GRAIN MARKETING BILL 2002

Consideration in Detail

Resumed from an earlier stage of the sitting.

Clause 31: Prerequisites for grant of special export licence -

Debate was interrupted after the clause had been partly considered.

Mr B.J. GRYLLS: Clause 31(2) provides that one of the decisions the authority is to make before deciding to grant a special licence is whether the price at which the main export licence holder exports grain incorporates a premium resulting from the exercise of its market power. The National Party has asked many questions about this premium, and we continue to go back to it, because what constitutes a premium will be critical to the way in which this legislation is interpreted and the ability for special export licences to be granted. I know that the parliamentary secretary keeps referring us to the definitions in the Bill, but we would like him to expand on this, because the way in which this premium is defined is the crux of the legislation. I would also like the parliamentary secretary to address what may be considered a significant premium. Once again, the way that word is interpreted will be very important.

Mr F.M. LOGAN: We have gone over this at length. My response to the second reading debate, as well as a further interpretation that I provided prior to the lunchbreak, will be recorded in *Hansard*, and should suffice to allay all of the member's concerns about the definition of premium and any impact on a premium by the release of special export licences. We discussed before lunch that a premium is more than the price and involves the exercise of market power, the acknowledgment of the good relationship of the State's single selling desk with its customers, and all the aspects of that relationship such as quality, reliability and deliverability. Ultimately, the Grain Licensing Authority would deal with what would be a significant effect on a premium - not a significant premium as the member indicated - on a case-by-case basis. It would have to look at an application made by a body for a special export licence and determine whether it would affect the premium in that market and what would be a significant effect on that premium. It would work on a case-by-case basis. It is impossible to give the member a clear definition because each case would stand alone.

Mr B.J. GRYLLS: I appreciate the parliamentary secretary's comments. As I said, the operation of the premium is vital to this legislation. We need to put on the record exactly how it will work.

I seek clarification on clause 31(1). Will companies that currently have authority to export be able to continue to export over the next 12 months? What effect will this legislation have on the companies that are exporting now?

Mr F.M. LOGAN: I am advised that the Grain Pool has not issued any bulk export grain provisions. The advice I am receiving is that we are unaware of any other companies in the market of exporting processed grain. I am also advised that those that already have a permit will be allowed to export under the new Act.

Mr R.N. SWEETMAN: I move -

> Page 15, line 6 - To delete "decide" and substitute "prove".

The reason for the amendment is to give a clearer meaning to clause 31(2)(b). I heard what the member for Roe said prior to the lunchbreak and what the member for Merredin has just said. They are concerned that clause 31(2)(b) and (3)(a) and (b) will need some tightening so that "premium" is more clearly defined. Clause 31 will allow the Grain Licensing Authority to take a very liberal view in the way it interprets "premium". I could say that it will allow it to take a more National or Labor view in the way it determines whether a premium exists in a particular market. I think to put "prove" in the place of "decide" will help the authority determine how the criteria and protocols will be set in place. I do not know why the members for Roe and Merredin are so concerned that the Grain Licensing Authority will not be able to make only a conservative finding that suits the main export licence holder. The critical word in 31(2)(b) is "decide", and leads to clause 31(3)(a) and (b), which states -

> (a) the Authority is required to consult the main export licence holder before granting the special export licence; and
>
> (b) the Authority cannot grant the special export licence if it considers that to do so would be likely to affect the premium to an extent that the Authority considers to be significant.

The member for Roe argued that we have to take a longer view, perhaps even a 10-year view, in determining whether a benefit - another word for premium - has been derived because of the monopoly or market power the main export licence holder has had to enable it to consistently place a product into a particular market. I think

that substituting the word "prove" for "decide" would result in greater circumspection in the way the Grain Licensing Authority lines up applications for special export licences in relation to clause 31(2)(b) and (3)(a) and (b).

Mr F.M. LOGAN: The Government will oppose the amendment sought by the member for Ningaloo. Clause 31(2)(b) deals with the Grain Licensing Authority making a decision about whether the price at which the main export licence holder exports grain incorporates a premium resulting from the exercise by it of its market power. It is not up to the authority to prove whether an application for a special export licence would have an impact on the premium of the main licence holder. Whom would the Grain Licensing Authority prove it to? It is the body that decides whether a person gets a special export licence. It cannot prove it to anybody. There is no other body to which it can refer to provide proof that the special export licence holder will or will not undermine the premium held in a particular market by the main export licence holder. There is no other body to refer that to. There is no reference back to the minister or the Parliament. Ultimately, it is up to the Grain Licensing Authority to assess what the applicant for a special export licence wants to achieve in the market for which it wishes to have a special export licence.

According to clause 31(3)(a) and (b), if a main licence holder is already firmly established in the market and has established a premium that incorporates its price, market power and long-term relationship in that market, and the issuing of a special export licence would undermine that premium, the main export licence holder must be consulted. If a special export licence is likely to have an impact on the main export licence holder's premium, the application will be rejected. Ultimately, the authority must make a decision. It is not up to the authority to prove one way or the other. It is the decision-making body.

Mr R.N. SWEETMAN: The parliamentary secretary is demonstrating why many people will be concerned about the provisions of clause 31. National Party members have said that they are extremely concerned that it will open the floodgates and that it is not prescriptive enough to allow the Grain Licensing Authority to stop granting export licences.

Mr F.M. Logan: Are you supporting that?

Mr R.N. SWEETMAN: I am saying that it is not sufficiently prescribed. Clause 31(2)(b) should contain a reference point that ensures that the Grain Licensing Authority relates its deliberations to something substantial. I do not think that the word "decide" is substantial enough. It will always be open to argument that the Grain Licensing Authority has taken a subjective view when granting a licence. Whether the Grain Licensing Authority knocks an application back or approves it, it will be criticised by either side. Monopoly supporters will criticise the authority by saying that it had erred; on the other hand, supporters of a more deregulated market environment will be cheering. I am attempting to protect the Grain Licensing Authority to some extent by providing that there be more clearly defined reference points in clause 31 to ensure that the approval or dismissal of an application is not seen to be the result of a subjective view of the majority of members of the Grain Licensing Authority.

Mr F.M. LOGAN: I believe the member's points are fully catered for in subclauses (2), (3) and (4). Subclause (4) gives the authority the ability to take anything into account that is likely to have an impact on the State's reputation as a grain exporter and on the grain industry generally as a result of an application made for a special export licence. Subclause (3)(a) and (b) deals with the consultation process that the Grain Licensing Authority must go through with a main licence holder. Subclause (2) initiates that consultation process. Effectively, the Grain Licensing Authority can consult with whomever it likes to determine its position. The authority can go as far and as broad in its consultation as it likes to affirm or reject an application by a special export licence holder, if it believes that the impact of issuing that licence would have an effect on a premium that has already been established in a market that is dominated by the main export licence holder. The authority is not restricted in respect of whom it consults.

The member raised a point about gathering the right information that should be taken into account. The member said that it would deny a special export licence applicant the right to a licence, but I do not think that will be the case. Nothing in the Bill prevents the Grain Licensing Authority from being able to broadly determine the effect of an application for a special export licence. I therefore do not agree with the member. Furthermore, the word "decide" could not technically be replaced by "prove" because, as I indicated before, there is no other authority to which the Grain Licensing Authority would have to prove it.

Amendment put and negatived.

Clause put and passed.

Clause 32 put and passed.

Clause 33: Special export licence conditions -

Mr B.J. GRYLLS: Concern has been expressed about flexibility, the ability to impose special export licence conditions and the ability to respond quickly in the granting of export licences to reflect any changes in current markets or react to markets that may arise. In consultation with the Pastoralists and Graziers Association the point was made to us - and I am sure that the member for Ningaloo agrees - that there needs to be flexibility in the system so that special export licences can be granted quickly. Will the parliamentary secretary address the question of the flexibility in the system?

Mr F.M. LOGAN: I do not know how far I can go in supplying the information to clarify the clause. The member for Merredin has raised the question of flexibility. I direct him to the way in which the clause is set out. Subclause (3) demonstrates the level of flexibility that is given to the authority to determine whether special conditions should be applied to any export licence. It reads -

> The Authority may, by notice in writing to the holder of a special export licence, vary or revoke any condition of the licence or impose any new condition.

That certainly indicates that a significant amount of flexibility is available to the authority. The authority can initiate any special conditions that it thinks appropriate to be applied to the licence. The holder can also initiate changes to his or her licence by way of further communication and application to the Grain Licensing Authority.

Given that the Grain Licensing Authority will be analysing the market conditions on a continuous basis and receiving continuous updates from the members of the authority and the Department of Agriculture, the capacity of the Grain Licensing Authority to respond quickly to marketing conditions is clearly contained in clause 33. That is particularly the case if special export licences have been issued as a result of the quality of the grain that is exported or as a result of any provisions that would allow the Grain Licensing Authority to apply special conditions, given whatever circumstances arise. The authority has the power to do that. Similarly, if the holder of a licence believes that he or she has been affected by market conditions or its inability to deliver consistency, quality and timeliness, the licence holder can also seek to have special conditions apply to the export licence. Therefore, the flexibility is provided.

Mr B.J. GRYLLS: Will the parliamentary secretary assure me that the Pastoralists and Graziers Association will be consulted on the drafting of guidelines under the clause? The clause relates specifically to requests by members of the association, and it would therefore be of benefit if they could be involved in the drafting of guidelines under that clause.

Mr F.M. LOGAN: I refer the member to clause 16(6) headed "Ministerial guidelines", which reads -

> Before issuing, amending, revoking, or replacing the guidelines, the Minister is to consult with any industry bodies and other persons as the Minister thinks fit.

I assume that the Pastoralists and Graziers Association, as a significant body, will be one of those with which the minister will consult.

Mr R.N. SWEETMAN: I am unsure about the words in subclause (4). Should it say, "at the request of the special licence holder"? It is stipulated in the preceding subclause.

Mr F.M. LOGAN: I am assured by my advisers that it would not be interpreted to be other than the "special export licence holder", primarily because clause 33 is headed "Special export licence conditions".

Clause put and passed.

Clause 34 put and passed.

Clause 35: Application for licence -

Mr B.J. GRYLLS: The National Party is concerned that no time lines will apply to the processing of applications for licences. Given the need to secure markets and deliver to time, the authority should be required to adhere to a time. Likewise, guidelines should be published that clearly set out information likely to be required by the authority and the expected time line for consideration of a licence application so that operators are clear about their responsibilities. I move -

> Page 17, after line 3 - To insert the following -
>
> (3) The applicant is to provide the Authority with any additional information required in subsection (2) within 30 days of receipt of the request for additional information.
>
> (4) The Authority will reach a decision on applications received as soon as is practical but no later than 30 days after receipt of the application and prescribed fee under

subsection (1) or the receipt of the required additional information under subsection (2), whichever the case may be.

The aim of this amendment is clear - to require the authority to consider applications in a timely manner.

Mr F.M. LOGAN: I understand the reason for the proposed amendment. It is relatively simple and deals with the time the authority should take to issue licences. The Government has some sympathy with that position. However, the Government opposes the amendment. I am sure that the National Party representative will move it again in the upper House. I suggest the party have further discussions with the Minister for Agriculture, Forestry and Fisheries in the meantime to see whether it will be accepted.

The authority will be newly established. It has not been tested yet, but members are questioning whether it will be efficient in issuing licences.

Mr B.J. Grylls: It will have two grain growers to keep it in check!

Mr F.M. LOGAN: I am sure they will. We expect the authority to act in a timely manner in issuing licences. When a special case has been made out by an applicant who seeks speedy approval of an application because of market conditions, the authority should prioritise. The Government expects the authority to act in a timely manner. We do not believe a 30-day time frame should be included in the Bill in the manner suggested, particularly given that the authority has not even been established yet. We have no grounds on which to accuse it of being reticent.

Mr W.J. McNEE: What issues will the Grain Licensing Authority need to consider? The process does not seem to be very involved.

Mr F.M. LOGAN: I addressed in the second reading speech all the information on the process. It is a pity that the member for Moore has decided to ask questions now! Effectively, the authority will consider the size and quality of the grains the growers wish to export, the potential market, whether the main export licence holder is in that market, the premium in that market that is dominated by the main export licence holder, and the impact on that premium should the issuing of a licence be upheld by the Grain Licensing Authority.

Mr R.N. SWEETMAN: This is a good amendment. Now that my amendments on the Notice Paper to clauses 31 and 33 have been defeated, this offers a fall-back position. How often is the authority meant to meet? That is a real concern. Thirty days is a long time in the marketing business. Deals can be developed and can fall over. Even if it takes only 30 days to process an application, an opportunity may evaporate. I asked during both the second reading debate and at the consideration in detail stage whether the authority would be a delegated authority to the chief executive officer of the Department of Agriculture or his nominee. Some clear reference points and criteria should be put in place against which licences can be assessed. That is why it made good sense to have two categories, because one is more complex than the other.

Mr F.M. Logan: Nice try, member for Ningaloo.

Mr R.N. SWEETMAN: If this licensing authority meets only monthly, every two months, quarterly or whatever, it makes a bit of a joke of the legislation and everything that it is setting out to achieve. Thirty days is a long time for the authority to determine whether it will grant or reject an application for a special licence.

Mr F.M. LOGAN: That argument does not justify the amendments the member put forward earlier.

Mr R.N. Sweetman: I said it was a fall-back.

Mr F.M. LOGAN: I can see that. Clause 16 deals with the issuance of guidelines, which will set out the protocols and the administrative procedures for the Grain Licensing Authority when dealing with the issues that the member has raised about time limits, response to market conditions and all of those things. We reject the proposal for a 30-day time frame to be put on the issuing of a licence. The member for Ningaloo is suggesting that the GLA must respond rapidly to market conditions. I have already indicated that that is what we expect the GLA to do, but it depends on what the applicant is putting forward. A different period will apply for an application for the export of 100 000 tonnes of grain compared with 1 000 tonnes of grain into an established market. That is the reality. There will be a difference in the assessment time frame because of the different impact on the market of the tonnages being exported. I come back to the point I made to the member for Merredin: each case will stand alone and will be dealt with on its merits, and this will also relate to the time frame for the issuing or rejection of special export licences. At the end of the day, we expect the Grain Licensing Authority to act in an appropriate, timely manner, but it depends on what the applicant is seeking and what will be the impact of the application on the established marketplace.

Mr M.W. TRENORDEN: We know that amendments can occur in the other place where the minister is located, but the other side of the coin is that there is always the possibility that people will require a defence; that is, the authority may not want to grant a licence, and the best way not to do that is not do anything and wait. That type of mechanism has been used by these sorts of authorities across all Governments.

Mr F.M. Logan: I thought you supported us.

Mr M.W. TRENORDEN: The Government must be fair. If people are not to be granted a licence, they should be told up front so they are not expending time and money and telling people in other places they can do something that they cannot do. It is important that this be handled expeditiously.

Mr F.M. LOGAN: I will not take point with the argument put by the member for Avon, but it cuts both ways. The applicant for a special export licence must also act in a timely manner. It depends how early the applicant lodges the application compared with when he takes his harvest off. It is no good expecting an export licence very close to harvest time and then saying to the Grain Licensing Authority, "Come on; what are you doing?" It cuts both ways. An applicant who sees a marketing opportunity has the responsibility to lodge his application in a timely manner. I agree that the Grain Licensing Authority is also expected to act in a timely manner when dealing with the licence application, whether it be issued or rejected.

Mr B.J. GRYLLS: We are talking about special export licences that will be granted to those businesses and companies that identify a special, niche or premium market. That sort of market will arise in an untimely fashion and may occur just before harvest, when these applications will have to be processed expeditiously. This is a relevant point. The parliamentary secretary may have missed the point we were trying to make.

Mr F.M. LOGAN: I acknowledge the point the member is making. The member must agree. He should be careful about what he puts in *Hansard*, otherwise he will undermine some of the statements he has made about the establishment of the single-selling desk.

Mr R.N. Sweetman: I am glad you have noticed.

Mr F.M. LOGAN: The member for Ningaloo has picked that up. The Grain Licensing Authority, when dealing with the issuing of a licence for two years for the export of 100 000 tonnes of grain, should not be restricted to 30 days when making a decision about a company that is seeking to export a large amount of a commodity over a period of two years and that licence may impact on an existing market. The National Party will demand that the Grain Licensing Authority assess that type of matter very carefully. That would be different, for example, from a small 10 000 tonne export licence requirement for one year. The GLA would be expected to deal quickly with that short-term special export licence that is required to take advantage of a particular market condition, and on that basis we have no disagreement. We would expect the GLA to act in a timely and reasonable manner.

Mr R.N. SWEETMAN: I might be drawing a long bow trying to connect what I will say about this amendment and clause 35, but I wish to paint a hypothetical picture. Let us say that the Australian Wheat Board, with its bulk export licence, effectively bids for the entire crop of prescribed grains. It certainly has a leg-up in that it is already a very significant player in the national grain industry. The Wheat Board would not have to argue about premiums for specific markets; it would argue that it is already doing business for other grain growers and extracting a premium as well. Is it convenient for the parliamentary secretary not to agree to this 30-day cap for the decision making, to enable him to address that scenario, or is that covered by the ministerial powers, under which the minister can say that that cannot happen? Alternatively, will the Australian Competition and Consumer Commission say that that is an unfair scenario, as the AWB will end up with a national monopoly controlling all grains - bulk and prescribed - in Australia?

Mr F.M. LOGAN: I do not like dealing with hypothetical situations, particularly when they relate to an authority that has not yet been established and to market conditions in a very competitive market. First, we do not believe the example given by the member for Ningaloo will take place and, secondly, if the hypothetical situation becomes reality, clause 31(4) of the Bill will come into play. The capture of the entire State's grain by the Australian Wheat Board would have a significant impact on the State's industry and the main licence holder, who would effectively be knocked out of business. That hypothetical situation given by the member for Ningaloo is extreme, first, because I do not believe it would come about and, secondly, because the Bill deals with the situation should it arise.

Amendment put and negatived.

Clause put and passed.

Clause 36 put and passed.

Clause 37: Cancellation of licence -

Mr B.J. GRYLLS: I move -

Page 17, line 10 - To insert after "effect" the words "and the reasons for cancellation".

This clause gives the Grain Licensing Authority power to cancel a special export licence and gives the minister power to cancel the main export licence. The Bill does not specify the conditions under which a licence may be cancelled. The National Party's amendment on the Notice Paper provides for notice to be given of the reasons for cancellation of a licence. It is a fairly simple amendment. I do not need to continue speaking to it and would rather hear the parliamentary secretary's comments.

Mr F.M. LOGAN: I have discussed this issue with the minister and the mover of the amendment. The minister is very sympathetic to the amendment and would probably have agreed to it in the normal circumstances in this place. However, if the minister agrees to it, the Bill must be read a third time and held over until after Parliament resumes in two weeks. We are mindful of the time frame of the Bill. The Government wants the Bill to go through the House today and to be sent to the upper House prior to the Parliament rising for two weeks. For those reasons, the Government will oppose the amendment. However, as I indicated, the minister is sympathetic to the amendment and, from what I have been told so far, I imagine it will be accepted in the upper House.

Amendment put and negatived.

Clause put and passed.

Clause 38: Licence fees -

Mr B.J. GRYLLS: This clause requires that a person to whom a licence is granted pay the authority a fee, which will be specified by regulation. It was the National Party's understanding in debate earlier today that a main export licence holder would not be required to pay either an application fee or a licence fee under this Bill. Will the parliamentary secretary clarify that?

Mr F.M. LOGAN: I told the member earlier that the main export licence holder would pay an annual fee.

Mr B.J. Grylls: Will that be to the merged Grain Pool of WA and Co-operative Bulk Handling Ltd?

Mr F.M. LOGAN: That is correct.

Mr B.J. Grylls: Is that in the legislation?

Mr F.M. LOGAN: Yes, it is contained in clause 38(3), which reads -

The holder of a licence must pay to the authority -

That means the holder of any licence.

- any other relevant licence fee prescribed by the regulations.

Obviously, the main export licence holder would be the organisation responsible for the payment of the annual licence fee. The minister, the department and the main export licence holder will determine in discussions when that money will be paid.

Mr R.A. AINSWORTH: Following on that question, clause 38(3) refers to the holder of a licence. That clause comes under division 3, which refers to special export licences. That is not the category of licence under which the new amalgamated organisation of the Grain Pool and CBH would grant that licence. Will the parliamentary secretary clarify that please?

Mr F.M. LOGAN: The member for Roe is incorrect. I refer him to clause 35, above which is the heading "Division 4 - General licensing provisions". Clause 38(3) does not refer to special export licence conditions.

Mr B.J. GRYLLS: Although this question has been asked before, we continue to seek clarification of licence fees.

Mr F.M. Logan: You can ask it again and I will answer it again.

Mr B.J. GRYLLS: The parliamentary secretary has not answered it very well though. The authority will have a budget of around $500 000 a year, but there is no indication of the number of licences that will be granted nor of the research done by the parliamentary secretary on special export and main export licences. How will the money raised by licence fees to run this authority work? If the parliamentary secretary does not know, he should confirm that or perhaps spend a little more time on this clause.

Mr F.M. LOGAN: I have no more to add other than what I said in *Hansard* earlier; that is, the fees will be prescribed by regulation. As I indicated to the members for Merredin and Ningaloo, the licence fees for special export licences will be reasonable.

Clause put and passed.

Clause 39: Notice of decisions -

Mr B.J. GRYLLS: This provision is drafted in such a way as to require an applicant to be advised only if his application for a licence is declined. There is no obligation to advise the applicant if the application is accepted, nor to provide this advice to a third party such as other special export licence holders or the main export licence holder. Can the parliamentary secretary address that issue?

Mr F.M. LOGAN: Clause 39 deals with the Grain Licensing Authority's rejection of an application for a licence. This provision ensures that a person who is unsuccessful in obtaining a licence can mount a case for appeal. We do not see the need to add any further information to that provision. We believe that clause 39 is self-explanatory.

Clause put and passed.

Clause 40: Appeals -

Mr B.J. GRYLLS: This amendment is in the name of the member for Stirling. I move -

> Page 18, after line 27 - To insert the following -
>
> (7) The Minister shall, as far as is practical, make his determination on the Appeal within 30 days of having received a notice of appeal in accordance with subsection (3).

This amendment seeks to ensure the timeliness of all aspects of granting special export licences. Once again, it is a similar argument to the one we have put before.

Mr F.M. LOGAN: Clause 40 provides that any person who feels aggrieved by a decision of the Grain Licensing Authority to refuse to grant a licence, to cancel a licence or to vary a condition of or impose a new condition on the licence must lodge an appeal in writing within 30 days. The amendment moved by the member for Merredin seeks to provide that the minister's response to the appeal also will be limited to 30 days. As I said in the second reading debate when responding to the issue that had been raised by the member for Merredin and other members of the National Party, the Government does not believe that the minister should be bound by any time frame in determining an appeal. The issue may be very complex and may require the minister to take a significant amount of information into consideration. It may well require the minister to investigate the circumstances surrounding the rejection of the licence. It may require the minister to establish a committee to examine the conditions and the background of the rejection of the application by the Grain Licensing Authority. For those reasons we do not believe the minister should be bound by any time constraint in determining an appeal. We believe the minister should be given a free hand to make a determination as he or she sees fit.

Mr B.J. GRYLLS: Can the main export licence holder appeal decisions of the authority to grant the special export licence?

Mr F.M. LOGAN: No; the main export licence holder cannot appeal a decision of the Grain Licensing Authority.

Amendment put and negatived.

Clause put and passed.

Clauses 41 to 43 put and passed.

Clause 44: Regulations -

Mr B.J. GRYLLS: Clause 44 deals with regulations and allows for grains that are prescribed in the legislation to be removed by regulation and vice versa. A new grain can be prescribed by regulation. This is a subtle weakening of the single-desk status. Currently, all three grains - barley, lupins and canola - are prescribed in the Act and only lupins and canola can be removed by ministerial order. However, the new legislation allows for all three grains to be removed by regulation. Will the parliamentary secretary comment on that?

Mr F.M. LOGAN: The position raised by the member for Merredin is correct. The Bill gives the minister the power to deprescribe those three grains. However, that must be done by way of regulation. There is a six-month time frame in which to do that and it also must be dealt with by Parliament.

Mr R.N. SWEETMAN: The application and licence fees will be covered in the regulations. Is it possible to give us a time frame for those regulations, so that industry has some idea of what the costs will be?

Mr F.M. LOGAN: I am advised that the intention is for the regulations to be available after the Act comes into effect.

Mr B.J. Grylls: As soon as those regulations are available, will they be made available to the public? Will that be before 1 November?

Mr F.M. LOGAN: Is the member suggesting that they be published by November?

Mr B.J. Grylls: The Act will come into effect on 1 November. I presume that the regulations will be available before that. Is that correct?

Mr F.M. LOGAN: Does the member mean the draft or the final publication?

Mr B.J. Grylls: If the Act comes into effect on 1 November, will the regulations be finalised by then? I presume that the fees etc must be set by then.

Mr F.M. LOGAN: I am advised that if the Act comes into force on 1 November, the regulations will be available and published on that day as well.

Mr R.N. SWEETMAN: If the regulations are at an advanced stage of drafting, why can we not be given some idea of what the application and licence fees will be? Is it because the minister thought it would add another dimension to the debate? I know we have an opportunity in the upper House to move to disallow the regulations, but it would have been handy to have those figures. Figures have been bandied about in the House already indicating that it may cost around $500 000 to run the Grain Licensing Authority with remuneration fees and other associated costs, particularly Department of Agriculture costs. I wonder why it was not reasonable for members to have some idea of the licence and application fees.

Mr F.M. LOGAN: I am assured that there have been discussions within the department about the amount of the licence fee. However, the minister has not determined that, and we will not indicate what the fee will be until it is determined by the minister.

Clause put as passed.

Clauses 45 to 47 put and passed.

Clause 48: Review of Act -

Mr B.J. GRYLLS: I move -

> Page 22, line 6 - To delete "5" and substitute "2".

Throughout the debate on this Bill, National Party members have raised a number of issues of concern and on a few occasions have requested amendments. However, the predominant approach has been to seek clarification from the parliamentary secretary and, depending on his response, to decide whether we will pursue these issues in the other place. We have adopted this approach because we are well aware of the need to progress the legislation as speedily as possible. The parliamentary secretary referred me to the clock because we are coming to the designated time to finish the debate tonight. However, it is also important that we run our amendments through their full course. This is important legislation and we must deal with it thoroughly.

This amendment would cause a review of the Act to occur within two years rather than five years. It is a simple amendment to give the minister the opportunity to demonstrate that the Bill before us can deliver on industry expectations. Obviously, we have a one-year period in which special export licences cannot be granted, but the National Party feels that after two years - the first year in which special export licences can be granted - it will be appropriate to review this legislation and decide whether it has been as effective as the parliamentary secretary would desire it to be.

Mr F.M. LOGAN: The member for Merredin outlined the time frame in the Bill. That time frame is the reason that the review should not take place until five years have gone by. The issuing of special export licences will not take place until one year after proclamation of the Act. What the member is putting forward is that after the first harvest and sale of those grains after the issuing of a special export licence, we should review the Act. That is ridiculous. We will not ascertain whether the Act is working properly, the Grain Licensing Authority is working effectively and efficiently and the special export licences are achieving the intent of the Act if a review is conducted one year after the proclamation of the Act. It is a ridiculous assumption. Five years is a far more appropriate time to allow the Grain Licensing Authority to get experience and bed down its decision-making process and also to allow those people who do get special export licences to get some experience of playing in the market, which they are unused to. We believe that a review after five years is far more appropriate and that any reduction of that five-year period would be unfair both to those people who had been issued with special export licences and to the Grain Licensing Authority. The Government opposes the amendment.

Amendment put and negatived.

Clause put and passed.

Clause 49: Expiry of Act -

Mr B.J. GRYLLS: This clause allows the minister by order to allow the Act to expire in response to any relevant change in the Commonwealth Government's wheat marketing arrangements. We seek some clarification from the parliamentary secretary for including this provision in the Bill. While it may be difficult to sustain a reasonable argument to maintain the State's single desk for prescribed grains in the absence of a single desk for wheat, the potential removal of a single desk for wheat should not mean the automatic deregulation of the export of prescribed grains from this State. The inclusion of this clause in the Bill adds further uncertainty to the future of the single desk for prescribed grains in this State, and the National Party believes that it is not necessary. If the single desk for wheat is abolished at some time in the future, at that time the State should have an open and full debate as to the future of the single desk for prescribed grains. This should not be the minister's decision alone.

Mr F.M. LOGAN: This clause deals with the authority of the minister to make an order that the expiration of this Act does not take place until such time as the Commonwealth has been able to make the necessary legislative change and as soon as practicable after 30 April next following the day on which the Commonwealth's legislative change comes into effect. As the member for Merredin indicated, that will ensure that should there be any deregulation at the commonwealth level, no change will take place to this Act until such time as the Commonwealth has made its decision on the future of the AWB and then one year thereafter or as soon as practicable after 30 April next. We believe that will protect the interests of the State and the single selling desk that is established through the Grain Pool Pty Ltd, and that it will also allow extra time to ensure that the impact of whatever happens at the commonwealth level, which may be the possible deregulation of AWB, is analysed prior to any expiration of this Act that the minister may wish to initiate.

Mr B.J. GRYLLS: Can we take it from the parliamentary secretary's response - and have it on the record - that the Government supports the continuation of the single-desk arrangement for barley, lupins and canola?

Mr F.M. LOGAN: The Government is seeking to introduce Bills that will give effect to the continuation of a single selling entity and the flexibility to allow special export licences. Despite the attempt by the member for Merredin to lull me into making a statement that he can repeat to the *Countryman*, it would be far better for us to deal with the matter before the House; that is, the creation of a new set of conditions that will provide certainty to growers and flexibility to those who wish to enter the marketplace.

Clause put and passed.

Schedules 1 and 2 put and passed.

Title put and passed.

Third Reading

Leave granted to proceed forthwith to the third reading.

MR F.M. LOGAN (Cockburn - Parliamentary Secretary) [4.02 pm]: I move -

That the Bill be now read a third time.

MR R.N. SWEETMAN (Ningaloo) [4.02 pm]: Will we deal with the Bulk Handling Amendment Bill in consideration in detail, or was that part of the cognate debate with the Grain Marketing Bill and the adoption of the two schedules in that Bill?

The ACTING SPEAKER (Mr A.J. Dean): The member can go into consideration in detail on the second Bill if he wants. I understand that there is no further debate on the second reading of that Bill.

Mr R.N. SWEETMAN: Is this third reading the final stage of the cognate debate?

Mr J.C. Kobelke: The cognate debate extends to only the second reading. Each Bill goes through consideration in detail and the third reading separately.

Mr R.N. SWEETMAN: At the summation stage of the Grain Marketing Bill 2002, I acknowledge the efforts of the parliamentary secretary. I am sure that debate on this Bill has gone for longer than he anticipated. I thank him for his forbearance and the tolerant way in which he responded to the questions and reasoning of the Opposition and the National Party. I am to some extent saddened that he did not see fit to agree to some of the well-thought-out, reasoned amendments that were moved during the consideration in detail stage. However, I remain optimistic that this Bill will achieve many things for growers. I do not think it will be the end of life as many growers have got to know it. The National Party kept hammering the point during the consideration in detail stage that it does not want this legislation to allow anything that will undermine the single desk. It has time and again been a passionate advocate of the national and state single desks applying to the grain and to the prescribed grains. This legislation is good in that it will allow the merger of Co-operative Bulk Handling Ltd

and the Grain Pool of Western Australia to take place in the first instance, but will also allow enterprising growers the opportunity to market their products themselves. Unfortunately, that opportunity is limited. Although it created some controversy when I moved on behalf of the Opposition to deprescribe rapeseed, or canola, I believe that if that grain were to be deprescribed at the time special export licences became available, it would provide some real competition for Grain Pool Pty Ltd. I do not think it is acceptable for the Grain Pool to be able, through the protection provided by the prescribing of grains, to be the growers' sole representative in the international marketplace. I have never believed that putting all one's eggs into one basket is a good thing. I know that all the farm advisers and accountants tell farmers to not put all their eggs into one basket; to not invest all their money on the farm. They are told that they need to diversify or to spread their assets broadly and as quickly as they are able. They need to have a third of their total asset value in their farm and then a mixture of land and share portfolios as well as a residential property or, at the least, an investment property in an area in which they are likely to get some capital appreciation. That is sound advice, and many farmers have taken that advice and today are very well off as a consequence. Farmers cannot assume that their interests will be preserved because we are granting a special monopoly right to a single entity.

I understand the arguments about market power and growers not being able to be traded off against each other, but the world has moved on. It is interesting that we are competing in an international environment against a range of deregulated industries. I know there will be a wave of criticism when I suggest that we are doing reasonably well against the United States. Someone will say that through the US farm Act of 1996 and the farm Bill currently before American legislators, the United States subsidises its farmers and that the unfortunate consequence of those subsidies is overproduction and dumping. The fact of the matter is that the Americans have difficulties. I can to some extent understand why the American Government has chosen to continue to subsidise its farmers in the face of international criticism. Our advantage is that we have a currency that, compared with that of the United States, is worth a handful of beads and a cracked mirror. I am concerned that, in time, we will shrug off our developing nation status, when our currency will as a consequence strengthen. How long will we exist in the international marketplace when our dollar is worth US70c or US80c? We will have some real problems. That is why I am enthusiastic about this legislation. Perhaps a reasonable title for the Bill could have been the "Transitional Grain Marketing Bill 2002", because that is what it could be. I am sure the parliamentary secretary would agree with that. I believe the minister has recognised that. In the face of some pretty intense lobbying, the minister has not acceded to amendments to the Bill or inclusions that will dilute in any way what it has been drafted to achieve.

This is a transitional Bill. The indicators are there for farmers - I nearly said astute and successful farmers - and the entire industry. That is where we have a responsibility. To some extent, I am disappointed with the way in which the lead speaker of the National Party tried to isolate the Liberal Party by saying that it wanted to dud country people because I moved to deprescribe rapeseed. I am not trying to have it immediately deregulated. I said that consistently during the second reading debate and consideration in detail. However, industry must realise that we are moving inexorably to that end. I believe that the single-desk regime will collapse before 2010, and that would be in the event that both monopolies do not decide to voluntarily surrender their single-desk status well within that time.

We have a responsibility, as the member for Merredin said in his maiden speech, to open our hearts and minds. It is about giving the opportunity to growers to understand and for politicians to be leaders instead of followers. We must try to explain in a way that will educate, inform and, as I said during the second reading debate, condition growers for the next step, which is deregulation. We need to understand that it is inevitable, and we need to do what we can to inform people about what is coming.

I forget the exact figures, but I believe that about 10 or 12 years ago, Australian exports of all grains comprised about 11 per cent of world exports; today it is about 18 per cent. That has happened for a whole variety of reasons. I believe enormous opportunities will arise in the future as our farmers become more productive. Yields per hectare have increased from something like 1.1 bushels to 2.2 bushels in the past 10 or 15 years. Our farms are therefore becoming more productive. There is an opportunity to expand the amount of farm product, particularly grains, into world markets. We can do that only while we are competitive. A rising dollar will make Australia less competitive. Single-desk monopolies also have the potential to make us less competitive. We must evolve and understand that to be competitive in the international environment, we must keep pressure downwards on our unit cost of production. The only way in which we can successfully do that is through competition. We need to read the signals. The indicators are there. We need to help industry at this early stage, not by entrenching everything that a single desk represents, but by having industry understand that the single desk is there for a time and that we cannot guarantee how long it will be there.

I talked earlier about the possibility of the Australian Wheat Board Ltd and the new entity of Co-operative Bulk Handling Ltd and Grain Pool Pty Ltd surrendering their single-desk status monopoly. I am not sure if I made

reference during the second reading debate or during the consideration in detail stage to the Goodman Fielder Ltd assets. Assets worth $200 million were up for grabs. The Australian Wheat Board was struck out by Allan Fels and the Australian Competition and Consumer Commission because it would have delivered too much power to the board and potentially given the board the opportunity to manipulate the price of grain and returns to growers. What sorts of sinister connotations has that got? Allan Fels was right. As far as a strategic purchase is concerned, $200 million is neither here nor there in the scheme of things. However, how much clout, power and intelligence has been handed to Cargills and GrainCorp, which purchased the Goodman Fielder mills/ I do not know how many millions Cargills would have had to spend to accumulate all the knowledge on the grains industry of who is doing what and where, and the volumes down to the last kilogram of a variety of grains. Cargills has now got the opportunity to collect that information. A whole lot of forces are at work. I give the board some credit for being pretty clever and astute. Share prices are not where they are at as a result of the board not being clever. I am sure board members would have discussed among themselves how significant were the Goodman Fielder assets, but that is not all that is in play. Many other issues are likely to be brought into play, whether it be through ConAgra or Cargills. I believe the sleeping giant in this State is Wesfarmers Ltd. I would like to know what opportunities are being seen by these huge international companies and the fairly significant home-grown company in Wesfarmers. We need to understand what is out there and for how long monopolistic single-desk powers will be relevant to growers.

As a result of relaxing the criteria and protocols for special export licences, a flood of applications will come from growers, groups of growers, companies and traders representing growers. I hope that the minister has anticipated that, because the impression I have from my travels is that many people want to avail themselves of all the opportunities that will exist under special export licences. That is why I was very keen to ensure that the State had criteria and a set of protocols for expediting everything and making it easier for the Grain Licensing Authority to assess each application before it. I can envisage a scenario in the first three or four months of the operation of the Grain Licensing Authority in which its employees will not go back to the jobs in which they are currently employed because they will have such a workload. The parliamentary secretary needs to take that on board, and the minister needs to be mindful of it. In the end, how many of the licences get approval will come down to politics. That is what will stifle innovation and enterprise in the industry. Applicants cannot afford to come up against barriers and disappointments. It is one thing to apply, but if applicants are consistently knocked back, they will end up saying that applying is a waste of time and the authority is not doing its job. We must bear in mind that we are some time away from conducting a review.

I have appreciated participating in this debate. I have not deliberately set out to be controversial or to portray the Liberal Party as a party of economic rationalists. I hope that our party keeps its reputation of being honest and realistic. I say to National Party members present that instead of saying that the Liberal Party is dudding country people and not representing the majority of views in grain-growing areas, they should understand that I am quite happy for them to call meetings wherever they like. I will go there without any heavies to talk directly to their growers.

Mr M. McGowan: Without what?

Mr R.N. SWEETMAN: I am simply saying that I am prepared to give them my views on where the industry is going without taking half-a-dozen people who are on the public record as thinking like me. I do not want to be accused of being anybody's puppet or anybody's clone. I am happy to have the National Party members put their views to growers and for me to put some alternatives.

Mr M. McGowan: We will send the member for Cockburn with you!

Mr R.N. SWEETMAN: I am sure he would pour oil on the water; in fact he will be on the ground, so I think he will do a little more than pour oil on the water!

Mr F.M. Logan: I might even wear the jacket!

Mr R.N. SWEETMAN: The member for Cockburn could be the great mediator. He does not have a vested interest; he gets no votes in rural areas now. He would be adjudicating only between the two parties that do get the vote. No-one would be better placed than the parliamentary secretary.

Mr M. McGowan: Once they see what he is capable of they will vote for him!

Mr R.N. SWEETMAN: When the member for Rockingham finds a bookie who will accept a bet, he should have a $50 bet for me.

I thank the parliamentary secretary and the minister for their forbearance. I am sure they expected the debate on the Bill to be concluded much sooner. This is probably one of the most significant pieces of legislation to have come before this Parliament due to the lasting effect it will have on the farming industry within Western

Australia, not so much in the domestic market but in the international market. Although I am disappointed that the parliamentary secretary did not accept any of the Opposition's amendments, on behalf of the Opposition I support the Bill.

MR B.J. GRYLLS (Merredin) [4.21 pm]: My early memories of the grain industry are of being hoisted up into a grain truck, carting barley to Co-operative Bulk Handling Ltd and getting out at the weighbridge to weigh our barrels of grain. I have grown up in the wheatbelt. It is therefore a privilege for me to be involved with this legislation early in my parliamentary career. It will have a considerable effect on the way grain is handled and marketed in Western Australia. There seems to be the feeling that deregulation is inevitable. As a relatively short-term politician -

Several members interjected.

Mr B.J. GRYLLS: I am referring to the short time in which I have been in this House. It is my role to reflect the views of my constituents when I debate legislation in this House. At present those constituents support a single desk and monopoly selling of grain into the future. It is not my role to agree with politicians who voice their view of what should occur in the future. Although the views of my constituents have been made very clear to me, I acknowledge that, as the member for Ningaloo said, some growers support deregulation of the grain industry.

This legislation provides for those people to be granted special export licences, which is a good thing. We need competition in the marketplace, as it will create a stronger single-desk seller. The grain growers in my electorate, however, whose livelihoods depend on the selling and storage of their produce, are strong supporters of the single-desk system. I do not think they want their politicians to talk up deregulation in the Parliament.

Mr A.D. McRae: It is not just about the people in your electorate.

Mr B.J. GRYLLS: I am speaking for the people I represent. Obviously the member for Ningaloo speaks for the people he represents.

This is land-mark legislation and it must be acknowledged that the Grain Pool and Co-operative Bulk Handling sold a message to the grain growers and to the people involved in the industry in Western Australia that they wanted this merger so that they could move forward.

This legislation is very important and will benefit the industry as a whole. It will allow for the transfer of ownership of the Grain Pool to CBH to create a wholly-owned subsidiary of Co-operative Bulk Handling. It provides for the establishment of the Grain Licensing Authority and will grant the main export licence to the Grain Pool. It will also allow for special export licences to be granted to companies and individuals who seek a premium market. This change will allow them to seek out and sell to those markets. Although the National Party is on the record as fully supporting the single desk - I am sure CBH and the Grain Pool support the single desk - this legislation reflects the desire by others to pursue premium markets. No doubt the people of Ningaloo, about whom the member spoke so passionately, will support the ability to pursue these markets.

This is good legislation that will maintain the single-desk system and the benefits that accrue from that while allowing people to obtain special export licences. It must be recognised that the statutory authority and single-desk system was established at the beginning of the century because farmers were being metaphorically raped and pillaged by a deregulated market. Farmers formed these cooperatives so that they could act together and gain a semblance of authority in the marketplace. That has lasted until today, and we are making significant changes to that history, albeit the majority of grain growers can continue to operate under and benefit from the single-desk system. The National Party is happy that this legislation has passed through this House expeditiously.

We have moved many important amendments, which we will pursue in the other place. We appreciate that the parliamentary secretary might not have the final say about whether they are accepted or rejected. We nonetheless thank him for his efforts. We hope that the Minister for Agriculture, Forestry and Fisheries will give them the consideration they deserve. The National Party thinks those amendments will make the Bill a better Bill. We appreciate that the Bill will proceed to the upper House tonight. We look forward to this Parliament playing its role in ensuring that Co-operative Bulk Handling and the Grain Pool continue to play their role in advancing the causes of grain growers in this State.

Earlier today we debated how many of the grain growers in Western Australia are suffering from an extremely bad season. We have called on the Government to respond to this bad season and to ensure that the grain growers can continue to operate in the marketplace next year. This is vital. We are not calling for subsidies; we are calling for assistance for grain growers so that next year when the expected rains fall - surely we will not have another year of such low rainfall - the growers can participate in the marketplace and provide very

important export dollars to this State. The National Party fully supports the Bill. We look forward to moving our amendments in the other place. I thank the parliamentary secretary for addressing the issues we have sought to clarify in this Bill today.

Question put and passed.

Bill read a third time and transmitted to the Council.