WESTERN AUSTRALIA

Parliamentary Debates

(HANSARD)

THIRTY-FIFTH PARLIAMENT
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LEGISLATIVE COUNCIL

Wednesday, 9 April 1997

Legislative Council

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

MOTION - AQUACULTUREAND MARICULTURE INDUSTRIES

Appointment of Select Committee

HON DOUG WENN (South West) [2.34 pm]: I move -

That a Select Committee of five members, any three of whom shall constitute a quorum, be appointed to -

(1) Outline the state of development of aquaculture and mariculture industries in Western Australia.

(2) Examine the current and future states of development in the production of aquaculture and mariculture products in Australia and their implications for Western Australia.

(3) Examine the marketing potential for aquaculture and mariculture products and their implications for Western Australia.

(4) Examine the current and future status of development in the production and marketing of aquaculture and mariculture products in other countries and their implications for Western Australian production and marketing.

(5) Examine the biological, technical, economic, environmental, infrastructural and institutional requirements for the further development of aquaculture industries in Western Australia with particular reference to -

(a) research and development;

(b) availability of land and water-based sites; and

(c) potential of fish/crustacea species suitable for aquaculture and mariculture production.

(6) Recommend strategies for the future development of aquaculture and mariculture industries in Western Australia and to outline the implications of these strategies for the Western Australian economy with particular reference to -

(a) the role of government in facilitating aquaculture and mariculture development; and

(b) the implications for regional development of the expansion of aquaculture and mariculture industries.

(7) The committee have power to send for persons, papers and records and to travel to gather evidence.

(8) The proceedings of the committee during the hearing of evidence to be open to accredited news media representatives and the public.

(9) The committee to report by 20 May 1997.

Members will be aware that this is not the first time this motion has been before the House. If I or my colleagues decided I could, I would have introduced this motion repeatedly until it received the recognition I firmly believe it deserves.

The words said last night by Hon Kim Chance, had they not been so brief, may have indicated that I should move my motion and sit down. As I have so much more to say I will not do so. I congratulate Hon Kim Chance. I know that other members in this place agree with the comments he made last night on the Acts Amendment (Marine Reserves) Bill. He said -

> I am concerned about another factor, which has partly driven my support for the Bill. When I consider that we have fully exploited our wild fishery but then at the same time look at the future of fish exports from Australia, I am struck by the view which has often been expressed by my friend and colleague Hon Doug Wenn that much of Western Australia's and indeed of Australia's future in fisheries will be based on aquaculture. When I look at the extent of the coastline which is uncontested by any other land use and is

> available for aquaculture development, I cannot escape the conclusion, given our unpoliticaled waters, that we are looking at an industry of a potential scale we might find hard to imagine at present.

He is dead right about that. To continue -

> The potential of the scale is possibly greater than the whole of the mining industry in Australia. The huge potential of aquaculture will rely on good management of the environment and our present resource.

As I said at the outset Hon Kim Chance is right particularly considering the latest federal government deal which allows the Indonesian Government to operate further and further within the fishing boundaries of our coastline. It concerns me that we have signed an agreement of that nature. I am keen to know how much input each State had into that arrangement. I find it difficult to believe that Hon Monty House, the Minister for Fisheries, is willingly allowing those fishermen to fish so far inside Western Australian waters.

In those few words Hon Kim Chance gave a clear outline of what I am about to say to the House. It is my intention to briefly examine each item of the motion, but I shall spend a little more time on item (5) concerning the biological, technical, economic and environmental infrastructural and institutional requirements for the further development of aquaculture industries in Western Australian.

As all members in this place will know, over the past five years I have travelled extensively throughout Australia. I have visited every State. I have returned to some States and I do not apologise for the fact that I have used my imprest travel account to do so. I was recently named in *The West Australian* by a journalist called David Reardon whom I tried to ring today to advise him that I was going to make the point that I have travelled.

I am concerned that people do not understand that every State has a different approach to its aquaculture system. They all have different means to research and construct the proper facilities required to facilitate the research they are doing.

I began my inquiries about five years ago when I became interested in the oyster industry and its potential for Western Australian. We face a huge learning curve on this industry. I can assure members that the written material available would almost fill a library on its own. Every aquaculture researcher in Australia has prepared a paper, or a number of papers, on how he has tried to achieve the breeding and growing of a certain number of fish in this country, or animals, as they are called in the industry. Hon Kim Chance made the point that because of the demise of the fisheries offshore - one can see the infighting among fisheries people - this State must seriously consider aquaculture and mariculture. Unfortunately many people think it is just a matter of catching some fish, growing and breeding from them, and then selling them. It does not work like that. In *The West Australian* on Thursday, 3 April was an item under the heading "Jurien hatches a fish farm" about a Jurien Bay fish farming venture. This item was written by Michael Zekulich and is so much to the point that I hope anyone proposing to venture into aquaculture in this State will read it again and again. The people who were the subject of this article have made a $2m investment so far. They have reached the fingerling, or small fish, stage and have not yet sold any fish. It is a massive investment so far.

Even though I have never met these people personally, I am proud of them for having done their homework first. It is a problem across the nation that many people do not do their homework before getting involved in ventures such as this. They invest huge amounts of money and then go broke very quickly. The previous Labor Minister for Fisheries, Hon Gordon Hill, spoke to many people on this issue and he one day told me that it often involves a huge outlay which is followed by a huge loss. Unfortunately, too many people have been caught out because they have not first done the necessary research. It is imperative to do that because at the end of the day, if they fail and go broke it does a great deal of damage to the industry. The word quickly gets around that people have tried that venture and it does not work. That deters many people from entering the industry.

Hon Bruce Donaldson opened the fish farm on the day the article appeared in the newspaper, and I sent a congratulatory letter to those people on the amount of work they had done before taking on the venture. Hon Bruce Donaldson knows the people personally and I would like to congratulate them again, through this place, for reaching the stage at which they are now in a productive marketing area. It is very important to the industry overall. Mr Collinson, managing director of Jurien Fish Farmers Pty Ltd, was reported as saying that "Aquaculture in WA has been an unmitigated disaster." In my letter to him I wrote that he is absolutely right.

It must be said at the outset that this is no reflection on others in the industry or those in the Fisheries Department of Western Australia. They are fairly limited in the amount of research they can carry out and in the advice they can give to any person wishing to enter the aquaculture industry for whatever species of fish. I have travelled this great country and have spoken to people in all States about the extent of aquaculture and how we as a country can work together. We need to do that because otherwise the industry will be taken over by people from other countries who see the potential for investing money and taking over the industry from Australians. I strongly believe that

Australians should be patriotic to the extent that they develop these industries themselves rather than allow overseas groups to take them over, as has happened in the mining industry. If Australians do not develop aquaculture, it will be another industry lost to foreign nations. Although they may set up the infrastructure in Australia, the basic monetary gain, which is massive, will go out of this country.

The market value of aquaculture products is an important consideration. Three or four years ago a number of members from this House went to Japan and had the opportunity of meeting high profile people involved in buying and importing fish. It is important that the marketing of this product be done properly. The Japanese are extremely fussy about the products they buy. They will not take any rubbish and they insist on a regular supply of the product. If a producer cannot maintain a regular supply, the Japanese will not deal with him. They insist on a reliable market. The Japanese are fastidious about what they sell in their country and they take great honour in selling goods of high quality. If anyone in Australia tries to sell a product to the Japanese once only, it will be the end of their market and will also affect the entire market in Australia. At the time of our visit a person from the Eastern States went to Japan to sell Australian wine on the Japanese market. He made such a mess of it that the Japanese were reluctant to sell the wine on the open market. Our group took its own wine and the people to whom we gave it loved it. Every year I receive a letter from one of the people asking if I can get some of that wine across to him. He thought it was the best wine he had tasted. It happened to be from Capel Vale in my electorate, although I did not choose the wine to be sampled.

Hon Derrick Tomlinson: It is very good wine.

Hon DOUG WENN: This emphasises the importance of marketing. If it is not done right at the outset, that market will be lost. The Asians - I put Japanese on a higher pedestal, although some people may say I should not do so - emphasise doing it right at the outset, or not doing it at all. Too many people attempt to make inroads but fail and the industry suffers overall.

On my travels I met a chap called John Burke who at the time was the senior fisheries technician at Bribie Island in Queensland. I am happy to say that he is now the administrator of Bribie Island. Any time I wanted to know something about aquaculture, he readily left meetings to talk to me. He believes, as I do, that aquaculture one day will be very big in Australia. I am proud to call John Burke a friend through our association and our belief in aquaculture. He has seen it too readily happen in Queensland - this is no reflection on farmers in this place - that farmers, when they hit bad times, suddenly decide to try aquaculture. However, they do not do their homework and rely on the facilities and knowledge available through people like John Burke in Bribie Island, and these farmers end up deeper in debt. I hope Western Australia will tackle that lack of preparation as its number one concern.

Marketing is a major issue. Of course, we must confront a series of issues before we reach that stage. A newspaper article on this subject opens with these words -

> Fish farming is like eating a whale, according to Merv Collinson, managing director of Jurien Fish Farmers Pty Ltd.
>
> "The only way to swallow it is by taking a bit at a time," he said.

One must start at square one and learn how to have the water systems circulating properly. It is very important. If someone cannot work out the water system properly, he may as well not put any animals in the tank for they will die instantly. Aeration is important.

I said at the outset that the amount of information on this subject around the world could fill a library. If members do not want to read a library, they can access information on the Internet. I had a look on a friend's computer - and paid the bill of course - and discovered a mass of information around the world on this subject. Along with Israel, Australia is recognised as one of the best aquaculture research places in the world.

Merv Collinson is absolutely right: If the process is not approached one step at a time, with the right water, the right animals, and the right breeding and nursery, it will not be successful. The people to whom I referred have spent $2m, a huge amount of money, before selling a single fingerling. In many ways, that could put people off going into the industry.

Paragraph (4) of my motion reads-

> Examine the current and future status of development in the production and marketing of aquaculture and mariculture products in other countries and their implications for Western Australian production and marketing.

The biggest input at this stage in aquaculture is from the Asian countries. That is understandable as they have huge populations and limited areas in which to conduct aquaculture. Also, a conflict is arising among people who believe

absolutely that the only way to practise aquaculture beyond the fingerling size is in open water; a major group of people, me included, believe that land ponds, not sea ponds, are the way to go.

I had an argument with a guy in New South Wales about this matter as he advocated sea ponds. With land ponds one has total control - apart from the two legged rats who climb fences and pinch the product - as one can control the water, the stock and the outlet. Modern systems recycle that water. I have seen fish taken from an absolute sea water environment and placed in tanks containing 75 per cent fresh water and they survived very well. Conflict has arisen in that regard.

Hon Kim Chance: Was that an estuarine variety of fish?

Hon DOUG WENN: It was open ocean fish; a beautiful King George whiting which almost hit the plate before the pond. It was well worth the experiment and it survived.

Inshore tanks are more effective than offshore tanks. Tuna fishermen in South Australia have massive offshore ponds as big as this Chamber. A whale came through and smashed two of these tanks, had his feed and then disappeared. This caused $2.5m worth of damage to that fishing industry. Predators want those animals in offshore tanks. Also, one has no control over disease in open water, but one has total control onshore as the water can be filtered, and the salt water can be maintained in a cleaner environment.

Israel is now recognised as the biggest aquaculture nation in the world. Its research is so well done that people are visiting that country from every other part of the globe to see what has been done. The Israelis believe in onshore ponds. They want to invest big money in Australia because they believe Australia has the best climate for this industry and the best fish species available. We are talking about an investment of $2.5m at the Jurien Bay fish hatcheries, and I suggest up to $100m could be attracted with these overseas investors. They believe that we have everything going for us. We have the potential to capitalise greatly on that investment. The only problem in Western Australia is that we do not have the same waterways that exist in New South Wales. It has magnificent rivers that go for miles and miles. Queensland has many protected bays. We do not have that luxury in Western Australia. One of the absurdities is that anyone who wants to go into the industry must guarantee that the water goes back into the ocean cleaner than it came out. However, I am sure we can overcome that.

The fifth item refers to research and development. I said earlier that I do not wish to reflect in any way on the Fisheries Department and the research it has done over the years. As in other States, it is confined by the money allocated to it in the Budget, it is confined to the type of animals that it can research, and it is confined by the fact that there is no ready market willing to take over what it has put together. I told officers of the department quite a long time ago that I was interested in aquaculture and I was told they would love me to become involved in four species - marron, trout, oysters and mussels. I told them that they had been done already. I said that I was interested in other species including tailor, whiting, and herring. I asked them to give me information on that type of aquaculture. I was told they could not, probably because they had never been asked whether they had done any work in those areas. However, it is interesting to note now that the number of animals being researched is expanding all the time.

I have said also many times in this place that one of the better places one can look at this type of industry - I know Hon Bruce Donaldson and Hon Kim Chance have - is the Fremantle TAFE. It was one of the best setups in Australia. It is lucky because it has the old Fremantle goods sheds in which to work. I have seen most research facilities if not all. Hon Kim Chance suggested I should visit the major research facilities in Launceston in Tasmania. The Fremantle TAFE has done something that no-one else has ever seen or done before. It has bred jewfish in captivity. No-one has ever seen a jewfish in the egg or fingerling stage. It has only happened at the Fremantle TAFE. I have spoken with Greg Jenkins about the project. In fact, I had the honour to invite Greg and his wife to the opening of Parliament, with which he was quite intrigued. However, he went away with the same complaint that everyone else who I have invited to this place complains of; that is, the heat in the Public Gallery was horrendous. It is not much better down here at the moment.

Research and development are very important. The happy part of my looking at research in other States is that research people talk to each other. They are happy to fax material about hatcheries and nurseries to each other at any time. It is encouraging that people are willing to do that. However, not everyone is happy to do that. When I was a member of the Delegated Legislation Committee the committee visited Darwin. I tried to take advantage of the trip to visit a barramundi farm. The market in Darwin gives everyone involved in any industry the right to advertise, set up and encourage people to be part of that market. The Northern Territory's fisheries department had set up a fisheries display at that market. A chap by the name of Russell Reid who is a partner in the barramundi farms in the Northern Territory invited me and my wife to look at the farm. He was not there when we turned up. The senior partner was and he told us to get lost because he did not want us on the property. I told him that Russell had invited us to visit the farm. He said that he had no right to do that. He then said that he would not allow us to look at the

fish farm because we were setting up one in Western Australia and we were there to spy on his gear. I thanked him. Obviously one does not fight with a person like that. We were not going to get onto the property anyway. It is unfortunate that there are people like that. However, officers of fisheries departments right across the nation are great friends and they talk to each other. They probably all come from the same school anyway. It is encouraging that information from all over Australia is readily available. One unfortunate aspect of the industry is a Bunbury example - it was front page news - of a fellow setting up a mussel farm in Bunbury. When I asked him what he knew about mussels, he said he cooked them every day. I suggested to him that cooking and growing mussels were two very different things. Anyone who wants to know about these industries should travel to Albany and have a chat with a fellow by the name of David Beasley. Hon Bob Thomas will know him, living in Albany as he does. He is one of the best growers of oysters and mussels in this country.

The recent disaster in the oyster industry at Wallis Lake in New South Wales has devastated the oyster industry. It took that industry five years to get over another disaster that hit the industry 10 years ago and now the industry has been similarly devastated. David Beasley at the King George shellfish industry in Albany would make any member of this place welcome if they wanted to have a look at the industry. His potential is huge. The only thing that surprises me is that David is sticking only with oysters and mussels because he has the set up to go beyond that.

Jurien Bay is probably one of the better sites for a fishing industry in this State because it has the potential. It is already a rock lobster fishing town. The town has lived around fish and fishing for many years. New fish farms would mingle in with what is happening there already. When we look beyond that, we see the Swan River and the northern rivers. The northern rivers have potential for freshwater usage. If we were to talk to Hon Ernie Bridge about that, I am sure he could give us an hour or 10 on the potential. The Minister made a pre-election promise about the potential for a certain amount of money for the south west for aquaculture. His idea of the south west is that it runs from Geraldton to Esperance. I wish sometimes that my electorate might cover that area so that we could look better at what might be done for agriculture. There are not too many areas in this part of Western Australia in which aquaculture can take place.

We could look at the Dunsborough area and Yallingup, but again we would be pretty restricted. The Dunsborough area has the potential of protected waters which would affect offshore and holding pens. Dunsborough is more oriented towards tourism. I do not think it will have a great level of potential for aquaculture. Therefore, we have to look at other places. Bunbury has a protected bay but it is well used for recreation and tourism. The Collie River and the estuary could be used for black bream and similar species. Mandurah is affected by environmental protection problems. The whole reason for building the Dawesville Cut was because of the horrendous environmental problems that existed within the catchment area. Even now, we would not be able to put up a fish farm in its ocean or river catchments.

Hon M.J. Criddle interjected.

Hon DOUG WENN: The member is absolutely right. On a recent program with Rex Hunt - anybody who likes fishing would watch him - we saw the Japanese fish farming in ships. The ship contains a big hold full of salt water. The Japanese take the vessel out to sea and keep the fish there until they reach a certain size. They then bring them back to shore, place them in buckets and take the live fish straight to market. That shows what the Japanese might demand and that it can be done. However, problems occur with predators and disease, whereas onshore one has 100 per cent control. That is contended by people in the industry, whether they be in professional or amateur fishing or aquaculture areas. I am happy to hear that members are interested in what I am saying. The potential is massive, as Hon Kim Chance stated at the very outset of the debate. It may be that some day aquaculture will outdo the mining industry. Financially one day it will outdo the agricultural industry because that industry is limited, whereas aquaculture is not.

This takes me to item (5)(c) of the motion which refers to the potential of fish/crustacea species suitable for aquaculture and mariculture production. I said earlier that if we go to the Fisheries Department, it will push us towards marron, trout, yabbies, oysters and mussels. The department will give guidance in those areas. If we go to Fremantle TAFE, we will be absolutely encouraged to realise that the potential is not limited to those known species.

Hon Kim Chance: One of the reasons for the limitation is that for many of the species the Fisheries Department has not developed a protocol to breed the species and will not allow the importation without such a protocol.

Hon DOUG WENN: I am sorry, but I am talking about local fish. I asked a question in this place about people wanting to import the Pacific oyster. That is absolutely not on; it cannot be allowed to happen in Western Australia because it is a predator of the worst kind. We have seen the results of perch in the Collie River killing young marron and trout stock. Perch were introduced for fun. We cannot allow other species to come into this State. We must work on our own. That is what I am coming to.

Hon Kim Chance: Where the proposition is to grow the fish 200 miles inland, it is ridiculous to apply the same protocol as if people were growing them in the wild.

Hon DOUG WENN: A fish from the sea can breed 200 miles inland because an artificial salt compound in a dried state can be added to fresh water and create salt water similar to that from the ocean. There is no doubt that people can grow fish anywhere because it has been proven particularly in New South Wales. They have fish farms 100 miles inland with no problems at all.
We are seeing a climate in which fisheries departments are starting to realise the potential. I have already named black bream, jewfish and snapper. Everyone in Western Australia likes those three species. If we want to enter the Asian market, we must consider crabs. The new trend in eating crab is immediately after it has shed its shell when it has a soft shell. People eat the whole lot. That new variety of market has just come on. The blue manna crab could create a viable market out of Western Australia. Even though I did not agree with Arthur Marshall some time ago, I realise its potential with a little bit of research and proper control.

Hon Barry House interjected.

Hon DOUG WENN: King George whiting and sand whiting are also very viable and easy to breed. That can easily be done in Western Australia. Research people from South Australia rang me the other day and asked me how determined and confident I was that those fish could be bred in captivity and sold on the market. They have funding and a permit to research the potential for King George whiting. I hope this motion will be passed today and that other members will realise the importance of what I am trying to do.

Item (6)(b) refers to the implications for regional development and the expansion of aquaculture and mariculture industries. David Beasley at Albany employs up to 16 people on an ongoing basis. When his market share reaches the level that he envisages he will employ up to 35 people just harvesting the stock that he has bred over the years. It will be an ongoing process. A visit to an aquaculture farm will convince members that aquaculture creates jobs, and it will continue to create jobs. The surrounding towns will receive flow on benefits from the industry.

One area that many people do not associate with aquaculture is tourism. Aquaculture farms can develop that tourism potential by allowing people to walk through the ponds or taking them out in small boats to the ocean holding. My rough calculation of the dollar benefit that the potential tourism would bring to Bunbury if aquaculture got off the ground is between $10 000 and $15 000 annually. Obviously if the industry expanded beyond Bunbury that figure would grow by 10 or 15 times. Tourism is one side to aquaculture into which no-one has put much thought.

Hon Reg Davies: There are trout farms.

Hon DOUG WENN: Yes, if one visits Pemberton one goes to a trout farm. This is the third time this motion has been before the House. The first time was during the term of a Labor Government with Hon Gordon Hill as the Minister. Hon Phil Lockyer chaired the Select Committee on Aquaculture and Mariculture Industries. Information is with the Clerk which, unfortunately, because the committee did not finish its deliberations, is not able to be made public. I regret that. The hard work of Hon Phil Lockyer and his colleagues Hon Sam Piantadosi and Hon Murray Montgomery was wasted.

I have introduced this motion previously. It has been listed on the Notice Paper and it has gone no further. Hon Bruce Donaldson is not over keen or supportive of a select committee. The industry has potential. I hope that this House will heed my words because the potential benefit to Western Australia is massive. If we do not take the bull by the horns and put government money into developing the industry, it will not succeed. These people have invested $2.5m and received a return of $17m. The Government needs to stand up and be counted. Recently the Minister allocated $13 000 to fund a report to recommend some appropriate sites. The consultant would not have got off his backside for that. He would have sat in his office and written a paper, because the Western Australian coast is so predictable. I had intended to withdraw this motion. However, Hon Kim Chance asked me not to, because he believes the motion is worthwhile and should go ahead. As the master of its own destiny the House will decide on that.

The last part of the motion is that the committee should report by 20 May. That is an impossibility. However, I hope the House will look seriously at the motion and consider what I have said. I regret I will not be here after 15 May to push this further. I believe strongly in the aquaculture industry.

HON P.H. LOCKYER (Mining and Pastoral) [3.26 pm]: I feel like Dame Nellie Melba. It is obvious this motion will fall off the Notice Paper because the members talking on it will not be here in 40 days.

I totally support the idea of investigating the aquaculture and mariculture industries. I moved a similar motion eight years ago, when my friends on the opposition side were in government, and it withered on the vine because no funds were available. The Government of the day would not fund the select committee. I know there is only a limited

amount of funds to go around, but no matter how hard we tried we could not get the funding. This is the sort of investigation that this House should take part in. It is the sort of select committee that should be apolitical. It should be funded. The aquaculture and mariculture industries in this State are going ahead in leaps and bounds. However, they are young industries and we should examine all aspects of those industries around the world. Countries like Taiwan, the Philippines, America and Canada are light years ahead of us and we could learn from them. Australia could be at the cusp of the development if it makes the right decisions. One way to make the wrong decisions is by bankrupting a high proportion of those people trying to start the industry. That is what is happening. The barramundi industry in Queensland is littered with failed enterprises that went broke trying to start up the industry. It will happen again. It has already happened in this State in some areas. This Parliament has a responsibility to lead the way to assist people who are breaking new ground, so they do not go broke and they can achieve the sorts of returns that are necessary to make the industry viable.

Hon Barry House interjected.

Hon P.H. LOCKYER: The committees have done excellent work. I am not criticising that. My criticism is that we have allowed this to go on for eight years and we still do not have it right.

Hon Doug Wenn: I tried.

Hon P.H. LOCKYER: I know, and it is sad. I look forward in future to glancing through *Hansard* and finding evidence that something is being done. It should be an apolitical committee. We should have three members from each side, and Hon Jim Scott as chairman. It is not the sort of issue that we would fight over. It is the sort of thing that must be supported by the Fisheries Department. I can tell members that when I was setting up this committee previously, the department was breaking its neck to have a select committee look at this matter because it, too, wanted to be more involved. This is something that is worthy of further consideration.

HON B.K. DONALDSON (Agricultural) [3.30 pm]: I spoke to Hon Doug Wenn about this matter. I disagree with the appointment of a select committee at this stage of proceedings, for the simple reason that it is probably four or five years too late.

[Motion lapsed, pursuant to Standing Order No 72.]

ACTS AMENDMENT (MARINE RESERVES) BILL

Second Reading

Resumed from 8 April.

HON J.A. SCOTT (South Metropolitan) [3.31 pm]: Along with my future colleagues, I was very pleased to see this legislation introduced. The marine area is the forgotten part of conservation in many ways. Although the Fisheries Department does manage particular fisheries, there are very large gaps in the process and the fisheries are managed not so much for the holistic, ecological processes that are carried on in the ocean areas, but to maintain an industry. I understand now that the Fisheries Department is moving towards this more holistic process and is looking at the conservation of other species. Nevertheless this Bill will enable a whole range of improvements to be made. It is a step forward, but probably not the great leap forward that it could have been; there has been a bit of a falter in the step.

One disappointment is that the legislation was introduced in this House of Parliament initially when the Minister responsible for the Bill is resident in the other House. One feels that the only reason it was introduced here is that the Government wanted to avoid having the Bill either knocked back or amended in such ways that it did not have control over it. If that is the case, it is a mistaken conception. Largely my colleagues and I are supportive of the Bill. We feel only a few areas could be improved.

The good things I see in this Bill include that it provides the capacity for greater management of the ecological values in our marine areas. It introduces sanctuary areas. As Hon Graham Edwards observed from first-hand experience, the fisheries deplete the fish stocks, including abalone. These sanctuaries provide an area where recovery can take place. On top of that, areas of seagrass and so on can be protected within the sanctuaries which will provide a breeding ground for many fish species, and will provide nutriment for higher levels in the chain.

In other countries quite a few fisheries are under severe stress, and many have already collapsed. I point to Canada, the west coast of America and even areas in the North Sea where the cod fisheries are under huge stress. Some people believe they are beyond saving at this point. Those nations have turned completely to a system of fisheries management which is totally ecologically based, rather than being industry based.

Another good point in this Bill is the establishment of the marine management authority which is responsible for marine conservation. A very good feature of this authority is that where the authority recommends to the Minister that certain things be done or gives certain advice to the Minister, when the Minister acts differently from the advice, he or she is required to table the advice and the reasons for not accepting it in both Houses of Parliament. That is a very good overview for the conservation of our marine environment.

The board of the scientific advisory committee will have appropriate people on it to give advice to the authority. I would like to see the reports of the scientific advisory committee made available publicly. Quite a few people, certainly those within the conservation movement, like to keep track of the scientific advice that comes forward from committees such as that. The information will also be useful for other researchers. The Bill has been based on considerable research and, although it does not go as far as I would like, it certainly has taken into account quite a few environmental concerns.

I do have some problems with the Bill. First of all, the system outlined requires the concurrence of both the Minister for Fisheries and the Minister for Mines on almost any important decision that is made relating to setting up an area or the way in which an area is designated. Later I might seek to table the document in my hand which sets out a diagram of the petroleum well density off the coast of Western Australia. It shows that very little area close to the coast does not have a considerable presence of the oil industry. The Bill points out the existing leases held by the exploration companies and production licences will continue as they did before this legislation. In some instances, from memory, there is compensation. However, the whole of the coast is largely taken up with petroleum exploration and production. The area is limited. If fish resources management is laid on top of that, few areas in a marine reserve will be immediately apparent as sanctuary zones. It will be difficult under that system to establish, particularly the sanctuary zones, but so too any marine reserve that will require that those pursuits not be carried out, because the Ministers for Mines and for Fisheries are required to approve those reserves. The likelihood in that case is that they will not go ahead.

It is a shame that the language of the Bill puts environmental protection in a subservient position. In the reverse way, when a fish resources management area is to be set up, the concurrence of the Minister for the Environment is not required. It is not a level playing field. The Government is not identifying regions as critical areas that must be protected no matter what, but is picking out a few of the areas that are left and making some sanctuaries and others mixed use zones, and so on. I see problems in the establishment of these parks. I would rather see the situation that exists when the Minister for Fisheries wants to establish a fish resource management area. The Minister for the Environment can proffer advice, but that is about as far as it goes. It should be a two way street; it should be equal. The environment is as important as some people think economic advantage is.

Hon M.J. Criddle: Doesn't the Environmental Protection Act cover that?

Hon J.A. SCOTT: No. That is one of the other problems I was about to raise. Unfortunately, matters such as the by-catch are not under the control of the Department of Environmental Protection or the Department of Conservation and Land Management. Although the CALM Act says the department must protect endangered species, it does not have a role in ensuring that endangered species are not destroyed in trawling operations. Much information is given to me that considerable damage is done, not only to marine creatures. Liz Watson, who will be a member of this place shortly, has affidavits from crew members from a number of trawlers who say that if turtles are caught a couple of times in the nets, they cut off their flippers and throw them overboard. This sort of practice is occurring on trawlers and it is not being policed properly.

Another factor is that trawling nets drag out seagrass on the ocean floor, when they are in areas where seagrass still exists, and that damages the marine environment. This is an unnecessary situation, given that nets have been designed that will funnel out by-catch and will not drag the bottom of the ocean bed. A story is offered in Western Australia that sometimes these nets have their trapdoors jammed open and they lose their catch.

Sitting suspended from 3.45 to 4.00 pm

Hon J.A. SCOTT: Prior to the suspension I pointed out that unfortunately a considerable number of protected species and other by-catch are destroyed by trawling. The answer to this problem is not in passing legislation but in better monitoring of these areas and the chutes. That also must apply to the oil industry.

Hon Mark Nevill gave the industry a clean bill of health in his speech when he stated -

> The figures that I have been able to dig up indicate that the oil industry in Australia in the past 30 years has spilled about 800 barrels of oil. A barrel is about 150 litres, or about three quarters of a 44 gallon drum.
>
> A book entitled *Environmental implications of offshore oil and gas development in Australia* outlines the findings of an independent scientific review, which was chaired by John Swan, Professor of Chemistry at

> Melbourne University, and included two other people. The overview of the book states, under the category of oil spills, that oil is a naturally occurring mixture of organic substances which can degrade in the environment via dissolution, evaporation and biotransformation by fungi and algae, which attack oil and break it down.

He then went on to discuss the low risk of blowouts. He is wrong on both points. The information about the 800 barrels a day comes from that same book, was supplied by the oil companies to Professor Swan and his team and does not tell the whole story.

I worked offshore and I still know many people in the industry. Only two weeks ago a friend told me about an incident where Apache Oil, close to the Harriet well, had accumulated approximately 300 barrels of crude oil on board. This person, who was a derrick man on board at the time, was asked to dump the oil overboard close to Barrow Island even though the ship had the facility to pump it onto the Harriet well and then ashore, but he refused. However, in the morning when he arrived to do his next shift he discovered the person who does the job when he is off duty had mixed the 300 barrels of crude oil with mud from the mud tanks and dropped it out into the ocean in a very sensitive area. That is 300 barrels in one go. Hon Mark Nevill said that in 30 years we have had only 800 barrels spilled in Australia.

I also know that the current master of the *Griffin Jabiru* - who was then a mate and was promoted for this act by BHP - while on the way to a refit in Singapore, in order to save time, washed out the ship's tanks with seawater and pumped it overboard near Bali. There was so much oil that the ship had to retrace its route before getting to the coast of Bali to avoid being caught with the oil slick arriving at the same time. None of this appears in Professor Swan's documents. The oil companies did not tell him about it. There are many such incidents.

Hon N.D. Griffiths: Are these illegal actions?

Hon J.A. SCOTT: They are certainly illegal.

Hon N.D. Griffiths: You do not expect Hon Mark Nevill to be aware of illegal actions? You cannot expect the person he is questioning to be aware of that.

Hon J.A. SCOTT: Hon Mark Nevill is aware of the incident on the *Griffin Venture* when there was a cover up by BHP with the concurrence of our own Department of Minerals and Energy. I am waiting for the Minister to respond in relation to the statements I have recently made. I quite clearly showed that the department was not telling the truth to the House. Not only that, it also claimed it had carried out an inquiry that it had not. It made that plain to a federal inquiry.

Hon N.D. Griffiths: Are you accusing the department and BHP of illegal activity?

Hon J.A. SCOTT: Yes.

Hon N.F. Moore: He makes all sorts of outrageous allegations.

Hon J.A. SCOTT: They are not outrageous; they are provable.

Hon N.F. Moore: Anything is provable.

Hon Mark Nevill: There appears to be substance to them.

Hon N.F. Moore: He is making a bland statement about the company and the department acting illegally.

Hon J.A. SCOTT: It is obvious that I was given totally untrue answers in this House about how the department interviewed people it said were on board but who were not.

Hon N.F. Moore: You can take action if you wish.

Hon J.A. SCOTT: The Minister accepted a statement from the department that it had carried out an inquiry but that the officers did not have any notes because the person who had probably taken the notes on his laptop had left and the department could not get hold of them. That is as weak as water.

Hon N.F. Moore: When did I do that?

Hon J.A. SCOTT: The Minister tabled a document in this House.

The DEPUTY PRESIDENT: The discussion is moving away from the substance of the Bill.

Hon J.A. SCOTT: We must have proper monitoring to ensure that these marine areas are protected. We cannot have a department that is negligent in its duties of ensuring not only the protection of the marine environment but also the

safety of people in the area. In this case, this is what happened. Even worse than its taking no action, it pretended that it had carried out an inquiry when it had not. This is very important and relevant to the safeguards that are required to protect the marine environment. What is the point of this House putting in place laws if no-one ensures that they are carried out? Those laws must be monitored properly. The oil industry must not be allowed to provide all of its own information. There must be spot checks.

Hon Peter Foss: Was that in state or commonwealth waters?

Hon J.A. SCOTT: The first one was Apache Energy dumping approximately 300 barrels of crude off Varanus Island.

Hon Peter Foss: That would be in state waters.

Hon J.A. SCOTT: The other one was where BHP drilled three holes at Leatherneck, just off the tip of the Exmouth peninsula. It was supposed to drill one hole but it messed that up -

Hon Peter Foss: Was that in state or commonwealth waters?

Hon J.A. SCOTT: That was in state waters. It was EP 342.

Hon Mark Nevill: In what years did these alleged spills occur?

Hon J.A. SCOTT: I think they occurred last year. I would have to check. I can go back to my source, who is very reliable.

Hon N.D. Griffiths: Have you taken this evidence to the authorities?

Hon J.A. SCOTT: Not at this point. This is the first time I have mentioned this one. I am using this opportunity to point this out.

Hon N.D. Griffiths: Will you do so?

Hon J.A. SCOTT: Given that the Department of Minerals and Energy has so far failed to carry out its job with regard to the *Griffin Venture*, I am not sure that it would be of any value. Until I can be assured that that department does its job -

Hon N.F. Moore: Why not give it a try some time and see what happens? There are always two sides to every story, and people are entitled to hear the other side.

Hon J.A. SCOTT: I will give it a try.

The *Cossack Pioneer* has been flaring out to the equivalent of about 15 million barrels of gas a day since January last year because the vessel has faulty manifolds. That gas has been burning into the atmosphere, but much of the heavier condensate does not burn and will drop into the ocean.

A number of areas need to be looked at before these marine environments can be protected properly. I hope that the Government, in putting forward this valuable Bill, which I support, will lift the game in monitoring these incidents that occur offshore, because one cannot get the true information just by asking the companies. All one will get is this nonsense that only 800 barrels of oil have been spilled in 30 years of operation.

The second reading speech uses the words "the possible impacts of reservation on fishing, aquaculture and pearling interests". I have some criticism of those words. They suggest that reservation may impact badly on aquaculture and pearling interests. Surely the situation will be the other way round. If there were an impact - I regard an impact as something that is not good - it would be increased fish stocks and a better catch for the industry in the long term, because the reservation would assist in conserving the species, particularly in the multiple use areas. I find it strange that conserving the environment is described as an impact.

This is a valuable Bill. While I would like to see the powers of the Environment Minister equal to those of the Mines and Fisheries Ministers in that they need to get the concurrence of the Environment Minister for their operations and for the areas that they set aside, I understand at the same time that one must achieve what is possible. The Government has made a good move in this Bill and I hope it builds upon it in the future. I support the Bill.

HON M.J. CRIDDLE (Agricultural) [4.17 pm]: I am pleased to support this Bill. I was a member of the Select Committee on the Cape Range National Park and Ningaloo Marine Park, and my experience on that committee emphasised the need to expand our marine reserves in order to get the greatest benefit for this country, bearing in mind that one of our biggest industries in the future will be the tourism industry. I have seen figures that well and truly justify that statement. As industry and other infrastructure go into that area , we need to protect the marine environment.

I speak on behalf of the fishermen in my electorate, because the Bill deals with the compensation that might be applicable owing to the removal of existing rights which might impact upon their livelihood. The second reading speech states -

> The matter of compensation has been raised in respect of the continued operation and entitlements of those authorised to operate under the fisheries and pearling legislation and the possible effects the passage of this Bill may have on those operations and entitlements.

I understand that the Western Australian Fishing Industry Council has been involved in discussions with the two Ministers and is happy with this legislation, with a number of provisos, which have been met by way of agreement, with regard to the ongoing grant of leases for aquaculture and pearling, and also with regard to marine parks where there is a reduction in the fishing effort, in which case compensation may be payable. Currently, the fisheries adjustment reserve fund contains about $600 000, which is a small amount considering the size of the fishing industry. To some extent, fishermen put money into the fund, but we need to expedite legislation such as the fisheries and related industries compensation Bill to allow money to be forwarded to the fisheries research and development fund so that the process can proceed.

Obviously, the marine parks will not be established overnight. I support the concept of marine reserves because such a measure will assist not only tourism but also breeding practices at fisheries. I can see many advantages in establishing marine parks and reserves. The Abrolhos Islands is an area that springs to mind. It is fantastic to visit that area, and I am sure it is one that will be considered for future expansion of reserve areas. There will be some impact on the lobster industry and the fishery in that area, and to some extent, that has already occurred in the wet line industry. Therefore there is a need to expedite the passage of this funding Bill. The Western Australian Fishing Industry Council would like to see that happen.

I support the Bill. My travels around the world have brought home to me the need to preserve pristine areas. It is essential for our wellbeing, and we should take a long term approach when considering the future of our children.

HON B.K. DONALDSON (Agricultural) [4.21 pm]: I support the Bill. However, I wish to draw attention to some of the zones within the marine reserves and their competing uses. During the first hour of debate today aquaculture was mentioned. I have spoken to the Minister for the Environment and she has, to some extent, allayed my fears in this regard. My cautious approach was brought about by the release of the Wilson report, because I felt that the report relied heavily on conservation considerations. My concern was that we should not restrict the use of our marine resources, especially in the areas of mariculture and aquaculture, whether mussel, oyster or marine fish farming. Before a lease can be established, the sites are monitored to ensure environmental conditions are met and there will be no impact on the natural flora or fauna along the coastline.

Ultimately, we must ensure we do not inhibit the growth of the aquaculture industry in this State. We have a huge coastline and it would be very easy to be overcautious or nervous when so many of our marine parks are administered by the Department of Conservation and Land Management. That is not is a bad situation; however, it can limit activities along the coastline, especially in the south west. The coastline from Esperance to the Kimberley has huge potential to meet the world demand for fish products. Wild capture around the world and off our coast has been affected by the advent of GPS, the global positioning system, and amateur fishermen have become almost professional. They have the ability to find almost the exact spot at which they pulled in a couple of good jewfish -

Hon Max Evans: They used to put a cross on the side of the boat.

Hon B.K. DONALDSON: Yes, they did. They would try to locate the nearest landmark and line it up. It was hopeless, but now they are very professional. The number of fishing vessels around the world has grown to about 3.5 million in the past 25 or 26 years; yet they have caught only 73 million tonnes of edible fish annually.

I support the Bill. However I urge the Ministers for the Environment, Fisheries and Mines to ensure that a process is set up to permit aquaculture leases as a competing use in some marine reserves and parks. That is a very important point, because security of tenure in aquaculture, which is a high capital business these days, is important. It would be unfair and irresponsible to give someone a lease and for that person to find that in 10 or 15 years when the lease expired it was a real problem to renew the lease. I have raised my concerns with the current Minister and with the previous Minister, Hon Peter Foss. I would hate to meet the Minister on St Georges Terrace in 10 or 15 years and have to say that I told her so. However, I am sure there is a willingness and a good spirit in the way this legislation has been developed.

I agree with the remarks made by Hon Murray Criddle. In some cases we will need to ensure - I guess the Minister for the Environment has already provided an assurance - that the compensation factor will be taken into account in a Bill yet to be introduced. Perhaps in his response the Minister responsible can indicate whether that is the case.

I support the Bill. However, we should move cautiously as we consider the number of marine reserves and parks that will be established. We should not rush in and carve up the coastline. We should think seriously about the location of the marine reserves and the reasons for their establishment.

HON MAX EVANS (North Metropolitan - Minister for Finance) [4.27 pm]: I thank members for their support and positive comments on this Bill. I note that, while some differing views were expressed, there was wide support for the initiatives contained in the Bill.

A number of references were made to the record of the previous Labor Government in establishing Western Australia's six marine parks and one marine nature reserve. Reference was also made to the fact that no additional marine conservation reserves have been established by the coalition Government. These comments were made in the context of general support for the framework that the Bill establishes for the better management and future expansion of Western Australia's marine conservation reserves system, while pointing out that a government commitment to make the legislation work was what would really count. I assure the House that the Government is committed to the better management and expansion of Western Australia's marine conservation reserves system.

The primary reason that we have not yet established any new marine conservation reserves is that we have given priority to the development of this legislation to address deficiencies in current legislation and the concerns of a wide range of interest groups and stakeholders. In particular, I note the unanimous support for the establishment of a new Marine Parks and Reserves Authority to oversee Western Australia's marine conservation reserves system.

When the coalition Government came to office, management plans were in place for two of Western Australia's marine parks, namely Marmion and Ningaloo. As all members will appreciate, declaring a marine reserve is only the start. We need to put in place management plans that detail how natural values will be protected, how various uses will be managed, and what the reserve will mean for the wide range of users and interests in the community. I acknowledge that further management planning was under way before the coalition Government took office.

Our term in office has seen the release for public comment of draft management plans for the Shoalwater Islands Marine Park in 1995 and the Swan Estuary Marine Park last month, and a final management plan for the Shark Bay Marine Park and the Hamelin Pool Marine Nature Reserve in February this year. In addition, preparation of a draft management plan for the Rowley Shoals Marine Park is now well under way.

It was also in the coalition Government's first term of office that the report of the marine parks and reserves selection working group, entitled "A Representative Marine Reserve System for Western Australia", was brought to completion and released for public comment. This report, often referred to as the Wilson report, gives a basis for considering what areas should be reserved in the future. I was pleased to hear Hon Mark Nevill's support for the Wilson report as a good document for providing a starting point for our marine conservation reserves.

The Government has also taken steps to improve the management of marine conservation reserves through the establishment of a specialised marine conservation branch in the Department of Conservation and Land Management. Four experienced marine scientists have transferred from the Department of Environmental Protection to CALM and additional staff have been recruited. I appreciate the overview of the Bill and constructive observations by Hon John Cowdell and their reiteration by his fellow members.

One of the points made by Hon John Cowdell was that Western Australia should look closely at marine reserve management practices around Australia and elsewhere to ensure that what we are doing is in accord with world best practice. I can assure the House that this has been and will continue to be done. The officer now heading CALM's marine conservation branch and CALM's Exmouth district manager accompanied the Legislative Council Select Committee on Cape Range National Park and Ningaloo Marine Park, chaired by Hon Graham Edwards, during its inspection visit overseas.

Furthermore CALM participates in the national advisory committee on marine protected areas which operates under the auspices of the Australian and New Zealand Environment and Conservation Council. The department is now participating, with other Western Australian agencies, in developing a national oceans policy, recently announced by the Prime Minister and Federal Minister for the Environment. Internationally, CALM is becoming an active participant in what is known as the international coral reef initiative involving many countries.

Through these and other measures Western Australia will remain abreast of developments in marine conservation reserve management. Western Australia is generally regarded as being at the forefront of Australian States in this area.

Hon John Cowdell also said that he wished to see provision for adequate review of management practices in marine protected areas. I draw his attention to proposed section 26E in the Bill which provides that the Minister shall carry

out a review of the operations and effectiveness of the Marine Parks and Reserves Authority five years after its establishment. A report on the review is to be laid before each House of Parliament.

As far as CALM's management of marine conservation reserves is concerned I draw the attention of Hon John Cowdell to the functions of the authority under proposed section 26B. These include the development of guidelines for monitoring the implementation of management plans by the Department of Conservation and Land Management, the setting of performance criteria for evaluating the carrying out of management plans by the Department of Conservation and Land Management and the periodic assessment of management plans.

Hon John Cowdell also remarked that he did not want to see any "gutting" of current marine parks under the new zoning system. The Government has no intention of reducing the protection of our existing marine parks. They are all class A marine parks and their vesting purpose and boundaries cannot be amended without the approval of both Houses of Parliament.

Several comments were made about the powers afforded the Ministers for Fisheries and Mines in the establishment of new marine conservation reserves and the approval of management plans and zoning schemes.

On the one hand concern was expressed that the powers of the Minister for the Environment would be unduly constrained. On the other hand, the view was expressed that the provisions in the Bill in this respect are appropriate because of the need to ensure early and proper consideration of the stakeholder interests. This is especially so, given that the Bill enshrines in legislation for the first time that fishing, aquaculture, pearling, mining and petroleum drilling and production will not be permitted in marine nature reserves and in particular zones of marine parks other than in the case of entitlements that existed prior to the creation of a marine nature reserve or the relevant marine park zone.

The roles in the legislation afforded the Ministers for Fisheries and Mines give effect to the reality that a whole-of-government approach is not only appropriate but also fundamental to the management and expansion of a marine conservation reserve system. If we do not take all the relevant stakeholders and interests with us, marine conservation reserves will not succeed. The powers afforded those Ministers with respect to concurrence with reservation, zoning and management plans are not viewed as being anomalous, but are essential to progression of our marine conservation reserves system.

I appreciate the support offered particularly by Hon Kim Chance and Hon Mark Nevill in this regard. Hon Mark Nevill provided this House with statistics that illustrate the excellent environmental performance of the petroleum and exploration production industry in Australian waters. The Government appreciates the member's support for a balanced, multiple-use approach provided for in the Bill. Hon Jim Scott spoke of evidence contrary to this. Hon Norman Moore requested Hon Jim Scott provide that information to the Minister and he will be only too pleased to follow it up. I gather the problems to which Hon Jim Scott referred occurred only recently.

There was a degree of concern that the powers afforded the Ministers for Fisheries and Mines will effectively block the creation of any new marine reserves or zones in marine parks where extractive activities are prohibited. I want to allay these concerns. In 1994 the coalition Government expressly stated that drilling and production of petroleum is not allowed in the Ningaloo Marine Park. The Shark Bay Marine Park management plan released by the Minister for the Environment in February this year received approval from the Ministers for Fisheries and Mines. That plan provides for a mix of sanctuary, recreation, special purpose and general use zones in the park.

Furthermore, in January this year the then Minister for the Environment announced that an advisory committee representing relevant interests and the local community would be established to consider the proposal for a marine park at Jurien Bay. This followed the recommendation in the Wilson report and the considerable local support expressed for such an initiative. That advisory committee is being established following invitations to a range of groups and interests to submit nominations for membership. The important point to make is that the advisory committee is being established with the full support of the Ministers for Fisheries and Mines. This illustrates that the concern that these Ministers will not work cooperatively with the Minister for the Environment is without foundation.

Biological survey work has been conducted in the Jurien area to assist the advisory committee in its deliberations. Marine biological survey work in other areas suggested as marine conservation reserves has also been conducted on the south coast, in the waters around Bernier and Dorre Islands at Shark Bay and around the Montebello Islands. In addition scientific research and monitoring programs have been put into place in existing marine parks such as Ningaloo and Shark Bay.

Some concerns were expressed about the comments in the second reading speech that the Marine Parks and Reserves Authority will not be able to develop policies which review or otherwise affect fisheries management and that the marine authority will be referring policies that may impact on fisheries, aquaculture and pearling outside marine reserves to the Minister for Fisheries for consideration of appropriate action.

Given the responsibilities of the Minister for Fisheries under the Fish Resources Management Act and the Pearling Act the Government believes these constraints on the operation of the marine authority are justifiable. It is not appropriate for a marine parks and reserves authority established under the Conservation and Land Management Act and accountable to the Minister for the Environment to be able to take a lead role in fisheries policy or management. That is clearly the province of the Minister for Fisheries.

I regret that Hon Graham Edwards was disappointed with the second reading speech and felt that it was an insult to the Legislative Council. However, in my view the speech is faithful to the Bill and government policy. I appreciate the member's concern about the wellbeing of the Western Australian environment. The figures he quoted regarding the degradation of coral reefs around the world are a stark reminder of the need for strong action to protect the environment.

The Minister for the Environment regards the first report of the Legislative Council Select Committee on Cape Range National Park and Ningaloo Marine Park as a valuable contribution to the future wellbeing of that area. I have been advised by the Minister that a positive response to the committee's recommendations is intended in the very near future.

In conclusion, I reiterate the commitment made in the second reading speech that legislation will be introduced to the Parliament to provide for compensation where there is a loss of commercial value of the pre-existing fishing, aquaculture or pearling entitlement that cannot be renewed on expiry because of the creation of a marine nature reserve or a non-permissible zone in a marine park.

With those comments I hope I have made this Government's future direction on marine parks clear. I thank Hon Jim Scott for his support and that of his future colleagues. I have noted the points he made as has Hon Norman Moore whose strong commitment to the protection of the whole environment is obvious.

This is a valuable and important Bill. It is the beginning of change which will result in improved processes. I commend the Bill to the House.

Question put and passed.

Bill read a second time.

Committee

The Deputy Chairman of Committees (Hon N.D. Griffiths) in the Chair; Hon Max Evans (Minister for Finance) in charge of the Bill.

Clause 1: Short title -

Hon J.A. COWDELL: As I noted in the second reading debate we could pass this legislation only on the basis that it is an improvement on the present situation, I look forward to government initiatives to utilise the new structure to afford a significant level of marine protection. I look forward to the annual reports of the Department of Conservation and Land Management indicating significant progress from this point, utilising the new management device - the authority.

I will not, on behalf of the Opposition, be moving any amendments in this place. That is not to say that amendments will not be moved in another place. I will, however, use this opportunity to raise some questions of a generic nature which appear in various places throughout the Bill. I do not want to concentrate on them in one place because they appear in a number of places throughout the Bill. I have already indicated the Opposition's general concern about a range of clauses that it feels give undue influence to other Ministers. This is very clearly set out in the Minister's second reading speech in which he put this forward as a point of principle. Of course, such examples appear in a range of clauses throughout the Bill. The Minister said -

> However, I hasten to add that the event of a conflict or inconsistency with a marine reserve purpose will rarely occur, if ever, as I am confident that the significant safeguards provided to enable the Minister for Fisheries and the Minister for Mines to ensure that the interest of their portfolios are not compromised will prevent such situations from arising. These safeguards relate to the establishment of new reserves and management zones and the approval of indicative management plans and management plans in respect of marine parks and marine management areas which require submissions of those Ministers to be given effect in order to proceed.

It is a matter of concern with some of the clauses. It would appear that at the stage of a statement of intent, public submissions cannot be proceeded to without the approval of the Minister for Fisheries and the Minister for Mines. The Bill contains a number of such features, where these erstwhile protections appear to be excessive. If an area is

proposed for a reserv, it is open for comment. However, if the Minister for Fisheries and the Minister for Mines get to it first, a notice of intent cannot be publicly released; so it is stifled.

Hon Peter Foss interjected.

Hon J.A. COWDELL: I do not see that those clauses cannot be more liberal by allowing general comments rather than subsidiary comments. I note the Minister's comment that the regulation head power of the Conservation and Land Management Act will not be applied to provide for de facto control of fishing activities, for example, by way of regulating trawling when non-target species may be unavoidably taken as by-catch during the trawling operations. I could not find the relevant clause that gave effect to that assurance or on what basis it was felt necessary to provide such checks. It appears from the amendments that it requires only the approval of the Minister responsible for CALM to allow exploration in the most sensitive of marine nature reserves, and not the permission of both Houses of Parliament. I seek clarification that it is merely at ministerial discretion.

I notice in the amendments to the subsequent Acts that before granting, renewing or extending a permit, the Minister shall first notify the Minister for the time being charged with the administration of the Conservation and Land Management Act 1984. This amendment relates to the Petroleum Act and the Petroleum (Submerged Lands) Act. I would like some comment on the fact that it does not require consultation or consideration. It seems to be the lowest possible level - mere notification. I suppose that is better than nothing, but I seek some explanation for why there is not a more comprehensive consultative process.

I also note the intention that aquaculture leases now issued under the Conservation and Land Management Act in marine parks will come under the Fish Resources Management Act. I seek clarification of that amendment. I conclude on the point of the Opposition's general concerns which might be summarised by a clause of the nature of clause 17 which inserts new section 26D(4). This provision perhaps best exemplifies my concern; it reads -

> Reasonable notice of meetings of the Marine Authority shall be given to the Department -

That would be CALM -

> - and to the chief executive officer of any other agency which, in the view of the chairman, is concerned with a matter to be considered at the meeting, and no resolution purportedly passed at a meeting will be valid unless such notice of the meeting was duly given.

The authority will be hogtied to the extent that if appropriate notice is not given to the Fisheries Department or the Department of Minerals and Energy, it cannot even consider a matter.

Hon Peter Foss: It is better than having them on the authority.

Hon J.A. COWDELL: That may be the a case, but I note that in relation to the appointment to the authority, it appears that despite ministerial assurances to the contrary in the second reading speech, the non-sectorial authority will have sectorial dimensions. The former or late Minister for the Environment -

Hon Peter Foss: Erstwhile!

Hon J.A. COWDELL: The once and future Minister for the Environment, the Arts, the world and everything else was unfortunately absent on parliamentary business last night; had he been here he would have appreciated my contribution to the second reading debate on this matter.

It is a matter of concern to the Opposition that many of the clauses in this Bill are overly restrictive on the functions of the new authority, which I fully support. Regardless of those restrictions, at least we will have the authority. With some will on the Government's part, the authority may progress the cause of the conservation of the marine environment.

Hon MAX EVANS: We seem to have adopted a new procedure with a lot of questions asked under the short title.

Hon J.A. Cowdell: Be grateful!

Hon MAX EVANS: I am grateful; I want to do justice to them. Under present legislation, the Minister for Mines has no requirement to notify the Minister for the Environment of the grant, renewal or extension of a petroleum entitlement under the Petroleum Act or the Petroleum (Submerged Lands) Act or the CALM Act. This Bill will establish for the first time a process prior to notification to the Minister for the Environment, who is developing protocols in consultation with the Minister for Mines regarding the consultative arrangements which will follow notification prior to actual grant, renewal or extension. It must be borne in mind that the granting of a petroleum exploration permit does not constitute approval to conduct any specific exploration activity. The holder of the permit is required to apply to the Department of Minerals and Energy with a proposed program of activity for approval.

That is referred for consideration under the Environmental Protection Act. I note the comments of the erstwhile Minister for the Environment: He said it was better to be over-restrictive than to have no restriction at all.

Hon Peter Foss: It is a matter of granting a title. One need only be subject to the EPA.

Hon MAX EVANS: The regulation head power is very broad under the CALM Act and could without qualification extend to fishing matters. It was stated that aquaculture leases under the Fish Resource Management Act will be granted because of overlap with CALM's lease powers.

In relation to proposed section 26D(4), the marine authority is not to be given powers which will enable it to impinge on other responsibilities given under a different Act. Therefore, it is appropriate that the relevant chief executive officers interact with the marine authority.

Hon J.A. SCOTT: Will the reserves extend to cover shoreline areas? A lot of very important ecological features are found on the shoreline, in the mangroves and so on. These create a considerable protection for the shoreline and also are the breeding grounds for various species.

Hon MAX EVANS: As the marine park is in water, does it take the land above the water? Is that what the member asks?

Hon J.A. Scott: Yes. I also inquire about the impact of the activities on the land just above the waterline. How will that be managed as part of this package?

Hon MAX EVANS: Marine reserves can extend to the high-water mark and, where appropriate, adjoining land can be vested in the marine authority. Those mangrove swamps might be appropriated, even for half a mile inland, into a reserve.

Hon J.A. SCOTT: If there are pre-existing uses occurring on the land, such as a sewerage farm which may want to pump effluent into the ocean, can that facility be moved with compensation or merely changed?

Hon MAX EVANS: It is a fairly hypothetical question. I am advised that the answer is simply no. It depends on the circumstances of the case and the value to the community of whatever facility is involved.

Clause put and passed.

Clauses 2 to 31 put and passed.

Clause 32: Section 101 amended -

Hon MAX EVANS: I move -

Page 44, line 24 - To delete "licence" and substitute "permit".

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 33 to 62 put and passed.

Title put and passed.

Bill reported, with an amendment.

[Questions without notice taken.]

FAMILY COURT (ORDERS OF REGISTRARS) BILL

Introduction and First Reading

Bill introduced, on motion by Hon Peter Foss (Attorney General), and read a first time.

Second Reading

HON PETER FOSS (East Metropolitan - Attorney General) [5.41 pm]: I move -

That the Bill be now read a second time.

Background: In February 1997 the Full Court of the Family Court of Australia in the matter of Horne v Horne - unreported decision, 13 February 1997; PT 3069 of 1995 - held that a consent order of a Registrar of the Family

Court of Western Australia was invalid. For some years Registrars of the Family Court of Western Australia have purported to make such orders in matters such as maintenance payments, property rights and access to children. This arose out of amendments to the federal Family Law Rules which apply to registrars of state courts. The problem revealed was that Western Australian registrars' decisions were not reviewable by the Family Court. The Bill now before the House has been drafted to address the invalid consent orders made by Registrars, or Deputy Registrars, of the Family Court of Western Australia. It is desirable that the doubts that exist about the rights of a great number of people affected by such orders be removed.

Relationship to commonwealth legislation: Most people affected by the ineffective orders of registrars are, or were, married to each other. A smaller number of affected people are those who appeared before registrars where exnuptial children were involved. The solution requires a combined approach by the Commonwealth and the State to address the problem of ineffective orders in both cases. The commonwealth Attorney General has agreed to the need for a joint approach and has approved the drafting of commonwealth legislation along these lines. In short, the aim is for the commonwealth and state legislation to complement each other. Although the substance of the approach has been agreed with the Commonwealth, it is possible that in the course of drafting the commonwealth legislation, matters of form may be raised by officers of the commonwealth Attorney General's Department. Although it may become necessary to effect some drafting changes to the state Bill in a Committee stage amendment, or even to reframe it, I consider it necessary that the legislation should be made available as soon as possible to inform the public how the matter is being addressed, and to provide reassurance that it can be addressed successfully.

Wide consultation on the Family Court (Orders of Registrars) Bill has therefore taken place with both the state and commonwealth Solicitors General, the Crown Solicitor's Office, the commonwealth Attorney General's Department, and the Family Court.

Main Features: The approach in the Bill has not been to validate the past procedures but rather to give substantive rights and liabilities to the effect of the purported orders. The Bill declares that affected persons have substantive rights and liabilities in accordance with the tenor of the purported consent orders dealing with property, access and custody, amongst other matters, made by Registrars of the Family Court of Western Australia. That is, in the case of an order that a registrar has purported to make, the rights, liabilities, obligations and status of all persons will, by force of the Bill, once enacted, be the same as if the purported order had been made by a court having jurisdiction to do so. This approach, which was previously approved by the High Court of Australia in the case of R v Humby ex parte Rooney (1973) 129 CLR 231, is based on a recognition of the respective roles of the courts and the Legislature. The principle expounded in Humby's case has been approved by the High Court in subsequent decisions; for example, Polyukhovic v The Commonwealth (1991) 172 CLR 500 - see Mason C.J. at page 533.

Importantly, the Bill provides that the substantive rights and liabilities have effect both for past and future purposes. In this respect the Bill, once enacted, will allow effect to be given to whatever has happened to the ineffective order since the time it was made. Thus, any subsequent purported changes to an ineffective order will operate according to their tenor. The parties will not be left with the ineffective order as originally framed. Where a subsequent proper order of a court has taken effect, that order, not this Bill, will determine the status of the parties. In no way will this Bill render ineffective the effective and proper orders of a court.

Other Issues: The House should be aware that this Bill is part of a package of legislation which will soon be presented to this Parliament. Other important Bills include the family court Bill that is consistent with the recommendations arising from the report of the advisory committee on amendments to the commonwealth Family Law Act. The most substantial change to be dealt with in that Bill is that, where previously the mother of an exnuptial child was given sole guardianship and custody rights to the exclusion of the father, the Bill proposes that the parents have equal responsibility. That Bill will be accompanied by a Bill dealing with consequential amendments to a number of other Statutes.

To ensure that the situation being addressed by this Bill does not arise in future, the family court Bill will provide for delegation to registrars and review of their decisions by the court. Until these family law reforms are enacted, the registrars will not make orders. Orders made by these officers in their capacity as magistrates are not affected by Horne v Horne.

Conclusion: Although a package of Family Court legislation is yet to be presented to Parliament, it is important that the Family Court (Orders of Registrars) Bill be introduced now so that affected people in Western Australia are made aware of the approach proposed by the State and Commonwealth, and of the determination of the respective Governments to act. Even though the Commonwealth Government's legislation is still being developed, family lawyers in Western Australia will now be able to advise their clients on the basis that the Commonwealth will legislate in substance similar to Western Australia. I commend the Bill to the House.

Debate adjourned, on motion by Hon Bob Thomas.

LAND ADMINISTRATION BILL

ACTS AMENDMENT(LAND ADMINISTRATION) BILL

Cognate Debate

On motion by Hon Max Evans (Minister for Finance), by leave, resolved -

That leave be granted for the remaining stages of the Bills to be debated cognately.

Second Reading

Resumed from 26 March.

HON MARK NEVILL (Mining and Pastoral) [5.47 pm]: The Opposition supports the Land Administration Bill. I agree with the Minister handling the Bill that it is appropriate to deal with this Bill and the Acts Amendment (Land Administration) Bill cognately. This is the third time this Bill has been introduced in this House in one form or another. I am at a loss to know why the Bill was not debated before the last election. I do not believe there was a lot of argument about the content of the Bill, yet it sat on the Notice Paper for months and was not dealt with.

I would normally consider this Bill a committee Bill. It contains 281 clauses and the schedule contains 56 sections. This Bill had a long gestation. I first became aware that the new Bill was being drafted in 1986. It has been around for 10 years. It has not been easy to get the Bill to this stage. One group which has been fairly difficult to deal with is the pastoral industry and in retrospect it appears it would have been much better served by agreeing to propositions that were put to it in 1986. The propositions would not have been fully formulated in 1986, but when the Labor Party was in Government the pastoral industry knocked back better conditions than it has now because it thought that if there was a change of Government in 1989, it would get a better deal. The net result is that because of changes beyond the control of this and the previous Government it has probably missed out on a better deal. Be that as it may, it has to wear it.

The number of groups which have been consulted in the preparation of this Bill probably total 50 or 60 and cover all the activities in the State. One need look only at the Acts Amendment (Land Administration) Bill and see the number of other pieces of legislation which are amended by this new Land Administration Bill to be aware of the effect it will have on the community of Western Australia.

I said earlier this is a Bill which normally would be sent to a legislation committee, but it has been circulated to the public. The Government has kindly made a wealth of information available to the Opposition on the three occasions the Bill has been before the House. In this case it has probably been too generous with the information because I need a wheelbarrow to cart it from my office to this House.

The Bill obviously will be amended as the native title legislation evolves in the Federal Parliament. The Federal Government and, I presume, the State Government are looking at the Wik High Court judgment and are yet to address some of those problems. I do not believe that the passage of this Bill should wait until the debate on the native title legislation settles down because in some ways it seems to be expanding exponentially and I am not certain that that law will become sufficiently settled for anyone to predict there will be only minor changes to come. It is important that this legislation is brought forward now.

The Bill amends the Land Act 1933, which is now 64 years old. It is a fairly archaic Act and in that sense it is a bit like the Police Act which still languishes somewhere. The Health Act is another old Act that needs major surgery.

There is broad acceptance of this Bill in the community. No doubt there is some suspicion about what it does in respect of native title, but it in no way clashes with the federal Native Title Act. It cannot in any sense restrain the provisions of the federal Native Title Act anyway. Therefore, those processes will prevail irrespective of what is in this Bill. If anyone thinks there is mischief in the Bill it will not get him anywhere.

We have been told this Bill is the first stage in a two part program. It relates to land administered by the Minister for Lands and the second Bill, which I presume will be introduced next year, will relate to land administered by Ministers other than the Minister for Lands. This whole area of legislation is evolving and I would not be surprised in five or 10 years to see mineral titles coming under this area of administration. Instead of creating massive change and causing massive disruption these things probably need to evolve so people can absorb the changes.

Mining and petroleum titles are excluded from this Bill. They are dealt with under the various mining and petroleum Acts which are administered by the Department of Minerals and Energy.

The Bill covers three basic areas. First, it incorporates the road tenure provisions which were previously covered by the Local Government Act and brings them across in total. Second, the Land Administration Bill also incorporates

the compulsory acquisition procedures contained in the Land Acquisition and Public Works Act. Third, the Bill sets up a consolidated framework for land administration by providing a single registration system for crown land under the Torrens system which is set out under the Transfer of Land Act. The system being set up for crown land in the Land Administration Bill parallels the system of freehold title. In the process it makes the administration of title to land in this State much more efficient than it was under the Land Act. It also makes the whole system much more informative and it will be easier to find out just what is going on, particularly with crown land.

There will be two main types of title to crown land - a certificate of crown land title and a qualified certificate of crown land title. There will be no duplicate titles under this system. Where a road crosses crown land or is created a second title will not be required because basically the road will be crown land.

Sitting suspended from 6.00 to 7.30 pm

Hon MARK NEVILL: Before the suspension I pointed out that the Bill establishes two main types of title to crown land: A new certificate of crown land title and a qualified certificate of crown land title. It will be possible to endorse these certificates with all the rights, interests and encumbrances affecting each parcel of land the certificate covers. At the moment, there is no way to get that information except by searching the files at the Department of Land Administration, and that is a very slow and cumbersome process. We were told during the briefing that it takes about 13 weeks to process some grants of crown land. The title will also describe who manages the land and what easements, restrictions and covenants are in place. For any transaction to be effective, it must be registered.

The Bill also contains changes to the administration of crown land conveyancing. The Minister for Lands will make orders that will be registered on the certificate of crown land title. Previously these were dealt with by the Governor in Executive Council and the decision gazetted. The new system, where the Minister makes orders, is far more efficient, and interested parties will be able to search the orders through the DOLA land information system. The examples of the certificates that I have seen are in plain language and are very easy to read and follow. That is a welcome change from the previous instruments generated by the old Land Act.

Ministerial orders will not be subject to disallowance as they will not be considered subsidiary legislation under the Interpretation Act. Covenants and memorials will be able to be lodged on the certificates as will warnings concerning hazards, odours, noise and so on. Therefore, someone purchasing that crown land or lease will know exactly what problems are involved. Of course, it will be some time before that information is collated and we are confident that all the necessary information is on the titles.

Under this Bill, the Minister for Lands can dispose of crown land. The land must be advertised and there must be open competition in the bidding for the land. The land must be approved for release under the Town Planning and Development Act and comply with the requirements of the Mining Act. Any land disposed of will be subject to the normal conservation, environmental, Aboriginal and heritage issues. Before any land is disposed of, or before there is any change, there must be consultation with local government, if time permits; I think there is a qualifier.

The Bill is also subject to the commonwealth Native Title Act, so any disposal of crown land will come under the aegis of that Act. Reserve land is currently vested in various bodies - local government, the Aboriginal Lands Trust, and other incorporated bodies. This will be replaced by management orders. Those orders were previously called vesting orders, and we are told there is no difference between the two; it is a change in terminology. Those orders are not interests in the land as such.

New reserves that are created will have only one classification: A class. Generally, there is a movement away from A, B and C class reserves. A number of residual B class reserves will be preserved under the new legislation, but it appears that C class reserves will disappear. Land that is not classified as A class will be known simply as reserve land. All amendments to A class reserves are required to be advertised in a newspaper that is circulated throughout the State. I will make some more comments about that in Committee.

The second reading speech states that there will be a new regime with respect to A class reserves. I think in an earlier briefing on this Bill some of my colleagues and I pointed out that there might be some problems with the way the Bill deals with these A class reserves. This section was changed in the 1996 Bill. I cannot see any problems with it at the moment, but the shadow spokesperson for the environment, Dr Judy Edwards, is looking at this section, and if we believe there is a need for amendments, they may be moved in the other place. The requirement to advertise goes beyond what one would normally expect, so interested parties will be made well aware of any changes before they occur.

The second reading speech for the Land Administration Bill states -

> In the case of minor amendments to class A nature reserves, conservation parks and national parks, the consent of the Minister for the Environment is required in the first instance.

> The Government recognises the importance of class A nature reserves. Major amendments to these reserves will be undertaken only by an Act of Parliament. Conservation parks and national parks vested in and administered by the Department of Conservation and Land Management will continue to be amended by an Act of Parliament. Major amendments to class A reserves will be effected by tabling a proposal in Parliament. If no disallowance motion is lodged within 14 sitting days of tabling, the proposal may proceed. If a disallowance motion is lodged and that disallowance motion is not dealt with within 30 sitting days, the proposal will lapse.

Adequate safeguards are built into that part of the Bill, because it will do away with the Reserves Bill, which comes into the Parliament as a separate piece of legislation.

In respect of pastoral leases, the provisions conform with the Native Title Act. This legislation does not provide for a perpetual lease. The pastoral industry would have been better off had it accepted what it was offered some years ago; a lesson can possibly be learnt there. The Mabo No 2 judgment in the High Court indicated that native title could be extinguished by a crown grant of exclusive possession, such as a leasehold title. The Wik decision handed down recently followed the Mabo No 2 decision by examining a particular type of leasehold title - pastoral lease - to see whether its grant operated to extinguish native title. The Wik decision indicated that the grant of pastoral lease does not extinguish native title. The High Court was dealing with a pastoral lease in Queensland. There is no doubt that that decision applies to pastoral leases throughout Australia. In particular, it is quite clear that no matter what happens with the Wik decision, the Western Australian Land Act, which this Bill repeals, still has a reservation for Aboriginal access.

The significance of that Wik decision to the pastoral industry arises out of the right to negotiate procedures that must be followed under the Native Title Act. Between 1 January 1994 and 16 March 1995, the Western Australian Government granted Mining and Petroleum Act titles over land - some Land Act titles were probably involved also - which was the subject of a pastoral lease, without observing the right to negotiate procedures of the Native Title Act. This was done in the belief that a grant of pastoral leasehold extinguished native title. The validity of such titles has been in doubt, and many commentators have put the view that legislation is required to validate those titles. I am not sure how many of those titles have been granted under the Land Act. In some ways, the Wik decision was a fortunate one for Western Australia, in that it did not affect our pastoral leases because of the reservation under our Act. However, the decision affected every other pastoral lease in Australia. Other Governments which thought they had no problem were not all that interested. Now, they have become interested and we have seen Mr Borbidge, the Queensland Premier, behaving out of character -

Hon Max Evans: And Premier Carr is not feeling too happy about the cotton industry.

Hon MARK NEVILL: At least he is being a little more restrained in his comments, whereas the Queensland Premier is firing his shotgun at the High Court and everywhere else. Perhaps he should have been a little bit more forward thinking.

The Bill seeks to set up a Pastoral Lands Board which will replace the old Pastoral Board. The new board will include a government employee with expertise in flora, fauna or land conservation management. That is a very broad category because, for instance, a person representing land conservation management could be similar to other people on the board, and that would not expand the board's expertise. Perhaps comment could be made on that aspect in Committee.

The pastoral industry wanted the Pastoral Board to set the rate of rent. I think the Government has it right by not allowing that to happen. It would be like allowing the mining industry to set the rate for mining tenements, and we know what would happen if that were the case. The valuation of rents will be determined by the Valuer General. A concession to the pastoral industry is that the Valuer General will be required to consult with the Pastoral Lands Board on the economic state of the industry when he undertakes a valuation.

Hon Max Evans: The Valuer General has done a lot of research on the valuation of pastoral companies.

Hon MARK NEVILL: He has a good database, considering the modern computer facilities that are available these days. He has a good idea of the value of pastoral leases, and I think he will be able to provide fairly accurate valuations.

Hon Max Evans: Do you know that valuations are based on the number of head of cattle run on the property rather than the area of the property?

Hon MARK NEVILL: I am not sure of the criteria used. It could be a maximum stocking rate. In the case of Waterbank station which is close to Broome the Department of Land Administration made an offer which was rejected by the lessees. The matter went to arbitration, and the arbitrator arrived at a much higher price than was

expected by most people. That is fortunate for the leaseholder in that he is getting a premium for the property, but that decision will flow through into valuations of other pastoral leases; so they cannot have it both ways.

Hon Max Evans: He will get the benefit and someone else will pay.

Hon MARK NEVILL: Yes, that is a fact of life. The Valuer General must value the properties. While the pastoral industry has been under pressure the Valuer General has had other considerations to take into account as well. I am not sure that he would need to consult with the Pastoral Lands Board, but the Bill contains that provision as a concession to the pastoral industry. Any valuation can be appealed against under the Valuation of Land Act, which is available to everyone who pays land tax, as I understand it.

The Minister will have ultimate power to phase in any valuation by the Valuer General; so the valuation will not apply immediately. Again, the Bill provides that this be undertaken by regulation so that the pastoralists can have another go later. They will have about three fall-back positions. My experience with the Valuer General is that generally valuations are fairly accurate, and if a mistake occurs it is usually conceded and dealt with expeditiously.

I turn now to permits which will be granted for the use of pastoral land. I think this is a case of legislation catching up with practice. Certain practices on pastoral leases were not really for pastoral purposes. These have been undertaken by special purpose leases, and homesteads have been converted to freehold properties which can cause difficulty when properties are sold. That is the reason for this provision. I am satisfied that the necessary constraints are contained in the Bill. Permits can be granted by the Pastoral Lands Board for both pastoral and non-pastoral purposes. Permits will be subject to native title considerations, and an appropriate fee will be charged.

Under this legislation, ministerial approval will be required for the transfer of any pastoral lease comprising more than 5 000 hectares. I understand that this will ensure that there is no concentration of control on pastoral leases.

I move now to the land acquisition powers contained in the Bill. This part has been taken from the Land Acquisition and Public Works Act, which was amended in 1994 to update the provisions relating to the compulsory acquisition of land for public purposes. The amendment to the Act in 1994 followed a report of the Standing Committee on Government Agencies relating to the resumption of land by government agencies. I had the privilege to serve on that committee. However, I was disappointed in the way the matter was dealt with. Our recommendation was a separate land acquisition Act through which all agencies would operate, so that there would be one process. I think the previous Government intended eventually to include a provision covering all land acquisition in the new Land Administration Bill. This Government has elected to include a provision for land acquisition, but all the other agencies such as Westrail, Main Roads, Department of Conservation and Land Management and different statutory bodies have the power of resumption under their own Acts. They can do it in their own way. That is one of the situations the standing committee wanted to avoid. The Metropolitan Region Planning Authority did not even notify people whose land it intended to resume. We wanted to ensure that people knew their rights so that when the Government took their land they received full and proper compensation.

It was fairly obvious that people who had good legal advice received proper compensation, whereas people who did not have that advice were likely to receive less than proper compensation. If the Government resumes someone's home, causing the occupants to move house and the children to go to another school, the family is entitled to claim the cost of new uniforms, for example. A lawyer would give advice like that to people who can afford it, but the average person is not aware of his rights. It is a pity in some ways that we do not have a stand alone Act that all agencies must work through. Some will work through these provisions in the new Land Administration Bill and others will do their own thing under their own Acts. I am not convinced that is the best way to go. The provisions amended in 1994 improved the way that the public was treated when land was compulsorily acquired by government agencies.

In his second reading speech the Minister says -

> The Bill now provides that claims for prescriptive rights cannot be made against crown lands under the Prescription Act.

I am not sure why that provision is included in this Bill. If people cannot claim against crown lands under the Prescription Act I wonder how they can claim prescriptive rights. I think it involves some issues of prescriptive rights of Aboriginal people who may be affected by that provision. However, I do not understand the provision.

The Bill contains provisions limiting the liability of the Government with respect to crown land. I have noticed that the Bill does not contain a review clause, which is strange. I thought it was fairly standard practice these days. Most Bills contain a provision in the general provisions that the Minister be required to order a review of the Act, usually within five years, occasionally three. That review can be done by the department or by an independent body. I have

noticed that some reviews tabled in the House have been undertaken by departments. Reviews are of more benefit when they are done independently and departments offer their view.

I do not understand a number of provisions in the Bill. It is not clear what form licences and profits à prendre in respect of crown land should take, whether as a written document or an endorsement on a certificate. I will probably speak about those in more detail in Committee.

The drafting of this Bill has been a herculean effort. The Department of Land Administration has done a magnificent job. Each of the three Bills before the House has caused the legislation to improve dramatically, more in structure than in content. The Department of Land Administration can be proud of the legislation, which has caused many headaches to the Government, as it did to the previous Labor Government. As I said earlier, it appears to have widespread support within the community and is a reflection of what can be achieved from broad consultation within the community. I compliment all those people involved in bringing the Bill before the House. With those few remarks the Opposition supports the legislation.

HON KIM CHANCE (Agricultural) [8.07 pm]: I also support the legislation. I acknowledge from the beginning that this is legislation of more than considerable significance. Early in his second reading speech the Minister made it clear how important it is by referring to one figure alone; that is, that this Bill will affect 92 per cent of our State which is crown land. It is a significant figure because it is that alone which makes commonwealth legislation, particularly the Native Title Act 1993 and the Racial Discrimination Act 1975, more relevant to this State than any other, including Queensland, with which we normally compare ourselves, which is also significantly affected by those two Acts.

I mention those two commonwealth Acts not out of context, because some elements of this legislation have disappointed some people, me included. However, in the main at least, that disappointment arises from a set of circumstances that the State Government could not avoid. As Hon Mark Nevill said, this legislation had to reflect the reality of the existence of one if not both those Acts. That is not to say the disappointment is not real. Hon Mark Nevill mentioned that this Bill has had a long history. Indeed, I was a little surprised when I read that the history dates back only to 1988, because I thought it went back further.

Hon Mark Nevill: It was first started in 1986.

Hon KIM CHANCE: Perhaps the second reading speech missed some of the earlier history, and I thank Hon Mark Nevill for making that point. I can remember a succession of Ministers facing the difficulties this Bill has created for them in bringing together the sometimes disparate interests of pastoral landholders, if no other, and there are much wider implications. I recall Hon Kay Hallahan, when she was Minister for Lands, facing more than considerable difficulties and I know that our colleague, Hon George Cash, did an enormous amount of work on this legislation. Part of the landmark work he did on this legislation - the speech which indicated the current Government's general direction on pastoral leases - was released by Hon George Cash at a Pastoralists and Graziers Association conference in 1994. That brings me to the points I want to raise.

I make it clear at this stage that I will not discuss any part of the Bill other than that which affects pastoral leaseholders. Having recognised the contribution of past Ministers and having named two, I pay tribute to the work done by the Department of Land Administration. It is not easy legislation. Legislation dealing with land rarely is because it is an immensely complex area. DOLA, under both Labor and coalition Governments, has tackled this immensely difficult task with a tremendous amount of professionalism. The way in which it has handled this legislation not only deserves credit, but also is an indicator of the way in which it has managed its business through a succession of Ministers. It is always open to provide advice and assistance to people who need it, including members of Parliament, and its staff are always professional in the way they operate.

Hon George Cash: I support your comments. I might just say that DOLA was prepared to concede at one stage that the Local Government Act should take precedence over the Land Act. It cost us two years and in retrospect we should never have allowed that to happen, and the Land Act should have gone through years ago.

Hon KIM CHANCE: It is an interesting point. Hon Mark Nevill also suggested that things may have been different if an earlier action had been taken. I believe he may have been referring to land rights legislation in the 1980s. I have exercised my mind on that a little and I wonder what the situation would be post Mabo 1, Mabo 2 and Wik had any of those actions taken place. I am not sure of the answer because of some of the things we felt certain about in respect of pastoral leases. Certainly the Australian Labor Party at a federal level felt that the existence of the pastoral lease extinguished native title and undertakings were given by people such as Senator Bob Collins, then Minister for Primary Industries, that it was the case. The Prime Minister at the time, Hon Paul Keating, made similar statements. I do not believe they set out to mislead anybody. I had the benefit of speaking to Senator Collins in Broome last week after he addressed the Northern Cattlemen's Association conference, and he was very clear that it was the federal

ALP's belief at the time and its members feel badly about the fact that their advice led them to mislead pastoralists. Sometimes politicians, with the best intent in the world, cannot anticipate that a later High Court decision may overturn a decision.

Hon George Cash: No-one attempted to mislead the pastoralists. It was the Government's contention in the Miriuwung-Gajerrong case that native title was extinguished by pastoral leases. The court determined that was not necessarily the case and more work had to be done. We both shared the same view.

Hon KIM CHANCE: Yes. It is possibly not entirely appropriate to talk about the impact of the Wik decision, but it has an impact on this Bill - more in what it does not contain than what it contains. A couple of things need to be said about the Wik decision. It is very hard from a Western Australian perspective to argue that anything other than the Wik decision would be the outcome. I felt marginally uncomfortable about the assurances my federal colleagues were giving about the extinguishment of native title when the leases contained the fundamental elements of Mabo 1 and 2, in that they granted a form of early codification of the rights granted under the Mabo 1 and 2 judgments. That made me uncomfortable because if they were extinguished, what rights were granted under statutory or contract law in terms of the pastoral leases themselves? I understand the situation was entirely different in Queensland, and one could argue that the Wik decision had a different meaning there, not because the meaning in law had changed but because the circumstances were fundamentally different.

Nonetheless, we are in this position and we must accept that this version of the Land Administration Bill does not contain what all of us would have wanted for pastoralists. It contains elements which set out to achieve the aims that Hon George Cash, as then Minister, outlined in January 1994. I remember one of the main principles of that forecast legislation accurately, and Hon George Cash may wish to correct my second recollection. The speech by Hon George Cash at the time indicated there would be an improvement in the nature of the title of pastoral lease. I think even at that stage he went so far as to describe it as a perpetual lease, and the nature of the title would allow it to fit between the existing pastoral lease and fee simple.

Hon George Cash: It was to be a perpetual lease.

Hon KIM CHANCE: It was my impression in respect of the second matter and the higher value uses of small portions of a pastoral lease, that small portions could be excised from the existing pastoral lease and, in at least some circumstances, those excised portions could be held in fee simple.

Hon George Cash: In some special cases that could be dealt with by special lease or, say for a tourist facility, by freehold.

Hon KIM CHANCE: As a result of that, in the same year the ALP policy in Western Australia also changed. I will read briefly the two sections which apply to those two principles. I quote from the Australian Labor Party State Platform Constitution Rules 1995, page 267, item 46 under the heading "Pastoral Land Tenure" as follows -

> Labor will -
>
> Guarantee the right of continuous use of pastoral leases, under a more secure form of tenure such as will permit pastoral leases to be accepted by mainstream lenders as security for loans, provided there is full compliance with lease conditions.

Page 268, item 49, of the document reads -

> Labor will support the excision of discrete areas of pastoral leases and the release of that land as freehold titles to allow for the development of intensive horticultural and other intensive agricultural pursuits.

All that was missing in terms of Labor's then policy in comparison with the coalition policy, as the Minister articulated, was the reference to tourism, but this was more an oversight on our part than anything else.

Hon George Cash: The other special uses went across a wide range of commercial activity. It was tourism, horticulture across to a category that was not described in any particular way, but allowed the Minister to have a very special discretion for all the things we have not thought about today.

Hon KIM CHANCE: Exactly. With that in mind, we need to revise clause 49 of the policy document.

Hon George Cash: There is no problem in us recognising that originally Hon Kay Hallahan was involved with the Bill, then Hon David Smith was involved, as was Hon Barry House as our shadow minister - he put up propositions which were accepted by the pastoralists in those days. There was a combination of a number of things, and by the time I became involved -

The PRESIDENT: Order! The honourable member ought not be involved.

Hon KIM CHANCE: Thank you, Mr President, for being so generous to allow the interchange to last as long as it did.

Hon George Cash: There is some agreement.

Hon KIM CHANCE: Yes. People will read this debate to try to determine their futures, and it is healthy to have this interaction even though it may offend standing orders. People want to understand the meaning of this legislation and how it compares with what we are "all looking for", which I am attempting to define here.

We can now express our disappointment that all of those things are not in this legislation, notwithstanding that I have already said we cannot necessarily blame the current State Government for that fact.

The conference in Broome to which I referred was attended by Hon Tom Stephens, Hon Phil Lockyer, me, as well as the Minister for Lands and a number of other members of Parliament. The Bill was given a good reception. Generally, people were satisfied that it did what it could, but disappointment was expressed about the nature of the Bill's outcome in the two areas that we have discussed; that is, the nature of the form of tenure of the pastoral leases and the possibility of freehold excision for higher value uses.

It was at that point that I took up the discussion outside the conference with my friend Hon Phil Lockyer. He believes that the aspirations of pastoralists by and large will be met by the Bill. I did not want to argue the issue with him then, and I said I would read more thoroughly the information I had on the Bill. He agreed it was a good way of dealing with the matter, and that we would argue it out in the second reading debate this week.

Since that discussion I have obtained a Department of Land Administration briefing document called "Overview of the Land Administration Bill 1997", dated March 1997. I will read one short phrase which gives weight to my argument and reduces Mr Lockyer's. Page 16, in the third paragraph, reads -

> Contrary to earlier proposals for the reform of pastoral lease tenure, the Bill does not provide for perpetual tenure. Legally, a grant of perpetual leases to replace existing leases, which all expire in the year 2015, might be an impermissible future act under the *Native Title Act 1993*.

That is pretty much my point. The State Government can do nothing about that area, but two issues need to be mentioned. One issue is adequately covered further in the same briefing document, as this Bill gives something to pastoralists which previously did not exist. This is the reason for Phil Lockyer arguing as he did that it generally meets with approval from pastoralists.

Hon P.H. Lockyer: I never said it met them all - only all that we can legally do.

Hon KIM CHANCE: Put that way, the member may well be correct. Existing pastoral leases all expire in 2015 and it may be impermissible under the Native Title Act to grant a lease beyond that point. Three paragraphs down from the earlier reference, the briefing note reads -

> Until the matter of granting perpetual leases is resolved, new pastoral leases in the Bill will be limited to a term no greater than that granted under the existing lease. This restriction, based on the provisions of the *Native Title Act 1993,* will result in excisions of leases for terms varying between 21 and 49 years.

It is in that aspect, as well as another function of the Bill already mentioned by Hon Mark Nevill, that pastoralists can gain some form of assurance about their future.

The other issue which relates to Hon Mark Nevill's comment, and one of the outcomes of the Bill apart from the issue of pastoral leases, is that all crown land will be subject to the issue of a certificate of title. It could be argued that a pastoralist seeking accommodation from a lending institution could, by way of offering security, present that title as a form of security, but only to the extent that it would indicate the term of lease which the pastoralist had. He could say to the bank, "I am assured of another 35 years on this station."

It would have no effect whatsoever in terms of the bankable security of that station simply because all that information is contained in the pastoral lease itself. It is only the pastoral lease which is of any value to the bank in determining security of tenure.

Hon P.H. Lockyer: As well as goods, chattels and stock.

Hon KIM CHANCE: Of course. If the lender is a prospect lender - and very few lenders base their lending purely on security, as that is nineteenth century stuff - he wants to know how long a business can continue operating, and what security it has in operating on that land. If the pastoralist is seeking a loan over 15 years, the bank would reasonably want to know that the pastoralist or loan applicant had 15 years' clear operation remaining on the lease.

Hon P.H. Lockyer: It is important to know that 90 per cent of pastoral loans are financed by stock firms, not banks.

Hon KIM CHANCE: Indeed. That very good point supports my comment that stock firms are fundamentally prospect lenders. It is rare for a stock firm to take security over real estate. They work on stock sales, security and the animal population of the property. They are interested in for how long the lease will run, not so much in who owns the land. That issue needs to be borne in mind. It is an important issue. Nonetheless nobody could argue that if pastoralists were able at some time in the future to gain a secure bankable tenure over the land in one form or another - I am not advocating freehold - their capacity to borrow would be stronger and the patience that their lender may have with them may be extended by the knowledge of that fact, simply because its shareholders' funds will be more secure in the event of a major failure.

The second point, which is rather more important and, if anything, a touch more controversial, is the issue of the excision of small areas of land from a pastoral lease for what we can describe as higher value uses. As was indicated in the exchange between Hon George Cash and me, these range from horticulture to viticulture to tourism purposes to any other uses which may not be even contemplated at this stage, including airports and other uses. It is not clear in my mind that the existence of the Native Title Act prevented the State Government from including in this legislation the power to excise land in fee simple. It has not done that.

Division 5 of part 7 of the Bill is very prescriptive about what it does. Division 5 is that part of the Bill that deals with the capacity of the Pastoral Lands Board to issue permits for those other uses up to a stage - I am paraphrasing here because this is probably a matter better dealt with in Committee - where, in circumstances in which a large amount of capital will be expended or the land use is clearly not in line with the normal pastoral use of the station such as for a major tourism development - El Questro is an example that has been used quite often - a special lease will be issued on the excised portion of the pastoral lease on which the development is established. It is this issue that is the more controversial generally in the community for a range of reasons. However, it is also the one about which the pastoralist with whom I spoke privately and at some length in Broome felt the most uncomfortable.

I suppose it was best argued by one delegate, Mr Tim Darcy from Carnarvon, who said it is all very well to tell people to make their pastoral leases more economically viable by developing other enterprises on their pastoral leases. However, he asked what sort of a mug he would be if he invested $1m or $2m on an intensive development of any kind - he may have referred to aquaculture - without the knowledge that he owned the land unquestionably. Further to that he asked who would lend him the money to do it if he could not guarantee the lender that the land on which he was to spend the lenders' money was secured and bankable. He had a very good point.

Hon B.K. Donaldson: Are you talking about security of tenure?

Hon KIM CHANCE: Yes. His argument was that that can be delivered only by freehold. Perhaps he could accept there are alternatives, particularly in the area of the special lease arrangements that have been referred to already. It is arguable that this legislation's special lease provisions can provide that kind of security. However, if that were the case it would have to be explained carefully to people because there is a range of expenditure options which are involved in higher value uses of those small areas of land which will not qualify for treatment as a special lease excision. They will be dealt with as operations under permit occurring on the pastoral lease. That will include a wide range of irrigation projects, including fodder growth and horticulture. I am not too sure what it costs to set up a large irrigation system. However, I doubt there would be much change out of half a million dollars for the whole operation. The expenditure of half a million dollars on land held under a pastoral lease is a very significant and somewhat courageous commitment for somebody who is not able to say to him or herself or to the lender that he or she owns the land that it is on or that this investment is secure.

When I said that I believe the State Government may have fallen short of the options that were available to it, I believe that this is an instance in which the State Government could have provided in the legislation for either a wider range of special lease applications or included the possibility of freeholding. Having said that, I understand that that would bring this legislation not necessarily into conflict with the Native Title Act and the Racial Discrimination Act; but with a future Act in terms of the definition of the first of those two Acts. It would probably be a good thing if that happened because it is time that we tested in a court of law what is the value of native title on the excised portion of a pastoral lease.

I do not suggest for one moment, as some delegates to the Pastoralists and Graziers Association conference in Broome did, that we should test this by seeking the extinguishment of the whole of the pastoral lease because the value of the rights granted under the Native Title Act to the persons who hold the rights may well far exceed the commercial value of the station to everybody else. Members may have to read that in the *Hansard* to understand what I mean. We apply a commercial value to the rights of occupation which are granted by the pastoral lease over crown land. That value has a readily identifiable rate of exchange; they are bought and sold every day. However, that value may have no reflection whatever on what value of the rights granted by native title may have to the traditional titleholders. It is rather like saying St Peter's Basilica in Rome may have a value to Hungry Jacks, but to the Christian community of the world, it has a value inestimably higher.

I do not think the question of extinguishment of native title is an easy thing to settle and I would not challenge any Government, at this stage of uncertainty in the law, to take on that matter head on. However, in respect of a small excision - an area of some 800 hectares in a station of 400 000 hectares - it is fair to ask to what extent materially are we impinging on the rights granted to any present or future native title holder by excising that tiny percentage of the station. I think it is worth testing. This legislation may give us the opportunity of testing that because it includes those special lease provisions and at some time in the future we may have to face that matter in the court. I argue there is a quantifiable value and that quantifiable value, unless it is a sacred site or site of special significance, will probably not be all that high. Until we find that out, I do not think there is a helluva future for the north.

I am genuinely concerned about the economic future of pastoral leases. It might be said that pastoralists feel a bit friendless from time to time because few people share their problems. I do not think that is entirely true. Pastoralists have many more friends than they imagine. This is not an issue about whether the 400 or 500 pastoralists in Western Australia have an economic future but about who is to occupy that country. Unless we have the pastoralists out there, I am worried that we will have nobody occupying that country. I see, the last Labor Government saw, and I am pleased that the present coalition Government sees, that the only way we will be able to ensure the economic viability and continued occupation of that country is by the means that are enclosed in this Bill and that have been parts of earlier statements of intent, such as that I referred to from Hon George Cash in 1994. We must change the way we are using the country. If we have a problem with the two commonwealth Acts, let us try to face up to the problem rather than running away and adopting the emotional response, which some have, that we have to change the law in order to take away people's rights, which is something I reject totally, as will everyone of my colleagues. Let us face the real problems and try to quantify the real issues, aims and aspirations of present or potential native title claimants. If it were put to traditional owners of the land that of this 400 000 hectares we intend to excise 800 ha but possibly the intensive and extensive irrigation project may well provide 10 or 15 of their people with long term, satisfying and rewarding jobs, there would not be a helluva problem with a compensation claim under the future Act's provisions. I do not mean to seem to be challenging the State Government to do that, but I hope the State Government, with the involvement and support of the Opposition, will move towards trying to sort out those difficult questions.

One of the most inspiring speakers at the PGA conference in Broome, of which there were a number, who got the longest and loudest round of applause was the Kimberley Land Council chief executive officer, Mr Peter Yu. He was able to talk in terms that the pastoralists could identify with. They identified with the aspirations that he held on behalf of the Aboriginal people in the Kimberley. If we can go on talking in that way, I believe no problem is too big for us to resolve. I may have strayed a little from the letter of the Bill but I do not believe that I have strayed from its spirit. The Bill contains provisions which can allow us to deliver outcomes which until now we have not been able to face up to. We have turned and walked away from them. I support the Bill, even if it should be more prescriptive. I am sure the Government would also like it to be more prescriptive. However, it is a good start and I hope it promises some future for northern Australia.

HON P.H. LOCKYER (Mining and Pastoral) [8.44 pm]: First of all, I congratulate the Government for finally bringing this Bill into Parliament. I have felt at times over the years through the periods of two Governments that this Bill has had more appearances than most I can remember.

Hon Kim Chance: More appearances than some members.

Hon P.H. LOCKYER: Yes. This is a large Bill. I want to deal with part 7, which deals with pastoral leases. I particularly want to congratulate Hon George Cash because when he was Minister for Lands he was the driving force behind getting some sort of agreement for the pastoral industry. At that time when he discussed the Bill with me at length, I suggested to him that we should take the proposed Bill to the whole of the pastoral areas of Western Australia. After a lot of organisation we decided to go to major centres in the State and write to every pastoralist, inviting them to attend the centres. Regrettably, the night before it was to happen, Hon George Cash became ill. I was then faced with the task of going to every pastoralist. We presented the proposed Bill to an enormous turnout of pastoralists. It was the biggest turnout I have seen in my political life, and I have been a great supporter of the pastoral industry, as members will know. The big turnout occurred because they were very apprehensive about what we were to do. They were very keen to find out what was in the Bill. They gave us unanimous support.

As Hon Kim Chance said very succinctly a moment ago, the Bill is not perfect but there are very good reasons, strong legal reason, and native title reasons not the least, that this is the maximum that any Government can do in the present circumstances. As Hon Kim Chance said, 2015 is the year when all pastoral leases become due. That is only 18 years away. Many pastoralists who have been in the industry for a considerable number of years want to make plans for the future. They have families coming on and have decisions that must be made for the long term. It was absolutely urgent that some form of tenure be offered. This Bill gives pastoralists, depending on their specific leases, from 21 years to 49 years from the year 2015. That is the most important step, because at least it gives them the sort of future they can plan towards.

I was very interested in statements made recently by the banking industry. It made it quite clear that regardless of the sort of title that pastoralists had, it was quite satisfied with the present arrangements and it could do business. As I interjected to my good friend a moment ago, most finance in pastoral areas is done by stock firms, admittedly at rates not as competitive as the banks. Thank God we have the stock firms otherwise there would be no pastoral industry.

Hon Kim Chance: They also do not have the upfront costs that the banks have.

Hon P.H. LOCKYER: That is probably right, but if it were not for the Elders, the Dalgetys, the Wesfarmers, the Western Livestocks and those sorts of stock firms, there would be no pastoral industry. Those stock firms risk their funds to keep these people going. I always remember a comment that Hon Ross Lightfoot made when he had the very prosperous lease of Mooloo Downs in the east Gascoyne. He told me one night that he simply booked everything up to Elders. Everything that would come to his property would come from Elders and then he would sell his wool through Elders and Elders would deduct what he owed and send him the remainder. That is how all pastoral properties have operated for a considerable number of years. That is how it will happen in the future. Members may not be aware, but the present arrangements with pastoral leases, if one follows them to the letter of the law, mean that one can run sheep or cattle - that is it. If one applied the letter of the law, a number of pastoralists in this State would have their pastoral leases taken off them. Some requirements are that one must keep up certain improvements on properties. A property owned by an Aboriginal group outside Port Hedland comes to the attention of the newspapers and the general public from time to time.

Hon Tom Stephens: And extremist members of this Parliament.

Hon P.H. LOCKYER: Not me. I know that Hon Tom Stephens is not referring to me, because I know that his good manners would preclude his referring to me as extreme. There would be a problem if that law were applied evenly. I made it clear to the Minister for Lands at the time, Hon George Cash, that he should tread easy as many pastoral leases are in pretty sad shape because the industry is in considerable trouble. Cattle prices are at their lowest ever, the wool stockpile is 1.7 million bales, and apart from live sheep exports, sheep prices are at an all-time low. It is difficult to make a living from wool. I am about to enter the rural industry and sometimes I wonder whether I am stark raving mad. It will not always be like that. We should give pastoralists the opportunity to do something other than run sheep or cattle. That will not fix their problems overnight. Not all pastoralists can turn to horticulture. Their water might be bad, and their supplies marginal, so they cannot grow anything else. Not all pastoralists are in a position to attract tourists to their property. Some are successful at it. Warra station, which is north of Carnarvon, and other places will be successful, particularly coastal places. El Questro in the Kimberley has become world famous for its tourist operation.

Hon Tom Stephens: You would be a regular visitor.

Hon P.H. LOCKYER: Unlike Hon Tom Stephens I am unable to afford the tariff.

Hon Kim Chance: And former Speakers of the Legislative Assembly.

Hon P.H. LOCKYER: Mrs Stephens informed me the other day that she and Hon Tom Stephens are regular guests in the bridal suite at El Questro. My wife and I camped there in a tent! Wooramel station in the Gascoyne is successfully growing grapes. The opportunity should become available for pastoralists to do these things. There may be avenues we have not even thought of. Hon Doug Wenn spoke of the possibility of aquaculture. However, it will not be the magic wand. Pastoralists want a reasonable return for their wares, and rain. Most pastoral areas of Western Australia have rain. However, the commodity prices are dreadful. Members of all political persuasions went on a historic tour of the drought areas in the east Gascoyne and saw how those stations of half a million acres are run by mum and dad. They do not have an enormous staff and it is nowhere near as glamorous as it used to be, if it ever was. It is a tough way to make a living, but there are people who want to do it. We should encourage them.

The Government as the landholder has a responsibility to look after the rangeland. One does not need to be an Einstein to work out that over the years a large proportion of the pastoral areas of Western Australia have been overstocked. Although tremendous steps are being taken, particularly by land care groups, to offset that damage, much of it is permanent.

It is absolutely essential that the new Pastoral Lands Board - a revamped and expanded Lands Board - carries out its functions. Its task will be enormously difficult in the next 10 years, because it will have to get a handle on pastoral leases in the State. It must ensure they are run properly. It will have to make decisions that at times will be unpalatable for the board and for the Government of the day. However, if we do not tackle the pastoral industry properly the Government of the day will not be doing its job. And as I read the Bill, and from the assurances I have been given by both Hon George Cash and Hon Doug Shave, we have a responsibility to do these things.

As Hon Kim Chance heard at the Pastoralists and Graziers Association conference in Broome, the pastoral industry is ready for the challenge. Pastoralists know they have to work smarter. They know they have a responsibility for their properties. I have every confidence in the industry that that will occur. I was particularly impressed in Broome by the apolitical approach that was shown by both sides of the political fence. I commend the pastoralists and graziers for taking the trouble to invite both sides to attend. Two of the most impressive speakers were Senator Bob Collins, the former Labor Minister for Primary Industry, and Senator Nick Minchin, who represents the Prime Minister on the issue of native title.

Hon Mark Nevill: Graeme Campbell told me he was impressive.

Hon P.H. LOCKYER: The senator is never unimpressive. He is colourful. We need blokes like him. He asked some questions which assisted the conference. However, apart from the odd occasion there were no angry outbursts from pastoralists or Aboriginal people. They put their points of view and it was a very good debate. They did not agree on everything and to this day there is a lot of disagreement. They realise they must live together. The problem is to find common ground to do that. I have no magic wand. Until we come to some arrangement with the native title problem, perpetual tenure will not even be a dream, because it will not be available. In addition to reconstituting the board and allowing leaseholders to change the land use, the rest of the Bill contains minor changes. It is a step in the right direction and it was demanded by the industry. This will give its members that extra tenure that will enable them to plan.

It is a great thing that the Opposition has seen fit on this occasion to support the legislation. This is the fifth year that I have gone off to conferences in the bush and have had to explain why what they were promised five years ago was still winding its way through the Parliament. I was happy this afternoon that the Minister for Lands said that he expected the Act to be proclaimed in October. He told the pastoralists and graziers conference that there were problems and even if we got the Bill through the Parliament the proclamation might not take place until early 1998 because of the enormous changes to the Land Administration Act. He has received further advice and assures me that given a smooth passage through both Houses of Parliament - I cannot presume for the other House but I presume it will pass through the Legislative Council - this can become law by October this year. I thought that if that were possible I would leave this Parliament a relatively happy man.

I feel for the pastoral industry. I have always had an enormous amount of time for it. It comprises a band of individuals who have chosen a lifestyle that not everyone would enjoy. However, over the years they have by and large made an enormous contribution not only as contributors to the wealth of Australia but as the custodians of the land. They are the best people for that job. Most pastoralists jealously look after their land. We often talk about the problem of Aboriginal people coming onto pastoral properties. The operators of an enormous proportion of the properties in this State have arrangements with Aboriginal people to come onto those properties, and those arrangements have been in place for literally decades. That arrangement between the lessee and the Aboriginal people works very well indeed.

Hon Tom Stephens: That was preceded by an arrangement where Aboriginal people allowed the pastoral leaseholders to go onto their land.

Hon P.H. LOCKYER: That is arguable; however, I am making the point that when there is an altercation, as there is from time to time, between the pastoralists who for one reason or another will not allow a group of Aborigines on their property, as has happened at Fitzroy Crossing, unfortunately that isolated incident finds its way into the headlines, notwithstanding that an enormous proportion of the rest of the people can come and go as they like. Arrangements have been made that are to the mutual benefit of both sides. These arrangements have been working for many years, and I have no doubt they will continue to work in the future. I will put to bed the notion that there is a black versus white situation on all pastoral properties. I simply do not believe that is right. On the majority of occasions, these people have worked in enormous harmony for a great number of years. Even Peter Yu from the Kimberley Land Council told the conference he agreed with that. He said that harmony has existed for a very long time and this matter can be resolved.

Mercifully this Bill looks as though it will find its way through the Parliament on this occasion. Unfortunately, the proroguing of the last Parliament precluded this legislation from being considered for proclamation at about this time. With a bit of luck it will happen now. I encourage the Parliament to pass this legislation as soon as possible.

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [9.01 pm]: This Bill is about many things, one of which is the pastoral leases of Western Australia. I was pleased that this week I received answers to some questions on this topic for which I have been waiting for a little while. The flow of information from the Department of Land Administration has been particularly impressive in recent times, indicative of its much greater level of efficiency as a department. Increasingly it seems to be getting on top of the database concerning land in Western Australia, and it deserves to be given some credit for that. The former Department of Land Administration

was notorious for its inefficiency for a whole range of reasons, not the least of which being its sluggishness in providing information. Interestingly the flow of information about land issues in Western Australia is now available through DOLA. The speed with which it can come forward with information is impressive, and I do not mean just in the recent answers to my questions.

We are told that 563 pastoral leases form 533 stations in Western Australia; that only 263 stations are listed as being owned by individuals; that 26 stations are owned by individuals or business entities from other States of Australia; and that 15 of the pastoral leases are either wholly or partially owned by overseas interests. I asked another question about how many pastoral leases are owned by the resident owner manager. Regrettably that piece of information was not available. The response was that the pastoral board does not have statistics available to define which pastoral stations are owner managed; that many pastoral lessees appoint managers to run these stations on their behalf; and that the information is not required by the pastoral board. That is a pity because that information should be kept and be available to the Government at any time.

Hon Kim Chance: We did hear figures in Broome about owner operators.

Hon TOM STEPHENS: At that point I regretted I was not in a position to take notes.

Hon Kim Chance: I remember the figures: There were 60 owner operated pastoral stations in the Kimberley, 43 of which were Aboriginal stations.

Hon TOM STEPHENS: That is an interesting statistic.

Hon Kim Chance: The source was Peter Yu.

Hon TOM STEPHENS: That is right. I did not have the good fortune of being at the conference when my colleague Senator Bob Collins spoke; however, the previous day I was extremely impressed with the contribution made by the executive director of the Kimberley Land Council, Peter Yu, to which speech Hon Phil Lockyer has already referred. To be quite frank, it was the best speech of the day. It demonstrated his enormous knowledge of the issues affecting the pastoral industry in the Kimberley region, the economy of the region, the need for interdependence and the reality of the interdependence between the Aboriginal people and the pastoral leaseholders.

I will touch on that question, in part. Debates in this Parliament about the pastoral leases of Western Australia have been frequent. I carry a little of the history of this place by virtue of my having been around for a while. However, I am very conscious of the fact that the history of the parliamentary debates on pastoral lease holdings goes back decades. We are discussing these questions without adequately, of necessity, delving into the history of how these issues were touched upon in the debates in this place effectively for a century. From time to time I have delved into those debates and into the history of this matter. In particular, I refer to the history done by Geoffrey Bolton in his doctoral thesis, and others who have gone over the origins of those people who were able to take up grazing licences to run their stock on the vacant crown lands of Western Australia, to run cattle across the great open plains of Western Australia, to construct what they needed - a house, some fencing or other facilities - to make it possible for them to function as the holders of a grazing licence. That is how the process started, as has been assessed by the courts. Effectively they were simply given a licence, nothing much stronger.

It is important that in the processes of sorting through these issues we do nothing that would significantly disadvantage all of Western Australia - I am not suggesting this legislation does that; I am pleased it does not. It would be an enormous disadvantage to Western Australia if we were to make the people with grazing licences responsible for the equivalent of a freehold title. Some of these grazing licences cover large parts of the Western Australian coast as well as many of the natural attractions of Western Australia. In my view, having a grazing lease does not mean that the licence holders should have a monopoly over other economic activity in relation to that coastline or those magnificent natural features. When mining companies want to take up activity on those land holdings, they should not have to treat those lands as though they were held under a firm farming freehold title; they are not that.

Hon P.H. Lockyer: No State Government would contemplate that.

Hon TOM STEPHENS: That is right. The mining industry has the opportunity to conduct its economic activities on land holdings over which there is a grazing licence for running stock. As well as that, great geographical features are of enormous economic interest to this State. Places like El Questro station are important locations for tourist activity. I am amazed that tourist activity seems to have been developed on that pastoral lease without any apparent conversion of the licence to graze cattle to permit this investment of enormous amounts of money. The holder of the grazing licence has a few cows and horses in a paddock for dude ranch activities. That is the extent of his pastoral activities. However, a multimillion dollar tourist operation is now established on El Questro on a piece of land with which I was familiar prior to the activities of Will Burrell. It is not the way to go about business and the Government

should not allow this to occur in this way. If the Government wants an economic activity, such as pastoral leases, to overlay a tourist activity, it is obligated to put it out for expressions of interest to see who would be the best person to conduct tourist activity and investment on those lands. I am convinced the Government could not have got anyone better to run El Questro than Will Burrell, who has invested a fortune in the place. If the Government had held it out for expressions of interest, it would not have received a better return on the location than what has been achieved. However, I fear that was the result of good fortune rather than good management. Regrettably that will not always be the case. As I have hinted from time to time in questions I have asked former Ministers for Lands in this place, that region contains waterholes and natural features that I know well. They should not be handed over automatically to the holders of a grazing lease to conduct tourist activities that are not necessarily obtaining the best return on the natural features of our national estate - the estate that is owned by all of us. Regrettably some pastoral leaseholders are developing tourist related activities around waterholes without adequate permission from anyone and they are doing enormous damage to those waterholes.

Hon Derrick Tomlinson: They are certainly not doing it with anyone's permission.

Hon TOM STEPHENS: Regrettably they are erecting sheds and shanties.

Hon P.H. Lockyer: By the letter of the law they are not supposed to.

Hon TOM STEPHENS: That is right, but unfortunately they are doing it.

Hon P.H. Lockyer: This legislation will clean that up. It will not be a pleasant task for the new lands board. It will have to deal with those cases individually. Anything there will have to be approved or removed.

Hon TOM STEPHENS: Hon Phil Lockyer's comments are important. I hope he is speaking with the full authority of his Government.

Hon P.H. Lockyer: Let me make it clear that I am speaking from my reading of the legislation.

Hon TOM STEPHENS: I hope that is the way the Bill is understood by the Government, by industry and by those who might have the good fortune to administer this legislation.

Hon P.H. Lockyer: Another good point is that it applies to everybody; that includes the Aboriginal pastoralists.

Hon TOM STEPHENS: That is right. Everybody should know where they stand in the way they conduct their activities on pastoral leases. It becomes an important issue when people make application to convert their grazing licences into something else. Can I be assured that there is some threshold at which it no longer becomes just a permitted use to move to, say, small scale agricultural activity or tourist operations that somehow augment the economic activity of the pastoral leaseholder? That is, however, a reasonable proposition, and by and large we would support that because in many places it is done marvellously. For example, the Lacy family of Mt Elizabeth station operate their pastoral operation in a marvellous way. They are dinky-di pastoralists. No dude ranch activity goes on at Mt Elizabeth. Peter Lacy is the second generation on the station. Frank Lacy, the founder of the original lease, and his family have a genuine pastoral operation. However, to augment the income associated with running their operation in that area they have had the good fortune of being able to attract tourists.

Hon P.H. Lockyer: It is called survival.

Hon TOM STEPHENS: Yes. However, in that survival process some, like the Lacys, do it without causing any damage to the environment in which they operate. They are probably more sensitive to the environment than their visitors, such as some of the scientists who enter the area and demand that there be biosphere reserves to protect the land around the pastoral lease and then trundle into the area in their four-wheel drives, doing more damage than would be done by the local pastoral leaseholder.

Hon P.H. Lockyer: Do you support the fact that this land Bill specifically excludes Dirk Hartog Island? People on several pastoral properties were advised their leases would not be renewed.

Hon TOM STEPHENS: I support that. I am pleased that the Waterbanks issue was resolved independently of this legislation and that it was acquired by the Government rather than renewed as a pastoral lease operation. That would be inappropriate. However, the way it was acquired and the price paid for it leaves the assessment to be made that because people own a pastoral lease on the coastline, the grazing lease is worth more because it is on land that has economic potential for something for which the people do not have a licence to do anyway.

Hon P.H. Lockyer: They are long term lessees.

Hon TOM STEPHENS: Yes, and they are very nice people; I like them a lot. Nonetheless, what signal is the Government trying to give out? Is it saying that a grazing leaseholder by virtue of being on land that is on the coast

and that could be utilised for economic activities such as tourism operations, which the leaseholder has no right to conduct without an extra licence -

Hon P.H. Lockyer: The lessee is a very good negotiator.

Hon TOM STEPHENS: Perhaps he is. In any case, the matter was settled by arbitration and I gather that money has been paid. I hope the family is happy with what they got. I hope the Government is not suggesting that the leaseholders have something that they have not; that their licence to graze cattle is anything more significant than that and that it guarantees them the opportunity to do things other than graze cattle. It is a tricky question, and members should not pretend otherwise.

Another example is the Dixon family of Margaret River. Doug and his wife Mary have been in Margaret River for a long time and they operate a good pastoral business. I am sure they want to spend their days on their land. Perhaps at some point they may want the opportunity to stay on that part of the land on which the homestead is constructed, but not necessarily retain the pastoral lease. It creates a complication. Members are aware that freehold titles are no longer associated with the homestead. The Department of Land Administration does not allow the leaseholder to have freehold title of the homestead area. Even if a pastoralist was successful in obtaining a freehold title, it would have to be transferred at the same time as the pastoral lease. It causes difficulties and I am not sure that they will be resolved by this Bill. However, it is at the discretion of Government. People like the Dixons, who have a good case, will have to convince the Government to do otherwise. The Government would have my support if it did that. There are other examples of where it would be appropriate.

I understand the point of view put to the Pastoralists and Graziers Association in Broome by the representatives of the Kimberley Aboriginal Land Council was that the Aboriginal people of that region do not want anything they are doing to adversely impact upon the interests of the leaseholders in that region. They recognise they can co-exist and they want to continue to do that. Their interests must be accommodated. When other activity is to be developed on the land over which they have legitimate native title their rights and interests in that land should be taken into consideration. They should have the opportunity to negotiate that process. If the activity is to be pursued and the native title interests are diminished the natural consequence which flows from that would be compensation. Originally the Government spoke about indemnifying all land titleholders from the compensation process which would flow from the recognition of native title. However, I understand the latest position adopted by the Government is that people who conduct activities on the land which diminish the native titleholder's interest in that land will have to bear the cost of that compensation. If that is the way the Government chooses to go, it is entirely up to it.

It should be made very clear what this Bill means. Throughout history applicants have been granted a title for grazing licences, but they did not convince Governments or the Parliament to do anything more significant than give the grazing lease capacity. As a result, other people, including the original inhabitants, have not had their rights to the land over which these leases are held extinguished or diminished in any way. In fact, over the years the land Acts have included covenants which protect the rights of native titleholders in Western Australia. It is by virtue of the covenants within the Acts that Aboriginal people have not had their native title interests in land over which there is a grazing licence extinguished. In all these circumstances, Aboriginal people are fortunate because of history. Western Australia is also fortunate because it has had the opportunity to resolve these questions without having seen the interests of Aboriginal people extinguished by virtue of being on land on which activities are undertaken by people by virtue of their grazing licences.

I hope, as we move into this new regime that the Government and the people who administer the Act will recognise that when people want to conduct other activities on these landholdings that they do so by way of application. If the activity impacts economically on the land the licence should be put out for tender. Other people with an interest in making economical use of the land should have an opportunity to apply for the land. It should not automatically go to the owner of the grazing licence. I understand that is what the Government is doing by virtue of this Act. In those circumstances, it is a reasonable reorganisation of the process and it will not impact upon the State's economic interests or the interests of others who have a real interest in land.

I value enormously the activity of the pastoral industry in Western Australia. I know what a tough life so many of the people in the industry have. Many of them are very good friends of mine and some are family. I have worked in the industry quite hard in recent years and I have enjoyed the work enormously. I appreciate the sentiments expressed by Peter Yu on behalf of Aboriginal people when he said that no two sections of the community could have more in common than the pastoral industry and the Aboriginal people. They both appreciate the country and the issues with which the people in the bush are faced. These issues create the opportunity for greater cooperation between these two sections of the community. There has been a history of cooperation, albeit some of it has been bitter. That history has been incorporated into a tradition which, by and large, has resulted in a reasonably good relationship between the pastoral activists and the Aboriginal community. Regrettably, it is not in some cases a rosy picture, but by and large it is not bad.

I am pleased that the Minister for Lands is moving in the direction of granting excisions from pastoral leases. It is a great development. I am intrigued to find that the Government originally proposed to have this Bill passed through this House quickly, but not proclaim it until July next year. I note the Minister's response in question time yesterday when he indicated that the proclamation date has been brought forward to the end of this year. I am amazed that the Bill will pass through the Parliament but not be proclaimed for some time. I hope the people who administer the legislation will take note of the sentiments expressed by people like Hon Phil Lockyer and me. I hope they administer it with some sensitivity and take into account the interests of all Western Australians as well as the economic interests of the State.

HON P.R. LIGHTFOOT (North Metropolitan) [9.30 pm]: I appreciate the opportunity to say a few words on these Bills. I mention by way of preamble that my interest in the pastoral industry goes back to the early 1970s, when I acquired Mooloo Downs in the Gascoyne, Hamelin at Shark Bay, Dandaraga in the inland and then the contiguous leases of Depot Springs and the Pinnacles, which gave me a holding of about 1.89 million acres running 42 000 sheep. That comprised 3 000 miles of fencing, 400 windmills, five shearing sheds and four homesteads. Even that was not viable at the end of the wool boom.

Lack of certainty led to a lack of development, and the lack of development led to a decline in the construction of fencing, troughs, windmills, homesteads, shearing sheds and so on. Together with the low wool prices, that led to the ultimate demise of most areas. That did not exclusively cover the Western Australian wool industry, although we witnessed the demise of that industry as a viable resource for Western Australia. That was a pity.

These Bills give some certainty to those people who wish to remain on their property - and it must only be for the lifestyle. I spent a couple of years at Hamelin station in Shark Bay. Hon Tom Stephens referred to coastal areas and the tourism industry that could be built up if one had a station including a coastal area. I do not share his view; my view does not superimpose his. There may be some peripheral superimposition, and I will refer to that later.

We are talking about security for 38 per cent of the land mass of Western Australia on which pastoral families have settled for five or even six generations. Hon Tom Stephens spoke fleetingly of his family. It did not escape my ears that his in-laws are the illustrious Duracks, who settled the stations in the Kimberley during the last century. This is a controversial period in relation to land tenure as a result of the proposed inalienability of native title. This involves pastoralists who settled and carved out a life in a very hostile country - no less hostile than North America, Africa or many other places on earth. These areas do not seem to have captured the imagination of the international film industry. Had it chosen to consider these areas, it could have produced films equalling the epics about the settlement of the Wild West, southern Africa or any other hostile parts of the world. Indeed, very special people settled these areas.

The fact that they settled in these areas and their title was termed "pastoral leasehold" is irrelevant in terms of the occupancy of those areas. I know people who were termed squatters, which is no longer a derogatory term; in fact, it was something of an accolade when I was involved in the industry.

I do not necessarily see that the title itself should lead to something that is less than a title in other areas. Why should a title, because it covers many hectares as a pastoral lease, be less than a title of conditional purchase, which was given to people when we were opening up the land for farming and which currently comprises only about 6.7 per cent of the land mass of the State? If there is to be some certainty then obviously these Bills are of immense benefit to pastoral leaseholders.

I do not share Hon Tom Stephens' view that the settlers had only grazing rights. They did squat there and they carved out of a very hostile area an industry that has served this State well and initially gave the country its wealth. In fact, Britain recognises it as its own wealth in that the presiding officer of the House of Lords sits on a wool sack, uncomfortable though it may be. That is ample evidence and a wonderful manifestation of Britain's acknowledgment. I do not suppose I will ever have the opportunity -

Hon Tom Stephens: You might; you have been through every other House.

Hon P.R. LIGHTFOOT: If Hon Tom Stephens has any influence, either through his family or his wife's, I would appreciate his exercising it at some stage.

Hon Tom Stephens: I am sure some of your new colleagues in the Senate will be working on it.

Hon P.R. LIGHTFOOT: If that is the case, I hope that members opposite will support the reintroduction of imperial honours that might allow me to join that House at some later stage in my career.

Hon Tom Stephens: Lord Lightfoot!

Hon P.R. LIGHTFOOT: I do not think that sounds attractive only because of its alliteration. I rather like the term; it has a certain ring to it that I could live with if the member were to keep using it.

Notwithstanding that, we owe a debt to the wool industry of Australia and Western Australia. It is abhorrent to think that at some stage, because they have big land holdings, we could evict the families that have been in these areas for generations. I am not suggesting members are saying that, but accommodation must be found for them.

I have had hands-on experience in the wool and pastoral industries. I cannot see that because people are from one ethnic group or another they necessarily have more or less affection or affinity for, or feel any less or more a part of, the land they work and live on. It does not have any boundaries determined by ethnic background and it certainly does not have any determined by the colour of people's skin.

Hon Tom Stephens: The High Court of this country has found that Aboriginal people have common law rights in regard to land, which is different.

Hon P.R. LIGHTFOOT: Yes, but that does not affect my opinion. The High Court has also found that there can be a coexistence between pastoral leaseholders and Aboriginal people. My opinion differs there, too.

Pastoral lease lands were taken up in the most attractive areas that had both perennial and annual growth. The perennial growth is a result of the rainfall - without that there would be no growth of any kind. However, it was also brought about by the coincidence of the mineralised areas. In other words, the vast folded mountain ranges that existed in the Kimberley and the Pilbara and in the Yilgarn area in the southern half of Western Australia eroded and precipitated the placement of alluvial minerals throughout those areas. Those areas had the minerals, and growth was promoted as a result of the rain. They became the most attractive areas for pastoralists. For instance, there are very few, if any, pastoral leases in the Canning and Officer basins, but there are some in the Nullarbor basin, which has higher rainfall from the Southern Ocean winter rains. Pastoral leases are predominantly over highly mineralised areas, because that is what was shed and gave rise to annual and perennial growth that allowed the grazing of cattle and sheep and, in more recent times, the grazing of feral animals, particularly, although not exclusively, goats.

Today we are looking at the phenomenon of having pastoral leases that harbour most, if not all, our major mines - one exception is Telfer. For the purposes of the Mining Act 1903, pastoral leases have always been crown land. I am concerned that the structure we are debating here today should not be altered. However, I acknowledge that we have bipartisan support to varying degrees and I appreciate that very much. The biggest diamond mine in the world, which is in the Kimberley and mines 35 million carats of diamonds annually, is on a pastoral lease. The land on which gold was originally discovered in Coolgardie by Ford and Bailey ultimately became a pastoral lease, as did the land in and around Kalgoorlie

Hon Mark Nevill: There were pastoral leases before that time, in the 1880s.

Hon P.R. LIGHTFOOT: That may be so. What was so complementary about pastoral leaseholders and the mining industry was that one party allowed the other to go forward with some security. Today, in the nickel boom and the more contemporary gold boom, the infrastructure that the pastoralists have built up throughout this State, which goes from the Kimberley, through the Pilbara and to the goldfields, allows for the exploration of those areas by the mining industry with some certainty, safety and security.

Any person can go onto a pastoral lease today if it is for bone fide reasons, such as that the person is an anthropologist, a prospector or a person who wants to study the unique flora and fauna of those discrete areas that I mentioned. It is a pity that the Land (Titles and Traditional Usage) Act that was put together by my Government was overridden by section 107 of the federal Constitution and that the conflict was so complete that the whole Act was struck down, because that is what we will get back to under the Wik decision. Australia's economy cannot withstand the Wik decision that leasehold and native title co-exist, for the simple reason that the native title acts as a caveat over the pastoral leasehold. Where there is a caveat over the leasehold, the leaseholder cannot get title, and if he cannot get title, even with certainty, he cannot borrow money. Very few companies in Australia, unless they are BHP or the biggest mining company in the world, RTZ-CRA, can develop land if they cannot borrow money. That is one of the important issues.

Hon J.A. Scott: What caveat do you have over it without native title?

Hon P.R. LIGHTFOOT: There is no caveat, because without native title, a person who went onto a pastoral lease because it was crown land under the Mining Act could mark off the tenement, apply to the appropriate channels, and have it recommended by the Warden's Court; and under the current Act only the Minister would have the power to approve or reject the Warden's Court recommendation. He could then get title to the mining tenement, whether it was a prospecting lease or a more extensive lease, and with that title he would have certainty of a specified, although finite, tenure. He could then borrow money with confidence, and the lender could have equity and lend money

against that asset in the ground. The gold boom took off because tenement holders could use the title that they had obtained through the Mines Department and that had been granted by a Minister of the Crown to borrow money and develop a goldmine. I will not go into the details about gold loans. However, on these pastoral leases on which most of our goldmines are located, native title is now acting as a barrier or veto against development, so many goldmines have shut down and many more will shut down unless we clear up the issue of native title.

Hon Paul Sulc: The Wik decision said that if there was any conflict, the rights of the lessee would take precedence.

Hon P.R. LIGHTFOOT: That is not what the banks think. The banks, whose scrutiny determines whether the lessee has a viable asset against which to lend money, say that the caveat of native title is too strong. There is no clearer example than Anaconda Nickel NL, which has to pay $1m annually over the next 16 years to have that caveat removed in order to mine for nickel in the Leonora area.

Hon Tom Stephens: Can you assure the House that your views on things like native title are not still driven by your ideological viewpoint that Aboriginal people are somehow at the bottom of the civilisation spectrum?

Hon P.R. LIGHTFOOT: Since Hon Tom Stephens has become Leader of the Opposition he has made even people like me look a bit radical, because he has become so demure and so level, and his debates have been so -

Hon Mark Nevill: Responsible.

Hon P.R. LIGHTFOOT: I thank Hon Mark Nevill for supplying that word. It is as though Hon Tom Stephens has gone from a butterfly to a grub at the last moment. It is a reversal of evolution, but Hon Tom Stephens often does things in reverse, and in evolutionary terms I am not surprised that he is doing that now. He partly quoted something that he thought had been partly quoted by his erstwhile colleague Mr Richardson, of "whatever it takes" infamy, who said, "You have to lie and cheat to get the power and then you lie and cheat to keep the power." Mr Richardson demonstrated again in an article in *The Bulletin* last week a bit of the affinity that he has with lying and cheating. Let me quote what I said, for Hon Tom Stephens' benefit, and I hope he gets it right this time. I said that even in their native state, Aboriginal Australians are the lowest colour on the civilisation spectrum.

Hon Tom Stephens: Do you still believe that?

Hon P.R. LIGHTFOOT: If Hon Tom Stephens could tell me what colour they are on the civilisation spectrum, I would be glad to amend that statement.

Hon Tom Stephens: What were you trying to say?

Hon P.R. LIGHTFOOT: I am saying that Hon Tom Stephens does not understand the context in which that was said. If we do not understand where Aboriginal people are with regard to their advancement and personal evolution, or with regard to their evolution when compared with us, we will not know how to rectify the situation. That is all I was saying. I hope some of Hon Tom Stephens' colleagues, erstwhile and otherwise, will take notice of the correct statement and the context in which it was said. I am a keen student of history, and often he who writes history makes history. If Hansard wrote the rubbish that Hon Tom Stephens just said, that would become part of history.

I notice that Hon Mark Nevill has gone back to his seat like a quadruped, so that he can interject, if that is in order, Mr Deputy President, and I am dying to hear what he has to say.

Hon Mark Nevill: I am further up the evolutionary tree than you are.

Hon P.R. LIGHTFOOT: That is okay. That is because he is on all fours and I can only use two.

The DEPUTY PRESIDENT: Order! Interjecting is out of order.

Hon P.R. LIGHTFOOT: I appreciate your bringing me back on course, Mr Deputy President, and I thank you for your generosity in allowing me to digress, even momentarily.

Hon Tom Stephens brought up the fact that pastoral leaseholders can exploit the coastal aspects of their leases. I know that it is very tough to survive in that industry, having been in it, and I admire those people who through their ingenuity have survived and stay there in spite of the hardship and continue to bring up their children and to make wonderful Australians. I have no problem with pastoral leases that incorporate coastal areas.

Hamelin station abuts the world famous stromatolites in Hamelin Pool. The area has supra and supertidal stromatolites which are phenomenal. They are probably the oldest living form of life on earth. They grow in Hamelin Pool, in the intertidal and supertidal areas, and in the bay. They are not represented in many areas on earth. I thought the stromatolites were very important, and one must remember that they go back to the Proterozoic in the Precambrian; so it was only proper that I should excise part of my lease and return it to the Crown so that it could

be protected. As a result, I think my compensation was a few rolls of wire and enough steel pegs to fence the area. Nonetheless I feel very good about the fact that those stromatolites are now protected.

That protection is to do with the granting of these leases so that fragile coastal dune areas are protected. In the early part of this century a family by the name of Butcher brought wool to Hamelin Pool where lighters took it out to larger ships. The Butchers ran their bullock carts over the algal mats which are an integral part of the stromatolites. The mats were broken by the bullock wagons in 1910 and today one can still see where the wagon wheels penetrated the bed of algae. Almost 90 years later they are still in that condition. The tide comes in and goes out and causes the submarine crevices which are so fragile. That is an area we must consider for preservation because it will benefit not only the pastoral leaseholders who have titles which run into the area. The area belongs not only to Western Australians but to all Australians; it is of significant international importance and should be nurtured for future generations.

Another area which should be considered when granting these leases - and I am fully supportive of the certainty to pastoral leaseholders - is the eradication of feral animals, which cause much destruction in the area. Perhaps that should be a condition of such leases. I am talking here about goats. Many of the other feral animals such as donkeys and camels have been eradicated. I do not want Hon Tom Stephens to make something of that.

These Bills are long overdue. They have been promised to the pastoral industry for some years. I am very pleased that this Government has at last placed this legislation on track. If these leases remain crown land for the purposes of the Mining Act, that will benefit the leaseholders and all Western Australians. If they are allowed to develop into the tourism arena or to diverge into other areas of agriculture, that can only be for the good of the country, provided it is done with stringent controls - and remembering the fragile habitat which most pastoral leases are in and are subject to - we will be doing something for Western Australia.

The fact that 38 per cent of our land mass is covered by pastoral leases contributes to our national security. From that aspect alone it is important that we keep people on the leases and encourage them to stay there by making life as easy as we practically can. This is a step in that direction, and I commend the Government for bringing to this House, at long last, this rather vexed question of giving certainty to pastoral leaseholders.

Hon M.J. CRIDDLE (Agricultural) [9.55 pm]: I have an interest in this legislation because over recent years I have been involved in the review of the eradication of feral goats Members would be well aware of the drought in the pastoral areas in 1994 and the five years previous to that. While I was travelling around the area it became obvious to me that pastoralists would more than welcome such a Bill. They had been working on it for some time, and I am glad to see it come to fruition.

My main emphasis during this speech will be on the Pastoral Lands Board, through which progress in the pastoral area will be made. I note that the establishment of the board will ensure that pastoral leases are managed ecologically and in a sustainable manner.

When we undertook our review, the goat population was falling by 20 per cent each year. Prior to the implementation of the eradication program, in 1990 goat numbers were increasing at the rate of 18 to 20 per cent a year. Therefore there has been a complete turnaround as a result of the use of helicopters in that eradication program, and the feral goat problem has been brought under control. The program has worked best in the goldfields and to some extent in the Gascoyne. It has worked to a lesser extent on the coast, because pastoralists in that area did not entirely embrace the eradication program.

We recommended that the Pastoral Lands Board be used in conjunction with the Soil and Land Conservation Act to require pastoralists to fall into line with the review. In this way the pastoral leases would be managed in a sustainable manner. If the eradication of goats diminishes and the goat industry can become commercially viable, we could promote a domesticated goat industry in three years. That will bring real wealth to the pastoral area. Once the domestication of goats occurs and the goat meat industry becomes more organised, we will have an ongoing opportunity to take goats from the land for 12 months of the year. Currently, at times the goats are turned off the land and the price drops. As fewer goats are turned off the land the price increases. It is a fluctuating situation, and it can become uneconomic to cart goats to slaughter. The abattoir in Geraldton is already operating, and there is also an abattoir at Carnarvon. It would be of tremendous value to keep those facilities operating all year round when the domestication program is set up.

The development of policies to prevent land degradation is another recommendation for consideration by the board. That is commonsense. We must monitor the stock grazing capacity of that countryside. Here, I refer to sheep, cattle and goats and the entire range of stock. The board can apply some grazing restrictions so that the land does not become overgrazed. The goat is one of the worst grazers in the world. In some countries, goats have completely stripped the landscape. Therefore, they need to be kept under observation. We need to develop a system to monitor

sites. I have seen several sites where goats return year after year. We must have a true indication of the carrying capacity of the land. People bring in stock when there is a lot of feed, but they sometimes do not bear in mind that the next year there could be a drought. There is little understanding of the carrying capacity of the land. That is something the Pastoral Lands Board should emphasise to the graziers. I note that the board will include three local people. They will be essential because their local knowledge will ensure that the grazing capacity is kept in line and the requirements of the area are taken into consideration.

We recommended in our feral goat eradication review that inspectors should monitor the stock numbers. Satellite photographs are a great advantage in being able to indicate when the land is becoming overgrazed. They will be very useful to people looking at the carrying capacity of these areas.

Clause 95(i) provides for conducting or commissioning research into any matters relevant to the pastoral industry. One thing that became obvious to me, particularly in the beef industry, was the tremendous potential to turn off cattle onto areas in the south. The development of tagasaste around Eneabba and Badgingarra provides an opportunity for using the pastoral area as a breeding ground and turning off the younger stock onto those areas, thereby maximising return to the growers. During and prior to the drought there was a turn-off rate of more than about 30 per cent. In my view the older cattle always had the occasion to run into a drought. If the full turn-off were not there they would perish on the way to their fully grown steer status. An opportunity to turn off those stock into the southern areas would be beneficial. That is one of the research matters that should be addressed.

There is also a great opportunity to research the potential of turning off sheep at a younger age. In the good seasons there are opportunities to turn off the lambs and thereby maximise returns.

I am pleased to see the opportunity for special leases being put in place so that horticulture, flowers and tourism can be exploited. There was quite a bit of talk about this when we made our trip through the pastoral area. That may be beneficial and obviously research into that area is crucial. We saw some attempts at horticulture while we were in the area. A lot of research must be done on those areas before special leases are granted. It is one thing to set up a special lease but another to make it viable where it is carrying out its function in a profitable manner. The last thing we want is for these areas, which are cash strapped now, to attempt a venture that is unprofitable. Research should be put in place for that.

The Pastoral Lands Board will have a vital function. It must get close to the people in carrying out its function. I am pleased to see this Land Administration Bill in the House. I am sure the people in that area will also welcome it.

HON J.A. SCOTT (South Metropolitan) [10.03 pm]: I was surprised and pleased to see in the second reading speech that 92 percent of the land mass in this State is crown land. I sometimes think we would be better off if all land in the State were crown land. Perhaps land should not be owned and when people vacate it they should leave it in the same condition it was in when they took over the lease. I think we are tending to drive our economy down by spending huge amounts of money on purchasing land, which is basically a negative investment.

I noted that the conditional purchase lease is described in the second reading speech as follows -

> This is a lease of crown land for a fixed term subject to rental payments that will be taken as instalments in part payment of the purchase price. The lessee acquires freehold title to the leased land on completion of certain development conditions set out in the lease payment of purchase price.
>
> This tenure is different from existing conditional purchase leases under the Land Act, that are limited to leases for agricultural purposes only.

It reminded me that many of the conditions that were put on conditional purchase land in the past were not for the benefit of the person trying to develop those agricultural conditional purchase leases or for the conservation of the environment in those areas. They carried a lot of quite silly conditions such as having to build boundary fences within a certain period rather than fencing off areas that would be utilised. A large amount of money was therefore wasted. I hope that in the light of the mistakes of the past, conditions which are irrelevant to good outcomes will not be imposed.

Regarding pastoral leases I heard a number of speakers, particularly Hon Ross Lightfoot, who is not in the Chamber at the moment, talk about the problems of the Wik decision. I could not help noting that his understanding seemed to be a little blighted. He had that coloured mote in his eye! He found that it was okay for mining companies, for example, to be able to access the land and use it for a purpose while it was a pastoral lease but for some reason it was a problem for Aboriginal people to use it. He also seemed to forget that most pastoral leases in this State already bore that condition handed down by the Wik decision. It is irrelevant for the Premier to run around the country making

comments and for Hon Ross Lightfoot to jump up and down about the Wik decision, which has a fairly insignificant effect for Western Australia.

I was pleased to see that "other uses of pastoral land" will become available and that rental will be charged for land occupied for the purposes of permitted non-pastoral activity. To survive in areas which are affected by bad conditions, people need diversity of income. Whether some of these more marginal lands should be deemed to be pastoral lands is a matter we must consider.

I may have misunderstood the wording of the second reading speech, because it says -

> That rental may be at a higher rate than the rental for the pastoral use of the land, especially if the non-pastoral activity is a higher and better use of the land.

I do not know whether that means if one is making a success out of the land a higher rent will be charged so that the more successful or the more innovative one is, the more one will be taxed by paying a higher rent. Sometimes that can stifle initiative.

Hon Max Evans: If we tax on loss it might be incentive to make a profit.

Hon Kim Chance: What the member says is true and it was raised at the Broome conference by Jack Elesovich, who has been ripped off by the State Government for his enthusiastic development of a piece of desert.

Hon J.A. SCOTT: I am concerned about that. It may shock some people, but I think we should reward innovation, especially where it is of value to the rest of the population. Rather than taxing success the Government should consider what effect the process has on the land. If at the end of the day these people return the land to the Crown or to other people while it is still in good condition, it does not matter that they have made a good income from it. On the other hand, a person who has not been innovative might not have paid much but might have degraded the land. This matter must be seriously considered.

I am pleased that the leases will not be made perpetual. I have read the arguments put forward in the report on land degradation by the committee chaired by Monty House. It has been pointed out that the banks were not concerned about the ownership of the land but were concerned about the profit made on that land. Philosophically, as much land as possible should remain with the Crown. I generally support this Bill, although a few clauses may not be to my satisfaction. It is definitely a step forward.

HON MAX EVANS (North Metropolitan - Minister for Finance) [10.13 pm]: I thank all members for their support of this Bill. It has been in the making for many years, as was explained by many members today. It is a historic day because the marine reserves Bill and the land Bills will have a great impact on and will improve the situation in Western Australia. They have had great support from both sides of the House. I recognise the comments made about Hon George Cash and the work he did when he was first Minister for Lands. The legislation has been around for a long time and it is at last in this House. It is a fitting farewell for Hon Phil Lockyer, who has been waiting for this legislation for many years. He will see it passed before he leaves this place. The debate has been greatly enhanced today because of the pastoralists and graziers' meeting in Broome last weekend. That has made everyone focus their attention on the Bill and the pastoral leases, which have been very important to this State. Only recently I have been reading the "Australia's Western Third" by Crowley, which deals with the early leases in that part of the State. I did not realise how much development had taken place there in the 1870s and 1880s. Far more real money had been invested in that area than in Perth, Toodyay and York. As a consequence, the first gold find was made at Halls Creek. It is very interesting. It had a very strong economy, and the big wagons had to be taken to the water's edge to load the wool on the ships to go overseas. That happened almost 120 years ago when it had a very strong economy. It was said to me recently by a historian that if the Government had not decided to establish the first settlement in Perth, much more development would have taken place in that part of the State. The gold industry began there, but then moved to Day Dawn, Kalgoorlie and other places.

The Land Administration Bill puts into place modern legislation to release crown land in various tenures, to enable crown land to be conveyed to interest holders, and to register all interests and other decisions relating to crown land and the Transfer of Land Act. This registration system is familiar to the public. It enables information on crown land to be available on the land information computer system administered by the Department of Land Administration, allowing easy searching and public access to the crown land tenure information. This is very important. I have been most impressed since coming to government by the technology which is available in DOLA and been taken from there to the Valuer General's office. It has enabled the VGO to set up the government property register. DOLA is using this technology for freehold land. The technology will now be converted and all this information on titles will be placed on computer for all crown land. As a person who has never dealt with crown land in any shape or form, I had not realised how slow the system was for retrieving information. The system was not that fast in my days with

the ordinary freehold certificates of title, but that has been improved by the use of computers. It is a great step forward to be able to put all the crown land into the system.

I have been told there will be further amendments to handle all the land held by statutory authorities. Hon Mark Nevill said that there will be a common thread with regard to the resumption of land and it will all be treated in the same way. If that is the case, it will be a big improvement.

The Bill will provide in-house efficiency for DOLA to meet customer needs. For example, the document title for the sale of a freehold interest in crown land will be available at settlement rather than three weeks later, the current delay before the issue of a crown grant under the Land Act. The document title will allow for the growing commercial ventures on crown land and enable crown land to be sold with covenants shown on the title. This will enable the public to be informed that a parcel of land is maintained for a specific purpose.

The Bill contains initiatives from a range of land reviews so that pastoral leases will be managed in an ecologically sustainable manner, thereby protecting the range lands. The permit system for diverse activities on pastoral leases will also take pressure off the range land. It has been very interesting to hear the different views on the way people have perceived these permits and how they will operate in the north west. It is a big step forward. Native title has been properly considered and generally restricts the Government's proposals. This legislation will be reviewed if there is any change to the Native Title Act.

In general, most processes from existing Acts have been brought into the Bill, such as road reserves, easements, acquisitions and compensation. There are more normal commercial options for the sale and lease areas of the Bill. Local government must be consulted on all crown tenures, and there is further accountability with public advertising and competition. With the support of the Opposition, the Bill will pass through both Houses this session, and the Minister for Lands, in response to concerns raised with him by the pastoralists, has instructed DOLA to take all necessary steps to ensure the Land Administration Bill and the Acts Amendment (Land Administration) Bill can be proclaimed on 1 November 1997 to meet the needs of pastoralists. However, this earlier proclamation date will mean that some of the computer information systems used to enable the registration system of crown land to operate fully may not be completed and operating on this date. Despite this, DOLA is satisfied that sufficient processes will be in place to enable DOLA to administer the entire Act.

DOLA will take a leading role to ensure all agencies comply with the legislation. Community complaints can be referred to the Minister for Lands. On the question of prescriptive claims, this part of the Bill merely clarifies the current legal position. The Imperial Prescription Act does not apply to crown land. There is no impact on native title. The only relevant issue in relation to the Prescription Act as it applies to crown land may concern easements; in other words, rights of way over crown land. There will be ongoing review of the legislation, and further changes are already being considered, in particular compensation provisions will be reviewed. The question was raised whether the review would be over three or five years. It is seen as an ongoing review. As mentioned by a few members, it is not perfect but it is moving that way - it is a start.

The licence profits à prendre will be provided by the Minister and the registrar and are to be endorsed on a certificate of crown land title.

As Hon Kim Chance said, it is unfortunate that certain provisions cannot be included in the legislation - we agree on that. I agree with the member's comments on tenure, both freehold and perpetual. Regarding the length of renewal of pastoral leases and mortgages, the Bill will renew all pastoral leases in 2015 and enable later renewals beyond that time.

I refer to the permits and the $2m extension development, it is agreed that an appropriate tenure is required. The tenure may be a form of special lease excised on the existing pastoral lease as is provided for in part 6 of the Bill; it may be applicable in an excision of that nature.

The trial case for the value of native title will happen in due course for proposed projects on pastoral leases, and meaningful negotiations are being undertaken in a number of regions.

I thank Hon Phil Lockyer for his comments as he has a strong knowledge of the pastoral industry and he sees great benefit in the legislation. I specifically recognise the work he did when Hon George Cash was Minister, and the member had to follow through with that work with the industry up north on his own.

Hon Tom Stephens expressed interest in El Questro station. Normal crown land release procedures will apply in that case, such as public advertising and ensuring that competition is pursued.

Prices for pastoral leases on the coastline will be determined by what the market is prepared to pay by way of special value, not by the Government. It is correct that an Aboriginal living area is being granted, and coordination and the provision of services has already taken place. The date of proclamation for the measure has already been announced.

Permits are a new tenure which give the right for the lessee of a pastoral lease to undertake certain activities agreed to by the Pastoral Lands Board subject to certain conditions. They will be subject to rent. Hon Kim Chance referred to one firm on 8 000 hectares facing a charge of $10 000 on a watermelon business. I would not cry for this operator, as people growing watermelons make more money than all members in this Chamber put together! It is a huge business.

Hon Kim Chance: That is not what Jack tells me!

Hon MAX EVANS: Talk to one of the bank managers down here about rockmelons.

Certain activities already occurring on pastoral leases have been pragmatically approved on an informal basis. Attempts have been made to put in place special leases on partial leases, such as El Questro, but this has been delayed as a result of the native title implications.

The normal policy of releasing crown lands under parts 6 and 7 of the Act will apply. The appropriate tenure for a venture will be considered, be it permit, lease or perhaps freehold, together with public advertising and competition. The policy in relation to permits will be firmed up as the existing situation and new applications are considered.

Comments by all members have been appreciated and noted. Until the later part of debate, the Minister for Lands was present in the Chamber taking a keen interest in proceedings. I commend the Bill to the House.

Question put and passed.

Bills read a second time.

LAND ADMINISTRATION BILL

Committee

The Deputy Chairman of Committees (Hon Derrick Tomlinson) in the Chair; Hon Max Evans (Minister for Finance) in charge of the Bill.

Clause 1: Short title -

Hon KIM CHANCE: It is not my intention to hold up the Chamber in Committee, but I might have missed a point I wanted to raise earlier which was referred to by Hon Phil Lockyer; that is, the question of the scope of the actions permitted under division 5, part 7 of the Bill. It was suggested by Hon Phil Lockyer that the only use permitted under the old Lands Act on crown land covered by pastoral lease was the raising of cattle, sheep and animals generally. That is not entirely true. In his second reading contribution, Hon Phil Lockyer actually referred to existing intensive uses of land on pastoral stations. Indeed, he referred to the large grape growing enterprise on Wooramel. If those things are not permitted under the existing Lands Act, how do we know about the existence of those intensive forms of land use? How is it references to both were contained in the same speech? The Pastoral Board established under the old Act had the discretion to grant pastoral leaseholders the right to use the land for those more intensive purposes. My suggestion to the Minister on that issue is what we actually see in division 5 of part 7 relating to permits. Division 5 does no more than codify the practices which the pastoral board has already exercised in its discretion.

Hon P.R. Lightfoot: That area to which you refer on Wooramel is freehold.

Hon KIM CHANCE: I was not aware of that, and nor did Hon Phil Lockyer say that. However, I thank the member for advising me of that situation.

A number of other instances were raised of more intensive use of stations than was originally considered.

Hon Max Evans: It is called self-preservation.

Hon KIM CHANCE: Yes. I was pleased that the board felt it had the discretionary powers to allow those uses under permits. I am pleased it will be codified. I remember the difficulty pastoral leaseholders had 30 years ago when they wanted to carry out a higher use. I make it clear that with the exception of the provision in division 5, although more new ones can be found in part 6, with the exception of the special lease provision and the permits, division 5 of part 7 of the legislation is no more than simple codification of the power which was vested in the old board under the old Act.

Hon MAX EVANS: The member has answered his own question. The pastoral board over the years, knowing that the legislation would be a long time coming, was pre-empting the legislation to allow the higher use of the property.

Clause put and passed.

Clause 2: Commencement -

Hon MARK NEVILL: Does the Government intend to proclaim the whole of this Bill in one hit or will it be staggered?

Hon MAX EVANS: It will be proclaimed at one time because every part is interrelated to the other. We could not do part without the whole.

Clause put and passed.

Clauses 3 to 14 put and passed.

Clause 15: Covenants in favour of Minister and others in respect of use and alienation of land -

Hon MARK NEVILL: Amenity is defined in subclause (8). Is that the protection that this Bill affords to fossils on crown land? How will that operate in respect of fossils?

Hon MAX EVANS: Fossils are protected under the Museum Act. It would have been difficult to cover them under this legislation.

Hon Mark Nevill: I am not sure that they are not protected under this Bill. The previous Act included a blanket provision which said all fossils on crown land were protected. I suspect this clause allows for a covenant to be registered over a scientific amenity, which would be a fossil such as the gogo fish. My understanding is that under this Bill that covenant would be registered on that certificate of crown title to protect those scientific amenities that were described in that covenant. Is that correct?

Hon MAX EVANS: Fossils were referred to in the earlier draft of this legislation. The Museum and other bodies requested that they be taken out of the legislation. Protection will be included in future legislation.

Hon Mark Nevill: Are you saying there is no possible protection under this legislation or is it possible?

Hon MAX EVANS: No. They are protected under the Museum Act. There is no real protection under this Bill.

Hon Mark Nevill: My reading of it is that the provision could be used to nominate a fossil or a suite of fossils to be protected.

Hon MAX EVANS: It could be, but it is proposed that better legislation be introduced to protect such important things as fossils.

Clause put and passed.

Clause 16 put and passed.

Clause 17: Warnings of hazards, etc. on certificates of title and certificates of Crown land title -

Hon MARK NEVILL: What is likely to be covered by this clause? I understand that toxic substances are covered by it. Does it include areas subject to flooding? In Port Hedland it may cover odours given off by one of the Water Corporation facilities. Does it cover noise that is not covered under the noise regulations?

Hon MAX EVANS: This is a new provision. A warning of a hazard may be placed on a certificate of title of crown land title which has not been allocated and placed on certificate of crown land titles subject to a crown interest or a certificate of title with the consent of the freehold owner. Any warning on a certificate of crown land title is transferred to the freehold title. A hazard may include such things as land prone to flooding or water services not provided and may be notified on the title. The Crown is not liable for any damages that arise from a hazard which is registered on the title. That is, if a noise hazard has been registered on the title, the Crown would not be liable.

Hon Mark Nevill: I take it from that that noise and odour warnings can be endorsed on the title?

Hon MAX EVANS: Normally, planning would not allow that but it is feasible they could be put on as a warning.

Clause put and passed.

Clause 18 put and passed.

Clause 19: Dealings or caveats in respect of Crown land not effective until registered or recorded -

Hon MARK NEVILL: The Acts Amendment (Land Administration) Bill amends the Transfer of Land Act. Are there any significant differences between the caveat system for freehold land under the Transfer of Land Act and the caveat system for crown land, or are they the same?

Hon Max Evans: There is no difference; they are the same.

Clause put and passed.

Clause 20 put and passed.

Clause 21: Minister may lodge caveats on behalf of State or of persons under disabilities -

Hon MARK NEVILL: It is strange that the Minister will be lodging caveats on behalf of people with disabilities. We have a Public Guardian. Why would he or she not lodge those caveats?

Hon MAX EVANS: This clause repeats that which was included in section 158 of the Land Act. The Minister may lodge a caveat to protect the interests of a person who is not able to, or is under a disability to manage a transaction affecting an interest. When an order or instrument contains an error or a misdescription or to prevent fraud or improper dealings, the Minister may lodge a caveat to prevent the registration of any grant, entity or dealing. The registrar must comply with any caveat lodged by the Minister with any amendment or cancellation. This is more of a protection if something is wrong rather than to have a guardian, as the member assumes.

Hon MARK NEVILL: I can understand why the provision is there. It may be worth the Minister saying whether it is appropriate for the Public Guardian as well as the Minister to lodge caveats. The Public Guardian is dealing with those sorts of people all the time. Perhaps the Public Guardian could lodge a caveat directly.

Hon MAX EVANS: The guardian stands in the place of another person and can always lodge a caveat. These provisions apply to exceptional circumstance.

Clause put and passed.

Clauses 22 to 30 put and passed.

Clause 31: Restrictions on certain public service officers acquiring Crown land -

Hon MARK NEVILL: Clause 31 reads that a public service officer of the department - which I assume is the Department of Land Administration - must not, without the permission of the Minister, acquire an interest in crown land. The exceptions are if it is done through a public auction or on behalf of the Minister. That is understandable. It reminds me of our pecuniary interests provisions. We must disclose all our assets but our spouses or partners can do what they like. It seems that the spouse of a DOLA officer can deal with crown land. The partner should not be fettered by the fact that the other partner is an employee of DOLA, but it seems in practice that the provisions of this clause will not work because they are so easy to avoid.

Hon MAX EVANS: We agree with what the member is saying. People can get friends, relations or even someone in Switzerland to run their bank accounts, as we read in the papers. People can get anybody to hold land on their behalf. If people hold land in trust, under the Lands Act people cannot register the fact that they are holding land in trust for someone else; they have it in their own names. Therefore, it could be done by anybody.

Clause put and passed.

Clauses 32 to 34 put and passed.

Clause 35: Forfeiture of interests in Crown land or certain freehold land -

Hon MARK NEVILL: The clause states that where in the opinion of the Minister there has been a breach of any condition or covenant the Minister can cause the forfeiture of land.

Hon Max Evans: The Minister "must", not "can".

Hon MARK NEVILL: Clause 104 refers to reservation in favour of Aboriginal persons. If that clause is breached and an Aboriginal person were prevented from entering unenclosed or unimproved property, would that result in the breach of a lease and would it then be liable for forfeiture?

Hon MAX EVANS: Clause 104 applies to pastoral lease conditions. If there were any breaches of pastoral lease conditions, it would apply.

Hon KIM CHANCE: My question may well reveal the fact that I am not all that well briefed on this part of the Bill. I use the clause to raise something that has bothered me for some time. Is the concept of a writ of adverse possession contained within the ambit of clause 35? If it is not, and the words are not mentioned, does the concept of a writ of adverse possession continue to exist in the Bill and, if so, where do I find it?

Hon MAX EVANS: Adverse possession is referred to further on in the Bill. It provides specifically that it does not apply to crown land.

Hon Kim Chance: There is certain freehold land, which is why I raised it.

Hon MAX EVANS: It does not apply to clause 35. Adverse possession is a very fine thing.

Hon Kim Chance: It is a dreadful thing.

The CHAIRMAN: Order!

Hon MAX EVANS: A lot of people know my block of land. All the front part of the front lawn had been the subject of adverse possession for 16 years. A dispute existed between the two previous owners. We wrote on the transfer of land document that the previous owner would sue for adverse possession. We got half of the front lawn on to my title and a certain amount of compensation. It works, but it has problems.

Clause put and passed.

Clauses 36 and 37 put and passed.

Clause 38: Role of Minister on receipt of notices of appeal -

Hon MARK NEVILL: The clause states that a Minister on receiving an appeal must document the background of the appeal and set out the grounds in the notice of appeal and put comments on it. It also states that the recommended determination of the appeal is to be delivered to the Governor for his decision. It seems anachronistic that we are delivering appeals to the Governor. I can understand if it were Sir Reginald Burt or someone like that. It would be better to have appeals to a magistrate or a Supreme Court judge rather than a Governor who may not possess the necessary legal skills to deal with some of the rather tricky law associated with land administration, conveyancing, etc.

Hon MAX EVANS: This is a temporary measure, because the Government is considering referring these sorts of things to an administrative appeals tribunal. It says that the Minister must recommend termination of the appeal to the Governor. We know that has its own problems.

Clause put and passed.

Clauses 39 and 40 put and passed.

Clause 41: Minister may reserve Crown land -

Hon MARK NEVILL: This clause will replace section 29A of the Act that says the Governor may reserve or dispose of any lands vested in the Crown, and the purpose shall be specified in the reservation or disposition. Does the new provision require that the purpose is specified? If not, perhaps something should be included in this clause.

Hon MAX EVANS: I am advised that the order will be specified in the reservation or disposition. As a side issue, the Governor in Executive Council is required to sign so many documents, particularly for grants of land, that the Government is streamlining the process so it vests in the Minister and will not revert to the Governor.

Clause put and passed.

Progress

Progress reported, pursuant to Standing Order No 61(c).

House adjourned at 10.55 pm

QUESTIONS ON NOTICE

POLICE - NOTEBOOKS

Perth Mint Inquiry

189. Hon MARK NEVILL to the Attorney General representing the Minister for Police:

(1) Is it correct that the Western Australia Police Force has not provided to the Supreme Court 10 out of 11 police notebooks used in the Perth Mint inquiry?

(2) Why have not each of these notebooks been produced?

Hon PETER FOSS replied:

(1)-(2) The matter to which this question relates is before the Court of Criminal Appeal and is therefore sub judice.

LOCAL GOVERNMENT - MANJIMUP SHIRE

Mr S. Stoiche - Allegations

216. Hon BOB THOMAS to the Minister for Transport representing the Minister for Local Government:

On 1 November 1996, Mr Stan Stoiche of Manjimup formally wrote to the Minister for Local Government at his ministerial office requesting he investigate an incident in which Manjimup Shire Councillor, Ted Thompson, was alleged to have breached section 5.93 of the Local Government Act 1995. Mr Stoiche alleges he enclosed with his letter copies of confidential shire documents, including legal opinions, which were passed to him by Cr Thompson. To date Mr Stoiche has received no written reply from the Minister who has, however, verbally informed him that the opinion was tabled at a council meeting and apparently no action is contemplated -

(1) Can the Minister for Local Government inform the House on what date the legal opinion was tabled, and what other documents were tabled with that opinion?

(2) Can the Minister inform the House on what date the document headed Confidential, Shire of Manjimup, Cattle Feedlot Item 5, Town Planning was tabled, and what other documents were tabled with that document?

(3) Does the Minister have reason to believe that a copy of that opinion, the confidential document and other documents were provided to Mr Stoiche?

(4) Is it correct that the opinion and other documents, if provided to Mr Stoiche, were provided while council was considering a further prosecution of Mr Stoiche?

(5) Is it the Minister’s normal practice to respond in writing to letters alleging any breach of the Local Government Act?

(6) If it is the Minister’s practice to respond in writing, why has he not responded in this case?

Hon E.J. CHARLTON replied:

(1)-(6) In response to Mr Stoiche's letter an assessment has been carried out by an officer of the Department of Local Government. A report was provided to the Minister for Local Government at the end of December 1996. That report indicates that it appears that Cr Thompson passed to Mr Stoiche copies of the legal opinion and confidential memo. The departmental officer has sighted a copy of the documents which bear notes apparently under Cr Thompson's hand.

The departmental report indicates that council minutes of 14 February 1991 show this matter was dealt with by council in an open meeting. As such all documents were on the public record and therefore no offence would be committed in handing copies of the documents on. Furthermore, the departmental report indicated that Cr Thompson had not breached council's standing orders. Mr Stoiche's specific questions regarding legal costs incurred by council were also directed to council which answered them on 12 September 1996. The information sought by Mr Stoiche is the same as that answered by council. The Minister for Local Government has communicated that advice to Mr Stoiche and written confirmation has been sent.

SECURITY AGENTS - REGISTERED

290. Hon TOM STEPHENS to the Attorney General representing the Minister for Police:

Under the Security and Related Activities (Control) Bill 1996, how many security agents have been registered?

Hon PETER FOSS replied:

No security agents have been registered under the Security and Related Activities (Control) Act 1996 as it does not come into effect until 1 April 1997.

QUESTIONS WITHOUT NOTICE

SENATE VACANCY - JOINT SITTING

Date

182. Hon TOM STEPHENS to the Leader of the House:

Is the Government aware that the Senate meets again on 6 May and that senator-designate Hon Ross Lightfoot has indicated that he wants to fill his position in the Senate immediately? The State Opposition has indicated to the Minister and the Government that it would like him to go and we have offered him a pair to help facilitate that! The Senate is anxiously awaiting his arrival and growing increasingly testy about the pairing of this reluctant arrival. How can the Government continue to justify failing to convene a joint sitting of the two Houses in order to appoint Hon Ross Lightfoot? Will the leader assure the House that a joint sitting of the two Houses will take place in time for Hon Ross Lightfoot to take his Senate seat on 6 May?

Hon N.F. MOORE replied:

The Liberal Party conducted its preselection ballot last Sunday. There is a 72 hour appeal period which brings us up to today. It will then be necessary for the Liberal Party to advise the Government that it has endorsed Hon Ross Lightfoot for that position. Upon receipt of that information, the Government will then have to make a decision about when the joint sitting will be held. Next week we begin a two week recess. Once the Government receives advice from the Liberal Party, it will consider the timing of a joint sitting of both Houses. I am aware that the Senate resumes on 6 May, that there is a vacancy and that a pairing arrangement is in place in the Senate.

I am also aware of the absolute undertaking given by the Opposition that it would give a pair to Hon Ross Lightfoot until such time as he is replaced. I am interested in hearing that repeated in the House with people crossing their hearts and spitting to death. I have been here for a long time. On a couple of occasions I have been disgusted by the actions of some Leaders of the Opposition who have called pairs off without notice. That is something I find intolerable. However, it has happened in the past and when things happen in the past it means they can happen in the future. I have to bear that in mind in the context of Hon Ross Lightfoot's position. Members should be assured that we are anxious for Hon Ross Lightfoot to take up his position in the Senate because we know he will be a strong advocate for the rights of Western Australians and we have no doubt that his successor in this House will also do an excellent job for his constituents.

LIQUOR LICENSING ACT - AMENDMENTS

Remote Communities

183. Hon TOM STEPHENS to the Minister for Racing and Gaming:

(1) Has the Government drafted the Liquor Licensing Act amendments that will enable remote communities and regional population centres to control the sale of liquor in their communities?

(2) Does the fact that the Government is not able to table this legislation before June indicate that the Government has not placed an adequate priority on the legislation to accommodate this issue?

(3) Why is the legislation not yet ready for introduction?

Hon MAX EVANS replied:

(1)-(3) The fifth draft of the legislation is nearly completed. Following the report, we got approval to draft legislation. However, at that stage I thought that the process would take only a few months. As it did not have a priority in the first place I thought it should have gone through. With pressure of other legislation

that we had to get through before the end of last year it was left. However, it is moving very fast now. It is a complex bit of legislation. It has always included the health issue. As I said yesterday, the Health Department has always considered that that issue should be taken into consideration. I am disappointed with the way the last two cases have gone. The director gave his ruling and I have no jurisdiction over the judge's ruling, which involved his not taking into consideration health matters.

Hon Tom Stephens: He just takes into consideration the law and you need to amend the law.

Hon MAX EVANS: We will amend the law to make certain that the judiciary must take the health issue into consideration. The report recommended that that be taken into consideration. Woolworths says that the hotels can sell broken packages, bottles and glasses and they should be stopped from trading also. It says that if they are not stopped, it will sell packaged liquor. In a place like Halls Creek and Roebourne the community is working together and no-one is selling liquor on Thursdays or pension days. It is unfortunate that avaricious companies want to make a lot of money at the expense of Aborigines and disadvantaged people.

BANKSIA JUVENILE DETENTION CENTRE - FLOOR COVERINGS

Tenders

184. Hon TOM HELM to the Minister representing the Minister for Works:

In reference to the tender for the Banksia Juvenile Detention Centre floor coverings -

(1) Was the successful tenderer for the floor coverings the lowest tender received?

(2) If not, why was the lowest tender not accepted?

(3) Were the tender criteria changed from the time of calling tenders and the announcement of the successful tender?

(4) Will the contract be deferred to ensure that every tenderer was given an equal opportunity to tender?

(5) Will the specification in relation to the product used be changed from the original?

(6) If yes, will new tenders be called?

Hon MAX EVANS replied:

I thank the honourable member for some notice of the question.

(1) Several tenders were received which contained numerous options for floor coverings. The preferred option selected by the client was awarded to the lowest tender received for that option.

(2) Not applicable.

(3) No.

(4) No. Tenders were publicly advertised, and every tenderer was given an equal opportunity to tender.

(5) No.

(6) Not applicable.

ROADS - FREMANTLE EASTERN BYPASS

"Bypass News: Fremantle Eastern Bypass"

185. Hon J.A. SCOTT to the Minister for Transport:

I refer the Minister to "Bypass News: Fremantle Eastern Bypass", distributed in March 1997 and ask -

Will the Minister please explain or provide evidence to support assertions by Main Roads WA that the Fremantle eastern bypass will benefit Fremantle by resulting in -

(a) fewer trucks on Fremantle streets;

(b) safer and easier access for cyclists and pedestrians;

(c) a quicker and easier walk, cycle or drive into central Fremantle;

(d) less traffic noise;

(e) safer local streets; and

(f) shorter travel time between Perth's southern and northern suburbs?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question.

(a) A recent survey of truck traffic movements in the Fremantle area indicates that about 415 trucks used Hampton Road and a further 80 or so trucks use South Terrace and Marine Terrace. The construction of the bypass will provide a more efficient route for trucks and will result in relocation of a significant proportion of trucks from the local roads onto the bypass, thereby improving the safety and amenity of the local streets.

(b) The relocation of truck traffic and other regional traffic from the local road system to the bypass will improve the safety and amenity of local roads for use by cyclists and pedestrians and create opportunities for traffic calming and allocation of more road space on local roads for exclusive use by pedestrians and cyclists.

(c) The provision of the bypass will improve conditions for cycle and pedestrian access to central Fremantle for the reasons outlined in (b). Vehicle access to central Fremantle will continue to be available via the existing system. The bypass will also provide an alternative means of access to the Fremantle central area.

(d) Construction of the bypass will result in the relocation of truck traffic and regional traffic from local roads to the bypass, which will include the design of specific provisions such as noise walls and other measures to reduce traffic noise along this route.

(e) The bypass will improve safety on the local streets by removing truck traffic and regional traffic from the local road system and relocating this traffic to a higher standard, safer route which is purpose built to meet regional transport needs.

(f) The bypass will provide a quicker, safer and more direct route between Perth's southern and northern suburbs.

FISHERIES - SOUTH COAST PURSE SEINE MANAGED FISHERY

Unit Value Reduction

186. Hon BOB THOMAS to the Minister representing the Minister for Fisheries:

Further to the Minister’s decision to reduce the unit value for the south coast purse seine managed fishery from 10 tonnes to 8 tonnes in zones 3 and 4 and from 7 tonnes to 5.5 tonnes in zones 1 and 2 -

(1) Does this decision correspond with the South Coast Purse Seine Managed Fishery Management Advisory Committee recommendations?

(2) If not, what were the MAC recommendations?

(3) Is the Minister also considering allowing the unit holders from zones 1 and 2 access to zones 3 and 4?

(4) If yes, what are the details of this proposal?

(5) What are the reasons for reversing the 1990 decision to make zone 3 a limited entry fishery?

(6) Is the Minister considering allocating the Bremer Bay pool quota to unit holders outside zone 3?

(7) If yes, what are the details of the decision?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question.

(1)-(7) The announcement that the Minister recently made in relation to the south coast purse seine managed fishery allowed the fishermen to commence operations on 1 April, which is the start of the pilchard fishing season. The remainder of the management package for the fishery has yet to be finalised. The Minister will be announcing his decision in the near future.

SPORT - AEROBICS CHAMPIONSHIP

Funding

187. Hon N.D. GRIFFITHS to the Minister for Tourism:

(1) Did the State Government provide any money towards the staging of the FIG World Aerobics Championship to be held in Perth from 29 May to 1 June this year?

(2) If so, how much was provided in total?

(3) When was it provided?

(4) To whom was the money provided?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) Yes.

(2) Funding of $100 000 was provided by the Western Australian Tourism Commission. The commission has also agreed to a further funding of $17 113 in the form of cash and in kind services for event and marketing costs. The commission is assisting the event with provision of office space, phone and facsimile services. Consideration is also being given by the WA Sports Centre Trust to purchase a floor, estimated at $25 000, which could be used for these championships and other similar events. EventsCorp funded the bid for the event, which involved a brochure, video, air fares, accommodation and ancillary costs.

(3) The cheque was drawn on 26 July 1996.

(4) Australian Gymnastic Federation. This event is one of 12 being undertaken in Western Australia during the next 12 months. Four international Olympic level events will take place during that period. Off the top of my head, I can think of at least half a dozen world championships during that period. It will be a great time to be in Perth. That is the message we are sending. We hope that it will provide additional interest in state tourism and opportunities for hotels to pick up additional tourists when there is often a lull in the cycle. Tourism is very important to Western Australia. The events during the next 12 months leading up to the world swimming championships have been called the Best on Earth in Perth.

POLICE - BURGLAR ALARMS

Response

188. Hon TOM STEPHENS to the Attorney General representing the Minister for Police:

I refer the Minister to his comments that a number of the cheaper burglar alarms on the market malfunction and that responses to alarm calls will be limited to those with collaborating evidence.

(1) Will responses now be limited to those cases where people can afford more expensive alarms?

(2) What guarantees can the Minister give that people who have purchased cheaper alarms will be receiving some value for that purchase?

(3) What actions will the Minister be taking to make the public aware of the problems experienced with some of the cheaper burglar alarms?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) No. All bona fide requests for police attention will receive a prioritised response.

(2) This matter is between the purchaser and the contractor.

(3) When attending alarms, police officers will advise owners of appropriate systems where necessary. In addition, we have advertised extensively, advising the community to contact the Crime Prevention Bureau, Western Australia Police Service, telephone 356 0555 or the Security Agents Institute, telephone 328 2771, to receive proper advice.

JOHNS, ROGER - PETITION

Referral of Case to Court of Criminal Appeal

189. Hon J.A. SCOTT to the Attorney General:

(1) Has the Attorney General been asked by the Governor to consider a petition from Mr Roger Johns seeking a referral of his case to the Court of Criminal Appeal in accordance with section 21(a) of the Criminal Code?

(2) What action has the Attorney General taken on the Governor's request?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) Yes.

(2) I have sought legal advice from the Crown Solicitor.

TOURISM COMMISSION - ELLE CONTRACT

Crown Law Solicitor

190. Hon JOHN HALDEN to the Minister for Tourism:

(1) Did a solicitor from the Crown Law Department travel overseas in respect of the Elle contract?

(2) If so, was it to the United States of America?

(3) What was the purpose of this visit?

Hon N.F. MOORE replied:

(1)-(2) Yes.

(3) The purpose of the visit was to engage in negotiations with Macpherson, which is the name of the organisation that handles Elle Macpherson's interests.

TOURISM COMMISSION - RECURRENT SERVICES

Cuts

191. Hon N.D. GRIFFITHS to the Minister for Tourism:

(1) Will the Minister confirm that there will be no cuts to the recurrent services of the Western Australian Tourism Commission for the financial year 1997-98?

(2) If not, is that because it is the practice of Ministers not to announce budgetary allocations to their portfolios prior to the handing down of the Budget by the Premier?

Hon N.F. MOORE replied:

(1)-(2) I do not propose to pre-empt the contents of tomorrow's Budget. I suggest the member be a little patient. In only 24 hours he will know the answer to his question.

LEGAL AID - COMMISSION

Funding

192. Hon N.D. GRIFFITHS to the Attorney General:

(1) Did the Attorney General say on the Peter Kennedy radio program this morning with respect to the funding of the Legal Aid Commission, "We will be providing exactly the same amount of money as we did before"?

(2) Did he also say that as a result of the commonwealth cuts, "legal aid will have $3m less than it did previously"?

Hon PETER FOSS replied:

(1)-(2) I said that we will provide exactly the same amount that we would otherwise provide. The amount to be provided will not be different in any way by virtue of the fact it is going to the Ministry of Justice. The

present indications are that the Commonwealth will reduce its contribution by $3m. If that is the case, $3m less will be provided.

LEGAL AID - FUNDING

Attorney General - Meeting with Federal Attorney General

193. Hon N.D. GRIFFITHS to the Attorney General:

I refer to the Attorney General's answer yesterday to question 167 when I asked him if he conferred with the federal Attorney General to resolve Western Australia's legal aid crisis, and if so when. The Attorney General replied that he had and that this occurred at a meeting of the Standing Committee of Attorneys General.

(1) Can the Attorney General confirm that the meeting was that which took place on 13 and 14 March?

(2) Given the public record of concern on the part of many, including the Chief Justice, why has the Attorney General not had a face to face meeting with the federal Attorney General since 14 March to try to resolve this issue?

Hon PETER FOSS replied:

(1)-(2) That should be obvious to Hon Nick Griffiths, because at every meeting I have had so far with the federal Attorney General he has said: first, the cuts are fixed and will not change and, second, the decision to restrict funding to commonwealth matters is fixed and cannot be negotiated. If the member read my published letter he would know that I said, "How can one have useful discussions when one is told in advance that the very matters that one wants to discuss are not negotiable?" The only negotiation that the Commonwealth is prepared to do is at an officer level to look at what we currently spend on commonwealth matters and what a commonwealth matter might be. I have some strong views on that. However, the federal Attorney General has said that the matters I believe need to be negotiated are not negotiable. I have spoken to officers within the Commonwealth Government, and I am happy to continue those discussions. However, I cannot see the point of negotiating if I have been told that the issues I want to talk about are not negotiable.

POLICE - BURGLARIES

Penalties

194. Hon B.K. DONALDSON to the Attorney General:

Given the outrage of the community at large over recent home invasions, especially the violence associated with them, does the Minister believe the present penalties are sufficient to bring the full force of the law down on a person or persons responsible for these offences?

The PRESIDENT: Order! That question is asking for an opinion; it is out of order.

LEGAL AID - FUNDING

Attorney General - Meeting with Federal Attorney General

195. Hon N.D. GRIFFITHS to the Attorney General:

(1) Is it not the case that the Attorney General and the federal Attorney General attended a gathering last Friday?

(2) Why did not the Attorneys get together after that to sort out the matter?

Hon PETER FOSS replied:

(1)-(2) If Hon Nick Griffiths had bothered to attend he would have heard exactly what I said.

Hon George Cash: Hon Nick Griffiths should have been at that function because he could have spoken to the federal Attorney himself.

Hon N.D. Griffiths: I was in Sydney trying to do something about that.

Hon PETER FOSS: Last Friday the federal Attorney General said, first, the cuts will go ahead; and, second, the method of allocation is not negotiable. I got the message. I sat there and heard the federal Attorney General say exactly what he had said before. I indicated to the federal Attorney General that I am ready and willing to negotiate; however, it is hard to negotiate with somebody who says they will negotiate, but not on particular issues. I am left

in a rather difficult situation. I have made the point to other members of the Federal Government that I would love to talk to the federal Attorney General. All I need is some suggestion that we have something to talk about. However, if he is going into negotiations on the basis that there is nothing to negotiate; in other words, it is a pretense at negotiation and all I can do is agree to what is being put up and therefore give some semblance of credibility to it, what can I do?

Hon Bob Thomas: You could have given it a go. Hon Ross Lightfoot would have a go.

Hon PETER FOSS: The federal Attorney General has said that he will allow some discussions to take place, and to that degree that is taking place. In case Hon Nick Griffiths did not listen to my answer yesterday, we are making more progress than any other State has made. That is because the States that have already supposedly agreed in principle have signed up without knowing, first, what a commonwealth matter is, or, second, the process they must go through in the future to account for this. What sort of agreement is it when the two issues that are in contention, the two issues that the Commonwealth will negotiate on, have not been determined? We will continue to work with the Commonwealth -

Hon Bob Thomas: You will not meet with them.

Hon PETER FOSS: - to establish, first, the amount that we currently spend on commonwealth matters; second, what is a commonwealth matter; and, third, how after 1 July do we keep a record of this without ending up with the result that we will spend more money on counting the beans than on legal aid. I am sure that members opposite do not want me to do what might have happened in other places and say, "Yes, certainly, Mr federal Attorney General, anything you say. We will accept whatever you are prepared to dictate, no matter how much it costs us and regardless of the mess we will be in because we do not know what a commonwealth matter is, and no matter how many essential points are left up in the air." My alternatives are to say yes and agree to work out the detail later or to do what I am doing - that is, to make the Commonwealth specify what it will be responsible for next year. Not one other State or Territory currently knows that. We asked them at the Standing Committee of Attorneys General and we have checked it with the federal officials since. No-one has yet worked out in detail what a commonwealth matter is. I can tell members that I will not neglect my duty by allowing this matter to go through on a wing and a prayer, and hoping that we will get something out of the Federal Government at the end.

LEGAL AID - FUNDING

Federal Agreements

196. Hon N.D. GRIFFITHS to the Attorney General:

I refer to my question yesterday regarding agreements entered into by other States on legal aid funding with the Federal Government.

(1) Given the importance of this issue has the Attorney General made further inquiries?

(2) Is the Attorney able to confirm that South Australia, which was facing a cut of $2.7m, is now to receive a cut of $700 000; and that the ACT will receive no cuts, but an increase?

Hon PETER FOSS replied:

(1)-(2) We have asked the Federal Government for those agreements, and we have been refused. We have asked why we should not see those agreements, and we have not been told. On the other hand, we have been assured that every State will be dealt with in exactly the same manner. It is a little hard to check on that because for some reason that has not been explained and we cannot see those documents. We have been told that those cuts have been changed and the basis will be the same in each State. However, this State must establish the amount that has been spent on commonwealth matters. South Australia has argued that the commonwealth figures were incorrect, and if Western Australia can show that the commonwealth figures are incorrect - we believe that we can - there may be some improvement on the figure originally suggested to us of $3.3m. However, whether we demonstrate that to the Commonwealth's satisfaction is a matter to be determined.

As far as the Territories are concerned I argue from a constitutional point of view that all their laws are commonwealth matters because they are not States. Even their legislation derives its power from commonwealth law not from their status as an independent body, but because they are a creature of the Commonwealth. No greater demonstration of that is the recent move by the Commonwealth Parliament to disallow the euthanasia law of the Northern Territory. I do not really know how the Commonwealth can say to either of the Territories that there is something called non-commonwealth matters. However, that

demonstrates that the manner in which the Commonwealth is proceeding is that the definitions it is drawing are convenient to the Commonwealth.

For example, I have been arguing that Re: K matters should all be regarded as commonwealth matters. I have heard from other commonwealth officials that the Commonwealth has now accepted that Re: K is now a commonwealth matter, but I have had no official response. I have asked for an official response. However, the point that has been made is that Re: K could be argued to be obligatory on the States because there are international conventions entered into by the Commonwealth Government. Similarly if we were to legislate to abolish the commonwealth doctrine of Dietrich it is arguable that the States were likely to have it set aside because the Federal Government could overrule us. As Hon Nick Griffiths would appreciate it would be a stupid situation if the States, in order to get the Commonwealth to accept its responsibilities in these areas, had to legislate to abolish it, so the Commonwealth had to legislate to put it back and then they ended up paying for it. I am trying to illustrate the stupidity of the Commonwealth's approach and how I hope to get some sense out of it.

TOURISM COMMISSION - ELLE CONTRACT

Crown Law Solicitor

197. Hon JOHN HALDEN to the Minister for Tourism:

This question follows on from my earlier one in which I referred to the purpose of the Crown Law Department officer's visit to the United States. The Minister answered that it was to negotiate with the Macpherson corporation. What was the nature of those negotiations?

Hon N.F. MOORE replied:

To clarify the matter, this group is not called the Macpherson corporation. The name used to describe Elle Macpherson and her support organisation in the negotiations and contracts we have with that group is simply Macpherson. The Crown Law Department officer visited New York to discuss matters relating to the television commercials and associated publicity of Elle Macpherson while she visited Western Australia.

CRIME - HOME INVASION

Penalties

198. Hon B.K. DONALDSON to the Attorney General:

Given the outrage of the community at large over the recent home invasions, especially the violence associated with them, I ask -

(1) Can the Attorney General inform the House of the penalties that now apply for this offence?

(2) Are further changes being considered to impose even stronger penalties for these offences where violence is associated with home invasion?

Hon PETER FOSS replied:

(1)-(2) The member may recall that recently we dealt with this problem. First, we made the distinction between burglary and home invasion. We raised the penalty for home invasion. We also brought in a special distinction of circumstances of aggravation which applies to home invasion and any other form of burglary. The current penalty for aggravated home burglary, or any form of aggravated burglary, is 20 years in gaol. Presently I am not contemplating any increase to that. Normally if the penalty of 20 years is increased, it is for life imprisonment. I think 20 years is a broad enough range of penalty to allow the court to impose the maximum amount in extreme cases. In effect, that is a very substantial amount of time for a person to spend in gaol.

LEGAL AID - FUNDING

Other States

199. Hon N.D. GRIFFITHS to the Attorney General:

I raise a supplementary question to that about legal aid which I asked the Attorney General a few moments ago. Why has the Attorney General not been able to find out from his Liberal counterparts in South Australia, Victoria, the

Northern Territory, Queensland, Tasmania and the Australian Capital Territory precisely what the state of play is in those States, or is it the case that they do not talk to him, just like Mr Williams does not want to?

Hon PETER FOSS replied:

I think we have a false impression, or Hon Nick Griffiths is trying to create one. I get on perfectly well with the federal Attorney-General.

Hon N.D. Griffiths: That is not what he says.

Hon PETER FOSS: He does not say that to me.

Hon E.J. Charlton: He won't talk to you!

Hon PETER FOSS: I have always regarded him as being perfectly reasonable. He seems to indicate to me that it is not a matter for the federal Attorney-General at all. These matters come out of the Treasury. I can say with some confidence that if the federal Attorney-General could do so, if he were the person in charge of the purse strings, he would put more money into legal aid. I do not believe my concern or dispute is with the federal Attorney-General, other than as a messenger. He is under instructions, or the people who are handing out the money have imposed a responsibility on him, to make this cut.

It was made quite clear at the meeting of the Standing Committee of Attorneys General - I am sorry to have to repeat myself - that, firstly, we would not be given the details of the agreements and the other Attorneys General individually indicated to me that they were not at liberty to give me the agreement because it was confidential. It is because they have been told they cannot and because the federal Attorney-General has said that they will not. The state Attorneys General get on very well. We have been very consistent in our approach.

If I appear to have taken a prime role, it is because of the encouragement I received from Hon Nick Griffiths when I was urged to go to the summit.

Hon N.D. Griffiths: That is not what they say.

Hon PETER FOSS: I do remember the encouragement given to me by Hon Nick Griffiths, and I thank him for his backing. I am sorry he seems to be resiling from the original support he gave to me to get in there and fight for legal aid for our State. Obviously he has come to the conclusion that there is more political mileage in pulling back than there was for going forward earlier.

Hon N.D. Griffiths: Cheap shot!

Hon PETER FOSS: It is a bit of a cheap change, too. I have fought for this State, and fought hard. Hon Nick Griffiths knows that that is the case.

Hon N.D. Griffiths: But not effectively.

Hon Mark Nevill: You are a true gladiator.

Hon PETER FOSS: I happen to know that this morning on radio one of the erstwhile colleagues of Hon Nick Griffiths supported my suggestion that this division between commonwealth matters and state matters is a load of nonsense. Unfortunately it is a bureaucratic intervention which will involve unnecessary work and unnecessary interference in the principles of legal aid. I am fighting that. I understand the Commonwealth is determined to go ahead. I am facing the inevitable now in working out what is a commonwealth matter, but at least I am doing that. I happen to know nobody else in Australia has worked that out.

We see that as a very important part of our ability to increase the amount that we will get from the Commonwealth. On the broad cut the Commonwealth has taken, it is saving $3.3m.

Hon John Halden: I am glad this is not a motion!

Hon PETER FOSS: I would like to think we could improve on that. If members opposite keep asking the same question, I must supply some detail in my answer.

The PRESIDENT: Order! I ask the Attorney General to remember that Standing Order No 138 says that answers shall be concise. I think he has adequately answered the question.

Hon PETER FOSS: My only concern is that I seem to have been asked the same question again.

The PRESIDENT: Order! If the Attorney General sits down, I will say something about this.

Hon PETER FOSS: I must be repetitive or give additional detail. I refer members opposite to my previous answers, in which I think I have given adequate reasons.

QUESTIONS ON NOTICE - No 139

Tabling of Document

Hon MAX EVANS (Minister for Finance): In part of my answer to question without notice 139 I advised that the cost of running the Government Employees Superannuation Board did not affect the benefits paid to employees. On further examination I have found this to be incorrect in respect of the West State Super scheme - that is, the superannuation guarantee charge - which was established in 1993 to provide for compulsory superannuation under commonwealth requirements. In that scheme, which is based on a defined contribution rather than a defined benefit, an administration fee is charged to members' accounts. The fee is calculated to recover costs specifically attributable to the operations of that scheme. I seek leave to table the document relating to this matter.

Leave granted. [See paper No 380.]

QUESTIONS - SAME QUESTION ASKED TWICE

Ruling - By the President

The PRESIDENT: Order! I refer to the rule that applies with regard to asking the same question twice. All members, in the main, conform to it. A new tack seems to have been adopted; that is, members alter the question they have asked in order to get the same answer. We have spent two-thirds of today's question time listening to the same answer for about six or eight slightly different questions. The spirit of what we talk about when we say that we cannot keep asking the same question means that Ministers should not keep giving the same answer.
