BIODIVERSITY CONSERVATION BILL 2015

Consideration in Detail

Clause 1: Short title —

Mr C.J. TALLENTIRE: I note the comments that the minister made last night in response to the second reading debate. The title of this act will be the Biodiversity Conservation Act 2015. The minister suggested that he had consulted on the title of this bill and the act. It is clear that the minister has looked through some of the public submissions that were made on this bill and its title. However, I ask the minister to explain to what extent he sought to understand the position put forward by the Environmental Defender's Office and the Leeuwin Group, and how he is in a position to now make comments that, frankly, border on the insulting. The minister suggested in his comments last night that the Environmental Defender's Office was somehow in collaboration with the Labor Party in opposing this bill. How can the minister understand these things if he has not consulted specifically with that group, which has put forward a very lengthy and detailed submission on the bill? We have the title of the bill. Groups like the Environmental Defender's Office and the Leeuwin Group have done a thorough analysis of the implications of this bill. Yet the minister has not had specific meetings with those groups.

I know that the minister will say that in late January he held a meeting for the various stakeholder groups one evening at the headquarters of the Department of Parks and Wildlife. I think he put on some drinks and nibbles or something of that sort—a cocktail evening. However, it was not a proper consultation. At no time was there an opportunity to do an in-depth analysis that would be in some way comparable with the work that those groups have done on this bill. Why did the minister not consult with those groups? We need to know what the minister's understanding of the title of this bill is, and also what those groups have in mind about the title of this bill. The minister may have a notion about what the Biodiversity Conservation Act 2015 should look like that is totally different from the view of those groups—from what I can see from their submissions, that is certainly the case.

I raise this point under clause 1 because there is a fundamental misunderstanding. That misunderstanding could have been resolved had the minister done that consultation. Prior to the minister's consultation in late January—his cocktail evening—there was no consultation with environmental groups about the content of this bill. There has been no consultation on this bill since it was last consulted on by the previous Labor government. That consultation predates 2008, and obviously things have changed enormously since that time. Indeed, the member for Ocean Reef has now become the Minister for Environment, and he may have an understanding of things that is totally different from the understanding of the sector. The minister has sought to have only one occasion on which he could discuss the issues in this bill. That consultation was at a very superficial level. It was also after the bill had been read into the Parliament. Therefore, there are some fundamental problems with the minister's understanding of the title of this bill and the understanding of the sector.

Mr A.P. JACOB: I will address a few of the points raised by the member for Gosnells. First, I did not intend to suggest that there had been collaboration between the Labor Party and the Environmental Defender's Office, so I apologise if my comments implied that. I was simply drawing parallels to some of the positions that members put forward in their comments. I think it is fair to say that some of the comments made by members during the second reading debate directly referenced the Environmental Defender's Office submissions, so that is simply what I was drawing attention to.

I draw the member for Gosnells' attention to the policy that the Liberal–National government took to the 2013 election campaign. That policy made a clear commitment to the introduction of a biodiversity conservation bill. Therefore, what is before the house is the Biodiversity Conservation Bill. The name is the name that is reflected in our election commitment. The name is also the name that has been reflected in every Labor government's election commitment for just about my entire lifetime, because virtually every time the Labor Party has gone to an election it has committed to a new biodiversity conservation bill. It has not achieved one, but it has committed to one, and this has always been the name that has been used.

With regard to the consultation process on this bill, I draw the member's attention to my second reading speech, and I will quote from that verbatim again —

> This bill is the result of an extensive consultation process that started in 1992 with the release of a green paper for public comment. This was followed in 2002 with a consultation paper that attracted widespread community support. In 2004, comments were sought from 50 government agencies and these were incorporated into draft bills prepared in 2005 that have provided the basis for the current bill.

As I also said in my second reading speech, this bill replaces a 1950 bill and essentially, for pretty much my entire lifetime, successive governments have been trying to replace it with a biodiversity conservation act.

Very early in my piece as minister in 2013, I was invited to attend the Conservation Council of Western Australia's annual general meeting, and, as the peak body, most of the interest groups were there. From

the outset I told them that I had an expectation. I noted that every previous government, in particular previous Labor governments, had tried to get a bill into this chamber and had not even managed to ever get a draft bill into this Parliament. I made it very clear that my first focus was to achieve our election commitment and that to achieve our election commitment I was focussed on getting a bill into the Parliament and we would not be going through a green paper or extensive consultation process, which had been the reason a bill had never made it to this place in 66 years. I laid out that expectation in the very first instance. I think that was reasonably well received back then because it was recognised that the legislation needed to be updated urgently and that decisions and action from government was called for. Given that we had been consulting on this bill since 1992, that consultation has informed the bill before the chamber.

Mr C.J. TALLENTIRE: Is the minister saying that it is acceptable to bring into this chamber legislation that was possibly the subject of consultation? I say "possibly" because inevitably over 11 years the content of the bill will have changed dramatically. I can reel off some of the things that were supposed to be in the bill that was being discussed 11 years ago when it was last out for consultation. Eleven years has passed and the minister is saying that the consultation done 11 years ago is still valid and useful consultation and that there is no need to update that consultation or re-engage with the community. Is the minister saying that other legislation has come into this place after consultation had paused 11 years earlier?

Mr A.P. JACOB: I think I well and truly addressed that in my earlier comments.

The ACTING SPEAKER (Mr I.M. Britza): I feel that we are getting away from the short title and the reason for that. That last question, member for Gosnells, took me off a little bit; I feel that is another area we need to deal with. If the minister wants to answer that, that is fine.

Mr A.P. JACOB: The question shows why the Labor Party could not get a biodiversity conservation bill into this house. We were elected to make decisions and to act on our election commitments. That is what we are doing. This bill has been informed by public consultation that goes back to 1992 when the first public consultation started on this bill.

Mrs M.H. Roberts: Yet you lobbed new amendments on the notice paper today? Is that how organised you are?

The ACTING SPEAKER: Thank you, member for Midland.

Mr C.J. TALLENTIRE: The member for Midland makes a valid point. It has just come to my notice that there are amendments. I was courteous enough to put my amendments on the notice paper several months ago. The minister has had that benefit—I cannot recall the exact date, but I probably put my amendments on the notice paper in March. The minister has had all that time to consider them. It is only thanks to the member for Midland that it has come to my attention that the minister did not even have the courtesy to tell me that he put amendments on the notice paper today. I think that is a poor reflection on the minister's understanding of how parliamentary business should be conducted; but, worse, it shows his complete disregard for the community's interest in this bill. The short title of the bill is the Biodiversity Conservation Act 2015. It is a bill that the community has intense interest in. For the minister to dismiss that interest and say, "We're just going to bring something in here anyway," is very rude to people in the sector; but, worst of all, it means that the minister is exposed to making mistakes. Let us not have this arrogance that suggests that all wisdom resides within the ministerial office the minister heads or within the government department that has assisted him. That is not the case. There is some great wisdom out in the broader community. I recognise as well that he has a sacked a lot of good people; he has lost a lot of good staff. That has been his own decision-making.

The title of this bill should remain faithful to what it is understood to be in the broadest context. When the minister went to the Conservation Council on that occasion and said that he was keen to bring the bill into Parliament, of course the council felt it was a priority because it had a particular understanding about what such a bill would have within it. That is why it would look at that short title and think, "Great, that is what we want to see." However, the minister failed to check in with them about the content of the bill. Eleven years have elapsed since government had last consulted with them. There have been a series of problems and we will be going through them in the course of consideration in detail.

The minister has failed to consult and that is why we are perhaps headed for a much lengthier consideration in detail process than would otherwise have been necessary. That is why I put my amendments on the notice paper. Now we find that the minister has decided to lob in some amendments at the last minute. I do not know what the minister's intention was, but I do not think it is —

Mrs M.H. Roberts: It is either complete incompetence or a try-on.

Mr C.J. TALLENTIRE: Thank you, member for Midland; it is complete incompetence or a try-on. The minister is not remaining faithful to the short title of the bill, the Biodiversity Conservation Act 2015, and he is

not remaining faithful to the community's expectation. From my quick viewing now of the government's amendments, I would question where the government is headed with this legislation and what the intent is.

The ACTING SPEAKER: Before I give the call to the minister, I understand what the member for Gosnells is saying, but I am still struggling to tie that to the short title of the bill. Members, your arguments are valid—I am not fussing with that—but you must bring the argument to the actual title of the bill.

Mr A.P. JACOB: I do not mean to be smart; I am not sure what the member is seeking from me by way of response.

Mr D.J. KELLY: Given the serious issues we have raised about this bill, I think the short title of the bill is not appropriate. I think possibly the "biodiversity mismanagement act" or the "biodiversity lack of consultation with the community act" would be more appropriate. The issues the member for Gosnells has raised about the short title of this bill are valid. The minister has not listened to many people in the community who have a valid contribution to make in this area. There is an enthusiasm across the community for a bill of this nature to come into the chamber, a true Biodiversity Conservation Act, and that is indicated by the positive comments that many groups made when the government signalled its intention to bring in a bill. But the minister has managed to do what most ministers would avoid doing at all costs—that is, put people offside from the very beginning because he did not talk to them. Claiming that he consulted people a decade ago about what this bill might be about is laughable. He could have just sat down with people. I would like to know why he did not. A biodiversity conservation bill would have been warmly welcomed, but because the minister has not talked to people about it, and as a result there are some serious flaws in it, he has managed to get people offside. I do not know what the minister's checklist of doing his job well entails, but I would have thought that getting broad community support across the spectrum would have been something he could have tried to do. I simply do not understand it. It is fundamental that when a minister is going to bring in major change, that the minister at least sits down and talks with people. When there is a sector, a bunch of community groups, that give blood, sweat and tears in this area, I do not understand why the minister did not at least pay them the respect of sitting down and talking to them. If he had, we would not be standing here and making these comments.

The ACTING SPEAKER: Members, I want to reiterate that your concerns are valid, but I am still not getting that the short title of the bill is an issue. It is all right that you are making comments, but they do not deal with this particular clause. I am asking members to address the short title, because there will be an appropriate time for further comments.

Mr C.J. TALLENTIRE: I hope this is my final point on this clause. The short title of the legislation is the "Biodiversity Conservation Act 2015". The minister will move some amendments. Will he provide a briefing on the amendments? They look to be of great significance, especially to the marine environment. He just chucked them on the notice paper today. Can we have a briefing before proceeding with them?

Mr A.P. JACOB: We will discuss them when we get to the clauses. One amendment is to clause 7. They have come on in response to some of the member for Bassendean's comments made during his contribution to the second reach debate that picked up on some of the concerns of Western Australian Fishing Industry Council and Recfishwest.

Mr D.J. Kelly: Why didn't you give us notice of them?

Mr A.P. JACOB: I have sought advice on them and we picked up a minor typographical error, where we neglected to include the word, from memory, "section" in one of the clauses, so we simply sought to add it.

Clause put and passed.

Clause 2 put and passed.

Clause 3: Objects of Act —

Mr C.J. TALLENTIRE: This is the objects clause, which defines the whole nature of the Biodiversity Conservation Bill. This is an area that the Environmental Defenders Office considered in its submission at great length. We have heard something of the minister's views on the work of the Environmental Defender's Office. I want to turn to the comments of the Leeuwin Group. The minister can perhaps remind the house of the membership of the Leeuwin Group. I will summarise by saying it is a group of eminent scientists, the Western Australian equivalent of the Wentworth Group of Concerned Scientists. I gather the minister will be meeting with the Wentworth Group in coming days. In its submission dated March 2016, the Leeuwin Group states —

> As they stand at present the objects of the Bill are inconsistent in mandating both conservation and use of biodiversity, without one prevailing over the other.
>
> … this inconsistency must be removed, and two additional objects added:

I want to focus on this inconsistency that the Leeuwin Group has pointed out. It is a fundamental inconsistency. If legislation has inconsistencies of this kind, we will be putting onto the statutes legislation that is fatally flawed and that will not deliver on the expectation. It is very clear that at the moment the objects of this act are —

(a) to conserve and protect biodiversity and biodiversity components in the State; and

(b) to promote the ecologically sustainable use of biodiversity components in the State.

Which one prevails? What about this inconsistency? I note that we can have use of our biological heritage—our biodiversity. However, first and foremost we must be committed to its conservation. There is an issue when the minister is talking about occasionally allowing the short-term decline of a species but is not prepared to conserve it. He believes that he can see the recovery of a species longer term, but he is prepared to let it go into short-term decline. Of course, in doing that, he is taking an enormous risk. This is in the objects of the Biodiversity Conservation Bill. He is including in the bill the idea of sustainable use that could lead to a population dwindling and being left vulnerable perhaps to a disease attack and then seeing the total loss of a species. The minister has to provide legislation that is first and foremost about conservation.

I want to look at some of the legislation in other jurisdictions around Australia in which they have wrestled with this issue. What sort of terminology is used in the objects in equivalent legislation around the country? The Australian Capital Territory's Nature Conservation Act 2014, a relatively recent piece of legislation, is very clear. I am asking the minister: why have we not sought the same degree of clarity? The ACT act states —

> The main object of this Act is to protect, conserve and enhance the biodiversity of the ACT.

Why is there not clear, explicit language like that in our bill? The wording in Tasmania's Threatened Species Conservation Act, the equivalent of our Biodiversity Conservation Bill, is as follows —

> The objectives of the threatened species protection system established by this Act are, in support of the objectives …
>
> (a) to ensure that all native flora and fauna in Tasmania can survive, flourish and retain their potential for evolutionary development in the wild; and

Why is that not in our legislation?

Mr D.J. Kelly: I would like to hear more from the member for Gosnells on this issue.

Mr C.J. TALLENTIRE: We might talk about this nice thing called biodiversity and say that we want to protect its components but in the same breath we talk about its use and the potential for that use is that we could see some form of short-term decline. I know the minister is contemptuous of the report of Environmental Defender's Office's report, but this issue is very well discussed in the report. The minister has told me that during this consideration in detail stage, he will point out the error of the Environmental Defender's Office's work. Perhaps this is one of those opportunities in which he can do that. But it is pretty clear to me that the EDO has done a very careful analysis and it states that the problem lies in expressing the ecologically sustainable use in terms of avoiding long-term decline means that the short-term decline of biodiversity is acceptable and even desirable given the promotion of ecologically sustainable use. That is why we have some problems with the objects as they stand in this bill. I will wait for the minister's response but on the notice paper—they have been there for some months—are some objects that I think would be far more acceptable and far more in keeping with the community conservation sector's views, with which I have consulted widely. That is how I have been able to develop these objects but I will wait for the minister's initial response and then look to moving these amendments to the bill so that we can properly go through each one of them and compare them with the superficial nature of the minister's set of objects and the internal contradiction in his objects. I await his response to that contradiction.

Mr A.P. JACOB: I do not think there is a contradiction. The best approach to the objects of the act is to keep them as simple and high level as possible going forward. I note that at clause 4 there are the principles of ecological sustainable development, which I believe are essentially the same as those in the federal Environment Protection and Biodiversity Conservation Act. The member for Gosnells read out a sentence from the acts of other states, the ACT or South Australia. That sentence is almost word-for-word the same as clause (1)(a) of this bill. Most of his comments were about clause (1)(b). Clause (1) states that the objects of this act are to —

(a) to conserve and protect biodiversity and biodiversity components in the State.

I think this reflects the focus on the simple and high-level approach of what this bill seeks to achieve and I believe will achieve.

Mr C.J. TALLENTIRE: I quoted the Australian Capital Territory legislation. The minister proposes to add an "and" to the Western Australian legislation. It is about conserving "and" about promoting ecologically

sustainable use. We will come to this in the definition clause, but we have to be clear that that ecologically sustainable use could involve the short-term decline of species. I assume that the minister realises that is implicit in the definition. I contrast that with the ACT legislation, which is structured differently. Section 6 of the Nature Conservation Act 2014 states that its main object is to "protect, conserve and enhance" and subsection (2) goes on to state —

> This is to be achieved particularly by —
>
> (a) protecting, conserving, enhancing, restoring and improving nature conservation, including —
>
> (i) native species of animals and plants and their habitats; and
>
> (ii) ecological communities; and
>
> (iii) biological diversity at the community, species and genetic levels; and
>
> (iv) ecosystems, and ecosystem processes and functions; and

There is nothing in the ACT act that is contradictory about exploitation and protection. The ACT act does not need to clarify whether one prevails over the other. I come back to the point raised by the Leeuwin Group, which said that a bill that has in its objects the mandating of both conservation and use of biodiversity without a clear indication of which prevails over the other is an inconsistency that must be removed. Why can we not accept that the objects in this bill are flawed and that we must remove that inconsistency?

Mr A.P. JACOB: Again, although most of the member for Gosnells' comments are focused on clause 3(1)(b), he is referring at present to the potential for paragraphs (a) and (b) to conflict at some point. I draw the member's attention to subclause (2), which states —

> In the pursuit of the objects of this Act, regard must be had to the principles of ecologically sustainable development set out in section 4.

Mr C.J. TALLENTIRE: The minister is referring to the definition of ecologically sustainable development, but in fact the bill uses the term "ecologically sustainable use". It is different. I thank the minister for raising this, because it gives me the chance to clarify the difference. Ecologically sustainable use, which is the phrase used throughout the bill, is defined quite differently from ecologically sustainable development. We will get to this in further detail in clause 5, but the definition of ecologically sustainable use is used in such a way that it permits and even promotes the short-term decline of the state's biodiversity. It is all about use. I am quoting directly from the Environmental Defender's Office Western Australia paper, which states that clause 5 defines ecologically sustainable use to mean the use of the biodiversity component in a way and at a rate that does not lead to the long-term decline of biodiversity; therefore, it allows for the short-term decline of biodiversity. That is what the minister has included in the objects of this bill; he is allowing the short-term decline of biodiversity.

I will talk about live examples of this such as the impact that some urban development might have on the Carnaby's white-tailed black-cockatoo. That species will go into a short-term decline with the implementation of the Roe 8 plan. The minister has admitted that, and he is prepared to accept it. The minister is gambling. He is hoping that some other factor will not come in on top of that short-term decline that his plan will cause. The minister is gambling there will not also be some disease or some other reason for the animals to become extinct. There are questions about the population structure. The minister is gambling that the short-term decline in the species will be okay and that it will get through this development; their food supply will come back on eventually and that the remaining birds will be of breeding age. We are not sure about that, and there could be some disease. We know that is often the case with avian species, which are especially vulnerable when population numbers get low. When population numbers are lowered, there will be problems around genetics and a decline in the size of the gene pool that will mean the species is less capable of responding to various illnesses and viruses that might be present in the population and are concentrated amongst those few remaining individuals.

The objects contain an internal contradiction and the minister has to be clear that he understands the difference between ecologically sustainable use and ecologically sustainable development. We will come to this clause in the bill, but the current definition of ecologically sustainable use means —

> ... use of the biodiversity components in a way and at a rate that does not lead to the long-term decline of biodiversity,

That means that the minister is prepared to accept short-term decline. That, of course, is contradictory to the whole intent of the bill.

Mr A.P. JACOB: I will address one of the examples used by the member for Gosnells, which related to the strategic assessment contained in the "Perth and Peel Green Growth Plan for 3.5 Million". It is not a particularly good example because although the plan extrapolates a reduction in population, that reduction is considerably lower than the existing forecast of a reduction on a business-as-usual scenario. I think everybody understands

that the Carnaby's black-cockatoo population is considered to be in decline, but under that plan it is not a greater decline but a far lesser decline, albeit it is still a decline that they are measuring. That has been one of the great untruths to come out of that plan. I am not saying that to the member for Gosnells; I was referring to some of the public narrative around that issue. But I digress.

I go back to the key points of the member for Gosnells on this clause. I bring the member back to clause 4, "Principles of ecologically sustainable development", which refers to the principles contained within the commonwealth Environment Protection and Biodiversity Conservation Act. The regime of the state's Biodiversity Conservation Bill takes into account the commonwealth EPBC act, and in any instance in which the two key objects may be found to be in conflict, the EPBC act itself contemplates the sustainable use of biodiversity components or sustainable development. The drafting procedure, if you like, is that if at any point two objects are found to be in conflict, we must refer to the principles of ecological sustainable development that are mirrored within the federal legislation.

Mr C.J. TALLENTIRE: It is time that I moved my amendment so that the opposition can perhaps educate the minister and the chamber on what really should be presented in the objects for such an important piece of legislation. I refer to page 11 of the notice paper and the amendment in my name to page 12 of the bill to delete lines 12 to 18. It is a rather lengthy set of objects, but I will read through them.

The ACTING SPEAKER (**Mr I.M. Britza)**: You do not have to.

Mr C.J. TALLENTIRE: In the first instance I am happy to move the amendment, but then it will be important to go through and explain. Could I have Mr Acting Speaker's clarification? I expect there will be a vote on this amendment. Will that occur after I have had the opportunity to explain?

The ACTING SPEAKER: Yes.

Mr C.J. TALLENTIRE: I am happy to move the amendments in my name. I move —

Page 2, lines 12 to 18 — To delete the lines and substitute —

(a) it is an obligation on any person on whom a function is imposed, or a power conferred under this Act, to perform the function or exercise the power in such a manner as to advance and further the primary object of conserving Western Australia's biodiversity;

(b) in complying with the duty imposed by subsection (1), a body or official-holder must have regard to the Act's primary object, and any strategy designated under Part 1A;

(c) the primary object of this Act is to be achieved by, amongst other things:

(i) preventing human-induced extinctions of species and ecological communities;

(ii) ensuring the survival and maintenance of biodiversity at community, species and genetic levels, and its evolutionary potential in the wild;

(iii) enhancing and restoring biodiversity through protecting and management of habitats and ecosystems, and ensuring ecological integrity and processes;

(iv) identification and management of biodiversity that is significant at local, regional and national levels;

(v) ensuring sustainable use of biological resources, accordingly to the principles of ecologically sustainable development set out in Part 1A;

(vi) ensuring the fair and equitable sharing amongst stakeholders of benefits arising from bioprospecting involving indigenous biological resources;

(vii) mitigating key threatening processes and impacts of environmental pests;

(viii) ensuring that citizens have access to reliable and relevant information, in appropriate forms to facilitate understanding, and opportunities to participate in planning and policy development;

(ix) promoting co-operative management with all levels of government, community-based organisations, Aboriginal people and landholders;

(x) furthering biodiversity knowledge and promoting education;

(xi) periodic evaluation and reporting on the state and condition of WA's biodiversity as designated under Part 1A; and

(xii) implementation of the strategy set out in Part 1A.

I will take this opportunity to explain why I am moving to delete lines 12 to 18. The objects, as they stand, are a very poor outline of what one would expect to see in legislation that is supposed to protect the natural heritage of this state—our biological diversity. The deletion would enable us to insert the objects that I have researched and included in the notice paper. I will go through them.

First and foremost, clause 3(1)(a) is amended to read —

> it is an obligation on any person on whom a function is imposed, or a power conferred under this Act, to perform the function or exercise the power in such a manner as to advance and further the primary object of conserving Western Australia's biodiversity;

Paragraph (b) is amended to read —

> in complying with the duty imposed by subsection (1), a body or official-holder must have regard to the Act's primary object, and any strategy designated under Part 1A;

Paragraph (c) really requires some explanation and careful consideration. It is amended to read, in part —

> the primary object of this Act is to be achieved by, amongst other things:
>
> (i) preventing human-induced extinctions of species and ecological communities;

Surely that is what people would expect to see in any biodiversity legislation—the inclusion of mechanisms for preventing human-induced extinction. There is no point in having legislation that is supposedly about looking after biodiversity if we are still going to allow humans to cause the extinction of fauna, flora and microorganisms. We have to be serious about having a commitment in the legislation to prevent human-induced extinctions. Subparagraph (ii) reads —

> ensuring the survival and maintenance of biodiversity at community, species and genetic levels, and its evolutionary potential in the wild;

This is so important because we know that interactions between different species are essential to the survival of any one of those individual species, and that is why we have the concept of ecological communities. Without the protection of ecological communities, we will see the loss of individual species because they have interdependent relationships with one another. Those relationships can occur at a community level, at a species level and at a genetic level. We have to make sure that we are providing for evolutionary processes to continue. Subparagraph (iii) reads —

> enhancing and restoring biodiversity through protecting and management of habitats and ecosystems, and ensuring ecological integrity and processes;

Those interactions—the processes, habitats and ecosystems—have to be maintained in such a way that the current activities and nature of things can go on. Subparagraph (iv) reads —

> identification and management of biodiversity that is significant at local, regional and national levels;

This is very important. We need to understand that there is no uniformity about our ecosystems; there is incredible diversity. What we see in the jarrah–marri forest in the northern part of the Darling Range is very different from what we see in the central or southern parts. There is incredible variation and we need to have that properly identified and managed. The management regime for the Swan coastal plain and bushland in the northern suburbs could be quite different from the management regime that would be required in, say, Kings Park or in bushland to the south of Perth—very different. Subparagraph (v) reads —

> ensuring sustainable use of biological resources, accordingly to the principles of ecologically sustainable development set out in Part 1A;

We can come to part 1A in a moment. Subparagraph (vi) reads —

> ensuring the fair and equitable sharing amongst stakeholders of benefits arising from bioprospecting involving indigenous biological resources;

Ms S.F. McGURK: Mr Acting Speaker (Mr P. Abetz), I am interested in what the member has to say.

The ACTING SPEAKER: Please continue, member for Gosnells.

Mr C.J. TALLENTIRE: Thank you. We know that there is the potential for all kinds of industries to be based on the use of our natural resources—things like various wildflower enterprises and businesses that are looking at the pharmaceutical benefits of some of our flora. Those sorts of opportunities are there, and we hope that Indigenous communities that are increasingly re-engaging with their land would be amongst the primary drivers of those industries of the future.

Subparagraph (vii) reads —

> mitigating key threatening processes and impacts of environmental pests;

That is a critical one. The federal Threatened Species Commissioner has appeared at various conferences with the Minister for Environment and talks about the impact of cats, in particular. He is very keen on pointing out that cats are the cause of many extinctions or putting into the critical range the conservation status of a lot of our fauna, and there is a lot of truth in that. We should have that specifically included in the objects. Subparagraph (viii) reads —

> ensuring that citizens have access to reliable and relevant information, in appropriate forms to facilitate understanding, and opportunities to participate in planning and policy development;

Of course that should be there. If that were already in place, we would not have had the ridiculous situation that we had during the estimates hearings when it was revealed that the minister had done a biodiversity audit that is not accessible to the members of the public. They have to physically go to the Department of Parks and Wildlife before they can gain access to the various databases there, including the biodiversity audit; they cannot actually see it online. Yet the department has a whole lot of other databases—I think there are about seven or eight—that can be accessed online, things like FloraBase et cetera. They can all be accessed online. Why can the biodiversity audit not be accessed online? It is very important that we have it right there, ensuring that citizens have access to reliable and relevant information.

Subparagraph (ix) reads —

> promoting co-operative management with all levels of government, community-based organisations, Aboriginal people and landholders;

We have said before that much of the state's biodiversity is located outside the national parks and marine reserves. It is often on private or privately managed land. The minister virtually cancelled the Land for Wildlife program—a program that was designed to ensure that people with private land can have some level of support as to how they manage the biodiversity on their land. It is very important to have programs such as that. The minister tried to salvage his poor decision a bit by entering into a partnership with some of the natural resource management groups, but he put no money into them at all, so they are expected to just fit this into their current workloads. What a state of affairs that is. That is why we need subparagraph (ix) to make sure that there is a clear object of promoting cooperative management with all levels of government, community-based organisations, Aboriginal people and, indeed, private landholders.

Subparagraph (x) reads —

> furthering biodiversity knowledge and promoting education;

That is vital. Many Western Australians are fairly ill-informed, if not ignorant, about the biological wealth of this state, so there is much work to be done there. Let us put that in as one of the objects of the legislation. Subparagraph (xi) reads —

> periodic evaluation and reporting on the state and condition of WA's biodiversity as designated under Part 1A; and

The audit may undertake some of that work, but I think it is vital that we have it explicitly stated in the objects. Finally, subparagraph (xii) reads —

> implementation of the strategy set out in Part 1A.

We will come to that later. We have worked out that the strategy for the conservation of Australia's biological diversity would be in part 1A of the legislation. The need for a biodiversity conservation strategy is vital. The minister has been critical of previous Labor governments for not getting this legislation to a final point. I think it was a methodical approach to want to develop a biodiversity conservation strategy so we had that detail worked out prior to producing the bill. A lot of effort went into producing the biodiversity conservation strategy, and it was released in a draft form by the member for Rockingham, the Leader of the Opposition, when he was the Minister for the Environment. Much good direction was generated through that biodiversity conservation strategy. It is an important document. That is why it needs to be mentioned in the objects of the act.

The outline that we have presented is more detailed. Yes, it runs to a good four-fifths of a page, but for something as important as our biodiversity legislation, I think it is perfectly justified that we have a fairly detailed exposé that just gives people an indication of what the objects of the act are really about rather than what the government is proposing, which is condensed and contradictory. It is condensed and it has an internal contradiction. That is untenable for us. We cannot accept a bill with objects that have that contradiction in it. It is not just the Environmental Defender's Office saying that. I do not know why the minister has been so critical of the EDO's environmental legal expertise and on what basis he makes those criticisms when its environmental legal expertise probably surpasses the environmental legal expertise that he has in his own agencies. Why he would want to deprive himself of getting that knowledge and incorporating it into this bill is beyond me. I do not

understand it at all. It is not just the EDO; it is also the scientists. I asked the minister earlier if he could name the scientists who formed the Leeuwin Group. He has not done so yet. It would be important to get on the record that he knows who they are and that he is acknowledging their commitment.

Mr A.P. JACOB: I would not be able to name all the members of the Leeuwin Group off the top of my head. I have run through the membership list. A number of names on that list were familiar to me.

We do not support the amendment moved by the member for Gosnells for two reasons. First, there appears to be a technical error in the drafting of the amendment. If he reads how it starts and flows through, he would realise that it does not flow in a sense that it refers to objects of the act and it does not redefine them. I have an amendment coming up in which we have dropped a word as well, so these things happen. The principle around this, to my mind, is that the more detailed, the more specific, the more complex and the more confusing we make the objects of an act, the more opportunities we have to trip ourselves up down the road and the more difficult it is for the general public to understand what we are seeking to do. I think our objects are concise and high level, as objects of an act should be.

Mr D.J. KELLY: I want to pick up on the comments that the minister made at the end of his response—that is, the more complicated the objects of the act, the more chance we have to trip ourselves up down the track. The biggest problem with the two objects of the act as they currently stand is that they are put on an equal footing. We have the potential for a lawyers' picnic when interpreting the act. Obviously, when an act is interpreted, we go back to the objects. Of course, we will have to look at two objects, which are potentially competing. There is no direction in the act to give courts clarity as to which object is the most important and should be given priority. For precisely the reasons that the minister has just outlined—he does not want objects that would enable the government to be picked up on or tripped over in the future—the objects of the act as they are currently formulated are inadequate. I would have thought that it should be crystal clear that the primary object of this legislation is conservation of our environment. As the bill contains two objects, as set out in clause 3(1)(a) and (b), the government does not provide that clear indication that the conservation of our environment is the prime object of this act.

I honestly do not understand why the government would draft legislation this way and leave it to someone else to figure out when an activity potentially supports (a) but does not support (b) or supports (b) but does not support (a). Who makes the decision? Where is the guidance in this legislation as to which of those two objects in the act should be given priority? That is the point that has been made by the member for Gosnells. I really do not think the minister has defended the objects of the bill with any great strength. He can quibble about the amendment moved by the member for Gosnells, but the minister really has not addressed the fundamental flaw in the objects of the bill. If they were useful and clear, we would not need an amendment. As the member for Gosnells pointed out, other jurisdictions draft similar legislation in a way that makes the primary object clear. Clearly, the government has not done that and that is why we are supporting the amendment.

Mr A.P. JACOB: We have been going around this point ad nauseam. I have addressed that point at every opportunity that I have had to respond. I have said over and over that there is more than one part to the objects of the bill; there is a second subclause, subclause (2), which states —

> In the pursuit of the objects of this Act, regard must be had to the principles of ecologically sustainable development set out in section 4.

Should there be a clash in the pursuit of those objects, there is a reference to section 4, which contains the principles of ecologically sustainable development, which is essentially extracted immediately from the Environmental Protection and Biodiversity Conservation Act—so the mechanism is there at section 4.

Mr D.J. KELLY: I want to pull the minister up. He said that the potential conflict between clause 1(a) and (b) is effectively resolved because of subclause (2), which states —

> In the pursuit of the objects of this Act, regard must be had to the principles of ecologically sustainable development set out in section 4.

Of course subclause (2) says that regard has to be had; it does not say that people operating under this measure must act in accordance with the principles of ecologically sustainable development or in accordance with or consistent with; it just says that regard must be had. Having regard to something is not a "get out of jail free" card; it is just a much weaker expression. The government could have used stronger terms such as "in accordance with" or "consistent with". All we have is "regard must be had". It does not get us around the potential conflict, which I think the minister acknowledges is there, between subclause (1)(a) and (b). That conflict is likely to have to be resolved at some point. The government has given no guidance other than that people have to have regard to those principles. It has likewise chosen to use the term "regard to" in clause 3(2) rather than words that would give stronger and clearer direction. That issue does not resolve the potential conflict between subclauses (1)(a) and (b).

Mr A.P. JACOB: I think I will go back a step. I do not want to give too much credence to the statements that objects (a) and (b) are in conflict. I do not necessarily see that they are in any event, because although there is a lot of focus on the word "use", it is to promote ecologically sustainable use. I can think of many examples of ecologically sustainable use. A further clause in the bill deals with nature-based recreation and tourism and for areas that may be trashed during antisocial behaviour and the like, in some instance they can be a good solution to getting passive surveillance and activation and ultimately biodiversity conservation outcomes.

Mr C.J. TALLENTIRE: The minister focused in on an important problem, which is the definition of "ecologically sustainable use" because it allows for the short-term decline of species, which is a problem. That puts us in a situation in which we will be taking some very big risks. It is clear from the definition—the minister wants to leap ahead and refer to the definition of "ecological sustainable use" that is on page 9—that it is all about the hope that something can proceed so long as it does not lead to the long-term decline of biodiversity. Implicitly, that means that the minister is prepared to accept short-term declines, and that is the real danger. The minister will be taking a gamble. He is saying that we can lose something and see its numbers decline because we can be hopeful that it will come back later. That is the real problem with the objects as they are outlined. In the minister's reading of my amendment, he suggested that aspects of it need finessing from a drafting point of view. But I think if he reads it in its entirety along with the other amendments, he will find that it flows pretty well. I know that we have to have things perfect here, but there is a definite pattern to how things work. The point is that the minister's definition of "ecologically sustainable use" will allow for short-term declines, and I do not think that that is a risk that Western Australians want to take.

Mr A.P. JACOB: In going to the member for Gosnells' amendment, it is a moot point; we do not support the amendment in any event. It refers to the primary objects of the legislation but, at the same time, no primary objects are identified in the amendment and it deletes the existing primary objects. With regard to ecologically sustainable use, everything has an impact—virtually absolutely everything that we do as people has some level of impact. The goal here —

Mr C.J. Tallentire: We are not talking about impact; we are talking about use.

Mr A.P. JACOB: Yes, but at a rate that does not lead to the long-term decline of biodiversity. I think that is a sound principle.

Mr C.J. Tallentire: But you are prepared to accept short-term decline.

Mr A.P. JACOB: Because everything has an impact.

Mr C.J. Tallentire: Impact is not the same thing as short-term decline.

Ms S.F. McGURK: This may have been raised when I was out of the chamber, but one of the objects that the Leeuwin Group proposed, which has been picked up in the amendments, included regular reporting on the effectiveness of a conservation strategy and ensuring the progressive undertaking of biodiversity surveys across the terrestrial and marine environments of the state. If the minister objects to the amendment put forward by the member for Gosnells, where are those particular objects picked up elsewhere in the bill?

Mr A.P. Jacob: They are not picked up elsewhere in the bill. This is where the objects go.

Ms S.F. McGURK: My point is that an observation has been made about what will be useful in the objects, and what will be useful is the inclusion of reporting on the effectiveness of a biodiversity conservation strategy and surveys across the marine and terrestrial environments of the state. Does the minister think that they are worthwhile activities that should be reflected in the bill; and, if they are, would it not be useful to include those in the objects of the bill?

Mr A.P. JACOB: As I have said several times now, I do not support the inclusion of those in the objects of the bill. I think the objects need to be as simple and high level as possible. I certainly do not support them being detailed specific or complex. With regards to what I think is the substance of the member for Fremantle's question, it is picked up in the member for Gosnells' amendment to clause 12. I am sure that we will discuss it at length.

Division

Amendment put and a division taken with the following result —

Ayes (15)

Ms L.L. Baker	Mr D.J. Kelly	Mr P. Papalia	Mr P.B. Watson
Dr A.D. Buti	Mr F.M. Logan	Mr J.R. Quigley	Mr B.S. Wyatt
Ms J.M. Freeman	Mr M. McGowan	Ms R. Saffioti	Mr D.A. Templeman *(Teller)*
Mr W.J. Johnston	Ms S.F. McGurk	Mr C.J. Tallentire	

Noes (32)

Mr P. Abetz	Ms E. Evangel	Dr G.G. Jacobs	Dr M.D. Nahan
Mr F.A. Alban	Mr J.M. Francis	Mr S.K. L'Estrange	Mr D.C. Nalder
Mr I.C. Blayney	Mrs G.J. Godfrey	Mr R.S. Love	Mr J. Norberger
Mr I.M. Britza	Mr B.J. Grylls	Mr W.R. Marmion	Mr D.T. Redman
Mr G.M. Castrilli	Dr K.D. Hames	Mr J.E. McGrath	Mr A.J. Simpson
Ms M.J. Davies	Mrs L.M. Harvey	Mr P.T. Miles	Mr M.H. Taylor
Mr J.H.D. Day	Mr C.D. Hatton	Ms A.R. Mitchell	Mr T.K. Waldron
Ms W.M. Duncan	Mr A.P. Jacob	Mr N.W. Morton	Mr A. Krsticevic *(Teller)*

Pairs

Mr P.C. Tinley	Mr C.J. Barnett
Mrs M.H. Roberts	Mr V.A. Catania
Ms J. Farrer	Mr M.J. Cowper
Mr R.H. Cook	Ms L. Mettam

Amendment thus negatived.

Clause put and passed.

Clause 4: Principles of ecologically sustainable development —

Mr C.J. TALLENTIRE: This clause discusses the definition of the term "ecologically sustainable development". It is useful that this clause presents an outline of the principles of ecologically sustainable development. I have no doubt that it corresponds well with the terminologies that were developed going as far back as the Rio conference in 1992. The principles are well laid out but the problem with this legislation is that the terminology used from here on in is all about "ecologically sustainable use", which is quite a different concept; it is not about ESD at all. To me, that is a serious flaw in the legislation and I seek the minister's explanation why we have it.

Mr A.P. JACOB: As I said in discussion about clause 3, clause 4 relates to the broader principle of ecologically sustainable development as it is defined beyond the borders of Western Australia. For the Western Australian legislation, the Biodiversity Conservation Bill 2015 uses the term "ecologically sustainable use" at many points and it has a clear definition on page 9.

Mr C.J. TALLENTIRE: Minister, why could we not stick with the one concept of ecologically sustainable development? Why has the notion of ecologically sustainable use suddenly come up, which implicitly has the idea of allowing species to go into short-term decline and all the risks associated with short-term decline that I previously outlined? Why is the minister allowing that in the bill when the ESD approach could have been allowed without opening up the ESU approach, which has so many risks?

Mr A.P. JACOB: I think that I largely addressed the member for Gosnells' comments in my opening comments on this clause. There are other examples of ecologically sustainable use—for example, kangaroo harvesting. That is why the term is used.

Clause put and passed.

Clause 5: Terms used —

Mr C.J. TALLENTIRE: Clause 5 gives a whole series of definitions. They are general, but I think they are definitions that the community understands, including such terms as what we understand to be "fauna". However, given some amendments that the minister put on the notice paper just today, I think it is important for him to tell us fully what he understands fauna to be. If the minster thinks there are any reasons to define some species as not being fauna, can he give an explanation of what the reasons might be?

Mr A.P. JACOB: It does not directly pertain to this clause, but the definition of fauna, as it applies to this bill, is on page 10. In times when there may be an overlap, that is dealt with in the last government bill that was debated in this place, the Aquatic Resources Management Bill 2015, as it goes forward. In the fish resources management act, as it is currently referred to, there are instances in which the Department of Fisheries, through the Aquatic Resources Management Bill, will manage the sustainable use of a species, which will exclude it from coverage under this act. There is a clear delineation between the roles of the Department of Parks and Wildlife, the environment portfolio, the Department of Fisheries and the fisheries portfolio.

Mr C.J. TALLENTIRE: From what the minister is saying, he is prepared to corrupt the definition of the term "fauna". The term is widely understood in the community. People know what we mean when we talk about fauna. However, the minister is prepared to corrupt the terminology because he wants to have some bureaucratic latitude for how the legislation might work. I believe that the minister wants to exclude fish and pearl oysters; this is stuff that he put on the notice paper just today without giving us any warning at all. He has decided to just

carve fish out of the Biodiversity Conservation Act. If somebody were fishing in the Fitzroy River where a number of fish species are severely threatened—their numbers are incredibly low and the risk of those species becoming extinct is incredibly high, for example, the swordfish—they would not be bound by these provisions, would they, because the minister is exempting fish from being fauna? All the penalties that the minister talked about that people could cop if they kill a native species without authorisation, or they do something to a listed species, are all irrelevant because the minister has just redefined what the term fauna means and said that fish in general and pearl oysters do not count any more. How can that possibly be sensible legislation for the protection of biodiversity?

Mr A.P. JACOB: There is the potential within the Aquatic Resources Management Bill for those protections as well. This bill does not seek to do everything. It recognises that there is a current fish resources management act and that this house has just passed the Aquatic Resources Management Bill. It further enhances the ability of the Department of Fisheries to protect fauna within their environment—fauna as fish or aquatic resources—and it recognises that the fishing industry is not only an important recreational pursuit in Western Australia, but also a very important industry. That has far more of a harvesting or taking balance than biodiversity conservation does more generally. Even at the points within this act beyond this clause in which reference is made to things being a defence, if they are a defence they would have to be authorised under the Aquatic Resources Management Bill. If someone took an action that was not authorised or licensed under the other bills, it would still come under this act.

Mr D.J. KELLY: As the minister knows, I am the shadow Minister for Fisheries. The problem I have is that the minister put amendments on the notice paper that affect the definition of fish and pearl oysters without any explanation to us whatsoever. As the minister said, this bill has been 10 years in the making. However, he put significant amendments on the table without giving opposition members any briefing or opportunity to understand the implications of those amendments. I spoke with the minister about the concerns that were raised about this bill from both the commercial and recreational fishing industries. On this side, we do not want recreational fishers and commercial fishers who are going about their lawful business to be unduly impacted upon by the provisions of this bill. It is patently unreasonable for the minister to lob amendments in Parliament today and expect us to consider them when we do not understand the full implications of these amendments. It is also patently unreasonable for the minister to ask us to deal with these particular amendments today in an expeditious way. I have not had the opportunity to get a briefing on these amendments from the recreational and commercial fishing sector to understand the real implications of these amendments. In my view, asking us to deal with these amendments today is patently unreasonable.

Mr A.P. JACOB: These amendments do not really relate to clause 5.

Mr C.J. Tallentire: Yes, they do.

Mr A.P. JACOB: No, they do not, member for Gosnells.

Mr C.J. Tallentire: You are saying that fish are no longer fauna.

Mr A.P. JACOB: Does clause 5 say that, member for Gosnells?

Mr C.J. Tallentire: That is what I am asking you, minister.

Mr A.P. JACOB: Member for Gosnells, I am trying to answer the member for Bassendean's question.

Mr C.J. Tallentire: And you are trying to say that fish are no longer fauna.

Mr A.P. JACOB: Does clause 5 say that?

Mr C.J. Tallentire: You put it on the notice paper today—that fish are no longer fauna.

Mr A.P. JACOB: Member for Gosnells, that is not a particularly helpful interjection.

Mr C.J. Tallentire: It is, minister. You put it on the notice paper today.

The ACTING SPEAKER (Mr P. Abetz): Member for Gosnells, allow the minister to answer the question.

Mr A.P. JACOB: I am aware of some of the concerns that have been raised by the Western Australian Fishing Industry Council and Recfishwest. The member for Bassendean raised those concerns with me during the second reading debate yesterday. We have gone to great lengths throughout this bill, and also in the Fish Resources Management Act and what will be the Aquatic Resources Management Act, to make reference to fish, and also to make reference to pearl oysters. I think it reads quite well throughout the bill that we have tried to be very clear about where that delineation is. We do not want this bill to impact on sustainable fisheries any more than the member for Bassendean wants it to do. The proposed amendments to clauses 7, 151 and 153 are just minor amendments to give further comfort to people who have concerns about the possibility of accidentally picking up a person who is well regulated and operating in a sustainable manner under the Fish Resources Management Act

and what will be the Aquatic Resources Management Act. We can answer all those questions when we get to those clauses.

Mr D.J. KELLY: It is patently unreasonable for the minister to lob significant amendments on the table today and expect us to deal with them. These issues have been raised with the minister by WAFIC and Recfishwest over an extended period of time. My understanding is that the minister's initial response to those bodies was, "Don't worry about it; the bill as it stands will not have the impact that you think it is going to have." However, now, at the last minute, the minister has put these amendments on the table. Why did the minister not give us notice of these amendments so that we could properly consider them and respond in this place in a fully constructive way? Why does the minister expect us to deal with these amendments according to his timetable, when we are not in a position to know whether they will achieve what the minister says they will achieve? The minister said that the original bill achieved what he set out to achieve and that the concerns of WAFIC and Recfishwest were unfounded. The minister has now obviously come to a different view—that the bill as it currently stands is deficient—and that is why he has put these amendments on the table. The minister has not had the decency to give us some notice of these amendments. The minister is also not giving us time to make sure that these amendments will achieve what the minister says they will achieve and only what the minister says they will achieve.

Mr C.J. TALLENTIRE: The minister suggested that my interjection was not helpful, so I will take some time to explain what I think is going on here. The minister is making the biodiversity conservation legislation subservient to the fisheries legislation. That is because the minister is not ensuring that fish are part of the definition of "fauna". The minister is exempting fish from that definition. That is what the minister has given notice of today. We are analysing now the definition of fauna, and the minister is saying we do not need to worry about that now, because we will deal with that when we get to clause 151. Through this legislation, the minister is exempting fish from any protection in terms of biodiversity conservation. The minister is saying that we do not need to worry about that, because there are provisions in the fisheries legislation and the Aquatic Resources Management Bill that could—perhaps—lead to the protection of fish species. The minister will not be protecting fish species through the Biodiversity Conservation Bill. That is disgraceful. The minister is carving off from this legislation one of the most important aspects of our biota. Anyone who looks at how we protect biodiversity in Western Australia will want to know that fish species are properly covered by this legislation, yet the minister is prepared to just let that go.

The minister's failure to stand up for biodiversity is demonstrated by this bill. The minister has failed to argue the case that the new Biodiversity Conservation Act should have supremacy over other pieces of legislation. The minister was not part of the debate on the Aquatic Resources Management Bill. That debate was all conducted, in a very fair and reasonable way, around the idea that we need to have legislation that looks after the various users of the aquatic environment. Indeed, the name of that bill—Aquatic Resources Management Bill—is all about how we use our aquatic resources. We talked about the different categories of users—recreational users and professional commercial fishers. We talked also about emerging user groups, such as people who like to swim or dive with fish. That is all covered by the Aquatic Resources Management Bill. What is not covered by the Aquatic Resources Management Bill is the protection of biodiversity in the same way as is provided under this legislation. Therefore, minister, do not pretend that although fish have been cut out of this legislation, fish will be picked up in an equivalent way elsewhere. That is not the case. Fish comprises an assemblage of species. There are about four species of swordfish, and I think they are all on the critically endangered list. The minister is prepared to leave that aside to the Aquatic Resources Management Act. The minister is not prepared to enable the Biodiversity Conservation Act to protect these endangered species. How can that be? I am sure there are other species, such as leafy sea dragon, that are at the brink, and we will not have the powers of the Biodiversity Conservation Act to protect them.

Minister, this smells of a dirty trick. The minister has just lobbed these amendments on us and is pretending that this was somehow agreed through the debate on the Aquatic Resources Management Bill. Had the minister had the decency or paid us the respect of putting these amendments on the notice paper prior to the debate on the Aquatic Resources Management bill, we would have been able to conduct that debate in a different light. But, no, the minister has just lobbed this on us today. It is a dirty trick. That demonstrates the minister's attitude to the conservation of fish. Fish is a group of species that is just as worthy of biodiversity conservation protection as any other species. Why is the minister seeking to cut fish out of the definition of fauna?

Mr A.P. JACOB: Firstly, I apologise to the member for Bassendean. I had intended to respond. He raised some fair points, but, again, they are not points that relate to this clause. Member for Gosnells, that is not what clause 5 will do.

Mr C.J. TALLENTIRE: This is outrageous! The minister is playing around with the mechanisms and pretending that he has not put something on the notice paper because it does not suit him to talk about it right now. The minister put on today's notice paper an intention to move "fish" out of the protections provided for

under this definition. He is allowing fish to not be defined as fauna. He admitted himself that it was some convenient administrative thing to remove "fish" from the definition. It may be an amendment that he is proposing via clause 151, but the reality is that we are debating the definition of "fauna" now.

Debate interrupted, pursuant to standing orders.

[Continued on page 4054.]