

LAND ADMINISTRATION AMENDMENT BILL 2009

Second Reading

Resumed from an earlier stage of the sitting.

MR T.G. STEPHENS (Pilbara) [3.04 pm]: It would not matter which area of land legislation we were dealing with, we should still be singing the praises of the member for Armadale! Whether it was the bill that was momentarily before the house or the Land Administration Amendment Bill 2009 that is now before the house, we know that the member for Armadale has served the people of Western Australia well in the administration of land legislation. The pastoral industry of Western Australia found in the member for Armadale in her role as Minister for Planning and Infrastructure a minister who championed their cause by ensuring that they had a robust discussion with her and the people of Western Australia about the best ways of administering the pastoral rangelands of this state. It does not matter which part of the rangelands we look at; we know that pastoral leaseholders held the member for Armadale in the highest regard.

Mr B.J. Grylls: That's not what they told you!

Mr T.G. STEPHENS: They told me this regularly and constantly. If anyone is telling the Minister for Regional Development otherwise, he should be wary of them because they are not saying what they mean. People who have spoken to me have told me how wonderful they thought it was to have a minister who refined the discussion about how best to administer the rangelands of the pastoral industry in Western Australia, who made the industry sit back and think about the issues on the table, and who ensured that those in the pastoral industry had a champion for their cause.

It seems to me odd that the bill leaves in place such an extended period before which valuations can be conducted. Even now we will be left with a situation in which valuations take five years. That compounds the problems with which the pastoral industry is faced, and it would be better if it were a three-year interlude rather than a five-year period. There is also the risk that the Minister for Regional Development will be left with ministerial discretion that may be used in ways that might currently be foreign to him—that is, without partisan favour. He has to ensure that when he utilises the discretions available to him under this bill to delay the landing of the rates people pay for their pastoral leases, he does not discriminate against all the Liberal Party leaseholders and look after the National Party leaseholders. He has to utilise that discretion with good reason and not use it in a party political way, as he has used so many of the other instruments available to him as minister since he has been in office. I think it is important that he ensures that any discretion he exercises in not allowing the full impost of the rates landing on pastoral leases is exercised on the basis of genuine hardship. There are a small number of pastoralists who occasionally experience hardship; it is a very small number and they are generally outside my area of current parliamentary responsibilities. There are very few pastoralists in the top end of the state, in either the Kimberley or Pilbara regions, who would be faced with economic hardship such as would justify that discretion being exercised by the minister. However, there are some—for example, in the eastern end of the Pilbara. I confess to having left a couple of unanswered calls from people in that area, some of whom I recently visited with the member for Victoria Park. I suspect they want to talk to me about the need to support this bill. The discretion should be exercised only for those in need.

In exercising the discretionary power that this bill affords the minister to create an opportunity for respite from the landing of charges on pastoralists holding those leases, it is important that he recognise that pastoral leases cover a large part of this state, and that these lands are of interest to not only pastoral leaseholders, but also other people who have a legitimate interest in them. I am very conscious of the necessity for preventing pastoral leaseholders from utilising their pastoral leases in ways for which they were never intended—that is, for the sole and exclusive possession of those leases. I am thinking of the example of the Munda pastoral lease to the south west of Port Hedland. The lease does not take in the beach known as Munda Beach, but what was once a popular beach can now be accessed only by helicopter or boat. The access routes have been locked and sealed and the beach is no longer accessible by the public. That to me is an unacceptable outcome not only for the people of Port Hedland, but also for the people of Western Australia. There is a strong argument that the minister with responsibility for the administration —

Mr C.J. Barnett: Who locked the access road?

Mr T.G. STEPHENS: The pastoral leaseholder, who has put a lock across gates, and in my view has put a lock across gates that are on public roads. For instance the old Port Hedland-Whim Creek road, which is a public road, now has a sign saying, "Private Road". My father-in-law actually mapped that road in 1936 and put the first map through of the area. It is still a public road, yet there is a sign and a lock across the Munda pastoral lease that stops people going onto it. Recently there was an awful situation when the pastoral leaseholder complained to the police and secured the laying of 18 charges against people for being on a lease to which they

had previously had uninterrupted and unfettered access. Fortunately, the police had the good sense to review those charges and have withdrawn them, as many of the charges related to the adjacent Boodarie pastoral lease.

In my view it has never been the view of the Parliament and it is not the view of the courts that pastoral lease owners have exclusive possession of vast tracts of land for their own use and benefit; or, for instance, to let onto that pastoral lease only people of their own preference or people who pay a fee for getting there. There is a case, and I put the case, that it is time to do for the Pilbara and many other parts of Western Australia what the former minister proposed for the Ningaloo coastline, which was to put an easement a couple of kilometres along the coast, which guaranteed public access to that coastline for all Western Australians. There could be opportunities for pastoral leases to then be included in the management activities of that coastline, but not in any way to leave pastoral lease owners with a sense that those beaches are theirs. Those beaches, rivers and water systems belong to all Western Australians.

I am lucky enough to have invited into the public gallery right now some people from Eighty Mile Beach who have been involved in a luncheon with me to celebrate their contribution to the funds that they raised for the Royal Flying Doctor Service.

Mr B.J. Grylls: They would be very excited about the new jet.

Mr T.G. STEPHENS: I am told they are very excited about the new jet. They told me it is a very good jet indeed.

All I am saying to the Minister for Lands is that beaches like theirs and others should not be locked off from the people of Western Australia by pastoralists who have a mistaken understanding of the nature of their legal entitlement to those lands.

MR M. McGOWAN (Rockingham) [3.12 pm]: I intend to speak only briefly on the Land Administration Amendment Bill 2009. As I understand it, we are at about the one hour and 30-minute mark in debate on this legislation. I will therefore be brief, and I assume that the minister will be reasonably brief as well.

The opposition is supportive of this legislation, which resolves some of the issues relating to rent for pastoral properties. I will reiterate some of the questions of the members for Pilbara and Gosnells. As environment minister, back in 2006 I had some dealings with the pastoral industry. I had cause to visit some of the pastoral stations that were acquired by the government pursuant to a commonwealth-state agreement that was entered into in roughly 2000. The commonwealth then had an environment minister by the name of Robert Hill. He was very keen to expand the conservation estate of Australia in a broad sense. He wanted to make sure that we had more areas of the nation that were in the conservation estate—national parks, conservation reserves, A-class reserves and the like. Robert Hill was committed to that. As a consequence, the commonwealth provided money to the state via a joint program with the then state government. I think the state minister was either Cheryl Edwardes or Judy Edwards—one or the other; I am unaware which one. Both the commonwealth and the state joined in an acquisition program of pastoral leases, particularly those that were marginal. We know that many of the southern pastoral leases are very marginal; their economic viability is very limited because of the type of land and their climate. The view that Robert Hill took was that, rather than have marginal properties in which pastoralists eke out a living or indeed often go bankrupt and the land in effect devastated, it would be better for those pieces of land to be placed in the conservation estate. The agreement was signed, from memory with Cheryl Edwardes, the environment minister. Perhaps in the late 1990s the agreement was signed but the commonwealth funded it. It was reasonably inexpensive to buy out—

Mr C.J. Barnett: Cheryl Edwardes.

Mr M. McGOWAN: I am sorry, I was not trying to be rude, Premier.

Mr C.J. Barnett: That is the way she pronounces it.

Mr M. McGOWAN: Cheryl Edwardes. I get her name confused with Judy Edwards all the time, so it is easier to say it with an “e” than otherwise. But I digress.

Robert Hill signed the agreement with Cheryl Edwardes back in the 1990s, and I think it was a good program. It was an excellent idea to add land to the conservation estate that was unsuited to pastoral activities so that it might be rehabilitated and taken back as close as possible to its pre-European state. Too much of this country has been devastated. Too much of this country has been changed for the worst by our influences in the past 220 years or so since European settlement in Australia. Too much of the country has been lost. Too much has had the introduction of feral animals and plants. Too much has had the natural environment removed. Therefore, to try to restore some of it is a good thing to do. I support that program, and I supported it as minister. The problem, of course, was that a lot of people did not support it. A lot of the neighbouring pastoralists and a lot of critics of the program, including some organisations, were very critical of the fact that the environment agency had control of these areas of Western Australia. I disagreed with that criticism. I think it was a good thing to try to reinstate and

rehabilitate parts of the land, as they were quite unsuited to the running of sheep and cattle. That is a simple fact; the land was unsuited to it. When people drive through some of these properties, they can see that the undergrowth—the bush—is very thin because of the actions of introduced animals such as sheep and cattle. I therefore supported that program. However, it was heavily attacked, and as a consequence the officers of the environment agency, the Department of Environment and Conservation, were under personal pressure. They of course often go out to manage these properties and live in old homesteads there and are under a great deal of personal pressure from other parties who are critical of the program and critical of the fact that the Department of Environment and Conservation has control of the land.

I say to the government that we need to defend our staff in the Department of Environment and Conservation. They are wonderful people and they are poorly paid. This evening one of them, a wonderful man by the name of Doug Coughran, will be on television rescuing whales. He is one of Australia's true heroes who save whales. He is not unusual in that agency, although his activities are a little more dramatic than others. If members watch ABC television tonight, they will see what he does; it is really quite amazing. He goes out there to save whales with a sharp knife, up against great white sharks in the water and so forth. If members do not believe me, he is on television tonight. We need to defend the staff. They are not just out there rescuing whales; they are often living in the middle of the bush trying to cull feral animals, making sure that people do not interfere with properties, making sure that fences and so forth are repaired and trying to bring native species back into the bush.

The second thing I say to the government is that we need a proper analysis of the pastoral lands of this state, particularly those that we have acquired, to see what we can do for the issue of carbon sinks. It has always struck me that Western Australia has massive areas of land made up of bush—not intense rainforests like in the south west—that are potential major carbon sinks for Australia. Although the land cannot be used for pastoral activities, there would be an economic benefit in having it returned to nature. Hundreds of thousands of hectares going back to its natural state would be a significant carbon sink, even though it would not be an intensive trapping of carbon like it would be in the forests of the south west or the rainforests of Indonesia and so forth. Those two aspects, therefore, need to be examined.

The third thing I say to the government is that we need to understand that if the land is not viable as a pastoral lease, there is no point in devastating it for no economic return. If that means re-acquiring the land and considering ways of bringing it back to nature, that is what the state should do. That is what Robert Hill, Cheryl Edwardes, Judy Edwards, Geoff Gallop and I were doing early in this decade and the late 1990s. Rather than undermine and denigrate that program, we should continue with it.

MR B.J. GRYLLES (Central Wheatbelt — Minister for Lands) [3.21 pm] — in reply: I thank the three members of the opposition for their comments on the Land Administration Amendment Bill 2009. They all raised some valid points. I am working with the member for Pilbara on the issue of access to Munda Beach. The Premier, by interjection, has agreed, and I also agree, that access to important places of recreation and enjoyment like that should not be restricted. We will see what we can come up with. This is not an argument about using the beach; it is an argument about road access, but we need to see what we can do there.

The member for Rockingham also made some valid points about the fact that there is no point in sending pastoralists out to stock areas that simply will not make a return, because of the damage that will cause. It is a pity that the hand-wringing about this issue over many years never actually eventuated anything. For all the compliments of the previous Minister for Lands, there was a lot of talking and not much action that led to outcomes on any of that.

Mr M. McGowan: A lot were acquired. I think about 50 or so pastoral leases were acquired by the state.

Mr B.J. GRYLLES: The pastoral leases were acquired but I do not think that the management that the member talks about actually happens. If we are going to acquire pastoral leases, we need to manage them. We cannot criticise landowners for not managing pastoral leases if the government does not manage them when it owns them. However, that is an argument for another day. There is some criticism that this bill should solve all that, but I give a commitment to the house that we are working on that exact issue. My commitment to this issue is that we will talk about it, do the consultation, engage with all the stakeholders and come up with a position to put to the Parliament progressing the issues of the pastoral industry and viable land management. We look forward to doing that, but the bill before the house simply allows for phased-in increases in pastoral lease rents. We have made major increases, so it is important to phase those increases in over three years. All people with an interest in that industry should be aware that the government has a reform agenda for the pastoral industry, and we look forward to working that legislation up over the coming months. We can then have the debate that we have begun on this issue.

Question put and passed.

Bill read a second time.

Consideration in Detail

Clauses 1 and 2 put and passed.

Clause 3: Act amended —

Mr B.J. GRYLLS: I move —

Page 2, line 9 — To delete “This” and substitute —

Except as stated in section 7, this

Mr C.J. TALLENTIRE: The proposed amendment changes the phrasing so that clause 3 will now include the words “Except as stated in section 7”. Can the minister explain the rationale behind this change?

Mr B.J. GRYLLS: This amendment is consequential to one that comes later and is on the notice paper, adding a new clause 7 to the bill. This clause was added after the bill was drafted, because advice relayed to me meant that the Valuation of Land Act 1978 needed to be amended. For this bill to be consistent, the Valuation of Land Act needed to be amended, and this amendment to clause 3 is simply to refer to that new clause. I do not think that is contentious.

Mr T.G. Stephens: If this amendment is consequential on a later amendment, would it not make sense to explain that later amendment?

Mr B.J. GRYLLS: The member can ask me to do that. I cannot talk about clause 7 until such time as we are dealing with that clause. Let us get to clause 7, and I will explain it.

Mr T.G. STEPHENS: I will therefore need to move to defer the current clause. If an amendment is consequential, it would normally be deferred until the substantive issue was dealt with. I will move to defer the current clause until we have dealt with the substantive clause, so that we can hear what the substantive clause is about, and then we can work out whether we will support the consequential amendment. Alternatively, the minister can give us an explanation now about why this clause is consequential on the other clause. Either way, it does not seem to me to be right for the house to be dealing with a consequential matter before it has dealt with the substantive issue, or has had an explanation of what the substantive issue is. I am happy, Mr Acting Speaker, if you will allow the minister to speak on the proposed new clause to which this amendment is consequential.

The ACTING SPEAKER (Mr J.M. Francis): I am happy to allow the minister to address the issue now, if he wishes to do so.

Mr B.J. Grylls: I am seeking advice on why this clause is being added, because it affects another act. I am presently obtaining that advice.

Mr T.G. STEPHENS: If it will not take very long, we can pause.

Mr B.J. Grylls: Keep talking, and I will give it to you.

Mr T.G. STEPHENS: How very nice to see the minister at the table.

Mr C.J. Barnett: We know you’ve done 12 hours in the upper house, so this won’t be a challenge!

Mr T.G. STEPHENS: Was it only 12? I was spending a lot of time talking about the Luddites.

Mr M.P. Whitely interjected.

Mr T.G. STEPHENS: My knowledge of John Forrest is not so profound, but his brother was more involved in the pastoral industry than he was. Both of them had a bit of involvement in it, but the brother’s great legacy in the exploration of the rangeland areas was the creation of opportunities for the pastoral industry to expand over the properties that were eventually held by the Forrest family, particularly in the west Kimberley.

The amendment now before the house is consequential on a later amendment, and we want the minister to explain the substantive issue to the house before we pass the consequential amendment.

Mr B.J. GRYLLS: For the member’s benefit, the reason for the new clause 7 is that we had to make very clear the unimproved value of a pastoral lease. The unimproved value of a pastoral lease is calculated to be 20 times the rent of that pastoral lease. The amendment confirms that that value is the full rent value and not the phased-in rent value for the pastoral lease. If I can, I will explain that. If we calculate the value of the pastoral lease on the phased-in rents, we would get a lower value. Therefore, we needed to make it clear that the unimproved value of the pastoral lease was calculated using the full rent rate—that is, without the phasing in—because this bill phases in those rents. The way of calculating the unimproved value of that pastoral lease would actually be incorrect if we were to base our calculations on the phased-in rent rather than the full rent. Is that clear?

Mr T.G. Stephens: Not exactly, but maybe it will read better than it sounded!

Mr B.J. GRYLLS: Further to that, the reason for this amendment is that when we come to calculate the unimproved value of the pastoral lease—the total value of that pastoral lease—if we multiply the phased-in lease value by 20, it will give a figure that is not the actual value of the pastoral lease. The value of the pastoral lease is the full value at the end of the phase-in period. This amendment makes that clear so that we do not have a problem when calculating the unimproved value of the pastoral lease.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 4 to 6 put and passed.

New clause 7 —

Mr B.J. GRYLLS: I move —

Page 3, after line 28 — To insert —

7. Valuation of Land Act 1978 amended

- (1) This section amends the *Valuation of Land Act 1978*.
- (2) After section 4 insert —

5A. Unimproved value: pastoral leases

- (1) In this section —

pastoral lease has the meaning given in the *Land Administration Act 1997* section 3(1).
- (2) For the purposes of determining, for paragraph (b)(i) of the definition of **unimproved value** in section 4(1), the amount of the annual rental reserved by a pastoral lease, any effect on that amount that would result from regulations made for the purposes of the *Land Administration Act 1997* section 124A(2) is to be disregarded.

Mr C.J. TALLENTIRE: I would just like some explanation from the minister on the various terminologies in use—classes 4, 5, 6 and 7—and what they refer to.

Mr B.J. GRYLLS: For the further information of members, the reason for making sure that we can accurately calculate the unimproved value of pastoral leases is that when local governments come to calculate their rates, we need them to have an accurate picture of the unimproved value of the pastoral lease so that they can work off that figure. This allows local governments to work off a set figure for the value of the pastoral lease even though we are phasing in the rents. Normally we would calculate the value of that lease as a multiple of 20 of that rent.

Mr T.G. Stephens: There was another question. Do you want that question again?

Mr C.J. TALLENTIRE: Will the minister explain the terminology of the various classes that are mentioned there—class 4, class 5, class 6 and class 7.

Mr B.J. Grylls: I don't understand the question, member.

Mr C.J. Tallentire: Sorry, you are off my path.

Mr B.J. Grylls: That is one each, so we are doing all right!

New clause put and passed.

Title —

Mr B.J. GRYLLS: I move —

Page 1 — To insert in the long title after “1997” —

and, in consequence, the *Valuation of Land Act 1978*

Amendment put and passed.

Title, as amended, put and passed.

Third Reading

Mr Tom Stephens; Mr Mark McGowan; Mr Brendon Grylls; Mr Chris Tallentire

Bill read a third time, on motion by **Mr B.J. Grylls (Minister for Lands)**, and transmitted to the Council.