Party have of the Public Accounts Committee's review and investigation of regulatory authorities or departments of the State Government. My knowledge of the political process and of the new standing committees of this Parliament leads me to believe that the review of the operation of the regulator is very much a matter of interest to the Economics and Industry Standing Committee. I do not agree with the proposition that we should legislate for that committee, which I chair, or any other committee, to undertake a review. The member for Darling Range, the deputy chair, has also made comments in this debate. A review should be done on the reference to a committee or through a committee's own volition, as it is empowered to do. I tell the Treasurer clearly that I have no difficulty in giving an undertaking that the committee will discuss the appropriateness of the commencement of an inquiry in the first year of operation of the Act. I look to the member for Darling Range for his support so that opposition members of the committee are of the same mind. I put on record that we will list it is a matter for the committee to undertake the appropriateness of commencement of a full inquiry within the first full year of operation. It might be that, in the context of where we are one year after commencement of the Act, we consider it should be done six months later or 12 months later; I do not know. Provided there is bipartisan support to examine the appropriate time to commence an inquiry, that is the mechanism the Parliament should use for committee investigation and review. It is one that I put on record as current chairperson of the Economics and Industry Standing Committee.

Dr J.M. WOOLLARD: I have listened to the concerns of the Opposition and the National Party. I cannot see why the Treasurer is unwilling to amend the wording from "The Minister must carry out a review" to "The Public Accounts Committee of the Legislative Assembly is to carry out an annual review". When a review is necessary in five years, it will give the Government of the day the option whether a review is best conducted by the PAC or another committee.

Mr M.W. TRENORDEN: I have been counting to 10 000 over the past few weeks over an action by the Economics and Industry Standing Committee. I was not going to raise the matter but I will do so now because of the speech just given by the chairperson of that committee. Only a few weeks ago I wrote to that committee on behalf of the National Party asking about the deplorable performance of Western Power in the delivery of power to country people. I was appalled to receive an answer from that committee stating that it had forwarded my letter to the minister. That committee instantly politicised a reasonable question. I take great objection to that.

Mr J.N. Hyde: It wasn't a political question?

Mr M.W. TRENORDEN: No, we asked about service -

Mr A.D. McRae: Isn't he responsible for service?

Mr M.W. TRENORDEN: He is the political -

Mr A.D. McRae interjected.

Mr M.W. TRENORDEN: Let me explain the process behind dealing with the Economics and Industry Standing Committee. Three or four options could have been taken. Once the letter had been received, the committee should have written back to me saying that it was not appropriate for it to deal with the matter or, yes, it was worth asking the question. However, there are two obvious parties of whom that question could have been asked: Western Power or, more importantly, the regulator. It is a totally non-political process. If I ran the committee and did not want to deal with that part of the matter, I would send one of my staff to Western Power or the regulator and ask for its or his view on and knowledge of those matters and to report on it.

Debate interrupted, pursuant to standing orders.

[Continued on page 5374.]