Legislative Council

Wednesday, 12 October 1988

THE PRESIDENT (Hon Clive Griffiths) took the Chair at 2.30 pm, and read prayers.

PETITION

Prostitution - Legalisation

HON P.G. PENDAL (South Central Metropolitan) [2.32 pm]: I present a petition from 508 residents and citizens objecting to the proposed legalisation of prostitution.

[See paper No 474.]

BILLS (2) - INTRODUCTION AND FIRST READING

1. Child Support (Adoption) Bill
2. Family Court Amendment Bill

Bills introduced, on motions by Hon J.M. Berinson (Attorney General), and read a first time.

MUSEUM AMENDMENT BILL

Introduction and First Reading

Bill introduced, on motion by Hon P.G. Pendal, and read a first time.

Second Reading

HON P.G. PENDAL (South Central Metropolitan) [2.37 pm]: I seek leave to proceed to the second reading forthwith.

Hon J.M. Berinson: Could I invite the member to indicate why he is seeking leave to proceed to the second reading forthwith.

The PRESIDENT: This is not a debate on the motion and the member needs to give an indication why it is necessary to seek leave to proceed to the second reading forthwith.

Hon P.G. PENDAL: There are reasons which are a matter of public record that the second reading needs to proceed today, given the urgency of the matter and given that, within several days, it is intended to allow several items referred to in the Bill to leave Western Australia. Notwithstanding comments made by the Government today on the matter, it is my belief that urgency relating to those items and their departure is best served by proceeding today.

Leave granted.

Hon P.G. PENDAL: I move -

That the Bill be now read a second time.

This Bill is a vital and perhaps the only avenue by which the vintage and veteran car collection owned by the Western Australia Museum can be kept in Australia. Members will be aware that widespread publicity in recent days has indicated that the collection, or part of it, is to leave Perth on Saturday for England. There, Christies of London will take charge of the cars and put them up for auction. The action is almost unbelievable. It is certainly unprecedented. I have a huge personal respect for John Bannister, the director of the Western Australian Museum, but I have to make it perfectly clear that I cannot agree with one of his reported comments in today's *The West Australian* to the effect that the vintage-veteran cars do not have any historical significance to Western Australia. I must say that Mr Bannister is either being very loyal to the Government - and I would expect that of him because I have always found him a thoroughly professional person - or he has momentarily overlooked the point of a museum.

A museum does not exist to exhibit exclusively local artefacts or objects. If that were so, a lot of the material from the Western Australian Museum would need to be thrown out immediately. I think we have a dinosaur in the Museum, and I doubt that that is local. I

know we have a small meteorite there, and that can scarcely be seen in that light. A museum, in my view, is a window into the whole of mankind's environment. The vintage-veteran car collection helped give the Museum the human face that is so very necessary. In other words, if youngsters go away from the Museum remembering only the old cars, is that not better than going away remembering nothing? Ordinarily, I would never contemplate a step of this kind that seeks to override the Museum trustees who, I understand, have exclusive rights to dispose of property. But I cannot believe that the trustees or the senior staff of the Museum are in reality supportive of the sell-off plan.

I find it an extraordinary act of tongue in cheek for the Minister for The Arts, Mrs Henderson, to say that the cars are being sold because they have no connection with Western Australia. Only a few months ago she took the completely opposite view in connection with the Louis Allen art collection. That collection was a superb array of Aboriginal art for which the Government, without reference to the Art Gallery, paid $2.5 million. But that collection is not one of Western Australian Aboriginal art; it comes from the Northern Territory. It is therefore utter humbug for the Minister to say that it was good enough to spend $2.5 million on Aboriginal art that has no historical connection with Western Australia, but not good enough to retain in WA this excellent collection of vehicles.

I turn now to another important aspect. Some time in the past two years something has happened to bring about a complete reversal of Museum and Government policy on this matter. What is my basis for saying that? Some two years ago members of the Veteran Car Club of WA (Inc) approached the Museum, expressing interest in some of the unrestored cars which were not on display. They were told, quite categorically, that it was against policy to sell exhibits. Then another interesting, even novel, development took place. The Veteran Car Club came up with an offer that they felt the Museum could not refuse. The offer was that the club would restore one of the unexhibited vehicles and become its owners in return for restoring, free of charge, a second vehicle which could then go on display. The result would be that two vehicles, presently not exhibited, would be ready for display at no cost to the taxpayer. The offer was declined. In some respects I can fully support the Museum's decision in that case because by it the Museum was making the point that under no circumstances could a State authority be party to selling exhibits.

I turn now to a further aspect. Why is it so important that we keep these cars in Western Australia? Is it really that vital in the overall scheme of things? I was advised as late as this morning by Mr Pat Kerr, the chairman of the veteran section of the Veteran Car Club of WA, that some 30 years ago Western Australia lost to the Eastern States a sizeable number of vintage-veteran cars which had the effect of seriously depleting the State's stocks. The Percy Markham collection was then seen as an unprecedented boost to the Western Australian inventory. The Brand Government negotiated to buy the collection and place it with the Western Australian Museum on the strict understanding that it would never be sold. Two weeks ago, rumours began circulating that the cars had a limited life in Western Australia. I spoke this morning to the president of the Veteran Car Club of WA, Mr Drew Shack, who advised me that after approaches to the Museum in recent weeks one member offered to buy the vehicles before they were sent off for the Christies' auction. The Museum relented to some extent and said that providing this person was prepared to pay the Christies price - I presume the reserve price - minus the freight charges, he could have the vehicles. This was a verbal agreement and appeared at this point to have solved the problem, albeit with the result that the cars would have gone from Museum to private ownership. This person had planned to see the Museum this week to clinch the deal and was astonished to see what had transpired. Mr Shack then tried to approach the Minister for The Arts but was told that he could not get an appointment till the end of November. In the meantime he was put in touch with a senior officer of the Arts Department who, according to Mr Kerr, gave an emphatic no to the suggestion that there was any intention of selling the cars.

Members should be aware of what is at stake. This is the list of vehicles involved in the auction: a 1909 Renault; a 1909 Minerva; an 1898 Star; a 1928 Bentley; a 1911 Rolls-Royce; a 1908 Sizare Naudin; a 1933 Rolls-Royce Continental; a 1937 Rolls-Royce V12; a 1911 Peugeot; and a 1913 Delage. It has been reported to me that the Star, the 1898 vehicle I have just mentioned, is the second oldest of its kind in the world. We are not letting it slip through our fingers; we are hand-balling it, without any regard to history, to another part of the globe.

It is not only locally that it is causing a furore. Interstate interest has also been aroused. Yesterday a representative of James R. Lawson Auctioneers in Sydney rang and expressed disgust at the proposed sale of such a unique collection of vintage cars. When one considers that Western Australia has very few of these magnificent machines fully restored and on display, one's disgust is compounded even more. The Liberal Party views this proposed sale with considerable alarm. It not only sets a precedent, but also highlights a glaring deficiency in the Museum's budget management. It seems that the Museum has no acquisition fund with which to purchase an object or collection that it considers worthy to display to the Western Australian public. This is a most incredible state of affairs. To overcome the situation the Liberals will provide an annual allocation, in the form of an acquisition fund, to the Museum's directors. This fund will be used to buy collections or single displays that will enhance the already impressive array of collections in the Museum. The most important aspect of such a fund will be that no other collection or object will have to be sold off to fund the acquisition of another.

The Government's thinly disguised stalling tactics of this morning are not acceptable to us or, more importantly, to the public of Western Australia. This Bill must proceed to reassure all of us that the Government cannot sell off in any ad hoc fashion.any collection, no matter how valuable, and deny it to the people of Western Australia.

Finally, the last minute interest displayed this morning by the Government is welcome but belated. The Government could and should have acted weeks ago; it did not. This Bill is an invitation for it to join with us to preserve these cars. I especially ask the Leader of the House, as a matter of public importance, to agree to the speedy passage of the Bill in the next 48 hours.

I commend the Bill to the House.

Debate adjourned, on motion by Hon Fred McKenzie.

EQUAL OPPORTUNITY AMENDMENT BILL

Second Reading

HON J.M. BERINSON (North Central Metropolitan - Leader of the House) [2.50 pm] : I move -

> That the Bill be now read a second time.

This Bill has three purposes -

> To make discrimination on the ground of impairment unlawful;
>
> to provide the capacity to appoint deputy presidents to the Equal Opportunity Tribunal and to establish a pool of deputy members; and
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> to make minor machinery amendments to the principal Act.

Shortly after the passage of the Equal Opportunity Act in November 1984 the Government made a commitment to examine the issue of discrimination against people with disabilities. A thorough process of research and community consultation was carried out by a working party under the chairmanship of Hon Graham Edwards, MLC. The working party included people with disabilities, representatives of employers, unions and Government departments and members of Parliament. A discussion paper prepared by the working party and entitled "A fair go for people with disabilities" was issued in August 1986. The paper drew on the experience of other States and every effort was made to ensure that deficiencies identified elsewhere were not repeated. After public comment and a conference a final report entitled "A Catalyst for Change" was presented. I take this opportunity, on behalf of the Government, to thank the many people who contributed to the discussion paper and report and to the preparation of this legislation. Their work was essential in the framing of a Bill which balances the interests of those affected by it.

The number of people with disabilities in Western Australia has been estimated to be 14.3 per cent of the population, with 9.3 per cent being handicapped by their disability. This Bill seeks to protect their rights by making it unlawful to discriminate against them in specified areas. Over the past 12 months the Equal Opportunity Commission has received 173 inquiries about discrimination against people with disabilities. The ground of impairment

constituted the third highest on which inquiries were made. Unjustified discrimination based on prejudice and ignorance has a destructive effect not only on those who suffer discrimination but also on the social cohesion of the Australian community. The bipartisan support for the Equal Opportunity Act 1984 reflected the commitment by both sides of this Parliament to discourage acts of discrimination and to provide redress for those discriminated against. Legislation cannot of itself eliminate discrimination. Accordingly, the Equal Opportunity Act was designed to also have a major educative function, and the commissioner is explicitly charged with this task, which is assisted by the conciliatory, as opposed to punitive nature of the complaint resolution process. This Bill uses a definition of impairment which reflects the United Nations statement on the Year of the Disabled, which says -

> There is a distinction between impairment which is a quality of the individual, a disability which is a functional restriction due to the impairment, and handicaps which are the social consequences of the disability.

These categories have been adopted by other States in their impairment legislation. Their use avoids difficulties which have arisen in those jurisdictions which use somewhat arbitrary classifications of specific disabilities or handicaps. The use of the term "impairment", and its definition in this Bill, also clearly includes the so called "invisible handicaps" such as diabetes, epilepsy and asthma.

The provisions of the Bill reflect those which apply to other grounds of discrimination in the Equal Opportunity Act, with some necessary modifications. For example, this Bill includes a definition of discrimination on the basis of possession or use of a palliative device or guide dog or hearing dog. The Bill will make it unlawful to discriminate against people with sight or hearing impairments who are accompanied by a guide or hearing dog. The Bill will make it unlawful to discriminate against a person on the ground of impairment in the areas of -

employment;

education;

access to places and vehicles;

provision of goods, services and facilities;

accommodation;

clubs or incorporated associations;

sport;

application forms; and

advertisements.

I will deal with each of these areas to enable specific issues to be highlighted.

For people with disabilities, as with many others in our society, employment or the lack of it can have a very real effect on feelings of self-worth. In addition, the ability of a person with an impairment to lead an independent life is often tied closely to an adequate source of income. The Bill will make it unlawful for an employer to discriminate against a person with an impairment in applying for a job, in the terms and conditions of employment, in the provision of access to promotion, transfer, training or in respect of any other employment related benefit. The Bill will also make it unlawful for professional or trade organisations, qualifying bodies or employment agencies to discriminate on the ground of impairment. This is qualified by providing an exception where the person does not have the ability to perform the work and by allowing variation of terms and conditions of employment to accommodate people whose impairment restricts their work capacity. This will allow for the continuation of underrate worker provisions in awards and the employment of people with disabilities under special terms and conditions in sheltered workshops.

Employment of people with impairments can sometimes require modification of the physical environment or job routine. This may involve financial outlay which, in some cases, may be excessive in the circumstances of the employer's business or organisation. The legislation provides an exemption in such cases based on unjustifiable hardship. Access to education is clearly important to the ability of a person with an impairment to fully participate in community life. In the first place, integrated education enables the persons concerned to

develop the social skills they need to maximise their participation in a wide range of community activities. Education is also an important factor in increasing employment opportunities. This Bill will make it unlawful for education authorities to discriminate on the basis of a person's impairment in admission, terms and conditions and access to benefits. All the usual qualifications for admission to an educational institution will still apply. An exception is made to allow educational authorities to provide education to meet the special needs of people with impairments. An exception is also made where admission or access to benefits would require special services or facilities, the provision of which would result in unjustifiable hardship for the educational authority. This Bill will make it unlawful to discriminate on the ground of a person's impairment in the provision of goods, services or facilities, in the manner in which they are made available or in related terms and conditions. There is an exception where a service or facility would need to be provided in a special manner which would result in unjustifiable hardship.

Accommodation in the community is essential if a person with an impairment is to lead an independent life in the mainstream of society. The Bill will make it unlawful on the ground of a person's impairment to refuse an application for accommodation, to give it lower preference, to impose less favourable terms and conditions or to deny or restrict access to associated benefits. It will also be unlawful to refuse permission for a person with an impairment to make reasonable alterations to accommodation provided the person meets the costs of alteration and of restoration at a later date. As in the principal Act, an exception is provided when the accommodation is in a private home and in certain other defined circumstances. Exceptions are also made in the present Bill where accommodation is for persons with a particular impairment or where special services or facilities would be needed and cannot be reasonably provided without unjustifiable hardship.

Clubs and other organisations are a major part of the social life of our community. This Bill will make it unlawful for clubs as defined in the principal Act, or incorporated associations, to discriminate against a person on the ground of impairment by refusing that person's application for membership, in the terms or conditions of membership or in the benefits associated with membership. There are exceptions for clubs and incorporated associations which provide benefits for people with a particular impairment. There is also an exception where, as a consequence of a person's impairment, benefits of membership of a club or incorporated association would need to be provided in a special manner and would result in unjustifiable hardship to the provider. The Bill will make it unlawful to exclude a person from a sporting activity purely on the ground of their impairment. Sporting activity is defined to include administrative and coaching activities. These provisions will not apply where a person is not capable of adequately performing the actions required in the sport or in the case of competitive sport is not capable of the required level of competence. An exception is made to enable sporting activities to continue to be conducted only for persons with particular impairments.

The provisions in the Bill relating to superannuation schemes, provident funds and insurance make it unlawful to discriminate on the ground of a person's impairment except where this is justified by actuarial or statistical data or, if this information is not available, other relevant factors. Where discrimination on the ground of impairment occurs, a person will be able to make a complaint in writing to the Commissioner for Equal Opportunity, in keeping with the provisions of the principal Act. An advocate will be able to lodge a complaint on behalf of a person whose impairment prevents his doing so personally. It will also allow an advocate to lodge a complaint on behalf of a person with an impairment where the person is unable to authorise the advocate and where the advocate can demonstrate a proper interest in the case and protection of the person with the impairment. The advocate will be able to participate in the processes of investigation and conciliation of the complaint and at an Equal Opportunity Tribunal hearing.

The Bill amends those sections of the principal Act which relate to equal employment opportunity in the public sector. Public sector organisations will be required to include impairment in their equal employment opportunity management plans. Quite apart from the impairment amendments, the Bill will provide for the appointment of deputy presidents to the Equal Opportunity Tribunal and the creation of a pool of deputy members. These amendments take account of the increase in the tribunal's case load and will avoid unnecessary delays when the president or members are unavailable. The Bill also contains amendments which correct minor semantic errors in the principal Act.

These measures represent a major advance for disabled people in Western Australia. They are the result of extensive consultation and I am sure they will be welcomed not only by those whose difficulties they address but the wider community as well.

I commend the Bill to the House.

Debate adjourned, on motion by Hon Margaret McAleer.

CRIMES (CONFISCATION OF PROFITS) BILL

Second Reading

Debate resumed from 21 June.

HON JOHN WILLIAMS (Metropolitan) [3.02 pm]: This is a far reaching Bill. Suffice it to say that the amendments I have on the Notice Paper are indicative of the Opposition's support of the Bill in the main, with one or two minor differences which will be attended to during the Committee stage. It is a far reaching Bill in that in parts the impression is given that we are reversing the way justice is usually dispensed in that a person is presumed guilty unless he proves himself innocent. However, I welcome the Bill, and so does the Opposition. There is no doubt that several people who practise criminal activities profit from them. Not all crime is profitable, but in this day and age there is a new list of crimes where many millions of dollars go into the pockets of persons perpetrating those crimes. Not only that; once apprehended and caught, the profits remain hidden, or are placed in other places. Up to now the law has been largely powerless to recover the profits from these crimes.

The Bill seeks to follow the old adage and make it come true that crime does not pay - and neither should it. But there are one or two worrying aspects in the Bill. I do not propose to go through them now, because I have always refused to trace over ground twice in this Chamber. We will deal with the amendments during the Committee stage when debating the relevant clauses. Suffice it to say at this stage that in the main the Opposition supports the Bill; it has no worries about the general philosophy of the Bill, and as such my colleagues and I support it. Apart from one or two clauses, amendments to which are already on the Notice Paper, we are prepared to give the Bill its second reading.

HON J.M. BERINSON (North Central Metropolitan - Attorney General) [3.05 pm]: I accept the honourable member's invitation to have most of our debate at the Committee stage. I agree with him that this is a far reaching Bill, and that some of its provisions are reasonably stringent. Nonetheless, to the extent that that description of the legislation can fairly be applied, it is a reflection of the serious problem which we are setting out to tackle. That relates very closely to our general approach to law enforcement in this State and to our attempts to ensure that as well as the risk of imprisonment or fine, a person engaging in the activity contemplated in this Bill will find himself without any profit from it. I commend the Bill to the House.

Question put and passed.

Bill read a second time.

Committee

The Chairman of Committees (Hon D.J. Wordsworth) in the Chair; Hon J.M. Berinson (Attorney General) in charge of the Bill.

Clauses 1 and 2 put and passed.

Clause 3: Interpretation -

Hon JOHN WILLIAMS: I move -

> Page 5, line 33 - To add after "conviction" the words ", except where discharge is due to the application of section 669 of the Criminal Code".

In looking at the Bill, I find that an exclusion has been made on page 5 in subclause (2)(a) for offenders under the Offenders Probation and Parole Act. We merely want to add to paragraph (b), so that it will read, "For the purposes of this Act, a person is taken to have been convicted of a serious offence if . . . the person has been charged with and has been found guilty of the offence but is discharged without conviction, except where discharge is due to the application of section 669 of the Criminal Code." Section 669 of the Criminal

Code - which I do not know offhand, so I hope the Attorney General and his learned adviser will bear with me - says, "Where, upon the trial of any person charged with any offence not punishable with more than three years' imprisonment with or without any alternative punishment, the person has pleaded guilty or the court has found the offence proved, if it appears to the court having regard to the youth, character or antecedents of the offender or the trivial nature of the offence or to any extenuating circumstances under which the offence was committed, it is inexpedient to inflict any punishment . . ." It goes on to say what the court can do, and this runs into something like three or four pages of exemptions. It appears to say that the person is taken to have been convicted of a serious offence but that the person has been charged and found guilty of an offence without conviction. However, it does not seem to take into account section 669 and the circumstances in which the court decides that a person should be exempt. I think it should be drawn to the attention of the court that under section 669 there is a series of exemptions which may well say that although a person has been discharged he has committed a serious offence but has been discharged because of either youthfulness or some other factor. However, in that circumstance it still remains a serious offence and I would like the Attorney General to explain this. I think the simple addition of those words would provide a safeguard for the courts when they come to that definition.

Hon J.M. BERINSON: With due respect to Hon John Williams, I think we may be dealing with a misunderstanding of the effect of clause 3. Hon John Williams gave me a clue in that direction when he referred to clause 3(2)(b) as an exclusion clause. I take it from that, and his later comments, that he has understood this clause as excluding certain convicted persons from the liability to have their profits confiscated. In fact, clause 3(2)(b) is an inclusion clause and is designed to cover the very problem to which Hon John Williams later referred. The position is precisely as he put it; namely, that the fact that no conviction has been recorded under section 669 does not, for the purposes of this Bill, obscure the fact that an offence has been committed. If that offence has led to profit there is no reason for the offender, as well as having the advantage of section 669, to have the further advantage of having any proceedings of that crime freed from a liability to confiscation.

Hon JOHN WILLIAMS: This suggested amendment was to section 669 of the Criminal Code and section 26 of the Child Welfare Act, and both of those sections deal with discharge without conviction. In the latter case, it is not just a first offender provision under the children's court Act. I think we repealed that earlier in the session.

Hon J.M. Berinson: Section 26.

Hon JOHN WILLIAMS: Those sections deal with discharge without conviction, but in the case of section 26 it is not just a first offender provision; it can be used on a number of occasions. Is that correct?

Hon J.M. Berinson: Yes.

Hon JOHN WILLIAMS: I do not want that included. The effect of the amendment is that a person who has been discharged by the operation of section 669 is not taken to have been convicted, and accordingly his property would not be subject to seizure in accordance with the Act. I do not know whether that makes sense to the Attorney General; it does to me.

Hon J.M. BERINSON: I think the result to which Hon John Williams referred would only apply if his amendment were carried. The effect of clause 3(2)(b) is to provide that even where a person has been discharged without conviction, he is nonetheless to be taken to have been convicted of a serious offence for the purposes of the Crimes (Confiscation of Profits) Bill. If we adopt the amendment, a person who has been discharged without conviction by application of section 669 would not be taken to have been convicted of a serious offence for the purposes of this Bill, and any proceeds of any crime would, accordingly, be left with him. That seems to me to be not only an undesirable result but, if I understand Hon John Williams correctly, not the result at which he is aiming. For that reason I urge the Chamber not to support this amendment.

Hon JOHN WILLIAMS: Having had that assurance and having had that point cleared up, I still think that this will be a matter of contention when it comes to court. However, I am prepared to accept legal advice on this, and as the legal advice I have received is no better than that which comes from the Attorney General - and whoever lectured him when he was a law student - I will take his word for it. I will not proceed with the amendment.

Amendment, by leave, withdrawn.

Clauses put and passed.

Clauses 4 to 11 put and passed.

Clause 12: Effect of forfeiture order on third parties -

Hon J.M. BERINSON: I move -

Page 11, line 29 - To insert after "(4)" the following -

"or (5)".

This amendment is to ensure that any person who claims an interest in property may apply to the courts for an order under clause 12(4) and (5), and not only under clause 12(4) as originally printed in this Bill. The addition of the words "or (5)" is simply to correct a typographical error.

Hon JOHN WILLIAMS: What will be the effect of a forfeiture on third parties? Do a spouse and children come within that definition of third party?

Hon J.M. Berinson: Yes.

Hon JOHN WILLIAMS: The effect of this clause is that the scope for people claiming an interest has been broadened considerably by the addition of the words "or (5)". The Opposition has no difficulty with that at all.

Amendment put and passed.

Hon JOHN WILLIAMS: I move -

Page 12, after line 34 - To add the following subsection-

(6) If the applicant is the spouse or a child of the convicted person, the court shall be satisfied for the purposes of subsection (4) and subsection (5) unless the Crown proves to the contrary.

I have some difficulty with this clause. The Government will move to confiscate the property of the wife or children of a person who is convicted of a serious offence. The automatic confiscation of that property is wrong. The legislation should contain a provision allowing a restraining order to be placed on the property or proceeds of the crime. It should be the Crown's responsibility to prove that the property resulted from a criminal act. A husband may return to his home after a wonderful day at the races and tell his wife that he has made a killing and that he will pay off the mortgage on the house and put $500 in his child's savings account. The wife would be extremely grateful and certainly would not ask him for proof of his winnings. She may never know that the home in which she lives was the result of some criminal act.

I believe that the Government will have great difficulty in proving that a person's property resulted from a criminal act. However, as legislators we have to protect people. As far as I am concerned the Bill provides for people to prove their innocence, not for the Crown to prove their guilt. There have been several cases in other States of families not knowing they were living on the profits of crime until the husband was arrested.

When we talk of crime we tend to think of violent crime. What about the man with the hat and briefcase who comes home from the office every night after robbing his employer blind for years by cooking the books or falsifying accounts? He has committed a crime, and I guess his property should be confiscated. But again, what about the innocent women and children who had no knowledge of his illegal acts. I am sure we all know of an upright member of society who has defrauded his employer.

As I said, I know the Attorney General will have an answer to my dilemma, and I will accept his answer because he is the highest law officer in the State.

Hon J.M. BERINSON: The amendment in this case would go very far to making the provisions of the Bill ineffective. I believe that has got to be the starting point of any discussion. Subclauses (4) and (5) provide specified conditions for the court to be satisfied that property should be released to third parties. Under subclause (4) the court has to be satisfied on three counts. If the third party was involved in the commission of the offence, one would expect that that person would have been charged and would no longer be a third party but would be a direct party to the criminal proceedings.

One set of circumstances which is not covered and which it is intended not to be covered is the provision of a gift; and that is the precise example which Hon John Williams brought to mind. Even today, if person A steals property from person B and gives it to person C, that property can be traced through to person C by its owner. There is no entitlement for person C to retain that property unless a purchase bona fide and for value can be established. The only person who can establish that combination of circumstances is person C. No-one is in a position to prove that person C did not act in good faith and did not pay for it. Only person C has the knowledge and the supporting evidence or records to establish that that is the case. That is precisely the problem we face here. What is being asked of an applicant in terms of the Bill as drafted is a set of facts or a state of knowledge which is peculiarly in the knowledge of the person being asked; and it is setting an impossible burden on the enforcement authorities to prove in the negative. That is the problem.

There is another difficulty involved in the exception which the honourable member has included in his amendment; that is, of all the persons to whom an offender might be ready to entrust stolen property or the proceeds of crime, a spouse would rank at the top of the list. In other words, the effect would be to bolster the interest of an offender in off-loading to his or her spouse rather than to someone more distant and the prospect of recovery in that case would be the hardest of all.

I emphasise at this point something which I referred to in the second reading debate; that is, we are dealing with a model Bill which has been adopted virtually intact or is intended to be adopted in this form by all the States. One of the precautions we must take is that we do not include in our Bill some provisions or exceptions which will encourage offenders to look to Western Australia as a haven for the planting of the proceeds of crime. We must be cautious in that respect; and the first point at which that caution might be demonstrated is by the Committee not accepting this amendment.

Hon JOHN WILLIAMS: I thank the Attorney General for his explanation. I did tell him that if his explanation was satisfactory I would not proceed with my amendment. I now understand some of the reasons that my amendment should not proceed, especially when I consider that it is legislation which has passed in other States and that if my amendment were passed this State could become a haven for the planting of the proceeds of crime. I appreciate his comments and I do not think I have a great deal of option other than to accept his explanation in good faith and I will not proceed with my amendment.

Amendment, by leave, withdrawn.

Clause, as amended, put and passed.

Clause 13: Discharge of forfeiture order -

Hon JOHN WILLIAMS: I understand that there is a mechanism in this clause that will provide for a restraining order to be placed on a property when a person is evicted. Can a restraining order be changed to a forfeiture order and, if that is the case, will that not take place until such time as all appeal avenues have been exhausted? In other words, in the question of a stolen car or a house which is under suspicion as containing proceeds from crime, on conviction is a forfeiture order made and is that order held in abeyance until such time as all avenues of appeal have been exhausted? Under this clause the forfeiture order is discharged if the conviction is quashed or discharged by the courts. I am not trying to be smart by asking a tricky question, but I would appreciate an answer to my question at some stage.

Hon J.M. BERINSON: It is a reasonable question and I would like nothing better than to give a reasonable answer. I cannot confidently do so at the moment and I will take advantage of Hon John Williams' invitation to provide an answer subsequently. I will do so before the processing of this Bill is completed.

Clause put and passed.

Clauses 14 to 18 put and passed.

Clause 19: Re-hearing -

Hon J.M. BERINSON: I move -

Page 19, line 8 - To insert after "surrenders to" the following -

or is apprehended by

This clause provides for rehearing and subclause (1) looks to the circumstance where a forfeiture order has been made before the primary charge has been determined in cases where the person absconded.

So, we are looking at a situation where a forfeiture order has been made in the absence of the person charged. Clause 19(1)(b) looks to the provision of an opportunity to such a person to apply to have the order set aside should he, subsequent to absconding, surrender to a police officer. This amendment is to add the words, "or is apprehended by", and that is to extend the opportunities for such an application so as to cover a person whose property was forfeited in his absence but who later returns to custody, whether that was voluntarily by surrender, or by his apprehension. This extends the ability for the application of this rehearing provision and is moved with a view to ensuring that, so far as possible, a fair result is available.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 20 to 59 put and passed.

Clause 60: Costs -

Hon JOHN WILLIAMS: I move -

Page 54, lines 3 to 8 - To delete all the words after "Act";

Page 54, line 12 - To delete the line and substitute "proceedings are related,".

The reason for the first amendment is that the cost provision in this clause does not appear to be complete. There are a number of cases, as far as I could see anyway, where the Crown does not have to pay costs even if it loses. For example, this would be the case with a person who opposes a prosecution in the order and wins. The clause does not state that the Crown shall pay the costs, it says "may" pay the costs.

I realise that one of the better things about our court procedure is the discretionary power that is given to it. Therefore, I have left that aspect alone and left the word "may" in so the court retains the discretionary powers. The simple way of achieving this objective would be by deleting the particular word contained in clause 60(a)(i) and (ii). This would allow the court the discretion to order costs to a person who has been successful.

Hon J.M. BERINSON: Mr Williams indicated that his amendments would widen the scope of people who can obtain costs, and the Government accepts that as a reasonable proposition and will support the amendments.

Amendments put and passed.

Clause, as amended, put and passed.

Clause 61 put and passed.

Schedule put and passed.

Title -

Hon J.M. BERINSON: Mr Chairman, with your indulgence I will take this opportunity to reply to the question that Hon John Williams asked. I direct his attention to clause 11, and in particular, subclauses (4) to (6). Clause 11(4) states that except with the leave of the court which made the forfeiture order, the Crown must not dispose of, or otherwise deal with, the property before the end of the appeal period. Clause 11(6) provides that the appeal period ends when an appeal may no longer be lodged against either the forfeiture order or the conviction in reliance on which the order was made. In other words, whichever is the longer of those two periods will constitute the period during which the property must not be disposed of.

Title put and passed.

Bill reported, with amendments.

Sitting suspended from 3.45 to 4.00 pm

LOCAL GOVERNMENT AMENDMENT BILL (No 2)

Second Reading

Debate resumed from 22 September.

HON P.H. LOCKYER (Lower North) [4.01 pm]: This Bill is one that we on this side of the House agree with and support. The Bill has four main parts, but the most important part is the introduction of legislation for a standard building code in Australia. This type of legislation is unusual because it is not common to have uniform building legislation in every State and Territory of Australia, but it is the view of my party that such a standard building code for Australia is desirable and should be welcomed. This standard building code will provide a technical basis for building regulations throughout Australia, taking into consideration the economy of building properties, and will be soundly based so that if people in Western Australia are building in Queensland, for example, they will know what the costs will be. This means they will be able to use a base of architects who will comply with planning procedures which are standardised throughout Australia. This Bill is designed to replace the Uniform Building Bylaws in January 1989, and the legislation, which is known as enabling legislation, will virtually pave the way for compatible legislation in due course.

Another part of the Bill is aimed at overcoming certain technical and legal problems that exist in various areas of local government throughout the State. The first is the practice employed by some local authorities of using computers to assist them in counting the rolls. The Crown Law Department has taken some advice and advised the Local Government Department that the present legislation is not sufficient to make it legal for local authorities to use such equipment. It is obvious that in years to come, as is now common in most businesses in Western Australia and Australia, computers and word processors will be used more frequently and that the more efficient local authorities in this State will take advantage of such time and cost saving equipment, so it is important it be legal for them to do so. The Opposition welcomes this section of amendments to the Bill.

Another area of concern to local authorities, particularly in the north of Western Australia, is the practice of grading private airstrips on pastoral and farming properties when the local authority's grader is in the area. The local authorities have always justified the use of council machinery because of the need to have an airstrip that is able to be used by the Royal Flying Doctor Service of Western Australia, the Kalgoorlie section, and the Victorian section, which is based in Derby. However, doubt has been cast on the legality of councils carrying on this practice; and as members would be aware, it would be wrong if pastoral properties had to provide a grader to grade just one airstrip. It is the view of both Opposition parties that it is commonsense that local authorities should be able to grade the airstrip when the grader is in the area, close to the homestead, to make it safe for use by any aircraft. I have been a practising pilot for some 20 years, and I must say I appreciate an airstrip that is smooth rather than some of the more lumpy strips that I have been forced to use, accompanied at times by a questionable offsider pilot.

The last part of this Bill deals with the anomaly which has been brought up with respect to the recovery of rates from lessees of properties where rates are in arrears. The present legislation interprets premises as meaning buildings, and the Local Government Department believes this should be extended to all types of rateable properties, which seems to us to be good sense.

All in all, the Bill is not a major one but it breaks new ground. We welcome particularly the provision of a standard building code for Australia; that is a very good idea. We welcome also the resolution of the anomaly regarding airstrip grading, which has concerned councils. The other provisions are minor amendments only, and we believe the legislation should pass swiftly through this House.

HON D.J. WORDSWORTH (South) [4.10 pm]: I know Hon P.H. Lockyer is right about all the amendments. I refer particularly to the provision of a uniform building code. It does sound good commonsense for the same standards to apply from one end of our nation to the other, but I always have reservations about trying to make things uniform. One of the problems is that, having made them uniform, they are much harder to change because they have to be changed in five or six States at once. At times in the building industry or some other industry innovations have been made that appear to be better than what we have already, but then we seem to get it into our heads that what we have is the right thing and we should not change it. I recall, for example, the matter of the production of prefabricated houses. We used to make our houses out of four-by-twos, then the prefabricating industry had to plane them on both sides. Instead of four inches, they came out at three and three quarter inches. That caused all sorts of problems because they did not comply with the

uniform building code. Fortunately in the end it was changed, but that example highlights what I am saying: It is all very well for everyone to be similar, but if it is wrong then everyone is wrong. Therefore this provision is not quite as obvious as it may sound.

I know that when they adopt the code the various shires can move to allow exceptions to it, and perhaps this will overcome some of the problems I have highlighted. It seems to me that with our diversity of climate - the Northern Territory, the north of Queensland where they build their houses on stilts, and Tasmania where the cold is a problem - to have a uniform building code could really become quite difficult. I can recall one occasion in Esperance when the Kidman empire decided to build its manager a home. It was a splendid home - far better than the homes anyone else had contemplated in Esperance. The ceilings followed the roof and were half as high as this Chamber, but the building code stipulated that a ventilator must go in. Of course, the ventilator is to let the air out of the ceiling, which is usually about seven feet six inches high. This one was 15 feet high and could not be ventilated because the ceiling was on the same level as the roof. I remember the arguments the owners had with the shire council about the implementation of the standard building code. Sooner or later someone had the good sense to correct it, and I presume that ventilators are no longer necessary. At the same time, I built a house and glued the ventilators on at the given height. If the building inspector had climbed up there he would have realised no air could get out, but he was quite happy just to see them glued to the ceiling.

At times these provisions become ridiculous and I use this occasion to protest. While a standard building code throughout Australia sounds a good idea, I think it would cause a few problems.

HON GRAHAM EDWARDS (North Metropolitan - Minister for Consumer Affairs) [4.15 pm]: I thank members opposite for their comments on the Bill, which comprises four parts. The first contains enabling legislation which refers to a national code, which of course will be followed up by regulations. I believe those regulations will give us the ability and the flexibility to take into account the problems of geographical location referred to by Hon David Wordsworth, and other problems. I support, as do members opposite, the general need for the national code. It will have tremendous benefits across the board and while there may be some difficulties with it I believe they can be attended to by the flexibility provided by the regulations.

The other parts of the Bill are the result of approaches made to the Minister by various local government authorities, and are in response to a number of urgent issues raised by them.

I commend the Bill to the House.

Question put and passed.

Bill read a second time.

Committee and Report

Bill passed through Committee without debate, reported without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by Hon Graham Edwards (Minister for Consumer Affairs), and transmitted to the Assembly.

SOIL AND LAND CONSERVATION AMENDMENT BILL

Second Reading

Debate resumed from 21 September.

HON GRAHAM EDWARDS (North Metropolitan - Minister for Consumer Affairs) [4.19 pm]: Members are aware that land degradation is a very serious problem in Western Australia, as it is in the whole of Australia. They are also aware that the Government recognises its responsibilities in this area, and that the amendments currently before the House result from a review of existing programs and legislation aimed at dealing with the problem.

The amendments in the Bill can be dealt with in five areas. First, soil conservation districts

will become land conservation districts; second, less soil conservation district advisory committees will be known as land conservation committees with increased powers and responsibilities; third, soil conservation notices will be registered as a memorial on the title of the land to ensure that the notice remains effective during and after a land transfer. Fourth, procedures required for the declaration of soil conservation districts, their committees, and subsequent appointment of members, will be streamlined. Fifth, administrative arrangements and titles reflecting recent changes relating to the administrative function of some Government departments are recognised.

During debate on the second reading of the Bill I was pleased that members opposite indicated their support for the Bill in general. Indeed, I was pleased to listen to their contribution. A number of issues were raised pertinent to soil and land conservation. Some of these issues relate directly to the amendments before the House, others relate to general soil and land conservation. In the interests of relevance and brevity I will deal only with the amendments and the matters raised relating directly to the impact of the Bill.

In relation to the titles of district and Government officers, the amendments relating to the change in name of soil conservation districts to land conservation districts and the various departments, organisations, and officer titles were accepted as listed in the Bill. This is appropriate because the amendments recognise current reality, particularly with respect to the broad range of treatments and land management systems that are needed to address the land degradation problem. This range involves more than just matters relating to soil; and the changed name clearly conveys the real scope of interest.

The amendments relating to the powers, responsibilities, and appointment of district committees appeared to me to cause some concern amongst members opposite. The member for South Province raised the question whether committees will be given power of entry and thus if entry of a full committee or its representative onto a property were refused whether the associated penalty of $500 could be imposed on the land user for refusing such entry. The simple answer to this is no in both instances. Such delegation would require an explicit amendment to that effect.

The same member raised the issue of the function and responsibility of the committee in instances where a directive to change certain land uses or practices may be needed to prevent land degradation. In this regard, I refer the member to the amendments to section 24(1)(b) and (d) of the Act in clause 9 of the Bill wherein the committee must and can only report on such matters to the commissioner of soil conservation. Further, with respect to subsection 24(1)(a) and (c), responsibility for the implementation of any action rests solely with the commissioner. In terms of direction, approval, or authorisation the committees clearly will not have any power to act unilaterally. The same interpretation applies to the member's concern as to what land use or practice may be regarded by a committee as acceptable for treating land degradation in a particular area. He used the example of committees that may be for or against WISALTS banks. Any projects or works will only be implemented if approved by the commissioner; thus the use or otherwise of WISALTS banks would need to be justified on objective grounds.

The member for Lower Central raised the issue as to what if any were the executive powers of land conservation districts in regard to Government departments other than the Department of Agriculture. The answer is none. Any review, assessment, or report on the effective land use or management is made to the commissioner, and action must be approved by the commissioner. In any matter concerning another department, therefore, it is clearly the responsibility of the commissioner to consult and inform the department as to any action that may be required on land for which that department is responsible.

Before leaving the matter of functions and powers of district committees, it is worth restating that the policy of this Government is to have land users assume ownership of land degradation problems and to encourage them to work together to develop and implement solutions. In this regard the intent of the Act and the amendments is to further encourage such activities by formally stating that the role of district committees is to be action orientated rather than advisory. However, to pursue this policy does not negate the need for regulations and penalties. These are included in the Act and amendments are last resort measures.

The member for South Province raised the issue of the Minister approving appointments to

district committees. Under section 23 of the existing Act, the Governor by Order in Council establishes a district and advisory committee, and the number and make-up of members of the committee. Further, it requires the Governor to actually appoint representatives of local government, producer organisations, and persons falling into the other category. The purpose of this amendment is to expedite appointments, which in the past have involved delays. It achieves this by allowing the Minister to make appointments directly without the necessity to refer recommendations to the Governor. This administrative procedure will reduce the workload on the Minister. Hon John Caldwell was concerned that the Minister would not have sufficient time to do all these things; under existing procedures the Minister handles such paperwork twice to and from the Governor; under the amendments he will now only handle that once.

Hon D.J. Wordsworth expressed concern about the amendment to section 23(2)(b) and (d) referring to the other category of committee member. The amendment broadens the definition to include those affected by or associated with land use. He raised the possibility of townspeople dictating to land users what they could do on their own land. Such a situation is clearly not in accord with the intent of the Act, which is to enable land users to work amongst themselves to solve land degradation problems. Further appointments under subsection (d) of this section only make up the membership of the committee to the total determined by the Governor. The minimum number of committee members is five, and members appointed under subsections (a), (b), and (c), all of which are directly involved in agricultural land use, total five. Therefore, appointees under subsection (d) will always be in a minority on district committees and be unable to exert any undue influence on the committee and on district land users. Furthermore, I remind members that the intent of this amendment is to broaden committee membership to legitimately provide a voice for people affected by off site consequences of land degradation. Natural justice dictates that such members of committees should at least be given an opportunity to contribute towards solving such problems.

In relation to soil conservation notices and memorials, clauses 14 and 15 of the Bill stimulated a number of questions from members opposite. Hon D.J. Wordsworth expressed the opinion that the real objective of this amendment was that 13 soil conservation notices currently in effect will be registered as memorials on the titles of the land in question. This is not the intent at all. The intent of the memorial provisions is to ensure the purpose of future notices is achieved and not lost through a transfer of title. Examples include grazing restrictions on degraded land and clearing bans. In both cases, a land owner who does not inform an intending purchaser of the existence and conditions on notice could dishonestly inflate the price of the land and the purchaser could unwittingly use or treat land in a way that the notice expressly prohibits. Also under the existing Act the commissioner has to reissue a notice to new landowners or users in order to ensure compliance. This of course assumes that the commissioner is aware of the land transfer. I believe these examples provide ample justification for the provision of the memorials. Further, it is worth reminding members that amendments provide the commissioner with the discretion to register a memorial; it is not an automatic or obligatory requirement.

Some members expressed concern about the cost of conservation notices. This illustrates a failure on their part to understand the nature of the notices. It is a fact that costs are not always quantifiable. For instance, the true cost of a clearing ban, when such a ban by its very nature prevents land degradation from occurring, is difficult to assess.

Hon W.N. Stretch, on the same issue, asked for clarification of the difference between a memorial and a caveat. A memorial is a protection of a right or interest in a property. It can take virtually any form and cannot be removed until it is discharged to the satisfaction of the person responsible for its placement. A caveat can serve a similar but less explicit purpose. A caveat can take two forms: a subject to claim caveat, which can be reviewed by giving 14 days' notice to the caveator, or by the Registrar of Titles if so determined; an absolute caveat cannot be removed without having financial implications. Thus, caveats are not an appropriate means of ensuring that conservation notices remain in force until reviewed by the commissioner.

Both Hon D.J. Wordsworth and Hon W.N. Stretch queried the purpose of and justification for the requirement of land users to inform both the commissioner and the purchaser, or the person assuming use of the land in question, of the existence and the content of a notice

registered as a memorial on a title. The purpose of this amendment is to ensure that the commission is kept informed of transfers of land subject to a notice and that the purchaser or user taking over the land is fully informed of the conditions applying to the land in question. To make it obligatory on the seller of the land to be honest enough to fully inform the land purchaser of encumbrances on the titles seems to be reasonable. To also make it obligatory for such a person to inform the commissioner is the only means whereby the commissioner can be kept up to date on such transfers. Furthermore, to attach a penalty of $2 000 for failure to so inform is the only means by which the Government can ever hope to ensure compliance with such a requirement. Indeed, in terms of the sums of money involved in land transfers, this penalty is far from excessive.

Hon W.N. Stretch sought clarification about how it is envisaged that the VC system will work in respect of notices on leasehold land. I refer the member to clause 14 of the Bill which requires that, in the case of a soil conservation notice relating to land which is under the operation of the Land Act, memorials will be delivered to the Chief Executive Officer, Department of Lands Administration. This officer shall note in his relevant records of the land the details concerned.

The member for Lower Central Province asked how a notice may be lifted. There are three ways in which a notice may be lifted: Firstly, by the Minister quashing a notice under section 33 of the existing Act; secondly, by the owner or occupier successfully appealing against a notice under sections 34 and 39 of the existing Act, in which case the Minister makes a decision after receiving a report from an appeal committee; and thirdly, by the owner or occupier complying with the conditions of the notice, reporting such to the commissioner, and the commissioner agreeing in writing by issuing a notice discharging the original notice.

In the case of the amendments which require memorials and notes to be made on appropriate records, an extra notice of discharge is sent to the Registrar of Titles, Registrar of Deeds of Transfer, or the Chief Executive Officer, Department of Lands Administration, whichever is appropriate, for the tenure of the land concerned. On receipt of such discharge notices, these officers cancel memorials. I refer the member to clause 14 of the amendment Bill for the details of the procedures in such cases.

The Bill before the House is worthy of support. I believe all members who spoke in the debate recognise the seriousness of the situation. I thank them for their general contribution to the debate, and I commend the Bill to the House.

Question put and passed.

Bill read a second time.

Committee

The Deputy Chairman of Committees (Hon John Williams) in the Chair; Hon Graham Edwards (Minister for Consumer Affairs) in charge of the Bill.

Clauses 1 to 7 put and passed.

Clause 8: Section 23 amended -

Hon W.N. STRETCH: There has been a tendency for shire councils to declare the whole of their shires as soil conservation districts. Section 23 of the Act carries certain anomalies in relation to shires overlapping or including several different watersheds and water systems. I assume that, under the new legislation, it will be possible for a shire to rescind the declaration and split up into more appropriate river systems or drainage systems.

Hon Graham Edwards: That is correct.

Hon D.J. WORDSWORTH: This clause provides the opportunity to speak about the district committees. At present there are something like 90 district committees, with only half the State declared. Presumably we could have another 50, so we could end up with 140 committees. Some are based on shires; some are based on watersheds. Jerramungup was one of the first to act, and it already has three or four sub committees of the original committee, yet in other areas they did not go through the shires, but registered themselves as watersheds individually. The whole thing has become rather messy. The Minister said that he expected there would be only 12 committees, yet there are already 90 with only half the

State covered. Ultimately there will need to be some organisation of the committees and they may have to be structured within regions. I have been told that some of the bigger committees are working better than some of the small ones and that it is possible for them to be too small. The Jerramungup committee, with three watersheds within its area, is well organised. That then makes it easier for the department and others.

Ultimately, the committees will have to be serviced. One of the difficulties is that they are not being serviced at present. It is impossible for the Department of Agriculture to handle all the committees. Although the department has an ex officio representative on the committees, it is impossible for a Department of Agriculture officer to get to every meeting of the committees. That was pointed out to our Select Committee by an officer of the Department of Agriculture. He said there was no hope of their being able to attend all the meetings. The Select Committee will make recommendations with respect to solving that problem. There seems to be a need to reorganise the whole committee structure.

Hon GRAHAM EDWARDS: It may well be that at some stage in the future there will be a need to fine tune these committees and for there to be some reorganisation, but that does not seem to be a reason for not supporting them. The committees have been extremely popular and they have taken off faster than anyone would have expected. That is a reflection of the way in which people view the problem. While it may be necessary at some stage in the future to review the committees, it is important that we never lose the local knowledge and local means and ways of addressing difficulties. That interest is to be encouraged. It is the intention of the department to service those committees, but we are going through an evolving process. I do not think we should act to stifle the interest and enthusiasm that is being shown in an attempt to address a very serious problem.

Hon D.J. WORDSWORTH: I dispute the Minister's implication that we are endeavouring to stifle the enthusiasm of the committees or that we do not agree with them. We are merely making a few observations which we hope might be of some help. We are not against the committees. I do not want to hear that said in the next election campaign. I am also not trying to stifle any of the activities of the committees.

Hon J.N. CALDWELL: There has been some resentment when shires have become involved with the committees and attempted to take them over. I do not think it was ever intended that they should do so. The committees should be able to look after themselves, but it is imperative that the shires become involved with the committee or give it advice. At Gnowangerup, where I come from, the shire raised a road or a floodway some two feet and it flooded 1 500 acres of farm land. Thus it can be seen that although it is absolutely essential that the shires become involved in the committees, they should not take them over or control them.

Hon GRAHAM EDWARDS: We would agree with that. We seek to have everybody working to overcome the problem in cooperation with each other.

Clause put and passed.

Clause 9: Section 24 repealed and substituted -

Hon D.J. WORDSWORTH: What powers is it intended to delegate to the committees? I believe that the Minister said that the function of the committee was to advise. I believe that the amendments in the Bill take the committees' powers well beyond that of advising. I would like to know what powers will be delegated and which powers the commissioner will still retain.

Hon GRAHAM EDWARDS: It is not intended to delegate executive powers to the committees. It is intended to delegate to them only those powers or works in direct relation to tasks that need to be carried out. There is no intention to delegate to them executive powers or strong powers in relation to policy; they will have only those powers of delegation which would enable them to get on with the types of works that they were established to provide. There is no intention to do more than that.

Hon D.J. WORDSWORTH: Subclause (c) refers to one of the functions of a district committee as being to "implement programmes of soil and land conservation". It would be reasonable to presume that the use of those words points to something more than the function of advising.

Hon GRAHAM EDWARDS: By the same token, it is those direct programs of soil and land conservation, and they are not executive powers that are being delegated. What it does is enable the committee to get on with the job with which it is charged without having to continually go back to the commission.

Hon MARGARET McALEER: I understand that the object of the Bill is to validate the implementing of these programs, which the committees have been doing, but which the original Act does not empower them to do. I think the change of wording is "to do" something, as against the original Bill which was "to advise" or "recommend" because there was no other structure to implement the programs and it fell on the committees to do the work. As Hon David Wordsworth has been pointing out to us, the department was not in a position to do all the work. Of course, it has done a great deal in the areas that I know of. So there is a real change to the legal or valid function of the committees, according to this Bill.

Hon GRAHAM EDWARDS: It certainly does validate a number of things which have been happening and which are now well and truly accepted, but it does not extend any executive power, merely enables them to concentrate and get on with the job at hand.

Hon D.J. WORDSWORTH: I thank the Minister for spelling out these matters as that is what I wished him to do because there are people concerned that these committees would be given added responsibilities which would otherwise, perhaps, have been carried out by an officer. The Minister has spelt out that they are not going to do that, and that will satisfy these people.

Hon W.N. STRETCH: I am a little confused because the Minister said the trend was to strengthen the arm of the Act so that it could move from the advisory towards a more executive and active prevention situation. Am I correct in my belief that initially the advisory committee recommends an action to the commissioner and it is the commissioner or one of his officers who actually executes the notice, which in the instance I quoted in my second reading speech involved a person having to make major changes to his farming program? That would then be implemented by the commissioner's activity rather than by the activity of the advisory committee?

Hon GRAHAM EDWARDS: The committee will not execute notices, if that is the member's concern, but the committees can have an advisory and action role.

Hon W.N. Stretch: To the commissioner?

Hon GRAHAM EDWARDS: Yes, an advisory role, but they are not solely advisory. As I said earlier, they are not in a position to execute notices.

Hon W.N. STRETCH: As I understand, the notice is issued by the Minister on the advice of the commissioner, and again on the advice of the committee.

Hon Graham Edwards: Yes.

Hon W.N. STRETCH: Is it right that action is taken at that level?

Hon Graham Edwards: That is correct.

Hon D.J. WORDSWORTH: I asked a question about the responsibilities of the commissioner with regard to mining tenements and whether it was his responsibility if there were a mining practice taking place which was causing soil conservation problems or whether he went to the Minister for Mines and informed him of that, and the fact that corrective action should be taking place. We continually hear of pastoralists who have suffered damage to their leases from mining tenements. In fact, it is common practice nowadays to use graders which grade off three inches of soil, people run a meter across the ground and then they take swipe after swipe at the ground removing vegetation straight off the countryside causing soil to blow away and bringing about salinity. I am surprised to find that the commissioner has never seen the need to go to the Minister for Mines to ask them to cease. The answer we got was that there are committees in these areas, and why were the committees not doing something, or words to that effect. That staggered me, because it looks as though the commissioner is waiting for the committees to take action.

Hon GRAHAM EDWARDS: There is nothing in this Bill that changes anything in relation to mining. It seems to me that it gives the main pastoralists, through the committees, an opportunity to address some of the problems that arise from time to time in mining areas. This Bill does nothing to change anything applying to mining.

Hon D.J. WORDSWORTH: I think it will help them do it, and with luck in future they will be able to do something because of the expanded responsibilities of those committees. I point out to this Committee that this Act has been in force for six years, and the committees have existed for some time, yet there has never been a case brought forward.

Hon W.N. STRETCH: I take it that the case I quoted in my second reading speech relating to degradation caused by another Government department relates to a question of consultation between the commissioner and that department. Has the Minister given consideration to stiffening that up, because it is a major problem and something that happens often unwittingly? The Minister would be aware that it is common for a person working for a Government department not to be aware of the soil degradation ramifications involved with the work he is doing, or the damage that can be done. I do not think that this is strong enough and I urge the Minister to make strong recommendations to the appropriate Minister that if he is to be hard on the land owner - the farmer in most cases - he has to be equally rigorous in supervising people such as road makers and certain Government departments which are major land users and which have the power and equipment to do a lot of damage in a short time through sheer ignorance. In many cases their depredations are far worse than those of the farmer who has to live with the land that he owns.

Hon GRAHAM EDWARDS: I do not have any difficulty with that statement and am happy to pursue the matter. I think both points raised were reasonable ones and I will draw them to the attention of the appropriate Minister.

Clause put and passed.

Clauses 10 to 12 put and passed.

[Questions taken.]

Clause 13: Section 32 amended -

Hon D.J. WORDSWORTH: The Minister has indicated some of the reasons why there is a need to put a notice on the land. I am not disagreeing that there is a need; I think there is a very definite need for it. He has helped us by describing the difference between a notice and a memorial, but there is a still a problem with the notification when referring to land sales and the manner in which they can be taken off, particularly, as the Minister indicated, where there would be a caveat where some money was outstanding.

Hon GRAHAM EDWARDS: I explained the difference between a memorial and a caveat. What we are talking about, as I understand it, is a memorial. No caveats would be issued in relation to what we are dealing with here. We are not talking about financial situations; we are talking about a need to abide by certain conditions or carry out certain works. Caveats pertain to financial situations.

Hon D.J. WORDSWORTH: If a farmer were ordered to replant cleared land but did not, and the commissioner had it replanted, that would be a cost. Presumably there would then be a caveat on the land to recover the cost. The farmer could not then sell the property to someone else without the purchaser having to accept that cost.

Hon GRAHAM EDWARDS: I am not sure if that is the way it would happen. Even if it is, it is then a matter of financial consideration. It is not a matter of soil and conservation; it is a matter of recovering a cost, and I am not sure that that is the way in which the commission would operate. I would think the commission would attempt to recover the cost through the courts.

Hon D.J. WORDSWORTH: I am confused about this whole matter, particularly when it comes to the sale of property and notification for incoming owners and tenants. It is ludicrous that having sold the property and settled the price, the costs and everything, one has a fortnight in which to tell the new owner all that is wrong with the property - that there is a notice on it which prevents the new owner from fully grazing it or doing something else.

Hon GRAHAM EDWARDS: We are trying to ensure an honest disclosure. The member might put himself in a situation where he purchases a property only to find out at some future stage that because of an order he cannot have access to a portion of it, or use a portion of it in a way he wants to. He would have every right to feel aggrieved.

Hon D.J. WORDSWORTH: I agree. That is why I think one must know beforehand. We

have much the same problem if we buy a property which is mortgaged. As an incoming purchaser one looks at the title and sees the property has a mortgage on it. That is the time when the incoming purchaser should be made aware - before he has actually purchased it.

Hon MARGARET McALEER: It has taken me a little while to find the relevant section. I would like to express my interest in the Minister's answer to this, because I see the logic of what Hon David Wordsworth is saying. If a person sold a property without giving due notice or warning to the potential buyer beforehand, but the purchaser was told afterwards that a cost was involved, or there was a deprivation of the use of land, the transaction would be fraudulent. I cannot see the purpose of the 14 days' notice after one ceases to be the owner.

Hon Graham Edwards: What are the 14 days the member is talking about?

Hon MARGARET McALEER: I am talking about the amendment to the legislation which reads as follows -

> While a memorial of a soil conservation notice . . . each owner and each occupier of the land to which the soil conservation notice relates shall, within a period of 14 days after the day on which he ceases to be such an owner or occupier, notify in writing -

The amendment continues -

> (b) each person who succeeds him in the ownership or occupation or both, as the case requires, of that land of the content of the soil conservation notice and of the fact that the soil conservation notice is binding on that person

He will be notified after he has brought the property and presumably he may well suffer some loss in consequence.

Hon Graham Edwards: I think the member is dealing with clause 14.

The DEPUTY CHAIRMAN (Hon John Williams): Order! The Chamber is dealing with clause 13.

Hon MARGARET McALEER: I beg your pardon. I searched for the point Hon David Wordsworth was making and I thought I had found it.

Clause put and passed.

Clause 14: Sections 34A and 34B inserted -

Hon W.N. STRETCH: I have been a little lost in respect of this proposed amendment, which deals with conservation notices relating to land under the operation of the Land Act. Perhaps I should have raised this when we were dealing with clause 13, but I think it relates to this clause. What about land held by the Department of Conservation and Land Management? Is the Land Act applicable only to conditional purchase type land, or can it also apply to other land held by the Government, such as the Department of Conservation and Land Management?

Hon GRAHAM EDWARDS: A memorial cannot be applied to land held by the Government or the Crown. Indeed I would shudder if it were ever to pass that a parcel of land which had some sort of degradation attached to it was ever freed up for grazing, farming or any purpose like that.

Hon MARGARET McALEER: I seek clarification of the amendment to section 34B which says, as I understand it, that a previous owner, within a fortnight of the time he ceases to be the owner, must notify the commissioner and each person who succeeds him in the ownership. Notifying the commissioner seems to be all right; however, it seems to be a very strange time to notify each person who succeeds him that there is a memorial on the land. There may be a question of loss or expense involved, in which case it would be a fraudulent transaction.

Hon GRAHAM EDWARDS: This clause ensures that there is notification of a memorial. It is still up to the purchaser to ensure that the property is free of encumbrances, but the purpose of this amendment is to ensure that a new owner is not unaware of an order. That is, if the person had not bothered to find out for himself.

Hon MARGARET McALEER: I see. It is simply protecting the interests of the Soil Conservation Authority.

Hon Graham Edwards: That is right.

Hon D.J. WORDSWORTH: I am afraid I still find this rather odd. If someone leases my farm and I decide to sell that farm, the lease will terminate. My lessee could have been a share farmer. I could sell the farm to someone else and after six months the new owner could decide to lease it to someone else; according to my reading of this legislation, the previous lessee will then have to notify the incoming lessee of the memorial on the land.

Hon Graham Edwards: Within a period of 14 days.

Hon D.J. WORDSWORTH: Will he hang around property waiting to find out whether it is to be leased?

Hon Graham Edwards: I am not sure exactly what the honourable member means.

Hon D.J. WORDSWORTH: I could lease my farm to someone who share farms it, and then decide to sell it to someone else who may not lease it initially; therefore the previous lessee, I presume, is absolved from the problem of the notification. After a few weeks I might say, "I might share farm again", but under this legislation it would appear that the previous lessee has to notify the incoming lessee.

Hon GRAHAM EDWARDS: The proposed section 34B(b) reads -

> each person who succeeds him in the ownership or occupation or both, as the case requires, of that land of the content of the soil conservation notice and of the fact that the soil conservation notice is binding on that person.

I am still not quite clear on what the member is talking about. We are trying to ensure that the notice is conveyed to the person and that he abides by it.

Hon D.J. WORDSWORTH: I find it difficult to believe that notifying a person a fortnight afterwards is the right time to do so. If a notice is put on a property that it cannot be stocked, and the buyer of the property puts 1 000 sheep on it, I can come wandering along a fortnight later and say, "I have to tell you that you are not allowed to stock it at all."

Hon GRAHAM EDWARDS: This is a protection. The position will be that people will be notified of these things immediately. Where someone does not do that this protection will at least encourage them, remembering that not doing so incurs a penalty of $2 000.

Hon MARGARET McALEER: When Hon David Wordsworth began I thought he would also raise the point of the wording in subsection 34B(b) - "each person who succeeds him in the ownership or occupation". If three people were to succeed him, he would have the responsibility of notifying them - not concurrently but in succession. I concede it probably is not so, but the wording is odd.

Hon GRAHAM EDWARDS: The intent is to ensure that each incoming owner is aware of an ongoing notice, if it is still current. The onus to convey that is not on an owner who has sold the property at point one when it is sold three times down the track.

Hon W.N. STRETCH: For the sake of absolute clarity, if such a thing can be absolute, a memorial is registered on the title of the land as soon as it is issued. The title cannot be transferred, sold or leased without the buyer being aware of that and, presumably, any leasing that takes place thereafter will only take place after a title search. Is that the only protection a buyer or lessee further down the track has? Is it not more reasonable to redraft this clause so that notice is obliged to be given before such a transaction is completed? Is there any way to spell out in this legislation that the proposed buyer or lessee has to be notified in advance? As my colleagues have pointed out, it is not much use being notified 14 days afterwards. It should not happen that a buyer unwittingly takes over this sort of land, but I can visualise the situation where it could happen and I believe this legislation should enshrine the principle of either concurrently or previously notifying a person entering into negotiation about such land.

Hon GRAHAM EDWARDS: The Registrar of Titles is required to register the memorial of the soil conservation notice in the register book. Also included within the proposed section is a duty for an outgoing owner or occupier to notify the succeeding owner or occupier and the Commissioner of Soil Conservation of a land transfer where a soil conservation notice exists. As I said, there is a penalty of $2 000 for failure to abide by that duty.

Hon W.N. Stretch: But that is within the period of 14 days.

Hon GRAHAM EDWARDS: It is within a period no later than 14 days.

Hon MARGARET McALEER: I am not truly familiar with the mechanics of land transactions but I can see that it is up to anyone buying land to search the title and see what encumbrances there are. I am not sure whether that is the general practice of someone leasing land. Therefore, such a person might be in the position of incurring a liability against which he could not protect himself.

Hon GRAHAM EDWARDS: Proposed section 34B(b) states -

> each person who succeeds him in the ownership or occupation or both, . . .

I interpret that to mean a lessee, for instance, who may be share farming or using the land for purposes of agistment, although it does refer to the owner, the occupier, or both.

Hon MARGARET McALEER: Is the Minister saying that it is fair enough to expect a buyer to look for encumbrances using the principle of caveat emptor, and if he does not find an encumbrance that is his bad luck? In the case of other kinds of occupation, where a liability might be incurred because of the memorial, would the Minister necessarily expect the lessee of that land to search the title for encumbrances? Normally the lessee would not be responsible for the mortgage.

Hon GRAHAM EDWARDS: No, except that there is some protection afforded by the necessity for that person to advise the lessee within a period of 14 days.

Hon Margaret McAleer: But that is no protection.

Hon GRAHAM EDWARDS: What the honourable member seems to be saying is that there is protection for the soil and she is arguing for greater protection for the prospective lessee.

Hon Margaret McAleer: Yes, that is right.

Hon GRAHAM EDWARDS: I would argue that the onus is on the lessee to protect himself to that degree.

Hon MARGARET McALEER: That is not the normal situation for a person intending to lease property for, perhaps, six months. That person would not be concerned about encumbrances because he would not be responsible for the mortgage but, in the case of a memorial, he might find himself in a situation where, if he is notified within the notification period, he has incurred a liability on the land.

Hon GRAHAM EDWARDS: I can see the point the honourable member is getting at. The fact is that the memorial notice is in place and the owner of that land has the onus of advising the lessee no later than 14 days after that lessee becomes the occupier.

Hon Margaret McAleer: That is too late.

Hon GRAHAM EDWARDS: But the protection is there and that is the important thing. We are dealing with the matter of soil conservation and that is what we are trying to achieve through this Bill.

Hon MARGARET McALEER: I agree with achieving protection for the land but there is the risk of achieving it at the expense of an innocent person because of the way the Bill is framed. A person could incur loss. Perhaps by rewording this proposed section nobody will suffer as a consequence of the memorial notice and the land will be equally well protected.

Hon GRAHAM EDWARDS: What we are trying to achieve through this Bill - and, remember, it will be well publicised - is a means of ensuring that a notice should be brought to the attention of a lessee or owner no later than 14 days after ownership or occupation. The honourable member's concern is for a person who may want to lease a portion of land for a particular purpose and, having done so, finds out that he is unable to use that land for that purpose because of a notice. There are other laws which take care of that situation including, in this Bill, the penalty of $2 000. Why would a person leave himself open to a penalty of $2 000 by not disclosing such information?

Hon W.N. STRETCH: Perhaps I could spell this out a bit more, taking into consideration the Minister's other hat as Minister for Consumer Affairs.

The DEPUTY CHAIRMAN: Order! We have been on this point for some 15 minutes and it

is not helping either the member on his feet or the Minister to have so much audible conversation in the Chamber. I ask members to come to order.

Hon W.N. STRETCH: The Minister himself made a very important point when he mentioned the word "agistment". I draw the scenario of a person from a drought area agisting stock under a manager to an absentee landowner, for example, on the south coast - and I could mention two or three who actually live in the United Kingdom - where land is available for grazing. Normally there is no search before an agistment agreement is drawn up. The stock owner moves his stock, at considerable expense, from one property to another property where agistment is available. They are put on good feed and water on a property which may have a few bare spots because of salinity, or whatever. Thirteen days after the stock arrive on the property the manager may say, "By the way there is a management notice on the property and it would be just as well that you shift your stock." The stock owner then has to shift his stock to another property or back to the drought affected area. In such a case, the manager has informed the stock owner within the required 14 days who then has to pay the cost of shifting the stock to another pasture. The manager, on behalf of the landowner, has carried out his obligations under the proposed Act and has notified the stock owner within 14 days and, therefore, he is not liable to a $2 000 fine.

I am suggesting that if the stock owner were to go the Minister for Consumer Affairs and advise him that he had been misled into that situation and ask for protection, I submit that the Minister would be hard pressed to argue that a minor mischief had not been done. Such a situation could be simply overcome by drafting a clause along the lines that a prospective buyer, lessee or agistor shall be notified at the time of any agreement that a memorial exists on the property. Such an amendment would cover the people who are undertaking an unofficial type of lease or agistment transaction. These sorts of transactions are taking place all the time.

I do not totally disregard the Minister's arguments. I disagree with him in reality because this has the potential to cause trouble, and it is our duty, as legislators, to ensure that such does not happen.

Hon GRAHAM EDWARDS: I would have thought that there would be a provision within common law to protect a person in that situation. We are talking about soil conservation and we need to come back to that subject. While the onus is on the owner of the land to convey that information in relation to the memorial it would be prudent for that person to ascertain that there is not a memorial or notice outstanding on that land. If a person is agisting stock it does not necessarily follow that he is taking up occupation of that land. He is merely using it for the purpose of agistment and in that circumstance occupation would not change. If a person were to do that it would be in contravention of a current notice on the land he owns.

Hon W.N. STRETCH: I take it the Minister is assuming that the ownership of the land has not changed, although the land use remains. The Minister is arguing that the landowner would be responsible for the use of the land whether it is used by him or anyone else.

Hon Graham Edwards: Yes.

Hon W.N. STRETCH: I understand the Minister's point about agistment, but the difficulty still applies to longer term leases.

Hon E.J. CHARLTON: What does the word "occupation" mean? Does it mean the occupier of the land?

Hon Graham Edwards: It means the occupier.

Hon E.J. CHARLTON: In that case, the point made by Opposition members is that they would like to see this notice given at the time of the transaction. We have reached the stage where an amendment is required to change the wording from 14 days to the time of the transaction.

Hon GRAHAM EDWARDS: I take the point that the disclosure should be made known at the point of sale or lease. If for some reason it is not, there is a period of grace of 14 days with which that person must comply. It is simply a protection to make sure that he does notify the person concerned. If he does not, he is liable to a fine of $2 000. It seems to me to be ludicrous for a person to make himself vulnerable to a fine of that amount. There are other laws which deal with the situation which has been described.

Hon E.J. CHARLTON: That is right, but the facts are that people must be aware of the rules and regulations which apply to everything including land, motor vehicles, etc. In the case of a motor vehicle purchased by a person a certain period is allowed in which the ownership of the vehicle must be transferred to his name. I guess precedents have been set. I agree with Opposition speakers that the Bill, in its present form, could get some people in trouble.

Hon GRAHAM EDWARDS: I do not believe there is a need for an amendment but I will draw it to the attention of the Minister. If I could see the need for an amendment I would be happy to move in that way. There is a protection under common law. We are talking about a conservation notice and the protection which is afforded through that notice by the necessity for people to convey information about it. I would have thought that the time for the information to be disclosed would be before the point of sale or lease.

Hon D.J. WORDSWORTH: I initially raised this matter because I felt it was messy. The clause states that each owner shall notify each successive owner. If a property was owned by five persons and another five people purchased it, there would end up being an exchange of 25 letters. I wonder where we are heading.

Hon GRAHAM EDWARDS: Regardless of whether it is five letters or 25 letters, we are talking about each successive owner. As members know, we are talking about a serious problem. Are we saying that there should not be disclosure of a memorial notice? Surely in the interests of soil conservation members would want that notice conveyed to each successive owner.

Hon D.J. WORDSWORTH: If, for example, my wife and I owned a property and John Caldwell and his wife bought that property, under the provisions of this Bill I would have to write to John Caldwell and also to his wife, and my wife would have to write to John Caldwell and also to his wife.

Hon GRAHAM EDWARDS: I go back to the point of this clause in the Bill; it is about ensuring that each successive owner conveys within a certain period the fact that there is an outstanding notice in relation to a particular area of land. If they do not do so they face a penalty of $2 000. It is appropriate that that information pass from one owner to another.

Hon W.N. STRETCH: I totally accept what the Minister has said about the importance of conveying that information. However, I do not accept that retrospective legislation is good legislation. I have no quibble with the Minister's arguments, which are quite valid. However, he should put himself in the shoes of a lessee who 13 days after taking over a lease finds that there is a problem and he cannot use the land. I am sure he would be snarly in that situation, and so would the lessee. This needs to be tidied up, because the clause is retrospective in that it does not give a person taking over the land the protection to which he is entitled. I do not believe it is legitimate for this legislative Chamber to pass a law on the basis that if it is wrong, people have recourse under the law. We are not here to take that sort of action and I do not believe it is responsible. I sincerely believe we should reconsider proposed section 34B and amend the reference to 14 days so that the person must be notified of any encumbrance either the day before or concurrently with the transfer of any title to the land . There could be a serious encumbrance on a property. A consumer is involved and, although the situation is not likely to arise, it is possible. As legislators we should not allow this to go through without tidying it up.

Hon GRAHAM EDWARDS: We are simply talking about the duty of an outgoing owner or occupier to notify a successor in that ownership or occupation. Consumers have some obligations to carry out certain checks and to take certain safeguards. In the context of this soil and conservation Bill it is appropriate that some onus be placed on the consumer.

Hon MARGARET McALEER: If I were leasing a property, I would know that I was not responsible for any mortgage attached to it and, therefore, I would not search for this sort of encumbrance. Now that I know about these memorials, I perhaps would, but many people will not be aware of them. I think this will lead to a situation in which a person could be unaware of a memorial and, as a result, could incur a loss.

Hon GRAHAM EDWARDS: I can understand the point being raised and I accept it; however this is a soil and conservation Bill. It places an onus on an outgoing owner or occupier to notify a successor in that ownership or occupation that a notice is current. If that person does not do so, he can be fined $2 000. I do not know how much more inc[illegible]

members want. If they are concerned, perhaps they should move to increase the penalty to $8 000 and further enforce the provision. In my opinion it is covered in the way it should be. However, I will not go to the wall on this issue and I will seek further advice.

Progress

Progress reported and leave given to sit again at a later stage of the sitting, on motion by Hon Graham Edwards (Minister for Consumer Affairs).

[Continued on p 3568.]

OFFICIAL CORRUPTION COMMISSION BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon P.G. Pendal, read a first time.

BILLS (2) - ASSEMBLY'S MESSAGES

Messages from the Assembly received and read notifying that it had agreed to the amendments made by the Council to the following Bills -

1. Swan River Trust Bill
2. Agriculture Bill

VETERINARY SURGEONS AMENDMENT BILL

Second Reading

Debate resumed from 22 September.

HON W.N. STRETCH (Lower Central) [5.50 pm]: In contrast to our last agriculture Bill, the Opposition generally supports this Bill. It seeks to amend certain activities with regard to the operation of the Murdoch University School of Veterinary Studies. This Bill provides for the honorary registration of veterinarians who have given long and distinguished service to the profession and allows them to go on and practice or at least be associated with the profession to which they have given most of their professional life. Section 20 of the Bill provides for the registration of specialists in veterinary practice. I guess that is a natural progression from the way that humans have been looked after by the medical profession. I urge veterinarians to guard against overspecialisation because it is important, especially in remote areas, that veterinarians are able to cope with most situations. However, it is only natural that if a person has a valuable racehorse, the veterinarian down the road who specialises in cats would not be the best person to whom to take that animal; it would be sensible to seek out a specialist who is rather more au fait with the care of horses. It is only sensible that veterinarians be recognised by the user public for their special qualifications. It appears from the second reading speech - which was very informative - that the registration of specialists would be carried out in such a way that there would be a general standardisation of qualifications throughout the country so that the movement of veterinarians from one State to another would not cause difficulties. It is important to register the special qualifications of veterinarians, but there also needs to be a standard classification of the actual qualifications. I guess that is what the Minister means, although it is not clearly spelt out.

The Bill contains various amendments to the disciplinary actions which can be imposed by the Veterinary Surgeons Board on its members and possibly also on those who are not members. I believe disciplinary action is very sensibly left to the board. I gather the board has been consulted and is reasonably happy with that self policing sort of arrangement. I would like some clarification about section 24A with regard to veterinary students at Murdoch and whether they are practising or what they are practising on.

It is worth saying here in passing that I have been to the Murdoch University Veterinary School and I am pleased with the work they have done and with the dedication of the lecturing and instructing staff. They do some superb work, particularly in the treatment of thoroughbred horses. The quality of the students at Murdoch is very high, and I am pleased to see that the system is working well. In my younger and giddier days I had a bit to do with bringing pressure on the Government of the day to establish a veterinary school in Western

Australia. It is worth noting that when I first approached a Minister he said he thought it was quite a good idea, and he was looking at the possibility of setting up a committee to study the feasibility of setting up a study committee to look at the implementation of a proposal to establish a veterinary school in Western Australia. I think I have that right; it was along those lines. We now have that school in bricks and mortar, and it is doing a wonderful job. I pay tribute to those people. We support the legislation, and with the exception of the need for clarification about whether the students need greater supervision, I indicate our general support of the legislation.

HON J.M. BROWN (South East) [5.55 pm]: I support the legislation and endorse what Hon Bill Stretch has said. I can remember the Tonkin Labor Government establishing a school for veterinarians, and there was strong pressure for that from people in the country. I am pleased that as a result of that pressure veterinarians do serve in the country, which is vastly different from what happened when we were asked to subscribe to the establishment of a medical school because the doctors did not see the attraction of going into the country in the same way as the veterinarians have done. It was refreshing to hear the remarks from Hon Bill Stretch about his push, together with many other sections of the community, particularly the farming community, to have a veterinary school established. The establishment of the veterinary school at Murdoch University is a credit to their field of operation.

The process of registration of honorary veterinarians is a progressive step, which does not have a great impact within the industry but does recognise their services, and that is appreciated by honorary veterinarians. We would all applaud the recognition of the particular skills possessed by a veterinarian because there are many areas requiring special qualifications. One such area is the horse industry, and we have seen with the Depo-Medrol operation how important it is to have detection procedures because the medication applicable to the racehorse industry has to be for the benefit of the horses rather than the owners. I recognise also the need for specialists in the cattle and sheep industries. The sheep industry, with which I am involved, is an area where skilled veterinarians are well and truly the favoured friends of the community. I endorse what the Minister has recommended in regard to distinguishing particular fields of expertise.

The final matter that comes to my attention concerns the Veterinary Surgeons Board. The Bill provides for an increase in the flexibility of the board within its punitive structure to enable it to ensure that unprofessional conduct does not take place. The last two matters have already been adequately covered. It is pleasing to see the introduction of this Bill. This Bill may not be of particular importance to the community generally but it will certainly have great impact on the rural community, whether it be pastoral, agricultural or equine. I support the Bill.

HON GRAHAM EDWARDS (North Metropolitan - Minister for Consumer Affairs) [6.00 pm]: I thank members for their contributions to the second reading debate, and for their indications of support. I will deal with the matters they raised in the Committee stage, but to answer Hon Bill Stretch's question, the amendment does provide for the prerequisites of the specialist to be prescribed so that people can identify and choose a veterinarian with the specialist qualities they are seeking.

Sitting suspended from 6.01 to 7.30 pm

Hon GRAHAM EDWARDS: I think I have answered the points raised, except for one with which I will deal in the Committee stage.

Question put and passed.

Bill read a second time.

SOIL AND LAND CONSERVATION AMENDMENT BILL

Committee

Resumed from an earlier stage of the sitting. The Deputy Chairman of Committees (Hon John Williams) in the Chair; Hon Graham Edwards (Minister for Consumer Affairs) in charge of the Bill.

Clause 14: Sections 34A and 34B inserted -

Progress was reported after the clause had been partly considered.

Hon GRAHAM EDWARDS: Before I reported progress on this Bill and in dealing with proposed section 34B, we looked at the situation of an outgoing owner or occupier notifying a successor in ownership or occupation within a period of 14 days, or in default of that, suffering a fine of $2 000. It has been suggested by members that we need to amend that so that notification is conveyed before a person commits himself to purchase, lease or occupation of the property in question. I had hoped to be in a position to have that properly addressed by now. Unfortunately that has not happened, but we are prepared to have a look at that. I will need to chase up the correct wording to properly deal with the amendment.

Progress

Progress reported and leave given to sit again, on motion by Hon Graham Edwards (Minister for Consumer Affairs).

ACTS AMENDMENT (STOCK DISEASES) BILL

Second Reading

Debate resumed from 22 September.

HON D.J. WORDSWORTH (South) [7.35 pm]: The object of this Bill is to amend the Cattle Industry Compensation Act and the Stock Diseases (Regulations) Act in order to cover some of the problems occurring in the Kimberley with the final clean up of tuberculosis and contagious abortion in cattle in this State.

These diseases are of some significance throughout the world, and Australia has been endeavouring to eradicate them. Tasmania was the first State to clean up contagious abortion in cattle and 10 years later Western Australia is the first mainland State to do the same. That is a great credit to the Department of Agriculture and to stock owners. This task was made easier by the fact that contagious abortion was not a problem in the Kimberley pastoral area. However, we do still have cases of tuberculosis in that region. It is a disease which can be transmitted to man and one which could prevent us exporting our beef overseas in the future. It is the object of many countries to which we export our meat to clean up these two diseases and then to prevent the entry of meat that could be contaminated. One of our major markets is the United States of America; as it happens, that country is experiencing problems with its bison, just as we are with buffalo in Australia. It is difficult to eradicate disease from a herd of animals which is not kept for beef. The Act is being amended so that, rather than looking for the infected animals, as we get towards the end of the program whole herds will be slaughtered for the control of the disease. The major way of eradicating disease now is to slaughter everything. It used to be test and slaughter but with wild cattle all must be slaughtered. This amendment to that legislation will allow that slaughter to take place.

The annual report of the Western Australian Department of Agriculture for 1987 reads in part as follows -

> The Kimberley region is the only remaining major focus of tuberculosis infection in cattle in Western Australia. It is planned for known tuberculosis infection in this region to be eradicated by 1992.

As members would realise that is only four years away.

> The main effort during 1986 in the Kimberleys was concentrated on bringing cattle in infected areas under control by fencing. All Kimberley stations have now been checked for tuberculosis using the tuberculin herd test as well as by abattoir monitoring of slaughtered cattle. During 1986, 94,426 animals were monitored through the abattoirs whilst 158,934 were subjected to the tuberculin test. With the exception of four stations all stations where infection was found have now entered the eradication programme.

That is very good indeed. Members will recall that there was some trouble with the ALCCO leases because of their overseas ownership. The Government had to threaten to resume those leases but an arrangement has been made and it seems they are rounding up the last of the infected cattle. That is very good news for beef producers throughout Western Australia.

In respect of the Bill itself, a few points should perhaps be raised. I was rather interested in the new definitions the Bill contains. I feel they must have been drawn from the Bible - who

was the person who wrote about the devil and all his trouble? For example, to destroy "means to consume by fire, bury under the ground, boil down, kill or otherwise destroy to the satisfaction of an inspector . . .". I would have thought they were two operations - to kill was one thing, and to destroy the carcass another - yet they are both under the one definition. This allows an inspector to declare that a herd is infected in spite of the fact that perhaps only four per cent of the herd is infected. There is also a definition of the word "property" as any run, station, farm, freehold, leasehold or place where cattle are kept. I wondered why vacant Crown land was left out of that definition, but I found that the Act covers the way by which Government authorities can clear vacant Crown land. Members must realise how difficult the task will be, because the Ord River stations were cleared of all cattle when the dam was built about 25 years ago, and cattle is still being mustered and sold on those leases. To clear the land of cattle, many will have to be slaughtered, probably by helicopter, as are wild donkeys.

There is also a description of the method by which an order shall be given for the destruction of infected cattle. Proposed section 14B states -

> (1) The Chief Inspector may issue an order, by giving notice in the prescribed form to the owner of cattle, for the destruction of all or any cattle in or upon any property notwithstanding that the cattle have not been tested, investigated or examined under Section 11 where an inspector is of the opinion that the cattle have been in contact with diseased cattle.

That is okay. It goes on -

> (2) An order under subsection (1) may prescribe -
>
> (a) the manner in which;
>
> (b) the time within which; and
>
> (c) the person by whom,
>
> the cattle shall be destroyed.

Why is the word "may" used? I would have thought the right word is "shall". When an order is put on cattle it is reasonable to expect it to show the manner in which they are to be slaughtered - in other words, whether the owner has to do it or whether it will be done for him - the time at which it is to take place and the person who will be responsible for doing it.

Proposed subsection (3) reads -

> For the purposes of subsection (2)(c) -

In other words, the person by whom this is to be carried out -

> - the order may direct that the cattle be destroyed by or under the supervision of a specified person on a specified property.

What is meant by "under the supervision of"? That should be spelt out in the order. Does the inspector have to be on site, or is the destruction to take place under his general supervision?

There is only one other query I have which concerns proposed section 14D and the expenses of the destruction of cattle. That section reads -

> The costs and expenses of and attendant upon the destruction of cattle under section 14C shall in every case be borne by the owner of the cattle.

I wonder how fair that is. Proposed section 14C reads -

> (1) Where in any respect an owner fails to comply with an order under section 14B . . .

When is there a failure? Perhaps the Minister could tell us that. Consider a landowner who has 10 000 cattle on his property. He has managed to muster and have tested normally about 8 000 cattle; he is found to have only four per cent infected, and he still has 2 000 on the other side of the fence. Obviously the department will make an order that he get rid of them and it will specify a time for doing that, the manner in which it is to be carried out and the person who is to do it. The landowner will receive compensation for that, which is right. Previously, an owner would have received compensation only for the animals which were

diseased, but in future there will be compensation for any animal which is the subject of an order. The landowner could get rid of 90 per cent of the cattle fairly easily but may have difficulty getting rid of the last few. I can see that all the compensation money could disappear in trying to get rid of those last few. That does not seem to be fair. Let me give an example. Supposing there are 500 cattle left on the other side of the fence for which the owner receives $50 each. In theory, when they are slaughtered he will receive $25 000 compensation, which is not very much by today's prices. I am worried that in trying to round up the last 10 per cent, helicopters will need to be used to clean up the place, and that $25 000 could disappear. That seems to me to be a bit strong. I would like to know what constitutes a failure. Just because a farmer does not get every single one, does that constitute a failure, which means he has to foot the bill for the cattle which have to be slaughtered by fairly expensive means? Once again, I ask the Minister to tell me why the word "may" is used in that order of destruction. The word should be "shall".

Finally, I am very disappointed to see that in his speech the Minister used the word "Kimberleys" with an "s". It grates on my ear every time I hear it on the radio in weather forecasts and the like. When I was Minister for Lands, I had a surveyor general who allowed me to say that only once and that was enough for him. He well and truly impressed upon me that there was no such place as the Kimberleys. I support the Bill.

HON GRAHAM EDWARDS (North Metropolitan - Minister for Consumer Affairs) [7.48 pm]: Let me deal with the last part first. I agree that it is the Kimberley. This is something that has drifted in in recent years, like a lot of the other things we do to our language. Most people I hear up in the Kimberley refer to the Kimberleys.

I thank the member for his contribution to the Bill. This is a Bill which is best dealt with during the Committee stage. As we go through it in Committee I will be more than happy to deal with it fully and address the queries the member raised about some of the clauses. I thank members for their indication of support for the Bill.

Question put and passed.

Bill read a second time.

House adjourned at 7.49 pm

QUESTIONS ON NOTICE

NATURAL DISASTERS - CYCLONE HERBIE
Insurance Claims - Denham; Carnarvon

277. Hon P.H. LOCKYER to the Minister for Consumer Affairs representing the Minister for Police and Emergency Services:

(1) How many claims were made after cyclone Herbie in -

(a) Denham;

(b) Carnarvon?

(2) How many claims were rejected?

(3) What was the total amount paid in -

(a) Denham;

(b) Carnarvon?

Hon GRAHAM EDWARDS replied:

(1) (a) 132; and

(b) 10.

(2) Sixty nine. These related mainly to claims for loss of wages and the repair or replacement of pleasure craft and cars owned by visitors which are not approved relief measures under the Commonwealth-State natural disaster relief arrangements.

(3) (a) $93 588; and

(b) $6 200.

HISTORIC DOCUMENTS
Missing Maps/Plans - Police Investigations

422. Hon P.G. PENDAL to the Minister for Community Services representing the Minister for Lands:

(1) When were the police first asked to investigate allegations that early colonial explorers' maps/documents were missing from the department?

(2) What time elapsed between -

(a) the discovery that the maps/documents were missing;

(b) the resignation of at least one officer; and

(c) the calling in of police?

Hon KAY HALLAHAN replied:

(1)-(2)

As this matter is currently under police investigation, it is inappropriate to release any information which could have a bearing on the matter.

PRISONS - REGIONAL
Prisoners - Employment Services

437. Hon MARGARET McALEER to the Minister for Corrective Services:

What services are available through regional prisons to help prisoners obtain employment when they are released?

Hon J.M. BERINSON replied:

I wrote to the member on 5 October 1988 on this subject in answer to question without notice 196. A copy is submitted for tabling.

LOCAL GOVERNMENT - TOM PRICE
Ballet Teacher

442. Hon P. G. PENDAL to the Leader of the House representing the Minister for The Arts:

(1) Is the Minister aware that parents at Tom Price have unsuccessfully sought to have a ballet teacher found for the town?

(2) Is she further aware that about 80 families have indicated a willingness to cover costs so that no costs are borne by the Government?

(3) Will she have her department investigate all avenues to attract a teacher to the town?

Hon KAY HALLAHAN replied:

(1) Yes.

(2) No.

(3) The Department for the Arts is currently investigating the extent of demand, available resources and feasibility of placing a ballet teacher in Tom Price and I will advise the member of progress on this.

TRANSPORT - RAILWAYS
Lathlain Station - Closure

443. Hon P. G. PENDAL to the Minister for Consumer Affairs representing the Minister for Transport:

I refer to the closure of the Lathlain Railway Station and ask -

(1) Is the closure to do with electrification and, if so, in what way?

(2) Will the Minister investigate the possibility of imposing a two year moratorium on the demolition of the station as a substitute for plans to demolish the building in the near future?

(3) Why is it necessary to consider immediate demolition when the station may be needed once electrification occurs?

(4) How many other stations will be closed?

(5) Will he name the locations?

(6) Is he aware that population density at Lathlain is increasing, not decreasing, thereby giving added weight to the view that the station should remain?

Hon GRAHAM EDWARDS replied:

(1) Yes. The decision to electrify the suburban rail system guaranteed its future. Electrification is more than a change in motive power, it is a complete revitalisation of the railway. The opportunity was therefore taken, in conjunction with the electrification planning, to consider operating strategies which would make the railway more attractive and further increase patronage.

Railways are attractive because, amongst other benefits, they are generally faster than road travel. But as stations become more closely spaced, the average speed drops, and a state is reached where the disadvantage to through passengers due to increased journey time outweighs the benefit to passengers using some stations.

In view of the Government's commitment to rail as a public service for the majority of people along the line, the decision was made to review only those stations with minimum patronage and minimum potential and which would cause minimum inconvenience if they were closed.

Lathlain has been identified as the station which most clearly fits all the above criteria, and therefore the decision was taken to close it.

(2)-(3)

It is necessary to demolish the station in the immediate future if there is to be

no delay to the electrification program. The tracks are too close together at Lathlain to accommodate the new wider bodied electric cars, and to separate them requires that the platforms be demolished or, alternatively, cut back and the facings rebuilt. The signalling system and the overhead wire system have been designed for clear tracks at Lathlain. As track work is to begin almost immediately in the area there is no "do nothing" option.

(4)-(5)

No decision has been taken to close any other station.

(6) The planning department of the Perth City Council was consulted regarding the possible impact of rezoning in the area of Lathlain Station. It was considered that this was minimal and as there are two other stations in the immediate vicinity - Victoria Park 0.74 of a kilometre and Carlisle 0.86 of a kilometre respectively from Lathlain - any increase in traffic would be adequately catered for by these stations. The average interstation distance on the suburban rail system at present is 1.4 kilometres - Victoria park and Carlisle are 1.6 kilometres apart.

ROADS - CANNING HIGHWAY

Light-Controlled Crossing - Stock Road Senior Citizens' Club Request

445. Hon P. G PENDAL to the Minister for Consumer Affairs representing the Minister for Transport:

(1) Is the Minister aware of the Stock Road Senior Citizens' Club's request for a light-controlled crossing in Canning Highway, opposite the Melville Shopping Plaza, to assist the large number of elderly people crossing the road in that area?

(2) Is it correct that the club's request was refused?

(3) If so, what were the reasons for the refusal, especially as light-controlled crosswalks are provided on other busy roads?

Hon GRAHAM EDWARDS replied:

(1) Yes.

(2)-(3)

Yes; however, because of the characteristics of pedestrian movement, median islands will be installed and the pedestrian situation monitored. In addition, the Main Roads Department is holding discussions with the senior citizens' club representatives today, 12 October, to explain the benefits of the planned treatments.

PRISONS - PRISONERS

Post-Release Assistance Scheme - Greenough-Geraldton Area

450. Hon MARGARET McALEER to the Minister for Corrective Services:

Further to the Minister's written reply to question without notice 196, is it likely that the scheme which provides post-release assistance to ex-prisoners in relation to obtaining housing and employment could be extended to the Greenough-Geraldton area?

Hon J.M. BERINSON replied:

The Albany and Kalgoorlie schemes are pilot projects and any decision to extend to other locations will only be made after careful evaluation of the success of the current schemes.

QUESTION WITHOUT NOTICE

COMMISSIONERS FOR DECLARATIONS - APPLICATION
Refusal - Review

207. Hon W.N. STRETCH to the Attorney General:

I have recently had an application to become a commissioner for declarations knocked back. Is the Attorney General aware of the difficulties of some people, particularly those handling real estate deals who travel very long distances in the country, often away from access even to policemen, school teachers and such like, to witness documents? Is it possible to have such knock backs reviewed by him or his department if they are resubmitted?

Hon J.M. BERINSON replied:

We are now in a position where appointments for commissioners for declarations are reasonably exceptional. Special account is taken of the need to service remote areas. If the honourable member has a particular case he wishes to have reconsidered I would be happy to undertake to do that.