

Legislative Council

Wednesday, 9 December 1987

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

ATTORNEY GENERAL

Appointment as Queen's Counsel: Statements

HON G.E. MASTERS (West -- Leader of the Opposition) [2.32 pm] -- by leave: I rise to speak briefly, but with great pleasure. I wish to pass on the congratulations of the Opposition to Hon Joe Berinson on his appointment as a Queen's Counsel. Hon Joe Berinson has had a distinguished career in the Federal and State Parliaments, and it is noted in the newspaper report that "Mr Berinson has displayed a high standard of professionalism which was deeply appreciated by all members of the legal profession." The article goes on to quote a statement from Sir Francis Burt. It is fair to say that anyone who gains an appointment as a Queen's Counsel in a legal career would consider the appointment the pinnacle of that career. Hon Joe Berinson has done more than that and has distinguished himself in the parliamentary and political scene.

I place on record that we acknowledge the work he has done and the great credit he brings to himself and his family in gaining this appointment. We wish him well, and although I am sure he is not going to leave the political scene very soon as a result of this appointment -- we hope it does not go to his head -- in congratulating him we are by no means going to back off in our endeavours in dealing with legislation. We congratulate Hon Joe Berinson very sincerely from this side of the House.

HON TOM McNEIL (Upper West) [2.34 pm]: On behalf of members of the National Party in the upper House, I extend to Hon Joe Berinson our congratulations on his appointment. In endorsing the remarks made by the Leader of the Opposition, I suggest that he is a worthy foe, and if we can all wait around this place long enough perhaps we will look as youthful as he did in the photograph in *The West Australian*. It is obvious the years are going backwards as far as he is concerned. On behalf of a friendly Opposition on this occasion, I offer Mr Berinson my congratulations.

HON D.K. DANS (South Metropolitan) [2.35 pm]: On behalf of Government members I support the remarks of Hon Gordon Masters and Hon Tom McNeil in congratulating Hon Joe Berinson on his appointment as a QC. Joe has been an outstanding Attorney General, and we have been fortunate in this House in having had both Hon Ian Medcalf, who was acknowledged as an outstanding Attorney General during his period in office, and Hon Joe Berinson. I will not be so brave as to say Joe has probably pipped Hon Ian Medcalf a little, but all the reports I hear are to the effect that we have an outstanding person in the very important area of law reform and in ensuring the law meets the requirements of the day.

I was not always in the same faction as Hon Joe Berinson when we used to have only two factions in the party. Of latter years our description of one another was that I was a faded left and Joe a faded right. I do not know what that means; perhaps we will come back to being traditional Labor people in the way we always should have been, and so should everyone else. Personally I am very pleased that this honour has been bestowed on Joe Berinson. Members on this side join with me in wishing him not only a long and successful career in Parliament, but also, when he finally leaves, an equally long and successful career in law where I am sure he would continue to be a great asset to the people of this State.

THE PRESIDENT (Hon Clive Griffiths): Honourable members, we have become pretty informal because the original speaker sought leave to make a statement and the House extended leave. Nobody else sought leave, so I am not going to either. However, as President of the Legislative Council it was with a great deal of joy that I read in this morning's paper the news that the Leader of the House had been appointed a QC. One of the very nice things about being a member of this House of the Parliament, I have always said, is that we seem to attract the nicest people who seek to follow a parliamentary career.

A few years ago when Hon Joe Berinson first became a member of this House, I felt some trepidation when some of his colleagues said to me, "You had better make sure you know the Standing Orders now because we have a member who will be able to tear you to ribbons." I was quite frightened! However, I must hasten to add that that was never the situation because Hon Joe Berinson has never been the sort of person who would take advantage of somebody who was not as well skilled as he is. He has never done that as far as I am concerned while he was on the Opposition side of the House or on the side of the House where he sits at present. I am delighted to see that another of our members has reached this great height of eminence, and my personal congratulations go to him. I took it that the photograph on page 64 was a photograph of his son, but on closer examination I thought they had to dig pretty deep down in the photographic drawer in *The West Australian* to get it. I conclude by sharing the comments made by other honourable members.

HON J.M. BERINSON (North Central Metropolitan -- Attorney General) [2.40 pm]: I can remember when, as shadow Attorney General, I faced Hon Ian Medcalf, QC, and behind me sat Hon. Howard Olney, QC. There I was, sitting on the frontbench, feeling like the articulated clerk of the Chamber. That was a time that was very instructive to me.

I appreciate very much the generosity of the Chief Justice in recommending me for appointment as a Queen's Counsel. I appreciate the acceptance of that recommendation by my Cabinet colleagues and, today, I also appreciate the expression of personal congratulations and goodwill which have come from members of the Opposition parties and from my own colleagues.

It goes without saying that, as Mr Masters has cautioned, I do not, on the strength of these good wishes, anticipate an easy ride from this point on.

BERNIES HAMBURGER BAR

Excision: Petition

The following petition bearing 524 signatures was presented by Hon J.N. Caldwell --

To the honourable President and members of the Legislative Council in Parliament assembled --

The petition of the undersigned respectfully sheweth that sufficient members of her gracious majesty's subjects object to the excision of any part of A 1720 -- Kings Park and more particularly, that portion known as Town Lot 65 and part Town Lot 64 known as Bernies.

Your petitioners most humbly pray that the legislative council in parliament assembled, should reject any Bill that would cause the aforementioned land to be excised from A 1720 -- Kings Park.

And your petitioners, as in duty bound, will ever pray.

(See paper No 575.)

ACTS AMENDMENT (BUILDING SOCIETIES AND CREDIT UNIONS) BILL

Assembly's Amendments

Amendments made by the Assembly now considered.

In Committee

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

The amendments made by the Assembly were as follows --

No 1.

Clause 11.

Page 5 -- To delete "14" from paragraphs (b) and (d) of the proposed Section 29(1) and substitute "28".

No 2.

Page 7, line 8 -- To insert in proposed Section 29D(1) after the word "Minister" --

and agreement of the transferee society

No 3.

Page 8 -- To delete "the" in the first line of proposed section 29E(2).

No 4.

Page 9, line 2 -- To insert in proposed Section 29G(1) after the word "Minister" --

and agreement of the Party taking control

No 5.

Clause 12.

Page 10 -- To delete paragraph (c) and substitute the following paragraph --

(c) by inserting after subsection (2) the following subsections -

"(3) Where the rules of a society so provide, the Board may, by instrument in writing, delegate any or all of its powers under subsection (1), and in respect of matters ancillary thereto, to any person or body of persons of a prescribed class.

(4) Without limiting the application of sections 58 and 59 of the *"Interpretation Act 1984"*, a delegation under subsection (3) is subject, in addition to such conditions, qualifications, limitations or exceptions, if any, as may be specified in accordance with section 59(1)(b) of that Act, to such conditions, if any, as may be prescribed.

(5) A society shall not provide financial accommodation unless there are reasonable grounds for believing, before the application for financial accommodation is approved --

(a) that the person to whom financial accommodation is to be provided has, and will continue to have, an income or other financial resources sufficient to provide for the fulfilment of his obligations in respect of that financial obligation, or to which the financial accommodation relates; or

(b) where the financial accommodation is to be provided with security, that the security is adequate."

No 6.

Clause 52.

Page 26 -- To insert before the definition of "institution" in proposed section 36 the following definition --

"bank" means --

(a) a bank as defined by section 5 of the "Banking Act 1959" of the Commonwealth; or

(b) a bank constituted under the laws of this State;

No 7.

Page 27 -- To delete "14" from paragraphs (b) and (d) of the proposed section 37B(1) and substitute "28".

No 8.

Page 29, line 28 -- To insert in proposed Section 37G(1) after the word "Minister" --

and agreement of the transferee

No 9.

Page 29 -- To insert after "all" in proposed section 37G(1)(a) the following --
or a part of

No 10.

Page 29 -- To delete "or a permanent building society" in proposed section 37G(1)(a) and (2)(a) and substitute, in each case, the following --
a permanent building society, or a bank

No 11.

Page 29 -- To delete "or a permanent building society" in proposed section 37G(2)(b) and substitute the following --
a permanent building society, or a bank

No 12.

Page 29 -- To delete "or a permanent building society" in proposed section 37G(3) and substitute the following --
a permanent building society, or a bank

No 13.

Page 30 -- To delete "Subsections" in proposed section 37G(5) and substitute the following --
Subject to subsection (6) subsections

No 14.

Page 30 -- To insert after proposed section 37G(5) the following --
(6) Where the transfer is of a part of the engagements of an institution section 37D(4) and (8) shall apply in respect only of such property, debts and liabilities as the Registrar specifies in a direction under subsection (1)(b).

No 15.

Page 30 -- To insert after "has" in proposed section 37G(6) the following --
all

No 16.

Pages 30 and 31 -- To delete proposed section 37I(2)(b) and (c) and substitute the following --
(b) a bank;

No 17.

Page 31 -- To delete proposed section 37J(2)(b) and (c) and substitute the following --
(b) a bank;

Hon J.M. BERINSON: This Bill has been returned to the Legislative Council incorporating certain amendments moved by the Premier and the Opposition in the Legislative Assembly. The amendments cover --

- (1) The period in which members' objections to voluntary building society or credit union amalgamations and transfers of engagements may be lodged with the registrar. Hon Max Evans indicated in his second reading speech that a period of 14 days was too short. That period has been extended to 28 days in the proposed paragraphs (b) and (d) of sections 29(1) and 37B(1).
- (2) The deletion of a superfluous word in the proposed section 29E(2).
- (3) The insertion of a new paragraph (c) in the proposed section 31(1). This amendment fulfils the commitment I made to the Council to obtain legal

advice on the responsibility being placed on directors. I indicated that if required an amendment would be moved in the Assembly to make directors responsible for ensuring that the policies and practices of their respective institutions were such that they would limit the extension of credit to borrowers who were credit worthy. The amendments now incorporated in section 31 provide for directors to delegate their powers and require that the society not approve financial accommodations unless there are reasonable grounds for believing the borrower will meet his commitments or has adequate security. The power of delegation for building society directors is consistent with that contained in the existing Credit Unions Act.

- (4) A refinement of the transfers of engagements provisions involving amendments to proposed sections 36, 37D, 37G, 37I and 37J. The amendments provide for part or all of the engagements of a credit union to be transferred to an "institution" as defined in the legislation or a "bank". The need for a partial transfer provision was brought to the Government's attention by a local credit union and by credit union industry suggestions for amendments to the legislation presented in the Legislative Council. The industry proposed that a reserve board be established to carry out the supervisory functions of the registrar. The Government has agreed to consider the proposal and is awaiting a submission from the industry.

One of the powers proposed for the reserve board which is covered in this amendment is the ability to transfer part or all of the engagements of a credit union. This sort of provision is in the South Australian credit union legislation which is the local industry's preferred model. The reasons for the full or partial transfer options are quite clear. It provides the authorities with a further mechanism for protecting depositors' funds if a credit union gets into financial difficulty. For instance, it may not be possible for one credit union alone to fulfil the engagements of another. This is particularly the case if most of the industry assets are concentrated in a small number of credit unions and the remaining assets spread over a relatively larger number of smaller credit unions.

The amendments provide a mechanism for the credit union industry to have a greater potential to deal with any industry problems within the industry. The amendment also makes the transfer of engagement provisions consistent with the takeover provisions. Takeover provisions do not apply directly to credit unions but a takeover-type mechanism is consistent with the desire to have procedures available to allow decisive corrective action to be taken.

- (5) The last group of amendments were moved by the Opposition and have the effect of allowing the registrar to direct a takeover, or transfer of engagements of a permanent building society only when the acquiring or transferee institution agrees to acquire or accept. These amendments relate to sections 29D and 29G. Similarly under the amended section 37G(1) for credit unions, a transfer of engagements can only occur when the transferee institution is a willing party. In accepting these amendments the Premier indicated, that the Government had always acknowledged that in practice the agreement of the accepting institution would need to be obtained.

I commend the amendments to the Council, and move --

That the amendments made by the Assembly be agreed to.

Hon MAX EVANS: The Government has picked up a number of the amendments which we recommended. We particularly commend the Government for the fact that it is now talking about a reserve fund. Hon Neil Oliver and I raised the question of the responsibility of the directors of building societies, and I am glad to see that has been toned down. I am pleased to see the amendment regarding takeovers, and the fact that transfers can be split between more than one building society or credit union.

I record my appreciation for the contribution made by Mr Graeme Loughlin, from the Australian Federation of Credit Unions, who came from Sydney. He put in a lot of work during a couple of days, which is evident from the amendments made both in this Chamber

and the other Chamber. Brian Patterson, locally, also put in a lot of time on this massive piece of legislation.

Will the Leader of the House tell us why there is reference to "bank" in this legislation? What is its significance with regard to the R & I Bank? A lot of conjecture has appeared in the newspapers. The legislation states that an institution or bank may take over a credit union. This Chamber deserves an honest answer because a State bank could be involved.

I believe that the reason why this legislation has had to be so rushed is that the former registrar had not done his job up to October 1986. Mr Metaxas has had a very difficult job to do since then. When the working party was set up with regard to credit unions, it did not address itself to the problems of the Teachers Credit Society -- which were known in October last year -- until the crash happened.

In general, we support the amendments.

Hon J.M. BERINSON: The only matter that needs further response from me is in relation to the inclusion of banks. As my initial comments indicated, the concern is that there may well be credit unions with such large obligations that other credit unions are not in a position to take them over. The inclusion of banks is with a view to ensuring that those interests can be preserved.

Question put and passed; the Assembly's amendments agreed to.

Report

Resolution reported, the report adopted, and a message accordingly returned to the Assembly.

ACTS AMENDMENT (LAND ADMINISTRATION) BILL

Second Reading

Debate resumed from 25 November.

HON A.A. LEWIS (Lower Central) [2.56 pm]: This is an extremely interesting Bill brought in, allegedly, because the Functional Review Committee said that certain procedures were needed to speed up land transactions. Nowhere in the second reading speech does it say how it speeds up any land transactions, nor does it give any force to the new Government proposals. The whole Bill is a disaster area. At the end of her second reading speech the Minister said --

If it becomes necessary, in Committee, I will provide more detail of the remaining amendments in group 5.

She then listed amendments to sections 8, 15, 18, 33, 117AA, 118B, 118CA, and 172. It is not good enough to present a Bill to the House and then make the Opposition wait another week for the amendments. I give the Minister credit for getting the amendments for us last Thursday, but surely if the Government had had sufficient discussions on the matter before it brought the Bill in, it would have found out what licensed surveyors and others had to say about it. The amendments with regard to the licensed surveyors cover the points made by the Opposition in another place.

There are three main areas in the rest of the Bill. The first concerns validation of acts done since 1970. We are not told why 1970 was the date from which validation should be taken. I have a fair idea why, but this House was not given the courtesy of being told. This House should not simply have to accept the comment from the Minister that validation should be from this date. That is one of the lesser problems with the Bill.

The removal of the Executive Council and the Governor from granting Crown grants and land is an amendment about which somebody made threats, if we proposed doing anything about it. As the Minister knows, I do not go too well on threats. I do not really believe she issued me with a threat.

Hon Kay Hallahan: Very unlike me.

Hon A.A. LEWIS: She was behaving very much as she usually does, very gently about the whole thing, and just warning me that those provisions were there and she would love to get them through.

Removal of the Governor from the processes of the Department of Land Administration is not on. Absolutely no detail has been given to the House as to why the Governor should be removed from those processes, especially when one takes into consideration the speed with which the Government can deal with land. We will debate a Bill in a few minutes to which I have just received amendments, but to receive amendments an hour before one deals with the Bill is very good, as they are usually produced in the middle of the debate. It is fascinating to contemplate what this Government is about. Is the Governor asking too many questions? Is he asking, "What are you doing with that land?" and using his viceregal prerogative in so doing? That is one argument. Another argument is that perhaps other Ministers are saying that they are not getting a piece of land as fast as they ought to be getting it and they are demanding of the relevant Minister "You get that land quickly."

The Department of Land Administration and its Minister are to have powers of delegation to other Ministers. We heard my truthful friend, Hon Fred McKenzie, comment when I was speaking about the Water Authority the other day, and I am sure he would have doubts about allowing the Water Authority to have power over land. Some members of this place have made recommendations in relation to the sale of land and other matters with which I will deal during discussions on the next Bill. One would have expected this matter to be dealt with in the normal manner. There is no way in which a situation can exist where the Governor is removed and the Minister makes all decisions about land while this Parliament has virtually no say and when the Minister for Lands can delegate his powers to somebody else -- for instance, to three other Ministers who have delegation powers of their own. That is an absurdity!

This Bill should be withdrawn and answers should be given to the House as to why it would speed up the processes under discussion. It may speed up processes in the first instance, but I guarantee that, if this legislation passes -- and I will not support it -- giving the Minister the power to do what he wishes with land, the department would then lack the checks and balances required and would make far more mistakes because instead of dealing with an Executive Council minute, people will only have to stuff a document under the Minister's nose and get it signed.

Members will recall how I have railed in this place about Ministers who have signed documents, sometimes illegally, for the granting of land, and not only Ministers of this Government but of previous Governments. There would be no control under this proposed new scheme, and no administrative formula has been given to members of this House showing exactly how the department intends handling land transactions if this legislation were to come into force. Until that information is supplied to this House, and until members have had the time to digest that information, the relevant clauses should not be passed.

To say that in practical terms there is relatively little difference between Crown lands under the Land Act and lands of the Crown held in freehold is a disgrace. In Western Australia we have always believed that lands held in freehold were tradeable between persons or corporate bodies, yet we are now told that the Government wishes to treat Crown lands in exactly the same way as freehold lands are treated; they could then be traded off. Members would not wonder that I am a little suspicious in the light of land deals that have been done already -- deals such as the one in relation to Midland Abattoirs, and things like that. There is also talk of other land dealings being done, and land that has been bought in freehold by the Government has been given to certain sections to deal with its mates.

Hon Mark Nevill: Wundowie.

Hon A.A. LEWIS: I am not an expert on that matter, but if Hon Mark Nevill says that the Government has done a deal under the lap there, he would know.

For the Minister to say to members of this House that there is relatively little difference between Crown lands under the Land Act and freehold land is a nonsense. In her second reading speech the Minister said that it has been accepted -- and I would like to know by whom, because it is not accepted by me -- that the involvement of the Governor in many aspects of day-to-day Land Act transactions is outmoded.

The Minister went on to say that the 1933 Land Act substantially reflects the terms of the Land Act 1898 and is founded on the premise that the Governor, as representative of the Crown, should ultimately hold the power to dispose of and otherwise deal in the lands of the

Crown. Do we not still believe that? Are we to throw that out? No way! However, that is what this Government is asking members to do -- to throw it out and to dispense with the Governor. I know that the Governor cannot comment on such matters, but I would love to have a few quiet words with the present Governor, or with a previous Governor, to find out exactly what they think about their powers being removed in this way.

Hon Kay Hallahan: It will save him from getting RSI.

Hon A.A. LEWIS: It is to save the Governor from getting RSI; that is interesting! If the Governor -- and I do not believe that he would -- is getting RSI, we may have to do something to help him. We may have to have him merely put his initials alongside the Minister's signature, as long as he sees the document; or we may have his secretary sign on the Governor's instruction, but not the Minister's instruction. This legislation seeks to remove the third arm of the Parliament.

As one who has had a little to do with the Department of Land and Surveys at times, I was fascinated to read in the Minister's second reading speech that the organisational changes will quickly yield greater productivity and give a better service to the community. As a manager and having stood at the front counter of that department, I would have thought there were a number of other ways -- and as they are not dealt with in the Bill I will not go through them -- in which the department could give better service to the community and greater productivity, and they do not have to do with barring the Governor from seeing these transactions in Executive Council.

In her speech the Minister said that what is proposed and reflected in part IX of this Bill is a clear devolution of statutory power and responsibility from the Governor to the Minister responsible for the Land Act for a variety of Crown land disposal actions which, with further amendments that the Government has on the Notice Paper, can be then delegated to other Ministers and to authorised land officers. In other words, when nobody is in charge, nobody takes responsibility.

This Bill, firstly, takes away the responsible position of the Governor in these actions, and secondly, the Minister can delegate powers to three other Ministers -- and you may pull me up, Sir, if I have to deal with the Bill itself -- or to all Ministers. Let us say the Government has come back a bit and allowed power to be delegated to only three Ministers, the Minister in charge of the State Energy Commission, the Minister in charge of the Main Roads Department, and the Minister in charge of water resources. That is like giving the blood bank to three Draculas. Imagine what those Ministers can do in respect of land acquisition where there are clearing controls, and land acquisition for roads and for SEC lines to go through. Those Ministers would have the delegated authority. The Minister's second reading speech sets out the sorts of things those Ministers would be able to handle. It says that this delegation is to enable appropriate Ministers to become responsible for land acquisitions, resumptions, leaseings, and disposals to be carried out by departments or agencies under their control. Just think of the sorts that could be played with when we have a Government that is not trusted in its land dealings by the community -- and that is an accepted fact. Whether or not it is accurate, it is certain that in the community people do not trust this Government.

Hon Fred McKenzie: That is an ongoing thing.

Hon A.A. LEWIS: No, it is not. This Government has brought it to an art form. It has created an art form in wheeling and dealing in land.

Hon Fred McKenzie: That is your opinion.

Hon A.A. LEWIS: I tell Mr McKenzie that there has never been a Government with a reputation for wheeling and dealing and looking after its mates in high places like this Government.

Hon Tom Stephens: An entrepreneurial Government!

Hon A.A. LEWIS: Entrepreneurial is right.

Hon Tom Stephens: Looking after the people of Western Australia.

Hon Mark Nevill: Bunbury Foods.

The DEPUTY PRESIDENT (Hon John Williams): Order!

Hon A.A. LEWIS: Thank you, Mr Deputy President. If I could just answer that --

The DEPUTY PRESIDENT: I did not hear it.

Hon A.A. LEWIS: Well, I did, Sir, and I feel bound to answer it.

For Hon Mark Nevill's information, the amount of money this Government could have saved the previous company, which still has 70 or 80 people working there, was about \$600 000. This Government could go to Teachers Credit Society and spend \$80 million or \$90 million to pull its mates out of the mire; it could go to Rothwells with \$150 million. Hon Mark Nevill should never give me any of that nonsense again. This Government will not help the little fellow, the farmer, or the country businessman but boy, it loves its big mates. That only reinforces the point about this Government's being the greatest mob of wheelers and dealers we have seen in the history of this State.

Hon Mark Nevill: We outpoll you in the country.

Hon A.A. LEWIS: Does Hon Mark Nevill think so? Let us look at Hon Barry House's results and see how the Government outpolls us in the country. The Government was done like a dinner -- it was like a mob of chooks. All the Labor Party members could do was to stand across the road from the new Liberal Party offices and be amazed that so many people were going in there -- more people than ever go into the tower in Bunbury that this Government made a rot of and to which it cannot get people to come now. Hon Fred McKenzie had better not say anything because half of his railway people have been taken away and the Government cannot even get them to go into the tower in Bunbury. It sounds like the Tower of London to me; some hangings must be going on there at the moment.

Hon Tom Stephens: Your speeches sound like the Tower of Babel.

Hon A.A. LEWIS: Well, the voices are coming from the Government's side, and the wailing is coming from Hon Tom Stephens as well. Now he is being told off because he is interjecting too much. I will return to the Bill.

Hon E.J. Charlton interjected.

Hon A.A. LEWIS: I hope Hon Eric Charlton has read it and knows all about it.

Hon E.J. Charlton: We do not have to, with you speaking to it.

Hon A.A. LEWIS: On page 9 it says that it is surely impractical and not necessary to burden either the Governor or a Minister of the Crown with the examination and signing of the ever-increasing level of documentation associated with land transactions, and there are many relatively routine matters which may quite properly be delegated. However, we are not told by this Government what the increase in land transactions has been. Has there been an increase in land transactions? What are the numbers of the increase? Why must these powers be taken away from the Governor and the Minister and delegated down the line? Let the bloke at the front desk sign it! If Hon David Wordsworth wants 100 000 acres he could go to the bloke on the front desk and say, "Surely you have delegated authority. Will you sign me over 100 000 acres of land?" That is the sort of nonsense that is going on with this Government, if we take it to its limit.

I go back to the three main issues. One is validation. We have not heard why we should validate the actions of previous Ministers. There is another one in the House here whose acts are validated, and I am sure he would stand up and honour any of the land deals he did as a Minister. We are allegedly trying to speed up the process, not lose complete control.

I will not deal with valuations because, reading the amendments, I believe that we have dealt with those as time has gone on, and they may well come up. The original legislation was open to manipulation, as is most of the Bill we have before us today.

I believe that the Governor should sight all documents even if he is getting RSI, as the Minister said. I think that comment was facetious. I am sure we could find some way for the Governor to put his signature or stamp on documents if he agrees with them. I believe he ought to see these transactions because he is the final custodian of all Crown land.

This is a little like a debate on the alteration of a Standing Order that we had a few months ago. The alteration required that certain of the Governor's powers contained in the Standing Order be removed from him. I believe this legislation is all part of a move by this

Government to denigrate the position of Governor; I do not believe that it is proposed to help him. I believe that the Government is trying all the time to reduce the powers of the Governor so that it can get its way, and that is a disgrace.

The delegation powers to other Ministers is not on. A Minister for Lands should be responsible for all Crown land in this State. Freehold land can be controlled by a number of departments. The Conservator of Forests at one stage bought properties which were freehold and which were brought under his control. The Government does not pay rates in respect of Crown land, but most freehold land has rates paid on it. I believe that the two cannot be compared.

I have no objection to Ministers dealing with freehold land owned by departments. However, I have to draw a comparison with the Bill that will be introduced at some time in the future. I believe that the conservation and land management group that has been dropped from the Minister's list of land managers should have control of these matters under delegated powers from the Minister.

Where is the Government heading? It sees this type of legislation as the quickest way to manipulate the State into accepting its political ideals. It is not interested in the State. It wants to bulldoze everything through this place without being responsible to anybody. I believe that this Bill, in part, should be thrown out.

Hon Kay Hallahan: In part?

Hon A.A. LEWIS: I did not hear that.

Hon Tom Stephens: She did not say anything. Interjections are disorderly.

Hon A.A. LEWIS: Is that not interesting? I would have liked to hear the intelligent comment by the Minister, because the comments from behind her are not very intelligent.

It is essential that we maintain the forms of land transactions that have operated for many years. It is all very well for the Government to say that the Governor's workload is too large. I have never heard a Governor complain about having to do his job, and I have never heard a previous Minister for Lands complain about the piles of work taken to the Governor, except in fun. I believe the Government is trying to pull the wool over somebody's eyes. As I read the Bill, the amendments are required only to be gazetted; they do not have to be dealt with by the Parliament. Parliament can be bypassed with these delegations.

Finally I become intensely annoyed when asked to deal with only part of a Bill and having to wait eight days before we receive the amendments, as mentioned in the Minister's second reading speech. I think it is an insult to this House that the Government cannot get its legislation together to present it to the House ready for members to deal with. We will now have to go over this matter twice because of the Government's tardiness in presenting it to this House. It is a shame that time after time we receive amendments to Bills after they have been debated during the second reading, because the Government wants to push things through and is not prepared to have the whole of the Bill printed and presented to the House. I believe that is disgraceful.

Hon S.M. Piantadosi: I do, too.

Hon A.A. LEWIS: Mr Piantadosi agrees with me.

Hon T.G. Butler: He did not say anything.

Hon A.A. LEWIS: Hon Tom Butler is going deaf as well as having to put up with his other problems.

This is a disgrace, and I am sure the House agrees with me. I believe that if a previous Government had gone about presenting legislation to this House as this Government does, the yells from the then Opposition would have been so loud as to raise the roof. Maybe we are being put through a learning experience for 1989, because that is probably the way Governments should work in the future. This Government has shown complete disdain for members of Parliament and for the principles of this House in order to push things through for the convenience of the Minister and the department. I believe that is not good enough. Before long this House will have to take a stand and throw a Bill out at the second reading stage because it was not introduced in the right form. Many people around this place from both sides agree with me.

Hon Mark Nevill: Standover tactics.

Hon A.A. LEWIS: Maybe they are standover tactics. However, I believe the Government is using standover tactics by forcing us to debate this Bill in its present form. It is interesting to hear the comments from Government members who do not understand what this Bill involves. This Bill refers to many Acts, which put together are 12 inches in depth. That indicates the sort of research one must do on this legislation, and when 15 or so extra amendments are proposed a great deal of extra work is involved. It is not fair to the House or to the members concerned. I have grave reservations about this Bill, which is mainly for discussion in Committee. We shall debate it in Committee if only because the Opposition has won a few concessions on behalf of the surveyors. The Bill is a disgrace.

HON J.N. CALDWELL (South) [3.31 pm]: This Bill represents the first stage of the review of the Land Act which is aimed at immediately improving any out of date procedures to complement organisational changes within the department.

In 1983 the Department of Lands and Surveys — as it was then known -- undertook a detailed review of the department's land administration functions. After four years the Government has now presented the first stage of the review of the Land Act. It amazes members of the National Party that it has taken so long to produce this Bill, which deals with part of the review, and when the Bill reached the Legislative Council five pages of amendments were proposed by the Government. If the Government had done its homework in the first place it would not have been necessary to amend the Bill so much, and if the Government had consulted the right people this would not have happened.

It seems that the Government completely ignored the surveyors association; as the legislation is dealing with land it would seem only natural for the Government to consult that association. After all, its members delineate areas and boundaries and are also involved in putting down site pegs and so on. The question of their cutting down trees in that process will be discussed in a later Bill.

The presentation of the Bill in this House with so many amendments creates confusion and a lot of work. I believe the Bill was debated for many hours in the other place, and I imagine the Press were completely and utterly bored and were inclined to doze off until members' tempers frayed. The altercations that followed became of vital interest to the Press and were reported in the newspapers. This brings ill repute on members of Parliament. Some of us may think we are the cream of society although I doubt that very much. However, it would not hurt if members' behaviour in the Chamber was kept at a certain standard. Tempers became frayed in the other place as a result of debate on this Bill, which the Government presented without prior consultation with the people involved.

I am pleased that the Government has given the Bill further consideration and that certain amendments have been made to it; for example, in some places the requirement for an authorised land officer has been changed to a licensed surveyor, and also if any land use is to be altered, the intention must be advertised in a local newspaper. I hope that other media may be used in special circumstances, although I recognise that newspapers are available in most areas nowadays.

I possibly agree with Hon Sandy Lewis about the deletion of the requirement for the Governor to sign certain documents. Crown land must be respected and the Governor should put his signature to such documents. The Government's proposed amendments will be accepted by the National Party, and the National Party will also move an amendment giving local government the right to object to any regulation or land dealing. Members are elected by the people of Western Australia to make the laws and regulations for land but if we make an error -- as we are sometimes bound to do -- we should give the people the right to raise petitions or suchlike to complain. We also thought that an individual should have the right to object but we realised that the procedure would become unworkable and such a provision would prolong the exercise. I hope that the Government will give this amendment some consideration; we feel it is worthy of its support.

HON D.J. WORDSWORTH (South) [3.37 pm]: I support some of the remarks already made by Opposition members in this Chamber. In the Minister's second reading speech she said that during 1983 the Department of Lands and Surveys, as it was then known, undertook at the request of the Functional Review Committee a detailed review of the department's

land administration functions. In fact, that started long before 1983 and it would perhaps not be out of place to say that the Public Service Board considered placing someone from outside the department as Under Secretary before Mr Brian O'Halloran took that office. At that time the Public Service Board saw the need for changes in the department. While I was Minister for Lands a group of business consultants were asked to look at ways and means of improving the functions of the department and, more particularly, to look into the interrelated responsibilities of the Under Secretary and the Surveyor General.

The Minister's speech also indicated that just because one is modernising something and removing procedures that have been in place for a long time, that will lead to an improvement. I do not necessarily agree with that. If procedures have been in place for a long time in this country -- the Land Act is one of our earlier Acts -- it could be said that they are not all bad.

Hon Kay Hallahan: Did you seek to improve the procedures?

Hon D.J. WORDSWORTH: We asked the management consultants, Scotts, to look at the Department of Lands and Surveys with regard to the interrelated responsibilities of the Under Secretary and the Surveyor General.

One of the provisions of this Bill does nothing but change the title of the Surveyor General to Director, Mapping and Survey Division. He has a great many responsibilities, and it would be a fitting time to pay our respects to John Morgan, who was the Surveyor General when I was a Minister. He was the last of the exploring Surveyor Generals, and it might be appropriate that the title goes out with him as the final Surveyor General. He was responsible for leading an expedition across the Mitchell Plateau, which I think took three or four months. He went out with a policeman and a few Aborigines. He filled in the last of the remaining areas of exploration in Western Australia, and anyone who has seen pictures of the Mitchell Plateau will realise the difficulties faced by that expedition. I was going to say it was a horse and cart expedition, but there was not even a cart because the country was so difficult to cross.

I realise the department needs modernising, if only in the handling of its files. I think it handles something like 10 000 file transactions every week. The very movement of files around the department was a problem, particularly in the old building, and there is a need for updating that type of thing to provide greater cohesion between the various sections. It was not difficult to lose a file in those corridors and between the various offices. However, in the end lost files always turned up.

I am surprised to hear the Minister predict that much of the remainder of the Act might well be scrapped, referring to what has not been scrapped in this amendment. I would like to refer to the Governor in Executive Council, who was mentioned among the various groups being dealt with in this amendment. It is said, "The involvement of the Governor in the many aspects of day to day land transactions is outmoded." He does play an important part in land transactions in this State, if for no other reason than by enforcing a standard. While it might have been a burden to have everything triple checked to ensure it was in order and the Governor could sign it, at least it was done and standards were maintained.

The Department of Lands and Surveys had very high standards. It believed that land could not be alienated more than once, and when it had been agreed that land should become part of that owned by the private sector, it was very difficult for the Government to get it back. There was a very intricate way not only of double-checking but triple-checking every action of the department. While it was perhaps time-consuming, very few mistakes were made by the Department of Lands and Surveys. While at times it might have been frustrating for those waiting for the action to take place, nevertheless they knew, when things finally came to a head, everything would be satisfactory.

At times when delays were being brought about, very often the department would be of the view that the proposed action was not very good, and it could be very slow. I can recall an example in my own electorate where there was a demand for beach cottages at the seaside at a place called Hassell Beach. It started before I was Minister, and I hear from the local government authority there that they are still waiting for it to be done. If the department really wanted this development, the matter could have been completed within a few months.

Sitting suspended from 3.45 to 4.00 pm

Hon D.J. WORDSWORTH: Before the suspension I was referring to the responsibilities of the Governor in Executive Council, and it is said that in many aspects of day to day land transactions they are outmoded. I question that. I believe that requiring land transactions to come before the Governor brings about a certain standard of work and form which is very beneficial to the land administration system. As I have said, once land is alienated and its ownership is out in the private sector, the Crown has no say about it at all. The Department of Land Administration has always been the guardian of this State's real estate. It does no harm to have a certain format which must be followed before land can be alienated, and it is not a very arduous task for the Governor to have that process brought before him. I believe the Executive Council meets only once a fortnight; it used to meet once a week. It takes from half an hour to three quarters of an hour to have documents signed by the Executive Council. The Executive Council is one of the major responsibilities of the Governor, and I cannot see that it should be considered too arduous for him to undertake that duty. The Governor has other responsibilities within our political system, particularly when something goes wrong with our parliamentary system, but when the Government has been established and the Premier has his charter, I do not believe the Governor has too many responsibilities. He has certainly sufficient time to carry out any duties required in Executive Council, and if there is a need to cut down his responsibilities, it is his own social responsibilities which should be cut down.

There is a contradiction in the Minister's second reading speech. The Minister referred to the Governor handing over to the Minister some of his powers, and said this would in fact result in the same workload of detailed, routine procedure being addressed by the Minister instead of the Governor. We would almost think from that that there was greater workload created by detailed, routine procedures, but I believe the Governor does not have many of those duties; they are mainly carried out before the Governor sees the papers. The public feel, by having the Governor in this position, that there is a final check and balance, and if there is an objection to what the Government is doing, the public can go to the Governor and say, "We are not happy with what is happening."

Hon Tom Stephens: Where can they go to?

Hon D.J. WORDSWORTH: They can petition the Governor.

Hon Tom Stephens: Can they?

Hon D.J. WORDSWORTH: Any person in Western Australia can petition the Governor on a matter, and they so do, which I know at times has made the Premier of the day rather annoyed. I remember that Sir Charles Court was once very annoyed with Sir Wallace Kyle when he started to ask questions about what was happening with the shooting regulations in this State because he had a deputation from the Albany Shooters Association, and I think Sir Charles Court felt very strongly that Governors had to sign pieces of paper and that the Premier of the day was responsible for the country. Sir Wallace Kyle, who was previously head of one of the services in Great Britain, quickly told him that as Governor, he had certain responsibilities and intended to carry them out.

It has been suggested that making the Governor sign various papers in Executive Council adds to the time taken to make subdivisions of land. I am told it usually takes 12 months to make a subdivision -- and I am referring to a town subdivision where town lots are required for residential purposes; for example, around mining towns -- from the moment the department decides to make that subdivision to when the auction is held. An ultra-quick subdivision can take five months, but a subdivision can also take 18 months.

A lot of the need for that time is brought about by Treasury, because it is very expensive to make a subdivision these days: Not only does the survey have to be done, which is a relatively easy task because that is done by the department, but roads have usually to be built and water and electricity supplied, which are very costly. The Crown has to carry on from year to year, holding these expensive blocks of land until they are sold, so the Treasury would usually insist that there was a very strong demand for those blocks and the likelihood that most of them would be sold immediately, because the Crown does not like to have large amounts of money sitting in subdivisions around the State which may perhaps not be used.

I have said that it usually takes 12 months for a subdivision and that five months is a relatively quick subdivision. Given that, we could hardly blame the Governor for holding up such subdivisions because in actual fact the signing takes place every fortnight, and if one

occasion is missed, it has to take place on the next occasion a fortnight later. I do not believe those two weeks can be blamed for holding up a subdivision when that takes usually from five to 12 months.

The next matter is the removal of the statutory office of Surveyor General. I have already spoken about that. I must admit it brings a certain amount of sadness to my family because my wife's people have been tied up with surveying from the foundation of Western Australia. In fact, Frederick Harley Johnston surveyed the first subdivision at Bunbury.

Hon Tom Stephens: What year was that?

Hon D.J. WORDSWORTH: When was the foundation of Australind?

Hon P.G. Pendal: I think it was in 1831.

Hon D.J. WORDSWORTH: The Johnstons have been tied up with the position of Surveyor General. Not only was his son Frederick Johnston once a Surveyor General of Western Australia; another Johnston, his grandson, was Surveyor General of Australia.

Hon Tom Stephens: One of his descendants?

Hon D.J. WORDSWORTH: Yes. They were all descendents of the first one who settled in Western Australia.

It is rather sad to see the removal of the statutory office of Surveyor General and its replacement by what seems to me to be a relatively minor office, the Director of Mapping and Surveying. We use the Torrens system of surveying in Western Australia, and we have rarely had any arguments about boundaries in this State, whereas in other parts of the world feuds go on all the time.

The third group of amendments relates to the selective removal of notices from the *Government Gazette*. I find it rather amazing that few members of Parliament read the *Government Gazette*; I am sure most members of Parliament do not even receive a copy of it. One would think a copy of it would be on every member's desk every week. I gather that there is a copy in the Legislative Council annals, which the Clerk reads and files away.

Hon H.W. Gayfer: I understand a copy is available on request.

Hon D.J. WORDSWORTH: That is well worth knowing. I think members ought to read the *Government Gazette*. The *Government Gazette* is important because it puts a date and formality to matters. For example, one should consider the building of the road through the Frank Hann National Park, as it is said to be. The road goes from Cascades, north west of Esperance, through to Lake King, and was built when a group of farmers took it upon themselves to build that road. They found that the Government was too slow in doing anything about it. There is a large deposit of gypsum in that area -- some three million tonnes of it -- which had to be transported to the Port of Esperance and Perth. The farmers, as the owners of that deposit, were required to make their own track to get the deposit out. I think it was quite legal under the Mining Act, if for no other reason. I asked a question in this House about when the Frank Hann National Park was gazetted. As members know, to create a national park, notice has to be brought before the Parliament. In actual fact the Frank Hann National Park, which was gazetted in 1970, is not even an "A"-class reserve; it is a "C"-class reserve, a grade of little more than vacant Crown land.

By referring to the *Government Gazette*, the public can see what has happened. I think the *Government Gazette* is very useful. For example, it indicates that the Frank Hann National Park was not established in a legal way because it was not gazetted as such. In the *Government Gazette* one can see what happened and one can look to see whether the Government gazetted the Frank Hann National Park as an "A"-class reserve, which is the requirement for a national park. The *Government Gazette* gives one the exact reference back in 1970, which perhaps could be useful for historical research purposes.

In the Minister's second reading speech reference was made to the removal of the requirement for gazettal. That is clarified later in that the changes might only be changes in the method of gazettal. In other words, in some cases it will not be necessary to write the whole thing in detail but to refer only to a heading. It will be hard to determine such changes until they actually takes place.

There are other amendments in the Bill, among which is included the ability of the Minister to delegate his responsibilities to various members of his department. I am not happy with that either. Under the principal Act the Minister has the ability to delegate responsibility. While it is important enough for the Minister to have that ability in the first place, once he has delegated responsibility he will never see it again. Under these conditions, there should be a requirement for the Minister to be informed of every action that takes place when he hands over that power to another person by way of delegation. It is said that the Minister would need to delegate some of his powers and functions to an officer of his department because of the "ever-increasing level of documentation" required. I wonder whether there is an ever-increasing level of documentation. Gone are the days when we threw open one million acres of land for agriculture. I would have thought that would have created more paperwork and documentation than currently exists.

In respect of the subdivisions of land for residential purposes in mining towns in the north, we should swing more to subdivisions by the Crown in the form of a maxi-block, which can be given to private enterprise to carry out the task of subdividing further, building roads, connecting power, and the like. In this way, the Department of Land Administration would not have as much paperwork to do and the Crown would not need to have as much money tied up in subdivisions as it does now.

We should realise that Western Australia has only 17.5 per cent freehold land. The Department of Land Administration is responsible for over 80 per cent of Western Australia, and this is a very big State. I hope that more development occurs in the north. I have to admit that I do not think the way in which land is held in Western Australia helped the development of this State. Coming from Tasmania, I know that the land there was opened up very early to settlement and large blocks of land were made into holdings. It might have been thought that the owners would make vast amounts of money out of any subdivision. However, land values do not increase very quickly and the people who were granted the land originally did not end up being very wealthy. At least, under that sort of subdivisional arrangement, anybody who wanted to do something, provided he could pay the owner for the land, could do it.

I believe that Western Australia has been held back considerably by our Land Act. I know that many people have wanted to carry out agricultural developments but have been prevented from doing so because the Crown has been concerned that, if it leased or granted the land, it would be responsible for any failures. The Crown seems to feel that unless a Kununurra-type development is carried out on Crown land, it is better not to do anything with it. In WA, we would prefer that nothing at all is done with our land if not done by the Government. Vast areas of land in the north are available for agricultural development. Apart from the mining developments, we have seen very little of other types of development, including agriculture. A few years ago, when I was Minister for Lands and Forests, amendments were enacted to the pastoral sections of the Land Act, which allowed station owners to excise areas from their pastoral leases on which they could carry out farming activities. That has occurred only in two or three instances to my knowledge. It was interesting because there is some very good land in the north of this State which could be irrigated. I believe that, if we had some other form of land tenure or subdivisional provisions in place, we would have seen a lot more done in the north.

In the 1890s there were only about 30 families in the Kimberley. I suppose the argument might be used that those 30 families would have got the lot. However, I do not see that that is much different from what took place in Tasmania resulting in much more of the land being utilised.

Without doubt we need to continue with the system of the Governor in Executive Council signing all land transfers in relation to Aboriginal land rights. I believe that we cannot overlook this important task. Under this proposal, Governments could, if they so desired, hand over large areas to Aboriginal groups. I do not want to debate the merits or otherwise of Aboriginal land rights at this stage. My argument is that we should not make it easier for Governments to do these things without the public being made fully aware of its intentions. At least, under the present system, the public can be informed about what is going on.

I have gone through the major parts of the Bill. I cannot say I am happy with them but, like Hon A.A. Lewis and others, I will be interested to follow the Bill through the Committee stage when we will examine it clause by clause.

HON H.W. GAYFER (Central) [4.25 pm]: I will not say very much about this legislation because it is being handled by Hon John Caldwell on behalf of the National Party. However, I am most intrigued about some of the remarks made by the previous speaker, Hon David Wordsworth. I believe that a person being able to sign an order in lieu of the Governor without notification in the *Government Gazette* is something we have to watch very carefully.

I wish to relate a story to the House about something which occurred when I was in another place. It occurred at a time when Stewart Bovell was Minister for Lands, Forests and Immigration and before Co-operative Bulk Handling Ltd built its Kwinana terminal. When the land was vested in Co-operative Bulk Handling for the construction of that terminal, CBH excised a piece which abutted the then Town of Rockingham. The area totalled about 11 acres. It wanted to create a buffer between its proposed installation and the Town of Rockingham. The parcel of land was subsequently vested in the Town of Rockingham for recreational purposes, which suited Co-operative Bulk Handling. Trees were planted on it by CBH.

After the first stage of the C.B.H. building had been commenced, it was noticed that an ablution block was being built on the 11 acres. CBH made inquiries and found that, following submissions by two members of Parliament relating to that piece of land, Hon Stewart Bovell had altered the purpose of that land from recreation to caravan park and recreation. Consequently, the Town of Rockingham leased the area for a number of years with the right of renewal to a private entrepreneur who immediately built the ablution block.

The following year, CBH began the construction of the huge development that is there at present, only to find that it was faced with a possible injunction from the caravan park owners, Finkelstein and Finkelstein, because of the noise and discomfort being caused to the caravan dwellers and because of the way it was affecting that business. To get out of it all, Co-operative Bulk Handling bought the lease for a large figure to prevent the injunction being served on it, because at that stage it was doing a continuous pour of 144 cells day and night which, under no circumstances, could stop. The curiosity of Co-operative Bulk Handling was aroused and an inspection was made of previous issues of the *Government Gazette* to see whether the alteration of purpose for that piece of land had been missed.

I remember quite clearly that when it was found, it referred to reserve number so-and-so. Unless people knew the number of the reserve -- bearing in mind that it was a new reserve and had been created for a purpose -- there was no way of knowing from the *Government Gazette* notice which land it referred to. Consequently they made submissions to Mr Bovell and subsequently to you, Mr Deputy President (Hon D.J. Wordsworth), as Minister about this very incident. At that stage we could do nothing to change it. It had appeared in the *Government Gazette* and that was that.

If there is any way that such a thing could be done again by subordinates -- let alone by the Governor or the Minister -- I am fearful about what could happen in the future, bearing in mind what happened to Co-operative Bulk Handling Ltd which originally in good faith had allowed this land to be excised for a certain purpose. I stress at this stage that whatever happens in the future to notices of intention relating to the Reserves Act appearing in the *Government Gazette*, the land should be more clearly defined than by just identifying it with a reserve number. The notices printed in the *Government Gazette* never provide sufficient information for people to be able to identify the land involved. The only way a person could identify such land would be if he had an inkling that such a notice might appear and was on the lookout for it. The land to which I referred was only 11 acres in size, but I can imagine that a lesser area would escape public notice if it were printed in the *Government Gazette*. My colleague, Hon John Caldwell, and Hon Sandy Lewis will tell me whether the practice of printing notices in the *Government Gazette* will continue.

After listening to you, Mr Deputy President, speak in this debate I feared that such notices may not appear in the *Government Gazette* in future. Certainly, if the Bill will allow subordinates to sign documents such as this and they will appear willy-nilly without proper advertising, it is time for members of the Legislative Council to worry. The Bill before the House must be carefully considered during the Committee stage. I had not picked up this point until I heard the previous speaker in the debate.

I will be talking later in relation to the Reserves and Land Revestment Bill (No 2) with regard to another incorrect statement.

HON KAY HALLAHAN (South East Metropolitan – Minister for Community Services) [4.34 pm]: I thank honourable members for their response to the debate. I was interested to hear Hon Sandy Lewis indicate at the commencement of his speech that he would not support the Bill; I was rather disturbed to hear that utterance but comforted by the end of the speech to hear that he would not support part of it. It will be interesting in the Committee stage to see how members will view this very important legislation which will bring up to date our land administration. We should be quite clear about the intention of this Bill; the processes are extenuated and outmoded and it is not too strong to say that the procedures are out of date and that we must – I thought we would all subscribe to this – move towards cost efficient administration. If we want to do that we must make changes, and this Bill is the means by which to start on that process.

Interesting comments have been made about the amendments; I thought there was confusion in some cases about the original case for introducing the Bill, which was then tangled up with reasons for the amendments. We must understand that the Government is presenting a Bill on the basis of greater efficiency, streamlining procedures, and reducing costs in the public sector; and yet making it efficient. It is not often that we have an opportunity to do that in one stroke; often if we improve, streamline and bring procedures up to date, it is more expensive. In this situation it will be cost effective.

All amendments were foreshadowed, and I impress upon members that the amendments are before the House because the Minister in another place accepted them in response to comments made by members of the Opposition. The deletion of the process of going through the Executive Council is quite important, and members may not be aware of the process involved. Papers are dealt with on a sheet of paper basis; they have been drawn up by the department – it was good of Hon David Wordsworth to give the department a good wrap up in terms of efficiency and accuracy, as it is painstaking and detailed work -- the Minister signs the paper; it is taken to the Premier who initials it; and then the Governor in Executive Council initials it. While he is initialling the sheet of paper, two Ministers sit in with him and also a senior public servant. I have yet to be convinced that that is a desirable use of the Governor's, Premier's, or Ministers' time. The Governor must take part in some decisions, but we are hanging on to the past and old administrative ways when we seek to continue that process and somehow object to its being deleted through the provisions of this Bill.

I refer to another point made by Hon Sandy Lewis when he talked about delegation; it does happen and it needs attention. The existing Act makes no provision for the power to delegate, but over many years successive Governments have delegated powers which the Act did not provide for. Crown Law Department opinion is that it would be advisable to place beyond doubt those matters which were delegated where the Act did not provide for that. That is why this provision is included in the Bill. It is related to such matters as road resumptions handled by the Minister for Lands under the Local Government Act, notices of intention to resume by a number of agencies, and other matters. It is disturbing and we can see that these things happen; however, when they are brought to attention and legal advice is to do something about it, the Government is obliged to take action.

The intent behind the Bill is to improve efficiency and cost structures within the department. The comments made by Hon David Wordsworth were interesting in that they indicated that during the time he was Minister for Lands he was aware of shortcomings in the department and the need for changes. I was interested in Hon John Caldwell's comment that the functional review was carried out in 1983 and it had taken a long time to get to this stage. In fact, work began in 1983. It took a long time to go through the procedures to ascertain what needed to be done in relation to the Functional Review Committee report when it was put before the Government. There then had to be an implementation plan and, quite frankly, from my relatively short experience with legislation, I must say that it is a long process to go through those procedures to get to what one hopefully believes is the soundest way to go.

It certainly began in 1983, but was not done then. That was the beginning of a complex process to get us to the point we have reached today. There will no doubt be debate on some clauses of the Bill during the Committee stage. I find it difficult to accept the amendments placed on notice by Hon John Caldwell as they would add an inordinate delay to procedures; there would be delay for notices to go to local government, which I think takes seven days, and for notices to come back to the Minister, which is 35 days.

We are seeking to streamline procedures to make them effective and efficient; and with 55 to 60 such transactions each month those amendments, if carried, would cause a serious hitch in the way in which matters are dealt with, so I indicate that they will not be supported.

This is an important piece of legislation, which I hope members will support. I ask members to support the second reading.

Question put and passed.

Bill read a second time.

MARKETING OF EGGS AMENDMENT BILL

Assembly's Further Message

Further message from the Assembly received and read notifying that it had agreed to the Council's request for a conference; had appointed Mr Court, Mr Cowan, and Mr Grill (Minister for Agriculture) as managers for the Assembly; and had accepted the Legislative Council committee room as the place of meeting, and the time 5.15 pm, Wednesday, 9 December.

ACTS AMENDMENT (LAND ADMINISTRATION) BILL

In Committee

The Deputy Chairman of Committees (Hon John Williams) in the Chair; Hon Kay Hallahan (Minister for Community Services) in charge of the Bill.

Clause 1: Short title --

Hon A.A. LEWIS: The Minister talked about validation and said that a number of actions have been illegally performed and that grants have been illegally given. The Committee should have more detail of how many of these transactions have occurred over the years, and who advised that those transactions should go ahead. It has been horrifying to hear that successive Governments and successive Ministers have been advised incorrectly about certain matters. In ballpark figures, will the Minister say how many validations there have been and what they have concerned? The Minister has mentioned roads, easements, and such things, but have any parks or nature reserves appeared on this list, and exactly how great is that list?

Hon KAY HALLAHAN: The answer is probably thousands and thousands. The fact is that, even if it is one or two, the actions need to be validated -- and this is the advice of the Crown Law Department -- so as to make all of those transactions quite safe. Therefore, members are asked particularly to support the clause of the Bill relating to this matter. This practice has occurred over quite a number of years and is something that needs to be put right. It would not be practicable to spend resources on going back to find a statistical figure so that we could quote it; but the matter needs putting right.

Hon A.A. LEWIS: Why was the date chosen, if we are validating those actions? Was there a validation before this date, or were the people not protected before then? Did the Crown Law Department give this advice to protect itself, because it gave advice on this matter previously?

I would hate to be scathing about the performance of the Crown Law Department, but I know that two previous Ministers have sought Crown Law advice in declaring a national park -- advice which was proven later to be completely wrong. I wonder whether this Crown Law advice to the Minister was given to protect it from its many mistakes. Why was this date chosen, and who, in the main, made the mistakes, the Department of Land Administration or the Crown Law Department?

Hon KAY HALLAHAN: I accept that it is an interesting point that we are considering.

Hon A.A. Lewis: The Minister is asking us to validate something.

Hon KAY HALLAHAN: The date selected is an ambit one which is considered safe enough and which goes back far enough to cover all of the transactions that have occurred and about which there might have been difficulty or ambiguity. I suppose that one could say that the blame could be laid at the feet of various Ministers for Works over the years, but one could

also ask whether they were advised by Crown Law Department or departmental heads. It does not seem relevant at this stage when the error first occurred, or where it was perpetuated, which seems to be the way in which it crept into common usage to delegate when the power to do so was not available.

Clause put and passed.

Clauses 2 and 3 put and passed.

Clause 4: Section 1 amended --

Hon A.A. LEWIS: The Land Boundaries Act makes reference to visible land marks on several lands under the direction of the "Surveyor-General of this colony", which reference to Surveyor-General has not been amended in the amendment.

Then it says, "Be it therefore enacted by His Excellency the Governor of Western Australia". Does that mean that that is the first part -- a preamble, to the Act? Then "1" moves over into the column of the first clause? This appears to be a complete new clause.

Hon KAY HALLAHAN: It is a technical matter, correcting drafting procedures going back to 1841.

Hon A.A. LEWIS: I query the reason for changing the clause unless we are creating a new clause.

The DEPUTY CHAIRMAN (Hon John Williams): Order! If members are having difficulty with the interpretation of this clause, the Minister has the right to ask me to leave the Chair to allow consultation between the Minister and the member concerned. If the member wishes to speak, he should stand in his place.

Hon KAY HALLAHAN: Mr Deputy Chairman, I request that you do leave the Chair for a few minutes.

Sitting suspended from 4.52 to 4.55 pm

Clause put and passed.

Clauses 5 to 35 put and passed.

Clause 36: Section 181 amended --

Hon KAY HALLAHAN: I move an amendment --

Page 9, line 20 -- To insert before ", make regulations providing" the following --
and after consultation with the Land Surveyors Licensing Board constituted under the *Licensed Surveyors Act 1901*

Hon A.A. LEWIS: The Opposition thanks the Government for this insertion. The Opposition supports the amendment.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 37 put and passed.

Clause 38: Sections 5A and 5B inserted --

Hon KAY HALLAHAN: I move the following amendments --

(B)Page 10, lines 13 and 14 -- To delete "Gazette delegate to any other Minister of the Crown any of his powers or duties under this Act." and substitute the following --

Gazette delegate to --

- (a) any officer of the Public Service of the State under the administrative control of the Minister and assisting him in the administration of this Act;
- (b) the Minister of the Crown to whom the administration of the *Land Act 1933* is for the time being committed by the Governor;
- (c) the Minister of the Crown to whom the administration of the *Main Roads Act 1930* is for the time being committed by the Governor;

- (d) the Minister of the Crown to whom the administration of the *State Energy Commission Act 1979* is for the time being committed by the Governor; or
- (e) the Minister of the Crown to whom the administration of the *Water Authority Act 1984* is for the time being committed by the Governor,

any of his powers or duties under this Act, except this power of delegation.

(C)Page 10, lines 19 to 21 -- To delete "the *Gazette* delegate to any officer of the Public Service of the State assisting that Minister of the Crown in the administration of an Act the whole or any part of the power or duty." and substitute the following --

the *Gazette* delegate --

- (a) in the case of the Minister of the Crown referred to in section 5A(b), to the Permanent Head of the Department principally assisting that Minister of the Crown in the administration of the *Land Act 1933* or to any other officer of that Department;
- (b) in the case of the Minister of the Crown referred to in section 5A(c), to the Commissioner within the meaning of the *Main Roads Act 1930* or to any officer of that Commissioner;
- (c) in the case of the Minister of the Crown referred to in section 5A(d), to the Commission within the meaning of the *State Energy Commission Act 1979* or to any officer of that Commission; or
- (d) in the case of the Minister of the Crown referred to in section 5A(e), to the Authority within the meaning of the *Water Authority Act 1984* or to any officer of the Authority within the meaning of that Act,

the whole or any part of the power or duty.

Hon A.A. LEWIS: This clause is the crux of one of the Opposition's main objections. We oppose it.

[Questions taken.]

Hon A.A. LEWIS: The Government should be commended for the fact that it did make some effort on this matter after debate in another place. I said earlier that giving the powers of delegation to three Ministers other than the Minister for Lands was like putting three draculas in charge of a blood bank. I can understand that the Minister for Works and Services has to deal with the Minister for Lands but I cannot understand that he also should be delegating responsibility to Ministers responsible for main roads, the State Energy Commission, and the Water Authority. Quite frankly, I do not believe the Minister should have the powers of delegation.

Having said that, let us look at proposed section 5B again. It refers to subdelegation, where a Minister to whom power has been delegated under proposed section 5A may either generally or as otherwise provided by the notice concerned delegate to any officer of the Public Service of the State assisting that Minister of the Crown in the administration of the Act the whole or any part of the power or duty.

Hon D.J. Wordsworth: An adviser is not a member of the Public Service, is he? I hope not.

Hon A.A. LEWIS: I am not going to make rabid assertions about advisers; I think there are probably some good ones. Perhaps in 1989 we will appoint the odd adviser. But I believe the responsibility of a job is the responsibility of the Minister. I do not believe that the Public Works Act needs to be altered in this way.

The DEPUTY CHAIRMAN (Hon John Williams): Order! In order that the conference of managers may meet, I will leave the Chair until the ringing of the bells, which will not be before 7.30 pm.

Sitting suspended from 5.10 to 7.30 pm

MARKETING OF EGGS AMENDMENT BILL

Conference Managers' Report

HON GRAHAM EDWARDS (North Metropolitan – Minister for Sport and Recreation) [7.30 pm]: I have to report that the managers appointed by the Council met the managers appointed by the Assembly and reached the following agreement –

That the Assembly misunderstood the purport of the Council's message and having accepted the reasons drafted by the Council's managers declared that the Council no longer insist on its amendments and that the Bill should proceed.

I move --

That the report be adopted.

Question put and passed, and a message accordingly returned to the Assembly.

ACTS AMENDMENT (LAND ADMINISTRATION) BILL

In Committee

(Resumed from p 7549.)

Hon A.A. LEWIS: I was saying previously that this clause must be defeated. Section 5 of the principal Act, the Public Works Act, states --

The Minister of the Crown for the time being administering this Act shall for the purposes of this Act become and continue to be a body corporate under the name of the "Minister for Works" with perpetual succession and a Common Seal; and by that name shall be capable of suing and being sued, acquiring, holding, letting and taking land on lease and alienating real and personal property, and of doing and suffering all such other acts and things as may be necessary or expedient for carrying out the purpose of this Act.

The Government seeks to insert powers for delegation by a Minister and the Bill states --

The Minister may, either generally or as otherwise provided by the notice concerned, by notice published in the *Gazette* delegate to any other Minister of the Crown any of his powers or duties under this Act.

New section 5B refers to subdelegated power or duty and states --

(1) A Minister of the Crown to whom a power or duty has been delegated under section 5A may, either generally or as otherwise provided by the notice concerned, by notice published in the *Gazette* delegate to any officer of the Public Service of the State assisting the Minister of the Crown in the administration of an Act the whole or any part of the power or duty.

And --

(2) A Minister of the Crown shall as soon as is practicable after exercising the power of delegation conferred on him by subsection (1) transmit to the Minister a copy of the notice by which that power was exercised.

Therefore the Minister for Works and Services is a perpetual successor to the common seal and is capable of suing and being sued, acquiring, holding, letting, taking land on lease and alienating real and personal property and of doing and suffering all other acts and things as may be necessary or expedient for carrying out the purposes of the Act. Also, he can delegate that power to other Ministers under this amendment and the Minister can then subdelegate the power or duty, so the power flows from the Minister for Works and Services to another Minister and then to somebody to whom that other Minister delegates that power. It seems to me that the ministerial responsibility of the Minister for Works and Services is being split and thrown to the wind. This Committee should throw out clause 38.

Hon KAY HALLAHAN: Members should seriously consider the proposal put by Hon Sandy Lewis because it would not be good sense for us to do what he suggests. I accept that this matter is complicated and may appear not to be good management, but I say that it is. This legislation places Ministers responsible for the SEC and the Water Authority on a basis similar to that of the Minister for Works and Services.

Hon A.A. Lewis: And the Main Roads Department.

Hon KAY HALLAHAN: And main roads, but land tax transactions must go through the Public Works Act.

Hon A.A. Lewis: It is delegated under the Minister's amendment.

Hon KAY HALLAHAN: It is my understanding that the power will be extended to the Minister in charge of main roads, but not to all Ministers, as the member has indicated. It is necessary to be able to delegate to staff within those departments, however, the authority of the Minister for Public Works will remain an overriding one.

I will outline some of the domestic matters associated with this. I said in my second reading speech that the staff of the Minister for Lands currently handles resumptions and associated matters under the Public Works Act, so they are working under that Act but under the Minister for Lands, having brought those duties with them on their transfer from the Land and Property branch of the old Public Works Department. A delegation to the Minister for Lands will enable those officers to become directly responsible to their Minister rather than dealing directly with the Minister for Works under this fairly unusual arrangement brought about by the restructuring of departments. I do not want to lose the member.

Hon A.A. Lewis: I am right with the Minister.

Hon KAY HALLAHAN: The Lands Department will then continue to provide services under the Public Works Act to those departments and agencies that are not able to gain through their Minister a direct delegation of powers. The latter delegations relate to the Ministers responsible for the Main Roads Department, the SEC, and the Water Authority of Western Australia, each of whom has, in line with their task of providing public works, an appropriate level of interest in land matters. I do emphasise that their task includes the provision of public works. That is what it relates to when we are talking about the public works. I know it is confusing, and I might say it has not been entirely easy for me to grasp it, and I have had more opportunity to do that than have a number of other people. I repeat that it has to do with public works.

Hon A.A. Lewis: It has to do with the Public Works Act.

Hon KAY HALLAHAN: Yes, so it is not a broad paintbrush, which came up a couple of speeches earlier. As I was saying, the latter delegations relate to the responsible Ministers, each of whom has, in line with the task of providing public works, an appropriate level of interest in matters of acquisition, production, leasing, and disposal of land, and a sufficiently developed land office to give appropriate backup to the delegation of power.

There is no way in which one can conduct the business of complex organisations like Government departments in their fields -- and in the experience of my department as well -- without that power to delegate, and they are specific delegations to specific levels of officers to carry out specific tasks. Somebody said something about counter staff or the most junior clerk having delegated power. It is not that generalised -- it is a delegation to the appropriate level of responsibility for the particular task that needs to be done.

I therefore reassure members that what is proposed here is not in any way different from that which is normally delegated or handled within the Public Service. It is complicated because of this restructuring and because other Ministers are involved in the provision of public works.

Advisers were mentioned, and I make it quite clear that the amendment says that the power should be delegated to any officer of the Public Service of the State. That is quite clear, so I do not know whether the point about advisers was a red herring.

Hon A.A. Lewis: I thought I had dealt with that.

Hon KAY HALLAHAN: They are not public servants, and the delegation is to public servants under the Public Service Act.

I ask members to consider this amendment very seriously. The Bill is before us because we want to streamline and improve the procedures that operate, and delegation of powers in this way is fairly critical to administration. Many members here will appreciate that and will support the amendment before the Chamber.

Hon A.A. LEWIS: The Minister has even further hardened my resolve. She said the Minister for Works and Services has an overriding responsibility in the delegation, but what is that Minister going to do if the Premier says, "You will delegate"? The Minister will either resign or be sacked. Really it is a Cabinet decision, it is not the Minister's decision to delegate that authority. The Minister will be told. We see Ministers on all sides being told what to do, sometimes against their grain.

It is interesting to hear the simplicity of this as outlined by the Minister at the Table. She says it is the normal delegation. Will she tell me the other Acts under which a Minister of one department delegates power to Ministers in other departments, who then have the power to delegate to their departmental officers? The Minister said in her second reading reply that it is no different from that delegation which is given in other spheres. I say that it is; that it is a totally different power from any that has ever been given by this Parliament before.

Hon KAY HALLAHAN: I really do not understand the honourable member's bringing the Premier into it.

Hon A.A. Lewis: The Premier appoints you.

The DEPUTY CHAIRMAN: (Hon John Williams): Order!

Hon KAY HALLAHAN: Section 5 of the Public Works Act remains. That section sets up the Minister for Works and Services as the body corporate to be sued, or whatever. That section remains in any event, and those other delegations would take place within that reality.

Hon J.N. CALDWELL: We gave this amendment our full consideration during the dinner break this evening. One thing that particularly worried us was that when a Minister delegates authority to somebody else and it gets further down the track, any doorman or a similar type of person could possibly sign a piece of paper and that would be it -- it would become a regulation or something like that. We were very concerned about whether that person would sign on behalf of the Minister. If the Minister can verify that such signings would be on behalf of the Minister so they give the Minister the responsibility even though he may not have signed, perhaps that would satisfy the National Party.

Hon KAY HALLAHAN: The amendment before the Chamber says clearly that the whole or any part of the power or the duty is what the person with delegated power would be acting under. So, whatever they did sign, they would be acting either wholly or in part under that power delegated to them.

Hon A.A. Lewis interjected.

Hon KAY HALLAHAN: That is not true.

Hon A.A. Lewis: It can be delegated to any public servant.

The DEPUTY CHAIRMAN: Order! The Minister will ignore the interjections.

Hon KAY HALLAHAN: It is up to the Minister to decide to whom he will delegate power. I make that decision within my department now, just as these Ministers will make the decisions within their departments as to whether or not it is appropriate to delegate. It does not go down the line. There are specific levels of officers. That is a quite erroneous thing to be adding to the debate.

Hon A.A. LEWIS: I urge the Minister to read proposed section 5B(1). It refers to "any officer of the Public Service". I will not go on about that. The powers are there, they are written into the clause, and I object to them.

Hon KAY HALLAHAN: The Minister has the overriding responsibility, and will delegate in a way that will promote an effective service and cause as few problems as possible. I certainly do not delegate powers to counter staff in my department, neither would any other Minister. When considering resumption, and matters like that, authority would be delegated to the level of officer responsible for and able to do that task. The Public Service Board quite clearly sets out different levels of officers with their different levels of ability and responsibility. It is a red herring to suggest that power would be delegated right down the ranks. That is not the case and, quite frankly, it is irresponsible for someone who hangs out as having some knowledge of the Public Service to suggest it.

Hon A.A. LEWIS: With this amendment the Minister for Works and Services can delegate to other Ministers, although it is confined to Ministers responsible for the SEC, MRD, and WAWA. Once the Minister for Works and Services delegates that authority to the Minister in charge of the other body, that other Minister can delegate, according to the Act, to any officer in the Public Service. We hope that would not go down to the doorman, as Hon John Caldwell suggested, but according to this Bill it could if he is a member of the Public Service. My experience has shown that a person who is not finally responsible tends to delegate a lot further down the line than the Minister who is. When the delegation has been passed over to another Minister, he will say, "That is the Minister for Works and Services' worry; I have the power under the Act now to delegate to virtually any public servant I like." I know this sounds irresponsible to the Minister at the Table, but it can happen, and this Bill would allow it to happen. That is why I continue to urge the Committee to vote against the Bill.

Hon KAY HALLAHAN: I want to make it quite clear to members that the unusual thing about this Bill is that authority can be delegated to other Ministers. That is not normally included in a Bill.

Hon A.A. Lewis: That is damned right.

Hon KAY HALLAHAN: But the power to delegate to staff is a standard delegation. I brought child welfare legislation to this Chamber a week or two ago which contained that power, and there was no debate about it.

Hon A.A. Lewis: I did not handle it.

Hon KAY HALLAHAN: The member may not have, but if he is so concerned one would have thought he would be on his feet. The reason he was not is because it is a usual delegation, and Government business could not be carried out without it. As I have pointed out, the Minister for Works and Services has the overriding responsibility of being the corporate entity for litigation in some of the areas. I do not want members to vote under the misapprehension that this Bill has anything other than the standard delegation to staff. It has nothing to do with delegation to a doorman, or lower levels --

Hon A.A. Lewis: Of course it has a lot more, because it has got delegation from one Minister to another.

Hon KAY HALLAHAN: I acknowledge that, but the delegation to staff is a normal delegation. I want to emphasise that, because it would be a great pity if members of this Chamber were to vote tonight with anything but a clear understanding of that fact.

Hon J.N. CALDWELL: I can see where a delegation of power is necessary, especially if the Minister is away.

Hon Kay Hallahan: It is essential all the time.

Hon J.N. CALDWELL: The problem arises where one Minister delegates to another Minister, and the delegation continues on. If the honourable Minister could confirm that the Minister is responsible for actions taken under the signature of a person to whom authority has been delegated, I am sure the National Party would be happy.

Hon KAY HALLAHAN: I make it quite clear to the Committee that the Minister is responsible. A letter carrying out a resumption order, or something like that, bearing the signature of somebody else, is still the responsibility of the Minister, and there is no doubt about that. I am responsible within my department for powers delegated to officers within that department. As I said before, this is standard practice. The aspect which, I agree, is not standard, is that other Ministers are involved. I have explained we have officers working, under the Public Works Act, under the Minister for Lands and that is why it is complicated at present. As I said in my second reading speech, another Bill will be brought in, hopefully next year, which will clarify some of these things. It is a bit messy at the moment because officers are having to work with a Minister to whom they are not directly responsible.

Amendments (deletion of words) put and a division called for.

Bells rung and the Committee divided.

The DEPUTY CHAIRMAN (Hon John Williams): Before appointing the tellers I cast my vote with the Noes.

Division resulted as follows --

Ayes (15)

Hon J.M. Berinson
Hon J.M. Brown
Hon J.N. Caldwell
Hon D.K. Dans

Hon Graham Edwards
Hon H.W. Gayfer
Hon Kay Hallahan
Hon Tom Helm

Hon Garry Kelly
Hon Tom McNeil
Hon Mark Nevill
Hon S.M. Piantadosi

Hon Tom Stephens
Hon Doug Wenn
Hon Fred McKenzie
(Teller)

Noes (10)

Hon C.J. Bell
Hon Max Evans
Hon Barry House
Hon A.A. Lewis

Hon G.E. Masters
Hon N.F. Moore
Hon P.G. Pental
Hon John Williams

Hon D.J. Wordsworth
Hon Margaret McAleer
(Teller)

Pairs

Ayes

Hon B.L. Jones
Hon T.G. Butler
Hon John Halden
Hon Robert Hetherington

Noes

Hon Neil Oliver
Hon P.H. Lockyer
Hon W.N. Stretch
Hon E.J. Charlton

Amendments thus passed.

The DEPUTY CHAIRMAN (Hon John Williams): The question now is that the words to be inserted be inserted.

Hon A.A. LEWIS: We are now left with the opportunity of doing what the Government wishes which is delegating power to the Ministers in charge of the State Energy Commission, the Main Roads Department and the Water Authority of Western Australia. I remind the Minister about clearing restrictions, main roads in the bush, and SEC power lines that pass through properties.

I move --

That amendment (B) be amended by deleting paragraphs (c), (d) and (e).

Hon KAY HALLAHAN: I ask members not to support this amendment because it is important to have powers delegated to the Ministers in charge of those instrumentalities because of their involvement in public works. We want them to be able to act in a common manner. Only in that way will the public understand what they are doing. The amendment does not substantially increase the powers of the Ministers.

Amendment on the amendment put and a division called for.

Bells rung and the Committee divided.

The DEPUTY CHAIRMAN (Hon John Williams): Before appointing the tellers, I cast my vote with the Ayes.

Division resulted as follows --

Ayes (10)

Hon C.J. Bell
Hon Max Evans
Hon Barry House

Hon A.A. Lewis
Hon G.E. Masters
Hon N.F. Moore

Hon P.G. Pental
Hon John Williams
Hon D.J. Wordsworth

Hon Margaret McAleer
(Teller)

Noes (15)

Hon J.M. Berinson
Hon J.M. Brown
Hon J.N. Caldwell
Hon D.K. Dans

Hon Graham Edwards
Hon H.W. Gayfer
Hon Kay Hallahan
Hon Tom Helm

Hon Garry Kelly
Hon Tom McNeil
Hon Mark Nevill
Hon S.M. Plantadosi

Hon Tom Stephens
Hon Doug Wenn
Hon Fred McKenzie
(Teller)

Pairs

Ayes

Hon Neil Oliver
Hon P.H. Lockyer
Hon W.N. Stretch
Hon E.J. Charlton

Noes

Hon B.L. Jones
Hon T.G. Butler
Hon John Halden
Hon Robert Hetherington

Amendment on the amendment thus negatived.

Amendments (insertion of words) put and passed.

Clause, as amended, put and passed.

Clause 39: Validation --

Hon KAY HALLAHAN: I move the following amendments --

Page 10, line 29 -- To insert after "Minister for Works" the following --
or by a State agency or instrumentality or other public authority

Page 11, lines 1 to 3 -- To delete ", other than an officer of the Department of the Public Service of the State through which the Minister for Works administered the principal Act" and substitute the following --

or by a State agency or instrumentality or other public authority

Page 11, line 8 -- To insert after "Minister of the Crown" the following --
or the State agency or instrumentality or other public authority

Page 11, line 9 -- To insert before ", as the case requires." the following --
or by the State agency or instrumentality or other public authority

Hon A.A. LEWIS: These are interesting amendments. In the previous clause, the Minister said that the person for delegation had to be a public servant, but now for validation the Government proposes to alter that requirement. It previously read "any person employed by the Government, other than an officer of the Department of the Public Service". It is now proposed to change that to State agency, instrumentality, or other public authority. Therefore, people employed by those agencies, instrumentalities, and public authorities need not necessarily be public servants, but their acts will be validated. I am opposed to that. I do not believe we should give a blanket cover to the actions of all those Ministers in the past. It stuns me that any person employed by these State agencies, instrumentalities, or public authorities will be covered by this blanket clause, and their handling of land matters will be validated.

Hon KAY HALLAHAN: As I explained in the second reading debate, the reason for the clause is to validate the actions taken in the past by bodies such as the Main Roads Department, State Energy Commission, and Water Authority, which are involved in public works. It is a fact that for some time this situation has gone on under successive Governments with delegations being exercised. Advice was given that the situation should be clarified, and that advice was received after the Bill went through the other place. For that reason the amendments are proposed at this stage, and I ask members to support them.

Hon A.A. LEWIS: I am giving the Minister a chance to look at the effect of her amendments. If the Minister gets her way subclause 39(1) will read as follows --

The purported exercise or performance on behalf of the Minister for Works by --

- (a) any Minister of the Crown or by any State agency or instrumentality or any other public authority;
- (b) any person employed by the Government or by any State agency, instrumentality or public authority.

with the consent of the Minister for Works during the period beginning on 1 January 1970 . . .

I cannot even imagine that the Minister is dinkum; she intends to validate anything that any person employed by the Government, any State agency, instrumentality, or public authority has done with the consent of the Minister for Works. We heard the Minister defend advisers a moment ago.

Hon Kay Hallahan: I did not do so; I clarified the situation.

Hon A.A. LEWIS: If any ministerial adviser on the instruction of the Minister for Works and Services has done any of these things, they will be validated if the amendment is passed. I rest my case. If the provision will cover any person appointed by the Minister for Works and Services in any manner or form -- not even requiring that person to be employed by the Minister but appointed by him, it could be an adviser or any other person -- that is drawing the longest bow I have heard of.

Hon KAY HALLAHAN: We have heard a ridiculous speech; it is quite clear that the provision requires the consent of the Minister for Works and Services. The Minister has delegated to particular people over the years, and it must be quite clear under the validation clause that it was legally carried out. The notion that Hon Sandy Lewis puts forward is that somehow some people the Minister would have delegated to are not eligible. The Minister is responsible for his actions. I wonder about the reason for the member's concern, because I do not understand it. It is a validation of procedures going back to 1970, which is thought to be a date that is far enough back to cover the possibility of any problems, and the date has probably been taken back further than is believed to be necessary in order to cover that. I agree this is most unusual, but this clause is here on the advice of the Crown Law Department, and the amendments are being made in this Chamber based on considerations in the lower House. I ask members to support the amendment.

Hon A.A. LEWIS: I will read the amendment again.

Hon Kay Hallahan: I can read, but I cannot understand your objection.

Hon A.A. LEWIS: I will read it again so that I can get through to the Minister why I object.

Hon Kay Hallahan: You should tell me why, rather than reading me stories, and I will then be better placed to understand it.

Hon A.A. LEWIS: I will read to the Minister what the clause will say if her amendment is passed. Clause 39(1) will say --

(1) The purported exercise or performance on behalf of the Minister for Works by --

(a) any Minister of the Crown or by a State agency or instrumentality or other public authority; or

(b) any person employed by the Government --

and that is what I am complaining about --

-- or by a State agency or instrumentality or other public authority with the consent of the Minister for Works.

The amendment says "any person employed by the Government". Such a person does not have to be a public servant; it may be any person. The Minister went to great lengths to convince my National Party colleagues that the counterjumper would not be included in the last clause, yet now it is any person employed by the Government, with the consent of the Minister for Works and Services. Will that Minister withdraw the consent of the people on the counter? I happen to believe the amendments are sillier than the original clause in the Bill.

Hon KAY HALLAHAN: I accept that this may be complicated for those who do not have to get their heads around this sort of thing very often.

Hon A.A. Lewis: It happens to be my job as a member of Parliament to bring these matters to your notice.

Hon KAY HALLAHAN: The reason this amendment is in its current form is because there could have been works carried out by a State agency, instrumentality, or public authority -- and the member is not unhappy about that -- but works could also have been carried out --

Hon A.A. Lewis: I am unhappy about it because of the validation. I am worried about the "any person".

Hon KAY HALLAHAN: It could be that the work was carried out, with the consent of the Minister for Works and Services, by a State agency, instrumentality, or public authority. The reason why "any person" has to be in the clause is because a person who was employed by the agency or the authority but who was not within the make up of that agency or authority but was employed by one of those bodies could have carried out the work. I ask members to accept that this amendment has been given serious consideration and it does need to go into the clause if the validation is to be complete and cover the actions that have been carried out in the name of the Minister for Works and Services.

Hon A.A. LEWIS: This is my final attempt to convince the Minister that we are going in the wrong direction. I am not going to waste the time of the Chamber; I will let the Government wear it because it deserves to so do. We have here a validation for any Minister of the Crown, any instrumentality, authority, or agency, or any person employed by the Government with the consent of the Minister for Works and Services. I thought we in this place were meant to be realists. If somebody has done something wrong, the Minister for Works and Services will not withhold his consent if he knows that every year or two a Bill like this will come before the House and validate his actions. I am sorry if the Minister during her short experience in this place has not seen Ministers protected by somebody else taking the blame, but this will show that the Labor Party has never learned anything about loyalty. What we are being asked to do in this Chamber is to validate every action.

Hon Garry Kelly: It is a grandfather clause.

Hon A.A. LEWIS: It is a grandfather clause to catch every action that has been done under the control of the Minister for Works and Services. Something may have been done during the America's Cup under the Minister that should not have been done, and this would let Hon Des Dans off the hook. Something may have been done in the area of community welfare that should not have been done, and this will let the Minister for Community Services off the hook.

Hon Garry Kelly: What is the alternative?

Hon A.A. LEWIS: Let us hear about these dastardly deeds that these Ministers have done because there is one that I know of when a couple of people in this place were going to be validated when we were in Government, and I am not very happy about that. That started a pack of cards falling, and it has continued to fall, and one thing follows another. So the validation of anything done under the consent of the Minister for Works and Services will come back to this place to haunt us. I believe the Government is going in the wrong direction. This Chamber should oppose this validation. We have been told that next year we are going to get another Bill -- the second stage -- and we should leave this until that second stage. The Government should bring forward the matter next year and explain what it wants.

Hon KAY HALLAHAN: I can understand, to some degree, why Hon A.A. Lewis has a problem with this clause because it is a fact that at the outset a Bill usually carries this delegation clause. The public works type departments we are talking about have not had this provision applied and they should have. We are rectifying an historic problem.

Hon A.A. Lewis: It is not historic; it only goes back to 1970, which is when I entered Parliament.

Hon KAY HALLAHAN: That is pretty historic.

We are asking for validation of actions carried out by people with the consent of the Minister for Works and Services. In the normal course of events we would not have to ask for this because at the outset a Bill normally contains this delegation clause. Some actions may have been carried out in the absence of this provision, and we need to validate those actions. Members who have been Ministers before will know about this provision and will understand the necessity for it, despite the concerns expressed by Hon A.A. Lewis. I ask members to support the amendment.

Amendments put and passed.

Clause, as amended, put and passed.

Clauses 40 to 52 put and passed.

Clause 53: Section 6A inserted --

Hon A.A. LEWIS: This provision is in the Land Act and relates to general powers of delegation. I will not move an amendment or vote against this clause because the National Party believes that these powers of delegation should be put in place. On reading proposed section 6A I find these powers are being taken from the Minister for Works and Services and given to the Minister for Lands. I point that out to the Committee and leave my remarks at that.

Clause put and passed.

Clause 54: Section 7 amended --

Hon A.A. LEWIS: With this clause the Government takes away the power of the Governor and hands it to the Minister. Section 7 of the Act reads --

The Governor is authorized in the name and on behalf of Her Majesty, to dispose of Crown lands within the State, in accordance with the provisions of this Act.

The Government seeks to insert --

(1) Crown lands within the State may, in the name and on behalf of Her Majesty, be disposed of under this Act.

Subsection (3) of this section of the Act reads --

The Governor is authorized to make such grants and other instruments, upon such terms and conditions as to resumption of the land or otherwise as to him shall seem fit.

The Government wishes to delete "Governor" and substitute "Minister". I outlined my thoughts on this provision in my second reading speech. The only reason given by the Minister for this provision is to lighten the load of the Governor. I disagree. Why is the Government leaving the Governor in position in subsection (4) of the present Land Act? The Minister should talk to the Federal Minister instead of the Governor General of Australia. I oppose totally the Governor's powers being withdrawn.

Hon J.N. CALDWELL: We are also concerned about this provision as it takes away power from the Governor and gives his rights to the Minister to dispose of land under the principal Act. I foreshadow an amendment in this connection. In my second reading speech I stated the right should remain to go back to the Minister --

The DEPUTY CHAIRMAN (Hon John Williams): Order! To help the honourable member, we are dealing with clause 54 and he is dealing with clause 65 on which he has foreshadowed an amendment.

Hon J.N. CALDWELL: In my second reading speech I expressed concern about taking rights away from the Governor.

Hon KAY HALLAHAN: I will attempt to convince members this provision is not a matter for concern. This clause is absolutely central to this Bill. The last issue was very important, but this provision is essential to the streamlining and improvement of procedures of the department. Members need to understand clearly the effect of not leaving this clause as it stands, as it affects every other clause. We need to address this issue clearly at this point.

It is really a paper war of the most incredible kind. One can say, "That is okay. That is what the Governor is being paid to do; that is what the Minister is paid to do; and, that is what the department is paid to do." Anyone who wants to be accountable to the community these days for having absolutely unnecessary wads of paper going through various people to pick up signatures to get the job done will have a very unpleasant task. It would be quite detrimental to the restructuring and streamlining of the departmental procedures for us to leave this in here. Like other members I have had the opportunity of going to the Governor in Executive Council and I know the detailed work which goes into the preparation involved. I paid a tribute to Hon D.J. Wordsworth in my second reading speech, because he had commended the department's detailed work, which was not only very detailed but was intensive and legally accurate.

Once the papers are signed by the Minister, they go to the Premier, who initials them. Somebody asked why the Governor does not simply put his initials on the paperwork. That is exactly what he does do -- the Minister signs it, the Premier and the Governor both put their initials on it, and then it is gazetted and deemed to come into force. I cannot believe that members want to keep us tied into such a bureaucratic nightmare and waste taxpayers' money in doing repetitive, labour intensive work which is not necessary. Someone suggested that the Governor should stop taking so many social engagements and do more of this sort of work. I do not think that stands up to logical argument because the Governor has a very important duty.

It is a spurious argument that in the interests of the better management of the Government's business we should leave things as they are because that is historically the way they have been done and because we know that it works. The fact is that we know it does not work. It takes weeks of work; if one were to do a time and motion study on the value of the work done by the officers involved, one would be appalled at the level of productivity revealed by the study when a paper has to go through so many hands. Some of them consist of one A4 sheet of paper and there could be a hefty pile of papers which have to be initialled by all those people. The procedure is observed by two Ministers and at least one senior public servant. While I think there are many things that need to be observed and have that sort of formality applied to them, the day to day running and vesting of land transactions should not be one of them.

It is absolutely central to anything that is hoped to be achieved in the restructuring of this department that this particular process is not continued. I would like to see clause 7 stand as printed.

Hon D.J. WORDSWORTH: Ministers' remarks perhaps reflect their attitudes to their responsibilities. I do not say that lightly; I think there is reason for people having to put their signatures on papers.

When a Minister receives a file he must sign it. It is not a blank piece of paper; it is a full file of the reasons for an action taking place. The Minister can certainly sign it without looking at it or he can take an interest in his work and say, "Wait a minute, I think I had better check this one. I will call in someone and get them to explain it to me." I know that is the reason a Minister has to put his signature onto the paper -- so that everyone knows he has looked at it and is agreeable to it. It is not just a matter of putting one's signature on it -- that is the easy part -- it is the work that one does in examining the paper. I know the Minister at the Table would know the number of times that I held up conservation and land management papers until I could get full explanations of them.

As for the remarks about the Premier, I do not know how this Premier does it. Perhaps I am getting an idea from the Minister but Sir Charles Court, for example, would spend Sunday evening studying Executive Council notes. One could get a phone call from him any hour of the night on Sunday. The point is that there is a responsibility and some people do it, and, certainly in my time Sir Charles Court did. We have people in the gallery who are very concerned about a certain bit of Crown land and what is happening to it. If the provisions in the Bill are enforced, that transaction could go through without anyone realising what is happening.

Hon Kay Hallahan: This would not make any difference.

Hon D.J. WORDSWORTH: Yes. Certainly Sir Charles Court would know exactly what that block was and what was happening to it. As soon as he saw that a part of Kings Park was being excised and sold, he would have had that Minister in his office. However the provisions of this Bill would allow that to happen without going to the Governor or to the Premier.

Hon Garry Kelly: Are you saying the Governor would refuse to sign it?

Hon D.J. WORDSWORTH: I have not yet mentioned him at this stage.

Hon Garry Kelly: You were saying it would go to the Governor. Would he refuse to sign it?

Hon D.J. WORDSWORTH: Yes, without doubt. We have gone through two of the signatures which are supposed to be a waste of time.

Hon Kay Hallahan: Under the Westminster system the Governor takes advice from the Minister of the day.

Hon D.J. WORDSWORTH: I went through that earlier in my speech where I gave an example of the petition that was sent to the Governor by the Albany Sporting Shooters Association and how he took action. Once again I have not been in Executive Council with this Governor, but I know that previous Governors have made varying remarks about what was placed in front of them.

Hon D.K. Dans: They may make remarks but have you ever known the Governor to refuse to sign anything? He may defer it and ask for an explanation.

Hon D.J. WORDSWORTH: That is right.

Hon D.K. Dans: You give me an indication how many times he refused to sign it when you were Minister for Lands.

Hon D.J. WORDSWORTH: My work was so faultless that there was no chance he would not sign it. Hon D.K. Dans is quite right; I do not know how many times the Governor refused it, but he certainly held it up. I do not know how many times he held it up nor for what departments because it was not for me to know about anything other than the Department of Lands. He did not fail to sign any of my Department of Lands' documents. Nevertheless, it happens that the Governor had words with Sir Charles Court about reserves set aside for flora and fauna. He said to Sir Charles Court that he did not know what was happening to the State of Western Australia but that a lot of land was being set aside for flora and fauna because he was forever signing documents. With those few words inquiries were made and it was found that most of the recommendations being put in place were from the red books -- Conservation through Reserves reports.

The signatures of the Minister, the Premier, and the Governor are important, and I intend to vote that they continue to sign the documents.

Hon KAY HALLAHAN: Because I think that the whole argument at this stage of the Committee is very important, I point out to members that it has been common when Acts have been amended in recent years for the Governor to be removed from the administrative process. It is no reflection on the office of Governor, but it reflects what is happening in terms of administrative loads and the necessity for safeguards. It is not needed and it is not fulfilling a useful function. I challenge the members opposite that when in Government they passed legislation to remove the Governor from legislation. That has been the tendency in the past and we are not suggesting anything that is not in line with what has occurred. Why the Opposition should take a stance on this Bill and not on other Bills when it was in Government, I cannot understand.

I reassure members who are thinking about this clause seriously that over recent years it has been found unnecessary to refer to the Governor the day to day land transactions and transactions under other Acts. Plenty of documents will still need to be sent to the Governor, but in this Act the day to day running of the department can never be free-flowing if the work has to be sent to the Premier and the Governor for signatures.

There has been an indication by some members of criticism of the department. The department will never be able to break from criticism of the way in which it works unless it has the opportunity to restructure and get its work flowing in a sensible way like other instrumentalities. It is saddled with old working methods. I ask members to seriously consider the way they vote on this clause.

Hon J.N. CALDWELL: Could the Minister give an indication of the number of Crown land documents that go before the Governor each month and the approximate time it takes him to sign them and return them to the department?

Hon KAY HALLAHAN: I can only give the member my experience as a Minister. The time varies, but for a pile about one foot high it could take two hours. On occasions, I have been with the Governor for two hours, and that is the time I normally set aside. If I am lucky I will get away in an hour. If there are a number of land transactions involved, the Minister will be occupied for some time. The Governor usually takes the time to go through the documents

beforehand so he is fully conversant with what he is signing. All I can say is that a person has to experience it to understand the difficulties involved. It is the most unproductive time I spend where I see one sheet at a time being signed and moved around the table, and it could be handled in the day to day workings of the department. Some of the documents are significant, but many documents coming out of this department are not.

Hon J.N. CALDWELL: If the responsibility for signing the document is passed from the Governor to the Minister, will the Minister have the power to delegate authority to someone in the department to sign on his behalf?

Hon KAY HALLAHAN: I am told that there is a power to delegate authority. My impression is that the Minister would probably do that job himself. If the Minister can sign them and return them to his department, he would be very pleased. He now has to send them to the Premier's department, to the Governor, and to the Government Gazette. Under this clause that procedure will be short-circuited. I am sure that the same case would apply to his department as applies to mine -- any documents of significance are signed by me. The member has caught me on the hop to some degree, but I certainly sign documents of significance.

Clause put and a division called for.

Bells rung and the Committee divided.

The **DEPUTY CHAIRMAN** (Hon John Williams): Before the tellers tell, I give my vote with the Noes.

Division resulted as follows --

Ayes (13)			
Hon J.M. Berinson	Hon John Halden	Hon Mark Nevill	Hon Fred McKenzie
Hon J.M. Brown	Hon Kay Hallahan	Hon S.M. Piantadosi	(Teller)
Hon D.K. Dans	Hon Tom Helm	Hon Tom Stephens	
Hon Graham Edwards	Hon Garry Kelly	Hon Doug Wenn	
Noes (14)			
Hon C.J. Bell	Hon Barry House	Hon N.F. Moore	Hon D.J. Wordsworth
Hon J.N. Caldwell	Hon A.A. Lewis	Hon P.G. Pental	Hon Margaret McAleer
Hon Max Evans	Hon G.E. Masters	Hon .N. Stretch	(Teller)
Hon H.W. Gayfer	Hon Tom McNeil	Hon John Williams	
Pairs			
Ayes		Noes	
Hon B.L. Jones		Hon Neil Oliver	
Hon T.G. Butler		Hon P.H. Lockyer	
Hon Robert Hetherington		Hon E.J. Charlton	

Clause thus negatived.

Clause 55: Section 8 amended --

Hon A.A. LEWIS: I move an amendment --

Page 17, lines 19 to 21 -- To delete paragraph (a).

Hon KAY HALLAHAN: I make it clear to the Committee that the last decision it made was very serious indeed. Members may talk about efficiency, Government expenditure, and the way things work; but they demonstrated the way they wanted to go on the last clause. Perhaps members do not understand the seriousness of that clause. The Governor is now the only person authorised to do those things; it is crazy that we should stick with the provisions of the existing Act when we have an opportunity, having seen how cumbersome it is to work with, to update it and make it workable. The Committee has thrown that opportunity away.

We should signify again for the people of Western Australia how stupid or wise we are in facing the facts of modern management techniques and coming to terms with the role of the Governor. That role does not have to necessarily involve the day to day running of departments. I oppose the amendment.

Hon A.A. LEWIS: My amendment has the effect of not deleting the word "Governor" and substituting it with the word "Minister" in subsections (1) and (2) of the Act.

Hon KAY HALLAHAN: Having shown members the strength of my feelings previously, I ask them to defeat this amendment moved by Hon Sandy Lewis. It is not a good thing to do. If the amendment is passed, in years to come when we look back, it will not be regarded as a responsible decision which took into account the reality facing Government departments for the administration of this State.

Amendment put and a division called for.

Bells rung and the Committee divided.

The DEPUTY CHAIRMAN (Hon John Williams): Before appointing the tellers, I cast my vote with the Ayes.

Division resulted as follows --

Ayes (14)			
Hon C.J. Bell	Hon Barry House	Hon N.F. Moore	Hon D.J. Wordsworth
Hon J.N. Caldwell	Hon A.A. Lewis	Hon P.G. Pental	Hon Margaret McAleer
Hon Max Evans	Hon G.E. Masters	Hon W.N. Stretch	(Teller)
Hon H.W. Gayfer	Hon Tom McNeil	Hon John Williams	
Noes (13)			
Hon J.M. Berinson	Hon John Halden	Hon Mark Nevill	Hon Fred McKenzie
Hon J.M. Brown	Hon Kay Hallahan	Hon S.M. Piantadosi	(Teller)
Hon D.K. Dans	Hon Tom Helm	Hon Tom Stephens	
Hon Graham Edwards	Hon Garry Kelly	Hon Doug Wenn	
Pairs			
Ayes		Noes	
Hon Neil Oliver		Hon B.L. Jones	
Hon P.H. Lockyer		Hon T.G. Butler	
Hon E.J. Charlton		Hon Robert Hetherington	

Amendment thus passed.

Hon KAY HALLAHAN: I move an amendment --

Page 17, line 22 -- To delete paragraph (b) and substitute the following paragraph --

- (b) by repealing subsection (4) and substituting the following subsection --
 - " (4) The Minister shall, after consultation with the Valuer-General, determine the value of --
 - (a) any land to be purchased under this section; or
 - (b) any land to be acquired by exchange under this section, and the value of the Crown land to be granted in exchange for the land to be so acquired. "

I understand we are in agreement in supporting clause 55(b), so I encourage members to act with good judgment and go with it as it stands.

Hon A.A. LEWIS: The Opposition agrees with this.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 56: Section 10 amended --

Hon A.A. LEWIS: To save the Minister repeating her argument, the Opposition opposes this section's being amended.

Hon KAY HALLAHAN: I ask members to consider voting for the clause as it stands.

Clause put and a division called for.

Bells rung and the Committee divided.

The DEPUTY CHAIRMAN (Hon John Williams): Before the tellers tell, I give my vote with the Noes.

Division resulted as follows --

Ayes (12)			
Hon J.M. Berinson	Hon Tom Helm	Hon Doug Wenn	
Hon J.M. Brown	Hon Garry Kelly	Hon Fred McKenzie	
Hon Graham Edwards	Hon Mark Nevill	(Teller)	
Hon John Halden	Hon S.M. Piantadosi		
Hon Kay Hallahan	Hon Tom Stephens		
Noes (13)			
Hon C.J. Bell	Hon Barry House	Hon P.G. Pandal	Hon Margaret McAleer
Hon J.N. Caldwell	Hon A.A. Lewis	Hon W.N. Stretch	(Teller)
Hon Max Evans	Hon G.E. Masters	Hon John Williams	
Hon H.W. Gayfer	Hon N.F. Moore	Hon D.J. Wordsworth	

Pairs

Ayes	Noes
Hon B.L. Jones	Hon Neil Oliver
Hon T.G. Butler	Hon P.H. Lockyer
Hon Robert Hetherington	Hon E.J. Charlton
Hon D.K. Dans	Hon Tom McNeil

Clause thus negated.

Sitting suspended from 9.07 to 10.15 pm

Progress

Progress reported and leave given to sit again at a later stage of the sitting, on motion by Hon Kay Hallahan (Minister for Community Services).

(Continued on p 7572.)

/ ACTS AMENDMENT (CHILD CARE SERVICES) BILL

Returned

Bill returned from the Assembly without amendment.

/ MARKETING OF EGGS (AMENDMENT) BILL

Assembly's Further Message

Further message from the Assembly received and read notifying that it had agreed to the conference managers' report.

/ ROAD TRAFFIC AMENDMENT BILL (No 2)

Assembly's Message

Message from the Assembly received and read notifying that it had agreed to amendments Nos 1, 2, 4, 5, 6, 7, and 8 made by the Council, and had disagreed to No 3.

/ JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION

Assembly Personnel

Message from the Assembly received and read notifying the personnel of the committee appointed by that House.

/ ACTS AMENDMENT (PARLIAMENTARY SUPERANNUATION) BILL

Second Reading

Debate resumed from 8 December.

HON G.E. MASTERS (West -- Leader of the Opposition) [10.18 pm]: The Opposition supports the legislation. The salaries and allowances of members of Parliament have always been a contentious issue. Some time ago Parliament decided that, rather than make decisions on members' own salaries and allowances, a tribunal should be set up to carry out that task.

In recent times there has been discussion on how to deal with members when they retire from Parliament. Members in this House know that they have the option of taking a lump sum or an annual pension paid on a monthly basis. The argument has always centred on how the lump sum should be computed and calculated. The Government has now quite properly proposed, by way of this legislation, that the tribunal be empowered to make decisions on the commutation conversion factor, which will calculate the lump sum which can be taken by a member of Parliament when he retires. There is never a right or wrong time to talk about members' salaries. It is interesting that some people think we should do it for love --

Hon Graham Edwards: Some people think we should not be paid at all.

Hon G.E. MASTERS: -- and others think we should have a certain rate of pay.

HON H.W. GAYFER (Central) [10.20 pm]: I support the legislation and heartily agree that there has never been an occasion when it has seemed right that such legislation should be accepted by the Parliament or by parliamentarians.

Years ago when we used to set our own salaries, there was a fear that the amount set would be too much and not acceptable, and whatever figure was adopted in those days was the lesser figure that was moved; but it would still receive the criticism of the Press and the people. A committee -- the Salaries and Allowances Tribunal -- was thought to be the way out and to be free of interference by members other than by submissions to be received from the parliamentary parties or individual members. This was thought to be the method that would be most acceptable, especially as it had been followed in other parts of the Commonwealth.

The Bill before us now deals with the superannuation side of things. Again, it is something that has evolved and it seems, by and large, to have the support of the members. I see no reason at all to oppose it.

Question put and passed.

Bill read a second time.

In Committee, etc

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

Third Reading

Bill read a third time, on motion by Hon J.M. Berinson (Leader of the House), and passed.

FISHERIES AMENDMENT BILL (No 2)

Second Reading

Debate resumed from 8 December.

HON G.E. MASTERS (West -- Leader of the Opposition) [10.24 pm]: The Opposition supports this Bill. It is a very important piece of legislation which has come forward as a result of changes in certain areas of the fishing industry. I commend the department, for which I have always had a very high regard, for the work it has done in past years and the improvements that will result from this piece of legislation.

It is interesting to note that when we talk about fishing we automatically think about fish production in the sea or fish coming out of the rivers and estuaries, but now we have an increasing interest in aquiculture -- fish farming -- which is revolutionising fish production and the eating and use of fish throughout the world. Western Australia perhaps is not as progressive in this area as are some other countries. Japan and some of the other Asian countries have made great steps forward in fish farming.

This legislation in part reflects the changes that are taking place in Western Australia. There are now fish farming projects in areas such as prawns, oysters, mussels, barramundi, marron,

and the like. In fact, aquiculture in the way of marron production has been operating in this State for a good many years — certainly before my time as the Minister for Fisheries. However, for various reasons and because of certain regulations on the size of the marron that can be sold, marron farming in Western Australia has not been all that successful.

It is proposed in this legislation that there be changes in the sizes of marron that can be sold. I am sure members would know there is only one place in the world where marron grow in the wild, and that is Western Australia. It has been increasingly obvious, certainly around the Collie area and other areas of this State, that the public have been overfishing marron despite the fact that there are limitations on the numbers and size of marron people can take, and they cannot be sold anyway. People have been abusing the system and cheating, if you like, so the stocks of wild marron have become depleted in recent years.

The request from the marron farmers is that they be allowed to sell small-sized marron to restaurants and so on. That raises a difficulty; namely, that if small marron are marketed and made available to restaurants, some people in the community will go out into the wild and take undersized marron and also sell them to restaurants. It would be very difficult for the department, the police, or anybody else to ascertain whether the marron were genuinely from the fish farms or taken from the wild. I accept that there is a risk and I have received a number of letters — as I guess the Minister and other members have — to the effect that this proposal could lead to further attacks on marron in the wild and encourage people to break the law and take undersized marron.

The department says that if marron farms in Western Australia are to prosper, we have to make this move and there will be, through the department, an endeavour to police the sale of marron and to insist that very careful records are kept, and somehow try to overcome the problem of those people who will go into the wild and take undersized marron.

There is a risk factor, but the fact is that in the Eastern States and in Asian countries marron farms are becoming very successful. In other words, they have picked up our marron and started to produce marron and are marketing them in their own countries and around the world. The only way our marron farmers can compete is to be able to sell the smaller marron. It is more profitable and unless they can do it they will go out of business.

I understand the department's problems and the Minister's difficulties in giving an absolute assurance that marron in the wild will not be seriously depleted as a result of this legislation. All I can say is that I support the department's giving it a try, and if there are some difficulties quite obviously the Minister and the department will have to review the situation and may even have to revert back to the present situation. However, I support the proposal. At least it is worth giving it a try, despite all the difficulties.

It was interesting to note in the Minister's second reading speech the greatly increased penalties for breaking the law, not just in marron fishing, but across the board with rock lobster, abalone, and the like. I have a serious reservation with regard to the penalties. I am not suggesting for a moment that the maximum penalties are too high, because they depend on the court's making a decision on the level of the penalty. In other words, if someone is in serious breach of the law the maximum penalty may be applied. However, in other cases where people commit minor breaches of the law and have perhaps a few extra fish or undersized crabs, or rock lobster or abalone, and it is obvious they are amateurs and not seriously breaking the law and going all out to take large numbers of undersized fish, the court would usually be fairly lenient. The court may impose a low penalty for the first offence. The Government is setting a minimum penalty for people who break the law, and it seems unreasonable to me that the people I have described as minor lawbreakers should face a very stiff penalty on the first offence.

I am sure the Minister will advise the House that the Fisheries Act has a large number of minimum fines and that they existed when I was a Minister, and therefore I am hardly in a position to criticise the Government when I tolerated that sort of position. Nevertheless, after giving more thought to it, and because the penalties have been greatly increased, I believe the Minister should consider maintaining the high maximum penalty but the minimum penalty should not apply. Perhaps we should look at the whole Act and cut out minimum penalties, and leave the decision to the courts. We have put these arguments in this House before; sometimes they have been supported, and other times they have not. I believe the minimum penalties are too high and there are people for whom those penalties could hardly be justified

and would cause hardship. Can the Minister say whether a person who is only just breaking the law and is not going out of his way to do anything wrong would not have the minimum fine imposed on him? I suspect he would. Although the minimum penalty would convince people not to commit the offence again, it seems unjust to me.

There are maximum and minimum penalties in relation to abalone fishing, and we know that in the metropolitan area from Safety Bay and Penguin Island to the northern beaches and beyond the abalone have been overfished and the fishery has been abused. Certain people from other countries have been accused of being the main culprits. I do not suggest that that is the case, but a bag limit and a size limit have not stopped people from stripping the reefs of big and small fish in and out of season. When I was a Minister, I went on a Fisheries Department boat south of Carnac Island and we saw people there taking abalone, and they had literally chaff bags full of them.

Hon Graham Edwards: That area has been completely denuded.

Hon G.E. MASTERS: That is right. The department now is proposing that the penalties be increased. Recreational fishermen are limited now to weekends and public holidays, and between Christmas and the New Year. That means the amateurs are carefully controlled. I am particularly interested to see that the professionals in the metropolitan area have been restricted to a great extent and have been allowed to fish on metropolitan reefs for only 15 days this year.

Hon Graham Edwards: They did not just attempt to control the situation through the amateurs, but also through the professionals.

Hon G.E. MASTERS: Yes, I have just said that the amateurs are controlled by limited takes, but I am pleased to note that professionals have been given 15 days. They are not allowed to fish on weekends, so that means they get three five-day weeks. Having reached the stage where professionals have only 15 days, I believe the Minister and the department should consider banning professional abalone fishermen from metropolitan beaches from now on.

Hon Graham Edwards: That is something Jim Clarko and I have agreed to disagree on.

Hon G.E. MASTERS: I am suggesting it as a former Minister for Fisheries who went all through this and resisted it. It should be seriously considered, and if the situation gets worse I have no doubt the department and the Government will be forced into that decision. It may be that a moratorium will take place for a year or two right along the metropolitan beaches and neither amateurs nor professionals will be able to fish for a time. That is a judgment the experts will make, and it will come to Parliament.

I was interested to note that the Crown Law Department found a loophole in the existing legislation, and that is reflected in the amendments to section 32. The Fisheries Department has set down through regulation limits on size and the catch. It has set seasonal times and bag limits, and in the limited entry fishery areas the controls on rock lobster are a perfect example. Crown Law has interpreted the existing Act as not giving the department the powers to regulate in this way. I am surprised someone has not taken advantage of the loophole. Maybe there are still some doubts, but it means, as I understand it, that any amateur or professional can go into a limited entry fishery, such as the rock lobster fishery, and take undersized fish out of season and in unlimited numbers. It is doubtful whether the law could successfully prosecute.

That may be an exaggeration, but if it is the case it is essential that this Bill should progress and the law be put right. That is why I am surprised the Bill has made slow progress through the Parliament. I would have thought it was important enough to put through quickly. Maybe the public is not awake to it and by the time the message gets out it will be too late. The Press may report this tomorrow, but in a few days this Bill will be law. It was a serious loophole and one which neither the Government nor I would have believed possible.

In summary, I express my concern about minimum penalties. I can understand the tightening up in the abalone fishery area, and I endorse that move to ensure that limited entry fisheries are protected. I can understand the proposal for amateur and professional fishermen to lose not only their gear but also their boats if the offences are serious enough. It has always been the case that on a second offence a professional can lose his boat if the offence is bad enough, but I do not think amateurs were in that situation. Obviously it would have to be a serious offence, but it should be a fair warning to people in the community who abuse the system and damage the fishery as to what can happen.

The limited entry fisheries, such as the rock lobster fishery, are among the best-managed and controlled in the world. Many people look at the way in which our fishery is managed with great envy. I pay particular tribute to the research officers in the Fisheries Department who have successfully developed the management plans. The department has followed the advice of the research officers and has put into operation their management proposals. I support the Bill.

HON P.H. LOCKYER (Lower North) [10.41 pm]: I support the Bill and I support the honourable member who has just resumed his seat. I might add that when he was Minister for Fisheries and Wildlife he was as hard as goats' knees and unbending with regard to some of these matters that were brought to his attention by the more vocal members of people in the north; they had the recreational fisherman in mind.

I am pleased that steps have been taken to bring this Bill to the House. As a member who has travelled extensively in South East Asia to investigate fish farming and the fishing industry in general, it is my strong view that the fishing industry in that part of the world is coming to a rapid end. It has been brought about by the extensive taking of undersized crustaceans, crustaceans in spawn, and fish. It is an area in which we have been very successful in this State. The standard of the rock lobster industry in Australia is foremost in the world.

I do not want to go over the points raised by Hon Gordon Masters, but I am very interested in clause 32 of this Bill, because it deals with recreational fisherman. I ask the Minister to check out the scenario that the regulation will be the same as that which pertains to the Shark Bay fishery. I can speak about that fishery with some knowledge because it is part of the limited entry fishery. The position at the moment is that a bag limit is placed on recreational fishermen. I think the limit is 10 fish, but I am not sure about that. The rules, by regulation, are that the fish must not be filleted at sea.

People who have fished in that area would be aware that some large fish are caught at times. I know that some species of fish are exempt from the regulations, one being mackerel. One of the problems that amateur fishermen are finding is that they catch a groper or a cod of some 40 or 50 pounds and there is no place for them to keep that fish in cold storage until they get back to land. For example, at Carnarvon there is a popular fishing area some 20 miles off the coast at Bernier and Dorre Islands; and the fish could be off before the fishermen reached shore. Some fishermen have been tempted to fillet their fish at sea, and they have been apprehended when they have returned to shore. I must admit that they have not yet been charged, but inspectors have apprehended them and have warned them that if they continue taking that action they will be charged. This situation should be investigated. While I do not support the taking of undersized fish, there must be a sensible arrangement to offset this situation.

I would have thought that the clause to which I have referred may deal with this situation. I agree that the Act should be tidied up and obviously the Crown Law Department requires it. However, the time is right for me to bring the matter to the Minister's attention to ascertain whether there will be alterations to that regulation. It is causing pain among recreational fishermen who have, for many years, been responsible for their activities. I do not deny that there are some irresponsible recreational fishermen, particularly those who take freezers to the north each year and fill them up with fish so that they can live on the best of fish for the summer months. I certainly do not support that action. Those days should cease in order to protect the fishing industry. Recreational fishermen should take only the amount of fish they can eat while they are in the area. Perhaps the banning of freezers being taken to places like Shark Bay and Exmouth should be investigated.

Hon Doug Wenn: The professionals are doing the same.

Hon P.H. LOCKYER: Yes, I know that, but I am talking about the amateur who virtually is a professional. He may not exceed his bag limit of 10 fish a day, but he may catch that number of fish consistently over a period of 21 days. It would result in 210 fish, which is a large number. If for example there were the fishermen, his wife, and his son, they would between them catch 30 fish in a day and over 21 days it would involve a considerable number of fish. This sort of activity should stop. I want the Minister to take on board the problem that exists regarding the larger fish. I support the Bill in its entirety.

HON DOUG WENN (South West) [10.46 pm]: I support the Bill. I want to take up one point with the Leader of the Opposition: I have problems in working out how a person can slightly break the law.

Hon G.E. Masters: I said that tongue in cheek.

Hon DOUG WENN: I do understand what the Leader of the Opposition was trying to say with regard to an amateur fisherman catching more than his quota of fish. The fact is that there is so much literature around these days that an amateur fisherman should fully understand the law.

Hon G.E. Masters: Unfortunately I do not think that is the case. There will always be people who will wander out with a bucket and get more than they should. It seems unreasonable.

Hon DOUG WENN: The law is lenient in that regard, and an inspector who apprehended a fishermen who did not understand the law would take out the undersized fish and put them back in the water. That is the way most inspectors operate.

Hon G.E. Masters: That would be a way of doing it.

Hon DOUG WENN: I am involved in the diving scene with regard to rock lobster. It is common knowledge that there are a number of people who flaunt the law and they do it because they are wealthy enough to carry any fine, irrespective of how high or low it is. I know of one person in the south who brings in 70 crayfish every day, but the inspectors cannot catch him. He has a way of disposing of them as soon as he hits the beach. Those people should be caught. If I had my way, the penalties would be higher. Such a person should be severely fined and should lose his equipment. A person who has a \$30 000 boat plus all the equipment that goes with it would think carefully about what he is doing.

I cannot understand how the Leader of the Opposition can say that a person can slightly break the law. To my mind, there is no such thing. It is like robbing the bank and asking for only \$2 instead of \$200 000.

Hon G.E. Masters: Perhaps they were not the right words to use.

Hon DOUG WENN: The fishery inspectors are good blokes. There are a few zealous inspectors who go by the book and write out one ticket after another. However, 99.9 per cent of them are very understanding people and they do give consideration to the people who may catch too many abalone, etc.

The fishery along the south coast is, in some ways, being vandalised by people using illegal nets. I would like to see tougher laws. However, I accept the penalties in this legislation and I support the Bill in its entirety.

HON MARK NEVILL (South East) [10.49 pm]: I want to make a few comments on this Bill in relation to the abalone fishery. I am very pleased to see written in the legislation a provision to confiscate boats, gear, and equipment from a first offender. Some of the abalone licences have been changing hands for between \$300 000 and \$400 000. If a person is caught with many thousands of dollars worth of abalone, under this legislation he will be confronted with a considerable fine. A first offender previously could get off with a reasonable fine, so being able to confiscate a boat is essential if there is to be any realistic deterrent for people poaching in the abalone fisheries. It is a limited entry fishery, and quite a lot of poaching goes on. It is very difficult to catch people. In recent years a number of people have got off charges. One group of people got off a charge because they were taking fish in a limited entry fishery, but I think they were regarded as recreational fishermen. That anomaly has now been cleared up, and the Bill says that licensed professional fishermen will be prevented from taking fish in a limited entry fishery for any purpose unless authorised to do so.

I think these measures will help to stamp out a lot of illegal fishing in the abalone fishery, and I support the Bill.

HON GRAHAM EDWARDS (North Metropolitan -- Minister for Sport and Recreation) [10.51 pm]: I thank members for their contributions to this debate and for their support of this Bill. Hon Gordon Masters mentioned that the fishing industry in this State is probably one of the best managed and controlled in the world. That was further borne out by the comments of Hon Phil Lockyer, who compared our fisheries management and control with

that in parts of Asia. Members of both Houses have a great deal of confidence in and respect for the job which the Fisheries Department has done in the past. Indeed it has received support from successive Ministers and Governments. That gives members a great deal of comfort when dealing with Bills seeking to maintain that control which has been established over the years.

This Bill passed through the Committee stage in the other place without debate, and that is not a measure of disinterest but of the confidence felt in the department and a measure of the urgency and the importance of the provisions of this Bill. The Leader of the Opposition said it is likely, following the passage of this Bill, that some undersized marron may end up on the tables of restaurants via the bush and not via marron farms. That is a possibility, and it is a matter of concern. That concern has been weighed by the Government, but despite that it is felt that the situation can be coped with and managed by a few measures which will be introduced. Two additional inspectors will be appointed to work full time in the control of marron fishing. This will be backed up by a system of audit -- a paper trail was the word used -- which will endeavour, through a system of spot checks and policing, to ensure that restaurants obtain their marron only from marron farms and bona fide areas.

Despite those measures, as Hon Gordon Masters said, it is felt that there is every likelihood undersized marron may end up on restaurant tables, and it is for that reason that this system of minimum penalties will be continued as a means of further control. For that the Minister, and indeed the Government, make no apology. The Minister in another place has indicated his concern, as has the Leader of the Opposition, about these minimum penalties, but despite that he feels strongly that the minimum penalties should apply, because without them it may not be possible to control the marron industry effectively.

I can understand the concerns being spoken about, but I also feel that the industry is important, and in view of that importance those minimum penalties have their place. It is worth reminding the House that minimum penalties are not being introduced in this Bill; they have been in parts of the Act for quite some time. I ask members for their support in that area.

Another part of the Bill which has generated a fair amount of interest is that concerned with abalone fishing. I can recall being quite concerned during the last season at the problems arising daily with abalone fishing. It seemed to me that a number of the problems arose not because of the genuine amateur or professional, but because of the "shamateurs". Shamateurs include all sorts of fishermen -- young, old, and from all parts of the world. I am aware of a number of elderly people who used to go down daily when conditions were right and the reef was exposed. They took their limit two or three times over, and they had linked themselves into a very good market to sell the abalone.

It is for those reasons that thankfully the Minister closed the season early. It is for those reasons that much more control has been placed on the ability of amateurs, professionals, and shamateurs to fish. With those controls there is a likelihood that the amateur and the professional will have a reasonable share of the fish which are there to be harvested. If that does not happen, I will have no hesitation in asking the Minister to impose a moratorium for a couple of seasons, as suggested by the Leader of the Opposition. I would strongly lobby for this to happen if I felt that the abalone industry along our coast was threatened to that degree.

Hon Phil Lockyer raised the matter of fishermen, particularly in the north west, being able to carry fish fillets. That is not a matter which is really dealt with as such in this Bill, but more a matter of management. This is something which must be taken up with the Minister or with the department.

Hon P.H. Lockyer: Without success.

Hon GRAHAM EDWARDS: That is simply because the possibility exists, unfortunately, for the shamateur to take advantage of the situation and do an immense amount of damage to the industry, both on the professional and recreational sides. When I had a short but delightful stop at Shark Bay and Camarvon the same matter was raised. If some sort of concession could not be won at that time it is unlikely this will occur for a while.

Hon P.H. Lockyer: I am looking forward to the time when the Minister is there and we have to let a 40 pound cod go.

Hon GRAHAM EDWARDS: That may be the penalty. We do pay penalties as recreational fishermen in this State. The penalties are reflected in the fact that the industry is a very well managed and protected one. To maintain that someone has to pay penalties. I sympathise with the people in that situation who are dinkum and play the game the way it should be as they pay the penalty for those who do not.

I thank members for their indicated support of this Bill and I commend the Bill to the House.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (Hon Garry Kelly) in the Chair; Hon Graham Edwards (Minister for Sport and Recreation) in charge of the Bill.

Clauses 1 to 4 put and passed.

Clause 5: Section 12 amended --

Hon G.E. MASTERS: I draw the attention of the Chamber once again to the question of fines and penalties, and particularly minimum penalties. I draw the Chamber's attention to the Minister's second reading speech, and perhaps answer Hon Doug Wenn's question, "How could anyone just break the law?" In respect of penalties in relation to abalone, marron or rock lobsters, the first offence carries a minimum penalty of \$300 and a maximum penalty of \$1 100. I have no argument with the maximum penalty because the courts will decide the level of any penalty. When I talk about "just breaking the law", let us consider teenagers or someone who has no great knowledge of the regulations applying to the fishing industry. It is no good saying brochures are around because people do not read them.

Under this legislation a couple of teenagers may take half a dozen abalone over and above the bag limit -- or three above and three undersized. Strictly speaking they should be liable to a \$300 fine. I agree with Hon Doug Wenn's comment that it would be a tough and hard inspector in those circumstances who would say those people should be charged and fined automatically a minimum of \$300. Most inspectors would be reasonable but there would always be times when an over-enthusiastic inspector, because he had been faced with half a dozen other people on the same day guilty of the same minor offence, who might throw the book at them.

This provision appears to me to be the wrong way to go. If I were the Minister I would be wondering if this would be the proper course of action. I will not seek to move an amendment but I suggest if this situation comes to the Minister's attention, or if instances occur where people "just break the law" and are fined the minimum penalty, either the situation ought to be reviewed or the inspector ought to be briefed that he needs to be reasonable.

Fishing inspectors have greater powers than any other inspectors including the police in our community. I recall after four or five weeks in this Parliament I looked at penalties and crossed the floor on a similar issue, such was the strength of my feeling. Inspectors have the power to stop and search vehicles, search homes, and indeed to break into homes if they think a need exists. Perhaps this legislation gives these inspectors far too great a power, and the day may come when this Parliament would have to review this provision if over-enthusiastic inspectors go too far.

Hon Doug Wenn: They are controlled by the courts.

Hon G.E. MASTERS: Hon Doug Wenn does not know the Act; fishing inspectors on most occasions do not have to get a warrant.

Hon Doug Wenn: When a case gets to the court.

Hon G.E. MASTERS: Yes, when a person is charged. Inspectors have enormous powers which has always concerned me. I urge this Chamber to consider these matters.

Hon J.N. CALDWELL: The penalties contained in this provision are severe, have been increased dramatically, and are warranted. I notice the penalties apply to abalone, marron and rock lobsters. I draw the Minister's attention to koonacs which have become a growing industry in wheat belt areas. Two licences have already been approved, but many people are

illegally fishing for koonacs which are being presented on dinner tables in the metropolitan area.

These penalties should also apply to people who are illegally trafficking in koonacs. Koonacs are being promoted quite heavily in country areas due to the creation of a rock band with the same name. I have been made an honorary member of that rock band because I played a musical instrument with them one night. Unfortunately I played a wind instrument which did not have an amplifier stuck on the bottom end.

The DEPUTY CHAIRMAN: Order! What has a wind instrument to do with this Bill?

Hon J.N. CALDWELL: It has a lot to do with this provision. The poachers of koonacs should be fined. The rock band is very well patronised and I have a T-shirt with a koonac across it. In closing I ask the Minister what is the correct spelling of the word koonac?

Hon GRAHAM EDWARDS: I will deal with the second question first. However, I am very pleased for the member's support for these penalties. I will be very happy to draw to the Minister's attention those matters in relation to koonacs -- which I do not know very much about. They are a crustacean which appear to me to be a gilgy which has not spent enough time in the sun. They really are something a bit new to me, but it is a reasonable point. I saw them once on a menu in a restaurant and that surprised me a little. I would be more than happy to draw that matter to the attention of the Minister, especially in a case where perhaps a farmer has gone to some trouble to seed a dam not only with koonac but also with marron for his own use. To have someone poach them is no fun. I would have spelt koonac k-u-n-a-k. I might add that I am allergic to shellfish so I am not quite sure how one spells them, or how one eats them.

I go back to the points raised by the Leader of the Opposition. There is no doubt that the penalties are tough. I feel they have to be that way in order to provide the protection that is necessary for the industry. I have gone out of my way to spend some time with fisheries inspectors and I must say I had heard a lot about them. In every instance I found that the talk was unfounded and that they are very well switched into the environment in which they are working and to the amateurs and professional people with whom they deal. In every instance I found them to be very hard when it came to shamateurs. It is those people who tend to breach the law, and that is why these penalties have been set and minimum penalties included.

I hope those people who just break the law a little are granted discretion, which most fisheries inspectors seem to be capable of granting in an appropriate way. It is there that the appropriate judgment should be made. However, if a fisheries inspector makes a judgment that a person should be prosecuted the judge is given no option but to apply at least the minimum penalty.

For too long our abalone industry, for instance, has been plundered by people without any real knowledge and I do not feel they can continue to use that as an excuse. Perhaps the fact that these penalties are tough might make those people who go fishing with no real knowledge gain that knowledge before they go fishing.

Hon J.N. CALDWELL: I advise the Minister that the koonac on my T-shirt is spelt k-o-o-n-a-c. If he would like one, I could supply one for about \$5.

Hon GRAHAM EDWARDS: I have already indicated to the Chamber that I am allergic to shellfish, but it seems to me a fairly steep price for a koonac.

Clause put and passed.

Clauses 6 to 11 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by Hon Graham Edwards (Minister for Sport and Recreation), and passed.

FAIR TRADING BILL*Assembly's Message*

Message from the Assembly received and read notifying that it had agreed to the amendments made by the Council.

ACTS AMENDMENT (LAND ADMINISTRATION) BILL*In Committee*

Resumed from an earlier stage of the sitting. The Deputy Chairman of Committees (Hon John Williams) in the Chair; Hon Kay Hallahan (Minister for Community Services) in charge of the Bill.

Progress was reported after clause 56 had been negatived.

Clause 57: Section 11 amended --

Hon A.A. LEWIS: May I first compliment the Minister, Mr Mickle, and the Clerk for their assistance in sorting this problem out. We have decided in which direction we will go and for the benefit of members I advise that the clauses we wish to delete are clauses 57, 58, 59, 66, 67, part of 65, and part of 83. The Opposition opposes those clauses.

Clause put and negatived.

Clauses 58 and 59 put and negatived.

Clauses 60 to 62 put and passed.

Clause 63: Section 24 amended --

The clause was amended, on motion by Hon Kay Hallahan, as follows --

Page 20, line 11 -- To delete the full stop at the end of the clause and substitute the following --

and substituting the following --

" , by notice published in a newspaper circulating in the area in which that land is situated, "

Clause, as amended, put and passed.

Clause 64: Section 32 amended --

The clause was amended, on motion by Hon Kay Hallahan, as follows --

Page 20, lines 12 to 16 - To delete the clause and substitute the following clause --

Section 32 amended

64. Section 32 of the principal Act is amended --

(a) by deleting "Governor" wherever it occurs and substituting in each case the following --

" Minister "

and

(b) in the proviso to subsection (1) by deleting "in the *Gazette*" and substituting the following --

" published in a newspaper circulating in the area in which the reserve is situated "

Clause, as amended, put and passed.

Clause 65: Section 33 amended --

Hon J.N. CALDWELL: I move an amendment --

Page 21 after line 17 -- To insert the following --

(1b) Where an order is made under this section or section 32, the Minister shall within 7 days notify the local government in which the land is situated.

I also intend to move an amendment to a later part of the clause. The National Party feels that local authorities have the right to lodge appeals against decisions by the Minister. It also feels that individuals should have a right to draw attention to their concerns about matters by a petition or otherwise to the local authority. This amendment refers to a seven-day period, and the later amendment refers to a 35-day period. I believe the amendments are imperative and the National Party will stand firm on them.

Hon KAY HALLAHAN: I feel just as strongly as Hon John Caldwell about opposing his amendment. I think it will create serious problems. If this amendment succeeds, it will take seven days to get a notice to the local authority. I do not know whether the member has thought about this, but, administratively, that will not allow enough time. It will take 35 days for the notice to be returned to the Minister. The main reasons for my opposing the amendment are the delays and the extra administrative work that it will cause. I have also been led to believe that local government is very concerned about the delays that will be caused by the amendment. Two-thirds of all vesting orders apply to local government. I urge the members to vote against the amendment.

Hon J.N. CALDWELL: I do not agree with the Minister. Local authorities are concerned about this matter and want the right of appeal. I have it on good authority that there would probably be no more than five or six appeals every year. We are concerned about the mistakes that could be made by the Minister or by the people authorised to sign on the Minister's behalf. That is the reason for the amendment.

Hon A.A. LEWIS: I have been trying to work out the inconsistencies and have not found one yet. Section 27 of the principal Act allows anyone to appeal to the Governor against a decision by the Minister or any officer of the department. I have been trying to work out whether, because of the changes made to the Bill, the appeal will be to the Minister or to the Governor. I am trying to work that out. The member's first amendment is all right, but I do not know about his second one.

The DEPUTY CHAIRMAN (Hon John Williams): The second amendment is consequential on the first one.

Hon A.A. LEWIS: In that case, I understand the situation.

Hon KAY HALLAHAN: I ask members to reconsider the amendment that is before the Chamber. Members may not be perturbed about it, but it will take the business out of the Minister's hands and place it in the hands of local government and the Parliament. It is an odd thing for us to be doing. The two Houses of Parliament will become arbitrators in planning matters. It is a strange way for us to go administratively, and it is quite contrary to what has occurred in the past.

If an objection is lodged it will be presented to the Parliament for a decision. In times of parliamentary recesses, I guess that we could be looking at up to five months' delay. Some items will not be badly affected by that delay, but there could be many situations in which that could become a serious delay. I am concerned that the sorts of problems associated with this amendment are not appreciated by members. Local government will have the option of objecting to planning matters, and the matter will be decided by the Parliament. I think we are doing something which is quite out of order, and I ask members to think carefully about it.

There is also the potential for Cabinet decisions, such as red book reserve vestings, to be overturned at the whim of local government. Sometimes it could involve a capricious or vexatious complaint, and we must take that into consideration. If we are going to put ourselves in that position, that sort of complaint will have to come back to the Parliament. It is a serious departure from the other ways in which we deal with planning matters.

Hon J.N. CALDWELL: I am afraid that what the Minister has said does not alter my opinion about the National Party's amendment. I have already said that it is most important that people have a right of appeal. It will not happen very often, and it gives people the opportunity to appeal against decisions. We have been elected to Parliament to make rules and regulations, and we are answerable to the electorate. One way in which we can be answerable to the electors is for matters of this kind to come before the Parliament.

Amendment put and a division called for.

Bells rung and the Committee divided.

The DEPUTY CHAIRMAN (Hon John Williams): Before the tellers tell, I give my vote with the Ayes.

Division resulted as follows --

Ayes (12)

Hon J.N. Caldwell
Hon Max Evans
Hon H.W. Gayfer
Hon Barry House
Hon A.A. Lewis

Hon G.E. Masters
Hon N.F. Moore
Hon P.G. Pandal
Hon W.N. Stretch
Hon John Williams

Hon D.J. Wordsworth
Hon Margaret McAleer
(Teller)

Noes (12)

Hon J.M. Berinson
Hon J.M. Brown
Hon Graham Edwards
Hon John Halden
Hon Kay Hallahan

Hon Tom Helm
Hon Garry Kelly
Hon Mark Nevill
Hon S.M. Piantadosi
Hon Tom Stephens

Hon Doug Wenn
Hon Fred McKenzie
(Teller)

Pairs

Ayes

Hon Neil Oliver
Hon P.H. Lockyer
Hon Tom McNeil
Hon E.J. Charlton

Noes

Hon B.L. Jones
Hon T.G. Butler
Hon D.K. Dans
Hon Robert Hetherington

Amendment thus negatived.

The clause was further amended, on motions by Hon A.A. Lewis, as follows --

Page 21, lines 19 to 21 -- To delete subparagraph (i).

Page 21, lines 25 to 30 -- To delete subparagraphs (iii) and (iv).

Page 22, lines 2 to 4 -- To delete subparagraph (i).

Page 22, lines 11 to 13 -- To delete subparagraph (vi) and insert the following words --

after "Governor, sublet, for the designated" in paragraph (b)(i),

Page 22, lines 24 to 30 -- To delete subparagraphs (viii) and (ix) and insert the following words --

(viii) The consent of the Governor may be given under subsection (3a)

Page 23, lines 2 to 10 -- To delete subparagraphs (i) to (iii).

Page 23, lines 14 to 20 -- To delete subparagraphs (v) and (vi).

Page 23, lines 26 and 27 -- To delete subparagraph (i).

Page 24, lines 1 to 7 -- To delete subclause (2).

Clause, as amended, put and passed.

Clauses 66 and 67 put and negatived.

Clause 68: Section 38 amended --

The clause was amended, on motion by Hon Kay Hallahan, as follows --

Page 25, lines 31 and 32 -- To delete paragraph (a) and substitute the following paragraph --

(2) In subsection (1) by deleting "the *Gazette*" and substituting the following --

" a newspaper circulating in the area in which that land is situated "

Clause, as amended, put and passed.

Clauses 69 to 72 put and passed.

Clause 73: Section 45A amended --

The clause was amended, on motion by Hon Kay Hallahan, as follows --

Page 27, lines 18 to 21 -- To delete paragraph (b) and substitute the following paragraph --

(b) in subsection (2) by deleting --

(i) "subject to this section" and substituting the following --

" , by notice published in a newspaper circulating in the area in which that land is situated and subject to this section, "

and

(ii) ": Provided that the notification in the *Gazette* therein referred to shall include particulars of the conditions and price or rental as the case may be referred to in subsection (1)"

Clause, as amended, put and passed.

Clause 74: Section 45B amended --

The clause was amended, on motion by Hon Kay Hallahan, as follows --

Page 27, line 25 -- To delete paragraph (a) and substitute the following --

"(a) "the *Gazette*" and substituting the following --

" a newspaper circulating in the area in which the suburban or town land concerned is situated "

Clause, as amended, put and passed.

Clauses 75 to 82 put and passed.

Clause 83: Section 84 amended --

Hon A.A. LEWIS: We oppose the clause.

Clause put and negatived.

Clause 84: Section 86 amended --

The clause was amended, on motion by Hon. A.A. Lewis, as follows --

Page 30, lines 20 and 21 -- To delete subparagraph (i).

Clause, as amended, put and passed.

Clauses 85 to 100 put and passed.

Clause 101: Section 135 amended --

The clause was amended, on motion, by Hon Kay Hallahan, as follows --

Page 39, line 7 -- To delete paragraph (b) and substitute the following paragraph --

(b) "notified in the *Gazette*" in the second proviso and substituting the following --

" so notified "

Clause, as amended, put and passed.

Clauses 102 to 108 put and passed.

Clause 109: Section 173 repealed and substituted --

The clause was amended, on motion by Hon Kay Hallahan, as follows --

Page 41, line 6 -- To insert after "officer of the department" the following --

who is a licensed surveyor within the meaning of the *Licensed Surveyors Act 1909*

Clause, as amended, put and passed.

Clauses 110 to 132 put and passed.

Title put and passed.

Bill reported with amendments.

ACTS AMENDMENT (TOTALISATOR AGENCY BOARD BETTING) BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon Graham Edwards (Minister for Sport and Recreation), read a first time.

Second Reading

HON GRAHAM EDWARDS (North Metropolitan -- Minister for Sport and Recreation) [11.58 pm]: I move --

That the Bill be now read a second time.

The prime purpose of this Bill is to amend the Totalisator Agency Board Betting Act. Four main amendments to the Act are contained in this Bill. The first is to reconstitute the membership of the board and increase the number of members from eight to nine.

The Functional Review Committee report on the operations of the TAB expressed the view that the board was not truly representative of the racing, trotting, and greyhound industries. The present board of eight consists of an independent chairman, three members each nominated by the Western Australian Turf Club and the Western Australian Trotting Association, and ex officio the general manager of the TAB.

The amendments before the House provide for a board of nine with an independent person as the chairman; the Executive Director of the Office of Racing and Gaming as deputy chairman; one member nominated by each of the Western Australian Turf Club, the Western Australian Trotting Association, and the Western Australian Greyhound Racing Association; one member each nominated by conferences of the Country Racing and Trotting Associations; one member nominated by the Western Australian TAB Agents Association; and ex officio the general manager of the TAB. It is considered that this restructuring will provide more balance to the board in its deliberations. It also ensures that TAB agents, who are the front line sales point for the TAB operations, are involved in decisions which may impinge on their activities.

The second amendment strengthens the power of the board relating to the acquisition of shares in companies. The opportunity has been taken in this Bill to spell out the board's powers more clearly. This will be achieved by repealing and re-enacting subsection (3) of section 5 of the Act. It should be noted that the approval of the Minister is required to enable the board to acquire or deal in shares, debentures, or other securities of a business undertaking. This power will ensure that the Government is informed of business ventures in which the board may wish to become involved in the pursuit of its functions. The board will be responsible to the Minister.

Thirdly, the Act will be amended to enable the TAB to accept bets on prescribed sports. Initially, sports betting will be confined to cricket and Australian rules football matches. However, the Bill has been drafted to provide that other sports may become prescribed sports so that action can be taken by regulation if the Government is satisfied that justifiable reasons exist to expand sports betting to cover other sports. This will bring the Western Australian TAB into line with the TAB in a majority of other States where sports betting in a variety of ways is permitted. The Bill proposes a totalisator pool on sports betting from which a percentage will be deducted, as prescribed by regulation, depending on the type of sports betting. The details of deductions are outlined in clause 17 of the Bill, but it is important to note that the Bill will not affect the present distribution formula for the three racing clubs.

The final amendment provides authority for the Totalisator Agency Board to locate an agency on licensed premises, subject to ministerial approval under section 17 of the Act. Such agencies or terminal locations in other States are known as pub-TAB operations. The TAB does not intend to duplicate existing facilities nor establish pub-TAB agencies where they would only serve to spread the turnover already generated by existing agencies. However, there are pockets in the metropolitan area and in some country areas where the

board considers it cannot provide a service through the usual TAB agency. In these areas the community can be served by the establishment of a pub-TAB agency.

The opportunity has been taken in this Bill to bring most of the penalty amounts to a realistic level based on inflationary trends and comparisons with penalties included in the recent Gaming Commission Act. Some of the penalties in the TAB Betting Act have not been varied since 1960.

The supplementary purpose of this Bill is to amend section 110 of the Gaming Commission Act. Section 110 details the types of betting and gaming which are not offences pursuant to section 126(1)(F) of the Liquor Act, which prohibits gaming or betting on licensed premises. Therefore, it is necessary to include pub-TAB operations in section 110 of the Gaming Commission Act to make pub-TAB operations lawful on licensed premises.

This Bill will strengthen and facilitate the TAB's ability to provide a better and wider service to its clients, both in terms of its products and its outlets. It is in keeping with the recommendations of the Functional Review Committee into TAB operations.

I commend the Bill to the House.

Debate adjourned, on motion by Hon G.E. Masters (Leader of the Opposition).

RESERVES AND LAND REVESTMENT BILL (No 2)

Second Reading

Debate resumed from 25 November.

HON A.A. LEWIS (Lower Central) [12.04 am]: This is a normal Bill which comes before the House every year at this time. In the main, the Opposition does not oppose the Bill. However, there is one clause which I think will be better dealt with in the Committee stage. That clause deals with reserve No 1720, which is in Kings Park.

I will not speak at length in the second reading debate because I believe clause 20 should be dealt with in the Committee stage. The Opposition agrees with the Bill.

HON H.W. GAYFER (Central) [12.06 am]: I too have an objection to a clause that will be dealt with in the Committee stage. However, the general purport of the Bill has to be acknowledged as the correct way to go. I do not see any reason that should be changed; it is necessary to present the Bill to Parliament for its endorsement. I too will address the clause I referred to in the Committee stage of the debate.

HON KAY HALLAHAN (South East Metropolitan -- Minister for Community Services) [12.07 am]: It would be pleasing if we had unqualified support for the Bill now before the House. I guess all members are aware that there will be a debate in respect of clause 20. I ask members to support the second reading of the Bill.

Question put and passed.

Bill read a second time.

In Committee

The Chairman of Committees (Hon D.J. Wordsworth) in the Chair; Hon Kay Hallahan (Minister for Community Services) in charge of the Bill.

Clause 1 put and passed.

Clauses 2 to 19 put and passed.

Clause 20: Reserve No. 1720, King's Park, Perth --

Hon KAY HALLAHAN: I move an amendment --

Page 6, after line 18 -- To insert the following subclause --

(2) Notwithstanding the *Metropolitan Region Town Planning Scheme Act 1959*, the Metropolitan Region Scheme made under that Act and the *Town Planning and Development Act 1928* --

- (a) any part of the land referred to in subsection (1)(a) that is reserved land under the Metropolitan Region Scheme at the commencement of this Act shall remain so reserved until Parliament otherwise enacts;
- (b) permission shall not be granted by the State Planning Commission for any development to be continued or carried out on the land described in paragraph (a) which will result in the erection, construction or carrying out of any building, excavation or other works on that land while it is reserved as described in that paragraph; and
- (c) no compensation otherwise payable under those written laws shall be payable to the owner of any part of the land described in (a) for injurious affection due to or arising out of the reservation of any part of that land under the Metropolitan Region Scheme.

Hon A.A. LEWIS: It seems to me that the Government is trying to snow the issue in this amendment. I wonder about the legality of the amendment and I wonder who drew it up because for the Parliament to be able to say that permission shall not be granted to the State Planning Commission -- that all-powerful body -- seems --

Hon Kay Hallahan: I thought you would welcome that.

Hon A.A. LEWIS: If we want to welcome it we will bring in an amendment to the State Planning Commission Act. A lot of hogwash has been talked about the site which I will call Bernies. Allegations have been made, and in the answer to a question by the member for Vasse one of the committees of this Chamber was quoted as saying that the Honorary Royal Commission recommended that CALM reassess all rental and lease agreements and introduce long-term lease agreements at commercial rentals or sell the property. Having been a member of that Royal Commission I know exactly what it meant. It was for CALM to reassess and make the extra money and sell if it thought fit.

In this clause the Government has tried to add a little bit of King's Park to the site and now it says, "No, we don't want that." The reason the park was added was so that the plot ratio could be increased and neighbours could extend the present building with total disregard for the occupants and the person who has rented the site for 50 years. Some scurrilous things were said about that person and his family, disregarding the fact that everything the people who rent the property had done was legal and that it had been rented on an annual lease from the time they first occupied the property.

Surely this Committee realises that the Honorary Royal Commission expected the person in occupation to be given first refusal of the land which would be only fair and reasonable. But no, this did not happen. The Government wanted to add a bit of King's Park scarp to the block for the plot ratio, having just recently taken away the next-door neighbour's piece of King's Park scarp. It is no wonder that certain members do not like the smell of this particular clause. It is interesting to note that the present occupiers of this land planted most of the foliage on the scarp at their own expense to protect the scarp and stop it slipping. It would seem to me they have policed it. I am sure that since this matter arose many members have had a look at the area. For the Minister to complain and say the occupiers of the block were creating a mischief by setting up some bunting to outline where the block would go up the scarp is absolute nonsense.

Hon P.G. Pendal: Pathetic!

Hon A.A. LEWIS: It is pathetic. The whole attitude of the Government has been that of a body with something to hide.

Hon Kay Hallahan: Oh!

Hon A.A. LEWIS: It has. The tenderness of the Government on this subject has been extreme, and for very good reason. When the true facts are resolved and come to the fore --

Hon Garry Kelly: What about the false facts?

Hon A.A. LEWIS: The false facts have been given in some degree by the Minister.

Hon Garry Kelly: It is a tautology; facts are true or they are not facts.

Hon A.A. LEWIS: The member asked about false facts and he has had his answer.

Hon P.H. Lockyer: Ignore him. He knows as much about the subject as could be written on the top of a pin.

Hon A.A. LEWIS: It would have to be an awfully small pin.

I wonder whether real consideration has been given to another aspect; I have an indication that it has not. I refer to the fire potential if this block is allocated. The only real access to the scarp for firefighting is through this lot, as I understand it. I do not believe the Government has addressed the problem either in clause 20 or in other amendments, and I believe clause 20 should be defeated.

Hon H.W. GAYFER: The nitty gritty of this comes down to a question of whether reserve No 1720, King's Park, should be excised, as suggested in the Bill, or retained in its present form for the use in particular of Bernies, or set aside for some other purpose. Hon A.A. Lewis has gone to considerable explanation about the Royal Commission which looked at this matter, but I want to speak more personally about Bernies. I have been a customer since late 1939, and it is an institution which should be preserved. Bernies has always done the right thing by the piece of land which Bernie originally filled up himself. It was nothing and it was worth nothing. Years ago there were caravans parked there purely and simply because everybody knew permanent buildings were not allowed. During the war it was a great venue for all of us who went there. That block could fairly well talk.

Hon P.H. Lockyer: In your case I sincerely hope it does not.

Hon H.W. GAYFER: As I steadily got older and went back to Bernie's I would say that unlike Hon Philip Lockyer it was that part of King's Park I frequented most.

Hon P.G. Pandal: Same here, Mr Gayfer.

Hon H.W. GAYFER: I have many happy memories. I remember well that at one time a skirt was put around the bottom of the caravans which caused quite a hullabaloo. I suppose it was to stop the wind blowing underneath and the dust from swirling. There were two caravans to start with. I can well remember when it was said that the caravans were becoming too permanent. We then saw the next stage where a more solid structure was built. The area was covered in so that people did not get wet while they were eating their hamburgers and drinking their coffee. Bernies used to, and still does, make very good coffee. Members who can remember the old days and look at the way Bernies is today will find that it has never done anything wrong. We are proud of Bernies because it has presented the Australian way of life.

I do not know why people call a hamburger a hamburger because it is made of beef. However, people from all over the world know about Bernies hamburgers, and Bernies is still offering the same service today as it did in the old days.

Bernies has never adopted a degree of permanency as we would have expected it to have done as it has operated for over 50 years. Some members went to Bernies the other night when people were invited to listen to what was being said about this situation. The people who attended were provided with a free hamburger.

Several members interjected.

Hon H.W. GAYFER: At least we went down there, which was more than members opposite did. The member for Avon and I represented the National Party, and it can be verified that we did not accept a free hamburger. We purposely kept away from the hamburgers because we did not want it to appear that we were accepting a bribe. We went there because we were genuinely concerned about its future. If members opposite doubt me, they can speak with the member for Avon and they will find that members of my party speak the truth. We did not want to be accused of accepting a free hamburger and making up our mind because of that enticement. I ask members to get that straight. The last thing that I will do is accept a bribe of any degree. When members opposite leave this Parliament after 30 years and can say the same thing, they will have earned their place.

Hon S.M. Piantadosi: Because of fond memories, you went there.

Hon H.W. GAYFER: That is one of the reasons.

If I remember correctly the main water main for Perth comes from a reservoir in Kings Park and is situated on the south side of Bernies block, as we know it. I am told it is of considerable size -- about three feet in diameter. We have always known that it was there and there is nothing new about the fact that it was covered in. Bernies is built around that water main, and I believe that everyone is well aware of the fact that it is there. It was one of the reasons that Bernies was not granted permanency and could not build over it. I cannot think of anyone who has queried the establishment of Bernies.

Hon Kay Hallahan: The Select Committee did.

Hon H.W. GAYFER: The Select Committee did, but I am talking about the general public. I have not heard one person who has queried the establishment of Bernies, the fact that it is situated where it is, the job that it does, etc. I have not heard one complaint about it.

I have heard plenty of people, including my kids, who have said, "We went to Bernies last night and it was a real good show." It is a good place. Bernies has always made sure that an unruly atmosphere is not created on the premises. The lessees were strict enough to chat us in our young days. We most likely deserved it, but not quite as much as members opposite might have deserved in their youth.

We should not look at all the plausible reasons that Bernies should be closed because of this legislation; we should look at ways of keeping it operational on that site.

Hon P.H. Lockyer: Preserving a tradition.

Hon H.W. GAYFER: We should preserve a tradition.

The National Party has considered this clause and has come down on the side of voting against it to allow Bernies to remain as is and to continue as is as long as it preserves the traditions which it has done so well in the past.

Hon P.H. LOCKYER: I support the words of the previous speaker. I say that with some experience because I have been going to Bernies for well over 30 years.

Hon P.G. Pandal: Longer than you should have been, by the look of it.

Hon P.H. LOCKYER: I will of course ignore inane comments like that, particularly by a member whose tailor shop is, I understand, Cargills.

What the previous speaker said about preserving traditions is a matter about which the Minister should take great notice. In my view there is an obvious depletion and a desecration of the more traditional areas around the place.

Several members interjected.

Hon P.H. LOCKYER: It is a wonder my old mate, Ken Colbung, has not claimed it as a sacred site as being the home of the "hamburger snake". Even though I find him a good bloke, he is an opportunist. Looking at his figure of late, it looks as though he has been going to some hamburger places.

In all seriousness, it is important that the Minister takes some notice that this particular establishment is one of great tradition. As Hon Mick Gayfer said, it is a business which has not attracted any bad vibes from the community. A huge cross-section of the community, from those who have reached the top rung of the ladder to those who have only started to climb the summit, go to Bernies. Hon Sam Piantadosi has indicated by interjection that he has been there on several occasions. He will be on his way to Cargills soon also.

Hon S.M. Piantadosi: You were checking out the skirts.

Hon P.H. LOCKYER: I have no doubt that over the years a certain proportion of customers of Bernies have done that, but there are many opera goers who stop off at Bernies as their last port of call on their way home. That is a very good reason why members should not accept the amendment before the Chamber.

Hon Kay Hallahan: Not accept it?

Hon P.H. LOCKYER: I understand that the amendment has been put.

Hon Kay Hallahan: Yes.

Hon P.H. LOCKYER: I believe that we should not accept the amendment and that we should delete the entire clause. The Minister may find it extraordinary but I understand my colleagues agree with my views on the matter; and I am sure Hon Sandy Lewis, who spoke so eloquently on the subject earlier, will agree that firstly we should defeat the amendment and then defeat the clause.

Hon J.N. CALDWELL: In 1978 a committee made a recommendation about this Crown land. However, previous Governments realised it was not in the public's interest to do anything about it so the plan was shelved.

I draw the attention of this Committee to the 11 000 people who signed a petition in connection with the reserve known as Bernies. Another 524 signatures were added this morning. This Bill proposes to take away this rental land from a tenant who has given dedicated service for 48 years; this contravenes natural justice.

Hon J.M. Berinson: How can you say that in respect of leases renewed annually?

Hon J.N. CALDWELL: I can and will say that because of the number of people who support me.

Hon J.M. Berinson: Are you going to say that about shopping centre leases as well?

Hon J.N. CALDWELL: Government members have argued that the owner has paid a peppercorn rent over past years. That is not the case because his rent each year is \$18 950 for 80 square metres of land. That works out to \$236 per square metre, which is comparable to any rents paid in St George's Terrace.

Hon P.G. Pental: In any case, if he is paying a small rent it is the Government's fault for not negotiating what it thought was reasonable.

Hon J.N. CALDWELL: I have a statement signed by the presidents of three responsible groups -- the Foreshores & Waterways Protection Council, the Kings Park & Swan River Protection Society, and the Brewery Action Group -- which reads as follows --

Some appalling mistakes have been permitted in the past but members of the present Government have a shocking record as Trustees of the peoples' property.

They appear to regard themselves as the ultimate generation of West Australians with a God given right to dispose of anything, however valued, preserved for us from the past.

History will record, we regret to say, that much of the most valuable, and most beautiful, long held family estate (the peoples' property) was sold off by a Government, or its proliferation of agencies, putting profits before people and the needs for future generations. We strongly urge the statesmen in both Houses of our Parliament to oppose the excision of Bernie's site and, in calling on them for their support, we will reiterate some of the major reasons for our concern.

The dangerous and highly irresponsible excision of any part of Kings Park or its environs.

The morally inexcusable precedent of alienating any part of this or any other Class "A" reserve.

The unknown but potentially disastrous interference with the fragile face of the Kings Park scarp.

The dangers of intruding on a major water pressure main and its effects on our water supply.

Finally, I will always believe that breweries and hospitals along the Swan River foreshores, as envisaged by the present Government, are a mistake and I will be proved right in the future. We must protect the beautiful Swan River and its surrounding lands. Let us leave it for the benefit of the Western Australian public so that they can stroll by and enjoy the river.

A Government member: How can it affect the water main?

Hon J.N. CALDWELL: It will not affect that one; but what would happen if the water main had to be enlarged because a major building was constructed on the site? That is why this block should not be sold. I ask the Committee who would benefit from the sale of this

block? It could be one of two people: The first is a car salesman who I believe sells Mercedes Benz. After the stock market crash he may not want the land for a long time because the only things he will be selling are used cars. On the other hand it may be that the hospital needs to be extended. I wonder who has a hand under the table in this affair. I can smell something like a saleyard, brickworks, or something similar. Probably the only reason for the hospital's being built was brewery corner; it is not far to take the people to the hospital after they have been involved in an accident.

Hon Kay Hallahan: That is grotesque.

Hon J.N. CALDWELL: I do not think it is; it will be grotesque if we allow another large building to be built on the foreshore. It should be left as it is. I support this Bill, with the exception of clause 20.

Hon KAY HALLAHAN: In spite of the passionate speeches which sound as though members will vote against the amendment before the Committee, I want to outline its benefits and reply to some of the rather extraordinary statements made about this excision. It has never been put to me that a hamburger shop is a great tradition, but I believe in social institutions and they have played a great part in my life. As a teenager many years ago I went to Bernies hamburger bar, but even though it is part of my growing up and youthful era, I do not consider it a tradition which should be preserved beyond others in the City of Perth.

Members are to be congratulated on their imagination in putting such an argument to the Committee. A much more serious question about assets management should be of concern to members. That land is sitting there as an "A"-class reserve. It is under-utilised and no-one will dispute that. It has never operated as an "A"-class reserve, and nobody thinks it has; neither is it useful real estate with the present restrictions. If members opposite, entrepreneurs of development and putting assets to work, think that is a good way to use the land, I am absolutely astonished at their judgment.

Hon P.G. Pendal: We do not pinch bits of Kings Park.

Hon KAY HALLAHAN: There is no question about pinching bits of Kings Park. The area under consideration will bring the boundary in line with the metropolitan region scheme; and it has never been administered by the Kings Park Board. The board has registered no concern whatever about the clause we are now discussing. It should be in the record of *Hansard* that the Kings Park Board has not had that area under its control for many years. That is another red herring.

This amendment safeguards the escarpment by enforcing this metropolitan region scheme and making it quite clear that nothing can be done with regard to development along the escarpment unless it has the approval of Parliament. We can give land no greater security than to enact this amendment. I question the sincerity of members opposite if they do not accept the amendment before the Committee. The Minister in another place, because he believed members were genuine in wanting an undertaking about the preservation of that area, had undertaken to look at the possibility of putting in an additional clause to safeguard the metropolitan region scheme, which includes the escarpment. This amendment is the result, his guarantee, in response to concerns expressed by members in another place.

The question of fire was raised, and what we would do about it. Land would be excised, and the fire responsibility and management of that land would be the same as it is on adjoining blocks. There would be no difficulty regarding fire hazards on that block. If the land is sold, no compensation would be payable to the developer, because he would buy it in the full knowledge that the back piece had been excluded from the block. The point of permanency was an extraordinary claim to make. It is a weekly tenancy. I would want greater security than that.

Hon A.A. Lewis: I have seen the letter authorising a yearly tenancy.

Hon KAY HALLAHAN: I am advised it is a weekly tenancy.

In the event that the land is excised, the lessees of Bernies can indicate their interest in it, as can anybody else. I understand they have shown interest in the past, but they have been unable to develop the land because it is an "A"-class reserve. The land cannot be upgraded to maximise the valuable property, and they are sitting there selling hamburgers in the evening -- or whenever it is that people descend upon the place -- but one would think there could be a higher return for the people of Western Australia.

It was most unlike Hon John Caldwell to make the statements he did about gains and hands under the table. It is improper to make that sort of suggestion. There have been no formal registrations of interest as it has not yet been possible for people to make them.

Hon P.G. Pendal: What form? That is the point he was making.

Hon KAY HALLAHAN: I do not know what point he was making. I thought he was hinting at corruption.

As far as the existing water main is concerned, an easement would be granted which would be taken into account by any developer of that land.

I have dealt with most of the matters raised, but I would be happy to go into them further if need be. I commend the amendment to the Committee.

Amendment put and a division called for.

Bells rung and the Committee divided.

The CHAIRMAN: Before the tellers tell, I cast my vote with the Noes.

Division resulted as follows --

Ayes (12)			
Hon J.M. Berinson	Hon Tom Helm	Hon Doug Wenn	
Hon J.M. Brown	Hon Garry Kelly	Hon Fred McKenzie	
Hon Graham Edwards	Hon Mark Nevill	(Teller)	
Hon John Halden	Hon S.M. Piantadosi		
Hon Kay Hallahan	Hon Tom Stephens		
Noes (13)			
Hon J.N. Caldwell	Hon A.A. Lewis	Hon P.G. Pendal	Hon Margaret McAleer
Hon Max Evans	Hon P.H. Lockyer	Hon W.N. Stretch	(Teller)
Hon H.W. Gayfer	Hon G.E. Masters	Hon John Williams	
Hon Barry House	Hon N.F. Moore	Hon D.J. Wordsworth	

Pairs	
Ayes	Noes
Hon B.J. Jones	Hon Neil Oliver
Hon Robert Hetherington	Hon E.J. Charlton
Hon D.K. Dans	Hon Tom McNeil
Hon T.G. Butler	Hon C.J. Bell

Amendment thus negatived.

Clause put and a division called for.

Bells rung, and the Committee divided.

The CHAIRMAN: Before the tellers tell, I cast my vote with the Noes.

Division resulted as follows --

Ayes (12)			
Hon J.M. Berinson	Hon Tom Helm	Hon Doug Wenn	
Hon J.M. Brown	Hon Garry Kelly	Hon Fred McKenzie	
Hon Graham Edwards	Hon Mark Nevill	(Teller)	
Hon John Halden	Hon S.M. Piantadosi		
Hon Kay Hallahan	Hon Tom Stephens		
Noes (13)			
Hon J.N. Caldwell	Hon A.A. Lewis	Hon P.G. Pendal	Hon Margaret McAleer
Hon Max Evans	Hon P.H. Lockyer	Hon W.N. Stretch	(Teller)
Hon H.W. Gayfer	Hon G.E. Masters	Hon John Williams	
Hon Barry House	Hon N.F. Moore	Hon D.J. Wordsworth	

Pairs

Ayes

Hon. B.L. Jones
 Hon Robert Hetherington
 Hon D.K. Dans
 Hon T.G. Butler

Noes

Hon Neil Oliver
 Hon E.J. Charlton
 Hon Tom McNeil
 Hon C.J. Bell

Clause thus negatived.

Clauses 21 to 23 put and passed.

Clause 24: Reserve No. 18698 near Jilakin Lake --

Hon H.W. GAYFER: The Minister said in his second reading speech about Reserve No 18698 near Jilakin Lake that --

Class "A" Reserve No 18698 at Jilakin Lake in the Shire of Kulin, electoral district of Merredin and electoral province of Central, is set aside as "National Park" but is unvested. The former Department of Fisheries and Wildlife requested the change of purpose of this reserve to "conservation of flora and fauna" with vesting in the Western Australian Wildlife Authority. The Shire of Kulin has now agreed to the proposal, although vesting will now be in the National Parks and Nature Conservation Authority. Parliament's approval of the change of purpose is accordingly sought.

When this Bill was introduced into the Council and that was read out, I phoned the Shire of Kulin straight away and informed them of this provision. The Minister said that the Shire of Kulin had agreed to the proposal. I found out from the telephone conversation I had with the shire clerk, Mr Lyle Treloar, that he was not aware of any contact with the Department of Conservation and Land Management, so he appeared a bit peeved to hear read out that the Shire of Kulin has agreed to the proposal.

I know a bit about Jilakin Lake Reserve, and members may not be aware that apart from a little clump of jarrah trees adjacent to the Great Southern railway line at Brookton, the only other patch of jarrah that is known to be on the eastern side of that railway line is at Jilakin Lake, which is a small area. The Jilakin Reserve has for years been a place where picnics are held. It is used by the local Apex Club for many activities; the Girl Guides, the Brownies, and the Scouts use it as a camping area; and it is generally well known as a picnic area.

When the Shire of Kulin heard that this area was being classified as a national park, it immediately asked me, its representative, "What access are we going to have in the future to carry on what has always been traditional in the past, because being a national park it does not give us the absolute rights that we have enjoyed, and we believe we may not have those rights which we have enjoyed for many years."

I phoned up the Shire of Kulin again a while ago, and even though we have had this Bill for a fortnight, it has still not been consulted. I think this is absolutely overriding one of --

Hon W.N. Stretch: That is typical.

Hon J.M. Brown: That is not fair; it is not typical.

Hon W.N. Stretch: We have had plenty of instances, which have been documented.

The CHAIRMAN: Order!

Hon H.W. GAYFER: This is a fair indication that the Government is overriding the wishes of the Shire of Kulin, and I have every reason to believe the shire clerk, Mr Lyle Treloar, should appear a bit peeved to hear read out that Kulin has now agreed to the proposal. So I ask my colleagues to assist me in voting against this clause relating to a reserve which has stood for many years, because the Government should proceed through the proper channels and get agreement from the Shire of Kulin. If that support is received, I will be only too glad to support this clause. However, as long as the Shire of Kulin maintains it has not been consulted, I do not see why it should be overruled by us in this place agreeing to something about which it has not been consulted.

Hon KAY HALLAHAN: I regret that Hon H.W. Gayfer feels as outraged as he sounds. I find it difficult to believe that the case has been made out that there has not been consultation. The member is saying that Lyle Treloar sounded peeved and would be interested in the change of status, but that does not mean that he is opposed to it.

Hon H.W. Gayfer: He is. I will not repeat what he said.

Hon KAY HALLAHAN: It is disappointing that the member chooses at this stage of the Bill to bring up a matter that could have been sorted out since the member made that phone call to Kulin. If the member was being responsible --

Hon H.W. Gayfer: Why did you not go down to Bernies and listen to them?

Hon KAY HALLAHAN: I have been there years ago. I am saying that as a responsible member, Hon H.W. Gayfer should have come to the Minister and said, "There is a bit of a problem here. Kulin does not appear to have agreed." The Minister would have then taken the member's word and looked into the matter, and maybe even deleted the clause from the Bill if that was necessary, or set up further consultations. I am disappointed with the way the member has conducted this affair, and I would not have thought he would represent his constituents in this way.

However, we have this situation before the Chamber and I guess members will have to choose what they wish to do in this regard. It sounds as though this area is worthy of preservation, and if that can be achieved and the shire can be reassured about its role, I suppose that is the best way to go, but I ask members to support the Bill as it now stands.

Hon G.E. MASTERS: In view of the strong feelings expressed by Hon H.W. Gayfer, and the Minister's virtually admitting that there may not have been the necessary consultation, why does she not simply report progress and contact the shire council in the morning so that when we come here tomorrow, there will be some indication of what can be done? The Minister is inviting a vote from the Chamber, but my feelings would be that if people have not been consulted, progress should be reported and the Chamber should be properly advised tomorrow. If the Minister did not accept that proposition, she would be inviting the Chamber to defeat the clause.

Hon H.W. GAYFER: I take a bit of exception to what the Minister said, because it is the right of every member in this place to handle a Bill as they see fit. If the Minister had been doing her job, she would have had the letters on file, dealing with every one of these reserves, to prove whether she can substantiate her case. If she had come up with the letter and said, "Here is the proof that we contacted Kulin", I would have been prepared to back down and say Mr Treloar obviously missed it when he presented the business to the council. However, there is nothing to substantiate it other than what we read here. Surely one of the advisers would have had the file dealing with this reserve. I would be interested to know what is in the file. It may be that Treloar is wrong and he and the shire council have been consulted. It is for the Minister to tell me whether they have been consulted.

Hon KAY HALLAHAN: There has been an interesting turn of events in the speech just made by the honourable member. He is now conceding that the consultation may well have taken place and may have slipped Mr Treloar's mind. We know that sort of thing can happen. If members are of a mind to vote against this clause tonight, it is within their rights. If there has been an oversight within the shire this matter can be brought forward again in a Bill next year.

Hon N.F. Moore: What is wrong with leaving it until tomorrow?

Hon KAY HALLAHAN: Mr Gayfer has spoken strongly and convinced me that a few hours will make no difference so I propose that we proceed with the Bill.

Hon N.F. Moore: It is being bloody-minded.

Clause put and a division called for.

Bells rung and the Committee divided.

The CHAIRMAN: Before appointing the tellers I cast my vote with the Noes.

Division resulted as follows --

Ayes (12)

Hon J.M. Berinson
Hon J.M. Brown
Hon Graham Edwards
Hon John Halden
Hon Kay Hallahan

Hon Tom Helm
Hon Garry Kelly
Hon Mark Nevill
Hon S.M. Piantadosi
Hon Tom Stephens

Hon Doug Wenn
Hon Fred McKenzie
(Teller)

Noes (13)

Hon J.N. Caldwell
 Hon Max Evans
 Hon H.W. Gayfer
 Hon Barry House

Hon A.A. Lewis
 Hon P.H. Lockyer
 Hon G.E. Masters
 Hon N.F. Moore

Hon P.G. Pendal
 Hon W.N. Stretch
 Hon John Williams
 Hon D.J. Wordsworth

Hon Margaret McAleer
(Teller)

Pairs

Ayes

Hon B.L. Jones
 Hon Robert Hetherington
 Hon D.K. Dans
 Hon T.G. Butler

Noes

Hon Neil Oliver
 Hon E.J. Charlton
 Hon Tom McNeil
 Hon C.J. Bell

Clause thus negatived.

Clause 25 put and passed.

Clause 26: Reserve No. 15385 near Jilakin Lake --

Hon H.W. GAYFER: This is a reserve in proximity to the previous one but it is being reserved for an entirely different classification than that placed on the previous reserve which was to be deemed a national park. Because access under this terminology would be allowed we have no objection to this clause.

Clause put and passed.

Clause 27 put and passed.

Title put and passed.

Report

Bill reported, with amendments, and the report adopted.

Third Reading

Bill read a third time, on motion by Hon Kay Hallahan (Minister for Community Services), and returned to the Assembly with amendments.

House adjourned at 1.07 am (Thursday)

QUESTIONS ON NOTICE

PLANNING: DEVELOPMENT

David Jones Site

514. Hon NEIL OLIVER, to the Leader of the House representing the Treasurer:

In view of amendments to the Trustees Act 1962 and in particular sections 16c(1) and (2), has there been any change in the status of the joint venture development of the David Jones site between the SB Investment Trust; Midtown Properties Pty Ltd trading as trustee of the Midtown Property Trust; Bond Corporation Pty Ltd; and Lawrence Robert Connell as guarantors?

Hon J.M. BERINSON replied:

The intent of the question is unclear. If the member restates it, every effort will be made to provide an answer.

VIDEOS: "X"-RATED

Banning

519. Hon P.G. PENDAL, to the Leader of the House representing the Premier:

- (1) Is he aware that both Opposition and Government representatives have sought to have Federal legislation amended in order to ban "X"-rated videos coming out of the Australian Capital Territory and thus circulating throughout Australia?
- (2) Is he aware that this loophole effectively means that legislation enacted by the States is being circumvented as a result?
- (3) In view of this, will he consider listing the matter on the agenda for the next Premiers' Conference?
- (4) If yes to (3), will he write to all Premiers asking them to support a Premiers' Conference item aimed at forcing the Federal Government's hand in this matter?
- (5) If he will not move in this manner, why?

Hon J.M. BERINSON replied:

See reply to question 506.

QUESTIONS WITHOUT NOTICE

POLICE: SUMMONSES

Issue

481. Hon A.A. LEWIS, to the Attorney General:

- (1) Has the ability to issue summonses been removed from some police stations?
- (2) Is it a fact that if one wishes to issue a summons in Kojonup, one has to go either to Albany or to Narrogin?
- (3) Is it a fact that if one wishes to issue a summons in Boyup Brook, one has to go either to Manjimup or to Collie?
- (4) If so, does the serving of a summons cost mileage back to Kojonup or Boyup Brook?
- (5) If so, who pays for that mileage?

Hon J.M. BERINSON replied:

(1)-(5)

I have previously given a fairly comprehensive reply in relation to the regionalisation of Local Court services. I think that was given in response to a question by Hon Margaret McAleer.

I am not in a position to comment on the position of court services in the various towns to which Mr Lewis has referred, although if he cares to put those questions on notice I will have them individually addressed. It is possible to take out summonses and to deal with a great deal of this material by mail, but I would prefer not to take that sort of detailed answer further without reference to the locations in question. If the honourable member would provide me with the details of the information he wants, I will secure another detailed response.

POLICE: SUMMONSES

Issue

482. Hon A.A. LEWIS, to the Attorney General:

I refer to the previous question, and take the Attorney General's point; but what I am worried about -- if you, Mr President, will allow me to be a little lengthy -- is that if one has to travel 40 miles to have the summons issued and the defendant lives in the town one originally started from, it would seem to me that if the usual procedure took place, the person serving the summons would have to go back that 40 miles and that cost would be added to the debt. It would seem a fairly unfair situation.

Hon J.M. BERINSON replied:

Recently there has been an extension of the capacity to have certain services performed by mail, and I believe that will be relevant to this question. Again, however, I would prefer to get precise responses to the position in the particular locations.

SOUTH WEST DEVELOPMENT AUTHORITY

Annual Report

483. Hon A.A. LEWIS, to the Minister for Budget Management:

I refer to question 478 on the Notice Paper, which has been there for three weeks and which deals with a 1985-86 annual report. Is it not possible that those figures would have come through some budget management stages before they were compiled and that the answer should be readily available?

Hon J.M. BERINSON replied:

The annual reports of these authorities do not as a rule come to the attention of the Cabinet Budget Committee or to my attention as Minister for Budget Management. and I believe that the honourable member will have to continue to pursue his question with the responsible Minister.

CHILD-CARE REGULATIONS

Availability

484. Hon G.E. MASTERS, to the Minister for Community Services:

Could the Minister indicate when it is likely that the regulations dealing with child-care centres will be available for the Opposition to examine and discuss?

Hon KAY HALLAHAN replied:

Those regulations will not be ready until early next year. We have not got the Bill through the lower House yet.

Hon G.E. Masters: I know that.

Hon KAY HALLAHAN: They will be available before the next parliamentary session, in time for the Opposition to look at and to give us --

Hon G.E. Masters: -- the benefit of our advice.

Hon KAY HALLAHAN: -- its considered opinion thereon.

CHILD-CARE REGULATIONS
Enforcement

485. Hon G.E. MASTERS, to the Minister for Community Services:

I thank the Minister for her assurance that the Opposition will have the opportunity to view the draft regulations; I think that is important. However, from what the Minister said I assume that the legislation will not be operative, because it cannot be without the regulations, until some time well advanced into next year.

Will the regulations be put in force before the House resumes on what is anticipated to be 12 April?

Hon KAY HALLAHAN replied:

My plan -- and I thought I had outlined it; perhaps I did not -- is that when the Bill passes the lower House we will be in a position to go to the parliamentary draftsman with the instructions we have now developed, which the Opposition has had an opportunity to look at. They would then be tabled in the autumn session of Parliament, and my hope would be that we would be able to look at their implementation in the middle of next year.

The people with whom we have consulted widely have always been advised of that timetable and that it would be the middle of next year before it was put in place.
