**PASTORAL LAND MANAGEMENT AND CONSERVATION BILL 1989**

**Legislaltive Council, 9 March 1989, pages 2280-4**

Second reading

The Hon. BARBARA WIESE (Minister of Tourism): I move:

That this Bill be now read a second time.

This Bill introduces landmark provisions for the care, control and management of pastoral lease land in South Australia. The management of Crown land in South Australia has been under review for many years and has been the subject of intense scrutiny by many private and public organisations and individuals.

The Bill is the culmination of public debate, comment and extensive consultation. While the process has been lengthy it has ensured consideration of the varying and sometimes conflicting interests in pastoral lease land. The history of pastoral lease administration and review provides an understanding of the central features of this Bill.

Review of the management and administration of pastoral land in South Australia can be dated back to at least 1972. During this time the central questions have been the appropriate form of tenure, the area or type of land to be controlled and the controls which should be applied.

South Australia is not alone in considering appropriate forms of tenure for Crown lands. Over the past eight years there have been inquiries into land tenure for pastoral land in most Australian States and the Northern Territory. A common report of the various inquiries has been that freehold is inappropriate to the management of extensive pastoral areas.

The most recent inquiry held in Western Australia (Cameron 1986) found that: 'In view of the political/social/cost implications freehold title should not be implemented for pastoral areas ... the Government should continue to be the owner and landlord of the arid and semi-arid rangelands of the State with the rangeland being used for pastoral purposes by lease agreement'. The most significant inquiry into the South Australian Pastoral Act was undertaken by a committee chaired by Mr J. Vickery (1981). This committee reported that: 'Submissions from both pastoralists and the public have indicated that controls over land use are necessary and are best administered through a tenure system which enables lease by lease control. For all of the above reasons this group is strongly opposed to the introduction of either perpetual lease or freehold tenure.

The retention of a form of lease tenure for pastoral areas has remained an integral part of Government policy. However the question has then been the most appropriate form of tenure and the areas of land to be included in that tenure. Perpetual tenure has been advocated by some interests on the basis that this provides increased security for financiers lending to pastoralists. However no evidence has been presented of pastoral tenure being a restriction on borrowing. The rationale for lending appears to be based on the pastoralist's ability to repay which is further based on individual ability to apply effective land management techniques.

Risk is another factor to be considered in relation to leasing. The willingness to allocate resources to develop a pastoral lease is related to the risk involved in securing a return on investment. Risks in the pastoral industry are related to market fluctuations and climatic factors. Neither of these risks will be minimised by the form of tenure. The establishment of land management techniques which contribute to the preservation of the land and conservative stocking levels are seen as the most effective means of cushioning this risk.

A further question has been whether these legislative controls should be applied to all rangelands or merely to existing pastoral leases. The distribution in November 1987 of a draft Crown Land Management and Conservation Act canvassed the identification of areas of 'ecological sensitivity' and the establishment of a Crown Land Council and a Land Administration (Sensitive Land) Board. Public comment on that draft highlighted concerns about the consolidating of essentially diverse tenure systems and the potentially cumbersome administrative arrangements. The Government has chosen to treat separately the administration of pastoral lease land and all other leased land which forms part of the Crown estate.

A key objective of the Bill is to enshrine land conservation principles in the management and use of pastoral lease land. This unique land is part of the heritage of South Australia and must be preserved for both current and future generations. The Government is a signatory to the national conservation strategy and this Bill ensures that the benefits of land utilisation are considered in tandem with the policy goal of land resource conservation. In so doing, it is acknowledged that tourist and recreation activities are valid adjuncts to pastoral utilisation.

The Government recognises that care of pastoral land is a two-fold responsibility. Pastoral lessees have direct responsibilities for the daily and long-term management of the land. At the same time Government itself must accept responsibility for planning and the administration of pastoral leases to achieve effective conservation. The specific designation of duties of the Minister, the board and pastoral lessees is a recognition of this dual responsibility. The continuation of leasehold tenure is an important component of the Government's strategy for pastoral land management. It is the clear intention of this Government that lands used for pastoral activity remain within the Crown estate.

The membership and composition of the Pastoral Board has been extensively debated. On the one hand there have been claims for wider representation and on the other hand comprehensive arguments for the selection of expert members. The two views are not considered to be mutually exclusive. Certainly the expanded executive role of the board calls for knowledge and understanding of conservation and rangeland management principles. At the same time the interests of lessees must be protected. This has been achieved through the inclusion of a pastoral industry representative while the interests of the general community are met by the inclusion of a conservation movement representative. The establishment of a representative board will enable all interests to be covered. The Government intends that the rep­resentation by ministerial nominees will provide expertise in the areas of soil conservation, environmental management and land tenure.

The assignment of rent setting to the Valuer-General reflects the objective of achieving an independent assessment of fair market rentals. The provision for annual rental is consistent with this approach. Annual rentals will be based on productivity and this will allow rentals to fluctuate with the productivity of each individual lessee, having regard to market prices and stock management decisions. To cushion the impact of rental increases, the Government will direct the Pastoral Board to phase in new rental receipts over a period of three to five years. Rentals will continue to be set retrospectively by the Valuer-General, but the board will develop a program for progressively increasing payments (as a portion of set rental) to enable pastoralists to plan their financial commitments over this period.

The introduction of a lease assessment and monitoring process is a major innovation. Using documented and replicable approaches a body of objective evidence will be devel­oped concerning the condition and trend in condition of land held under pastoral lease.

It is important to note the scientific basis of this approach. The Department of Lands has committed resources to the development of an assessment technique which can be applied to all pastoral leases. After refinement this technique will be available as an ongoing reference for lessees, the general public and members of public and private organisations. The process involves two components. First, a land description in which the principal land types in a region are defined and mapped (at 1:250 000 scale) by the Crown, and the attributes of relevance to pastoral land management described. Secondly, a lease-by-lease land assessment is undertaken by the Crown, in consultation with the lessee. This latter process involves the establishment of permanent 'photo point' sites in the smallest management unit (the paddock) in which changes in the land resource can be determined over time and related to season and livestock use.

The need for an objective assessment process is further highlighted by the use to which these assessments will be put. Prior to both the initial grant of a lease and subsequent extension, lease assessment will provide information about land condition which will be used to develop land management conditions over the lease. Additional to these regular reviews the Department of Lands will implement a continuous process of lease monitoring and report to the Pastoral Board. This monitoring will enable the Pastoral Board to fulfil its responsibilities for the prevention of degradation and the rehabilitation of pastoral lease land.

The Bill also introduces a new concept in determining the length of lease tenure. Previously, pastoral lessees had a finite tenure of 42 years and were faced with the insecurity of leases 'winding down' towards the end of the lease period. An extendable lease offers security to pastoralists whose land management practices comply with the objects of the Act. Provisions for lease assessment and extension every 14 years mean that the majority of pastoralists will never have less than 28 years of lease tenure. As an incentive to improving land management practices pastoralists whose leases are not extended have the opportunity to remedy their actions and apply for a reinstatement of the term of their lease back to 42 years.

The lease document will clearly specify the land management conditions that will be subject to review, negotiation, variation and appeal by the lessee. It is important to dif­ferentiate between those land management conditions which will be subject to regular review and those conditions which set out fixed obligations (for example, payment of rent and compliance with other Acts and regulations).

The concept of property planning is another innovation in pastoral lease management. In line with the underlying thrust of this Bill, to assist rather than hinder pastoralists, property planning is promoted as a technique to facilitate land management. Put simply a property plan is a statement of lease management objectives and strategies for the achievement of those objectives. The Government believes that lessees will benefit from the production of property plans. To encourage their development discussions have been initiated with representative pastoralist groups on the content of property plans. Experienced staff in the Department of Lands will be able to provide continued assistance to lessees who voluntarily prepare property plans.

The setting and variation of stocking levels is the major management mechanism within the Bill. The Government acknowledges that the pastoral industry has in the past accepted stocking and destocking actions as an essential component of land management. The provision for destocking has been further strengthened in this Bill through inclusion of the power to order (and carry out if the leasee refuses) a muster to verify stocking levels. It is important to note that capricious exercise of this power is checked by the proviso that the Crown bears the cost of muster where a muster carried out by the Pastoral Board confirms the reported stock level.

The declaration of reference areas is a further strengthening of the land management and conservation aspects of the Bill. While the assessment process will provide a doc­umented record of land condition and trend, reference areas will provide on-the-ground evidence of the effect of pastoralism on particular classes of land under comparable seasonal and climatic conditions.

Provisions relating to access serve to clarify the rights of Aborigines, members of the public and pastoralists. The specific declaration of the rights of Aborigines is consistent with the Government's policy of supporting the mainte­nance of traditional pursuits for the Aboriginal people.

Public access routes will be established by the Pastoral Board after notification and consultation with members of the public. The identification of these routes has been deliberately left to this consultative process to ensure careful consideration not only of the direction of these routes but also the length and width appropriate to the particular terrain. It is intended to have wide community participation, including Aboriginal, tourist and recreational groups.

Concern has been expressed over the question of a lessee's liability to persons who exercise a right of access under the Act. It is the Government's policy that the one set of laws should apply throughout the State in relation to occupier's liability (see the recent amendments to the Wrongs Act in this, regard). The ordinary rules of negligence will apply. It should be noted that public access routes and stock routes will have the same standing as a public road and so will not form part of the leases over which they are established.

The establishment of a Pastoral Land Appeal Tribunal is a further step forward in pastoral lease administration. For the first time lessees will have the right to appeal against a range of decisions affecting their management of their leases. The institution of a compulsory conciliation process is a further aid to resolution of grievances and concerns.

The transitional provisions in this legislation are particularly important because the Government is committed to a gradual rather than automatic conversion of leases. A planned process of lease conversion has two major benefits. First, it will enable the Government to complete the lease assessments which will subsequently be used to determine lease conditions. This will ensure a base for good land management practice and monitoring by the Pastoral Board and is an essential component of the Government's strategy. Secondly, a planned conversion will enable the Government to commit resources efficiently and effectively. The resource implications of assessing more than 300 leases over five years rather than one year will be immediately apparent.

It should also be noted that the Government has chosen a two-step process to allay the uncertainty of pastoralists about their future under this new legislation.

The first step of what might be termed a 'desk top' study will identify those leases for which a new pastoral lease will not be offered. This determination will involve assessment of the suitability of the land for pastoral lease, considering alternative use and viability. It is important to note that assessment of viability will be based only on the criterion of land condition, not the individual lifestyle and finances of lessees. At the end of this review existing lessees will be advised whether they will be granted a new lease or an alternative form of tenure if they are not to be granted a new lease. The second step of lease assessment will then determine conditions for those new pastoral leases. Each of these processes is governed by a legislative timeframe to further ensure that pastoralists are not left in doubt about their lease future.

As I have previously stated, this Bill has been prepared after extensive consultation. There has been a heartening degree of cooperation and consensus in developing provi­sions which will enable the rationalisation of administrative procedures under the previous Act and the introduction of new concepts of land management and conservation.

I accordingly commend this Bill to members and seek leave to insert into Hansard the detailed explanation of the clauses.

Leave granted.

The Hon. PETER DUNN secured the adjournment of the debate.