LAW REFORM COMMISSION BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by The Hon. W. F. Willesee (Leader of the House), read a first time.

House adjourned at 9.50 p.m.

Legislative Assembly

Tuesday, the 5th September, 1972

The SPEAKER (Mr. Norton) took the Chair at 4.30 p.m., and read prayers.

BILLS (2): ASSENT

Message from the Governor received and read notifying assent to the following Bills:—

1. Supply Bill.
2. Bulk Handling Act Amendment Bill.

COUNTRY HIGH SCHOOL HOSTELS AUTHORITY ACT AMENDMENT BILL

Message: Appropriations

Message from the Governor received and read recommending appropriations for the purposes of the Bill.

QUESTIONS (22): ON NOTICE

1. ALBANY REGIONAL HOSPITAL

Blood Bank

Dr. DADOUR, to the Minister for Health:

(1) Has he reviewed the site for the new blood bank at Albany Regional Hospital?

(2) If so, what is the decision?

(3) If not, when will the review be completed?

Mr. DAVIES replied:

(1) to (3) The review is in progress but no date can be given for completion.

2. HIGH SCHOOLS

Hall-Gymnasiums

Mr. THOMPSON, to the Minister for Education:

(1) Is it intended to build a hall/gymnasium at any State high school this financial year; if so, at which school or schools?

(2) Which State high schools have been provided with a hall/gymnasium, and when were they built?

(3) What was the enrolment at the respective schools mentioned in (2) when this facility was provided?

(4) What is the present enrolment at Kalamunda high school and what is the anticipated number for the start of 1973?

Mr. T. D. EVANS replied:

(1) Yes, at the Belmont and Tuart Hill senior high schools. In addition halls will be incorporated in the designs of the new Carine, Kelmscott and North Lake high schools.

(2) (a) Separate halls—

Perth Modern school—1911.

Eastern Goldfields senior high school—1914.

Northam senior high school—1921.

Bunbury senior high school—1923.

Albany senior high school—1925.

Governor Stirling senior high school—1956.

John Curtin senior high school—1956.

Applecross senior high school—1958.

Hollywood senior high school—1958.

(b) Covered assembly areas—

Balcatta senior high school—1967.

South Fremantle senior high school—1967.

Rossmoyne senior high school—1968.

Como high school—1969.

(c) Halls incorporated in new schools—

Morley high school—1970.

Thornlie high school—1971.

Rockingham high school—1971.

Hedland high school—1972.

(3) Applecross senior high school—1,476.

Hollywood senior high school—842.

Belmont senior high school—1,381.

Tuart Hill senior high school—1,270.

All other halls have been built when the school was established and therefore enrolments at the time were not complete.

(4) 1,060.

1,282.

Mr. O'Neil: I think the date of 1958 for the Applecross senior high school is incorrect.

3. MUNDARING SHIRE

Council Election

Mr. THOMPSON, to the Premier:

(1) Has he received complaints supported by two statutory declarations from Mr. R. P. Ravine that the conduct of the Mundaring Shire Council and the election for a particular ward were not regular?

(2) If so, has he investigated the complaints?

(3) What were the findings, if any?

Mr. J. T. TONKIN replied:

(1) and (2) Yes.

(3) Mr. Ravine was advised by me on the 4th July last that—

(a) the complaint regarding the preparation of the budget did not contain sufficient evidence to justify taking any action under section 156 of the Local Government Act.

(b) There is provision in the Local Government Act, section 137, for a Court of Disputed Returns to determine the validity of an election.

4. BUILDERS' REGISTRATION ACT

Extension to Country Areas

Mr. REID, to the Minister for Works:

(1) Has he received requests to have the Builders' Registration Act extended to country areas?

(2) If so, what action does the Government propose to take on this matter?

Mr. JAMIESON replied:

(1) Yes.

(2) The functions of the Builders' Registration Act are presently under review.

5. PUBLIC HEALTH DEPARTMENT

Office Space at Trades Hall Building

Mr. O'NEIL, to the Minister for Health:

(1) Is he or his department negotiating for the occupancy of part of a proposed new trades hall building in Perth?

(2) If so, would he give details of—

(a) the location of proposed new building;

(b) the amount of space proposed to be occupied;

(c) those sections of his department to be housed in the proposed new building;

(d) financial or other considerations associated with the proposition?

Mr. DAVIES replied:

When I wrote the answer to this question on Friday last I anticipated that further questions would be forthcoming. I therefore asked my officers to be in a position to anticipate them and to have the answers available.

Perhaps I could forecast that the honourable member's leader will ask questions without notice today, and I refer him to the information contained in any answers which may be given to them. The answer to the question on today's notice paper is as follows:—

(1) and (2) It is likely an office block will be erected on land in Beaufort Street opposite the Museum and that it will be occupied by the medical and health services. Preliminary negotiations are in course.

6. SUPERANNUATION AND FAMILY BENEFITS ACT

Lump Sum Payments

Mr. BATEMAN, to the Treasurer:

(1) Is it the intention to amend the Superannuation and Family Benefits Act to provide for lump sum payments on retirement?

(2) If so, when will legislation be introduced?

(3) If "No" to (1), why not?

Mr. J. T. TONKIN replied:

(1) Yes, if practicable.

(2) A considerable amount of work has been done on this subject but some problems still remain to be overcome. Consequently no date can be set for the introduction of legislation.

(3) Answered by (1).

7. LEGAL AID BUREAU

Structure

Mr. HUTCHINSON, to the Attorney-General:

(1) Will he please explain how the legal aid bureau was formed, how it is set up and how and for whom it functions?

(2) How is it financed and what is the extent of the Government's assistance?

Mr. T. D. EVANS replied:

(1) The legal aid bureau is a Commonwealth Office and I have no knowledge of the details sought by the Member.

However, the information sought may be in relation to the provision of legal assistance under the scheme administered by the Law Society. This Scheme established

under part V of the Legal Contribution Trust Act, is to provide legal aid as set out in section 39 of the Act.

(2) Finance is provided by means of a Government grant and part of the interest earned on the investment of solicitors' trust accounts.

8. HOUSING

Mosman Park Lots: Rezoning and Price

Mr. HUTCHINSON, to the Minister for Housing:

(1) Is he aware that the Mosman Park Council has expressed concern at the lack of adequate play areas for children and open space generally in the area which was formerly zoned G.R.6 in Mosman Park and has recognised that an initial error in planning was made?

(2) In regard to reserve 2077 (lots 69, 70 and 71 Gibbon Street) which is owned by the State Housing Commission and which is within the area referred to, is he aware that now lot 69 is occupied by substantial high density State Housing Commission flats, only lots 70 and 71 (approximately two acres each) are left in this whole high density area as open space for the people, except for a 30 perch site in Battle Street which was bought by the council some two years ago and developed as a small park?

(3) Is he aware that the council in its approved new planning scheme has rezoned lot 71 for public open space and children's recreation and wishes to develop and maintain it for these desirable purposes?

(4) Is he aware that following a request to the State Housing Commission that lot 71 (approximately two acres) be passed to the council for the purposes mentioned in (3), the Commission replied by saying that the council could buy the block for $112,000 "on the condition that the zoning for the unused balance of the land on adjoining lot 70 Gibbon Street, for which the commission has plans for future housing development, remains unchanged"?

(5) Is not this price excessive particularly having regard to whom the block is to be sold and the purpose for which it is intended the block should be used?

(6) Does the condition referred to by the commission mean that, in spite of council's concern that the area is already too densely populated under the old G.R.6 zoning, it intends to ignore the already existing problem of lack of open space?

(7) What price did the commission pay for lots 69, 70 and 71?

(8) Will he ensure that a review is made of the price asked for lot 71 and a sensitive and reasonable offer made in its stead?

(9) Will he discuss with council the future uses of lots 70 and 71?

Mr. BICKERTON replied:

(1) to (6) Reserve 2077 (lots 69, 70, 71 Gibbon Street) came into commission ownership for housing purposes some years ago when the local authority decided it was not required for public open space. Subsequent zoning decisions by the same local authority have increased residential density in the surrounding area to the point where open space is apparently inadequate and lot 71 has been rezoned to open space.

Believing that the land in question would continue to be available for residential purposes, the Housing Commission has not, while it owned the three lots, sought to purchase alternate land for housing in this locality. Now lot 71 is not available, the commission must seek to acquire replacement land on the current market and, therefore, requires to be recouped for the loss of lot 71. It would also need to recover an additional sum for further land if the housing potential of lot 70 is reduced by rezoning.

(7) $20 per acre, which is the usual price paid by the commission for land from the Crown. In this regard it must be borne in mind that it is not purchase price, but replacement price, which is relevant to the question of land held for—but no longer available for—housing purposes.

(8) The price asked for lot 71 is a conservative valuation based on G.R. 5 zoning, and is in line with prices paid for similarly zoned parcels of like size in comparable locations.

(9) If council so requests, this will be considered.

9. ELECTRICITY SUPPLIES

Tidal Power: Use in Kimberley

Mr. A. R. TONKIN, to the Minister for Electricity:

(1) Are any experiments or surveys being undertaken, or have they been undertaken in the past, to test the possibility of using tidal power on the Kimberley coast for the generation of electricity?

(2) If it were feasible, would the demand be sufficient to warrant the development of a project?

(3) What are the main obstacles to the utilisation of this power source?

Mr. MAY replied:

(1) A joint study by the State and French authorities was carried out some 10 years ago to determine the capital cost and the cost per unit of electricity of a possible installation in the West Kimberleys. No further work has been done in recent years.

(2) and (3) At this stage, power generation based on fossil and/or nuclear fuels is far more attractive on economic grounds. A significant diminution in the world supply of fossil fuels could possibly change this situation during the next century.

10. MOTOR VEHICLES

Exhaust Emissions: I.C.I. Catalysts

Mr. A. R. TONKIN, to the Minister for Environmental Protection:

(1) Is it known that Imperial Chemical Industries have developed catalysts which, when incorporated into the exhaust systems of motor vehicles, will reduce the emission of carbon monoxide, oxides of nitrogen and hydrocarbons?

(2) If so, is the installation of such devices considered practicable under Australian conditions?

(3) Is any action contemplated in connection with these developments?

Mr. DAVIES replied:

(1) Yes.

(2) The device has not yet been proved to be practicable under Australian conditions.

(3) No.

11. MOTOR VEHICLES

Excessive Noise: Monitoring

Mr. A. R. TONKIN, to the Minister representing the Minister for Transport:

(1) When is it intended that monitoring will commence for the emission of excessive noise from motor vehicles?

(2) What equipment will be required, what is the anticipated cost of such equipment, and which authority will be responsible for the monitoring?

(3) What standards for the various motor vehicles will be enforced?

(4) Will "spot checks" be used; if not, what system is envisaged?

(5) What penalties will be invoked?

Mr. JAMIESON replied:

(1) to (5) The checking of motor vehicles for excessive noise levels is receiving consideration at a national level but has not reached the stage where recommendations have been made for Government consideration.

12. MOTOR VEHICLES

Exhaust Emissions: Monitoring

Mr. A. R. TONKIN, to the Minister representing the Minister for Transport:

(1) Is it intended that monitoring of the emission of noxious gases and particulates from motor vehicles will be instituted in Western Australia in 1972?

(2) If not, when is it intended that such monitoring will commence?

(3) If (1) is "Yes" what is the anticipated date of the scheme's commencement?

(4) What equipment will be needed to institute the scheme and what is the anticipated cost of such equipment?

(5) What will be the allowable standards of emission?

(6) Which Governmental body will be responsible for the monitoring?

(7) Are "spot checks" envisaged; if not, what system will be adopted?

(8) What penalties are envisaged?

Mr. JAMIESON replied:

(1) Passenger cars manufactured on or after 1st January, 1972, are required to comply with Australian design rule 26, which limits the carbon monoxide content by volume of the exhaust gases to 4.5% at idling speed.

No standard has been set, or checking carried out for the emission of noxious gases from in-service vehicles, and is unlikely in 1972.

(2) to (8) The matter is being considered at a national level and no recommendations to Government have been made.

13. LAND

Ownership by Foreigners

Mr. A. R. TONKIN, to the Minister for Lands:

Is there any provision under the laws of the State for foreigners, whether they be natural or artificial persons, to be registered if they own land within the State?

Mr. H. D. EVANS replied:

There is not to my knowledge a register of foreigners owning land within the State.

14. UNIVERSITIES

Staff-Student Ratios

Mr. A. R. TONKIN, to the Minister for Education:

(1) Does he know the staff-student ratios of the major Australian universities; if so, will he supply the information?

(2) What is the staff-student ratio of the Western Australian Institute of Technology?

Mr. T. D. EVANS replied:

(1) The student-staff ratios of Australian universities in 1972 are as follows:

Sydney	13.1
New South Wales	12.6
New England	12.4
Newcastle	11.3
Macquarie	11.1
Wollongong	11.5
Melbourne	13.0
Monash	12.5
La Trobe	12.0
Queensland	12.9
James Cook	8.2
Adelaide	12.3
Flinders	10.5
Western Australia	12.9
Tasmania	11.4
*Australian National	10.9
	12.4

*School of general studies only.

(2) The student-staff ratios for the W.A.I.T. is 12.8.

15. TRAFFIC LIGHTS

Installations in Metropolitan Area

Mr. MENSAROS, to the Minister for Works:

How many traffic lights were installed in the metropolitan area as at the last day of each of the following years—1960, 1965, 1970 and 1971?

Mr. JAMIESON replied:

The number of traffic control signals installed on the last day of each year were as follows:—

1960	46
1965	70
1970	113
1971	124

16. COMPANIES ACT

Overseas Takeover Bids

Mr. MENSAROS, to the Attorney-General:

(1) Is it a fact that he will introduce legislation amending the Companies Act "to assist identification of overseas takeover bids" as he was reported of having promised to do to the Trades and Labor Council?

(2) If so, will he ensure that such a measure will not further discourage foreign investment in Western Australia?

Mr. T. D. EVANS replied:

(1) Legislation is being drafted which will incorporate in the Companies Act of Western Australia provisions similar to those contained in the Acts of some other States which require the directors of a subsidiary company to state in a report attached to the accounts, the name of the company's ultimate holding company, and if known to the directors the country in which that holding company is incorporated. A report disclosing that information would be available for public search when filed with the Registrar of Companies.

(2) It is not thought that the provision will discourage foreign investment in Western Australia.

17. TOWN PLANNING

Swan Location 74: Rezoning of Lots

Mr. O'NEIL, to the Minister for Town Planning:

(1) Is it a fact as reported in the Fremantle supplement of *The West Australian* of Thursday, the 31st August, 1972, that he, through his secretary, declined to comment on rezoning of lots 105 and 108 Swan location 74 on the grounds that the decision was made by his predecessor?

(2) If so, does this imply that he disagrees with that decision?

Mr. DAVIES replied:

(1) In effect, yes.

(2) My statement was not intended to imply anything and no inference should be drawn. It meant exactly what it said—that I did not wish to comment on a decision made by my predecessor—and nothing more.

18. TOWN PLANNING

Swan Location 74: Rezoning of Lots

Mr. O'NEIL, to the Minister for Development and Decentralisation:

Is it a fact, as reported in the Fremantle supplement of *The West Australian* on Thursday, the 31st August, 1972, that he, through his secretary, declined to comment on a decision made by him relative to rezoning lots 105 and 108 Swan location 74 on the grounds that he was no longer the Minister for Town Planning?

Mr. GRAHAM replied:

Yes, but the Member should know it would be ethically incorrect for a Minister to comment on a specific matter pertaining to the portfolio of a fellow Minister. The Member should also know that there is nothing unusual in a Minister upholding an appeal lodged with him; indeed the legislation makes special provision for this.

19. TOWN PLANNING

Swan Location 74: Rezoning of Lots

Mr. O'NEIL, to the Minister for Town Planning:

Referring to question 11 on notice on Thursday, the 24th August, 1971, would he table the two memoranda referred to as drawing attention to various aspects relating to rezoning of the lots which were the subject of the question?

Mr. DAVIES replied:

Presuming that the question relates to a question asked on the 24th August, 1972, and not 1971 as stated, the answer is, Yes.

The papers were tabled (see paper No. 319).

20. UNIVERSITY OF WESTERN AUSTRALIA

"Ptarmigan" Publication

Mr. MENSAROS, to the Minister for Education:

(1) Has he seen the latest edition of the periodical of the Guild of Undergraduates of the University of Western Australia (undated, printed in Victoria and entitled *Ptarmigan*) which has been distributed free on campus?

(2) If so, does he approve of most of its contents and presentation as being constructive reading for students or does he consider it a destructive and lewd publication?

(3) Does he agree that fees, paid compulsorily by all students to the Guild of Undergraduates, should not be used in a manner which results in such publications?

(4) If so, will he take steps (statutory if necessary) to either prohibit the printing and distribution of such material, or preferably to discontinue with compulsion for paying fees to the guild?

Mr. T. D. EVANS replied:

(1) A copy of *Ptarmigan* was obtained on receipt of this question.

(2) and (3) The Guild of Undergraduates is an autonomous body and these questions call for a personal opinion to be given on activities outside my jurisdiction.

(4) The Indecent Publications Act is the appropriate Statute whereby action may be taken to test alleged breaches relating to indecency. I do not administer this Act.

21. INDUSTRIAL DEVELOPMENT

Texada Potash Project

Sir CHARLES COURT, to the Minister for Development and Decentralisation:

(1) With reference to the answer given to question 11, Tuesday, 15th August, 1972 (*Hansard* page 2491), will he please explain the relationship between langbeinite and the conventional forms of potash fertiliser used in Australia?

(2) Will he also explain the processes necessary to convert langbeinite to the conventional form of potash fertiliser, such as potassium sulphate and potassium chloride?

(3) (a) What quantities of conventional forms of potash fertiliser can be produced from 10,000, 20,000, 40,000 and 100,000 tons a year of langbeinite;

(b) What is an estimate of the cost of the plant required for this purpose, as well as costs per ton of production?

(4) Is not langbeinite found as an ore in other parts of the world?

(5) (a) What form of potash is required by the agreement and in what quantities;

(b) does langbeinite conform, and, if so, how;

(c) in view of what appears to be a substantial difference between capital requirements and cost of production to produce the conventional forms

of potash fertiliser and langbeinite, has langbeinite production been actually approved in lieu of conventional potash, and on what conditions?

Mr. GRAHAM replied:

The Leader of the Opposition asked to be supplied in writing with the answer to the question as Parliament was not sitting last week. Accordingly the information was supplied to him, but in order to keep the record straight the answer is as follows:—

(1)—

	Common name	Chemical name	Chemical formula (pure)	% Potassium content
(a)	Muriate of potash	Potassium chloride	KCl	48–50
(b)	Sulphate of potash	Potassium sulphate	K_2SO_4	40–42
(c)	Chilean potassic nitrate of soda	Potassium sodium nitrate	(KNO_3. $3NaNO_3$)	11
(d)	Langbeinite	Potassium magnesium sulphate	(K_2SO_4. $2MgSO_4$)	17–18

(2) Langbeinite is a conventional potash fertiliser in its own right in some parts of the world. Conversion of langbeinite to sulphate of potash requires removal of magnesium.

Conversion processes are many and varied. In one process langbeinite is used as a means of converting muriate of potash into sulphate of potash, the potassium content of both fertilisers being concentrated into the sulphate form, while by-product magnesium chloride has some value for production of magnesium.

(3) (a) In the process described in (2), 100,000 tons of langbeinite and 72,000 tons of muriate of potash would yield 126,000 tons of sulphate of potash and 46,000 tons of magnesium chloride. Smaller quantities of langbeinite would yield proportionally smaller quantities of products.

(b) No estimates are available. It is understood that in the U.S.A. the bulk of the langbeinite produced is used directly as a fertiliser ingredient.

(4) Yes.

(5) (a) The Agreement defines potash as potassium chloride and/or potassium sulphate. The agreement requires the production initially of 75,000 tons and subsequently 200,000 tons of potash a year.

It is relevant that the production of 200,000 tons of potassium chloride (muriate of potash) would result in a consequential production of at least 7 million tons of common salt.

(b) The acceptance of langbeinite in the definition of potash under the provisions of the agreement is a variation to the agreement. It is proposed to introduce an amendment later this session to give effect to the efficient utilisation of lake brines and ensure all bitterns are used.

Langbeinite contains some 42% potassium sulphate. The other component, magnesium sulphate is also considered to have some use as a plant nutrient.

(c) The difference in capital cost of a langbeinite plant and a plant to produce the more conventional potash fertilisers is at present not known.

The company first proposed the production of langbeinite early in 1970. The company conducted pilot plant trials to produce langbeinite and supplied samples of the product to the State and to potential market outlets.

On 22nd March, 1971, I advised the company that I was prepared to accept langbeinite in the definition of "potash" under the provisions of the agreement provided all bitterns arising from the production of salt are used to produce langbeinite. The qualification would have the effect of greatly reducing the production of by-product salt from the quantities mentioned in (5) (a).

Texada Mines Pty. Ltd. is proceeding with engineering the facilities for the production of langbeinite by a patented process. Its proposals provide for the facilities to be constructed by May, 1973.

22. ROAD FUNDS

Allocations and Grants

Mr. I. W. MANNING, to the Minister for Works:

(1) What amount of Commonwealth aid road moneys was paid to each local authority in the metropolitan area for the year 1971-72?

(2) What amount was expended by the Main Roads Department from Commonwealth aid road funds in each metropolitan local authority for the year 1971-72?

(3) What grants have been allocated for the 1972-73 year—

(a) to local authorities in the metropolitan statistical division;

(b) to be expended in the metropolitan area by the Main Roads Department?

Mr. JAMIESON replied:

(1) Commonwealth Aid Road funds paid to each Local Authority in the Perth statistical division in the year 1971-72—

	$
Perth City Council	408,890
Fremantle City Council	121,902
Melville City Council	185,515
Nedlands City Council	97,327
South Perth City Council	187,622
Stirling City Council	465,279
Subiaco City Council	73,661
Canning Town Council	144,428
Claremont Town Council	39,028
Cockburn Town Council	89,352
Cottesloe Town Council	37,226
East Fremantle Town Council	32,250
Mosman Park Town Council	24,147
Armadale-Kelmscott Shire Council	166,245
Bassendean Shire Council	54,322
Bayswater Shire Council	129,209
Belmont Shire Council	112,423
Gosnells Shire Council	98,345
Kalamunda Shire Council	93,673
Kwinana Shire Council	63,019
Mundaring Shire Council	77,110
Peppermint Grove Shire Council	6,938
Rockingham Shire Council	75,682
Serpentine-Jarrahdale Shire Council	21,770
Swan Shire Council	150,876
Wanneroo Shire Council	34,674
	$2,990,913

(2) Amount expended by the Main Roads Department from Commonwealth Aid Road funds in each Metropolitan Local Authority (within the Perth statistical division) in 1971-72—

	$
Perth City Council	8,061,891
Fremantle City Council	237,475
Melville City Council	160,066
Nedlands City Council	1,031
South Perth City Council	344
Stirling City Council	24,353
Subiaco City Council	14,537
Canning Town Council	127,323
Claremont Town Council	44,857
Cockburn Shire Council (including Rottnest Island)	16,293
Cottesloe Town Council	688
East Fremantle Town Council	38,109
Mosman Park Town Council	—
Armadale-Kelmscott Shire Council	194,452
Bassendean Shire Council	—
Bayswater Shire Council	107,206
Belmont Shire Council	148,693
Gosnells Shire Council	18,921
Kalamunda Shire Council	—
Kwinana Shire Council	96,491
Mundaring Shire Council	147,833
Peppermint Grove Shire Council	700
Rockingham Shire Council	38,721
Serpentine-Jarrahdale Shire Council	—
Swan Shire Council	—
Wanneroo Shire Council	254,070
	$9,734,054

In addition, the Main Roads Department expended $2,249,858 on acquisition of land for road purposes.

(3) (a) $6,821,649.

(b) $13,072,600.

To conform with the definition of "urban area" under the Commonwealth Aid Roads Act, 1969, it has been necessary for the Main Roads Department to adopt the Perth statistical division for record purposes.

The Perth statistical division includes the metropolitan traffic area plus the Shires of Wanneroo and Kalamunda and the portions

of the Shires of Swan and Mundaring outside the metropolitan traffic area. The statistical information in this answer has been compiled on this basis.

QUESTIONS (4): WITHOUT NOTICE

1. PUBLIC HEALTH DEPARTMENT

Office Space at Trades Hall Building

Sir CHARLES COURT, to the Minister for Health:

(1) What is the stage of negotiations for the Public Health Department to rent space in the proposed new Trades Hall building?

(2) What space is under negotiation?

(3) What period of lease is under discussion and at what rental and other conditions?

(4) When is the building expected to be available for occupancy?

(5) Why is this particular space thought to be more suitable when there is a record amount of office space already on offer and in prospect in the city area?

(6) How urgent is the department's need?

(7) What finance to assist the building project is being provided by the Government by way of loans, guarantees, and/or payment of rent in advance?

Mr. DAVIES replied:

I thank the Leader of the Opposition for some advice regarding this question and I also mention that this is the question and answer to which I directed the notice of the Deputy Leader of the Opposition some little time ago. The reply is as follows:—

(1) Detailed requirements of the medical and health services are being assessed to determine whether the amount of space is sufficient to meet the needs of several scattered sections of the Medical and Public Health Departments.

(2) Approximately 70,000 square feet on seven floors.

(3) When the departmental assessment has been made it will be referred to the Public Service Board, which is responsible for allocation of office space, including any negotiations as to period of lease, rental, and other conditions.

(4) Early 1974.

(5) The cost is expected to be less than other propositions submitted for an acceptable location.

(6) Accommodation for medical and health services is of the highest priority. At present many sections are widely dispersed and inadequately housed.

(7) No finance is being provided by the Government, but the private loan to Trades Hall Inc. will be guaranteed by the Government.

2. GOVERNMENT DEPARTMENTS

Office Space at Trades Hall Building

Sir CHARLES COURT, to the Premier:

(1) Are any Government departments other than the Public Health Department negotiating rental space in the proposed new Trades Hall building?

(2) (a) Has the Government received any request for loan money, finance guarantees, or other forms of assistance for the project?

(b) If so, what decision has been made?

(c) If no decision has been made, when is finality expected?

Mr. J. T. TONKIN replied:

(1) No.

(2) (a) Yes.

(b) To give a guarantee.

(c) Answered by (b).

3. TOWN PLANNING

Naval Base Housing Project

Mr. RUSHTON, to the Premier:

(1) Have any additional objections to those of the Shires of Rockingham and Kwinana been received to the Government's announced intention of rezoning and encouraging of residential development of 1,300 acres of Naval Base industrial land?

(2) If "Yes" to (1)—

(a) From whom were the objections received?

(b) On what date were they received?

(c) What is the summarised substance of the objections?

Mr. J. T. TONKIN replied:

(1) A search of the records has failed to reveal any additional objections.

(2) Answered by (1).

4. TOWN PLANNING

Naval Base Housing Project

Mr. RUSHTON, to the Premier:

Would he search a little deeper relating to a letter received from the Western Australian Industry

Council for Environmental Harmony, the members of which are as follows:—

Chamber of Manufactures (W.A.) Inc.

Meat and Allied Trades Federation of Australia (W.A. Division)

Pastoralists & Graziers Association of W.A. (Inc.)

Perth Chamber of Commerce (Inc.)

Master Builders Association of W.A.

Australian Federation of Civil Engineering Contractors

Clay Brick Manufacturers Association of W.A.

Chamber of Mines of Western Australia (Inc.)

The SPEAKER: I hope the honourable member will ask a question shortly.

Mr. RUSHTON: This is what I am asking. To continue—

Extractive Industries Association

Associated Sawmillers and Timber Merchants' of W.A.

The SPEAKER: That does not sound like a question to me.

Mr. RUSHTON: To continue—

Chamber of Automotive Industries

The Metal Industries Association of Australia (W.A.)?

I am told this council submitted its objection on the 11th July. I ask the Premier to review this situation and give an explanation to the House as to why this question was not answered when asked on other occasions.

Mr. J. T. TONKIN replied:

I ask that the question be placed on the notice paper.

INDUSTRIAL LANDS DEVELOPMENT AUTHORITY ACT AMENDMENT BILL

Introduction and First Reading

Bill introduced, on motion by Mr. Graham (Minister for Development and Decentralisation), and read a first time.

LAW REFORM COMMISSION BILL

Third Reading

MR. T. D. EVANS (Kalgoorlie—Attorney-General) [5.00 p.m.]: I move—

That the Bill be now read a third time.

MR. MENSAROS (Floreat) [5.01 p.m.]: During the Committee stage I asked what I thought was a pertinent question on clauses 11 and 12 of the Bill, but the Attorney-General did not see fit to answer me. I shall reiterate my question. Although clause 11 contains what I would call a very laudable provision—that is, to table the reports of the recreated Law Reform Commission—at the same time clause 12 states that the commission shall, if so requested by the Attorney-General, submit a confidential advisory report to him on any topic. Is there anything in the Bill—and I certainly cannot see anything—to prevent any Minister from using clause 12 first in almost every case in which he desires to do so? I emphasise that I am not referring to the present Attorney-General but to any Minister.

It would appear that if a confidential report is given and the Minister does not like it he may leave it as a confidential report; but if he likes it he can set the machinery of clause 11 into operation and make it an open report presented to the House. I can see this as a possible danger and I certainly cannot see anything in the Bill to prevent it. Unless the Attorney-General corrects me, this would make a mockery of clause 11 which is, in other respects, laudable. I trust the Attorney-General will give an explanation.

MR. T. D. EVANS (Kalgoorlie—Attorney-General) [5.03 p.m.]: In answer to the question asked by the member for Floreat it is my view that, in the normal course of events, reports compiled by the Law Reform Commission, as I hope it will be called, will be furnished to those persons who have, first of all, supplied information to the commission, to those persons and organisations that would be expected to have an interest in the subject matter, and to other law reform bodies. Finally that report would be tabled in the Parliament. This would be as a matter of course.

Clause 12 is written into the proposed legislation to enable the Attorney-General prior to the commission undertaking any project—and I emphasise the words "prior to"—to ask for a confidential report to be compiled on a certain subject. As far as I am concerned—and I cannot speak for any other person—I would repudiate the suggestion that I, as Attorney-General, would intercept a report which the commission, in the normal course of events, has prepared and would, if accepted, ultimately find its way to the Table of the House. I certainly would not say in those circumstances that I wanted it to be a confidential report.

Mr. Mensaros: My question is whether there is anything in the Bill to prevent not you, but any Attorney-General, from using clause 12 and either using or not using clause 11 on the same question.

Mr. T. D. EVANS: If the honourable member looks at clauses 11 and 12 in juxtaposition he will see that clause 12 indicates the exception to the general rule. The commission may, if requested by the Attorney-General, submit a confidential

advisory report to him. The request would be made to the commission prior to the commission undertaking the project. I think the wording of clause 11 is quite clear and, in the normal course of events, any report undertaken by the commission would wend its way to the Table in the Parliament. I think clause 11 is the answer to the honourable member's question.

Sir Charles Court: Before the Minister resumes his seat I respectfully suggest to him that before the Bill goes to another place he should give a greater explanation of the circumstances under which clause 12 would be invoked. This is the real query in the minds of some of us on this side of the House. We want to know why the Attorney-General would need to invoke it.

Mr. T. D. EVANS: I suggest the Leader of the Opposition should have a word with the former Minister for Justice who, beyond the walls of this Chamber, has expressed the view that he sees a real need for clause 12 to be included in the Bill.

Question put and passed.

Bill read a third time and transmitted to the Council.

ABORIGINAL HERITAGE BILL

Second Reading

Debate resumed from the 11th May.

MR. LEWIS (Moore) [5.05 p.m.]: I should like to say at the outset that I am very pleased to support the Bill, in principle at least. The measure contains 69 clauses and was introduced by the Minister on the 11th May, I believe. It sets out to give legal authority for the preservation of Aboriginal sites and objects.

The previous Administration set up an advisory panel for the purpose of locating and assessing the historical and archaeological significance of sites held in regard by Aborigines and to make recommendations for their preservation. Although this was not a statutory body it did a great deal of valuable work and it was my experience that the companies which controlled the leases or areas involved, at least for the time being, co-operated in the main to a very large extent. The companies were prepared to mark the areas and to put up signs. I know of one instance where a company gave instructions to its employees that certain sites were out of bounds to them. We know of other companies which went to considerable trouble to move certain objects on sites to a safe place so that these could be preserved.

The Bill which has now been introduced by the Minister sets out to give statutory authority for this. I repeat that this authority will be under two headings; namely, to preserve sites and to preserve objects. The relevant clause of the Bill states, in part—

> This Act applies to—
>
> (a) any place where persons of Aboriginal descent have, or appear to have, left any object, natural or artificial, used for, or made or adapted for use for, any purpose connected with the traditional cultural life of the Aboriginal people, past or present;
>
> (b) any place, including any sacred, ritual or ceremonial site, which is of importance or of special significance to persons of Aboriginal descent;
>
> (c) any place which, in the opinion of the Trustees, is or was associated with the Aboriginal people and which may be of historical, anthropological, archeological or ethnographical interest;
>
> (d) any place where objects to which this Act applies are stored . . .

With respect to objects, clause 6 of the Bill states, in part—

> 6. (1) This Act applies to all objects, whether natural or artificial and irrespective of where found or situated in the State, which are or have been of sacred, ritual or ceremonial significance to persons of Aboriginal descent, or which are or were used for, or made or adapted for use for, any purpose connected with the traditional cultural life of the Aboriginal people past or present . . .

No member of this House would deny that these people whose forebears are now said to have come to this country as long ago as perhaps 30,000 years have, during their time on this continent, amassed a wealth of tradition. This is not perhaps in writing, but in some cases it is in the form of paintings which convey a message. There are many sacred objects which are of relevance only to the Aboriginal people. They have been under a great deal of pressure—not physical pressure, perhaps—which has come about through the intrusion of our civilisation into their country. It is more than important that they should now be given every encouragement to preserve some of their old traditions, and this is the purpose of the measure.

The machinery part of the Bill proposes to set up an Aboriginal cultural materials committee consisting of appointed members. The number is unspecified—whether they be Aboriginal or otherwise—but shall include an anthropologist and three *ex officio* members; namely, the Director of the Museum, the Commissioner of Aboriginal Planning, who was formerly the Commissioner of Native Welfare, and the Surveyor-General. Although the total

number of the committee is unspecified the quorum shall be not less than five of whom two shall be *ex officio*. The trustees of the Museum will appoint the chairman.

I ask the indulgence of the House while I read clause 39, because I think it is important that we should know the functions of the committee. Clause 39 states, in part—

> 39. (1) The functions of the Committee are—
>
> (a) to evaluate on behalf of the community the importance of places and objects alleged to be associated with Aboriginal persons;
>
> (b) where appropriate, to record and preserve the traditional Aboriginal lore related to such places and objects;
>
> (c) to preserve, acquire, and manage on behalf of the Trustees, places and objects which in their opinion are, or have been, of special significance to persons of Aboriginal descent;
>
> (d) to carry out such of the activities or functions of the Museum, or of the Trustees, as the Trustees may with the consent in writing of the Minister delegate to the Committee;
>
> (e) to advise the Minister and the Trustees on any question referred to the Committee, and generally on any matter related to the objects and purposes of this Act;
>
> (f) to administer this Act in so far as directed by the Minister to do so, and to that end to apportion and apply the moneys available.

To implement these functions a registrar is to be appointed from the staff of the Museum. He will be responsible to the trustees who, in turn, will be responsible to the Minister.

When the measure was debated in another place it was closely examined and many amendments were made to it. I think it is a fairly good piece of legislation but, nevertheless, I propose to comment on some provisions when the Bill is in Committee, especially those dealing with the acquisition by the Museum of objects held privately but which are considered by the Museum to be of some significance. I question the justice of some of the provisions in the Bill and I will raise them with the expectation that the Minister will be able to comment satisfactorily on them. Without taking any further time, I support the Bill.

MR. HARMAN (Maylands) [5.14 p.m.]: I, too, support the legislation. Indeed I have waited patiently for four years for the legislation to be introduced and finally passed by Parliament.

Mr. Davies: A change of Government is doing it.

Mr. HARMAN: Members will recall that on the 25th July, 1968, the Brand Government promised, in a speech delivered by the Lieutenant-Governor in this Parliament, that legislation would be introduced that session to bring about the aims which are the subject matter of this amending Bill.

After the unfortunate Weebo incident I again asked the previous Minister, on the 26th March, 1969, when the legislation would be introduced. On that occasion the Minister promised he would introduce the legislation in the session beginning in July, 1969.

For various reasons the legislation promised in 1968 was never introduced by the previous Government but, to the credit of the previous Minister, he did appoint an advisory committee and later appointed a special officer to investigate, record, and evaluate Aboriginal sites and objects that had a sacred, secret, or ceremonial significance.

My patience has been rewarded after four years; but let us consider the plight of the Aborigines and how long they have waited for this legislation. Western Australia commenced as a colony in 1829. By 1905 it had been traversed and settled from one end to another. In 1904 an inquiry was conducted on behalf of the Government by a magistrate (Mr. Wroth). In his report in 1904, 76 years after Western Australia commenced as a colony, he noted—

> There is no reserve for natives in Western Australia that is devoted exclusively to their use and benefit.

After 76 years, not one area in Western Australia had been set aside for the use or benefit of the Aborigines.

Shortly after 1905, as a result of legislation passed in this Parliament, certain parts of Western Australia were set aside as Aboriginal reserves, to the extent that in the years that followed areas totalling one-sixth of the area of Western Australia were devoted to Aboriginal reserves, and one could assume that any sacred Aboriginal site within those reserves would have had a measure of protection. Of course, that did not apply to any sacred or ceremonial site situated outside an Aboriginal reserve. Despite the fact that this type of legislation had been passed by every other State Parliament in Australia, the Aborigines in Western Australia patiently waited another 67 years for this Bill to arrive in this House.

Whilst I am very appreciative that the legislation is here, and whilst we may mildly congratulate ourselves for it, I do not think our responsibility should end merely with the passing of this legislation. I believe and I have argued for some time that one of the factors which inhibited the acceptance of Aborigines by the community in this State was the lack of knowledge and lack of understanding of the law, culture, and traditions of our Aborigines. The preservation of sacred and ceremonial sites and the recording and evaluation of the sites are means by which we can disseminate to the public the culture, traditions, and law of the Aborigines. When we reflect on it, we find it is a very interesting and fascinating law.

To appreciate the significance of some of these sites, we have only to turn to the preliminary report dated the 30th September, 1969, of the committee which investigated the Weebo Stones incident. I quote briefly from page 8 of that report, where the committee said—

> It is sufficient to say in this report that the Committee was informed that the "law" or "religion" of the Wongai is made up of accounts of the actions of animal ancestral beings . . . The importance of the Weebo area is demonstrated in the numbers of ancestral beings said to be connected with it and the important acts which they are said to have carried out.

On page 9 of the report the committee said—

> Hoffman's Prospecting Area is about midway along the belt and includes the place where the ancestral Wadi Wyuda (the Possum Men) camped and performed circumcision and blood letting rituals. This is an area of the Weebo siltstone ringed with concentric circles which are the sign of the Wadi Wyuda. The red and pink colour in the stone is the spilled blood of the Wadi Wyuda. Following the example of the Wadi Wyuda this is a most important ceremonial place to Aborigines; here, only a few yards from the trench dug by Hoffman, the Aborigines have cleared a pavement of flat stones, each with its rings plainly marked—

A little further on in the report the committee referred to the Minma Gookardi and said—

> In another place the Minma Gookardi (the Goanna Women) were caught by the Wadi Wyuda and they were married there; at another place the Wadi Goodjarra (the Goanna men) beat the Minma Gookardi (the Goanna Women) for breaking their law. The marks of the blows which fell on the rock as the women huddled on the ground on their knees and elbows during the beating can be seen as grooves weathered in the rock.

The report is available to be read and it illustrates the significance which the Aborigines in that area placed on the Weebo Stones.

If this type of information could be disseminated, particularly in the schools, I am sure people would grow up with a greater understanding and appreciation of Aboriginal culture. Too often Aborigines are portrayed as lazy, irresponsible people. Too infrequently do we learn of their culture and traditions and the reasons which motivate their conduct, which seems to be inconsistent with our own. I am very appreciative that Parliament now recognises in this legal manner the importance Aborigines have placed on the land features in Western Australia and on many of their objects. I believe that the passage of this legislation will tend to break down any uncertainties and ill-feeling which may exist between the Aborigines and the Government, whether it be this Government or any other Government. I hope the day is not too distant when some of the more important sacred ceremonial sites now recognised only by the Aborigines will become the common heritage of the people of Western Australia.

MR. RIDGE (Kimberley) [5.24 p.m.]: We in the Liberal Party recognise the desirability of this legislation because we can see that it clearly establishes the principle that the historical cultures and traditions of the Aboriginal people are worthy of recording. I believe they are worthy of recording because they form the basis for engendering self-respect in the Aboriginal people by encouraging them to be proud of their own life style and traditions.

Frankly, I do not know of very many things we have done that could give the Aboriginal people any cause to be proud of their colour, their life style, their traditions, or anything else. On the contrary, I believe we have been pushing these people. We have been completely intolerant of their ways and have insisted that our way was right, thus forcing the Aboriginal people into trying to accept something for which they are not ready. If we are to mix in harmony with the Aboriginal people, both races must be tolerant of each other and accept each other's habits and customs. I consider that at the present time both the Aboriginal and the European people in Western Australia are a long way from understanding each other's ways.

I think that by recording sites of significance and by collecting historical material and carefully assessing its value, we will learn a great deal more about the Aboriginal people and they, in turn, will take pride in knowing that we consider their customs and beliefs to be of some

value. Like the member for Maylands, I hope that at some future time a course will be introduced into our schools to enable the European children to learn something of the links between the two Australian races. It is rather strange that the children of today—and yesterday, for that matter—know much more about the traditions and customs of the North American Indians than they know about the Australian Aborigines. A great deal of this information has been obtained from movies, the backs of cereal packets, and so forth.

Obviously, it is not intended that this Bill will confer any particular rights on any individuals, whether they be Aborigines or Europeans. The Bill deals with the powers of the Museum, but it does not prevent the Aborigines from maintaining their traditional and ceremonial customs and they will still have free access to any sites of significance. The staff of the Museum are given statutory authority to do what I believe they have in fact been doing for many years. I can recall the present Curator of Anthropology at the Museum visiting the West Kimberley region over several years to record these sites. He went about his job in a very quiet and unobtrusive manner but he enjoyed the co-operation of the people throughout the area—the Aborigines, mission authorities, pastoralists, and the like. It is important that this co-operation be maintained because those people know a great deal about the country as a result of roaming about on horseback, and so on.

It is unfortunate that some of the mining companies throughout the State have come in for a great deal of criticism. They have been accused of desecrating places of significance. I can recall that some years ago employees of the Amax Bauxite Corporation, during the course of operations on Mitchell Plateau, found some sites they thought were of great significance. They contacted the Museum authorities, who flew a man up to the area. The Amax Bauxite Corporation not only provided that person with board and lodging but it also put a helicopter at his disposal so that he could move around quite freely. This is the sort of co-operation we would like to see maintained, but unfortunately some of the mining companies have not received much credit for their efforts.

I think the legislation will be experimental, to a certain extent, because obviously situations will arise which cannot be legislated for; and one or two clauses in the Bill cause some concern. By way of illustration, I mention that some years ago I became aware of the site of an Aboriginal burial tree. To my knowledge there are not a great many of these left around the country. I have visited the site several times, and on the last occasion, a couple of years ago, I found that the burial boards had either fallen from the tree or had been blown from it, and white ants were moving into them fairly quickly. With the help of a local station manager I took the boards to the station, treated them with dieldrin, and returned them to the tree.

Under the terms of the Bill before us—specifically clause 17, I think—that person and I would be committing an offence if we did it again. However, I do not think the clause would be construed in such a way as to charge people who help in that fashion.

As I said, we on this side recognise the desirability of the legislation and we applaud the Minister for its introduction. The only rider I would like to add is that I hope nothing in this Bill will be related to the fiasco which occurred in the grounds of Parliament House recently. I consider the people responsible for burying the tjurunga board in the grounds of Parliament House were making a mockery of everything sacred to those Aborigines who still have some pride in the religious customs of their race. By resorting to this type of publicity gimmick—which is all it was—they are making a laughing stock of their race and a mockery of their cause. They have done irreparable damage to the cause of Aborigines, generally.

The Parliamentary Reserves Board was formed to deal with situations such as this. I believe the board has been tolerant and understanding. Having taken the action it took it should stick to its guns and should not be forced to submit to any form of pressure or blackmail; what is more, it should receive 100 per cent. backing from the Government.

Mr. Graham: Do you think it should dig up the device that has been buried under the lawn?

Mr. RIDGE: No, I do not think the tjurunga board should be dug up; but I can see no reason whatsoever for placing a tombstone on the site and saying it is sacred ground. I do not believe they consider it as sacred ground. If they do, they would not broadcast it; they would keep it to themselves. Certainly they would not tell the newspaper and television services. I say: let the grounds of Parliament House be sacred to us; and let us preserve the valued sites of true significance and the sincerity of those people who are proud of their ancestral and religious traditions. I support the Bill.

MR. T. D. EVANS (Kalgoorlie—Attorney-General) [5.33 p.m.]: On behalf of the Minister for Community Welfare, who introduced this Bill in another place, I thank the members who have contributed to the debate. The debate in this Chamber will be noted for the profound sincerity, the very keen enthusiasm, and the deep interest displayed by the three members who participated in it.

Whilst as has been indicated by the member for Maylands there is a strong desire that as little delay as possible should now ensue between this moment in this Chamber and the time the measure receives the approval of His Excellency the Governor and finds it way into the Statute book, I feel it is desirable to pay tribute to the work which has been carried out since 1960 under the auspices of the Museum of Western Australia. The Museum has been responsible for the location, the evaluation, and the preservation of the various sites and objects which are dear to our Aborigines and, indeed, to the heritage of the original people of Australia.

I am advised that since 1960 in excess of 1,000 sites have been investigated by the Museum and, on current indications, the end is nowhere in sight. Of course, the amount of effort that may be put into this depends upon the availability of staff and also that old contingency, the availability of finance. This brings me to the point that recently whilst opening a conference relating to material culture and rock art of Aborigines, the Federal Minister for Aborigines, amongst other things, invited the State of Western Australia to submit within five years a programme to locate and protect all Aboriginal sites.

So the work which lies ahead is by no means a small project, having regard for the fact that the Museum in a part-time capacity has been working on this exercise since 1960 and has already recorded in excess of 1,000 sites. As I said, it feels the end is nowhere in sight.

Perhaps the most pressing need for the passage of this measure is to enable financial support to flow from the Commonwealth pursuant to the invitation issued by Mr. Howson. There would seem to be some doubt whether the Museum, under its own Act, or indeed the University of Western Australia under its Statute, would qualify for the necessary finance; but with the passage of this measure and the creation of the statutory body to which the member for Moore has referred, the position would appear to be beyond doubt. I again thank members for the support they have extended to the Bill. I would like to add that we in this Parliament in 1972 have acknowledged and have recorded the wealth of the traditions, customs, and beliefs of our Aboriginal people, and also the importance and the significance of the tribal objects collected by them. I would hope that, whilst these should be preserved and maintained for posterity, I may be forgiven for believing that our own Australian heritage will be enriched in the eyes of the cultural world by the marriage we will perfect by the passage of this legislation whereby Aboriginal heritage will find its rightful place in our own greater Australian heritage.

Question put and passed.

Bill read a second time.

In Committee

The Chairman of Committees (Mr. Bateman) in the Chair; Mr. T. D. Evans (Attorney-General) in charge of the Bill.

Clauses 1 to 22 put and passed.

Clause 23: Marking of protected areas—

Mr. LEWIS: This clause deals with the marking of protected areas. The trustees may cause boundaries of such areas to be delineated, and may enclose or fence the areas and erect such structures as in their opinion are necessary to protect the areas or any object therein. Any person who interferes in any way with any notice, boundary mark, fence, or other structure commits an offence.

Subclause (3) then states—

> (3) The fact that a notice, boundary mark or fence is not or was not at the relevant time erected or in a reasonable state of repair is immaterial to the liability of any person for an offence against this Act and the reasonableness of a belief as to the existence or non-existence of an Aboriginal site.

That does not seem to be just. In some outback areas prospectors and others move around and could unwittingly stumble over a sacred site without knowing it was there because no marks, boundaries, or fences had been erected. Yet that would be no excuse. The fact that there is no fence is immaterial to the liability of such a person. I invite the Minister to explain the situation.

Mr. T. D. EVANS: This clause is intended to avoid the situation of a person with full knowledge that a site is one which is preserved removing identification marks as a means of avoiding prosecution. I suggest in the first instance that genuine cases of ignorance would be covered by clause 63. I would point out that section 24 of the Criminal Code would apply also. In that Code it is provided that the provisions of chapter V of the Code are available and are applicable to every Statute in Western Australia.

Therefore, a person genuinely not being in a position where he reasonably ought to have known that the site was preserved would have an opportunity to have avail to either clause 63 of the Bill or section 24 of the Criminal Code.

I think the member for Moore would realise that we must take measures to guard against the person who would deliberately remove a sign and, if apprehended, would indicate that he could see no warning that it was a preserved site.

Mr. LEWIS: I accept the Minister's reply in part; but I propose to raise the matter again on clause 63.

Clause put and passed.

Clauses 24 to 26 put and passed.

Clause 27: Covenants—

Mr. LEWIS: Will the Minister explain the significance of the term "adjacent land" in subclause (2)?

Mr. T. D. EVANS: I am advised that used in this context the term "adjacent land" brings into the Bill the provision of the law relating to covenants affecting land which can only be enforced if they have been entered into for the benefit of adjacent land. This is a doctrine which is well known to conveyancing lawyers and well established in case law. The clause follows the provision that is set out in section 21(1) of the National Trust of Australia (W.A.) Act, as amended in 1970.

Clause put and passed.

Clause 28: Aboriginal Cultural Material Committee—

Mr. LEWIS: I draw attention to the provision in subclause (2) which states that the membership of the committee shall consist of appointed members, each of whom shall hold and vacate office in accordance with the terms of the instrument under which he is appointed. There is no mention of how many persons are to be appointed as members. Will the Minister comment on this provision?

Mr. T. D. EVANS: In this matter I have to rely on the advice of those who will administer the Act. The point made by the honourable member appears to be cogent, and therefore it is a proper question for him to ask. The advice I am given is that it is felt that until the committee has operated for a period of time, it is desirable to be flexible about the number of members. I am advised that the number will be kept as low as practicable until a satisfactory working arrangement has been made. It is also believed that the number of members might be varied from time to time according to the pressures for the development of the State. I hope that as time passes and when this legislation is in operation, members may indeed ask a question as to how many members have been appointed from time to time.

Mr. LEWIS: I refer to subclause (4) which states—

> (4) Subject to subsection (3) of this section, the appointed members shall be selected from amongst persons, whether or not of Aboriginal descent, having special knowledge, experience or responsibility which in the opinion of the Trustees will assist the Committee in relation to the recognition and evaluation of the cultural significance of matters coming before the Committee, and shall be appointed by the Minister from a panel of names submitted for the purposes of this Act by the Trustees.

There is no mention of how many persons are to be included in the panel. It seems to me that some indication should be given in the legislation as to the size of the panel.

Mr. T. D. EVANS: I think the explanation I have just given also covers this situation. The Minister will appoint the persons to the panel according to the need as he sees it at the particular time.

Clause put and passed.

Clauses 29 to 31 put and passed.

Clause 32: Quorum and meetings—

Mr. LEWIS: Subclause (1) states that the quorum to constitute a meeting of the committee shall be such as the committee may from time to time determine, but shall not be less than five persons of whom two shall be *ex-officio* members. I am curious to know what proportion of the five members will constitute a quorum.

Mr. T. D. EVANS: Again I rely on the advice of those who are to implement this legislation, as the answer is not disclosed in the wording of the clause. The advice is that a minimum of eight persons is envisaged, and therefore a proportion as high as five-eighths will constitute a quorum.

Clause put and passed.

Clause 33 to 42 put and passed.

Clause 43: Restrictions on dealing with Aboriginal cultural material—

Mr. LEWIS: I refer to subclause (2) which states—

> (2) Where an object that is classified as Aboriginal cultural material is offered for sale to the Trustees, the Trustees may accept the offer and so purchase the object or may, subject to subsection (3) of this section, decline the offer, in which event they shall as soon as practicable, in writing, advise the person by whom it was offered to them that they do not wish to purchase it.

However, in subclause (4) we find the following provision:—

> (4) Where the Local Court, in determining a reasonable price for an object pursuant to subsection (3) of this section, determines a price which is greater than the price at which it was offered for sale to the Trustees, the person by whom the object was offered for sale to the Trustees shall be deemed for all purposes to have offered the object for sale to the Trustees at the price so determined, and within fourteen days of the determination by the Local Court the Trustees shall—
>
> (a) accept the offer so deemed to have been made by the person and so purchase the object; or

(b) decline to purchase the object, in which event they shall as soon as practicable, in writing, advise the person that they do not wish to purchase it.

There seems to be some inconsistency. On the one hand a period of 14 days is specified, and on the other the period is to be as soon as practicable. I am curious why there is a distinction.

Mr. T. D. EVANS: The relevant part of subclause (2) refers to a decision being made by the trustees to decline the offer. In that event the trustees shall as soon as practicable in writing advise the person by whom it was offered that they do not wish to purchase it. Therefore the time stipulated—that is, as soon as practicable —relates to a decision being made not to purchase the article, and to the obligation on the trustees to advise the person offering it for sale.

Subclause (4) deals with a separate issue. Whilst the trustees can be expected to act within 14 days of the court's decision, it may not be practicable to notify a person in writing of a decision within this period. For example, this would apply where the trustees are dealing with a person who is overseas. These are two separate issues.

Mr. Lewis: Could not the vendor be overseas?

Mr. T. D. EVANS: The period of 14 days refers to a defined event—the decision of the court. However, in the case of notification being given to a person who has made an offer for sale of certain objects, where the trustees determine not to purchase them, then they have an obligation to notify the person as soon as practicable that they have declined the offer.

Mr. LEWIS: I fail to appreciate that these are two separate issues. Subclause (4) deals with the decision of the court, where the aid of the court is invoked to determine a reasonable price. Where the Local Court determines a price which is acceptable to the trustees they have 14 days in which to notify the vendor of their decision; but where the court decides on a price which is not acceptable to the trustees, the trustees can have recourse to the period of "as soon as practicable" in notifying the person.

If the trustees can notify the person offering the article for sale within 14 days of the court's decision where the decision is favourable to them, I see no reason why they cannot notify him within that same period where the decision is unfavourable. If the owner is overseas and does not receive the letter from the trustees it is too bad for him; but to bring in the provision "as soon as practicable" may result in a delay of some months in notifying him. This would prevent him from selling the article in some other way.

Mr. T. D. EVANS: I cannot add much more to what I have said, except to refer the honourable member to subclause (3) which states—

(3) Where the Trustees are of opinion that the price at which an object of Aboriginal culture material has been offered to them for the purposes of subsection (1) of this section is excessive, they may apply to the Local Court at Perth which may determine a reasonable price for the object.

Under this provision the court is clothed with the absolute authority to determine a reasonable price.

Now we can turn to subclause (4) which contains the reference to the period of 14 days where the court determines a price which is greater than the price at which it was offered for sale to the trustees, and the trustees have deemed the price at which it was offered to be excessive. Here the court has, in fact, set a price higher than that offered to the trustees.

Mr. Lewis: It is not mandatory on the trustees to buy at that price.

Mr. T. D. EVANS: In that circumstance the trustees may decline to purchase the object at the higher price, in which event they shall as soon as practicable in writing advise the person that they do not wish to purchase it. If we do not prescribe the period of "as soon as practicable" then the trustees may hold this view: "The court has made a determination on the value of an object at a particular point of time, but we have the opportunity to appear before a different magistrate who may place a different value on it, so we will delay taking action." The stipulation of the 14-day period is in the interests of the person who offers the object for sale; and under this the trustees shall within that time make a clear determination and notify the person offering the object for sale whether the offer is accepted.

The stipulation of 14 days is in the interests of the person who offers the object for sale. Within 14 days the trustees must elect whether or not to buy, and notify the person.

Mr. LEWIS: I have listened to the Minister but there seems to be an inconsistency. The situation has not been explained to my satisfaction.

Clause put and passed.

Clauses 44 to 46 put and passed.

Clause 47: Compulsory acquisition of objects—

Mr. LEWIS: Clause 47 reads, in part, as follows:—

47. (1) Where the Trustees are of the opinion that it would be in the general interest of the community to

acquire any object to which this Act applies they may give notice to the person owning, or apparently having the custody and control of, that object of their desire to acquire that object at a price therein specified.

What will be the position when the price determined by the court is less than that at which the person wishes to sell? It seems to me that he would then have to pay the court costs, but he would retain the object. Subclause (2) of clause 47 reads as follows:—

(2) A notice given by the Trustees under the provisions of subsection (1) of this section has effect as though it were the reply to an offer for sale made to the Trustees by the person to whom the notice was given in relation to an object classified as Aboriginal cultural material pursuant to section 40 and any dispute as to what constitutes a reasonable price shall be determined by the Local Court in accordance with the provisions of that section.

I question whether clause 40 deals with the situation at all. Clause 40 of the Bill reads as follows:—

40. Where the Trustees recommend to the Governor that an object or class of objects in the State is of Aboriginal origin and is—

(a) of sacred, ritual or ceremonial importance;

(b) of anthropological, archaeological, ethnographical or other special national or local interest; or

(c) of outstanding aesthetic value,

the Governor may, by Order in Council, declare that object or class of objects to be classified as Aboriginal cultural material.

Mr. Bertram: Does the member for Moore consider that the reference to clause 40 should read, "clause 43"?

Mr. LEWIS: Either to clause 43 or clause 44. Perhaps it is a typographical error and the Minister will be able to explain.

Mr. T. D. EVANS: The fact that the member for Moore was the Minister for Education for some eight years or more has given him the quality of a school teacher. Certainly, an error has occurred and the reference should be to subclauses (4), (5), and (6) of clause 43. The situation would then be covered.

A person who offers Aboriginal cultural material at a price which is considered by the court to be inflated does not have to sell at the price determined by the court. He may retain the object for himself. However, he may have to pay the court costs.

Mr. Lewis: That is so. It is a case of heads you win and tails I lose.

Mr. T. D. EVANS: Not necessarily so. It is a question of getting to the essence of any action before a court. Costs normally follow the event. The rules of equity apply in the court if a person comes with clean hands. If he comes with soiled hands, or without merit, and he loses his case, then normally he should not be surprised if costs are awarded against him.

If a person sets a certain price on an object, as a result of his inquiries as a layman, and the court with the expertise available to it by way of witnesses determines that the price is inflated, the court will determine who should bear the costs. I do concede that there could be cases when such a person may still have to pay costs.

Mr. LEWIS: This is a new principle. If the court puts on the article a price higher than that put on it by the trustees, the trustees may purchase at the higher price. They have an option. The seller has the option of selling at the higher price. However, the court may put a lower price on the object, in which case the seller is almost bound to say that he will not sell. But if he does not sell he must pay the court costs. I thank the Minister for raising this point for discussion.

The CHAIRMAN: The Minister can move an amendment to correct the situation.

Mr. T. D. EVANS: I move an amendment—

Page 29, line 10—Delete the figure "40" and substitute the figure "43".

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 48 to 50 put and passed.

Clause 51: Powers of inspection—

Mr. LEWIS: The provisions of this clause will allow a member of the staff of the Museum, together with any person he may think competent to assist him, to enter any premises other than premises used exclusively as a private dwelling. I ask: Would not some identification be necessary? Is there anything to prevent an unidentified person from claiming that he has some authority?

Mr. T. D. EVANS: I do not think an amendment is necessary to give effect to what is desired by the member for Moore. Naturally, any member of the staff of the Museum can be refused entry by any householder if he does not present proper identification. The statutory source for this provision is in section 24 of the Criminal Code to which I have already referred.

Clause put and passed.

Clauses 52 and 53 put and passed.

Clause 54: Reward for information as to offences—

Mr. LEWIS: This clause raises a new principle. It reads, in part, as follows:—

> 54. (1) The Trustees may offer and pay a reward to any person who gives information to them or any member of the staff of the Museum of the commission of an offence against this Act that leads to the conviction of a person of the offence.

That is fair enough. However, subclause (2) states—

> (2) On the conviction of a person in respect of whom information is given in terms of this section, the court may, in addition to imposing any penalty or making any other order under this Act, order the person to pay to the Trustees, on account of any reward that they have paid or are liable to pay, the amount of the reward or an amount of two hundred dollars, whichever is the lesser amount.

This clause will incorporate the principle that a person will not only be fined for an offence, but will also have to pay to the trustees the amount of the reward paid to the third party. I do not know of any legislation which incorporates this principle. As the Minister in charge of the Bill is also the Attorney-General perhaps he can give me some examples of where this occurs.

Mr. T. D. Evans: It occurs in section 49 (2) of the Museum Act.

Mr. LEWIS: Then I more or less stand convicted myself because I was responsible for amending the Museum Act. Nevertheless, I think it is a bad principle to offer a reward, and the convicted person having to pay the amount of that reward.

Sitting suspended from 6.15 to 7.30 p.m.

Mr. T. D. EVANS: When speaking to this clause before the tea suspension the member for Moore posed two questions, the first of which related to the offering of a reward by the trustees to a person who tenders information which may result in the conviction of a person for an offence against the Act; secondly, on the conviction of the person concerned the court be empowered with the right not only to fine the wrongdoer but also to impose an additional fine, that fine being the reimbursement to the trustees of the reward previously paid to seek the information to support a prosecution, or an amount of $200 whichever is the lesser sum.

I am somewhat impressed with the arguments put forward by the member for Moore, but at the same time I must have proper regard for what appears to be the rationale behind this provision. I am advised that the legislation dealing with Aboriginal sites and Aboriginal objects would naturally depend heavily upon the evaluation placed upon the sites by the trustees and Aborigines themselves. In more instances than not those who come forward to offer information would be Aborigines, and if sufficient incentive were not offered these people they may well be deterred from offering such information and, consequently, wrongdoers may well go unapprehended.

Apart from being impressed by the argument put forward by the member for Moore I have had proper regard for the rationale of the provision, and I ask members to vote against the clause.

Mr. LEWIS: I thank the Minister for his consideration of this matter and the decision he has made. I do not know whether we can attribute this to the good meal we had, because prior to the suspension the Minister said the principle embodied in this clause was taken from the Museum Act.

During my term as Minister I had occasion to sponsor amendments to the Museum Act but I cannot recall my having sponsored an amendment such as this. If I did I am, of course, hoist with my own petard. But I cannot see the then Opposition allowing such a provision to go through without their having had something to say about it.

Clause put and negatived.

Clauses 55 to 62 put and passed.

Clause 63: Special defence of lack of knowledge—

Mr. LEWIS: I would refer members to this clause and ask the Minister how such a man would prove he did not know? What evidence can be brought to convince the court that he did not know that certain sites existed?

Mr. T. D. EVANS: I will try to elucidate what I believe is the essence of this clause. While it may appear that the clause imposes a burden of proof upon the accused, it is my view that it does not in fact, nor does it in law.

All that the clause requires is that the accused has placed on him what is known as an evidentiary burden; that he is required to place some evidence that he did not know, or he was not in a position to have reasonably known, that a site was one which should be protected.

He does not have to prove this position beyond a reasonable doubt, which is normally the criminal standard. However, as I indicated, a person charged with an offence against this Act who wished to rely on the fact that he did not know and reasonably could not have been expected to know the site was a protected one would have recourse to the Criminal Code. I will now quote section 36 of the Criminal Code —chapter V—the provisions of which

apply to all persons charged with any "offence against the Statute Law of Western Australia."

It goes without saying that if this Bill becomes law it will be embodied in the Statute Law of Western Australia, so one does have an opportunity to avail oneself of any of the provisions of chapter V of the Criminal Code if one is charged with an offence under this Bill when it becomes law.

I now draw attention to the first limb of section 23 of the Criminal Code which states—

> Subject to the express provisions of this Code relating to negligent acts and omissions—

and subject to the express provisions of this Code alone. So if this Bill, when it becomes an Act, has reason to relate to "negligent acts and omissions" this would not apply. All that would apply is what is contained in the Code. Section 23 continues—

> —a person is not criminally responsible for an act or omission which occurs independently of the exercise of his will, or for an event which occurs by accident.

I would now like to refer to section 24 which, I feel, will have more general application. Section 24 provides—

> A person who does or omits to do an act under an honest and reasonable, but mistaken, belief in the existence of any state of things is not criminally responsible for the act or omission to any greater extent than if the real state of things had been such as he believed to exist.

So if a person honestly believed and it was reasonable in the circumstances for him to believe that the site was not one coming within that section of this Act then section 24 would provide such person with a defence. So clause 63 should be read in conjunction with the two sections I have mentioned, and I trust this satisfies the member for Moore.

Clause put and passed.

Clauses 64 to 69 put and passed.

Title put and passed.

Bill reported with amendments.

LIQUOR ACT AMENDMENT BILL

In Committee

Resumed from the 17th August. The Chairman of Committees (Mr. Bateman) in the Chair; Mr. T. D. Evans (Attorney-General) in charge of the Bill.

Clause 7: Section 23 amended—

Progress was reported after the clause had been partly considered.

Mr. T. D. EVANS: I have already spoken to this clause on one occasion when I indicated that the representations made to me reflecting the interest of some vignerons indicate that there is a desire amongst some of them to have provision for registration to enable such vignerons who so desire to have recourse to this registration provision to sell for consumption on their premises their own product in sealed containers.

Mr. Nalder: Does "some" mean two or three?

Mr. T. D. EVANS: There is no reduction implied in the Act.

Mr. Nalder: You said "some" vignerons approached you; does that mean two or three?

Mr. T. D. EVANS: I am advised that many of them expressed a desire to sell their own product on their premises and they were also happy to accept a registration provision.

Furthermore, those responsible for the administration of the Liquor Act have advised that if this concession to permit the consumption of their own product on their own premises is granted to vignerons the enforcement of the law will be facilitated by registration provisions. I indicated this about a fortnight ago. Since that time I have received no advice at all to cause me to change my mind. So I again reiterate that I would ask the Committee to vote for the preservation of clause 7.

Mr. R. L. YOUNG: I am sure those responsible for the administration of the Liquor Act would prefer vignerons who wish to serve wine on their premises to apply for a license. I do not doubt that at all. The Licensing Court will be the body responsible for administering the Act and obviously it would like to see vignerons who wish to serve liquor on their premises come within the ambit of its jurisdiction.

I have made this point throughout the debate: There are anomalies in the Bill—in fact, there are mistakes. Right at the outset my opposition to the licensing of vignerons was established. Originally the Bill laid down that all vignerons would have to be licensed and come within the jurisdiction of the Licensing Court if they wished to move outside the sphere of selling solely to licensed people.

As a result of a reconsideration of the Bill by the Attorney-General, many of these problems were overcome by amendments placed on the notice paper by the Attorney-General and me. However, the stage was then reached where the Bill had been changed to such an extent that the only person who would need to apply for a vigneron's license was the one who wished to sell bottled wine for consumption on the premises.

The view which I held then, and still hold, is that the only people who would apply for a license would be two or three of the very large manufacturers of wine. These people could afford to come within

the jurisdiction of the Licensing Court; in other words, they could afford to provide the facilities for drinking on the premises, toilet facilities, staff, and all the things which the Licensing Court would certainly require of people holding this license.

This would involve about three or four vignerons only—I originally said two or three and perhaps I should stick to that —who would be prepared to apply for the license and become involved in all this expense in order to sell wine for consumption on their premises. Therefore, it is still my argument that we are building into the Act the provision of a license purely for the benefit of two or three vignerons.

Mr. T. D. Evans: We are not only legislating for the present; we are legislating for the future.

Mr. R. L. YOUNG: That could well be, but the argument put forward by the members for Swan and Toodyay has been that many of the vignerons they represent would want to apply for this license. I contend that many of them would not be able to afford it. I admit that those who do not want a license do not have to apply.

Mr. T. D. Evans: That is so.

Mr. R. L. YOUNG: In principle I am against the provision of licensing because it will affect two or three vignerons only.

Mr. T. D. Evans: There is provision in the South Australian Act—the home of the licensing system.

Mr. R. L. YOUNG: There are different types of licenses.

Mr. T. D. Evans: Yes, but vignerons may be licensed so that the liquor they manufacture may be consumed on the premises.

Mr. R. L. YOUNG: Mr. Chairman, may I ask the Attorney-General a question? Do the vignerons in South Australia pay a liquor tax?

Mr. T. D. Evans: I could not advise on that. It is not intended that they pay a liquor tax here—it is a straightout fee.

Mr. R. L. YOUNG: I know that, and I will come to that point in a moment.

My opinion is that possibly 97 per cent. of the growers will not apply for the license. I wish to point out to the Attorney-General and the members for Toodyay and Swan that many of the smaller vignerons will be disadvantaged because they cannot afford to come within the ambit of the Licensing Court, and will then be unable to compete with the people who have the money and can afford to provide the facilities.

I would ask the Attorney-General to comment on my next point: Is this Bill the thin edge of the wedge in regard to a liquor tax for vignerons? I believe the wine-growing industry in this State could become a huge industry. We have the climate, the grapes, and the growers with the know-how. The industry is virtually untapped and once there is provision for licenses the Government could say, "We have a multi-million dollar industry here which we can really tax."

I would point out that some of the amendments I have on the notice paper refer to provisions relating to vignerons' licenses. However, if my amendment is carried I will not move the further amendments.

Mr. MOILER: I would like to state a few points in regard to the licensing of vignerons. In answer to the criticism raised by the member for Wembley that this licensing is being introduced for two or three—later increased to three or four —I would like to state that there are approximately 50 wine producers in this State.

Mr. Nalder: Are the larger vignerons in the Swan area?

Mr. MOILER: Some would be. I stated earlier that in my opinion 10 per cent. of the industry would apply for licenses immediately. That is a fairly large percentage in any industry. The member for Wembley also said that I suggested the majority of vignerons would apply for licenses. I did not say that; indeed, I believe I said that the majority of wine producers would not apply for licenses at this stage. The majority of vignerons wish to continue under the system which has operated for years. These people have already been catered for under the provisions of the amendment to section 6 of the parent Act. Section 6 provides that vignerons are permitted to distribute their wine to their clientele, and the majority of the vignerons fall into this group—they want to be able to sell their product direct to unlicensed people. They have been permitted to do this for years and I believe the arrangement should continue. The licensing of a small section of wine producers will in no way affect these people.

We then have this small group of vignerons who are prepared to conform with all the requirements of the Licensing Court, the local authorities, and the Health Act. No-one has suggested that the license would allow vignerons to sell wine to be consumed on the premises without the provision of suitable facilities. The wine producers concerned are quite prepared to accept the requirements laid down by the Licensing Court.

The member for Wembley intends to move further amendments to this Bill, and one amendment is to correct an anomaly presently in the Bill. If a function permit is granted for a special occasion the vigneron cannot sell his own product from his cellars to the people conducting the

function. He must buy his own wine back from a licensed store and return it to the vineyard before it may be consumed on his premises. The member for Wembley intends to move an amendment which will allow the vigneron to sell his wares direct from his cellars for consumption on the vineyard if a function permit is obtained. Therefore, vignerons who do not wish to apply for a license could obtain a function permit for a particular occasion.

I dispute that the licensing of vignerons would prove to be detrimental to the industry. Since the Bill was previously debated, I have had further meetings with five delegates of the Viticulturists Association and they unanimously agree with the provision that will permit vignerons to distribute their own products. They believe that the licensing of vignerons would be of benefit to the industry and the public as a whole, and they are also in agreement with the amendment that will be moved later by the member for Wembley.

I therefore hope that members will appreciate that this is a move that will greatly benefit not only the industry but also members of the public.

Mr. NALDER: Would the Attorney-General indicate whether there will be any restriction on the number of vignerons who can apply to the court for licenses? The member for Toodyay indicated that approximately 50 growers in Western Australia are also winemakers. The majority of these people live in the Swan district and engage in their activities in that area. If several of these growers apply for licenses and they all live close to each other, what will the position be? If this did occur it would create a situation which does not apply anywhere else in the State. For example, when a person applies for a hotel license the court takes into consideration the number of hotels that may be in the vicinity and the number of people the hotel is to serve.

Mr. Moiler: I do not think that could happen.

Mr. NALDER: Such a situation could develop. We are trying to effect legislation in regard to something we do not know much about. What I would like to know is whether any restriction will be placed on the number of growers who can apply for licenses. The Licensing Court should have some power to refuse a license if it considers that a particular area is already well served by people who already hold licenses.

Also, take the position of a grower who is granted a license and who fulfils all the requirements laid down under the Act. Should a group of people, several of whom are not wine drinkers, attend a function in the area, will they be permitted to carry their requirements when attending such a function, or must they drink only what the grower produces?

Mr. T. D. EVANS: As this is my last opportunity to speak on the clause—

Sir Charles Court: You have unlimited rights as the Minister in charge of the Bill.

Mr. T. D. EVANS: As the Minister for Education, my education has been augmented. I think I can encompass the questions asked in one reply. In answer to the member for Wembley, I agree with him that although a few short years ago the wine-growing industry in this State was very immature, it has now grown into a vigorous adolescent, but, nevertheless, it has not yet reached full maturity. However, like the member for Wembley and other members who are keenly interested in the development of Western Australia, I look forward to the day when Western Australia can boast, with the States of South Australia and Victoria, a very vigorous and prosperous wine-growing industry.

Without mentioning the particular brand of wine, already one of the Western Australian table wines is included in the menu of the House of Commons and is also widely acclaimed in some of the best known restaurants throughout the world. I would like to see that particular wine joined by several others. Therefore, we are not legislating only for the present, but also for the future.

The member for Wembley asked me to give an undertaking that by setting a fee for the registration of a vigneron this would not be the thin end of the wedge to turn it into an *ad valorem* tax.

Mr. Lewis: You are speaking now as the Assistant to the Treasurer?

Mr. T. D. EVANS: Taking into consideration the hazards of parliamentary life and also the hazards of being elected a Minister by the Government, I give an undertaking that, as far as I am concerned, I will be a staunch advocate that an *ad valorem* tax should not extend to vignerons.

I now come to the questions asked by the Leader of the Country Party. I would point out that clause 7 simply provides for an amendment to section 23 of the Act which defines the various types of licenses to operate within the Act, and the amendment merely makes reference to a vigneron's license. The questions asked by the Leader of the Country Party referred to the operations of those licenses which are the concern of clauses 12 and 27. The honourable member asked, firstly, whether there would be a proliferation of such licenses being granted. Here I find some conflict between the prognosis of the member for Wembley and the prognosis of the member for Toodyay. The member for Wembley has said only three or four licenses may be involved, but the member

for Toodyay has said that perhaps 10 per cent. of the growers could be interested. Be that as it may, I emphasise that we are legislating not only for the present, but also for the future.

Mr. Nalder: Both of those suggestions support your contention that it will be some growers.

Mr. T. D. EVANS: Yes. Representations have been made to me that there was a consensus of opinion among certain growers who desire this reform. I think the question of economics would determine whether there would be a proliferation of such licenses. The system of registration is to allow a grower to sell wine for consumption on his own premises; to sell his own wine product in sealed containers. So, as far as I can see, it will not be a great money spinner, but at least it will give a service to the public and enable a licensed grower to advertise and bring to the knowledge of a greater number of the community the excellence of his wines. As a result, people will not only be able to consume his product on his own premises, but will also be able to purchase his wines from the liquor stores.

If, as the member for Wembley has stated, the Licensing Court requires expensive facilities to be provided to meet the requirements of the Health Act, the question of economics would determine whether there would be a proliferation of licenses granted.

The Leader of the Country Party also asked whether the Licensing Court would be able to exercise some discretion in granting licenses, having regard for the needs of the community who would be served. The Licensing Court already has that inherent right in the parent Act.

Mr. McPHARLIN: From the remarks of the Minister and the member for Toodyay, I understand that the granting of a license to a vigneron will permit him to sell wines manufactured on his own premises. If he engages in the manufacture of large quantities of wine, will his license permit him to manufacture wine from grapes purchased from other growers?

Mr. T. D. EVANS: I think the answer is found in proposed new section 129A (1) in clause 27, which clause refers to the produce of vines on the land.

Mr. McPharlin: So he can purchase grapes?

Mr. T. D. EVANS: No, he cannot.

Clause put and passed.

Clause 8: Section 24 amended—

Mr. R. L. YOUNG: My amendment on the notice paper is not intended to disadvantage those who drink spirits compared with those who drink other liquor. However, in my opinion we should either allow a choice concerning the amount of alcoholic beverage which can be purchased by a person in a prescribed area on Sundays, or provide no restriction. If we start to fiddle with the provisions and virtually provide that any liquor can be purchased, we will place no restriction at all on the amount of alcoholic beverage which might be purchased.

Two years ago we accepted the principle that one-third of a gallon of beer could be purchased, and now we are intending to provide that one-third of a gallon of Scotch is reasonable. If we accept the fact that we are trying to legislate to provide for the consumption of a certain amount of alcohol, then we must leave spirits out of it altogether, or we will have no restrictions at all.

Our idea is to allow a reasonable amount of alcohol to be purchased. Two full bottles of Scotch or two full bottles of brandy is more than a reasonable amount.

If we do not want any restriction, then let us provide for the purchase of one-third of a gallon of any liquor because this would be the result if we allowed the purchase of two bottles of Scotch. As I believe the desire is for some sort of restriction, I move an amendment—

> Page 6, lines 3 and 4—Delete the passage "the word "liquor"." with a view to substituting the passage "the words "liquor other than spirits"."

Mr. THOMPSON: I find myself in opposition to the point of view expressed by the member for Wembley. I cannot see any reason for differentiation between the types of alcoholic beverage to be made available in the circumstances under discussion. As one who does not enjoy drinking beer, I fail to see why we should be bound to have access to alcohol other than spirits. I do not believe it is necessary for people to be able to purchase liquor at all on Sundays because six other days in the week are available for this purpose. However, as the provision is in the Act I cannot agree to discrimination, as it were, against those who wish to drink spirits.

Mr. COYNE: I support the member for Wembley because the present provision would create a fair degree of chaos in most of the outlying towns in the goldfields, owing to the large population of Aborigines. The provision in the clause would certainly cause a great deal of heartburning in those areas. At present the procuration of spirits is controlled to some degree by the local police officers.

Mr. T. D. Evans: What about the price?

Mr. COYNE: The price does not seem to make any difference. In a town like Laverton, for instance, no restriction exists at all on the procuration of "inflammable" liquor from Monday to Saturday.

Mr. Graham: Where is all the money coming from?

Mr. COYNE: The Minister had better ask them. There is absolutely no restriction. These people will buy a dozen bottles at a time. There is more money up there than is realised. The provision to allow the purchase of one-third of a gallon of beer on the goldfields on a Sunday was made with a certain degree of judgment. Although it is possible to get more than the third of a gallon by asking others to purchase it, the beer certainly does not have the same effect as would two bottles of whisky or two bottles of rum or gin. The availability of two bottles of whisky, rum, or gin on a native reserve would have calamitous results. Therefore, I support the amendment.

Mr. THOMPSON: On six days a week the Aborigines can buy as much spirits as they desire. Only on Sundays are they limited to two bottles of beer. I fail to see any reason for placing a restriction on those who wish to buy spirits on Sundays. As the Deputy Premier has pointed out, spirits cost considerably more than beer, and surely that would be a limiting factor.

This Parliament gave to the Aboriginal people the right to consume alcohol. Previously citizenship rights were necessary before liquor could be consumed. However, the community at large contended that this discrimination against the Aboriginal people should not be exercised and so the Aborigines were given the right to go into hotels and consume liquor.

Mr. Coyne: I would like to take you through Wiluna or Laverton one day.

Mr. THOMPSON: I fail to see the difference between Saturday and Sunday. They can obtain the spirits on a Saturday in any quantity, but on Sundays they are to be limited.

Mr. R. L. Young: You are supposed to rest on Sundays.

Mr. THOMPSON: The spirits are obtainable on six days a week and there should be no discrimination on a Sunday.

Mr. RIDGE: The Aborigines in the Kimberley region have had the right to drink for a little over 12 months now and as a result some of the towns in the Kimberley are becoming virtually like a powder keg with a slow-burning fuse.

I do not deny them the opportunity to drink the same as any one of us, but some of these people go completely off their heads after a few drinks. Many of them are virtually primitive people. They come into race meetings once a year and start their drinking with a glass of beer. They then see the stockmen and others drinking whisky, and so they decide to have a go themselves. However, after a couple of drinks they are affected. Perhaps I should not say that they go completely crazy. Let me mention that a justice of the peace told me last week that in Derby in July there were 168 convictions in 30 police courts. I bet my bottom dollar that 160 of those convictions were as a result of drinking and almost all of them would be Aborigines.

The Derby gaol is built to accommodate probably six people. It is a "scungy" old gaol. Actually the inmates could probably pick it up and cart it away. They could certainly kick their way out of it without any trouble at all. Yet one night 35 people were in that gaol as a result of alcohol.

It has been said that as the liquor is available on six days of the week, Sunday should not be an exception. However, Sunday is different because the drinking hours are limited and the patrons know that when the hotel closes they will have nothing to tide them over. They know that if they buy two bottles of beer it will be gone in a shake of a finger, but this is not the case if they buy a couple of bottles of whisky. Mark my words, they will find the money from somewhere, even if they have to scrounge it from pensioners.

As the member for Murchison-Eyre said, the availability of spirits on Sundays would create chaos on the reserves and much more strife would result. As the member for South Perth said, there would be no rest at all on Sundays if people were able to buy a couple of bottles of whisky instead of only a couple of bottles of beer. I support the amendment.

Mr. T. D. EVANS: I feel somewhat in the role of an umpire, and I imagine how the present Leader of the Opposition felt prior to July of 1970 when he had the mammoth task of piloting the parent Act through this Chamber.

Sir Charles Court: I had strange bedfellows on that occasion.

Mr. T. D. EVANS: Having listened to all the comments, I must concede that the argument used by the member for Darling Range on this occasion is certainly not original because I can recall using the same argument myself, in June, 1970, when the Act was a Bill before this Parliament.

Therefore, when the Parliament decided to limit the type of liquor that could be sold on Sundays as well as the quantity of that liquor, as is now found in subsection (1) of section 24 of the principal Act, I thought it proper to test the feeling of the Parliament about deleting the word "beer" and substituting the word "liquor." If the Parliament found this acceptable this would remove the restriction as to the type of liquor but would retain the restriction as to the quantum.

We should bear in mind that Parliament, on that occasion, also insisted on a restriction as to the areas in which the

liquor could be sold on Sundays. The original prescribed areas are still so prescribed.

I can speak only as an individual because this is a nonparty measure. I have been impressed by the powers of persuasion of the member for Wembley which may have improved in the last few minutes, because I was not particularly impressed when he spoke to clause 7. He saw the rationale of the Parliament in 1970 indicating that there should be a restriction on the type of liquor as, indeed, subsection (2) of section 24 now indicates. He thought that there should have been no restriction in terms of quantum but perhaps a restriction on the alcoholic content of the beverage sold. Parliament decided it would strike the happy medium on that occasion and limit the sale permitted on Sundays in a prescribed area to one-third of a gallon of beer only in sealed containers.

As a private member only, I am prepared to indicate my support of the amendment proposed by the member for Wembley. At least we are gaining something more than the right to purchase one-third of a gallon of beer. This perhaps will overcome some of the fears expressed by the members for Murchison-Eyre and Kimberley if the amendment sought and proposed by the member for Wembley is accepted.

Mr. FLETCHER: Perhaps it is a little late to comment as the Minister has accepted the amendment of the member for Wembley.

Mr. Thompson: He accepted it as a private member.

Mr. FLETCHER: I do not want to appear obtuse but there are one or two points on which I would like clarification. I draw the Minister's attention to the interpretations which are contained in section 7 of the principal Act. By definition—

> "liquor" means spirits, wine or beer containing more than two per centum of proof spirit.

Beer has in excess of 6 per cent., and for this reason I wonder whether it is excluded from the liquor which is permitted to be sold in prescribed areas on certain days. In the same section—

> "spirits" means potable spirit containing more than thirty-five per centum of proof spirit.

When I listened to the member for Kimberley I could well understand his feeling of concern at the prospect of our coloured cousins getting hold of two bottles of whisky. Indeed this could well apply to alcoholics of our own race. Many would have a lost weekend in consequence.

Mr. T. D. Evans: It would be the last day of the weekend, because this is on Sunday.

Mr. FLETCHER: I am concerned at the prospect of preventing people who show a preference for whisky for health or other reasons from obtaining that whisky on Sundays.

Mr. Nalder: They can obtain it on Saturday nights.

Mr. FLETCHER: The Country Party members are, once again, trying to make my speech for me. Many country people are quite convivial and it is not unusual for farmers to visit each other. If people arrive unexpectedly, why should the host, if he is short of whisky, not be able to go to the hotel and buy two bottles?

Sir Charles Court: They will have grain alcohol in future.

Mr. FLETCHER: A person who is precluded from drinking beer for health reasons, perhaps because of the high sugar content, should be able to obtain the liquor of his choice. Despite the fact that our coloured cousins show a preference for that type of liquor, why should others be precluded from enjoying spirits on that day? If they find they have an unexpected need to buy some, they should be able to do so.

When I look at the interpretations section I wonder whether, for example, a bottle of brandy is excluded. I readily admit that the words "medicinal purposes" can be misapplied or broadly interpreted, but it is conceivable that somebody may want a bottle of brandy. Why should that person not be able to buy a bottle of brandy and a bottle of beer simultaneously? Some may abuse the privilege but I believe that people should be able to buy the liquor of their choice whether it is a bottle of beer and a bottle of brandy, or even two bottles of whisky, if that is their inclination.

I ask the Minister and possibly my legal colleague who sits behind me to look at the interpretations and satisfy me that a person will not be excluded from buying on Sundays a bottle of port wine or a bottle of sherry which is fortified to an alcoholic content in excess of what appears to be prescribed.

I have listened to the debate and had a quick look at the interpretations, but I would like the various points which I have raised clarified. The member for Wembley may have the best intentions in the world, but I have certain reservations. For this reason I ask either the Minister or the member for Boulder-Dundas to clarify the position.

Mr. HARTREY: I cannot quite understand what my learned friend from Fremantle is troubled by at the moment. The proposition before the Committee originally was that the word "beer" be deleted and the word "liquor" substitutued in its place. The amendment proposes that instead of substituting the word "liquor" we should substitute, "liquor other than spirits."

We know what the term "spirits" means and, in fact, the term is defined in the Act as not being under thirty-five per cent. proof spirit. Whisky, gin, and brandy are spirits. Brandy is referred to as a spirit in the definitions section. Most people have a preference for different types of spirits.

Mr. T. D. Evans: Sunday should be spiritual.

Mr. HARTREY: I am satisfied the amendment is a good one and I will be happy to vote for it. It will not deny anyone the right to drink wine and, indeed, I would be sorry to see any discrimination against one of our own industries. I do not think there is any real necessity for a normal citizen to die of thirst on Sundays because he cannot buy a bottle of Johnnie Walker.

There is a good deal of sound common sense in what some of the Opposition members have said about the Aboriginal problem. It is not necessary to go to Derby to see this, but only to Kalgoorlie. I am happy to say we do not see it in Boulder. Very few Aboriginal people drink in Boulder, perhaps because we do not buy them drinks. The position in Kalgoorlie is quite different and there are very many convictions of Aborigines who usually congregate outside the town hall and in Wilson Street. A figure of 168 convictions has been mentioned but we would have three times that many in a month. Unfortunately most of them are Aborigines. They cannot obtain work and are given relief money for the purpose of buying food, but unfortunately many spend it on drink.

Mr. Graham: If they cannot obtain employment how are they buying half a dozen and one dozen bottles?

Mr. Coyne: They receive $50 without working.

Mr. HARTREY: I do not wish to insult the poor unfortunates by what I am about to say but a number of the women earn the money in a manner of which I am not proud and, further, they are compelled to earn it.

Mr. THOMPSON: The arguments advanced by some members do not propose to limit the amount of alcohol that should be available on Sundays but to preclude people from drinking it at all. I feel that some of my colleagues are prejudging the situation.

Up to date it has not been possible for people to obtain two bottles of spirits on Sundays. I cannot recall the words used by the member for Kimberley, but my impression is that he feels from what he has seen on the other six days of the week the Aborigines would not be able to handle the Sunday situation.

I support the member for Fremantle; those people who prefer to drink spirits should be able to buy bottles on Sundays just as people who prefer to drink beer are able to do so.

Mr. COYNE: I think the member for Darling Range has missed the point I made. Perhaps I did not stress it clearly enough. Basically I am concerned with the prescribed areas. In these areas the hotels are open for only two hours in the morning and in the afternoon. This tends to make the demand for liquor greater.

I have seen this demonstrated on many occasions in country towns, particularly at cabarets. Sometimes eight or 10 people sit at a table and they bring their liquor and ice boxes. Invariably there are bottles of liquor of all kinds. Simply because the hotel is to close in one hour, it is possible to find at any table enough liquor of all kinds to keep that party going for a week. Next morning, they might cart out carton loads of unused liquor. Because it is Sunday and the trading hours of the hotel are restricted, the demand for liquor increases. If we delete the words "one-third of a gallon of beer" and substitute the words "one-third of a gallon of whisky, gin, or rum," a chaotic situation will arise.

Mr. T. D. Evans: There is no attempt to abolish the right to take away one-third of a gallon of beer. It is intended that the right should apply to other liquors as well.

Mr. COYNE: In Wiluna there is a certain amount of control at the present time. Wiluna is similar to Laverton in that there are many bush natives there. In Wiluna the natives are restricted to beer only. They can just walk into the bar and get a dozen bottles of beer. I do not know why it should be beer only because there are no legal restrictions but there is a local arrangement to that effect. That does not occur in Laverton, where they can buy any kind of liquor at any time. In Wiluna beer is not served to them after sundown. One can see the different situations in those two towns.

Mr. Jamieson: It will be crook when daylight saving comes in.

Mr. COYNE: Access to all types of liquor gives rise to a much more dangerous situation. One has only to go to Laverton to see the effect that access to liquor has on the natives there.

Mr. R. L. YOUNG: I entirely agree with some of the comments made by the member for Darling Range. He said there would be no need for the sale of liquor on Sundays if people who wanted to buy alcohol bought it on the other six days of the week. That is fair enough. On the other hand, the member for Fremantle said one might have a visitor on a Sunday and might wish to buy a bottle of some sort

of alcohol, whether it be spirits, wine, or beer, to serve to the visitor. That, too, is fair enough.

In moving this amendment I was being a little pragmatic because I assumed this Parliament would not do one of the two things it should do. I do not believe Parliament would agree to there being no restrictions whatsoever, and I do not believe Parliament would allow a situation whereby there would be no sales at all. What Parliaments inevitably do is take a paternalistic attitude and say, "We will tell you how much you can have."

Mr. Graham: You are discriminating against one type of liquor and I do not think you have the right to do so, even if you have the power to do so.

Mr. Lapham: Your concern was for the natives.

Mr. R. L. YOUNG: I did not mention natives, and I want to make that clear. Not once in moving this amendment did the situation in regard to natives arise until the member for Murchison-Eyre spoke. I think the points made by the members for Boulder-Dundas, Murchison-Eyre, and Kimberley are valid. My amendment was not moved on that basis.

On a couple of occasions the Deputy Premier asked, by way of interjection, "Where will they get the money to buy it?" It is not for this Parliament to decide whether or not people have the money; it is for this Parliament to legislate for what is reasonable.

Mr. Graham: It is not reasonable to cater for the beer and wine drinkers and ignore the spirits drinkers.

Mr. R. L. YOUNG: I could not agree more. I say there should either be no restrictions whatsoever or there should be a complete prohibition. Once we say, "You are allowed to have one-third of a gallon of any liquor," we are defeating the whole purpose. We are being paternalistic by saying, "You can have only one-third of a gallon," so why be so silly as to extend the situation and say, "You can have one-third of a gallon of spirits and knock yourself absolutely rotten if you want to."

Mr. Graham: Why not one-third of a gallon of wine? Lots of people get silly on that.

Mr. R. L. YOUNG: One will be more silly on one-third of a gallon of spirits than on one-third of a gallon of wine.

Mr. Graham: I do not know. I have never had any experience.

Mr. R. L. YOUNG: I have.

Mr. Graham: It seems to have had permanent effects.

Mr. R. L. YOUNG: It seems to me to be ludicrous to say, "You are allowed to have one-third of a gallon of something." That will make a joke of us. To say, "You can have one-third of a gallon of beer or one-third of a gallon of Scotch," is quite crazy.

Amendment put and passed.

Mr. R. L. YOUNG: I move an amendment—

> Page 6, line 3—Substitute for the passage deleted the passage "the words "liquor other than spirits".".

Amendment put and passed.

Clause, as amended, put and passed.

Clause 9: Section 28 amended—

Mr. R. L. YOUNG: During the second reading debate I asked the Attorney-General to have a look at clause 9 in regard to canteen licenses and the amendment to the provisions in regard to canteen licenses. I pointed out that in the proposed paragraph (ba) the words "to any female not referred to in paragraph (a) or (b) of this section" could be misleading. It seems to me that if the wording were simply "to any female" it would not give rise to speculation as to whether a female who was a person under paragraph (b) could be included under the proposed paragraph (ba).

Mr. T. D. EVANS: I had this matter checked and I am advised by the Crown Law Department that the expression in the proposed paragraph (ba) is not exclusive and there is no limiting factor built into those words.

Clause put and passed.

Clause 10: Section 30 amended—

Mr. T. D. EVANS: Amendments in relation to this clause appear under my name on the notice paper. These are intended to correct an error in the Bill and require cabaret licensees to provide light refreshment as well as entertainment, and to change the hours from 8.30 p.m. until 3.30 a.m. to 10.00 p.m. until 4.30 a.m. The rationale behind the move in the latter case is that, as it appeared to be a concession granted to those who hold restaurant licenses, the consumption of liquor with or ancillary to a meal could be interpreted as giving a trading advantage to restaurant licensees. It was felt something should be done to compensate those who run cabarets. Representations were made by cabaret licensees that their trading hours should be extended one hour, and the Bill purported to extend the hours by enabling such licensees to open an hour earlier. However, it has come to the notice of several members and myself that the cabaret licensees and the liquor trade, generally, would prefer that the extra hour be added to the closing time rather than to the opening time. I move an amendment—

> Page 6, line 23—Insert after the word "ancillary" the words "to light refreshment and".

Amendment put and passed.

Mr. T. D. EVANS: I move an amendment—

> Page 6, line 27—Delete the word "eight" with a view to substituting another word.

Mr. R. L. YOUNG: If we allow the word "eight" to be removed, obviously the word "ten" will be substituted for it. The next amendment the Attorney-General intends to move is that the closing hours for cabarets be extended from 3.30 a.m. to 4.30 a.m.

The opening time of a cabaret does not matter to me because people will arrive there when the hotels close, anyway. They will not arrive at a cabaret before 10.00 p.m. At the moment, when the opening hour is 9.00 p.m., they do not arrive before 10.00 p.m. If we made the opening time 8.00 p.m., no more people would arrive.

It does matter to me that the Attorney-General intends to move an amendment to extend the licensed hours of cabarets to 4.30 a.m. Anybody who has seen the people who go to places which are run under a cabaret license will admit that when it reaches 1.30 a.m. those who are left in the place continue to drink until throwing-out time. If throwing-out time is 3.30 a.m., that is bad enough, but if throwing-out time becomes 4.30 a.m. we will perhaps encourage more hazards on the road.

I do not care what time cabarets open but I do care what time they close. Let me make it clear that I am not a wowser and I think if we had 24-hour opening people would drink in a more reasonable way. Unfortunately, because of licenses people are herded into drinking during particular time slots and they tend to drink in those places until they are told, "You cannot drink any more." By extending the closing time of cabarets we will allow people to drink for one more hour and we will increase the danger to people leaving those places.

Mr. Graham: You seem to have a poor regard for what your fellow men do on Sundays and at nightclubs.

Mr. R. L. YOUNG: The situation is not that a person's insobriety would increase only by the percentage of an extra hour compared with the total number of hours the place is open but that in the last hour he would become much more drunk than he would in the first hour. If we are to have licensed hours at all, this is not an amendment I am keen on supporting.

Mr. COOK: The member for Wembley has not raised any objection to the opening hour, but, as the Attorney-General points out, there is a problem with it. However, the member for Wembley did raise an objection to the later closing hour.

In answer to that, I say that first of all there is a responsibility on the licensee not to serve inebriated people. Secondly, I know that the police patrol these premises regularly. So there should be no problem of people becoming over-intoxicated and troublesome. The amendments propose an alteration, and not an extension, of hours. The present hours are 9.00 p.m. to 3.30 a.m., and the proposed hours are 10.00 p.m. to 4.30 a.m., the actual hours of opening both being 6½.

One of the reasons for cabaret licensees requiring this alteration is that since the present Liquor Act was first debated experience has shown that cabarets do not receive sufficient custom until at least 11.00 p.m. to warrant opening. This is because most people go to a hotel first and, preferring a change of atmosphere, move on to a nightclub if the hotel has not an entertainment permit and closes at 10.00 p.m. So they leave the hotel and usually arrive at the cabaret at 11.00 p.m.

Also, in the past cabarets have employed artists who also perform at hotels. It is usually 11.00 p.m. before the artists arrive at the cabaret after performing at the hotel.

Another reason that nightclubs find themselves in a rather difficult position is the trend for hotels to obtain entertainment permits which enable them to provide cabaret-type entertainment until midnight. In the annual report of the Licensing Court for the year ended the 30th June, 1972, it is stated that to the 30th June, 1971, a total of 10 entertainment permits had been issued; whereas to the 30th June, 1972, 27 had been issued—a substantial increase in only 12 months. This is not only making inroads into the clientele of cabarets, but also into the availability of artists.

So the nightclubs find themselves in a difficult situation, so much so that I received a submission from the Cabaret Association of W.A. (Inc.) from which I shall quote. Firstly, dealing with the difficulty in obtaining clientele before aproximately 11.30 at night, the association said—

> All cabarets catering to an adult clientele have found that until 11 P.M. or midnight (When Late Hotel Licenses close) it has been impossible to obtain enough custom to warrant even the opening hour of 9 P.M. Our original submission was intended to draw attention to this fact and requested that, though we did not think extra trading time per day was warranted, some consideration could be given to a later opening hour of say, 10 P.M. and a later closing hour of 4.30 A.M.

The request for those hours was based on the experience gained since cabaret licenses were introduced. Cabaret owners find

that clients wish to remain after 3.30 a.m. They do not want an extension of trading hours, but an alteration.

It is not the intention of the amendment to encourage people to continue to drink; the intention is to overcome an anomaly which exists and to remove a hardship. I again quote from the submission of the association—

> To amend the opening hour to 8 P.M. will only increase the financial hardship of some 90% of our membership and we humbly request your support in obtaining the hours of trading that shall be beneficial not only to the cabaret-going public but would also greatly assist many Cabaret owners, who it is common knowledge are facing extremely difficult financial hardship with the competition in this industry.

I commend the amendment and urge members to support it. I do not believe it will encourage people to drink to excess.

Amendment put and a division taken with the following result:—

Ayes—24

Mr. Bertram	Mr. Jamieson
Mr. Brady	Mr. Jones
Mr. Brown	Mr. Lapham
Mr. Burke	Mr. May
Mr. Cook	Mr. McIver
Mr. Davies	Mr. Moiler
Mr. H. D. Evans	Mr. Norton
Mr. T. D. Evans	Mr. Sewell
Mr. Fletcher	Mr. A. R. Tonkin
Mr. Gayfer	Mr. J. T. Tonkin
Mr. Graham	Mr. W. G. Young
Mr. Hartrey	Mr. Harman
	(Teller)

Noes—20

Mr. Blaikie	Mr. Nalder
Sir David Brand	Mr. O'Neil
Sir Charles Court	Mr. Ridge
Mr. Coyne	Mr. Runciman
Mr. Grayden	Mr. Rushton
Mr. Hutchinson	Mr. Stephens
Mr. Lewis	Mr. Thompson
Mr. W. A. Manning	Mr. Williams
Mr. McPharlin	Mr. R. L. Young
Mr. Mensaros	Mr. I. W. Manning
	(Teller)

Amendment thus passed.

Mr. T. D. EVANS: I move an amendment—

> Page 6, line 27—Substitute for the word deleted the word "ten".

The rationale of the amendment is to add the extra hour to the end of the trading session, as has been explained by other members.

Amendment put and passed.

Mr. T. D. EVANS: I move an amendment—

> Page 6, line 28—Delete the word "three" with a view to substituting the word "four".

Mr. NALDER: I support the argument of the member for Wembley. I am of the opinion that at 4.30 a.m. most people should give the game away and go home to bed. It seems to me that we might as well make it 5.30—

Mr. Graham: Move an amendment.

Mr. NALDER: I am merely suggesting this. If we made it 5.30 the Deputy Premier could leave a cabaret and drive to Fremantle to be on the spot at 6.00 a.m. when the hotel there opens to cater for people coming from the wharf.

Mr. Graham: I think it is a good idea to allow the Deputy Premier to make his own decision, just as you should make your own decision.

Mr. NALDER: I strongly support the member for Wembley because I believe it is unreasonable to make the trading hours later. As the member for Albany said, at that stage the cabarets have few clients, according to the communication from the interests he represented. I oppose the amendment.

Mr. BRADY: I have listened attentively to the debate and I believe the Leader of the Country Party is on the right track. I think we have already provided a sufficient concession to cabarets by allowing them to open at a later time. Many people seem to be solicitous on behalf of those who wish to drink until 4.30 in the morning. But what about the staff? Are they not to be considered? Should their hours be extended because half a dozen people wish to drink until 4.30 or 5.00 a.m.?

I think if people drink until 3.30 in the morning they have done very well and I do not think we should allow them to continue. Nor do I think we should allow them to drink on Anzac Day, Sunday, Good Friday, and Christmas Day, as is provided in the Act. It seems to me that these concessions are wanted by people who could well do without them in the interests of the general public. I do not want to hear of people tearing around Perth at 4.30 or 5.00 in the morning causing concern to the police and the public.

I feel that by leaving the provision in its present form the interests of all parties concerned will be served very well, particularly the interests of the staff employed at the cabarets. I think that the closing hour should be retained at 3.30 a.m.

Mr. COOK: I draw attention to an anomaly which is possibly worse than the one we are trying to overcome. We have amended the clause to allow cabarets to commence trading at 10.00 p.m., and the proposal is to enable them to remain open until 4.30 a.m., or for a total of 6½ hours. If we refuse to agree to this amendment we will reduce the hours of trading of these establishments by one hour.

Mr. Nalder: I understand these places are not patronised until about 11.00 p.m. If that is so the hours of trading will not be reduced.

Mr. COOK: At present they are permitted to remain open for trading for 6½ hours, but if we reject the amendment we will reduce the period of trading to 5½ hours. I have not heard any objections being raised by the staff of these establishments to the proposed change in hours.

I suggest that both the Leader of the Country Party and the member for Swan are out of touch with modern-day thinking. The modern trend is to remove restrictions, and to give people the right to decide when they may go to cabarets and at what hour the cabarets shall be closed.

Mr. Lewis: How many people continue to patronise these places till 3.30 a.m.?

Mr. COOK: No-one patronises them after 3.30 a.m., because that is the time when they close.

Mr. Lewis: Do these establishments have a full clientele until 3.30 a.m.?

Mr. COOK: I have been to a few, and at that hour I have found the establishments to be about half filled. There are not just half a dozen people sitting and drinking. At that hour the patrons are still enjoying the music and are dancing.

Mr. W. G. YOUNG: I voted in favour of altering the opening time from 8.00 p.m. to 10.00 p.m., because from my experience I have found that people do not begin to arrive at these establishments until about 10.00 p.m. Most people who decide to go out for the evening call in at a hotel before they go to a cabaret.

I cannot go along with the contention that because there are few people at the cabarets before 10.00 p.m. we should extend the closing hour to 4.30 a.m. If the argument that because there is very little patronage before 10 p.m. cabarets should be allowed to open at that hour is valid then they should be permittted to open at that hour; but when it comes to the closing time of 3.30 a.m. we find that only the stayers and the players are left. Most of the people who decided to go out for the evening would have gone home by that time. I cannot support the amendment for extending the closing time from 3.30 to 4.30 a.m.

Mr. T. D. EVANS: The Parliament of Western Australia in 1970 decided to adopt a new concept of a cabaret license. On that occasion Parliament completely rewrote the licensing laws of this State. I believe it did a great service to Western Australia, to its people, and to the image of the State as being a very vital, vigorous, and progressive State on the move.

Sir Charles Court: It was at that time.

Mr. T. D. EVANS: In adopting this concept along with the other measures we indicated that at long last we were endeavouring to bring about some degree of sophistication in the consumption of alcohol so that this was wedded to fellowship. Parliament accorded to persons who applied for cabaret licenses the right to trade for 6½ hours.

During the time that the parent Act has operated it has become apparent to those who hold such licenses that where a cabaret is in close proximity to a hotel, which is able to enjoy the privilege of a late trading permit, very little patronage has been forthcoming to the cabaret until 11.00 p.m., or on some occasions until midnight.

As the parent Act provides, an integral part of these licenses is the requirement to engage artists to perform. Therefore canned music is not permitted by the Licensing Court. I have been advised that on many occasions where cabarets operate in close proximity to hotels which take out late trading permits the cabarets have to compete with the hotels for the services of these high-class performing artists.

Because of the lateness of the hour when the hotels close, no doubt the artists who are in such great demand ask for and command a greater price for their services. Before moving for the deletion of the word "eight" and substituting the word "ten," it was clearly indicated by me that the desire was not to extend the hours of trading of cabarets, but to maintain the existing 6½ hours of trading agreed to by Parliament. It is proposed to vary those hours only.

The point was made that by 3.30 a.m. only the stayers and players would be remaining. No doubt the people holding cabaret licenses are aware of the degree of patronage still present at these premises at 3.30 a.m. If the position was such that there was only a limited demand from patrons for the extension of the closing hour, then certainly the licensees would have no desire to continue trading for another hour after 3.30 a.m. Therefore, there must be some degree of patronage to justify the extension. The people who have applied for these licenses are business people, and they no doubt make sure that business is available to justify the extension of the closing hour.

I make this point: If Parliament, having agreed to take away one hour of trading from these establishments, refuses to extend the closing hour to compensate for the lost hour then the licensees could feel with some justification that something had been put over them.

Sir David Brand: Parliament would have to take this amendment into consideration. It cannot be taken for granted that both amendments would go through.

Mr. T. D. EVANS: When the honourable member refers to Parliament he is referring to members collectively. Naturally this was a risk which the licensees

took. Nevertheless, they could, with justification, feel that they had been let down if this Parliament in 1972 felt that the hours of trading laid down by Parliament in 1970 should be reduced.

Mr. THOMPSON: I find the comments of the Attorney-General to be somewhat strange. Obviously he was assuming that Parliament, having agreed to the amendment to vary the opening time from 8.00 to 10.00 p.m., would support the proposal to extend the closing time to 4.30 a.m. If a person patronising these establishments has not had enough by 3.30 a.m. then we might as well set no limit to the closing time.

Mr. Graham: I will support you if you move in that way.

Mr. THOMPSON: I believe that 3.30 a.m. is late enough.

Mr. Graham: That is your belief.

Mr. THOMPSON: It is my belief.

Mr. Graham: What right have you to impose your beliefs on other people on a social issue like this one?

Mr. THOMPSON: On a social issue like this the honourable member's Government is dictating that 4.30 a.m. shall be the closing time. The honourable member is prepared to extend the hour to 4.30 a.m.

Mr. Graham: You do not know what I am prepared to agree to.

Mr. Jamieson: The Deputy Premier wanted them to be permitted to remain open all the time.

Mr. Graham: For years I have said that in this Parliament.

Mr. THOMPSON: The Deputy Premier has the opportunity to move an amendment. For my part I believe that 3.30 a.m. is late enough.

Mr. W. A. MANNING: We have heard some strange comments from the Attorney-General. Together with the member for Albany he has convinced the Chamber that people do not patronise the nightclubs before 10.00 p.m., and that in most instances the cabarets cannot obtain the services of the artists until 11.00 p.m. Obviously it has been a losing proposition for them to open at 9.00 p.m. If these establishments are to close at 3.30 a.m. they will not lose anything at all. The lack of patronage between the hours of 8.00 and 10.00 p.m. has resulted in a loss.

Mr. Graham: That is up to them to decide.

Mr. W. A. MANNING: We are here to deliberate on these matters. It is a waste of time to have this Chamber deliberating on the hours and minutes of trading, and the bottles and quantities of liquor to be sold.

Mr. Graham: We are becoming a lot of busy-bodies.

Mr. W. A. MANNING: I tend to agree with the Deputy Premier—in one regard only. It would, perhaps, be better if we took the licenses away altogether and did not give any entitlement to a license at all.

Mr. Brady: Hear, hear!

Mr. W. A. MANNING: We would then not have to waste our time, year after year, debating hours during which and conditions under which licenses could be issued.

We complain about the situation on the roads and the accidents which are occurring, but every time the Liquor Act is discussed someone wants something extra. We might as well throw the situation wide open.

Amendment put and negatived.

Mr. LEWIS: I am at somewhat of a disadvantage because I do not have a copy of the parent Act. I ask the Attorney-General whether the concluding portion of proposed new paragraph (a) appears in the parent Act. I refer to the words—

> notwithstanding that the following day is a Sunday, Christmas Day, Good Friday or Anzac Day;

The Bill sets out that trading will be able to take place until 3.30 a.m. on the following day, notwithstanding that the following day is a Sunday, Christmas Day, Good Friday, or Anzac Day. I suppose one might stretch a point with respect to a Sunday, but the other days occur only once in a year.

Mr. Hartrey: Those words appear in the parent Act.

Mr. LEWIS: I am sorry about that. I think these are three days we regard very dearly, and I would like to see them omitted from the Bill.

Mr. T. D. EVANS: The amendment which has been carried by the Committee only reproduces the provisions which appear in the parent Act. The situation will not be altered at all.

Clause, as amended, put and passed.

Clause 11: Section 33 repealed and re-enacted—

Mr. R. L. YOUNG: This clause deals with what are commonly known as packet licenses under the Act. Section 33 of the Act regulates the hours during which alcohol may be served on State ships, aircraft travelling within the State, and on ferry boats travelling on our rivers and across to Rottnest Island.

The intention of my amendment is to allow the court the right to set a schedule of hours which will operate in respect of a particular vehicle. If the amendment is not agreed to the situation will be that the hours during which alcohol can be served on ferry boats will be exactly the same as those which apply to State ships

travelling to the north-west and to aircraft travelling within the State. It seems ludicrous to me that we should attempt to lay down specific hours during which the operators of vessels may trade while on a journey.

My amendment will allow the Licensing Court to set a schedule of hours during which alcohol may be sold. The hours will vary according to whether the license is granted to a ferry travelling to Rottnest or to an aircraft travelling to Mt. Newman. I think that is reasonable because the situation which applies to a State ship or to an aircraft would not apply to a small ferry. I move an amendment—

(a) and substitute the following:—

Page 7, line 26—Delete paragraph

(a) during scheduled hours on any day other than Christmas Day Good Friday or Anzac Day;

Mr. T. D. EVANS: When it was contemplated that the Liquor Act was to be amended members received requests of many types. I venture to suggest that section 33 of the principal Act was the one which attracted most attention, if the volume of correspondence was any indication of the interest. Many members decided to pass their correspondence on to me, but I had also been the recipient of my own share. I found myself inundated with correspondence relating to the packet license situation.

When the member for Wembley gave early notice of his intention to move the amendment which appears on the notice paper it became apparent that the member for Fremantle also sought to expand the provisions of the Act. I referred both sets of amendments to the Licensing Court. It is not in favour of the proposition of having the court set the hours as indicated by the member for Wembley. So, I would indicate to the Committee that in determining whether the amendment sought by the member for Wembley or that sought by the member for Fremantle should be accepted, the Committee should be its own judge. Personally, I indicate that I am in favour of an extension of trading hours so that vessels plying for hire may, in fact, open at 9.00 a.m. and trade until midnight except on the days stipulated, which are not subject to the proposed amendment.

Mr. R. L. YOUNG: I know I am a little on the left foot because I am advocating something against which I have spoken in this House. I refer to allowing legislation to be put into the hands of another body. However, I think the Attorney-General is equally on the left foot by suggesting that the opinion he sought should have no bearing on the decision we make here.

In counteracting the argument put forward by the Attorney-General I think it is quite ludicrous that we, as a Committee, should continue to tie the trading hours of the State ships and aircraft travelling within this State to the hours which apply to small vessels. It is equally ludicrous to place a provision in the Act whereby a person who has a packet license, in some situations, could turn his vessel into a floating hotel. The whole purpose of the Act is to avoid a situation such as that. The amendment I have moved is not one I would like under normal circumstances: to put the onus on the Licensing Court.

By virtue of what the Attorney-General said, and the abundance of correspondence we have all received in regard to this matter, the opinions of the members and people to whom I have spoken seem to be at such variance that this appears to be the only way to handle it. Whether or not the court likes it, I think it is the prerogative of this Parliament to say the court shall accept what we tell it.

Amendment put and passed.

Mr. R. L. YOUNG: I move an amendment—

Page 7, lines 27 to 29—Delete paragraph (b) and substitute the following:—

(b) during such of the scheduled hours on Anzac Day as are after noon; and

Amendment put and passed.

Mr. R. L. YOUNG: I move an amendment—

Page 8, after line 5—Insert a new subclause to stand as subclause 2, as follows:—

(2) In this section "scheduled hours" means such hours as the Court may from time to time by endorsement on the licence specify after consideration of the operating schedule of the vessel or aircraft.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 12: Section 36A added—

Mr. T. D. EVANS: Clause 12 brings us back to a consideration of the vigneron's license and refers to a proposed new section 36A. However, I intend to move an amendment to clause 12 as printed in the Bill to remove the limitation that vignerons must supply for consumption off the premises only.

The amendment will permit vignerons to supply in sealed containers for consumption on the premises. Attention is drawn to clause 27 of the Bill. I think the pros and cons of the concept of the vigneron's license were canvassed when we were considering clause 7 of the Bill. I move an amendment—

Page 9, lines 2 and 3—Delete the words "for consumption off the premises only" and substitute the words "for consumption on the premises"

If this amendment is accepted, the distinction will be that those vignerons who do not wish to sell for consumption on the premises will not apply for registration, and those who do so wish will apply for registration.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 13 put and passed.

Clause 14: Section 39 amended—

Mr. T. D. EVANS: Clause 14 refers to section 39 of the principal Act, and contains the concept that Australian wine licenses issued under the current Act, if not already converted, will cease to exist after the 31st December this year, the rationale being to enable such licenses to continue to operate beyond the 31st December but prohibiting the court from granting any further licenses of this type. It was intended that if Parliament agreed that the Australian wine licenses now in existence should continue beyond that date, they should continue subject to restrictions which applied in the case of those licenses pursuant to the old Licensing Act, which was replaced by the present Liquor Act which came into operation on the 1st July, 1971. I now seek to remove all restrictions on the type of goods other than liquor which an Australian wine licensee may sell. Therefore, I move an amendment—

> Page 9, lines 26 to 28—Delete the passage "goods of any kind other than Australian wine, aerated waters, cigars, cigarettes and tobacco are" and substitute the words "liquor of any kind other than Australian wine is".

Mr. R. L. YOUNG: I point out to members that my intended amendment to this clause would have exactly the same effect as the amendment moved by the Attorney-General. Therefore, I intend to support the amendment.

Amendment put and passed.

Progress

Progress reported and leave given to sit again, on motion by Mr. Moller.

House adjourned at 9.56 p.m.

Legislative Council

Wednesday, the 6th September, 1972

The PRESIDENT (The Hon. L. C. Diver) took the Chair at 2.30 p.m., and read prayers.

QUESTIONS ON NOTICE

Postponement

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the House) [2.35 p.m.]: If possible I should like to take both questions on notice and questions without notice at a later stage of the sitting. The probabilities are that I will be asked a question without notice and I would like further time to enable me to deal with both issues on the one occasion.

The PRESIDENT: Leave granted.

RACING RESTRICTION ACT AMENDMENT BILL

Introduction and First Reading

Bill introduced, on motion by The Hon. R. H. C. Stubbs (Chief Secretary), and read a first time.

LOTTERIES (CONTROL) ACT AMENDMENT BILL

Second Reading

THE HON. R. H. C. STUBBS (South-East—Chief Secretary) [2.38 p.m.]: I move—

> That the Bill be now read a second time.

As I said in my opening remarks last year when introducing a similar short Bill, its sole purpose is to amend the Lotteries (Control) Act, 1954-1970 in order that the game of bingo—sometimes called housie-housie or tombola—may be played legally by a *bona fide* organisation.

My reason for saying "played legally" is that I feel we would be fairly naive if we did not think that the game has been, and perhaps is still being, played illegally.

I also think we would be unreasonable if we took the view that everybody who has played the game did so with intent to break the law. The unfortunate thing about it of course is that many people and decent organisations were under the impression that the game was legal.

However, this is not so, as it has been ruled that bingo is a lottery and as such can only be played under permission, and at the present time there is a doubt that the commission has the power to grant such a permit; hence this Bill, the intention of which is to clear up the matter by amending the Act to ensure that permission can be granted.

I feel it is opportune at this stage to say a few words about the popularity of the game of bingo. Over a period I have been approached by a host of organisations such as senior citizens' clubs, migration groups' social clubs, parents and citizens' groups, and the like, to have the playing of bingo authorised.

I feel sure that members are well aware of the problems that beset those who have the task of sustaining the interest of members and at the same time raising money for amenities in organisations such as